

**STAFF REPORT – PLANNING
CITY OF TEMECULA
PLANNING COMMISSION**

TO: Planning Commission Chairperson and members of the Planning Commission

FROM: Luke Watson, Deputy City Manager

DATE OF MEETING: May 1, 2024

PREPARED BY: Eric Jones, Case Planner

**PROJECT
SUMMARY:**

Planning Application Number PA22-0670, a Conditional Use Permit for a restaurant to offer alcohol service with a California Department of Alcoholic Beverage Control Type 47 License. The project is located at 28721 Old Town Front Street.

RECOMMENDATION: Adopt a Resolution Denying the Project

CEQA: Exemption
Section 15061.b.4

PROJECT DATA SUMMARY

Name of Applicant: Chris Campbell on behalf of Oak and Ocean

**General Plan
Designation:** Specific Plan Implementation (SPI)

Zoning Designation: Old Town Specific Plan (Downtown Core)

**Existing Conditions/
Land Use:**

Site: Existing Commercial Structure / Specific Plan Implementation (SPI-Old Town Specific Plan, Downtown Core)

North: Existing Commercial Structure / Specific Plan Implementation (SPI-Old Town Specific Plan, Downtown Core)

South: Existing Parking Lot, First Street / Specific Plan Implementation (SPI-Old Town Specific Plan, Downtown Core)

East: Old Town Front Street, Existing Parking Lot / Specific Plan Implementation (SPI-Old Town Specific Plan, Downtown Core)

West: Existing Parking Lot / Specific Plan Implementation (SPI-Old Town Specific Plan, Downtown Core)

	<u>Existing/Proposed</u>	<u>Min/Max Allowable or Required</u>
Lot Area:	0.95 Acres Existing	0.08 Acres Minimum
Total Floor Area/Ratio:	N/A	N/A
Landscape Area/Coverage:	N/A	N/A
Parking Provided/Required:	N/A	N/A

AFFORDABLE/WORKFORCE HOUSING

Located in Housing Element Vacant Sites Inventory? Yes No

Located in Affordable Housing Overlay Zone (AHOZ)? Yes No

AHOZ Gain/Loss: +/- N/A

BACKGROUND SUMMARY

On June 16, 2022, Chris Campbell submitted Planning Application No. PA22-0670, a Conditional Use Permit (CUP) to allow for an California Alcoholic Beverage Control (ABC) Type-47 license (On-Sale General – Eating Place) at a new establishment (Oak and Ocean). The project proposes to offer alcohol service until 2:00 AM. In addition, the establishment will offer live entertainment consisting of concerts, musicals, plays, and dance recitals.

Staff has worked with the applicant to ensure all concerns have been addressed, however, the hours of alcohol service has not been appropriately addressed.

ANALYSIS

The proposed Type-47 ABC license will be for a proposed restaurant and lounge. Proposed hours of operation for the establishment are Monday through Sunday from 9:00 AM to 2:00 AM. A full menu of appetizers, burgers, salads, and entrees will be offered (see attached menu). Entertainment is proposed to end at 11:59 PM and is being reviewed under a separate Entertainment License application.

City staff have been actively working with the Planning Commission and City Council on alcohol issues, specifically in Old Town. Joint meetings between the Planning Commission and City Council were held on September 28, 2023, and February 6, 2024. In the next couple of months, the Planning Commission will be considering a proposed ordinance to codify alcohol related regulations including a regulation that alcohol service cease at 11:59 PM for new establishments and will be providing their recommendation on the matter to the City Council. The Planning Commission’s prior direction was communicated to the applicant with a recommendation that the

applicant propose an alcohol service cut-off time of 11:59 PM. However, the applicant has insisted on moving to hearing with their originally proposed 2:00 AM alcohol cut-off time. Based on the general discussions at the joint workshops, the 2:00 AM cutoff cannot be supported at this time.

The following table highlights RSO calls for service in Old Town between January 1, 2018, and April 5, 2024. This table illustrates calls that are considered more serious in nature. Calls during this period total 1,136 with the majority consisting of battery, D.U.I. and drunk in public.

Overall Calls for Service 2018-2024

Year	Battery (242)	DUI (23152)	Drunk in Public (647F)	Assault with a Deadly Weapon (245)	Domestic Violence (415DV)	Loud Noise (415N)	Robbery (211)	Resisting Arrest (148)	Overall Calls for Service
2018	55	38	71	3	21	14	2	1	205
2019	55	35	61	7	17	19	1	0	195
2020	64	28	51	3	16	15	2	1	180
2021	51	36	77	8	21	23	2	1	219
2022	52	26	64	5	15	9	3	1	175
2023	35	25	48	3	13	6	0	2	132
2024	6	6	10	0	5	3	0	0	30
TOTALS	318	194	382	29	108	89	10	6	1136

As previously mentioned, the applicant proposes to offer alcohol until 2 a.m. The below table highlights RSO calls for service in Old Town between January 1, 2018 and April 5, 2024 between the hours of 12 a.m. and 2 a.m. Calls during this more specific period total 249 with a majority again consisting of battery, D.U.I. and drunk in public. Calls for services between 12 a.m. and 2 a.m. account for over 22% of the calls for service in Old Town.

Calls for Service 2018-2024 Between 12 a.m. and 2 a.m.

Year	Battery (242)	DUI (23152)	Drunk in Public (647F)	Assault with a Deadly Weapon (245)	Domestic Violence (415DV)	Loud Noise (415N)	Robbery (211)	Resisting Arrest (148)	Overall Calls for Service
2018	16	15	8	2	2	4	0	0	47
2019	19	8	11	0	6	6	0	0	50
2020	16	8	11	0	2	4	0	0	41
2021	10	7	16	1	3	9	0	0	46
2022	13	5	19	0	1	2	0	0	40
2023	7	3	8	1	3	1	0	1	24
2024	0	0	0	0	1	0	0	0	1
TOTALS	81	46	73	4	18	26	0	1	249

Staff has provided two resolutions as part of this staff report. The first resolution will allow the Planning Commission to deny the project based on staff’s recommendation. The second resolution

will allow the Planning Commission to approve the project with an alcohol service cut-off time of 11:59 PM. All standard alcohol related conditions of approval have been included with the approval resolution.

LEGAL NOTICING REQUIREMENTS

Notice of the public hearing was published in *The Press-Enterprise* on April 18, 2024, and mailed to the property owners within the required 600-foot radius.

ENVIRONMENTAL DETERMINATION

Should the Planning Commission move to deny the project:

In accordance with the California Environmental Quality Act, the proposed project has been deemed to be categorically exempt from further environmental review pursuant to CEQA Guidelines Section 15061(b)(4) as a project is exempt from CEQA as staff is recommending that the project be disapproved as currently proposed.

Should the Planning Commission move to approve an 11:59 PM alcohol service cut-off time:

In accordance with the California Environmental Quality Act, the proposed project has been deemed to be categorically exempt from further environmental review pursuant to CEQA Guidelines Section 15301, existing facilities. The request for a Conditional Use Permit for the establishment to serve beer, wine, and distilled spirits will be conducted in an existing commercial structure and involves a negligible expansion of existing and expected uses. All access to public utilities are available to the site. The proposed use, with issuance of a Conditional Use Permit, is in conformance with all zoning requirements contained in the Development Code and the Old Town Temecula Specific Plan.

FINDINGS FOR DENIAL

Conditional Use Permits (Code Section 17.04.010.E)

The proposed conditional use is consistent with the General Plan and the Development Code.

The proposed alcohol service hours until 2 a.m. are not consistent with Old Town Specific Plan Land Use Economics – Policy 5. This policy states that there needs to be compatibility between both existing and new commercial uses and existing and new residential uses. Old Town has a combination of commercial and residential uses in close proximity to the project site. For example, the nearest residential use is approximately 445 feet to the west when measured from structure to structure. Alcohol service beyond 11:59 PM has been determined to be incompatible with surrounding commercial and residential uses.

The proposed conditional use is compatible with the nature, condition and development of adjacent uses, buildings and structures and the proposed conditional use will not adversely affect the adjacent uses, buildings or structures.

The proposed alcohol service hours until 2 a.m. are not consistent with Old Town Specific Plan Land Use Economics – Policy 5. This policy states that there needs to be compatibility between both existing and new commercial uses and existing and new residential uses. Old Town has a combination of commercial and residential uses in close proximity to the project site. For example, the nearest residential use is approximately 445 feet to the west when measured from structure to structure. Alcohol service beyond 11:59 PM has been determined to be incompatible with surrounding commercial and residential uses.

The site for a proposed conditional use is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, buffer areas, landscaping, and other development features prescribed in this development code and required by the Planning Commission or Council in order to integrate the use with other uses in the neighborhood.

The project site currently houses an existing commercial structure. Restaurant uses are an allowable use at the project site. The site is physically adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, buffer areas, landscaping and other development features required of a restaurant use that proposes the sale of beer, wine, and distilled spirits.

The nature of the proposed conditional use is not detrimental to the health, safety and general welfare of the community.

The proposed conditional use seeks to allow alcohol service until 2:00 AM. RSO has had to respond to 249 calls for service within Old Town between the hours of 12 a.m. and 2 a.m. from January 1, 2018 to April 5, 2024. The majority of calls between these hours and timeframe consist of battery, D.U.I., and drunk in public. In addition, City staff have been actively working with the Planning Commission and City Council on alcohol and its related issues specifically in Old Town. Joint meetings between the Planning Commission and City Council were held on September 28, 2023, and February 6, 2024. In the next few months, the Planning Commission will be considering a proposed ordinance to codify alcohol related regulations including a regulation that alcohol service cease at 11:59 PM for new establishments and will be providing their recommendation on the matter to the City Council. The 11:59 PM alcohol service cut-off for new establishments is designed to significantly reduce the calls for service after 11:59 PM that endanger the health, safety and general welfare of the community.

That the decision to approve, conditionally approve, or deny the application for a conditional use permit be based on substantial evidence in view of the record as a whole before the Planning Director, Planning Commission, or City Council on appeal.

The decision to deny the application for a Conditional Use Permit shall be based on substantial evidence in view of the record as a whole before the Planning Commission.

FINDINGS FOR APPROVAL

The proposed use is in conformance with the General Plan and Development Code.

The project will allow for a proposed restaurant to offer the sale of alcoholic beverages within an existing commercial structure located in the Downtown Core District. Restaurants are an allowable use within the Downtown Core District of the Specific Plan and it is common for restaurants to offer a variety alcoholic beverages. The application does not propose any revisions to the existing structure or site. Therefore, the operation of a restaurant that offers the sale of alcohol is a negligible expansion of use beyond that which exists under the current conditions. Furthermore, this unique restaurant offering theatrical entertainment is consistent with the General Plan (Economic Development- Policy 6.3) which emphasizes “Continuing to expand Old Town’s role in local Tourism and improve its attractiveness, accessibility, and economic vitality, as well as it’s interaction with other local attractions.”

The proposed conditional use is compatible with the nature, condition and development of adjacent uses, buildings and structures and the proposed conditional use will not adversely affect the adjacent uses, buildings or structures.

The conditional use will allow a proposed restaurant to serve alcoholic beverages. This type of use is permitted in the Downtown Core district of the Old Town Specific Plan upon the approval of a Conditional Use Permit. Alcohol-serving restaurants are common throughout the City including in Old Town. In addition, the use has been reviewed to ensure consistency with the City of Temecula Development Code. This Code contains provisions designed to provide for the use’s compatibility with the nature, condition and development of adjacent uses, buildings and structures. The use is considered compatible with the nature, condition and development of adjacent uses, buildings and structures as the adjacent uses also include alcohol sales.

The site for a proposed conditional use is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, buffer areas, landscaping, and other development features prescribed in the Development Code and required by the planning commission or council in order to integrate the use with other uses in the neighborhood.

The existing building was constructed in conformance with the Development Code, Building Code, and Fire Code. Therefore, the site for the proposed conditional use is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, buffer areas, landscaping, and other development features prescribed in the Development Code and required by the Planning Commission in order to integrate the use with other uses in the neighborhood.

The nature of the proposed conditional use is not detrimental to the health, safety and general welfare of the community.

The project meets all the requirements of the Development Code, Fire Code and Building Code, which provide safeguards for the health, safety and general welfare of the community. The business will be providing a minimum of two security guards at every live event to help ensure that the service of alcohol and offering of entertainment at the establishment does not create a condition that is detrimental to the health, safety and general welfare of the community. Therefore, the project is not anticipated to be detrimental to the health, safety and general welfare of the community.

That the decision to approve, conditionally approve, or deny the application for a conditional use permit be based on substantial evidence in view of the record as a whole before the Director of Community Development, Planning Commission, or City Council on appeal.

The decision to conditionally approve the application for a Conditional Use Permit has been based on substantial evidence in view of the record as a whole before the Planning Commission.

- ATTACHMENTS:**
1. Vicinity Map
 2. PC Resolution (Denial)
 3. Exhibit A - Statement of Operations
 4. Exhibit B – Plan Reductions
 5. PC Resolution (Approval)
 6. Exhibit A – Draft Conditions of Approval
 7. Exhibit B - Statement of Operations
 8. Exhibit C - Plan Reductions
 9. Notice of Public Hearing
 10. Draft Notice of Exemption