



# staff report

Agenda Item No.

C-2

**To:** City of Imperial Planning Commission

**From:** Lisa Tylenda, Planner

**Date:** June 8, 2018

**Subject: Amend Conditional Use Permit Request CUP (15-06)/CUP (18-05)  
Pentagonal Brewing  
115 North Imperial Ave; Imperial, CA 92251**

---

## **Background:**

The Planning Commission previously approved a Conditional Use Permit (CUP) allowing Pentagonal Brewing Company to operate a microbrewery with a tasting room at 115 N Imperial Avenue; Imperial, CA 92251. Pentagonal Brewing Company is interested in having "Live Onsite Entertainment" inside and outside their facility. This location is zoned Village Commercial. The Village Commercial zoning district requires a Conditional Use Permit for "Live Entertainment".

Pentagonal Brewing is requesting approval for a Conditional Use Permit (CUP) to allow the operation of a "Live Onsite Entertainment" inside their business and occasionally utilizing the parking lot located at 115 North Imperial Avenue. When hosting events outdoors in the parking lot and/or closing down the parking lot at any time of the day, the applicant will have to obtain a "Special Events" permit from the Community Service Department two weeks prior to the event/closing off of the parking lot.

## **Evaluation:**

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP.

1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

*The proposed project site is located within the V-C Village Commercial zone which, amongst other things, is intended as the social heart of the City. Land uses within this zone are intended to be less intensive than those in other commercial zones.*

2. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

*The brewery has been operating in the Village Commercial zone for 4 years. Through mitigation measures for the outdoor live entertainment special events, will not be detrimental to the surrounding parcels.*

3. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

*The proposed facility shall comply with all provisions of the Zoning Ordinance.*

### **Environmental Compliance:**

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Class 1, Section 15301 of the Guidelines.

### **Recommendation:**

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends approval of **Resolution PC2018-08** approving the amendment to existing conditional use permit CUP(15-06) through CUP (18-05) for the Pentagonal Brewery to allow for "Live onsite Entertainment" located at 115 N. Imperial Avenue; Imperial, CA 92251 subject to Conditions of Approval.

### **Attachments:**

- Location Map
- Resolution PC 2018-08

**CONDITIONAL USE PERMIT**  
**AMENDMENT TO EXISTING CONDITIONS OF APPROVAL FOR**  
**CONDITIONAL USE PERMIT (15-06)**  
**VIA CONDITIONAL USE PERMIT (18-05)**  
**TO INCLUDE "LIVE ONSITE ENTERTAINMENT" WITHIN EXISTING CONDITIONS OF**  
**APPROVAL**

**Conditions highlighted in yellow are the proposed amendments to the existing conditions of approval.**

**CONDITIONS OF APPROVAL**

1. This Conditional Use Permit is granted for a microbrewery, tasting room and ancillary retail space at 115 North Imperial Avenue, Imperial, CA 92251. This Conditional Use Permit shall only be valid so long as a Type 23 ABC License is valid. Production shall be limited to 500 barrels per year.
2. Tasting room hours shall be limited to 10:00 AM to 12:00 AM Sundays through Thursdays and 10:00 AM to 2:00 AM on Fridays and Saturdays. Microbrewery operations shall be restricted to 8:00 AM to 10:00 PM Mondays through Friday and 8:00 AM to 8:00 PM on Saturdays and Sundays.
3. "Indoor" onsite live entertainment will mirror the hours of operation for the business outlined in condition of approval #2 within this document. The "indoor" onsite live entertainment must meet all the requirements outlined in the City of Imperial's Noise Element. If complaints arise, the City of Imperial may impose mitigation measures on the business when it comes to noise concerns.
4. "Outdoor" live entertainment events will need to obtain a "Special Events" permit from the Community Services Department, two weeks prior to any type of outdoor entertainment event that will be held in the parking lot at 115 N. Imperial Avenue; Imperial, CA 92251.
5. "Outdoor" live entertainment events are also subject to meeting the requirements outlined in the Noise Element and conditions of approval imposed on the "Special Event" via the "Special Events" permit required for outdoor entertainment events of any nature.
6. Beer sampling containers shall be limited to 3 ounces in size.
7. Sampling is only allowed for the microbrewery's owned manufactured product.
8. No sales or service to intoxicated patrons.

9. No alcoholic beverages shall be consumed outside of the enclosed building or a designated patio. The City, at its sole discretion, may issue a Temporary Use Permit to allow for special events where alcoholic beverages may be consumed outdoors.
10. The provisions of this Conditional Use Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project. This Conditional Use Permit is only valid for 115 North Imperial Avenue.
11. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control (ABC) license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
12. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.
13. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times.
14. Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
15. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
16. Applicant must implement sound maintenance and housekeeping procedures.
17. Dispose of process solid wastes as by-products for animal feed.
18. The Applicant shall pay all impact and capacity fees as required by the city.
19. All applicable Conditions of Approval shall be completed prior to opening for business.
20. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
21. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
22. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at

the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.

The undersigned hereby declare and certify that under penalty of perjury that I accept all conditions imposed by the Planning Commission in their approval as outlined above. As the project applicant, I agree to comply with these conditions and all other applicable laws and regulations at all times.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**RESOLUTION PC2018-08**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING AN AMENDMENT (CUP18-05) TO EXISTING CONDITIONAL USE PERMIT (15C06) FOR A MICROBREWERY, TASTING ROOM, AND LIVE ONSITE ENTERTAINMENT AT 115 NORTH IMPERIAL AVENUE**

**(BARRETT DUNN – PENTAGONAL BREWING)**

**WHEREAS**, Barrett Dunn submitted a Conditional Use Permit application to amend the existing Conditional Use Permit (CUP 15-06) to allow for Live Onsite Entertainment at 115 North Imperial Avenue; and

**WHEREAS**, a duly notified public hearing was held by the Planning Commission on June 8, 2018; and

**WHEREAS**, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Conditional Use Permit.

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

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Section 15301 of the California Environmental Quality Act; and
- E) That the onsite live entertainment is consistent with those uses allowed in the V-C Village Commercial Zone.
- F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** the amendment to Conditional Use Permit #15C06 through CUP (18-05) (Pentagonal Brewing) to include onsite live entertainment at 115 North Imperial Avenue, subject to the conditions of approval outlined in Exhibit A and based on the following findings:
  - 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.
3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

**PASSED, ADOPTED AND APPROVED** by the Planning Commission of the City of Imperial, this 8<sup>th</sup> day of June 2018.

---

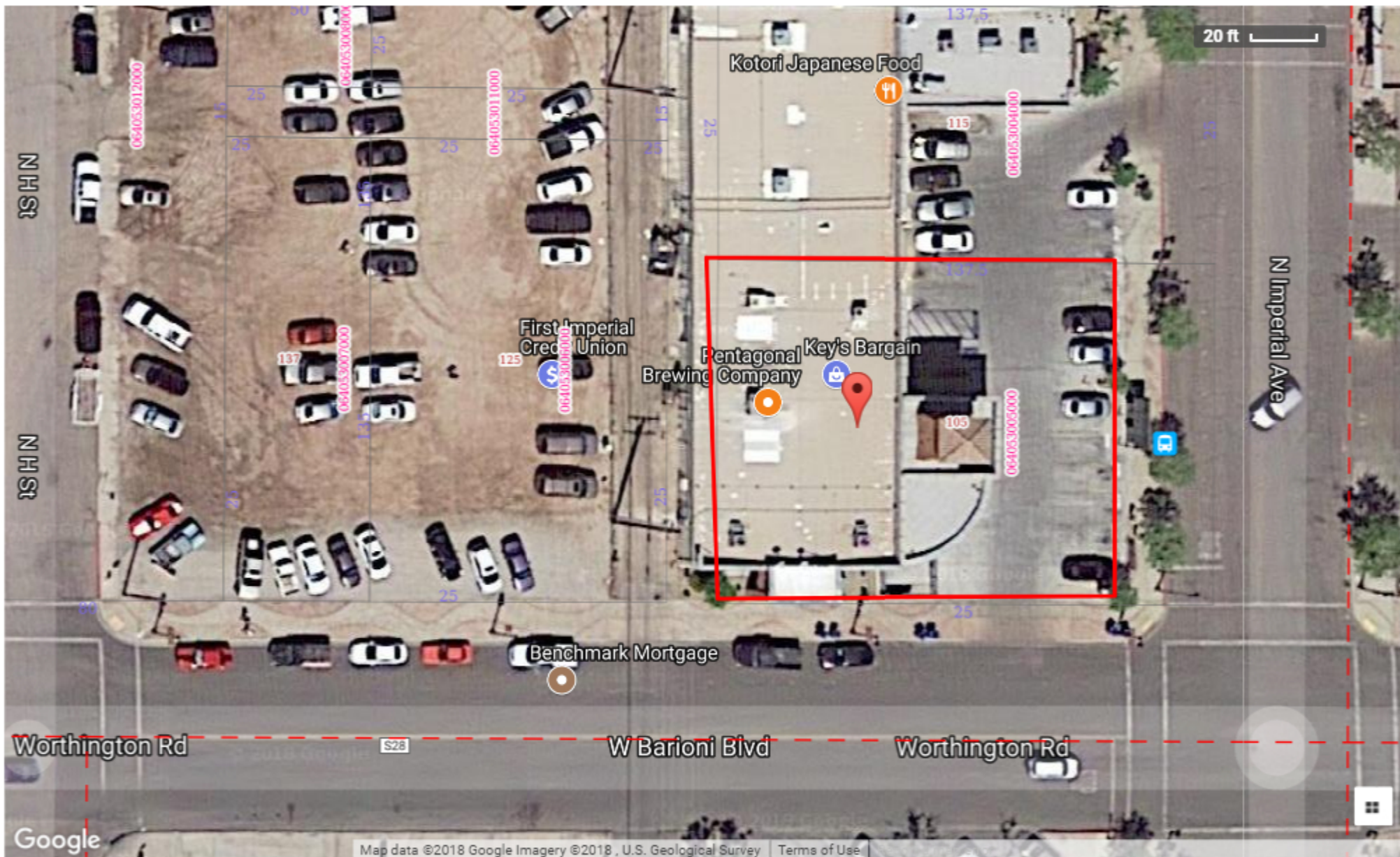
Planning Commission Chairman



ATTEST:

---

Planning Secretary

Pentagonal Brewing Company Amendment to Conditional Use Permit CUP(15-06) via CUP (18-05)



1" = 47 ft	LIVE ENTERTAINMENT	06/08/2018		
<p>This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.</p>				