

P L A N N I N G C O M M I S S I O N

R E S O L U T I O N N O . 22-6110

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 22-04

CONDITIONAL USE PERMIT NO. 22-04

CATEGORICAL EXEMPTION

APPLICANT: Stephen Jamieson

LOCATION: 2539 E Garvey Ave N

WHEREAS, there was filed with the City, a verified application on the forms prescribed in Chapter 26, Article VI of the West Covina Municipal Code, requesting approval of a Conditional Use Permit to:

Authorize on-site instructional tasting events for beer, wine or distilled spirits within a grocery store on certain property described as follows:

Assessor Parcel No. 8453-015-020 & 8453-015-030 as shown on the latest rolls of the Los Angeles County Tax Assessor; and

WHEREAS, the Planning Commission, upon giving the required notice, did on the 9th day of August 2022, conduct a duly advertised public hearing as prescribed by law to consider said application; and

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

1. The applicant is requesting approval of a Conditional Use Permit to allow for instructional tasting events within a 34,860 square-foot grocery store in the “Medium Commercial” (C-2) zone.
2. Findings necessary for approval of a Conditional Use Permit are as follows:
 - a. *That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community.*

- b. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.*
 - c. That the site for the proposed use is adequate in size and is so shaped as to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use to the land and uses in the neighborhood and make it compatible therewith.*
 - d. That the site abuts streets and highways adequate in width and improvements to carry traffic generations typical of the proposed use and that street patterns of such a nature exist as to guarantee that such generations will not be channeled through residential areas on local residential streets.*
 - e. That the granting of such conditional use permit will not adversely affect the general plan of the city, or any other adopted plan of the city.*
 - f. The proposed operational characteristics of the use and its proximity to residences, parks, schools, preschools, day care facilities, and religious facilities, will not create any undue adverse impacts on those uses or otherwise be detrimental to the public health, safety, and welfare.*
3. Pursuant to the California Environmental Quality Act (CEQA), the proposed project is considered to be categorically exempt (Class 1, Existing Facilities)

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of West Covina as follows:

1. On the basis of evidence presented, both oral and documentary, the Planning Commission makes the following findings for approval of a Conditional Use Permit:
- a. The proposed use is in context of the “Medium Commercial” (C-2) zone and is consistent with the surrounding areas. The requested tastings will be ancillary to the Type 21 “Off-sale General” license use, and it will be conducted only as permitted by an ABC Type 86 “Instructional Tastings” license in a defined and enclosed interior space. It will supplement and augment that use allowing customers to sample certain products prior to purchasing, and therefore provide a service contributing to the general well being of the community.
 - b. Instructional Tastings pursuant to a Type 86 ABC license are ancillary to off-sale retail. As conditioned, the use will not be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity. Instructional Tasting are also regulated and restricted by state law in order to protect the public health, safety, peace, and general welfare.

- c. There is no construction, demolition, or alteration of the site associated with the requested instructional tastings. Instructional tastings will be conducted solely within the grocery store. The grocery store is adequate in size to accommodate the use.
 - d. The subject property abuts streets and highways adequate in width and improvements to carry the traffic generated by the proposed use. The project site is located north of a collector street, E Garvey Avenue North. The instructional tasting will not be detrimental to the health, safety, peace or general welfare of surrounding properties. Instructional tastings in a defined and enclosed interior space will not generate any additional foot or vehicle traffic to the site.
 - e. The tasting events comply with West Covina's General Plan's stated goals of renovating or repositioning "underutilized retail space" into "more productive retail" (West Covina General Plan, pg. 31) and "improving the performance of retail uses." (I.d., pg. 34) The granting of a CUP permitting instructional tastings of alcohol in a defined and enclosed interior space will not adversely affect the general plan, or any other adopted plan, of the City.
 - f. Instructional Tastings pursuant to a Type 86 ABC license are ancillary to the off-sale ABC license for the grocery store. As conditioned, the use will not be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.
2. That pursuant to all of the evidence presented, both oral and documentary, and further based on the findings above, Conditional Use Permit No. 22-04 is approved subject to the provisions of the West Covina Municipal Code provided that the physical development of the herein described property shall conform to said Conditional Use Permit and the conditions set forth herein which, except as otherwise expressly indicated, shall be fully performed and completed or shall be secured by bank or cash deposit satisfactory to the Community Development Director before the use or occupancy of the property is commenced and before a certificate of occupancy is issued, and the violation of any of which shall be grounds for revocation of said conditional use permit by the Planning Commission or City Council.
3. The Conditional Use Permit shall not be effective for any purpose until the owner of the property involved (or his duly authorized representative) has filed at the office of the Community Development Director his affidavit stating he is aware of, and accepts, all conditions of this conditional use permit as set forth below. Additionally, no permits shall be issued until the owner of the property involved (or a duly authorized representative) pays all costs associated with the processing of this application pursuant to City Council Resolution No. 8690.

4. The costs and expenses of any enforcement activities, including, but not limited to attorney's fees, caused by the applicant's violation of any condition imposed by this approval or any provision of the West Covina Municipal Code shall be paid by the applicant.
5. That the approval of the Conditional Use Permit is subject to the following conditions:
 - a. Comply with the plans reviewed by the Planning Commission on August 9, 2022.
 - b. Comply with all applicable sections of the West Covina Municipal Code.
 - c. Comply with all requirements of the "Medium Commercial" Zone.
 - d. The hours in which instructional tasting can be conducted shall be limited to 10:00 a.m. to 9:00 p.m., unless extended hours are approved in conjunction with a special event through a Temporary Use Permit process.
 - e. The grocery store operator shall maintain both a Type-21 and Type-86 license from the California Department of Alcoholic Beverage Control (ABC).
 - f. Instructional tasting shall comply with California State Law and all regulations of the California Department of ABC.
 - g. The floor area devoted to instructional tasting events shall be limited to 500 square feet with set-up being allowed only in the area labeled as "alcohol sampling area" as illustrated on the floor plan attached as 'Exhibit A'. The maximum 500 square feet instructional tasting event area shall be sectioned off from the general public area by rope or similar device, and signage for the event shall be displayed in front of the instructional tasting area.
 - h. An instructional tasting event shall be limited to a single type of alcoholic beverage. "Type of alcoholic beverage" shall mean distilled spirits, wine, or beer.
 - i. A single tasting of distilled spirits shall not exceed one-fourth of one (1) ounce and a single tasting of beer is limited to eight (8) ounces of beer per person per day. The wine, beer, or distilled spirits tasted shall be limited to the products that are authorized to be sold by the holder of the Type 86 license under its requisite off-sale license.
 - j. The applicant shall defend, indemnify, and hold harmless the City of West Covina, its agents, officers, and employees from any claim, action or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul, approval of this Conditional Use Permit. The City will promptly notify the applicant of any such claim, action or proceeding against the City and will cooperate fully in the defense.

- k. In the event the City determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is taken, the applicant agrees to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City should otherwise agree with the applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.
- l. That any proposed change to the approved site plan, floor plan, or elevations be reviewed by the Planning, Building, Fire, and Police Departments and the Community Development Commission, and that the written authorization of the Community Development Director shall be obtained prior to implementation.
- m. The Conditional Use Permit shall become null and void if the use is not commenced within two years from the date of approval. Since the use does not require the issuance of a building permit, the use shall not be deemed to have commenced until the date ABC permit/license is issued.
- n. The operation of the facility shall comply with the West Covina Noise Ordinance.
- o. The Conditional Use Permit may be revoked, amended and suspended by the Planning Commission under the provisions of Section 26-253 of the West Covina Municipal code.
- p. BUILDING DIVISION CONDITIONS
 - i. The second sheet of building plans is to list all conditions of approval and to include a copy of the Planning Decision letter. This information shall be incorporated into the plans prior to the first submittal for plan check.
 - ii. Prior issuance for any permits for tenant improvements, the merger of lots (5453-015-030 & 8453-015-020) shall be processed.
 - iii. The merger of lots shall be recorded prior the building permits finalized and prior the building occupancy.
- q. ENGINEERING DIVISION CONDITIONS
 - i. The second sheet of building plans, grading plans and/or offsite improvement plans is to list all conditions of approval and to include a copy of the Planning Commission Decision letter. This information shall be incorporated into the plans prior to the first submittal for plan check.
 - ii. Should the proposed work generate a cut into any public right of way infrastructure (street, sidewalk, driveway, curb & gutter, etc.):

- a) street paving shall be along the length of the property frontage to the centerline of the street as directed by the City Engineer or his/her designee.
- b) sidewalk reconstruction shall be in accordance with SPPWC Standard Plan 113-2, and as directed by the City Engineer and/or his/her designee.
- c) driveway apron reconstruction shall be in accordance with SPPWC Standard Plan 110-2, and as directed by the City Engineer or his/her designee.
- d) curb and gutter reconstruction shall be in accordance with SPPWC Standard Plan 111-5 and as directed by the City Engineer or his/her designee.

r. FIRE DEPARTMENT CONDITIONS

- i. No requirements at this time regarding alcohol sales. Additional Fire Department requirements may be set upon future review of a full set of architectural plans.

I HEREBY CERTIFY that the foregoing Resolution was adopted by the Planning Commission of the City of West Covina, at a regular meeting held on the 9th day of August 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

DATE: August 9, 2022

Nickolas Lewis, Chairperson
Planning Commission

Paulina Morales, Secretary
Planning Commission

EXHIBIT A

