



Agenda Item

Planning Commission

Item #: 7.2.

9/20/2021

File #: 21-0510

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Kelly Ribuffo, Associate Planner - Historic Preservation

1. SUBJECT

Public Hearing: Conditional Use Permit No. 3142-21, Chipotle Mexican Grille ABC Type 41 License, 112 E. Maple Avenue

2. SUMMARY

The applicant proposes to serve alcohol under a State of California Department of Alcoholic Beverage Control (ABC) Type 41 License (On Sale Beer and Wine - Eating Place) for a restaurant at 112 E. Maple Avenue. The project is located within the Old Towne Historic District.

3. RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 26-21 entitled:

A Resolution of the Planning Commission of the City of Orange Approving Conditional Use permit No. 3142-21 for a State of California Department of Alcoholic Beverage Control, Type 41 License (On-Sale Beer and Wine - Eating Place) for a 2,610 square foot restaurant located at 112 E. Maple Avenue.

4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Table 17.08.020 and Sections 17.10.030.C and 17.30.030 authorize the Planning Commission to review and take action on Conditional Use Permits. A Conditional Use Permit is required for the sale of alcoholic beverages within the Old Towne Mixed Use - 15 (OTMU-15) zone.

5. PROJECT BACKGROUND

<i>Applicant:</i>	Chipotle Mexican Grille
<i>Property Owner</i>	KMapleJ, LLC
<i>Property Location</i>	112 E. Maple Avenue
<i>Existing General Plan Land Use Element Designation</i>	Old Towne Mixed Use (OTMIX-15)
<i>Existing Zoning Classification</i>	Old Towne Mixed Use - 15 (OTMU-15)
<i>Historic District</i>	Yes, Old Towne

<i>Specific Plan/PC</i>	None
<i>Site Size</i>	2,610 square foot tenant suite within a 4,276 square foot multi-tenant commercial building.
<i>Circulation</i>	The property is located at the intersection of N. Glassell Street and E. Maple Avenue. A City-owned parking lot is adjacent to the building to the east.
<i>Existing Conditions</i>	The tenant space was previously operated as a coffee shop.
<i>Surrounding Land Uses and Zoning</i>	The property is located within the northeast quadrant of the Old Towne Plaza commercial area. The property is surrounded by a mix of commercial, retail, restaurant, and residential uses zoned OTMU-15 and OTMU-15S, as well as near residential properties zoned R-1-6.
<i>Previous Applications/Entitlements</i>	Design Review No. 5023-21 (Under Review)

6. PROJECT DESCRIPTION

The applicant proposes to serve beer and wine at a new restaurant, Chipotle Mexican Grille, located in a 2,610 square foot tenant suite located at 112 E. Maple Avenue. The applicant is requesting a State of California ABC Type 41 License. A floor plan is included as Attachment 4.

The restaurant hours of operation are Monday to Sunday from 9:00 AM to 11:00 PM. Alcohol will be available for purchase at the cash register. It will be stored in a lockable container only accessible by employees. The dining room has 32 seats. There is a proposed 16 seat outdoor patio currently under review as part of Design Review No. 5023-21. However, Chipotle does not intend to allow alcohol in the patio area.

Restaurants are permitted by right in OTMU-15 zone, and the subject site conforms to all applicable development standards for operation of a restaurant in the proposed location. No changes are proposed to the lot size or building square footage as part of this application. The sale of beer and wine results in the need for a Conditional Use Permit (CUP) reviewed by the Planning Commission.

The applicant's letter of explanation is included in Attachment 3.

7. ANALYSIS AND STATEMENT OF THE ISSUES

Issue 1: Existing Licenses within 600 feet of the Site

For information purposes, staff identified the following facilities selling alcoholic beverages that are located within a 600-foot proximity to the restaurant's entrance (See Attachment 6, Planning Commission Evaluation Map).

Existing Licenses

Establishment Name	License Type	Address
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Orange Plaza Inn	47	137 E. Maple Avenue
Rutabegorz	41	264 N. Glassell Street
The Filling Station Cafe	41	201 N. Glassell Street
Hanano Ramen	41	161 N. Glassell Street
Zito's Pizza	41	156 N. Glassell Street
The Pizza Press	41	153 N. Glassell Street
Thai Town Eatery	41	152 N. Glassell Street
O'Hara's Pub	48	150 N. Glassell Street
Jaxon's	47	149 N. Glassell Street
Provision's Market	41	143 N. Glassell Street
Smoqued BBQ	41	128 N. Glassell Street
Citrus City Grille	47	122 N Glassell Street
Brewery 1886	75	114 N. Glassell Street
Pandor	41	106 N. Glassell Street
The Wall	41	80 Plaza Square
Grand Street Center	47	146 N. Grand Street

Issue 2: Sensitive Receptors

The OMC requires a Conditional Use Permit for the sale of alcoholic beverages to ensure there will be no adverse impact on surrounding land uses or allow the availability of alcoholic beverages to minors. When reviewing alcohol permits, the Zoning Ordinance details specific land uses that are sensitive to alcohol activities, but does not establish any specific distances for these uses. The State Alcoholic Beverage Control Board investigation requires applicants to identify the sensitive land uses within 600 feet of the site. There exist three sensitive receptors in the vicinity of the subject property:

Sensitive Receptors

Establishment Name	Address	Distance to Project Site
Son Light Christian Center	172 N. Glassell Street	120 feet
Single and Multi-family Residential (R-1-6 and OTMU-15S)	Various	150 - 600 feet
First Presbyterian Church and Preschool	191 N. Orange Street	330 feet

Issue 3: Census Tract Alcohol and Crime Statistics Information

The Orange Police Department's Vice Unit reviewed the proposal and does not oppose the request for an ABC license at the proposed location (Attachment 5). Though the area is over-concentrated with ABC licenses and is considered high crime, the Police Department did not find that the

application would place an additional strain on Police resources and services.

Total arrests for 2020 were 60, with 16 being alcohol related: 15 for DUI and one for disorderly conduct.

Alcohol Licenses

	Existing	Allowed
<i>On-Sale Licenses</i>	24	5
<i>Off-Sale Licenses</i>	4	2

2020 Crime Statistics

2020 Reporting District 023W Crime Reports	Citywide Average Crimes per Reporting District	Percent Difference
94	74	26% above

Issue 4: Finding of Public Convenience and Necessity

ABC requires the Planning Commission to make a finding of public convenience or necessity for additional alcohol licenses in an over-concentrated area. Staff has prepared a draft letter, included as Attachment 7. The letter states that:

- The sale of alcoholic beverages at the restaurant is considered accessory to the sale of food and is a service typically expected by the public.
- The proposal is not anticipated to have adverse impacts on neighboring land uses within the area because a restaurant is compatible with the mix of uses within the area.
- It is anticipated that with appropriate controls and conditions in place, the business and sales of alcohol will not add to crime within this area.

8. PUBLIC NOTICE

On September 10, 2021, the City sent a Public Hearing Notice to a total of 106 property owners/tenants within a 300-foot radius of the project site and persons specifically requesting notice. The project site has been posted in one location with the notification on that same date.

9. ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 - Existing Facilities) because the project consists of the licensing of a restaurant within an existing commercial building, consistent with the property's zoning and General Plan designation. No public review is

required.

10. ADVISORY BOARD ACTION

None.

11. ATTACHMENTS

- Attachment 1 - Planning Commission Resolution No. PC 26-21
- Attachment 2 - Vicinity Map
- Attachment 3 - Applicant Letter of Explanation
- Attachment 4 - Floor Plan
- Attachment 5 - Orange Police Department Memorandum dated August 19, 2021
- Attachment 6 - Planning Commission Evaluation Map
- Attachment 7 - Draft Letter to ABC for Finding of Public Convenience or Necessity