



STAFF REPORT 6/2/2021

TO: Planning Commission Chair and Commissioners

FROM: Luis Lopez, Development Services Director

SUBJECT: Conditional Use Permit No. 339 to allow an alcoholic beverage license (Beer and Wine- ABC License Type 41) as part of an existing 944 square foot restaurant located at 84-705 Avenue 50, Suite 1 (dba: Tacos Pericos), in the C-G (General Commercial) zone within an existing commercial center.

STAFF RECOMMENDATION:

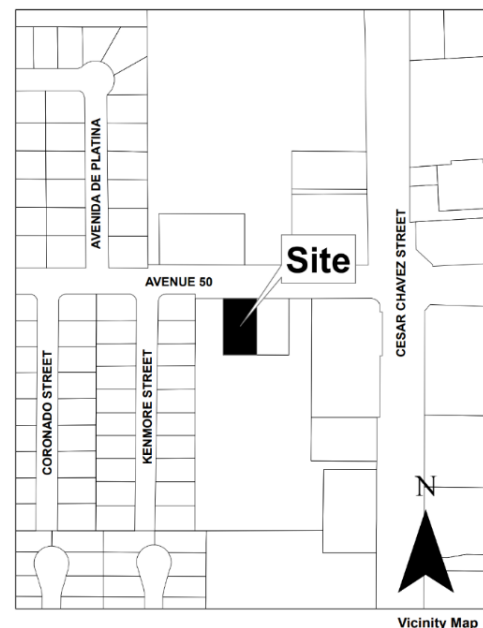
Staff recommends that the Planning Commission adopt Resolution No. PC 2021-07 approving Conditional Use permit No. 339 to allow an alcoholic beverage license (Beer and Wine - ABC License Type 41) at “Tacos Pericos” located at 84-705 Avenue 50, Suite 1 pursuant to the findings and conditions of approval contained in the staff report and attached resolution.

BACKGROUND:

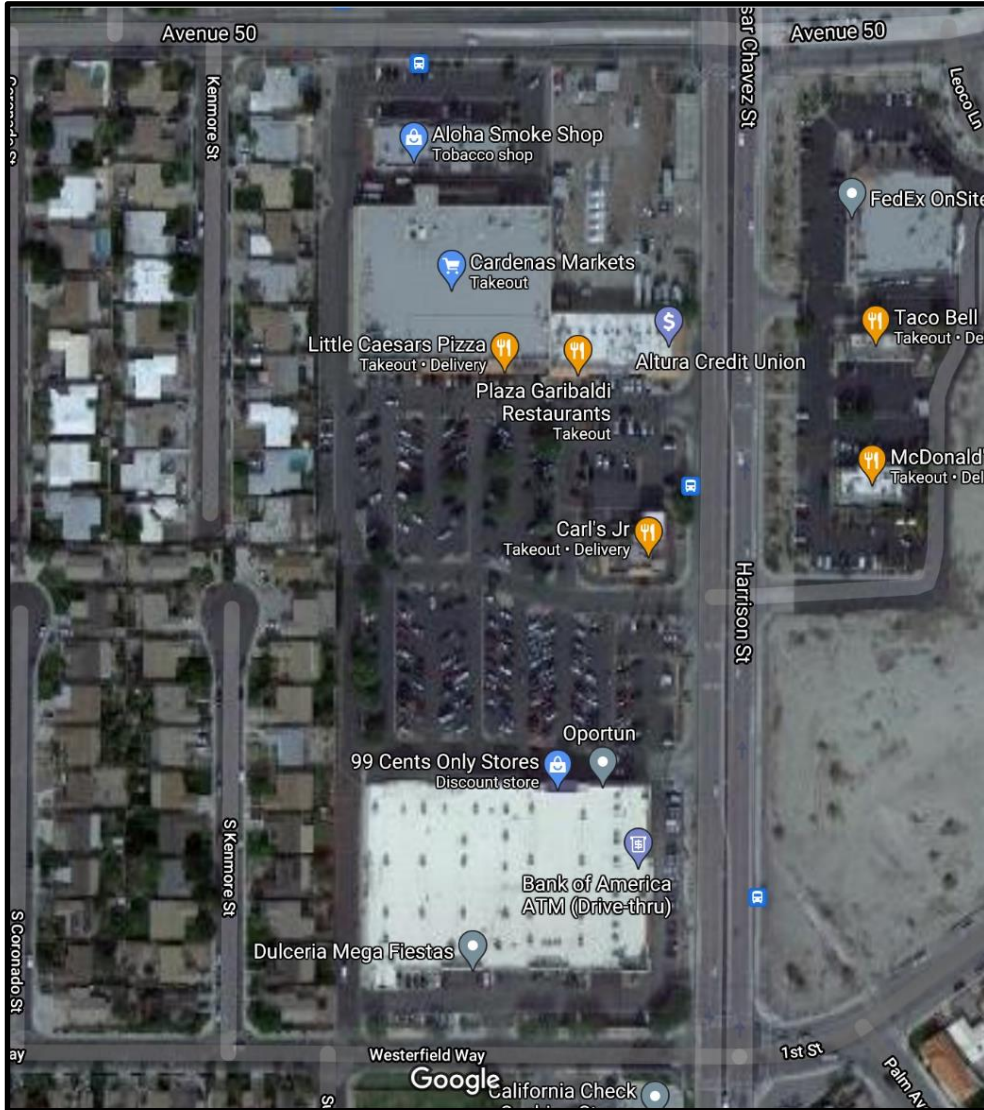
Tacos Pericos obtained its business license in January 2019 and the business currently operates as a 944 square foot restaurant within an existing shopping center located at intersection of Avenue 50 and Cesar Chavez Street. The restaurant currently does not sell alcoholic beverages. The existing restaurant is part of a large shopping center where “Cardenas Market” and other large retailers are located. However, the parcel where this building is oriented towards Avenue 50 and is adjacent to the “Jiffy Lube” auto repair facility, and on the back side of the Cardenas Market building as shown in the map and aerial exhibits in this staff report.

DISCUSSION/ANALYSIS:

The applicant, Mr. Jose Alberto Nieblas-Sanchez has submitted a request for Conditional Use Permit to allow the on-sale of alcoholic beverages in conjunction with a bona fide existing restaurant. The restaurant has been in operation since October 2019. The zoning designation of the shopping center where the restaurant is located is C-G (General Commercial) and restaurants are a permitted use, alcohol sales require approval of a Conditional Use Permit. The Land Use



designation is Neighborhood Center where the intended physical character is to provide a comfortable, walkable environment for shoppers and diners.



Tacos Pericos and Cardenas Market location

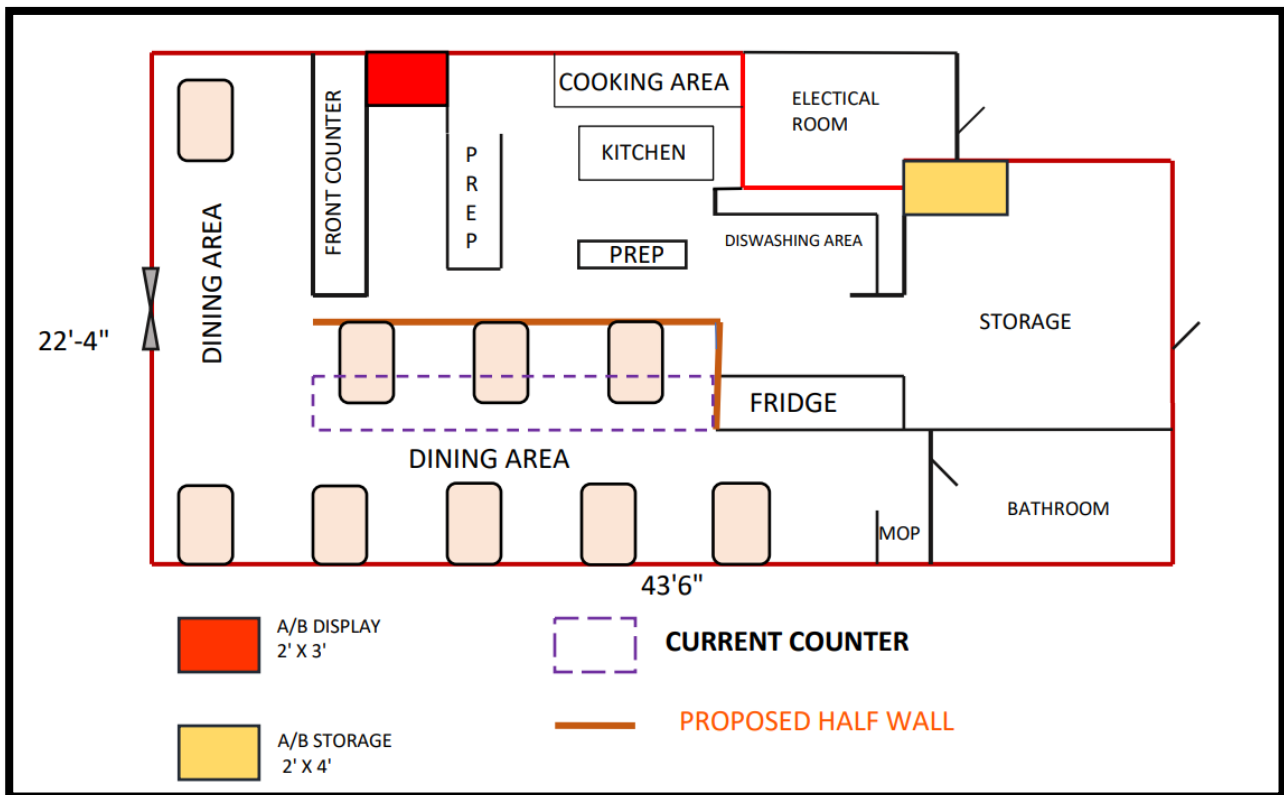
Bona fide eating establishment:

Tacos Pericos qualifies as a “bona fide eating establishment” as described in the criteria under Section 17.74.015 of the Zoning Code in that the business provides all of the following:

- a) Sale of food and non-alcoholic beverages;
- b) Sale of liquor/alcoholic beverages proposed for consumption on premises only;

- c) At least twenty (20) percent of the gross floor area of the building is designed, equipped and used exclusively for the storage and preparation of food and non-alcoholic beverages for consumption;
- d) At least fifty (50) percent of the gross floor area of the building is designed, equipped and used exclusively for seating of patrons for the purpose of serving meals. "Meals" shall mean the usual assortment of foods commonly ordered at various hours of the day for breakfast, lunch or dinner, and not merely appetizers or snacks. "Patrons" shall mean persons who come to a bona fide public eating establishment for the purpose of actually ordering and obtaining a meal therein;
- e) Not more than twenty (20) percent of the gross floor area is dedicated to a bar or the storage, sales and display of liquor/alcoholic beverages and said area is separated by physical barriers from the main seating area for serving meals.

With respect to liquor on-sale establishments that meet the criteria for a bar, billiard, or nightclub, a 700-foot distance requirement is in place. However, this distance requirement does not apply to bona fide eating establishments like "Tacos Pericos". A floor plan of the restaurant is shown below.



As shown on the floor plan, storage of alcoholic beverages is a total of 14 square feet and the display area also 12 square feet, not exceeding the bona-fide restaurant criteria mentioned above. In addition, the applicants propose to add a wall separating the counter and kitchen area from dining area. This results in removal of the counter/bar area that was originally installed, in order to not classify the dining areas as a “bar” to stay within the definition of a bona fide eating establishment.

Hours of Operation:

The applicant currently operates the restaurant from 9:00 a.m. to 9:00 p.m. Monday thru Sunday, and no changes to the hours of business are proposed. Staff has included a condition of approval requiring the sale of meals to be made available to patrons during all hours of operation, and to require the last call for alcohol to be 30 minutes before closing.

Information obtained from the California Department of Alcoholic Beverage Control

The subject site is within Census Tract No. 0457.07 where based on the census tract population five (5) on-sale licenses are allowed. Currently, there are 5 licenses within Tract Number 0457.07. Issuance of the requested license for Tacos Pericos would make the 6 licenses issued. Pursuant to Business and Professions Code Section 23958.4(3)(b)(1), the California Department of Alcoholic Beverage Control (ABC) may be able to issue a license to a retail on-sale bona fide restaurant if the applicant is able to show that public convenience or necessity (PCN) would be served by the issuance of the additional license requested. Although this is not applicable for this request since the City of Coachella is not required to make the findings for a PCN for all proposed, and qualified, bona fide restaurants.

Environmental Setting:

The subject site is the back portion of a site fully developed with other stores, including Cardenas Market and 99 Cents Store and retail stores. The site is located at the south side of Avenue 50 and east of Cesar Chavez Street. The subject site is substantially flat, and is substantially surrounded by urban uses, with adjoining zoning and land uses as follows:

North: Existing one-story commercial building, multi-tenant uses / (C-G, General Commercial)

South: Existing one-story commercial building, multi-tenant uses/ (C-G, General Commercial)

East: Existing multi-tenant commercial uses, / (C-G, General Commercial)

West: Existing Single Family Residential / (R-S, Residential Single-Family)

Site Plan / Parking and Circulation:

The site is fully developed with two points of access from Avenue 50 and an additional driveway through adjacent shopping center that connects to Cesar Chavez Street. The site provides ample parking spaces for all the existing uses at the shopping center, additional parking is provided behind the main building (Cardenas). There are 28 parking spaces located directly in front of project site. Future street widening as part of the Avenue 50 capital improvement project will not result in the loss of existing parking spaces.

ENVIRONMENTAL REVIEW:

The City of Coachella has determined that the proposed project is categorically exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act as an "Existing Facilities" project (CEQA Guidelines, Section 15301a). The project involves minor alterations to interior partition walls, and existing electrical, plumbing, and mechanical systems within an existing commercial building.

CONCLUSIONS AND RECOMMENDATIONS

Based on the analysis contained herein and the findings listed below, staff is recommending that the Planning Commission approve Conditional Use Permit No. 339 with the findings and conditions listed below, and in the attached resolution.

FINDINGS OF APPROVAL FOR CONDITIONAL USE PERMIT NO. 339:

1. The proposed use will not be in conflict with, but will be in harmony with and in accordance with the objectives of the general plan because the proposed restaurant use with alcohol sales is within the Neighborhood Center land use designation according to the General Plan 2035, which allows the intended physical character to provide a comfortable, walkable environment for shoppers and diners. The restaurant will provide its patrons the choice of alcoholic beverages as they dine in the premises.
2. The proposed use will be located, designed, constructed, operated and maintained so as to be compatible with the existing character of the general vicinity and shall not change the essential character of the same area because the proposed use is within a zoning designation of 'C-G' (General Commercial) which permits eating establishment such as the existing restaurant with the approval of a conditional use permit to sell/serve alcoholic beverages (Beer and Wine ABC License, Type 41). The proposed use is on a multi-tenant site that can be compatible with the adjoining commercial uses and the conditional use permit can be revoked if any of the conditions of approval are violated.
3. Consideration has been given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities, to harmful effect, if any, upon desirable neighborhood character, to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of development, because the existing restaurant is within an

existing commercial center with all infrastructure available on-site for the existing 944 square foot restaurant. Additionally, there is adequate ingress and egress into and out of the existing commercial center to maintain the adequacy of the traffic circulation system serving the proposed use.

4. Where the proposed use may be potentially hazardous or disturbing to existing or reasonably expected neighboring uses, it must be justified by the common public interest as a benefit to the community as a whole. As conditioned, the proposed use will provide an additional choice of beverage for its patrons. The proposed project will have adequate parking to serve the needs of its patrons and the restaurant use with alcoholic beverages use will serve the residents of the City as well as residents from the adjoining neighborhoods. As such, there will be no hazardous or disturbing effects to the existing and neighboring uses.
5. The proposed use provides vehicular approaches to the property designed for reasonable minimal interference with traffic on surrounding public streets or roads, because all approaches are in full use for the patrons of the commercial center and no alterations are proposed as part of the request to sell and/or serve alcohol at the existing 944 square foot restaurant and no negative effects exists.
6. The City of Coachella has determined that the proposed project is categorically exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act as an "Existing Facilities" project (CEQA Guidelines, Section 15301a). The project involves minor alterations to interior partition walls, and existing electrical, plumbing, and mechanical systems within an existing commercial building.

CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT NO. 339:

1. Conditional Use Permit No. 339 is an approval for the sale of alcohol in conjunction with prepared meals. This approval is based on the floor plan submitted for the proposed project. Violation of any of the conditions of approval shall be cause for revocation of the Conditional Use Permit.
2. Alcohol sales must be commenced within 12 months of the effective date of this Conditional Use Permit unless a request for an extension of time is reviewed by the Planning Commission. A request for time extension shall be filed in a timely manner with applicable fees.
3. This approval shall not become effective for any purposes until any appeal period has passed, the applicant has received a Notice of Action with modified conditions, if any, and the applicant has obtained a business license. The additional 944 square feet expansion has received a final and a Certificate of Occupancy has been issued for the expansion.
4. Any break in service, meaning the closure of the bona fide restaurant use for a period of 180 consecutive days, will result in the expiration of this CUP.
5. The applicant will agree to defend and indemnify the City of Coachella against all claims, actions, damages, and losses, including attorney fees and costs, in the event that anyone files

legal challenges to the approval of this project on the basis of the California Environmental Quality Act (CEQA). Prior to the issuance of building permits, the applicant shall execute a standard indemnification agreement subject to review by the City Attorney.

6. All plan submittals for interior renovations of the existing restaurant are the responsibility of the applicant; this includes plan submittals to the City of Coachella Building Division, the Riverside County Fire Marshall's Office; and the Riverside County Office of Environmental Health.
7. The applicant shall be responsible for informing all subcontractors or other business entities providing services related to the project of their responsibility to comply with all pertinent requirements in the Coachella Municipal Code, including the requirement that a business license be obtained by all entities doing business in the City.
8. The use shall meet the standards within the limits established by the Coachella Municipal Code as related to emissions of noise, odor, dust, vibration, wastes, fumes, or any public nuisances arising or occurring incidental to the establishment or operation.
9. The applicant shall pay all fees at the time fees are due and comply with all requirements of other outside agencies.
10. Any sign approval for the project is a separate process requiring the issuance of a sign permit and building permit and it is subject to review and approval by the Development Services Department and Building and Safety.
11. The sale of alcoholic beverages is approved under this CUP for the bona fide restaurant with Type 41 On-Sale Beer and Wine ABC License for a cumulative of 944 square feet. The operation of the restaurant shall also be in conformance with Section 17.74.015 of the City of Coachella Municipal Code as outlined below for the bona fide restaurant:
 - a) The sale of food and non-alcoholic beverages for consumption on or off the premises; and
 - b) the sale of liquor/alcoholic beverages for consumption on premises only; and
 - c) Where at least twenty (20) percent of the gross floor area of the building is designed, equipped and used exclusively for the storage and preparation of food and non-alcoholic beverages for consumption; and
 - d) Where at least fifty (50) percent of the gross floor area of the building is designed, equipped and used exclusively for seating of patrons for the purpose of serving meals. "Meals" shall mean the usual assortment of foods commonly ordered at various hours of the day for breakfast, lunch or dinner, and not merely appetizers or snacks. "Patrons" shall mean persons who come to a bona fide public eating establishment for the purpose of actually ordering and obtaining a meal therein; and

- e) Where not more than twenty (20) percent of the gross floor area, or one thousand five hundred (1,500) square feet, whichever is less, is dedicated to a bar or the storage, sales and display of liquor/alcoholic beverages and said area is separated by physical barriers from the main seating area for serving meals.
12. Hours of operation for the restaurant may be from 9:00 a.m. to 9:00 p.m. Monday thru Sunday. The business shall offer the sale of prepared meals at all hours of operation. The last call for alcohol sales shall be 30 minutes before closing time.
 13. The applicant shall submit an updated waste water survey, pursuant to City standards, for the review and approval of the City's Environmental Programs Coordinator.
 14. The applicant shall comply with all requirements imposed by the State Department of Alcoholic Beverage Control and a review of this conditional use permit will be required if the business results in an increase in floor area used for the display of liquor; or a ten-percent increase in the display space of liquor.

Attachment: Resolution No. PC 2021-07