

## **RESOLUTION NO.**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING CONDITIONAL USE PERMIT 22-20 TO ALLOW THE SALE OF BEER AND WINE UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE ISSUED BY THE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FOR AN EXISTING RESTAURANT AT 2050 WEST WHITTIER BOULEVARD, SUITE B, AS PER THE APPROVED PLAN, MAKING THE APPROPRIATE FINDINGS 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. Harry C. Daglas, filed an application requesting approval of Conditional Use Permit 22-20 for a Type 41 on-sale beer and wine ABC License in conjunction with a restaurant at 2050 West Whittier Boulevard, Suite B.
- 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 15301, Class 1: "Existing Facilities" of the California Environmental Quality Act Guidelines in that there would be a negligible impact to the existing use with this project.
- 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 no disturbance of soil will occur, this project is exempted by the Water Quality Ordinance for the preparation of a WQMP.
- d. The Planning Commission held a duly noticed public hearing on August 8, 2022 to consider the Applicant's request for Conditional Use Permit 22-20. 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 original restaurant Conditional Use Permit 03-19 remains active. Pursuant to LHMC Section 18.08.070.B, all properties that are subject to a discretionary action are required to be brought into compliance with all current code standards that apply to the extent physically possible as determined by the Planning Commission.

The subject property is considered a legal nonconforming site because it is deficient by three parking spaces per LHMC Section 18.14 (33 spaces required for shopping center). However, since the applicant is not increasing the floor area of the restaurant, no additional parking is required. Therefore, the property will continue to remain nonconforming as staff believes parking requirements, to date, have been met to the greatest extent possible.

- b. 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.
- c. 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.

Conditions of approval have been required to ensure that the proposed on-site sale and consumption of beer and wine under a Type 41 license will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties. Nor will it impair the character of the C-2 zone because the applicant must comply with the suggested conditions of approval. It is expected that the sale of beer and wine will be ancillary to the restaurant use. Furthermore, La Habra Police confirmed that they have not received any calls for service or complaints regarding the existing restaurant during the last year.

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

The 987 square-foot tenant space, where the Green Chile restaurant is located, is part of an established retail commercial center. The day-to-day operation and use of the existing restaurant, without issue, demonstrates that the tenant space, within the existing retail commercial center, and its associated parking, is adequate in size, shape, and topography to accommodate the existing restaurant. While the approval of CUP 22-20 will allow beer and wine to be added to their menu,

it will not result in substantial changes of the existing restaurant operation. No interior and/or exterior modifications are proposed that would result in new square footage, nor will there be any site alterations. Therefore, the subject site is physically suitable to continue handling the existing restaurant along with the addition of beer and wine to their menu.

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

The Green Chile restaurant is in the C-2 Zone, which conditionally allows this type of on-site alcohol sales under a Type 41 license. The Green Chile will be able to offer beer and wine to complement their customers' food orders and further enhance their dining experience. With the incorporation and implementation of the conditions of approval, the use will be harmonious with the surrounding land uses.

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

Granting CUP 22-20 to allow the on-site sale of beer and wine under a Type 41 license will be consistent with La Habra's General Plan Policy LU 11.1 which promotes "diversity of uses that reduce the need to travel to adjoining communities, and capture a greater share of local spending." The Green Chile restaurant is situated within the D & D Center, where there are presently no other food services located within the same retail commercial center. By adding beer and wine to its existing menu, The Green Chile further adds to the variety of restaurants in the La Habra area. Granting CUP 22-20 is also consistent with General Plan Policy LU 3.2 which promotes "uses that meet daily needs... within walking distance of residences." The Green Chile restaurant is conveniently located adjacent to existing multi-family residential units to the south and west of the commercial retail center, and close to single-family dwelling units, further south on North Chantry Drive, and in the surrounding neighborhood. The addition of beer and wine to the existing menu expands the restaurant's offerings to these residences within walking distance as well as the greater La Habra area.

Section 4. 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 May 25, 2022 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of August 8, 2022. 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 22-20.

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 1.9 LANDSCAPE MAINTENANCE

The applicant/developer shall maintain landscaping in a healthy and well-kept manner at all times. Dead or damaged landscape material/vegetation shall be replaced immediately per the approved landscape plan. The irrigation system shall be maintained at all times. Trees shall be permitted to grow to their maximum height.

Standard Condition 1.10 BUILDING REPAINTING

The applicant/developer shall maintain the building in good condition at all times and shall repaint the approved buildings and accoutrements every eight (8) years at a minimum. The Director of Community and Economic Development or designee may require more frequent painting if the improvements are not maintained in good condition.

Standard Condition 1.11 PAVEMENT RESURFACING

The applicant/developer shall re-slurry and re-stripe the driveway and parking areas every five (5) years at a minimum. The Director of Community and Economic Development or designee may require more frequent slurry and re-striping if the parking area is not maintained in good condition.

Standard Condition 1.12 SIGN MAINTENANCE

The property owner/business operator shall maintain signs in good condition at all times and shall repaint the freestanding signs every eight (8) years at a minimum. The Director of Community and Economic Development may require more frequent painting if the improvements are not maintained in good condition.

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 1.16      OUTDOOR DISPLAY OF MERCHANDISE

The property owner/business operator shall not display any merchandise outside of the building at any time unless approved by the Director of Community and Economic Development or designee through a Special Event Permit.

Standard Condition 1.18      LITTER

The property owner/business operator shall maintain the property in a clean and orderly condition at all times and remove all litter from the exterior areas around the premises, including adjacent public sidewalk areas and parking areas, no less frequently than once each day prior to the close of business.

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 California 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.

Project specific conditions:

1. This approval is valid for use with an established restaurant for the sale and on-site consumption of beer and wine. Should the Applicant or any future business operator request to have the license type changed, thus altering the approved business operation, 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 41 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/business operator shall, prior to any alcohol sales, obtain a building permit to construct a roof structure over the existing trash enclosure to the satisfaction of the Building Official, and the Director of Public Works.

