

## RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, MAKING THE REQUIRED FINDINGS AND APPROVING CONDITIONAL USE PERMIT 23-04 AND CONDITIONAL USE PERMIT 23-07 TO ESTABLISH AND OPERATE A COMMERCIAL RECREATION FACILITY IN CONJUNCTION WITH A RESTAURANT KNOWN AS LITTLE WORLD KIDS PLAYGROUND & GAMES LOCATED AT 1377 WEST WHITTIER BOULEVARD IN THE LA HABRA TOWNE CENTER, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS, AND MAKING THE DETERMINATION THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15301, CLASS 1: "EXISTING FACILITIES" OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES

THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA HEREBY FINDS AND DECLARES AS FOLLOWS:

- A. The Applicant, Kevin Nguyen, filed applications requesting approval of Conditional Use Permit (CUP) 23-04 and Conditional Use Permit (CUP) 23-07 to establish and operate a commercial recreation facility in conjunction with a restaurant in an existing commercial building, and is proposing interior tenant improvements including a proposed new kitchen, a dining room, an arcade area, and an indoor playground area.
- B. The Planning Commission held a duly noticed public hearing on March 11, 2024 to consider the Applicant's request for approval of CUP 23-04 and CUP 23-07, at which time it considered all material and evidence, whether written or oral.
- C. In making the various findings set forth in this Resolution, the Planning Commission has considered all of the evidence presented by staff, the Applicant, and the public, whether written or oral, and has considered the procedures and standards required by the La Habra Municipal Code.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA HEREBY RESOLVES AS FOLLOWS:

**SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT.** The Planning Commission finds and determines that the Project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1: "Existing Facilities" of the CEQA Guidelines. The project involves interior tenant improvements to an existing commercial building to achieve a commercial recreation facility in conjunction with a restaurant located in an existing commercial shopping mall. The site is zoned for commercial uses. The operation of a commercial recreation facility

and restaurant do not involve the use of hazardous substances; all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

The Project is not subject to any of the exceptions to exemption under Section 15300.2 of the CEQA Guidelines. The location of the Project is predominantly urban and is not considered a sensitive environment; therefore, the Project will not result in any significant impacts that may otherwise occur in a sensitive environmental area. The cumulative impact of this Project, and the approval of other projects like it in the vicinity, is not expected to have any significant environmental impact. The Project is not located along any state designated scenic highway nor within any designation hazardous waste site. Staff does not expect any significant impacts or unusual circumstances related to the approval and construction of this Project. Therefore, the Project is categorically exempt from CEQA.

**SECTION 2. CONDITIONAL USE PERMIT 23-04.** The Planning Commission finds and determines that the Applicant has succeeded in meeting its burden of providing evidence to support the granting of Conditional Use Permit 23-04 for the operation of a commercial recreation facility and approves Conditional Use Permit 23-04 based on the following findings required by Section 18.66.070.C of the La Habra Municipal Code and subject to the conditions attached hereto as Exhibit A.

- A. The granting of such 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 establishment and operation of the proposed use will require interior tenant improvements only, which will be reviewed during the City's building plan check process to ensure compliance with the California Building Codes. This process will necessitate inspections by the City's Building and Safety staff before a Certificate of Occupancy is issued. Furthermore, the Applicant will be following all safety regulations pertaining to playground equipment checks, playground safety rules signs, waivers, staff monitoring, and fire alarms in place to ensure operational safety at all times. No commercial recreation activities are proposed to occur outside of the building. Further, the proposed use will be located within an existing shopping center. The property is located in the C-2 (Commercial) Zone. Surrounding uses include a grocery store, a pharmacy, restaurants, a coffee shop, and medical and professional offices. The conditions of approval for CUP 23-04 ensure that the proposed commercial recreation facility, including an indoor playground and arcade, will not be detrimental to the

public welfare and will not unreasonably interfere with the use, possession, and enjoyment of surrounding and adjacent properties. Through compliance with the conditions of approval, the addition of the commercial recreation facility to the site will not impair the character of the C-2 zone. Rather, it is expected that the proposed commercial recreation facility and restaurant operations will integrate harmoniously with other commercial uses within the same shopping center.

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

The subject site is a 12,515 square foot tenant space within the established La Habra Towne Center, The site is within the C-2 (Commercial) Zone, which accommodates a variety of commercial uses and services pursuant to LHMC Table 18.06.040.A - Land Use Matrix. The plans for the proposed use show that the existing commercial building is adequate in size, shape, and topography to accommodate the proposed use. Since there are no changes to the exterior of the building and/or site, the existing vehicular access points and on-site circulation will continue to serve the site as it does today. The Applicant also provided a parking study, prepared by K2 Traffic Engineering, Inc., dated February 13, 2024, which analyzed project specific demand, current parking usage in the overall center and a shared parking analysis including all existing and proposed commercial uses in the La Habra Towne Center. The parking study included a parking survey of the La Habra Towne Center; parked vehicles were counted every hour during the business hours of 10:00 am to 9:00 pm over a period of three days (Thursday, Saturday and Sunday). The parking survey results indicated higher parking usage occurred on Saturday at 2:00 pm. More specifically, about 40% of the parking lot areas (parking zones serving the project) were being utilized, making as many as 82 parking spaces available for the project during this peak parking period, thereby far exceeding the number of parking spaces anticipated by the parking study for the proposed use. Therefore, the subject site will be physically suitable to handle the establishment and operation of the proposed commercial recreation facility

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

The subject site is located in the C-2 zone, which conditionally allows for the operation of a commercial recreation facility. With the incorporation and implementation of the conditions of approval, the use will be harmonious with the surrounding land uses. The proposed use does not involve any exterior modification to the site, so the site remains in conformance with all applicable requirements of the C-2 zone.

**D. The granting of the Conditional Use Permit is consistent with the General Plan.**

Granting CUP 23-04 to allow for the operation of a commercial recreation facility will be consistent with La Habra's General Plan Policy LU 11.1, which encourages "the development of a broad range of uses in La Habra's commercial centers and corridors that reduce the need to travel to adjoining communities, and capture a greater share of local spending." While the subject property is home to a variety of commercial services and uses, the proposed commercial recreation facility will be the first of its kind within the La Habra Towne Center. By allowing the establishment of a commercial recreation facility at this site, families will have another special event venue to choose from within the City limits.

**SECTION 3. CONDITIONAL USE PERMIT 23-07.** The Planning Commission finds and determines that the Applicant has succeeded in meeting its burden of providing evidence to support the granting of Conditional Use Permit 23-07 for the operation of a restaurant and approves Conditional Use Permit 23-07 based on the following findings required by Section 18.66.070.C of the La Habra Municipal Code and subject to the conditions attached hereto as Exhibit B.

**A. The granting of such 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.**

Given that the commercial recreation facility will be the main attraction of the proposed use, it is anticipated that customers will appreciate the convenience of having food and beverages available to them while visiting the commercial recreation facility. The proposed restaurant will also be subject to review for conformance with the California Building Codes, ADA regulations and public health requirements to ensure safe operations. The conditions of approval for CUP 23-07 ensure that the proposed restaurant will not unreasonably interfere with the use, possession, and enjoyment of surrounding and adjacent properties and not be detrimental to the public welfare. Through compliance with the conditions of approval, the proposed restaurant will not impair the character of the C-2 Zone. Rather, it is expected that the proposed restaurant will enhance the indoor playground experience.

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

The 12,515 square foot tenant space is part of an established commercial center known as the La Habra Towne Center shopping center. The proposed plans for the project together with the day-to-day operations of the existing shopping center demonstrate that the site is adequate in size, shape, and topography to accommodate the proposed restaurant, which includes a dining area that encompasses less than 10 percent of the tenant space and will be ancillary to the proposed commercial recreation facility. To further ensure the site will be suitable, the Applicant also provided a parking study, prepared by K2 Traffic Engineering, Inc., dated February 13, 2024, which analyzed project specific demand, current parking usage in the overall center and a shared parking analysis including all existing and proposed commercial uses in the La Habra Towne Center. The parking study included a parking survey of the La Habra Towne Center; parked vehicles were counted every hour during the business hours of 10:00 am to 9:00 pm over a period of three days (Thursday, Saturday and Sunday). The parking survey results indicated higher parking usage occurred on Saturday at 2:00 pm. More specifically, about 40% of the parking lot areas (parking zones serving the project) were being utilized, making as many as 82 parking spaces available for the project during this peak parking period, thereby far exceeding the number of parking spaces anticipated by the parking study for the proposed use. Therefore, the subject site will be physically suitable to handle the establishment and operation of the proposed restaurant.

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

The subject site is located in the C-2 Zone, which conditionally allows for the operation of a restaurant. With the incorporation and implementation of the conditions of approval, the use will be harmonious with the surrounding land uses. The proposed use does not involve any exterior modification to the site, so the site remains in conformance with all applicable requirements of the C-2 Zone.

**D. The granting of the Conditional Use Permit is consistent with the General Plan.**

Granting CUP 23-07 to allow for the operation of a restaurant will be consistent with La Habra's General Plan Policy LU 11.1, which encourages "the development of a broad range of uses in La Habra's commercial centers and corridors that reduce the need to travel to adjoining

communities, and capture a greater share of local spending. "While there are currently a variety of other restaurants, the proposed restaurant enhances the indoor playground experience, by providing a full menu of food and beverages that are typically enjoyed by children. By adding a restaurant in conjunction with a commercial recreation facility, the Applicant will be able to offer a one-of-a kind children's special event venue in La Habra, which will be conveniently located within walking distance of nearby existing residential neighborhoods in the immediate vicinity and add to the vibrancy and variety of the La Habra Towne Center.

**SECTION 4. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.**

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 from the preparation of a WQMP.

**SECTION 5. APPEAL.** The approvals granted by this Resolution may be appealed within 10 working days from adoption of this Resolution. All appeals must be in writing and filed with the City Clerk within this time period with the appropriate fee. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

**SECTION 6. RECORD.** Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. All summaries of information in the findings which precede this section are based on the entire record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**SECTION 7. EFFECTIVE DATE.** This Resolution shall take effect immediately.

**SECTION 8. CERTIFICATION.** The Secretary shall certify the passage of this Resolution.

PASSED, APPROVED, AND ADOPTED this 11th day of March, 2024.

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Esther Rojas, Chair

I, Veronica Lopez, Secretary to the Planning Commission of the City of La Habra, do hereby certify that the foregoing Resolution No. \_\_\_ was adopted at a regular meeting of the City of La Habra Planning Commission held on March 11, 2024 by the following vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

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Veronica Lopez, Secretary

## EXHIBIT A

### CONDITIONAL USE PERMIT 23-04 – CONDITIONS OF APPROVAL

#### General conditions:

#### Standard Condition 1.1 CODE COMPLIANCE (Modified)

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

#### Standard Condition 1.2 BUILDING PERMITS

The applicant/developer 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 LOS ANGELES COUNTY FIRE DEPARTMENT

The property owner/business operator shall comply with the County of Los Angeles Fire Code and the Los Angeles County 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 December 5, 2023 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of March 11, 2024. 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 business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Conditional Use Permit 23-04.

Standard Condition 1.8 VIOLATION

In the event that the 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 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 1.15 OUTDOOR VENDING MACHINES

The property owner/business operator shall not operate or allow any outdoor vending machines on the site at any time.

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, no less frequently than once each day prior to the close of business.

#### Standard Condition 1.36 HEALTH DEPARTMENT APPROVAL REQUIRED

The property owner/business operator shall obtain all necessary permits from the Orange County Health Care Agency if required.

#### 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 1.41 INDEMNIFICATION

To the maximum extent permitted by law, the applicant and any successor in interest shall defend, indemnify and hold harmless the City of La Habra and its elected and appointed officials, officers, agents and employees from and against any and all actions, claims, damages, liabilities and/or proceedings (collectively referred to as "action") arising out of or in any way relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, any action to attack, challenge, set aside, void, or otherwise modify or annul the approval of any entitlement or permit relating to the project or the environmental review of any entitlement relating to the project. The indemnification and hold harmless shall include, but not be limited to, any and all costs incurred by the City in defense of any action arising out of or relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, payment of all court costs and attorneys' fees, costs of any judgments or awards against the City (including an award of attorneys' fees), damages, and/or settlement costs. The City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by the City.

#### 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.

#### 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.

#### Project specific conditions:

1. The business hours of operation shall be limited to Monday through Sunday: 10:00 am to 8:00 pm. Should the Applicant wish to modify the hours of operation, prior written authorization will be required to be obtained from the Planning Division.
2. The property owner/business operator shall keep all doors to the commercial recreation facility closed during the business hours of operation to minimize any noise that may be emitted.
3. The property owner/business operator shall comply with the La Habra Noise Control Ordinance (Chapter 9.32 of the La Habra Municipal Code) at all times during the business hours of operation of the facility.
4. The property owner/business operator shall not conduct any business activities outside of the building.
5. The property owner/business operator shall apply for and maintain at all times, a valid business license through the La Habra Finance Department.

## **EXHIBIT B**

### **CONDITIONAL USE PERMIT 23-07 – CONDITIONS OF APPROVAL**

#### General conditions:

#### Standard Condition 1.1 CODE COMPLIANCE (Modified)

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

#### Standard Condition 1.2 BUILDING PERMITS

The applicant/developer 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 LOS ANGELES COUNTY FIRE DEPARTMENT

The property owner/business operator shall comply with the County of Los Angeles Fire Code and the Los Angeles County 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 December 5, 2023 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of March 11, 2024. 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 business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Conditional Use Permit 23-07.

Standard Condition 1.8 VIOLATION

In the event that the 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 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 1.15 OUTDOOR VENDING MACHINES

The property owner/business operator shall not operate or allow any outdoor vending machines on the site at any time.

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, no less frequently than once each day prior to the close of business.

#### Standard Condition 1.36 HEALTH DEPARTMENT APPROVAL REQUIRED

The property owner/business operator shall obtain all necessary permits from the Orange County Health Care Agency if required.

#### 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 1.41 INDEMNIFICATION

To the maximum extent permitted by law, the applicant and any successor in interest shall defend, indemnify and hold harmless the City of La Habra and its elected and appointed officials, officers, agents and employees from and against any and all actions, claims, damages, liabilities and/or proceedings (collectively referred to as "action") arising out of or in any way relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, any action to attack, challenge, set aside, void, or otherwise modify or annul the approval of any entitlement or permit relating to the project or the environmental review of any entitlement relating to the project. The indemnification and hold harmless shall include, but not be limited to, any and all costs incurred by the City in defense of any action arising out of or relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, payment of all court costs and attorneys' fees, costs of any judgments or awards against the City (including an award of attorneys' fees), damages, and/or settlement costs. The City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by the City.

#### Standard Condition 8.1 GREASE INTERCEPTORS

The property owner/business operator shall provide a grease interceptor at a location where it shall be easily accessible for inspection, cleaning and removal of accumulated grease. The sizing and installation shall conform to the current California/La Habra Plumbing Code. The grease interceptor shall be constructed in accordance with plans approved by the Director of Public Works and the Chief Building Official. The property owner/business operator shall contract with a maintenance company for maintenance and cleaning of the grease interceptor based

on a maintenance schedule to be submitted and approved by the Director of Public Works.

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 8.5    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.

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.

Project specific conditions:

1. The business hours of operation shall be limited to Monday through Sunday: 10:00 am to 8:00 pm. Should the Applicant wish to modify the hours of operation, prior written authorization will be required to be obtained from the Planning Division.
2. The property owner/business operator shall limit all deliveries and onsite maintenance activities to between the hours of 7:00 a.m. to 8:00 p.m. daily.