

RESOLUTION NO. 17-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA APPROVING CONDITIONAL USE PERMIT 17-02 FOR AN INSTRUCTIONAL TASTING (ABC TYPE 86) LICENSE AT 1305 WEST WHITTIER BOULEVARD, 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. Los Altos XIX, LP, filed an application requesting Conditional Use Permit 17-02 for an Instructional Tasting (ABC Type 86) License 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(a), Class 1: "Existing Facilities" of the California Environmental Quality Act Guidelines. The project consists of the establishment of an approved use within an existing building.
- 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. The proposed use is not subject to the Water Quality Ordinance.
- d. The Planning Commission held a duly noticed public hearing on February 27, 2017 to consider the Applicant's request of Conditional Use Permit 17-02. 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 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 pursuant to Chapter 18.66.070.C of the La Habra Municipal Code:

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 or enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.

On June 27, 2016 the Planning Commission approved Conditional Use Permit 16-04 for a Type 21 license. A Type 21 is required before a type 86 can be approved by the Department of Alcohol Beverage Control.

The amount of alcohol served at tasting events is limited to quantities, number of samples, and tastings per day per individual pursuant to ABC regulations. Only individuals 21 years of age or older are permitted within the designated tasting area. Staff has placed conditions on the operator to comply with all the requirements of the Department of Alcohol Beverage Control for at Type 86 license. Therefore, the operation of a Type 86 license will not unreasonably interfere with the use, possession, and or enjoyment of surrounding and adjacent properties 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 proposed use will be located within the grocery store. The proposed tasting area is sectioned off from the remainder of the store by means not requiring any structural changes to the building. Therefore, the site is physically suitable for the type of land use proposed.

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

Table 18.06.040.A of the La Habra Municipal Code allows for alcoholic beverage uses 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 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, and the General Plan specifically notes that a variety of goods and services is appropriate for the location. Additionally, the Instructional Tasting (ABC Type 86) License is an ancillary use to the Type 21 License approved via Conditional Use Permit 16-04. Therefore, the establishment of a Type 86 license within a major grocery store within an integrated retail center is consistent with the comprehensive General Plan.

The project implements Policy ED 1.1 (Consumer Demand) 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 1.5 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 6, 2016 and are those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of February 27, 2017. 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 17-02.

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 8.6 NUISANCE PROHIBITION

The property owner/business operator, and employees of the market 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 property owner/business operator shall limit Instructional Tasting events to the hours of 10:00 a.m. to 9:00 p.m. seven days a week as well as applicable Department of Alcoholic Beverage Control regulations. Violation of said regulations may constitute a rehearing of Conditional Use Permit 17-02 and result in possible revocation of this entitlement by the Planning Commission.
2. The approval for Conditional Use Permit 17-02 shall become null and void upon termination of an off-sale alcoholic beverage license (Type 20 or Type 21) for the subject property.

Section 4. Based upon the foregoing, the Planning Commission of the City of La Habra approves Conditional Use Permit 17-02. 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:

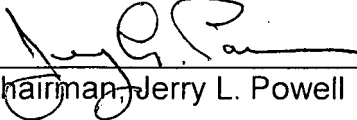
AYES: COMMISSIONERS: HANDLER, BERNIER, POWELL
NOES: COMMISSIONERS: NONE
ABSTAIN: COMMISSIONERS: FERNANDEZ
ABSENT: COMMISSIONERS: HOLTHOUSER

Dated: February 27, 2017

ATTEST:


Carmen G. Henderson, Secretary

APPROVED:


Chairman, Jerry L. Powell