

REQUEST FOR Planning Commission Action



PLANNING COMMISSION MEETING DATE:

JANUARY 28, 2019

TITLE:

PUBLIC HEARING – CONDITIONAL USE PERMIT NO. 2018-25 TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION AND CONDITIONAL USE PERMIT NO. 2019-02 TO ALLOW AFTER-HOURS OPERATION AT JUGOS ACAPULCO WITH WINGS RESTAURANT LOCATED AT 307 EAST FIRST STREET, UNITS 1-A, 1-B AND 1-C. – CONSUELO ARREDONDO, APPLICANT {STRATEGIC PLAN NO. 3, 2}

PLANNING COMMISSION SECRETARY

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Set Public Hearing For _____

DENIED

- ☐ Applicant's Request
- ☐ Staff Recommendation

CONTINUED TO _____

Prepared by Jerry C. Guevara

Executive Director

Planning Manager

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt a resolution approving Conditional Use Permit No. 2018-25 and Conditional Use Permit No. 2019-02, as conditioned.

Executive Summary

Consuelo Arredondo, owner of Jugos Acapulco with Wings Restaurant, is requesting approval of Conditional Use Permit (CUP) No. 2018-25 to allow the sale of alcoholic beverages for on-premise consumption and CUP No. 2019-02 to allow after-hours operation, respectively, at an existing restaurant located at 307 East First Street, Units 1-A and 1-B. As part of this application, the applicant is also proposing to expand into the adjacent unit, Unit 1-C, to provide a different type cuisine specializing in chicken wings. Pursuant to Sections 41-196 and 41-2007 of the Santa Ana Municipal Code (SAMC), establishments wishing to sell alcoholic beverages require approval of a CUP. In addition, pursuant to SAMC Section 41-2007, establishments wishing to operate between 12:00 a.m. and 7:00 a.m. require approval of an after-hours CUP. Staff is recommending approval of the applicant's requests due to the property's history of compliance with City codes and regulations.

Table 1: Project and Location Information

Item	Information	
Project Address	307 East First Street, Units 1-A, 1-B and 1-C	
Nearest Intersection	First Street and Spurgeon Street	
General Plan Designation	District Center (DC)	
Zoning Designation	Specific Development No. 84 (SD-84) Sub-Zone Urban Center (UC)	
Surrounding Land Uses	North	Commercial
	East	Commercial
	South	Commercial

Item	Information	
	West	Live-Work
Property Size	9.2 Acres	
Existing Site Development	The subject site is developed as a shopping center with five buildings and multiple tenants equaling an approximate of 110,754 square feet of commercial space.	
Unit Size	3,001 square feet	
Use Permissions	Allowed with a conditional use permit (CUP)	
Zoning Code Sections Affected	Uses	Section 41-2007 SAMC
	Operational Standards	Section 41-196(g) SAMC

Project Description

The applicant currently operates an eating establishment within Units 1-A and 1-B measuring approximately 1,789 square feet and offers mainly fast-food dishes such as wraps, sandwiches, and salads, and natural smoothies, and juices. The applicant is proposing to expand the business into the adjacent unit (Unit 1-C) which contains approximately 1,212 square feet with the intent of providing a casual sit-down restaurant specializing in chicken wings. Once tenant improvements are completed, the combined space will be approximately 3,001 square feet in size and will accommodate approximately 50 patrons within its indoor and proposed outdoor dining area. In addition to this new component, the application is requesting approval of CUP No. 2018-25 to allow the sale of beer and wine for on-premise consumption inside the existing and expanded restaurant and within the proposed outdoor dining area. All alcohol will be stored within the restaurant's storage and kitchen area and will consist of 28 square feet. Display of alcohol will be limited to a proposed refrigerator within the kitchen area. Both the storage and display area of alcohol will be less than five percent of the total restaurant's floor area as allowed by the SAMC.

Furthermore, the applicant is proposing to operate the business Monday through Sunday from 6:00 a.m. to 9:00 p.m. and is seeking approval of CUP No. 2019-02 for after-hours operations to allow the business to open at 6:00 a.m., one hour earlier than allowed by SAMC.

Table 2: Operational Standards

Standards	Allowed by SAMC	Provided
Eating Establishment Type	Bona-Fide	Bona-Fide
Hours of Operation	7:00 a.m. to 12:00 a.m.	6:00 a.m. to 9:00 p.m. (Requires CUP)
Window Display	25% of Window Coverage	Complies
Live Entertainment	Entertainment Permit	Not requesting permit at this time
Alcohol Storage and Display	5% of G.F.A	1 % of G.F.A
Exterior Telephone	Prohibited	None

Project Background

The subject site was developed in the 1980s with five commercial buildings. The shopping center currently contains a mix of commercial uses and restaurants. The applicant acquired Unit 1-A and 1-B in 2010 and has been operating since then as an eating establishment. The applicant recently signed a lease for Unit 1-C which was a former medical office and is proposing tenant improvements to convert the space into an eating establishment. Because of this, the applicant is requesting to sell beer and wine with a Type 41 alcoholic beverage control license and to extend

the hours of operation. No entertainment is being proposed. Should the applicant seek to provide onsite entertainment in the future, approval of an entertainment permit will be required.

Project Analysis

CUP requests are governed by Section 41-638 of the SAMC. CUPs may be granted when it can be shown that the proposed project will not adversely impact the community. If these findings can be made, then it is appropriate to grant the CUP. Conversely, the inability to make these findings would result in a denial. The purpose of regulating establishments that sell alcoholic beverages and/or operate after-hours is to set forth operating practices and procedures and to minimize impacts to surrounding areas. Staff has reviewed the applicant's request to sell beer and wine and to operate after-hours and has determined that the proposed CUPs will not be detrimental to the health, safety, and welfare of the community.

The applicant is requesting approval of CUP No. 2018-25 to sell alcoholic beverages for on-premise consumption inside the restaurant and within the proposed outdoor dining area. Staff has reviewed the applicant's request and has determined that the proposed sale of beer and wine for on-site consumption will provide an ancillary service to the restaurant's customers by allowing them the ability to purchase a variety of alcoholic beverages with their meal and will allow Jugos Acapulco with Wings to remain economically viable and compete with nearby full-service restaurants in Downtown. The site is not located within close proximity of any sensitive land uses and the surface parking lot serves as a buffer to the nearest single family neighborhood. The operational standards applied to the alcoholic beverage control license will mitigate any potential impacts created by the use and ensure that the use will not negatively affect the surrounding community. In addition, staff is recommending conditions to restrict the hours of the proposed outdoor dining area to further mitigate any impacts to the surrounding vicinity and surface parking.

Lastly, the applicant is requesting approval of CUP No. 2019-02 to operate after-hours from 6:00 a.m. to 9:00 p.m., one hour earlier than the code prescribed limits. The proposed after-hours operations will provide an ancillary service to individuals that wish to have an early meal and coffee. This will thereby benefit the community by providing a food-related amenity offering service before 7:00 a.m. to serve early morning diners.

The CUPs will be consistent with several goals and policies of the General Plan. Policy 2.2 of the Land Use Element encourages land uses that accommodate the City's needs for goods and services. Providing a variety of full-service restaurants that offer alcoholic beverages and extended hours offer additional dining options for Santa Ana residents and visitors. Furthermore, Policy 2.9 of the Land Use Element supports developments that create a business environment that is safe and attractive. Operational standards for the restaurant applicable to the Alcohol Beverage Control (ABC) license will ensure maintenance of a safe and attractive environment in the neighborhood. Finally, Policy 5.5 of the Land Use Element encourages development that is compatible with and supporting of surrounding land uses. Jugos Acapulco with Wings is located within a commercial development and its operations will be compatible with the surrounding commercial businesses.

Police Department Analysis

The Police Department reviews CUP applications for the sale and service of alcoholic beverages and after-hours operations in order to ensure that the potential crime and nuisance behaviors associated with alcohol consumption and after-hours operations are mitigated to the greatest extent possible. For on-sale licenses, the Police Department analyzes the crime rate in the area using the standards and definitions contained in the Business and Professions Code Section 23948.4(c)(2), which are also utilized by the State Department of Alcoholic Beverage Control. This section defines "reported crimes" as criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic citations.

Table 3: Police Department Analysis and Criteria for Recommendation

Police Department Analysis and Criteria for Recommendation	
Police Grid No. and Rank	Police Grid No. 185; ranked 65 out of 103 Police Reporting Grids (7 th percentile)
Threshold for High Crime	This reporting district is within the highest 20 percent threshold established by the State for high crime
Police Department Recommendation	The Police Department contends that the operational standards applicable to on-premise ABC licenses will mitigate any potential impacts to the surrounding community and therefore does not oppose the granting of a modification to the CUP.

The Police Department then compares the number of such crimes in the reporting district as compared to the number of crimes in other reporting districts. In keeping with the standard used by the State Department of Alcoholic Beverage Control and Business and Professions Code, should the Police Department determine that the reporting district has a 20 percent greater number of reported crimes than the average number found in all reporting districts, the Police Department will consider this information in making its recommendation. As part of the application process, the application was reviewed by the Police Department. Based on its review, the Police Department has no issues of concern regarding these applications.

Table 4: CEQA, Strategic Plan Alignment, and Public Notification & Community Outreach

CEQA, Strategic Plan Alignment, and Public Notification & Community Outreach	
CEQA	
CEQA Type	Class 1 Exemption (Existing Facilities)
Reason(s) Exempt or Analysis	Class 1 consists of the operation, repair, maintenance permitting, leasing, licensing, or minor alterations of existing public or private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project involves the issuance of a permit to allow the operation of an ABC license and tenant improvements to facilitate the use of a new restaurant.
Strategic Plan Alignment	
Goal(s) and Policy(s)	Approval of this item supports the City's efforts to meet Goal No.3 (Economic Development) Objective No. 2 of creating new opportunities for business/job growth and encourage private development through new General Plan and Zoning Ordinance policies.
Public Notification & Community Outreach	
Required Measures	A public notice was posted on the project site on January 17, 2019.
	Notification by mail was mailed to all property owners and occupants within 500 feet of the project site on January 17, 2019.
	Newspaper posting was published in the Orange County Reporter on January 17, 2019.

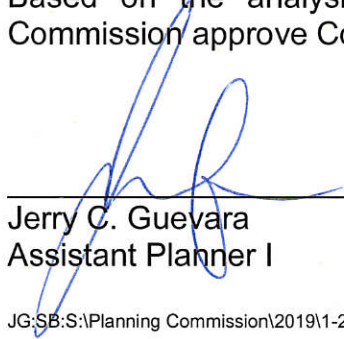
CEQA, Strategic Plan Alignment, and Public Notification & Community Outreach	
Additional Measures	Lacy, Heninger Park, Eastside and Downtown neighborhood associations were contacted to identify any areas of concern due to the proposed alcohol license and hours of operation. At the time this report was printed, no issues of concern were raised regarding these applications.

Economic Impacts

Based on the proposed expansion of the existing restaurant, including all permits, the City is expected to generate approximately \$2,500 in permit fees and the restaurant expects to hire three more employees.

Conclusion

Based on the analysis provided within this report, staff recommends that the Planning Commission approve Conditional Use Permit Nos. 2018-25 and 2019-02, as conditioned.



Jerry C. Guevara
Assistant Planner I

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- Exhibits:
1. Resolution
 2. Vicinity Zoning and Aerial View
 3. Site Photo
 4. Site Plan
 5. Floor Plan

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EXHIBIT 1

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RESOLUTION NO. 2019-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2018-25 TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION AND CONDITIONAL USE PERMIT NO. 2019-02 TO ALLOW AFTER-HOURS OPERATION, AS CONDITIONED, AT JUGOS ACAPULCO WITH WINGS RESTAURANT LOCATED AT 307 EAST FIRST STREET, UNITS 1-A, 1-B AND 1-C

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines and declares as follows:

- A. Consuelo Arredondo ("Applicant"), owner of Jugos Acapulco with Wings Restaurant, is requesting approval of Conditional Use Permit No. 2018-25 to allow the sale of alcoholic beverages for indoor and outdoor on-premises consumption and Conditional Use Permit No. 2019-02 to allow after-hours operation at an existing restaurant located at 307 East First Street, Units 1-A, 1-B and 1-C.
- B. Santa Ana Municipal Code Section 41-196 and Section 41-2007 requires approval of a conditional use permit for establishments wishing to sell alcohol for on-premises consumption.
- C. Santa Ana Municipal Code Section 41-2007 requires a conditional use permit to allow any business to operate between the hours of 12:00 a.m. and 7:00 a.m. The Applicant is proposing to operate the business from 6:00 a.m. to 9:00 p.m., one hour earlier than the Code prescribed limits.
- D. On January 28, 2019, the Planning Commission held a duly noticed public hearing on Conditional Use Permit Nos. 2018-25 and 2019-02.
- E. The Planning Commission determines that the following findings, which must be established in order to grant this Conditional Use Permit pursuant to Santa Ana Municipal Code ("SAMC") Section 41-638, have been established for Conditional Use Permit No. 2018-25 to allow the sale of alcoholic beverages for on-premises consumption:
 1. That the proposed use will provide a service or facility which will contribute to the general well being of the neighborhood or community.

The proposed sale of alcoholic beverages for on-premises consumption at this location will provide an ancillary service to the restaurant's customers by allowing them the ability to purchase a variety of alcoholic beverages with their meal. This will thereby benefit the community by providing a restaurant with an additional and complementary food related amenity. Operational standards applied to the alcoholic beverage control license will mitigate any potential impacts created by the use and ensure that the use will not negatively affect the surrounding community.

2. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The proposed sale of alcoholic beverages for on-premises consumption at this location will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity because the operational standards applicable to the alcoholic beverage control license will address any potential negative or adverse impacts created by the use. Jugos Acapulco with Wings will function as a bona-fide restaurant and the addition of alcohol will be ancillary to the main use. All of the operational standards identified in SAMC Sec. 41-196 will apply to this establishment. Finally, the sale of alcohol in the restaurant is intended to be incidental to the primary use as an eating establishment and will occur within the premises.

3. That the proposed use will not adversely affect the present economic stability or future economic development of properties surrounding the area.

The proposed use will not adversely affect the economic stability of the area, but will instead allow the restaurant to compete with other nearby restaurants that offer a full selection of alcoholic beverages for sale to their customers. Moreover, the offering of alcoholic beverages will allow Jugos Acapulco with Wings to remain economically viable and compete with nearby full-service restaurants in the local vicinity and contribute to the overall success of the City of Santa Ana.

4. That the proposed use will comply with the regulations and conditions specified in Chapter 41 for such use.

The proposed alcohol beverage control license and conditional use permit will be in compliance with all applicable regulations and operational standards imposed on

a restaurant selling alcoholic beverages for on-premises consumption pursuant to Chapter 41 of the SAMC. The facility will be maintained as a full-service, bona-fide eating establishment, having suitable kitchen facilities and supplying an assortment of foods. Additionally, the restaurant will utilize less than five (5%) percent of the gross floor area for display and storage of alcoholic beverages, which is the maximum threshold established by the Santa Ana Municipal Code. Operational standards will ensure the project remains in compliance with all applicable codes and regulations related to alcohol sales to ensure that the use does not impact neighboring properties or create an attractive nuisance.

5. That the proposed use will not adversely affect the General Plan of the city or any specific plan applicable to the area of the proposed use.

The proposed sale of alcoholic beverages for on-premises consumption at this location will not adversely affect the General Plan. The granting of this conditional use permit supports several policies contained in the General Plan. Policy 2.2 of the Land Use Element encourages land uses that accommodate the City's needs for goods and services. Providing a variety of full-service restaurants that provide alcoholic beverages as part of their menu offers additional dining options for Santa Ana residents and visitors. Furthermore, Policy 2.9 of the Land Use Element supports developments that create a business environment that is safe and attractive. Operational standards for the proposed ABC license will maintain a safe and attractive environment in the neighborhood. Finally, Policy 5.5 of the Land Use Element encourages development that is compatible with and supporting of surrounding land uses. Jugos Acapulco with Wings is located within a commercial center and in the city's downtown district, and its operation is compatible with the surrounding commercial businesses.

- F. The Planning Commission determines that the following findings, which must be established in order to grant this Conditional Use Permit pursuant to Santa Ana Municipal Code (SAMC) Section 41-2007, have been established for Conditional Use Permit No. 2019-02 to allow for after-hours operation.

1. That the proposed use will provide a service or facility that will contribute to the general well-being of the neighborhood or the community.

The proposed after-hours operations will provide an ancillary service to individuals that wish to have an early meal and coffee or juice. This will thereby benefit the community by providing a food-related amenity offering service before 7:00 a.m., which is consistent with other restaurants in the Downtown area that operate with extended hours.

2. That the proposed use under the circumstances of the particular case will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The proposed after-hours operations at the subject location will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity. The proposed use is an eating establishment that will provide a service the nearby residents. In addition, the Police Department does not object to granting the conditional use permit.

3. That the proposed use will not adversely affect the present economic stability or future economic development of properties surrounding the area.

The project site is situated along a commercial corridor and Downtown such that it is appropriate for the proposed commercial use and after-hours operations. The establishment of this restaurant promotes a balance of land uses that enhance the City's economic and fiscal viability. Providing a variety of land uses in the area strengthens the economic base of the City and the Downtown area and affects the economic stability of the area in a positive manner.

4. That the proposed use shall comply with the regulations and conditions specified in Chapter 41 for such use.

The proposed project is in compliance with all applicable regulations and conditions imposed on an eating establishment operating after-hours pursuant to Chapter 41 of the Santa Ana Municipal Code and the Transit Zoning Code (SD84) zoning provisions.

5. That the proposed use will not adversely affect the General Plan or any specific plan of the City.

The proposed use will not adversely affect the General Plan. The granting of this conditional use permit supports several policies contained in the General Plan. Policy 2.2 of the Land Use Element encourages land uses that accommodate the City's needs for goods and services. Providing a variety of full-service restaurants with extended hours of operation offers additional dining options for Santa Ana residents and visitors. Furthermore, Policy 2.9 of the Land Use Element supports developments that create a business environment that is safe and attractive. Conditions of approval have been placed on this conditional use permit that will maintain a safe and attractive environment in Downtown Santa Ana. Finally, Policy 5.5 of the Land Use Element encourages development that is compatible with and supporting of surrounding land uses.

Section 2. In accordance with the California Environmental Quality Act (CEQA) the recommended action is exempt from CEQA per Section 15301. Class 1 consists of the operation, repair, maintenance permitting, leasing, licensing, or minor alterations of existing public or private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project involves the issuance of an ABC license and after-hours operations along with minor tenant improvements within an existing commercial building.

Section 3. The Applicant agrees to indemnify, hold harmless, and defend the City of Santa Ana, its officials, officers, agents, and employees, from any and all liability, claims, actions or proceedings that may be brought arising out of its approval of this project, and any approvals associated with the project, including, without limitation, any environmental review or approval, except to the extent caused by the sole negligence of the City of Santa Ana.

Section 4. The Planning Commission of the City of Santa Ana after conducting the public hearing hereby approves Conditional Use Permit No. 2018-25 for the alcoholic beverage control license for the sale of alcohol for on-premises consumption for the project located at 307 East First Street, Unit 1-A and 1-C, and hereby approves Conditional Use Permit No. 2019-02 for the after-hours operation, as conditioned in Exhibit A, attached hereto and incorporated herein. This decision is based upon the evidence submitted at the abovesaid hearing, which includes, but is not limited to: the Request for Planning Commission Action dated January 28, 2019, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 28th day of January, 2019.

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTENTIONS: Commissioners:

Mark McLoughlin
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Lisa Storck
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, SARAH BERNAL, Commission Secretary, do hereby attest to and certify the attached Resolution No. 2019-xx to be the original resolution adopted by the Planning Commission of the City of Santa Ana on January 28, 2019.

Date: _____

Commission Secretary
City of Santa Ana

EXHIBIT A

Conditions of Approval for Conditional Use Permit Nos. 2018-25 and 2019-02

Conditional Use Permits Nos. 2018-25 and 2019-02 for on-premises consumption of alcoholic beverages and after-hours operation at 307 East First Street, Units 1-A, 1-B and 1-C, are approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with all applicable sections of the Santa Ana Municipal Code, the California Building Standards Code and all other applicable regulations.

The Applicant must comply in full with each and every condition listed below prior to exercising the rights conferred by these conditional use permits.

The Applicant must remain in compliance with all conditions listed below throughout the life of each conditional use permit. Failure to comply with each and every condition may result in the revocation of the conditional use permits.

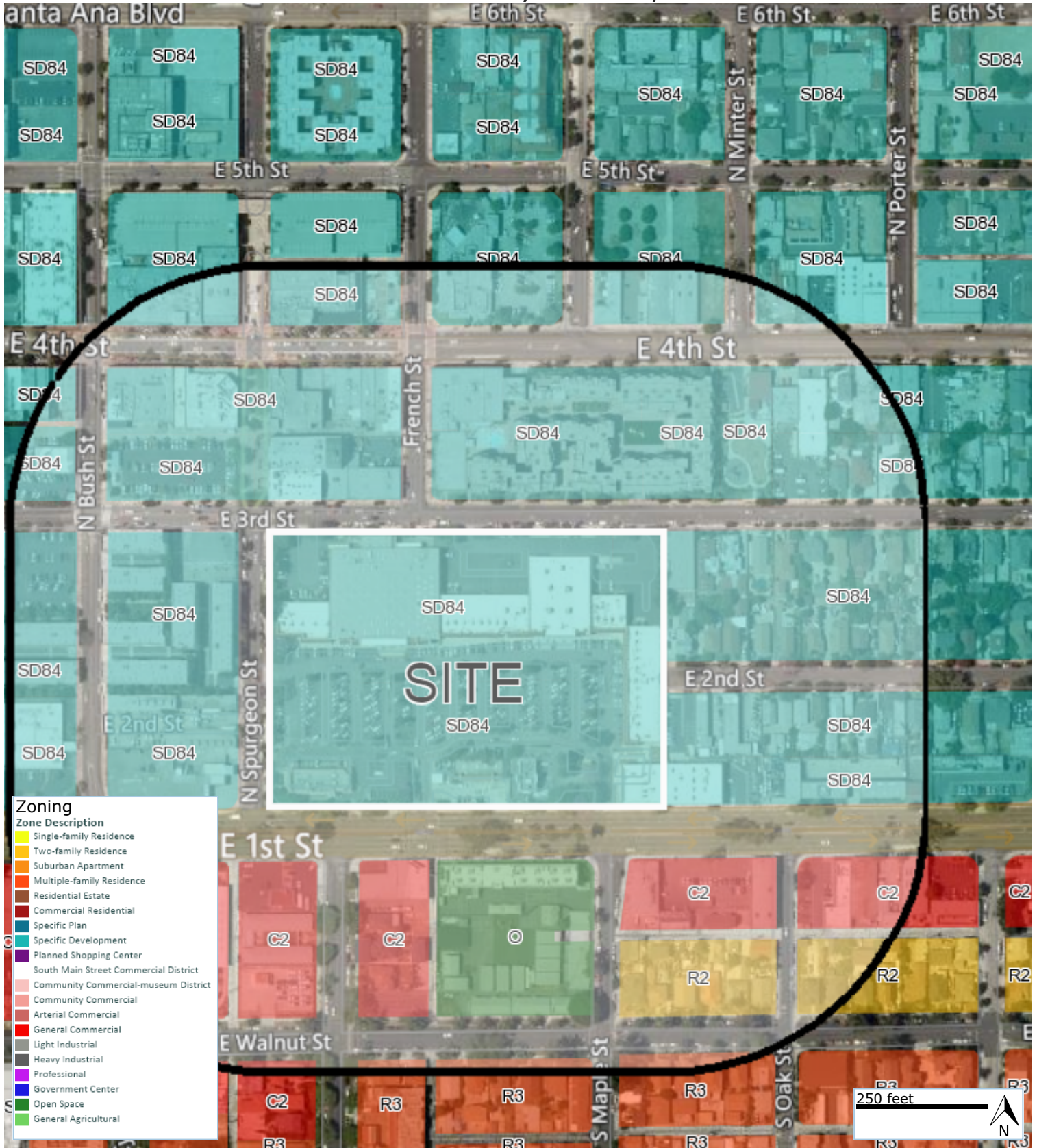
1. The sales, service, and consumption of alcoholic beverages shall be permitted in accordance to the operational standards for on-sale establishments pursuant to Section 41-196(g) of the SAMC and in accordance with the provisions of a Type-41 alcohol license by the State Alcohol Beverage Control Board (ABC).
2. The business, including the sales of alcohol, shall operate Monday through Sunday from 6:00 a.m. to 12:00 a.m. Any future changes to these hours of operation shall require a modification application to CUP No. 2019-02.
3. The hours of operation for service in the outdoor dining area shall be limited to the hours of 7:00 a.m. to 10:00 p.m. Monday through Sunday.
4. The outdoor patio area shall be enclosed by a fence no less than 36 inches in height and shall comply with the Department of Alcoholic Beverage Control regulations. Employees shall always be present in the dining area and outdoor dining area and shall have constant view of the patio from inside the business through the storefront windows which shall remain clear glass and shall have no obstructions besides approved window signage.
5. Prior to the release of the Alcohol Beverage Control License, the Applicant shall receive approval of all required building permits pertaining to the expansion of the restaurant into 307 East First Street, Unit 1-C.

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EXHIBIT 2

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**CUP Nos. 2018-25 & 2019-02 for Jugos Acapulco with Wings
307 East First Street, Units 1-A, 1-B & 1-C**



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EXHIBIT 3

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**CUP Nos. 2018-25 & 2019-02 for Jugos Acapulco with
Wings 307 East First Street, Units 1-A, 1-B & 1-C**



Exhibit 3 – Site Photo

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EXHIBIT 4

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Exhibit 4 – Site Plan
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EXHIBIT 5

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