Planning Commission
Agenda Item

February 3, 2014

TO: **Chair Steiner and**
Members of the Planning Commission

THRU: **Leslie Aranda Roseberry**
Planning Manager

FROM: **Anne E. Fox**
Contract Staff Planner

SUBJECT

PUBLIC HEARING: Conditional Use Permit 2919-13 – Anepalco's Café at the Ayres Inn, located at 3737 West Chapman Avenue.

SUMMARY

The applicant proposes to increase the size of an existing hotel restaurant and modify an existing Alcoholic Beverage Control (ABC) Type 41 (On-Sale Beer and Wine – Eating Place) License to an ABC Type 47 (On-Sale General - Eating Place) License to have on-site consumption of beer, wine and distilled spirits in conjunction with a bona-fide eating place (restaurant).

RECOMMENDED ACTION

Adopt Planning Commission Resolution No. PC 02-14 entitled:

> **A RESOLUTION OF THE PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT 2919-13 TO ALLOW AN INCREASE IN SQUARE FOOTAGE OF AN EXISTING HOTEL RESTAURANT AND MODIFY AN ALCOHOLIC BEVERAGE CONTROL TYPE 41 (ON-SALE BEER AND WINE – EATING PLACE) LICENSE TO AN ALCOHOLIC BEVERAGE CONTROL TYPE 47 (ON-SALE GENERAL - EATING PLACE) LICENSE AND ACCEPT THE VOLUNTARY SURRENDER OF CONDITIONAL USE PERMIT 2181-97 ON THE PROPERTY LOCATED AT 3737 WEST CHAPMAN AVENUE**

AUTHORIZATION/GUIDELINES

Orange Municipal Code (OMC) Section 17.10.030 authorizes the Planning Commission to review and take action on a Conditional Use Permit (CUP). OMC Section 17.19.030 requires a CUP approval for an ABC license within the Urban Mixed Use (UMU) District. OMC Section 17.30.030

establishes standards for any on-sale establishment license subject to an approved Business Establishment Alcohol Management and Education Program. The final determination by the Planning Commission on this application may be appealed to the City Council pursuant to the time period and requirements established in the OMC for appeals.

PUBLIC NOTICE

On January 23, 2014, the City sent a Public Hearing Notice to a total of 43 property owners/tenants within a 300-foot radius of the project site, and person's specifically requesting notice. The project site was also posted with the notification on that same date.

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 operation and licensing of an existing establishment. Public review is not required.

PROJECT BACKGROUND

Applicant:	Anepalco's Café at the Ayres Inn
Property Owner:	F.H.A. "LP", A California Limited Partnership
Property Location:	3737 West Chapman Avenue
Existing General Plan Land Use Element designation:	Urban Mixed Use 30-60 du/ac; 1.5-3.0 FAR
Existing Zoning Classification:	UMU (Urban Mixed Use District)
Old Towne:	No
Redevelopment Project Area:	No
Specific Plan/PC:	No
Site Size:	3,730 sq ft tenant space within the Ayres Inn (1.86 acre site)
Circulation:	The project is located on the west side of The City Drive and the north side of Chapman Avenue. The City Drive is designated as a Principal Arterial and Chapman Avenue is a Major Arterial.
Existing conditions:	Ayres Inn (previously Country Side Inn) is developed with 129 rooms, restaurant, pool/spa, conference room and surface parking lot. Currently, the new 142-room Ayres Hotel and parking structure is under construction to the north of the Ayres Inn.
Surrounding land uses and Zoning:	The property is in an urban setting with the following surrounding land uses and zones: North: Urban Mixed Use (UMU) & I-5 freeway South: Urban Mixed Use (UMU) office & hotel East: The City Drive & vacant Public Institution (P-I) lot is used as parking & construction staging for the UCI Medical Center. West: Urban Mixed Use (UMU)
Previous	CUP 2403-02: Approved ABC Type 70 license for the hotel

Applications/Entitlements:	only to provide complimentary drinks to its guests and does not cover the restaurant areas. CUP 2181-97: Approved an ABC Type 41 license for the existing restaurant.

PROJECT DESCRIPTION

The applicant is requesting to modify their existing Alcohol Beverage Control (ABC) Type 41 License to an ABC Type 47 License in order to sell beer, wine, and distilled spirits at a bona fide public eating place. Anepalco's Cafe is an existing 2,920 square foot restaurant located within the Ayres Inn that serves Mexican-French fusion food. The restaurant also maintains a 242 square foot outdoor patio dining area.

The applicant is also requesting to increase the size of the existing restaurant. There is an 810 square foot space to the west of the existing restaurant that was originally constructed as a conference room. The hotel has currently been using the room to serve a complimentary breakfast buffet to the guests. The hotel would like to continue to use this space for the morning hotel breakfast and then as additional seating for Anepalco's Café's lunch and dinner service. There would be no changes to the existing building footprint or exterior of the building.

There is an existing 126 square foot, 6-seat bar area within the restaurant, located on the north wall, adjacent to the kitchen. The square footage of the bar and seating would remain the same but is proposed to be relocated to an area along the eastern wall of the restaurant. The 242 square foot, 20-seat patio area, surrounded by a 42-inch high fence, would remain unchanged.

The hours of operation are not expected to change, opening at 11:00 AM daily, closing at 11:00 PM Sunday through Thursday and 2:00 AM Friday and Saturday. The restaurant menu includes breakfast, brunch, lunch and dinner, as shown in Attachment 6. There is no live entertainment or happy hours proposed.

Development Standards

No changes are proposed to the exterior of the building or site. The nature of the CUP request is not subject to development standards. Therefore, a comparison of the building to existing development standards has not been conducted.

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

Conditional Use Permit: The applicant is requesting a Conditional Use Permit for the sale of beer, wine and distilled spirits (ABC Type 47 License) for on-site consumption by patrons of the establishment, including an increase in the existing restaurant square footage.

Required Findings:

1. A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.

2. A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.
3. A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.
4. A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.

ANALYSIS/STATEMENT OF THE ISSUES

Issue 1: Existing Licenses Within 600 Feet of the Site

For information purposes, the following table shows the proposed facility in **bold**/*italics* and identified the following facilities selling alcoholic beverages that are located within 600 feet of the restaurant's entrance and as shown in Attachment 3.

Existing Licenses

Establishment Name	License Type	Address
Ayres Inn	Type 70 (On-Sale General - Restrictive Service)	3737 W. Chapman Avenue
Anepalco's Cafe at Ayres Inn	***Type 41 (On-Sale Beer & Wine – Eating Place) to be modified to Type 47 (On-Sale General – Eating Place)***	***3737 W. Chapman Avenue***
Three Palms Café at Ayres Inn	Type 41 (On-Sale Beer & Wine – Eating Place)	3737 W. Chapman Avenue
Double Tree Hotel	Type 47 (On-Sale General – Eating Place)	100 The City Drive
Double Tree Hotel	Type 58 (Caterer's Permit)	100 The City Drive
Double Tree Hotel	Type 68 (Portable Bar)	100 The City Drive

Issue 2: Sensitive Receptors

The OMC requires a Conditional Use Permit (CUP) for the sale of alcoholic beverages and for any subsequent modifications to such CUPs, to ensure there will be no adverse impact on surrounding land uses or allow the availability of alcoholic beverages to minors. For 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 are approximately 28 residences within 600' of the subject property as listed below.

Sensitive Receptors

Land Use Type	Address	Distance To Project Site
Single-Family Residences	109 & 119 Woodridge Circle	600 feet
Single-Family Residences	190, 180, 170, 160 N. Manchester Avenue	400 feet

Single-Family Residence	3723 Sheringham Avenue	600 feet
Single-Family Residence	3723, 3724, & 3733 Compton Avenue	600 feet
Single-Family Townhomes	201, 204, 209, 212, 217, 224, 225, 223, 239, 247, 250, 257, 262, 265, 273, 278, 281, 289 Camphor Place	600 feet

The selling of alcoholic beverages from the project site is not anticipated to have an adverse impact on "sensitive" land uses for the following reasons:

- The ABC Type 47 License at a hotel requires compliance with the Alcohol Management Plan which contains measures that help the employees manage the patrons prior to an issue erupting.

- Residential properties are located within 600 feet of the subject business. However, the residences do not have direct access to the project site and the sales of alcohol would be for on-site consumption only with food.

Issue 3: Census Tract Alcohol and Crime Statistics Information

The Police Department reports that the establishment is proposed within a census tract that is considered over-concentrated with On-sale but not over-concentrated for Off-sale ABC licenses.

Alcohol Licenses

	Existing	**Allowed**
On Sale Licenses	19	8
Off-Sale Licenses	3	4

Census Tract (No. 0761.01) has 22 existing On-Sale and Off-Sale licenses with the total allowed On-Sale and Off-Sale Licenses permitted being 12 licenses. There are five ABC licenses within 600 feet of the proposed subject location, not including the existing ABC license of the premises. The 17 additional licenses are located within the census tract, but beyond the 600 feet radius of the subject premises. The number of On-Sale ABC licenses is over-concentrated; however, this area of the City consists of many entertainment and restaurant uses, which typically include On-Sale service of alcohol. Further, the request is for a modification to an existing On-Sale ABC license therefore, there is no increase in the number of license types in the Census Tract.

The Orange Police Department's Vice Unit reviewed the proposal and has indicated that current crime figures in Reporting District 11 show 92 crimes reported where the average number of Part 1 crimes and Part 2 arrests for the City of Orange is 69. The area has 33% higher crime rate, which is more than 20% over the average. The applicant is requesting an ABC license modification in a census tract that is considered to be a high crime area as follows:

Crime Statistics for Reporting District 11

Reporting Crimes	**Citywide Average Arrests**	**Percent Above Average**
92	**69**	**33%**

Although the area has higher than average reported crime, the Police Department supports the request because under the existing license granted in May 1997, there has been no record of any calls for service that involved alcohol-related crimes or activity at the premises. Further both the Police Department and Planning Staff considered the operation plan of the business and do not anticipate any increase or contribution to the crime rate in the reporting district.

Issue 4: Parking

Staff has reviewed the potential impacts related to parking as the site shares parking with the adjacent Ayres Hotel (under construction) site that has a variance for parking (Variance 2204-10). This Variance allowed for a reduction of the required number of parking spaces to be provided to serve both sites by 57 spaces. The subject request would not affect the Variance because the subject request is proposing to convert existing conference room space, which the OMC requires calculation of parking at the assembly parking rate (1/30 GSF), to expand the existing restaurant area. Per the OMC, restaurant square footage is calculated at a lower ratio, (10/1000 GSF); therefore the conversion of the existing square footage to expand the restaurant decreases the overall parking needs shared between the sites.

ADVISORY BOARD RECOMMENDATION

None required.

ATTACHMENTS/EXHIBITS

Attachments to Report:

1. Draft Planning Commission Resolution No. PC 02-14
2. Vicinity Map
3. PC Evaluation Map
4. Orange Police Department Memorandum, dated October 31, 2013
5. Submitted Floor Plan (Label-dated February 3, 2014)
6. Restaurant Menu

cc: Amaryllis Lopez
Anepalco's Café, LLC.
3737 West Chapman Avenue
Orange, CA 92868

Jana Beekman
F.H.A., LP.
355 Bristol Street, Suite A
Costa Mesa, CA 92626