



STAFF REPORT

MEETING DATE: October 14, 2024

PRESENTER: Manuel Campos, Assistant Planner

SUBJECT: Public hearing regarding Conditional Use Permit 2024-06 to allow for a Type 41 (On-sale Beer & Wine) ABC license for the project located at 15215 W. Whitesbridge Rd., including adopting a finding of a Categorical Exemption for the Project. (MC)

RECOMMENDATION: Commission conduct a public hearing, deliberate, and by motion adopt a resolution approving Conditional Use Permit 2024-06 to allow for a Type 41 (On-sale Beer & Wine) ABC license for the project located at 15215 W. Whitesbridge Rd., including adopting a finding of a Categorical Exemption for the Project according to Section 15332 of the CEQA guidelines.

EXECUTIVE SUMMARY: Conditional Use Permit (CUP) 2024-06 was filed by Chipotle Mexican Grill, Inc. (applicant) on behalf of Sunnyside Investments (property owner), requesting approval of a Conditional Use Permit to allow for a Type 41 (On-sale Beer and Wine) ABC license at 15215 W. Whitesbridge Rd., located on the southeast corner of W. Whitesbridge Rd. and S. First St., zoned CG (General Commercial) with a GC (General Commercial) General Plan land use designation (APN: 023-390-42S). A Categorical Exemption according to section 15332 of the CEQA Guidelines will be considered for the project.

APPLICABLE CODES AND PROCEDURES:

KMC 17.12 – Commercial, Office, and Mixed-Use Zones

KMC 17.50 – Alcohol Beverage Sales Uses

KMC 17.84 – Conditional Use Permits

Public Resource Code – CEQA 15332 In-fill Development Projects

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. Before the public hearing a staff report, environmental determination, and general plan findings for the use permit must 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

Recently, the subject property has been approved for the following entitlement applications: Lot Line Adjustment (LLA 2023-01), CUP 2023-06 MOD, and Site Plan Review (SPR 2023-03). The new parcel boundary formed due to LLA 2023-01 conforms to current development standards and will not impact the subject entitlement application. SPR 2023-03 proposed the development of a retail development that includes a 9,120 sq. ft. multi-tenant building, a 2,325 sq. ft. shell building (Chipotle), and 112 parking stalls, which was approved administratively by staff on February 27, 2024. The Commission approved a CUP modification in favor of Chipotle to allow for a drive-through facility and outdoor dining on February 12, 2024. As of the date of this report, the construction of the project is underway.

Project Proposal

The project proposal includes an application for CUP 2024-06 to allow for a Type 41 license (On-sale Beer and Wine) from the State Department of Alcoholic Beverage Control (ABC) for the proposed Chipotle Mexican Grill, Inc. restaurant at 15215 W. Whitesbridge Rd. This particular alcohol license would allow the restaurant to sell beer and wine for on-site consumption. The applicant intends to keep the consumption of beer and wine within the interior of the building. No consumption of beer and wine will occur in the outdoor patio area. The sale of beer and wine for off-site consumption is not proposed. As seen in Attachment 2, the storage of alcohol is exclusively for the restaurant staff to handle. Furthermore, this attachment displays that the restaurant's interior consists of an indoor and outdoor dining area with sixty-two (62) seats, restrooms, and a kitchen work area. The sale of alcohol would be ancillary to the sale of the restaurant's Mexican cuisine menu. The hours of operation are proposed to be daily from 10:00 AM to 11:00 PM, with alcohol sales hours being the same. The applicant intends to hire thirty (30) employees for the restaurant with ten (10) present at any given shift. As required by ABC, any alcohol server or manager of the restaurant is subject to the state-mandated Responsible Beverage Server (RBS) training program.

Site and Surrounding Land Uses and Setting

As mentioned above, the project building is located within a retail center and is being developed with outdoor seating and a drive-through lane (Chipotlane). The Project site is located along West Whitesbridge Road between South First Street and South Madera Avenue. As noted in Table 1., the site is surrounded by W. Whitesbridge Rd. to the north, a parking lot to the east, an apartment complex (Kerman Plaza Apartments) to the south across a private street, and a ± 4,430 sq. ft. commercial building pad site to the west.

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

Location	Existing Land Use	General Plan Designation	Zone District
North	State Highway	N/A	N/A
East	Parking Lot	GC – General Commercial	CG – General Commercial
South	Apartments	R-3 – Multi-Family	HDR – High-Density Residential
West	Commercial Pad Site	GC – General Commercial	CG – General Commercial

Zoning and 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 that are diverse, visually pleasing, convenient in terms of parking and access, attractive, and used by the citizens of Kerman as well as visitors to the area. A restaurant is permitted “by right” use. However, as required by the KMC, new establishments wishing to engage in alcohol sales must secure approval of a CUP. Approval of this application will be consistent with the zone district and the General Plan land use designation. Denial of the CUP would prevent the sale of alcohol. However, the applicant may continue with establishing a restaurant, subject to meeting all applicable standards.

Alcohol Sales

The project is located in Census Tract 40.04 which allows for a total of three (3) “on-sale” alcohol licenses before a level of “Undue Concentration” is reached as regulated by ABC. Currently, in the subject census tract, there are two (2) on-sale alcohol licenses. One of these licenses is registered to Me-N-Ed’s Pizzeria (15191 W. Whitesbridge Rd.) and the other to Round Table Pizza (15200 W. Whitesbridge Rd.). The proposed Type 41 alcohol license would be the third on-sale ABC license in Census Tract 40.04. Approval of CUP 2024-06 would not result in an undue concentration and will allow the applicant to continue with the State Department of Alcoholic Beverage Control application process. Furthermore, if the CUP is approved the applicant will need to comply with the requirements of Chapter 17.50 of the KMC, which requirements include, but are not limited to, signage and operation requirements.

Conclusion

The sale of alcohol is a permitted use subject to a CUP. Alcohol sales within Census Tract 40.04 have not been known to cause nuisance for surrounding land uses. Consequently, it can be expected that approval of CUP 2024-06 will operate similarly to the restaurants in the subject Census Tract. No evidence suggests that approval of the CUP would be detrimental to the public, health, safety, and welfare of those residing or working nearby. 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 deciding on 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. Approval of the Type 41 ABC license 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.

ENVIRONMENTAL REVIEW:

Staff performed a preliminary environmental assessment of this project pursuant to the guidelines of the California Environmental Quality Act (CEQA) and has determined that it falls within the Class 32 Categorical Exemption (In-Fill Development Project) outlined in CEQA Guidelines Section 15332 as it is (a) consistent with applicable goals and policies of the General Plan and standards of the Zoning Ordinance, (b) the site is within City limits and consists of land less than 5 acres surrounded by substantially developed land, (c) there is no known endangered habitats, rare or threatened species on the project site, (d) with the conditions of approval, the project will not have a significant effect on environment relating to traffic, noise, air quality, and water quality, and (e) the project site can be adequately served by existing utilities and public services. Furthermore, Staff has determined that none of the exceptions to categorical exemptions outlined 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 17.84.030 (D) 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 conditions of approval, which minimize any potential negative impacts to 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.

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

Finding B (1). Alcoholic beverage sales for on-site consumption is a permitted use subject to a conditional use permit in the (CG) General Commercial zone district, 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.

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 under the requirements of the California Environmental Quality Act (CEQA). The project falls within a Categorical Exemption per CEQA Guidelines Section 15332 (In-Fill Development Project) as the project as a whole meets the required criteria 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 project's location is within the CG - General Commercial zone district, along a commercial corridor suited for retail, office, commercial services, and other similar activities and uses along the Whitesbridge Road corridor on an undeveloped parcel of land. The project's design and operations are appropriate to meet all applicable development and operational standards of the Zoning Ordinance.

Planning Commission Action:

The Commission will be acting on CUP 2024-06 and determine to either:

Motion 1: Adopt a resolution approving Conditional Use Permit 2024-06 to allow for a Type 41 (On-sale Beer & Wine) ABC license for the project located at 15215 W. Whitesbridge

Rd., including adopting a finding of a Categorical Exemption for the Project according to Sections 15332 of the CEQA guidelines.

Motion 2: Move to continue the public hearing on CUP 2024-06 to a later meeting; or

Motion 3: Move to continue CUP 2024-06 to a later meeting, with direction to staff to return with an updated resolution with appropriate findings for 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/ Exhibit
2. Site Plan
3. Aerial View