

PLANNING COMMISSION RESOLUTION NO. 2007-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLAREMONT APPROVING CONDITIONAL USE PERMIT (CUP) #07-C09, TO ALLOW OUTDOOR SEATING, ON-SITE SALE OF BEER, WINE, AND DISTILLED SPIRITS IN CONJUNCTION WITH A BONA FIDE RESTAURANT, WINE TASTING, AND THE OFF-SITE SALE OF WINE AT 101 N. INDIAN HILL BOULEVARD (SUITES C2-102 & 103). APPLICANT – L & C COULOURIDES, LLC REPRESENTING ASTUCE.

WHEREAS, on April 2, 2007, the applicant submitted an application for Conditional Use Permit #07-C09 to allow the sale of beer, wine, and distilled spirits for on-site consumption associated with a bona fide restaurant and on-site wine tasting and off-site sales of wine operating within a tenant space located at 101 N. Indian Hill Boulevard, Suites C2-102 & 103; and

WHEREAS, Commercial Building C-2 is within the Commercial Mixed Use (CMX) zone of the Village Expansion Specific Plan (VESP) project area, where on-site alcohol sales are allowed with the approval of a conditional use permit; and

WHEREAS, notice of public hearing was duly given and published; and

WHEREAS, the Planning Commission held a public hearing on June 5, 2007, at which time all persons wishing to testify in connection with said proposal were heard and said proposal was fully studied.

NOW THEREFORE, THE CLAREMONT PLANNING COMMISSION DOES HEREBY RESOLVE:

Section A. The Planning Commission has determined that the proposed sale of alcoholic beverages for on-site consumption within an existing restaurant and off-site sales of wine is categorically exempt from the provisions of the California Environmental Quality Act under Class 1, Section 15301 (operation of an existing private facility involving a negligible expansion of use). Therefore, no further environmental review is necessary.

Section B. In accordance with Section 624 of the Claremont Land Use and Development Code (LUDC), the Planning Commission makes the following findings in regard to the conditional use permit for the above-described project:

1. The proposal is appropriate and consistent with the LUDC and the VESP. One of the goals of the VESP is to expand business opportunities in the City, and provide amenities to attract shoppers, visitors, and residents. The restaurant will add to the vibrant mix and will give residents, and the community, a location to sit and enjoy a meal within the Village Expansion area. The VESP was envisioned as a mixed-use district with a more urban character than other parts of the City, and while residents will have direct access to many unique amenities, the lifestyle choice also involves more direct interaction with adjacent non-residential uses. All CMX-zoned areas will experience nighttime activity from the theater and other restaurant/pub uses.

In addition, the subject site is adequate in size and shape to accommodate the proposed use in that these activities are incidental to the primary use of the

premises as a bona fide restaurant. Adequate parking is available to serve the use considered to occupy Commercial Building C-2, based on the parking standards of the LUDC and VESP, and on a parking demand analysis conducted by staff in January of 2005.

Conditions of approval imposed on the proposed use have been crafted to ameliorate potential conflicts in compatibility between the outdoor dining component of the proposed use and nearby business uses. In addition, these conditions of approval give the City of Claremont the authority to revoke the subject CUP if it is discovered that the operators of the proposed use are violating state regulations pertaining to the sale of alcohol.

2. The sale of beer, wine, and distilled spirits for on-site consumption in conjunction with a bona fide restaurant is an ancillary component and appropriate for a restaurant use. As long as the sale of alcoholic beverages remains an ancillary portion of the business, the proposed use will not impair the conditional use permit integrity of the Specific Plan (SP-8) and Claremont Village Zoning District.
3. While the proposed hours may be somewhat later than the typical Claremont restaurant, staff believes that the hours are appropriate as the City is encouraging a higher level of activity in the evening hours to help ensure the success of the Cinema, Packing House, and Inn.
4. The proposed use will not impair the integrity and character of the zone in which it is located or otherwise have an adverse effect on adjacent property or the permitted use thereof, in that the on-site sale of alcoholic beverages is appropriate, as such sales occur in conjunction with the food menu and food service hours as required by the LUDC and VESP. There are numerous restaurant uses in the Village, many of which serve alcohol and have done so without incident.
5. The proposed use is not contrary to the General Plan in that the policies of the General Plan encourage economic and social activity in commercial areas of the City.
6. The proposed use will not endanger or otherwise constitute a menace to the public health, safety, or welfare in that alcohol service is provided as an ancillary use to the primary use as a restaurant establishment, as opposed to a stand-alone bar where the sale of alcohol for on-site consumption would raise compatibility and enforcement concerns.

Conditions of approval give the City of Claremont the authority to revoke the subject conditional use permit if it is discovered that the operators of the proposed use are violating state regulations or any condition(s) of this approval. Moreover, the proposed use is subject to the operating conditions imposed by the California Department of Alcoholic Beverage Control (ABC), which regulates and monitors the manner in which alcoholic beverages are sold.

Section C. The Planning Commission hereby approves Conditional Use Permit #07-C09 based on the findings outlined in Sections A and B above, subject to the following conditions of approval:

1. This approval is for the following in conjunction with a bona fide restaurant:
 - A 1,200 square-foot outdoor dining patio;
 - The on-site sale of alcohol (full service bar); and
 - Wine tasting with a retail sales component selling wine for off-site consumption.
2. This approval shall be valid for two years from the date of the Planning Commission action. If a beer, wine, and distilled spirits Alcoholic Beverage Control (ABC) license is not secured within that time frame or an extension is not granted, then this approval shall automatically expire without further action by the City.
3. If the use for which this CUP was granted is discontinued for a period of 12 months or more, such use shall not be re-established, and the matter shall be referred to the Planning Commission to initiate the proceedings for the revocation of this Conditional Use Permit.
4. The applicant, and subsequent successors in interest, shall continue to offer meal and/or snack menu service at all times alcohol is served, including wine tasting. Failure to do so will be grounds for revocation of this CUP.
5. The hours that alcohol would be sold/served are:

Monday – Thursday 11:30 a.m. – midnight
Friday & Saturday 11:30 a.m. – 2:00 a.m.
Sunday 10:00 a.m. – midnight

The Planning Commission shall approve any changes to the hours that alcohol would be sold/served.
6. Prior to commencing the service and sale of alcoholic beverages on the premises, the applicant shall obtain the appropriate license from the Department of Alcoholic Beverage Control (ABC), comply with the licensing requirements, and provide evidence of said license to the Planning Division. In the event that there is a conflict between the conditions imposed by the City as part of this CUP approval and those imposed by ABC, the more restrictive provisions shall apply.
7. The applicant and successors shall operate the subject premises in a safe and sanitary manner at all times, including compliance with curfew and daytime loitering regulations pursuant to the provision of Section 9.80 of the Claremont Municipal Code (CMC). Continued/repeated violations of any municipal, Health Code, or other violations, as determined by the City of Claremont, Los Angeles County

Health Services Department, Department of Alcoholic Beverage Control (ABC), or Los Angeles County Fire Department, may be grounds for initiation of proceedings for the revocation of this CUP.

8. All persons selling alcoholic beverages shall be 18 years of age or older, and shall be supervised by another person over 21 years of age and duly permitted to sell alcoholic beverages pursuant to ABC regulations. A supervisor shall be present in the same area as point of sale for alcoholic beverages.
9. Three (3) or more verified sales of alcoholic beverages to minors within a one (1) year time interval, measured from the time of the first such violation, as verified by the Claremont Police Department and/or the California Department Alcoholic Beverage Control, shall be grounds for initiation of proceedings for the revocation of this conditional use permit.
10. All forms of video screen, amplification, and live performance, including public address speakers, associate with the proposed use shall be limited to the interior of the subject premises.
11. No signs advertising the sale of beer, wine, distilled spirits, or other products shall be installed on the exterior of the premises, or within the interior of the premises directed and intended to be visible toward the exterior of the premises in accordance with the provisions of the LUDC.
12. The maximum number of patrons and staff allowed in the establishment shall not exceed the maximum occupancy for the site as set by the Building Official.
13. Noncompliance with any condition of approval shall constitute a violation of the City's Land Use and Development Code. Violations may be enforced in accordance with the provisions of the Land Use and Development Code and/or the administrative fines program of Chapter 1.14 of the Claremont Municipal Code.
14. The applicant/owner, by utilizing the benefits of this approval, shall thereby agree to defend at its sole expense any action against the City, its agents, officers, and employees because of the issues of such approval. In addition, the applicant/owner shall reimburse the City et al for any court costs and attorney fees that the City et al may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant/owner of its obligation hereunder.

Failure to comply with any of the conditions set forth above or as subsequently amended in writing by the City may result in failure to obtain a building final and/or a certificate of occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project.

Section D. The Planning Commission Chair shall sign this Resolution and the Commission's Administrative Secretary shall attest to the adoption thereof.

Passed, approved, and adopted this 5th day of June 2007.



for JIM BURKE, Chair
Planning Commission

ATTEST:



Planning Commission Administrative Secretary