



STAFF REPORT

MEETING DATE: April 10, 2023

PRESENTER: Manuel Campos, Assistant Planner

SUBJECT: Consideration of Conditional Use Permit 2023-04 to expand outdoor dining activities and associated alcohol beverage sales for Ceviches and Beer located at 170 N. Madera Ave., including adopting a finding of Categorical Exemption pursuant to section 15301 of CEQA Guidelines.

RECOMMENDATION:

Staff recommends that the Planning Commission conduct a public hearing, deliberate, and by motion adopt a resolution approving CUP 2023-04, to allow for the expansion of outdoor dining activities and associated alcohol beverage sales for Ceviches and Beer located at 170 N. Madera Ave., including adopting a finding of Categorical Exemption pursuant to section 15301 of CEQA Guidelines.

EXECUTIVE SUMMARY:

Conditional Use Permit (CUP) 2023-04 was filed by Maria Perez (applicant) on behalf of Dang Tran Investments LLC (property owner) requesting approval to allow for the expansion of outdoor dining activities and associated alcohol beverage sales (ABC sales) at the existing restaurant (Ceviches & Beer), located at 170 N. Madera Ave., on a developed parcel of land, located approximately 325 feet north from the northeast corner of N. Madera Ave. and W. Whitesbridge Rd., in Kerman, CA., zoned CG (General Commercial) with a GC (General Commercial) General Plan land use designation (APN 025-130-94). A Categorical Exemption pursuant to section 15301 of CEQA Guidelines will be considered for the project.

APPLICABLE CODES AND PROCEDURES

KMC 17.12 – Conditional Use Permits

KMC 17.48 – General Commercial District

KMC 17.100 – Alcohol Beverage Sales

Public Resource Code – CEQA 15301 – Existing Facilities

The Kerman Municipal Code (KMC) allows the Commission to grant or deny approval of a conditional use permit provided that a public hearing is held on the proposed use to review and consider any public testimony. Prior to the public hearing, a staff report, environmental determination, and general plan finding for the use permit shall be made available to the Commission, interested agencies, and the public.

The use should be denied if the Commission cannot make the appropriate findings. Conditions may be attached to the approval of the use permit to ensure compatibility. Project design may be altered, and site improvements may be required to make the project compatible with nearby uses. In addition, the application may be subject to future review, modification, or revocation by the Commission, as deemed necessary.

ANALYSIS

Background Information

Site development was originally approved as part of Site Plan Review 2004-03. Site development included a multi-tenant building and a standalone restaurant tenant sharing 69 parking stalls. City records indicate that the project building was granted final occupancy in 2006 for Perko's Café. In 2011, "Yukon Jack's" became the building's new tenant. In 2019 Ceviches and Beer became the building's new tenant and has operated under the DBA since then. The site has procured an alcohol license from the State Department of Alcoholic Beverage Control (ABC) since its original establishment in 2006.

During the COVID-19 State of Emergency in California, Ceviches and Beer was permitted by the City to expand dining services in the outdoor area located to the south of the building. On February 28, 2023, the COVID-19 State of Emergency ended in California, resulting in the site having to return to its originally approved operating standards as allowed before the pandemic. In February of 2023, a change in ownership occurred. The restaurant currently possesses a type 47 ABC license and a type 77 (Event Permit) ABC license for the restaurant. Of note, alcohol sales predate the adoption of Ordinance No. 23-01, which requires all alcohol beverage sales to procure a CUP when 1) a new application for ABC sales occurs or 2) there is an expansion of an existing legal-nonconforming establishment that has ABC sales. This application falls under scenario No. 2.

Project Proposal

The project proposal includes an application for a CUP to allow for the expansion of outdoor dining activities at an existing seafood restaurant, Ceviches & Beer located at 170 N. Madera Ave. The applicant is proposing to operate from every day 10 AM to 10 PM. The restaurant employs eleven (11) or more employees. The outdoor dining areas will be confined to the two (2) porches on the north side of the building and the area on the south side of the building which was established during the pandemic. Both of the porches encompass approximately 200 sq. ft and the dining area to the south encompasses approx. 620 sq. ft. The project does not include structural alterations to the building or the parking area. The proposed outdoor dining areas will only be occurring on the subject property and will not spill over onto any adjacent properties.

As mentioned previously the applicant has a legal non-conforming alcohol sales use. Denial of CUP 2023-04 will not have any impact on the restaurant's ability to sell alcohol. Approval of CUP 2023-04 will require the site to conform to current operating standards for alcohol beverage sales, including procuring approval of a CUP as required by Ordinance No. 23-01.

Site and Surrounding Land Uses and Setting

The project site has been developed with one (1) 3,345 sq. ft building and eleven (11) parking stalls designated to serve the restaurant, however, there is ample parking throughout the site. The building consists of multiple dining booths, a bar, restroom facilities, and a kitchen.

The site is surrounded by developed land. As described in **Table 1**, the site is surrounded by a multi-tenant building to the North, a grocery store (Grocery Outlet) to the East separated by parking, a parking lot to the south, and a shopping center (Kerman Shopping Center) to the west, across N. Madera Ave. Uses in the surrounding vicinity will be negligibly affected by the outdoor expansion of dining services and corresponding alcohol beverage sales.-.

Table 1. Existing Uses, General Plan Designations, and Zone Districts of Surrounding Properties

Location	Existing Land Use	General Plan Designation	Zone District
North	Multi-Tenant Building	General Commercial	CG – General Commercial
East	Grocery Store	General Commercial	CG – General Commercial
South	Parking Lot	General Commercial	CG – General Commercial
West	Shopping Center	General Commercial	CG – General Commercial

Zoning & General Plan

The site is zoned CG (General Commercial) with a GC (General Commercial) General Plan land use designation. The CG zone district is intended to allow for a wide range of commercial and office uses which are diverse, visually pleasing, convenient in terms of parking and access, attractive, and used by citizens of Kerman as well as visitors to the area. A restaurant is permitted by right use however, both outdoor dining and associated alcohol sales are subject to conditional approval. Approval of the expansion of outdoor dining activities and associated alcohol sales will be consistent with the zone district and the General Plan land use designation.

Other Department Comments

The project proposal was reviewed by various other City Departments and affected outside agencies. The responses and recommendations have been incorporated into the recommended conditions of approval included in this report. Based on prior use and the conditions imposed, the Police Chief has determined that the proposed use: (i) would not be detrimental to the public health, safety, comfort, or welfare of persons located within five hundred (500') feet of the site; and (ii) would not significantly increase the severity of existing law enforcement or public nuisance problems in the area (e.g. increase in service calls related public intoxication nuisance, vagrancy, or loitering).

Conclusion

The expansion of outdoor dining in conjunction with alcohol sales is a permitted use subject to a CUP. The project building has historically operated harmoniously with surrounding land uses. No evidence suggests approval of the CUP would be detrimental to the public, health, safety, and welfare of those residing or working nearby. In order to ensure the continued compatibility of the site with surrounding uses, conditions of approval have been incorporated that address typical concerns associated with establishments that provide alcohol for on-site consumption.

APPLICABLE GENERAL PLAN POLICIES

The 2040 General Plan includes policy recommendations related to the various physical development aspects of the community. The policies are supported by a set of goals and objectives. The Planning Commission shall refer to the General Plan's policies, goals, and objectives when making a decision regarding this particular request.

Through the project and development review process and in collaboration with other City departments and outside agencies, the project has been designed to comply by in large with the City's General Plan goals, policies, and objectives. The proposed outdoor expansion of dining activities will directly or indirectly provide compliance with the General Plan. Below is an excerpt from the General Plan that is germane to this conditional use permit request:

ED-1.1 Increase Business: The City shall strive to increase the number of businesses operating in Kerman to satisfy the routine needs and dining, services, and retail desires of residents while also increasing sales, property, business, and potential transient-occupancy taxes.

ED-1.4 Downtown Shopping and Entertainment: The City shall work with Downtown businesses, property owners, and other agencies to improve circulation, parking, pedestrian facilities, and food service options to help promote increased shopping and entertainment opportunities.

ENVIRONMENTAL REVIEW:

The Planning Commission finds and determines that a Class 1 Categorical Exemption (Existing Facilities) set forth in CEQA Guidelines Section 15301 applies to this Project as it consists of the use of an existing private facility on an existing site, to provide outdoor dining at a location previously permitted to offer outdoor dining services and associated alcohol Sales. No expansion of the building is proposed, and any maintenance or minor alternations of the building would be negligible, and would not result in a significant, adverse impact on the environment. Furthermore, none of the exceptions set forth in CEQA Guidelines Section 15300.2 apply to this Project.

PLANNING COMMISSION FINDINGS:

Due to operational characteristics, conditional use permits are required for certain uses within each zone district in order to minimize impacts upon surrounding uses. In considering a conditional use permit, the Planning Commission must make certain findings pursuant to Section 17.12.040 (C) of the KMC.

- A. That the proposed establishment, maintenance, and operations of the use applied for will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the city.

Finding A (1). The project will not be detrimental to public health, safety, or welfare. It is located in a designated general commercial area with hours of operation and conditions of approval which will minimize any potential negative impacts on adjacent land uses. The conditions of approval (Exhibit 'A') limit types of uses that may be objectionable or detrimental to other permitted uses or adverse to the public interest health, safety, convenience, or welfare of the city. The Planning Commission adopts the Police Chief's determination that the proposed use: (i) would not be detrimental to the public health, safety, comfort, or welfare of persons located within five hundred (500') feet of the site; and (ii) would not significantly increase the severity of existing law enforcement or public nuisance problems in the area (e.g. increase in service calls related public intoxication nuisance, vagrancy, or loitering).

- B. That the proposed use is consistent with the Kerman General Plan.

Finding B (1). Outdoor dining and alcoholic beverage sales are permitted uses subject to a conditional use permit in the (CG General Commercial), which is a consistent zone with the General Plan GC (General Commercial) land use designation. The project is consistent with the General Plan, including General Plan objectives ED-1.1, and ED-1.4.

Finding B (2). The Project is located along a general commercial corridor suitable for many retail, business professional, service commercial, and other similar activities and uses.

Finding B (3). The conditions of approval preserve the integrity and character of the zone district and ensure compliance with the General Plan and Zoning Ordinance.

- C. That the environmental document is prepared as per the California Environmental Quality Act.

Finding C (1). As described in greater detail, above, a preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The project falls within Categorical Exemption per CEQA Guidelines Section 15301 (Existing Facilities) as the project is characterized as a use occupying an existing structure within a developed site and meets the required conditions described in said section. There are no project-specific significant effects on the project or the site which would require additional environmental review.

- D. That the site for the proposed use is adequate in size, shape, and location to accommodate the use as it relates to the district for which the use is proposed.

Finding D (1). The location of the Project is within the CG - General Commercial zone district which is located along a commercial corridor suited for retail, office, commercial services, and other similar activities and uses along the Madera Avenue corridor in a developed parcel of land. The outdoor dining areas listed in this report were used faithfully and efficiently with alcohol sales during California's state of emergency. During its year's long course, the proposed use demonstrated its negligible impact on the existing surrounding developments. Furthermore, expansion of the outdoor dining will occur within the building envelope of the site.

Planning Commission Action:

The Commission will be acting on CUP 2023-04 and determine to either:

Motion 1: Adopt a resolution approving CUP 2023-04, to allow for the expansion of outdoor dining activities and associated alcohol sales at 170 N. Madera Ave., including adopting a finding of a Categorical Exemption pursuant to Section 15301 of the CEQA Guidelines.

Motion 2: Move to continue the public hearing on CUP 2023-04 to a later meeting; or

Motion 3: Move to continue applications for CUP 2023-04 to a later meeting, with direction to staff to return with an updated resolution with appropriate findings for the denial of the application(s).

Any action taken by the Commission approving or denying the application(s) is subject to appeal to the City Council no later than ten (10) working days after the day on which the decision was made.

Attachments

1. Resolution w/ Exhibits
2. Aerial Photo

Attachment 1
Resolution No. 2023-__

A RESOLUTION OF THE CITY OF KERMAN PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT 2023-04, TO ALLOW FOR THE EXPANSION OF OUTDOOR DINING AND EXISTING ALCOHOL BEVERAGE SALES FOR CEVICHES AND BEER LOCATED AT 170 NORTH MADERA AVENUE IN KERMAN, CA (APN: 025-130-94).

WHEREAS, the Planning Commission considered a request for a conditional use permit filed by Maria Perez (applicant) on behalf of Dang Tran Investments LLC (property owner) for the expansion of outdoor dining and memorialization of existing ABC sales for Ceviches and Beer, located at 170 N. Madera Ave., in Kerman, CA (APN: 025-130-94); and

WHEREAS, a public notice was circulated to adjacent properties within a 300-foot radius of the project site and published in the local newspaper at least 10 days prior to the meeting as required by law; and

WHEREAS, a written report was prepared by staff which included a recommendation for approval of Conditional Use Permit 2023-04 and was made available for public review at least 72 hours prior to the public hearing; and

WHEREAS, the project was assessed under the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission, after hearing public testimony and deliberating, now desires to approve Conditional Use Permit 2023-04 subject to findings and conditions of approval, and adopt a finding of a Class 1 Categorical Exemption (Existing Facilities) pursuant to CEQA Guidelines Section 15301.

NOW, THEREFORE, BE IT RESOLVED by the City of Kerman Planning Commission as follows:

- 1) Recitals: The above recitals are true and correct and are incorporated herein:
- 2) CEQA: The Planning Commission finds and determines that a Class 1 Categorical Exemption (Existing Facilities) set forth in CEQA Guidelines Section 15301 applies to this Project as it consists of the use of an existing private facility on an existing site, to provide outdoor dining at a location previously permitted to offer outdoor dining services with ABC Sales. No expansion of the building is proposed, and any maintenance or minor alternations of the building would be negligible, and would not result in a significant, adverse impact on the environment. Furthermore, none of the exceptions set forth in CEQA Guidelines Section 15300.2 apply to this Project.
- 3) Conditional Use Permit: The Planning Commission has determined that all findings required for approval of Conditional Use Permit 2023-04 can be made, including those required by the City of Kerman Municipal Code Section 17.12.040 (C) as follows:
 - E. That the proposed establishment, maintenance, and operations of the use applied for will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the city.

Finding A (1). The project will not be detrimental to public health, safety, or welfare. It is located in a designated general commercial area with hours of operation and conditions of approval which will minimize any potential negative impacts on adjacent land uses. The conditions of approval (Exhibit 'A')

limit types of uses that may be objectionable or detrimental to other permitted uses or adverse to the public interest health, safety, convenience, or welfare of the city. The Planning Commission adopts the Police Chief's determination that the proposed use: (i) would not be detrimental to the public health, safety, comfort, or welfare of persons located within five hundred (500') feet of the site; and (ii) would not significantly increase the severity of existing law enforcement or public nuisance problems in the area (e.g. increase in service calls related public intoxication nuisance, vagrancy, or loitering).

- F. That the proposed use is consistent with the Kerman General Plan.

Finding B (1). Outdoor dining and alcoholic beverage sales are permitted uses subject to a conditional use permit in the (CG General Commercial), which is a consistent zone with the General Plan GC (General Commercial) land use designation. The project is consistent with the General Plan, including General Plan objectives ED-1.1, and ED-1.4.

Finding B (2). The Project is located along a general commercial corridor suitable for many retail, business professional, service commercial, and other similar activities and uses.

Finding B (3). The conditions of approval preserve the integrity and character of the zone district and ensure compliance with the General Plan and Zoning Ordinance.

- G. That the environmental document is prepared as per the California Environmental Quality Act.

Finding C (1). As described in greater detail, above, a preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The project falls within Categorical Exemption per CEQA Guidelines Section 15301 (Existing Facilities) as the project is characterized as a use occupying an existing structure within a developed site and meets the required conditions described in said section. There are no project-specific significant effects on the project or the site which would require additional environmental review.

- H. That the site for the proposed use is adequate in size, shape, and location to accommodate the use as it relates to the district for which the use is proposed.

Finding D (1). The location of the Project is within the CG - General Commercial zone district which is located along a commercial corridor suited for retail, office, commercial services, and other similar activities and uses along the Madera Avenue corridor in a developed parcel of land. The outdoor dining areas listed in this report were used faithfully and efficiently in conjunction with alcohol sales during California's state of emergency. During its year's long course, the proposed use demonstrated its negligible impact on the existing surrounding developments. Furthermore, expansion of the outdoor dining will occur within the building envelope of the site.

4. Conditions of Approval: Given the foregoing, the Planning Commission approves Conditional Use Permit 2023-04, subject to the conditions of approval attached herein as **Exhibit "A"**.
5. Effective Date: This Resolution shall take into effect immediately.

I HEREBY CERTIFY that the foregoing Resolution was approved at a regular meeting of the Planning Commission of the City of Kerman on the 10th day of April 2023, and was fully adopted at the said meeting by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing resolution is hereby approved.

Scott Bishop
Chairperson

ATTEST:

Jesus R. Orozco
Planning Commission Secretary

Exhibit 'A'
Conditions of Approval
Ceviches & Beer – CUP 2023-04
April 10, 2023

Notice To Applicant

Pursuant to Government Codes Section 66020(d)(1) and/or Section 66499.37, any protest related to the imposition of fees, dedications, reservations, or exactions for this project or any proceedings undertaken regarding the City's actions taken or determinations made regarding the project, including but not limited to the validity of conditions of approval must occur within ninety (90) calendar days after the date of this decision. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

Important: Please Read Carefully

This project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies; those determined through conditional use permit review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community; and recommended conditions for development that are not essential to health, safety, and welfare, but would, on the whole, enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval for CUP 2023-04 will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) working days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval for this entitlement, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed (including its identification number) and specific reasons why you believe the decision or action appealed should not be upheld, and the identity of the appellant.

Approval of this conditional use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

Approval of this conditional use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit, the zoning ordinance, and all City standards and specifications. This use permit and site plan review is granted, and the conditions imposed, are based upon the application submittal provided by the applicant, including any operational statement. The application is material to the issuance of this use permit. Unless the conditions of approval specifically require an operation inconsistent with the application, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the application. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit, or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process, or for additions or alterations to any construction or building plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. These conditions are conditions imposed solely upon the use permit as delineated herein and are not

conditions imposed on the City or any third party. Likewise, imposition of conditions to ensure compliance with federal, state, or local laws and regulations does not preclude any other type of compliance enforcement.

These conditions are applicable to any person or entity making use of this use permit, and references to “developer” or “applicant” herein also include any applicant, property owner, owner, leasee, operator, or any other person or entity making use of this use permit.

General Conditions

1. Project approval is conditioned upon acceptance of the conditions of approval contained herein, as evidenced by the receipt in the Planning Division of the applicant’s signature upon an Acknowledgement and Acceptance of Conditions within 30 days of the date of approval.
2. Any intensification or expansion of the use beyond its approval shall be cause for review and modification of the use permit to be approved by the Commission.
3. Any proposed future modifications to the site not specifically contemplated by CUP 2023-04, including but not limited to, the building exterior, parking/loading areas, fences/walls, new buildings, or landscaping shall require an amendment to CUP 2023-04.
4. All conditions of approval shall be the sole financial responsibility of the applicant/owner, except where specified in the conditions of approval listed herein or mandated by statute.
5. It shall be the responsibility of the property owner and/or applicant to ensure that any required permits, inspections, and approval from any regulatory agency are obtained from the concerned agency prior to issuance of a business license or final occupancy issuance.
6. Failure to comply with the conditions of approval contained herein shall be cause for review and possibly modification or revocation to CUP 2023-04.
7. Approval of CUP 2023-04 is for the benefit of the applicant. The submittal of application(s) by the applicant for this project was a voluntary act on the part of the applicant not required by the City. Therefore, as a condition of approval of this project, the applicant agrees to defend, indemnify, and hold harmless the City of Kerman and its agents, officers, consultants, independent contractors, and employees (“City”) from any and all claims, actions, or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the project, including any challenges to associated environmental review, and for any and all costs, attorney’s fees, and damages arising therefrom (collectively “claim”). The City shall promptly notify the applicant of any claim.

Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant shall be responsible for City’s attorneys’ fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any claim, the applicant shall not be required to pay or perform any settlement arising from any such claim unless the applicant approves the settlement.

Building Division

8. A building permit shall be required for all proposed or future tenant and site improvements as required by the California Building Code, California Fire Code, and Americans with Disability Act (ADA) prior to occupancy.
9. The developer and/or property owner shall submit plans consistent with California Building Standards Code, to include site development and ADA accessibility based upon the codes in effect at the time of plan check submittal.
10. The Owner / Applicant shall also submit an application for a Construction and Demolition (C&D) permit per KMC, Chapter 8.12 and required permits from other enforcement agencies including but not limited to the following: Mid Valley Disposal, San Joaquin Valley Air Pollution District.
11. Prior to the commencement of any work on the project site, the general contractor and all sub-contractors shall obtain a City business license.
12. Construction, repair, and/or remodeling shall be permitted to occur between the hours of 7:00 a.m. and 10:00 p.m., consistent with 9.26.020 of the KMC.

North Central Fire Protection District

13. The north and south curb sections of the drive aisle into the project property shall be painted to the specifications of NCFPD Policy No. 403.005, attached herein as Exhibit 'A- 1'.
14. Please contact the NCFPD by email at Fire.Prevention@NorthCentralFire.org or by phone at (559) 878-4560 to schedule an over-the-counter meeting to receive your specific requirements for your project. Failure to schedule an appointment with the NCFPD will affect your ability to obtain final approval for your project.

Planning Division

General

15. On-site litter and graffiti shall be corrected per the KMC, Section 17.100.050 (B) – Litter and Graffiti.
16. The business and/or property owner shall keep the property clear of all trash, rubbish, and debris at all times. Dumping of refuse shall be restricted to the refuse containers scheduled to service the site.
17. The business and/or property owner shall comply with all applicable federal, state, or local laws, rules, and regulations. Material violations of said laws, rules, and regulations may be cause for review and possible revocation of the use permit.
18. Business owner(s) shall be responsible for securing a business license from the Finance Department before the commencement of any commercial activity.

Conditional Use Permit 2023-04

19. Conditional Use Permit 2023-04 shall allow for the on-site sale and consumption of alcoholic beverages, including within the specified outdoor dining areas as shown on the site photos attached herein as Exhibit 'A-2'. Alcohol sales shall be consistent with ABC license type 47 (On-Sale General Eating Place) and 77 (Event Permit), as prescribed by the State Department of Alcohol Beverage Control. Any modification to license type shall require an amendment to CUP 2023-04.

20. The expanded outdoor patio area shall be properly screened with permanent fencing within one year of approval of this CUP, to the specifications of the Planning Division.
21. On-site dining shall not exceed 130 seats or as determined by the California Fire code, whichever is lesser. Seating shall include permanent indoor and outdoor seating areas.
22. The project site shall be permitted to provide alcohol sales and services between the hours of 9:00 AM and 1:00 AM every day of the week, notwithstanding outdoor restrictions as described in Condition No. 22.
23. Due to the project site's proximity to the current development of a KUSD facility, the outdoor sale and consumption of alcoholic beverages shall not be permitted to occur between the hours of 10:00 PM and 9:00 AM, Sunday through Thursday.
24. Outdoor dining areas shall be properly lit during hours of operation and properly screened consistent with KMC 17.100.050 (A), to be field verified by the Planning Division.
25. No outdoor storage of equipment or materials shall be permitted as part of this CUP approval.
26. The business owner shall be responsible for ensuring compliance with all of the standards of operation as codified by KMC 17.100.050.

Signage

27. Proposed and future permanent signage shall comply with KMC 17.76.050 and 17.100.060
28. No sign shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety or interfere with the safe operation of a motor vehicle on public streets. This includes, but is not limited to, the driver's view of approaching, merging, or intersecting traffic.
29. Temporary signage shall be permitted for special events (i.e. grand opening, local, State, or Federal recognized holidays), to be displayed for thirty (30) days or less per year and advertise a grand opening or community affair.

Police Department

30. Video Surveillance shall be installed consistent with KMC 17.100.050 (D) – Video Surveillance. Surveillance system installed shall be in color and monitor areas where alcohol sales and consumption is permitted to occur under this CUP. The system shall have correct date and time stamped and retained for no less than thirty (30) days. Footage shall be made available to law enforcement within 24 hours of initial request.
31. The operation of the business shall not result in criminal activity or repeated nuisance activities on the property as specified in KMC, Section 17.100.070 – Loitering and Other Nuisance Activities.
32. The business owner or operator shall be responsible for the removal of deterrent behavior including loitering and/or vagrancy in or upon the business site. The business owner shall install “No Trespassing” and “No Loitering” signs on the premise to the specifications of the Police Department.

End of Conditions