

RESOLUTION NO. 16-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING CONDITIONAL USE PERMIT 16-04 FOR THE SALE OF ALCOHOLIC BEVERAGES (LICENSE TYPE 21, OFF-SALE GENERAL) IN CONJUNCTION WITH A MARKET AT 1305 WEST WHITTIER BOULEVARD, MAKING THE APPROPRIATE FINDINGS, INCLUDING PUBLIC CONVENIENCE OR NECESSITY, AND SUBJECT TO CONDITIONS AS PER THE APPROVED PLANS.

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. Los Altos XIX, LP filed an application requesting Conditional Use Permit 16-04 for the sale of alcoholic beverages (license Type 21, Off-sale General) in conjunction with a market at 1305 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 15301(e)(2), Class 1: "Existing Facilities" of the California Environmental Quality Act Guidelines.
- 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 5,000 square feet of soil, a Priority WQMP is required. A Preliminary Priority WQMP has been reviewed and approved for all properties. All work undertaken will be required to incorporate Best Management Practices (BMPs) as required by the WQMP.
- d. The Planning Commission held a duly noticed public hearing on May 23, 2016 to consider the Applicant's request of Conditional Use Permit 16-04 and continued the item to the June 13, 2016 meeting.
- e. On June 13, 2016 The Planning Commission continued the Applicant's request of Conditional Use Permit 16-04 to a date uncertain.
- f. The Planning Commission held a duly noticed public hearing on June 27, 2016 to consider the Applicant's request of Conditional Use Permit 16-04. 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. Approval of this request will continue an Undue Concentration of off-sale alcohol licenses in Census Tract 11.01 where the subject site is located.
- b. Pursuant to Section 23958 of the California Business and Professions Code, a determination of Public Convenience and Necessity must be made before an additional off-sale alcohol license may be issued by the Department of Alcoholic Beverage Control (ABC) for a census tract having an Undue Concentration.
- c. The Planning Commission hereby makes the following determination of Public Convenience and Necessity:

This action results in no net increase in the overall number of alcohol licenses in the City since the Northgate Market was permitted to sell alcoholic beverages at their previous location and will be moving the license to the subject property. The proposed alcohol display area within the grocery store totals 504 square feet or 1% of the floor area, which is a small percentage of the overall product sales area of the market. Therefore, a finding of Public Convenience and Necessity can be established subject to conditions outlined below.

Section 3. 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 pursuant to 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:
 1. 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 subject business (Northgate) was granted an alcoholic beverage license (ABC Type 21) for their current operation on La Habra Boulevard three (3) years ago. Prior to that,

Northgate operated a beer and wine license (ABC Type 20) for thirteen (13) years. Additionally, the previous market located on the subject site (Ralphs) operated an alcoholic beverage license (ABC Type 21) for several years. During these time periods, no detrimental effects to the public were reported or have been observed at either location. Lastly, the proposed hours of operation for the market are comparable to other grocery stores in the city, which will be from 6 a.m. to 10:30 p.m., daily.

To ensure that the public welfare is served, Staff has placed conditions on the CUP to ensure proper business conduct and the Applicant is required to comply with all regulations of the Department of Alcoholic Beverage Control. These conditions include automated age verification equipment for the purchase of alcoholic beverages or cigarettes and that all employees designated to sell alcoholic products are required to attend a training course certified by the Alcoholic Beverage Control Board.

As a final note, the approval of this request will not result in an increase in the net number of licenses in the City. The ABC license previously issued for Northgate Market is conditioned to be relocated from their location on La Habra Boulevard to this site, thus maintaining the net number of licenses within the City.

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

The project complies with all development standards of the C-2 zone. The sale of alcoholic beverages is an ancillary use to the market. It is typical for markets to sell alcoholic beverages for off-site consumption. In addition, the Zoning Code permits sale of alcoholic products with the approval of a Conditional Use Permit. Therefore, the sale of alcoholic beverages in conjunction with a market/grocery store is suitable for the subject site.

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

La Habra Municipal Code Table 18.06.040 allows for alcohol sales and service within the C-2 zone with the approval of a Conditional Use Permit, granted by the Planning Commission.

4. The granting of this Conditional Use Permit is consistent with the comprehensive general plan.

The Land Use Element of the City's General Plan designates this site as Commercial Highway. This category provides for commercial uses that are primarily related to and dependent on the City's main arterials. The sale of alcoholic beverages within the market/grocery store is an ancillary use to the market and thereby, remains consistent with the goal of the Commercial Highway land use designation. Furthermore, the use is consistent by providing for commercial uses serving the larger citywide area as well as the immediate surrounding community which offers considerable variety and depth of merchandise. Therefore, the sale of alcoholic beverages for off-site consumption within a market is consistent with the comprehensive General Plan.

The projects implement Policies LU 2.2 (Places to Shop), LU 3.2 (Uses to Meet Daily Needs), LU 4.1 (Development Compatibility), LU 11.1 (Diversity of Uses), LU 11.5 (Cohesive Development), ED 1.1 (Consumer Demand), and ED 2.1 (Business Attraction) of the General Plan 2035.

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 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 1.3 GRAFFITI ABATEMENT

The property owner/business operator shall maintain the property in a clean and orderly condition at all times and remove any graffiti from the site within forty-eight (48) hours of its discovery in matching colors to the existing improvements.

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 February 24, 2016 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of June 27, 2016. 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 (Modified)

The failure to comply with any of these conditions, as well as the conditions of approval for Design Review 16-05, by the property owner/business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Conditional Use Permit 16-04.

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 1.12 SIGN MAINTENANCE

The property owner/business operator shall maintain signs in good condition at all times and shall repaint the freestanding sign 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 1.15 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 1.17 PUBLIC PAY PHONES

The property owner/business operator shall, at all times, prohibit the installation and use of exterior public pay telephones.

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 4.24 SECURITY AND CAMERA PLANS

The applicant/developer shall submit a security camera system design plan with proposed locations to the Chief of Police for approval. All tapes shall be kept on file for a minimum of 30 days and be available to the City upon request. Said plan shall also include cameras to cover the trash enclosures at the rear of the building to discourage illegal dumping. Additionally, signage shall be placed in the parking lots indicating that security cameras are in use.

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 7.2 ON-SITE CONSUMPTION
PROHIBITION (Modified)

The property owner/business operator shall not allow the consumption of any alcoholic beverages on the premises and post signage to that effect to inform the customers of this requirement.

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 7.4 OFF-SITE DELIVERY PROHIBITION

The property owner/business operator shall not conduct any off-site deliveries of alcoholic beverages.

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 7.8 SCANNER REQUIRED (OFF-SALES)

The property owner/business operator shall install a scanner capable of reading the information contained in the magnetic strip of any California Driver's License or Identification Card to confirm the age of the customer, or similar system as approved by the Director of Community and Economic Development. This device shall be used by the cashier to check the identification of all individuals who appear to be younger than 35 years of age.

Standard Condition 7.10 VISIBLE DISPLAY LOCATION
(Modified)

The property owner/business operator shall locate alcoholic products in a highly visible area and monitored through the use of visible security cameras. The display monitors for the cameras are to be

located in the manager's office. The alcoholic product sales area is not to be adjacent to soda or candy sales areas. No more than one percent (1%) of the total floor space can be occupied by alcoholic beverage products.

Project specific conditions:

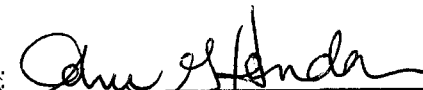

1. The Applicant/Business Operator shall have the existing Northgate Market alcoholic beverage license (License Type 21, Off-Sale General) be relocated from the store at 580 West La Habra Boulevard to this location prior to commencement of operations.

Section 5. Based upon the foregoing, the Planning Commission of the City of La Habra approves Conditional Use Permit 16-04. 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, BERNEIR,
POWELLO
NOES: COMMISSIONERS: NONE
ABSTAIN: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: HOLTHOUSER

Dated: June 27, 2016

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

