

# REQUEST FOR Planning Commission Action



**PLANNING COMMISSION MEETING DATE:**

**AUGUST 10, 2020**

**TITLE:**

**PUBLIC HEARING – CONDITIONAL USE PERMIT NO. 2020-14 TO ALLOW THE AFTER-HOURS OPERATION OF EL RINCON MEXICANO RESTAURANT LOCATED AT 104 EAST FOURTH STREET – CARLOS MARTIN OCAMPO OLIVARES, APPLICANT**

**PLANNING COMMISSION SECRETARY**

**APPROVED**

- As Recommended
- As Amended
- Set Public Hearing For \_\_\_\_\_

**DENIED**

- Applicant's Request
- Staff Recommendation

Prepared by Fernanda Arias

Executive Director

CONTINUED TO \_\_\_\_\_

Planning Manager

## RECOMMENDED ACTION

Adopt a resolution approving Conditional Use Permit No. 2020-14 as conditioned.

### Executive Summary

Carlos Martin Ocampo Olivares, representing El Rincon Mexicano restaurant, is requesting approval of a conditional use permit (CUP) to allow the after-hours operation of an existing restaurant until 2:00 a.m. daily. Pursuant to Section 41-2007 of the Santa Ana Municipal Code (SAMC), establishments wishing to operate after 12:00 a.m. require approval of a CUP. Staff is recommending approval of the applicant's request due to the site being located away from sensitive uses and the property's history of compliance with City codes and regulations.

**Table 1: Project and Location Information**

Item	Information	
Project Address	104 East Fourth Street	
Nearest Intersection	Fourth Street and Main Street	
General Plan Designation	District Center (DC)	
Zoning Designation	Specific Development No. 84 (SD84)	
Surrounding Land Uses - Exhibit 4	North	Office
	East	Commercial
	South	Commercial
	West	Commercial
Property Size	3,115 sq. ft. (0.07 acres)	
Existing Site Development	Multi-tenant commercial building	
Unit Size	4,434 sq. ft.	
Use Permissions	Eating establishment uses permitted by right; after-hours operation with CUP	
Zoning Code Sections Affected	After-hours	SAMC Section 41-2007
	Alcohol Sales	SAMC Sections 41-196(g)(3) and 41-2007

**Project Background**

El Rincon Mexicano, a locally-owned restaurant, began operating from the subject tenant space, which was previously occupied by Rancho De Mendoza, in late November 2017. Subsequently, El Rincon Mexicano restaurant applied for a CUP to allow the on-premises sale and consumption of alcoholic beverages. On January 22, 2018, the City of Santa Ana Planning Commission approved the applicant’s request for that CUP.

In addition, an administrative Category 3 live entertainment permit to allow amplified music and dancing was applied for and approved on November 19, 2019. In the event the after-hours CUP request is approved, and the applicant intends to provide live entertainment after 12:00 a.m., a new Category 4 live entertainment permit will be required.

**Project Description**

El Rincon Mexicano is proposing to augment its business hours and operate from 9:00 a.m. to 2:00 a.m. daily. Pursuant to sections 41-196 and 41-2007 of the Santa Ana Municipal Code (SAMC), establishments wishing to operate after 12:00 a.m. and sell alcoholic beverages for on-premises consumption between the hours of 12:00 a.m. and 7:00 a.m. require approval of a CUP. No changes to the site and floor plan are proposed as part of this request.

**Table 2: Operational Standards**

<b>Standards</b>	<b>Required by SAMC</b>	<b>Provided</b>
Eating Establishment Type	Bona-Fide	Bona-Fide
Hours of Operation for ABC Sales	8:00 am to 12:00 a.m.	9:00 a.m. to 2:00 a.m. (after-hours CUP required)
Window Display	25% of Window Coverage	Complies
Live Entertainment	Entertainment Permit	Under Separate Application
Alcohol Storage and Display	5% of G.F.A	1% of G.F.A
Exterior Telephone	Prohibited	None

**Project Analysis**

CUP requests are governed by Section 41-638 of the SAMC. CUPs may be granted when it can be shown that the proposed project will not adversely impact the community. If these findings can be made, then it is appropriate to grant the CUP. Conversely, the inability to make these findings would result in a denial. Based on staff’s review and analysis of the request, a recommendation of approval of the after-hours CUP is warranted.

El Rincon Mexicano restaurant is proposing to remain open and provide ancillary sale of alcoholic beverages until 2:00 a.m. daily. Staff has reviewed El Rincon Mexicano’s proposal to operate with after-hours services and is supportive of the request. The subject site is located in the Downtown sub-zone of the Transit Zoning Code. Similar businesses in the area currently operate

with the same late-night hours. The subject site is located near other restaurants, retail stores, service uses, and microbreweries. The site is not located near schools, residential uses, nor is it located within a mixed-use building that includes residential uses. The nearest sensitive land use is Multi Family Residential (R3) and it is located 725 feet away from the subject site. The expanded hours of operation will contribute to increased street activity and to the social and economic vitality of Downtown. Operating standards and conditions of approval will mitigate noise and safety impacts typically associated with after-hours operations.

The project CUP will be consistent with several goals and policies of the General Plan. Policy 2.2 of the Land Use Element encourages land uses that accommodate the City’s needs for goods and services. Providing a variety of restaurants with extended hours of operation offers additional dining options for Santa Ana residents and visitors. Furthermore, Policy 2.9 of the Land Use Element supports developments that create a business environment that is safe and attractive. Conditions of approval and operational standards will help maintain a safe and attractive environment. Finally, Policy 5.5 of the Land Use Element encourages development that is compatible with and supports surrounding land uses. El Rincon Mexicano restaurant is located in the Downtown sub-zone of the Transit Zoning Code (SD-84) zoning district and its operation is compatible with the surrounding commercial businesses.

Lastly, should the applicant decide to provide live entertainment after 12:00 a.m., a Category 4 live entertainment permit will be required. Operational standards for a Category 4 live entertainment permit include several measures to ensure nuisances related to late night operations and/or entertainment are mitigated.

**Police Department Analysis**

The Police Department reviews conditional use permit applications for after-hours operations in order to ensure that potential crime or nuisance behaviors associated with such a use are mitigated to the greatest extent possible. For after-hours operations, the Police Department analyzes the crime rate in the area by matching the location of the subject site’s census tract to the corresponding Police Grid. The City of Santa Ana contains 102 police reporting grids. The Police Department generates an annual report, the Citywide Incident Ranking report, which ranks these reporting grids based on police activity. The Police Department then compares the number of such crimes in the reporting district as compared to the number of crimes in other reporting districts. In keeping with the standard used by the State Business and Professions Code, should the Police Department determine that the reporting district has a 20 percent greater number of reported crimes than the average number found in all reporting districts, the Police Department would consider this information in making its recommendation.

**Table 3: Police Department Analysis and Criteria for Recommendation**

<b>Police Department Analysis and Criteria for Recommendation</b>	
Police Grid No. and Rank	Police Grid No. 185; ranked 9 <sup>th</sup> out of 102 Police Reporting Grids (8 <sup>th</sup> percentile)

<b>Police Department Analysis and Criteria for Recommendation</b>	
Threshold for High Crime	This reporting district is above the 20 percent threshold established by the State for high crime
Police Department Recommendation	The Police Department is satisfied that the existing operational standards applicable to on-premises ABC licenses and entertainment permits, as well as the proposed conditions of approval, will mitigate any potential impacts to the surrounding community and therefore does not oppose the granting of a CUP.

The Police Department then compares the number of such crimes in the reporting district as compared to the number of crimes in other reporting districts. In keeping with the standard used by the State Department of Alcoholic Beverage Control and Business and Professions Code, should the Police Department determine that the reporting district has a 20 percent greater number of reported crimes than the average number found in all reporting districts, the Police Department will consider this information in making its recommendation. As part of the application process, this application was reviewed by the Police Department. Based on their review, the Police Department has no issues of concern regarding this application.

**Table 4: California Environmental Quality Act (CEQA) and Public Notification & Community Outreach**

<b>CEQA and Public Notification &amp; Community Outreach</b>	
<b>CEQA</b>	
CEQA Type	Class 1 "Existing Facilities"
Document Type	Categorical Exemption (ER No. 2020-44)
Reason(s) Exempt or Analysis	Pursuant to the California Environmental Quality Act (CEQA), the project is categorically exempt per Section 15301, Existing Facilities, of the CEQA Guidelines. This exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. No new building square footage is proposed as part of the project. Categorical Exemption/Environmental Review No. 2020-44 will be filed for the project.
<b>Public Notification &amp; Community Outreach</b>	
Required Measures	A public notice was posted on the project site ten (10) days prior to public hearing date. Notification by mail was mailed to all property owners and occupants within 500 feet of the project site ten (10) days prior to public hearing date. Newspaper posting was published in the Orange County Reporter ten (10) days prior to public hearing date.
Additional Measures	The Downtown Neighborhood Association representative was contacted to identify any areas of concern due to the proposed after-hours operations. At the time this report was printed, no issues of concern were raised regarding the proposed hours of operation.

**Economic Development**

With its expanded hours of operation, El Rincon Mexicano restaurant is expected to generate approximately \$822,000 in gross sales and approximately \$13,000 in annual sales tax revenue

for the City. It is anticipated that the operations will maintain eight to 10 permanent jobs at the restaurant.

### **Conclusion**

Based on the analysis provide within this report, staff recommends that the Planning Commission approve Conditional Use Permit No. 2020-14 as conditioned.



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Fernanda Arias  
Planning Intern

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### Attachments:

- Exhibit 1 - Resolution
- Exhibit 2 - General Vicinity Zoning and Existing Land Use Map
- Exhibit 3 - Site Photo
- Exhibit 4 - Site Plan
- Exhibit 5 - Floor Plan