

PLANNING COMMISSION

RESOLUTION NO. 23-6132

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WEST COVINA, CALIFORNIA, REVOKING CONDITIONAL USE
PERMIT NO. 15-05 AND ADMINISTRATIVE USE PERMIT NO. 15-09**

**CONDITIONAL USE PERMIT NO. 15-05
ADMINISTRATIVE USE PERMIT NO. 15-09**

PERMITTEE: Eric Phillip Roque, Rebel Yell Bar and Steakhouse

LOCATION: 2050 S. Valinda Avenue

WHEREAS, on October 27, 2015, the City approved Conditional Use Permit No. 15-05, allowing the accessory use of live music entertainment, subject to conditions; and

WHEREAS, on October 27, 2015, the City approved Administrative Use Permit No. 15-09, allowing on-sale service of alcohol within a full-service restaurant as defined by the State Department of Alcoholic Beverage Control (ABC), subject to conditions; and

WHEREAS, on December 11, 2018, the City amended Administrative Use Permit No. 15-09 to extend the hours of alcohol service (Sunday through Wednesday from 6 AM to 12 AM and Thursday through Saturday from 6 AM to 2 AM), subject to conditions; and

WHEREAS, on September 26, 2023, the Planning Commission conducted a duly noticed hearing on the said Conditional Use Permit and Administrative Use Permit revocation, received additional written and verbal comments and evidence from the Parties, heard additional public testimony, and heard statements and verbal comments from the parties concerning the revocation; and

WHEREAS, the Planning Commission had received a record of all documents and written materials submitted in connection with the proceedings as well as all documents and written materials submitted by and on behalf of the public, the Appellant/Applicant, and City staff in connection with the Conditional Use Permit and Administrative Use Permit revocation; and

WHEREAS, based upon the Planning Commission's independent review of the written materials, verbal testimonies, and public comments, the Planning Commission considered all evidence presented, as described on the Evidence Chart attached to this Resolution as EXHIBIT A; and

WHEREAS, following review of evidence as described on the Evidence Chart, and after fully considering and deliberating upon all of the written evidence, verbal testimony, oral argument, public testimony and comments, the Planning Commission voted to REVOKE Conditional Use Permit No. 15-05 and Administrative Use Permit No. 15-09.

NOW, THEREFORE, the Planning Commission of the City of West Covina does hereby resolve as follows:

SECTION 1: The Planning Commission admits into evidence all documents and verbal testimonies identified on the Evidence Chart attached to this Resolution as EXHIBIT A. The findings described herein below are based on such writings, in addition to the verbal testimony of the public and witnesses, verbal comments submitted by the Appellant and City staff, and the written and oral arguments submitted by the Permittee and City staff.

SECTION 2: In accordance with West Covina Municipal Code Section 26-296.06, the Planning Commission revokes Conditional Use Permit No. 15-05 and Administrative Use Permit No. 15-09 and finds that revocation is justified based on the following findings:

A. The use is detrimental to the public health, safety or welfare or is a nuisance. Noise levels, loitering, disturbance, and crime caused by, resulting from, or related to the use are detrimental to public health, safety, and welfare and constitute a nuisance. Revocation is justified pursuant to West Covina Municipal Code Section 26-296.06 (a), when a use is detrimental to public health, safety or welfare or is a nuisance. The admitted evidence includes copies of all documentary evidence submitted to the Planning Commission. That evidence includes copies of letters/emails submitted by neighbors who reside near the use/restaurant that are affected by noise, disturbance, and crime generated by the facility. That evidence indicates that noise, loitering, disturbance and crime generated by the use significantly interferes with the quality of life of residents in the vicinity of the use/restaurant.

Evidence includes testimony from the West Covina Police Department and copies of calls for service logs and police reports prepared for events that took place at the restaurant where police assistance was necessary. Such events include reports of gun shots, bar fights, and brandishing weapons.

E. The Conditions of approval have not been complied with. Noise levels, loitering, disturbance, and crime caused by, resulting from, or related to the use are a violation of the conditions of approval. Revocation is justified pursuant to West Covina Municipal Code Section 26-296.06 (e), when the use is out of compliance with the conditions of approval. The operation of the use is not in compliance with the following conditions of approval:

Resolution No. 15-5783

- d)** The approved use shall not create a public nuisance as defined under Section 15-200 of the West Covina Municipal Code.
- f)** The business owner and manager of the establishment shall be strictly accountable for compliance with all conditions imposed as part of this conditional use permit, whether or not the owner or the manager are personally present at the location.
- g)** A copy of this resolution shall be kept at the front counter at all times and available for or review by the public safety personnel, and other authorized City staff.
- r)** Security personnel will patrol the surrounding parking lot and vicinity to ensure patrons are neither loitering nor causing undue disturbance.

Resolution No. 15-5784

- f)** The business owner and manager of the establishment shall be strictly accountable for compliance with all conditions imposed as part of this conditional use permit, whether or not the owner or the manager are personally present at the location.
- g)** A copy of this resolution shall be kept at the front counter at all times and available for or review by the public safety personnel, and other authorized City staff.
- l)** The approved use shall not create a public nuisance as defined under Section 15-200 of the West Covina Municipal Code.
- t)** In the event that the surrounding residents or businesses are negatively impacted due to the live entertainment, the Planning Commission may review the conditional use permit for live entertainment and may, at its discretion, modify or impose new conditions or suspend or revoke the conditional use permit to Section 26-253 of West Covina Municipal Code.

Resolution No. 18-5971

- d)** The approved use shall not create a public nuisance as defined under Section 15-200 of the West Covina Municipal Code.
- f)** The business owner and manager of the establishment shall be strictly accountable for compliance with all conditions imposed as part of this conditional use permit, whether or not the owner or the manager are personally present at the location.
- g)** A copy of this resolution shall be kept at the front counter at all times and available for or review by the public safety personnel, and other authorized City staff.
- r)** Security personnel will patrol the surrounding parking lot and vicinity to ensure patrons are neither loitering nor causing undue disturbance.

Police Department Requirements included in Resolution Nos. 15-5783, 15-5784, and 18-5971:

a)/ff) The applicant shall install a CCTV monitoring system, which is subject to inspection prior to opening. The requirements are as follows:

- 960H (960 x 480) recording resolution
- H.264 video compression
- Real-time recording 30 fbs per channel @ 960 resolution

- 2048 bit rate
- 1 TB hard disk drive at a minimum and larger if the number of cameras require more storage to meet the 30 day storage minimum
- Fixed cameras with complete coverage of areas that do not infringe on the privacy of patrons, PTZ (pan, tilt, zoom) optional
- Recordings preserved for a minimum of 30 days (30 day loop minimum)
- DVR must contain a USB port for police department personnel to easily access system and download video

Violation of Condition of Approval “d” of Resolutions Nos. 15-5783 and 18-5971

The use is detrimental to the public health, safety, and welfare, and is a nuisance. The City has received numerous complaints from the neighboring residents in regard to noise and loitering due to the operation of Rebel Yell, and the Police Department has received numerous calls for service pertaining to noise and crime/event reports related to the operation of the restaurant, including:

- May 24, 2023 – WCPD responded to a disturbance call regarding a bartender beating up a customer.
- January 28, 2023 – WCPD responded to a call regarding a bar fight.
- December 29, 2022 – WCPD responded to a call regarding 4 to 6 gun shots heard coming from the area.
- December 19, 2022 – WCPD responded to a report regarding a rape that occurred at Rebel Yell.
- November 2, 2022 – WCPD responded to a call of a person throwing a bottle that hit another person on the head.
- April 2, 2022 – WCPD responded to a call of someone pulling out a semi-automatic pistol.
- January 27, 2022 – WCPD responded to a call of someone with a knife trying to fight the reporting party who was hiding in the restroom.

Violation of Condition of Approval “r” of Resolutions Nos. 15-5783 and 18-5971

According to the West Covina Police Department, they have not observed any security guards/personnel during the times they were called to the site. During his testimony, the Permittee, Eric Roque, stated that the security guard is only onsite three nights a week and does not patrol the parking lot.

Violation of the Police Department Conditions of approval for Resolutions Nos. 15-5783, 15-5784, and 18-5971

West Covina Police Officers were told numerous times during investigations that they do not have recorded video and were denied access to the surveillance system or were told by bartenders that they do not have the password for the system. During his testimony,

the Permittee, Eric Roque, disclosed that the CCTV monitoring system has either been broken or unplugged.

Violation of Condition of Approval “f” and “g” of Resolutions Nos. 15-5783, 15-5784, and 18-5971

The Permittee is responsible for ensuring that conditions of approval are complied with at all times and is accountable for any violations. In addition, the Permittee is required to maintain the approval resolutions with all conditions of approval at the restaurant’s front counter. During his testimony, the Permittee, Eric Roque, stated that he was unaware of the violations, but admitted that the required CCTV system was not operating and stated that the crime in the area impacts his business but opted to schedule the security guard to be present only three nights per week without the required parking lot patrol.

SECTION 3: This Conditional Use Permit and Administrative Use Permit revocation shall be final unless appealed to the City Council within 10 calendar days. If a valid appeal is not filed within 10 calendar days, the Permittee shall immediately stop alcohol sales and live entertainment, and the Secretary of the Planning Commission shall notify the California Department of Alcoholic Beverage Control of the revocation and provide the agency a copy of this resolution.

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 10th day of October, 2023, by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

DATE: October 10, 2023

Brian Gutierrez, Chairman
Planning Commission

Paulina Morales, Secretary
Planning Commission

EXHIBIT A

EVIDENCE CHART

EVIDENCE	SUBMITTING PARTY	COMMENTS
Staff Report – Revocation 09/26/2023	City	Written and verbal
Resolution No. 15-5783	City	Attachment No. 1 of Staff Report
Resolution No. 15-5784	City	Attachment No. 2 of Staff Report
Resolution No. 18-5971	City	Attachment No. 3 of Staff Report
WCPD Calls for Service Log	City	Attachment No. 4 of Staff Report
Police Report Event# 2305240017, 05/24/2023	City	Attachment No. 5 of Staff Report
Police Report Event# 2301280013, 01/28/2023	City	Attachment No. 5 of Staff Report
Police Report Event# 2212290024, 12/29/2022	City	Attachment No. 5 of Staff Report
Police Report Event# 2212190198, 12/19/2022	City	Attachment No. 5 of Staff Report
Police Report Event# 2211020133, 11/02/2022	City	Attachment No. 5 of Staff Report
Police Report Event# 2204020008, 04/02/2022	City	Attachment No. 5 of Staff Report
Police Report Event# 2201270006, 01/27/2022	City	Attachment No. 5 of Staff Report
Email from Nha Nguyen nhangyuyen222@gmail.com , 09/18/2023	City	Attachment No. 6 of Staff Report
Email from Joe Gardner JMG2651@proton.me , 09/19/2023	City	Attachment No. 6 of Staff Report
Email from classy3127@aol.com , 09/21/2023	City	Attachment No. 6 of Staff Report
Alcoholic Beverage Control Report stamped received October 14, 2019	City	Attachment No. 7 of Staff Report
Email from Debra Gomez ldlgomez@msn.com , 09/26/2023	City	Presented during the hearing
Testimony from Lt. Travis Tibbets of the West Covina Police	City	---

Planning Commission Resolution No. 23-6132
Conditional Use Permit No. 15-05
Administrative Use Permit 15-09
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Department		
Testimony from Eric Roque	Permittee	---
Testimony from Gilbert Saucedo (Permittee's Attorney)	Permittee	---
Testimony from Mario Sobalvarro	Public Hearing Comment	---
Testimony from Ana Muro	Public Hearing Comment	---