

RESOLUTION NO. 18-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING CONDITIONAL USE PERMIT 18-11 FOR AN ON-SALE GENERAL FOR A BONA FIDE PUBLIC EATING PLACE (ABC TYPE 47) LICENSE IN CONJUNCTION WITH A RESTAURANT AT 651 WEST WHITTIER BOULEVARD, MAKING THE APPROPRIATE FINDINGS, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS.

The Planning Commission of the City of La Habra does hereby resolve as follows:

Section 1. The Planning Commission does hereby find and determine that:

- a. Jaswant Rai Enterprises, filed an application requesting approval of CUP 18-11 for a Type 47 on-sale general ABC License in conjunction with a restaurant at 651 West Whittier Boulevard.
- b. This project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be Categorically Exempt pursuant to Section 15303(c), Class 3: "New Construction or Conversion of Small Structures" of the California Environmental Quality Act Guidelines. The projects consist of an addition not exceeding 10,000 square feet.
- c. The Applicant's proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP), and the Model Water Quality Management Plan (WQMP), Section 7.2. Since the proposal will constitute the disturbance of more than 1,000 square feet of soil, a Non-Priority WQMP is required. A Non-Priority WQMP has been reviewed and approved.
- d. The Planning Commission held a duly noticed public hearing on July 23, 2018 to consider the Applicant's request for Conditional Use Permit 18-11. The Planning Commission, after considering all the written and oral evidence offered including the staff report and all attachments, approves the request.

Section 2. The Planning Commission further finds and determines that:

- a. The Applicant has succeeded in meeting their burden of providing evidence to support the granting of the Conditional Use Permit application under Chapter 18.66 of the La Habra Municipal Code.
- b. The Planning Commission hereby makes the following required findings of the Conditional Use Permit application pursuant to Chapter 18.66.070.C of the La Habra Municipal Code:

1. The granting of this Conditional Use Permit will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.

The C-2 Commercial Zone allows restaurants establishments to serve alcohol for on-site consumption with approval of a Conditional Use Permit granted by the Planning Commission. The proposed alcohol service is to be an ancillary use to the restaurant and banquet hall, as conditions have been placed on the project to assure that the operational nature of the restaurant and banquet hall will not change and ensure the proper business conduct is maintained.

The Applicant will be required to comply with all of the regulations of the Department of Alcoholic Beverage Control. Additionally, the Applicant is required to comply with all appropriate City of La Habra Municipal Codes and Ordinances. Therefore, the proposed alcoholic license will not unreasonably interfere with the use and will not impair the character of the zone in which it is to be located.

2. The subject site is physically suitable for the type of land use being proposed.

The proposal will not physically affect the site as the sale of alcoholic beverages will be conducted and consumed within the existing commercial building.

3. The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this title.

Section 18.06.040.A of the La Habra Municipal Code allows for the sale and service of alcoholic beverages within the C-2 Commercial zone with the approval of a Conditional Use Permit by the Planning Commission.

4. The granting of this Conditional Use Permit is consistent with the comprehensive General Plan.

The projects implement Policies LU 3.2 Uses to Meet Daily Needs, LU 11.1 Diversity of Uses, of the General Plan 2035.

Section 3. The Planning Commission further finds and determines that:

a. This action is subject to the following conditions:

General conditions:

Standard Condition 1.1 CODE COMPLIANCE

The property owner/business operator shall comply with all applicable City of La Habra Municipal Codes and Ordinances.

Standard Condition 1.2 BUILDING PERMITS

The property owner/business operator shall comply with all the applicable California/La Habra Building Code requirements and obtain all required permits from the Chief Building Official. Construction shall comply with the California/La Habra Building Code (or Residential Code), California/La Habra Plumbing Code, California/La Habra Mechanical Code, California/La Habra Electrical Code, California/La Habra Energy Code, and California/La Habra Green Building Standards Code, as applicable.

Standard Condition 1.4 LA COUNTY FIRE DEPARTMENT

The property owner/business operator shall comply with the Los Angeles County/La Habra Fire Code and Fire Department requirements, as applicable.

Standard Condition 1.5 MINOR MODIFICATIONS

The Director of Community and Economic Development or designee may approve minor modifications through the Administrative Adjustment process to the conditions of approval so long as the intent of the Planning Commission or City Council is maintained.

Standard Condition 1.6 PLANS

This approval is for those plans date stamped June 28, 2018 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of July 23, 2018. A copy of said plans shall be maintained in the files of the City of La Habra Planning Division. The project shall be developed and maintained in substantial conformance with said plans, except as otherwise specified in these conditions of approval.

Standard Condition 1.7 COMPLIANCE

The failure to comply with any of these conditions of approval by the property owner/business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Conditional Use Permit 18-11.

Standard Condition 1.8 VIOLATION

In the event that the property owner/business operator violates or fails to comply with any of the conditions of approval of this permit, the City may take measures to cure such violations, including but not limited to, administrative citation and full reimbursement of the City for its costs and expenses, including but not limited to, attorney's fees, in undertaking such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City shall refrain from issuing further permits, licenses or other approvals until such violations have been fully remedied.

Standard Condition 1.14 RESOLUTION ON HAND

The property owner/business operator shall at all times maintain a copy of the approved resolution containing all the conditions of approval on site. Said resolution shall be provided for review upon request by any law enforcement officer or community preservation inspector.

Standard Condition 1.37 CONDUCT OF BUSINESS

The property owner/business operator shall, at all times, conduct business operations in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of La Habra.

Standard Condition 7.1 ALCOHOLIC BEVERAGE ADVERTISING

The property owner/business operator shall have no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within or promoting or indicating the availability of alcoholic beverages. Interior displays of beer and wine beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

Standard Condition 7.3 MULTI-STATE IDENTIFICATION MANUAL

The property owner/business operator shall obtain and maintain upon the premises an up-to-date multi-State identification manual.

Standard Condition 7.5 SELLER AGE REQUIREMENT

The property owner/business operator shall provide continuous supervision by a person of 21 years or older of all persons age 17 and younger who sell alcoholic beverage products, pursuant to section 25663(b) of the California Business and Professions Code.

Standard Condition 7.6 LICENSING REQUIREMENTS

The property owner/business operator shall comply with all the licensing requirements of the State of California Department of Alcoholic Beverage Control (ABC).

Standard Condition 7.7 EMPLOYEE CERTIFICATION

The property owner/business operator shall ensure that all employees selling alcoholic beverages to patrons enroll in and complete a certified training program approved by the State Department of Alcoholic Beverage Control (ABC) for the responsible sales of alcohol or by the California Coordinating Council on Responsible Beverage Service (CCCRBS). The training shall be offered to new employees on no less than a quarterly basis. The certificate issued to each employee shall be kept on site and available for inspection upon request by the City of La Habra.

Standard Condition 7.11 PUBLIC CONVENIENCE (ON-SITE)

The property owner/business operator shall ensure, at all times, that the necessary utensils, table settings and condiments with which to serve and consume meals shall be displayed in plain view and in such a manner as to be convenient for use by the public.

Standard Condition 7.12 BONA FIDE EATING ESTABLISHMENT

The property owner/business operator shall ensure, at all times, that the facility maintain kitchen facilities and serve meals to qualify as a bona fide public eating place, in accordance with Business and Professions Code, Section 23038. This includes quarterly on-site gross sales of food and non-alcoholic beverages that constitute more than 50 percent of the establishment's gross sales for the same period. Any off-site catering activities shall not be included for the purposes of calculating gross sales.

Standard Condition 7.13 MENU REQUIREMENT (ON-SITE)

The property owner/business operator shall ensure, at all times, that food menus shall be provided to all patrons of the premises.

Standard Condition 7.14 ON-SITE MANAGER

The property owner/business operator shall ensure that a manager be on the premises at all times during the hours of operation. The manager shall ensure compliance with the terms of the Conditional Use Permit. The property owner/business owner shall remain responsible for any violations of the terms of this Conditional Use Permit.

Standard Condition 7.16 NOISE/LOITERING PREVENTION

The property owner/business operator shall, at all times, display a sign of at least ten inches by ten inches at all exits and within all parking areas, requesting patrons to respect residents of adjacent residential neighborhoods by being quiet when leaving and by not loitering in the parking lot.

Standard Condition 7.17 DESIGNATED DRIVER

The property owner/business operator shall, at all times, display a Designated Driver sign, of at least ten inches by ten inches at all public entrances at eye level. The sign shall be worded in a way that reminds patrons who are consuming alcohol to designate a non-drinking driver.

Standard Condition 7.18 CONTACT INFO FOR ON-SITE MANAGER

The property owner/business operator shall, at all times, post a sign in a clear and conspicuous location, listing a phone number at which a responsible on-site manager may be contacted during all hours which the business is open to address any complaints from the community. Said contact person's name and phone number shall be available through the staff at all times.

Standard Condition 7.19 DISORDERLY CONDUCT

The property owner/business operator shall not, at any time, permit loud, unruly or disorderly assemblages on the premises. The costs incurred by the city for multiple police responses to loud, unruly, or disorderly assemblages shall be the responsibility of the applicant, owner, and person in lawful custody of the premises.

Standard Condition 8.2 SANITARY SEWER SYSTEM PROTECTION

The property owner/business operator shall not, at any time, allow grease to run into public sanitary sewer systems.

Standard Condition 8.3 SMOKING REGULATIONS

The property owner/business operator shall, at all times, require all patrons to comply with the smoking regulations set forth by the State of California.

Standard Condition 8.4 OUTDOOR SEATING

The property owner/business operator shall not utilize any outdoor seating without prior approval from the Director of Community and Economic Development or designee.

Standard Condition 8.6 NUISANCE PROHIBITION

The property owner/business operator and employees of the restaurant shall not, at any time, allow circumstances to develop that will adversely interfere with adjacent uses, the community's economic welfare, nearby residential areas, or the operation of adjacent businesses, including, but not limited to, customer parking issues.

Standard Condition 8.5 BUILDING OCCUPANCY

The property owner/business operator shall ensure, at all times, that maximum building occupancy limits, as determined by the Chief Building Official, not be exceeded.

Project specific conditions:

1. This approval is valid for use with an established restaurant and banquet facility for the sale and on-site consumption of beer and wine and distilled spirits. Should the Applicant or any future business operator request to have the license type changed, thus altering the approved business operation or wish to modify the floor plan, then prior Planning Commission approval shall be obtained before the change takes place.
2. The property owner/business operator shall, prior to any alcohol sales, obtain a Type 47 on-sale license and maintain the establishment in conformance with all requirements of the California Department of Alcoholic Beverage Control at all times.
3. The property owner shall limit all activities within the building to cease or terminate no later than 11:00 p.m. Monday through Friday

and at 12:00 a.m. on Friday and Saturday and at 10:00 p.m. on Sunday unless modified by the Planning Commission.

4. The property owner/business operator shall limit all deliveries between the hours of 7:00 a.m. to 10:00 p.m. during the week and weekends to minimize noise disturbance complaints.
5. The property owner/business operator shall comply with the La Habra Noise Ordinance at all times.
6. The property owner/business operator shall not operate a public premise bar, sports bar, or tavern disguised as a Type 47 restaurant at any time.
7. The property owner/business operator shall limit all business activities/gatherings within the building unless special permission is granted through the Special Event Permit process. The doors to the building shall remain closed during the business hours to minimize any noise that may be emitted from inside the building.
8. All alcohol sales and consumption shall take place within the enclosed building. At no time shall alcoholic beverages be sold or consumed outside within the attached covered patio area without prior Planning Commission approval.
9. The property owner/business operator shall ensure that a responsible person who shall be at least twenty-one years of age shall be on the premises to act as manager at all times the business is open. The individual designated as the on-site manager shall be registered with the City by the owner within twenty-four hours of employment of such designated manager. Registration of designated manager(s) shall be made directly to the Police Department by the owner of said business.
10. The property owner/business operator shall provide all on-site designated managers with a copy of all rules, regulations and conditions of the Conditional Use Permit. Such designated manager shall receive all complaints and be responsible for all violations taking place on the premises and/or parking lot areas of the business. Criminal activity and/or illegal conduct by patrons and/or employees shall be immediately reported to the Police Department by the on-duty manager.

Section 4. Based upon the foregoing, the Planning Commission of the City of La Habra approves Conditional Use Permit 18-11. The Planning

Commission Secretary shall certify to the adoption of this resolution and transmit a copy to the Applicant.

Said motion CARRIED by the following roll call vote:

AYES: COMMISSIONERS: HANDLER, FERNANDEZ, NIGSARIAN,
BERNIER, POWELL

NOES: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

Dated: July 23, 2018

ATTEST:  APPROVED: 
Carmen G. Henderson, Secretary Chairman, Jerry Powell