



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: June 8, 2023

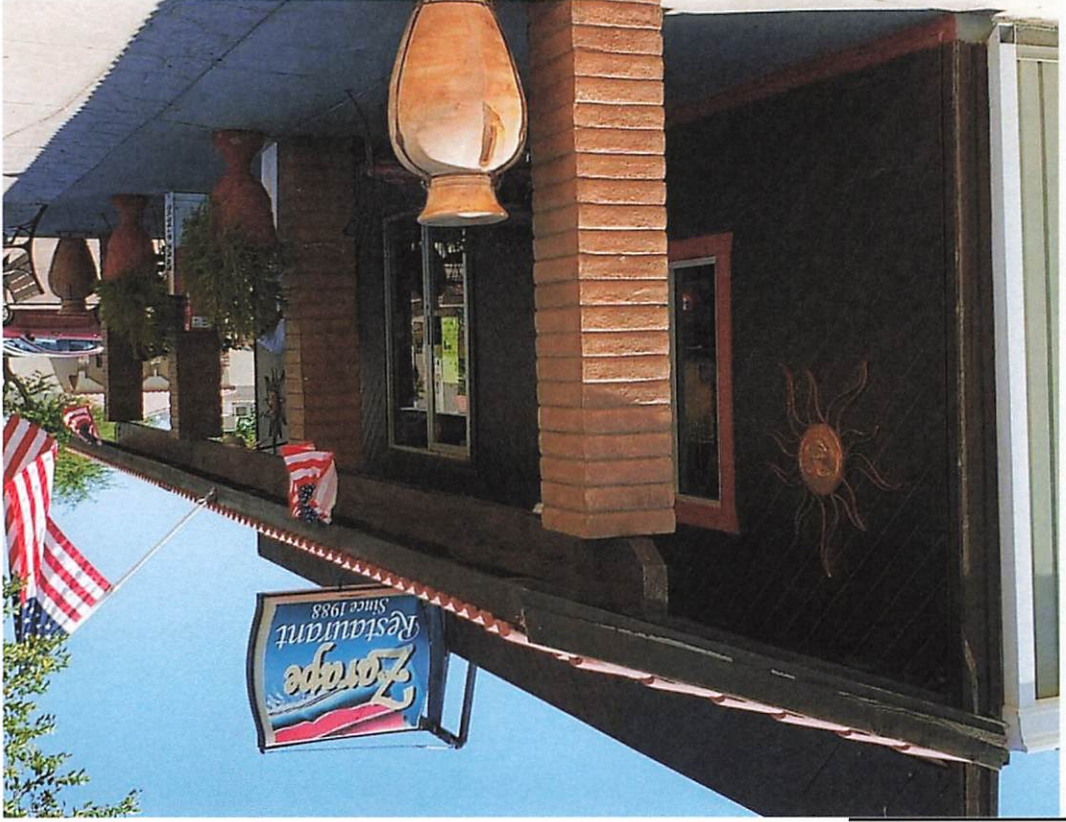
Subject: **Conditional Use Permit Request 23-01**
El Zarape Restaurant, Inc.
139 S. Imperial Ave.
Imperial, CA 92251

Summary:

Applicant:	Beatriz Gonzalez
Project Location:	139 S. Imperial Ave
Project Description:	Conditional Use Permit (CUP) to allow the onsite sale and consumption of alcoholic beverages
Zoning:	V-C (Village Commercial)
General Plan:	Commercial Village
Environmental:	Categorically Exempt – 15301 Existing Facilities
Recommendation:	Approve, subject to conditions

Background

The applicant, Beatriz Gonzalez, and owner of the established El Zarape Restaurant is proposing to expand their menu options and attract more patrons by offering the sale of alcohol, beer and wine for on-site consumption. The applicant has applied for a Type 47 license with the Department of Alcoholic Beverage Control (ABC) and ABC is awaiting approval of this Conditional Use Permit before Ms. Gonzalez can proceed. The existing hours of operation of 9:00 AM to 11:00 PM Monday to Saturday will remain the same.



Storefront View



Aerial View

Discussion/Analysis

The project site is zoned V-C Village Commercial. The Village Commercial zone is intended as the social and civic heart of the City of Imperial with small retail shops, outdoor dining, parks and civic facilities in a vibrant, pedestrian friendly and family-oriented atmosphere.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301-Existing Facilities of the Guidelines.

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. The required findings are listed below in ***bold italics***, followed by an evaluation:

- 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 subject site is located within a Commercial Village zone, which is intended to provide restaurants, retail and business uses located within the Downtown Core area.

- 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.***

The location is ideal for the restaurant as it is surrounded by other downtown restaurants, retail businesses. The project site abuts a multi-family apartment complex to the West of the property within the R-1 Residential Zone. The project is compatible with the adjacent land uses and it will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.

- 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.*

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

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

The proposed project complies with all provisions of the Zoning Ordinance.

Public Notification

The public hearing scheduled for June 14, 2023 was duly noticed in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation on June 1, 2023. A Notice of Public Hearing was mailed to all property owners within 300-feet of the property. The City of Imperial has not received any public comments for or against this project as of the date of this report's publication.

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 that the Planning Commission approve Conditional Use Permit 23-01 to allow for the use and operation of a restaurant with onsite sale and consumption of alcoholic beverages.

Attachment

- Resolution No 2023-16 and Conditions of Approval
- Department of Alcohol Beverage Control Application

Respectfully submitted,



Othon Mora, MCM, CBO
Community Development Director

RESOLUTION NO. 2023-16

**A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL,
APPROVING A CONDITIONAL USE PERMIT FOR THE ONSITE SALE AND
CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL ZARAPE RESTAURANT
LOCATED AT 139 S IMPERIAL AVENUE, IMPERIAL, CA 92251, APN 064-054-012**

WHEREAS, Beatriz Gonzalez submitted an application for the onsite sale and consumption of alcoholic beverages for El Zarape Restaurant located at 139 S. Imperial Avenue; Imperial, CA. 92251

WHEREAS, the subject site is located within the V-C Village Commercial Zone and eating and drinking establishments with alcoholic beverages and/or entertainment are conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on June 14, 2023, to hear testimony for and against the proposed Conditional Use Permit;

WHEREAS, upon hearing and considering all testimony and arguments, examining the environmental study, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project; and

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) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit #23-01** subject to the conditions of approval outlined in Exhibit A and based on the following findings:
 - 1. 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.
 - 2. The initial environmental assessment shows that there is no substantial evidence that the proposed land use will have a significant impact on the environment.
 - 3. The project meets all the requirements per section 24.19.340 of the Imperial Zoning Ordinance for granting said conditional use permit as follows:
 - a) 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 subject site is located within a Commercial Village zone, which is intended to provide restaurants, retail and business uses located within the Downtown Core area.

- b) 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.

The location is ideal for the restaurant as it is surrounded by other downtown restaurants, retail businesses. The project site abuts a multi-family apartment complex to the West of the property within the R-1 Residential Zone. The project is compatible with the adjacent land uses and it will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.

- c) 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.

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

- d) 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 complies with all provisions of the Zoning Ordinance.

- C) The City Attorney is authorized to make minor typographical changes to this Resolution that does not change the substance of this Resolution;

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 14th day of June, 2023.

Mark Hammerness
Planning Commission Chairman

ATTEST:

Kristina Shields
City Clerk

EXHIBIT "A"

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT 23-01 FOR THE ONSITE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL ZARAPE RESTAURANT LOCATED AT 139 S IMPERIAL AVENUE, IMPERIAL, CA 92251, APN 064-054-012

1. This Conditional Use Permit is granted for El Zarape Restaurant at 139 S Imperial Ave, Imperial, CA 92251. This Conditional Use Permit shall only be valid so long as the Type 47 ABC License is valid for the original applicants.
2. The sales of alcoholic beverages are to begin at 9:00AM and end at 11:00PM Monday through Saturday.
3. No sales or service to intoxicated patrons.
4. No alcoholic beverages shall be consumed outside of the enclosed building. The City, at its sole discretion, may issue a Temporary Use Permit to allow for special events where alcoholic beverages may be consumed outdoors.
5. 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.
6. 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.
7. 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.
8. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times.
9. 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.
10. 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.
11. Applicant must implement sound maintenance and housekeeping procedures.
12. The Applicant shall pay all impact and capacity fees as required by the city.

13. All applicable Conditions of Approval shall be completed prior to opening for business.
14. 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.
15. 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.