

May 4, 2023

CHAIR AND PLANNING COMMISSIONERS  
City of Long Beach  
California

**RECOMMENDATION:**

Accept Categorical Exemption CE23-039 and approve Conditional Use Permit (CUP22-026) and a Local Coastal Development Permit (LCDP22-046) to allow an upgrade of an existing alcohol license from a Type 41 (beer and wine) to a Type 47 (beer, wine, and distilled spirits) at an existing 2,139-square-foot restaurant with a bar which includes the legal non-conforming sale of beer and wine located at 5316 ½ 2<sup>nd</sup> Street in the Neighborhood Pedestrian (CNP) Zoning District. (District 3)

APPLICANT: Jennifer Cuevas  
5318 E 2<sup>nd</sup> Street., Ste 632  
Long Beach, CA 90803  
(Application 2208-04)

**DISCUSSION**

The subject site is located at 5316 ½ 2<sup>nd</sup> Street, on the east side of 2<sup>nd</sup> Street between Glendora Avenue to the south and Pomona Avenue to the north (Attachment A – Vicinity Map) in the largest Belmont Shore shopping, dining, and entertainment area. The site has a 1989 General Plan Land Use Designation of Land Use District No. 8P Pedestrian-Oriented Retail Strip, which is intended for a variety of smaller scale stores providing a variety of convenience goods and services.<sup>1</sup> Surrounding uses include commercial retail shops, restaurants, bars, and financial institutions along the block of East 2<sup>nd</sup> Street.

The following table indicates the adjacent land uses to the subject site:

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<sup>1</sup> The General Plan Land Use Element was updated in 2019 and has not yet been certified as part of the City's Local Coastal Program. Therefore, the 1989 General Plan Land Use Element (1989) designation LUD No. 11 remains applicable to the project site.



**Table 1: Adjacent Land Uses**

<b>Direction</b>	<b>Land Use Type</b>
North	Commercial
South	Residential
West	Commercial
East	Commercial

The property is located within the Neighborhood Pedestrian (CNP) Zoning District and is developed with a one-story, 4,200-square-foot multi-tenant building. The existing restaurant Taco Shore is a family style restaurant that occupies 2,139 square-feet of the building and has been operating since May 2013 as a restaurant and bar which includes the legal non-conforming sale of beer and wine. The previous use within the tenant space was also a sit down ready-to-eat restaurant with alcohol that was formerly occupied by Taco Surf (Attachment B-Site Photos).

The applicant is seeking a Conditional Use Permit (CUP) to expand the range of alcohol beverage sold from beer and wine (Alcoholic Beverage Control [ABC] Type 41) to beer, wine, and distilled spirits for on-site consumption at the existing restaurant and outdoor patio on private property. The restaurant use is existing, however the upgrade to an ABC Type 47 license is a change and is technically considered an expansion of the alcohol sales that requires a CUP under the legal non-conforming provisions of the Zoning Ordinance (Long Beach Municipal Code [LBMC] 21.27.060.A). In accordance with the LBMC Section 21.25.201, the purpose of a CUP is to allow the review of the upgrade of the restaurants existing Type 41 ABC license to a Type 47 ABC license to determine if it is compatible with the adjacent uses or can be made compatible with the surrounding uses, with conditions (Attachment C - Conditions of Approval). LBMC Section 21.52.201 establishes certain conditions for projects that propose alcohol beverage sales that require a CUP. Conditions include requirements for compliance with parking, that there not be an overconcentration of alcohol licenses within a Census Tract, and that the use not be in a reporting district with a high crime rate as reported by the Long Beach Police Department (LBPD). However, LBMC Section 21.52.100 allows these conditions to be waived subject to written findings.

There is no proposal for new construction, exterior improvements, or expansion of the existing restaurant structure, bar areas, or outdoor patio as part of the proposed project (Attachment D-Plans). However, the restaurant must comply with the 2022 Edition of the California Building Standards Code (e.g., ADA requirements) and the LBMC, as required by State law which will require minor interior improvements to ensure conformance with those codes.

The existing floor plan supports a restaurant, bar area, and a private outdoor dining patio. The following table highlights a breakdown of the existing floor plan layout for the subject site:

**Table 2: Existing Floor Plan**

<b>Restaurant Floor Plan</b>	<b>Square Footage of Area</b>	<b># of Seats</b>
Indoor Dining	270 square feet	22 seats
Outdoor dining on Private Property	265 square feet	26 seats
Bar Area	131.34 square feet	15 seats
	<b>Total Sq. Ft.: 666.34 sq. ft.</b>	<b>Total # of Seats: 63</b>

An upgrade from an existing ABC Type 41 license to an ABC Type 47 license requires the restaurant to also comply with the California Department of Alcoholic Beverage Control. Under ABC requirements, the ABC Type 47 license is designated for businesses, like Taco Shore, to be established as a bona fide eating place that primarily serves food. ABC restricts alcohol beverage sales to not exceed 30 percent of the total of food sales for a restaurant. Therefore, a restriction is placed on the restaurant from operating as a bar.

The bar area consists of two bar top areas. In order to meet code requirements and the ABC requirement to ensure the restaurant maintains its family-style dining, staff has conditioned the project to a maximum number of eight bar top seats (roughly 14 percent of the total seating area) which shall be evenly distributed throughout the two bar top seating areas within the restaurant. Bar top area #1 shall have a maximum number of four bar top seats including ADA compliant seating. Bar area #2 shall be modified to accommodate a maximum number of four bar top seats (as labeled on the floor plan). Given the reduction of seats from the bar area, there will be a total of 56 seats to support the restaurant use. Additionally, the project will also include a reduction in the number of televisions from eleven to a maximum total of four televisions that shall be evenly distributed throughout the restaurant (two televisions) and bar #2 area (two televisions) only (as labeled on the floor plan). Televisions are prohibited in the outdoor patio area. These measures have been incorporated into the conditions of approval.

The building and site where the restaurant use is located was developed with no existing off-street parking. The existing site configuration precludes the addition of parking on-site. The previous restaurant use required a total of 22 parking spaces pursuant to today’s zoning code under Chapter 21.41: Off-Street Parking and Loading Requirements of the LBMC. Due to the absence of on-site parking, legal non-conforming parking rights apply to the parking for the use, and the existing restaurant shall not exceed the non-conformity. The alcohol license will allow the restaurant to expand the type of alcohol service to include distilled spirits to customers, and the changes proposed are not anticipated to increase the parking demand. Although there is no on-site parking, the Belmont Shore area offers the public single-space on-street meter parking along 2<sup>nd</sup> Street and a public parking lot at the rear end of the site located at 191 Pomona Avenue (approximately 112 feet away) that provides 32 parking spaces to the business and other surrounding uses.

As background, the applicant has applied for a separate sidewalk dining permit renewal with a modification to add a parklet with the Public Works Department to permanently permit a shared parklet which would be located within the public right-of-way at the front of the restaurant business. The parklet is anticipated to be shared with the neighboring restaurant business

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known as George's Greek Café. Information on the sidewalk dining permit renewal with a modification to add a parklet is provided as background and the request will be processed through a separate process. The proposed CUP before the Planning Commission is to allow the upgrade from an ABC Type 41 to an ABC Type 47 alcohol license is for the private property only which includes the restaurant and private outdoor patio.

As described in the applicant's operations plan, the restaurant will provide a dine-in casual and regional authentic Mexican and new-age fusion cuisine experience that will serve breakfast, lunch and dinner menu items. The hours of operation for the business will remain the same: Sundays through Mondays and Wednesdays through Thursdays from 10:00 a.m. to 10:00 p.m., Tuesdays 10:00 a.m. to 10:30 p.m. and Fridays through Saturdays 10:00 a.m. to 11:00 p.m. with the business owner and a staff of eight employees per shift, approximately 20 total employees (Attachment E - Operations Plan).

In addition to the CUP requirement, this location also requires a Local Coastal Development Permit (LCDP) because the project is located in the Coastal Zone. In considering a CUP application for the sale of beer, wine, and distilled spirits, staff evaluated the number of existing alcohol licenses in the subject Census Tract, as well as the total number of reported crimes in the subject Police Reporting District. According to the ABC License Report, the subject property is within Census Tract 5773, which allows a maximum of five on-site alcohol licenses. There are currently twelve alcohol licenses for on-site consumption sales within this Census Tract (Attachment F – ABC Stats). This Census Tract is located in the Belmont Shore commercial district, where there is a large concentration of restaurants and bars along 2<sup>nd</sup> Street. The existing restaurant is included as one of the active alcohol licenses in the Census Tract. The approval of this CUP request facilitates a change in the license type from ABC and would not add to the concentration of alcohol licenses in this Census Tract; this is an upgrade of from the on-site sale of beer and wine (ABC Type 41 alcohol license) to allow beer, wine and distilled spirits (ABC Type 47 alcohol license).

Restaurant uses, such as Taco Shore, are permitted within the CNP Zoning District and are consistent with the intent of the Land Use District and Local Coastal Program. The subject restaurant with the proposed upgrade of an ABC Type 47 on-site consumption alcohol sales supports visitors and residents. The recommended conditions of approval are intended to ensure the use operates in a manner compatible with the surrounding area. Such proposed conditions include requiring visibility into the restaurant space by restricting film or other similar obstructions from being installed along the tenant space windows or door, and mandatory staff training to ensure that staff are adequately trained to address any issues that might arise in association with the sale of alcohol. Additionally, conditions will require bar #1 to maintain a maximum of four bar top seats, bar #2 will also maintain a maximum of four bar top seats, and patrons are prohibited from standing around the bar area to ensure compliance with local codes and to ensure that the hallways are kept clear (Attachment E - Operations Plan).

The site is located within LBPD Reporting District 571 within the East Division. The crime rate for the reporting district is 110 crimes. Pursuant to Section 21.15.1338, "high crime" means a crime rate in a crime reporting district that is 20 percent above the City-wide average for all

crimes. The threshold for high crime is 66 for the calendar year 2022. Therefore, this area is designated as a high crime area. This level of crime however is consistent with the tourist-destination and high-traffic nature of any shopping, dining and entertainment area and no evidence exists that the restaurant is the cause or contributor to the rate of crime. In the past year, between April 11, 2023 to April 22, 2023, there has been approximately two calls for service primarily due to transient related matters. The LBPD reviewed the CUP request for this location and has no objection to its approval with proper conditions of approval. Additionally, the site is not located within 500 feet of a public school or public park.

Furthermore, the site will be equipped with a surveillance system, which will include cameras installed inside of the restaurant, as well as exterior video security cameras at the front and rear of the tenant space. The cameras shall record video for a minimum of 30 days and be accessible via the internet by the LBPD. The installation of cameras on the property is intended to deter criminal activity and promote safety. Therefore, all findings can be made in the affirmative (Attachment G - Findings).

The proposed CUP for the upgrade of an ABC Type 41 alcohol license to an ABC Type 47 alcohol license at this restaurant and outdoor patio will not cause substantial adverse effects on the neighboring land uses or the community at large with the recommended conditions. Therefore, staff recommends that the Planning Commission accept Categorical Exemption CE-23-039, approve the CUP, and LCDP subject to conditions of approval.

### **PUBLIC HEARING NOTICE**

A total of 204 public hearing notices were distributed on April 20, 2023, in accordance with the requirements of Chapter 21.21 of the LBMC. At the time of writing this report, staff has received no inquiries or public comments on this project.

### **ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act this project is eligible for a categorical exemption per Section 15301- Existing Facilities Class 1(a), as the project is within an existing structure (CE-23-039).

Respectfully submitted



MEGAN COVARRUBIAS  
PROJECT PLANNER



ALEXIS OROPEZA  
CURRENT PLANNING OFFICER

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ALISON SPINDLER-RUIZ, AICP  
PLANNING BUREAU MANAGER



CHRISTOPHER KOONTZ  
DIRECTOR OF DEVELOPMENT  
SERVICES

CK:ASR:AO:MXC

Attachments:

- Attachment A – Vicinity Map
- Attachment B – Site Photos
- Attachment C – Conditions of Approval
- Attachment D – Plans
- Attachment E – Operation Plans
- Attachment F – ABC Stats
- Attachment G – Findings