

RESOLUTION NO. 2022-16

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT MODIFICATION FOR THE ADDITION
OF LIVE ENTERTAINMENT AND MODIFIED HOURS OF OPERATION AT AN
EXISTING PUBLIC MARKET (MARKET ON 8TH) LOCATED AT 41 EAST 8TH STREET.
CASE FILE NO. 2022-18 CUP
APN: 556-331-26

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit Modification for the addition of live entertainment and modified hours of operation at an existing public market (Market on 8th) located at 41 East 8th Street at a duly advertised public hearing held on July 18, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File No. 2022-18 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 18, 2022, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because alcohol sales and live entertainment are allowable within Development Zone 4 of the Downtown Specific Plan, pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are permitted, subject to a Conditional Use Permit, by the Land Use Code, which is consistent with the General Plan. A restaurant accessory beer sales is also a use that is consistent with Development Zone 4 of the Downtown Specific Plan, which allows such uses.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity,

because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed use is existing and is accessory to the restaurant and public market, which is located in an existing commercial area. The building is existing and has ten on-street parking spaces adjacent to the property, as well as access to several nearby parking areas. Live entertainment would occur within the existing building.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the sale and consumption of beer and wine would continue to be a small part of the overall public market use, with the alcohol serving area only 10% of the total floor area of the whole property. Alcohol consumption would be monitored by staff of the public market. In addition, the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available. Furthermore, live entertainment will be limited to appropriate hours and to maximum noise standards to avoid impacts to nearby residential uses.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and uses would basically be the same as the current uses and the density of which were analyzed as part of the Downtown Specific Plan.
7. That the proposed use is deemed essential and desirable to the public convenience or necessity, because alcohol sales have contributed to the viability of the public market, an allowed use in Development Zone 4 of the Downtown Specific Plan. The existing tasting room has been a draw for area and non-area residents alike and has further activated the downtown core, consistent with the spirit and intent of the Downtown Specific Plan. The addition of live entertainment is expected to add to the success of the market and the enjoyment of its patrons.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the extension of alcohol sales hours (as stated in Condition No. 7 below), the addition of live entertainment (subject to the hours stated in Condition No. 9 below), a mobile bar in the back patio, off-site alcohol sales (subject to the hours stated in Condition No. 8 below), and consumption of alcohol in the front patio at an existing public market located at 41 East 8th Street. Any plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-18 CUP, dated 4/7/2022.
2. Unless specifically modified by this resolution, all Conditions of Approval of City Council Resolution 2016-122 shall remain in full force and effect.
3. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Planning

7. No change in alcohol sales and consumption practices shall be permitted without receiving a Type 41 license from the California Department of Alcoholic Beverage Control (ABC).
8. The Type 41 ABC license shall not be considered in effect until the Type 23 ABC license has been surrendered or transferred to a different location.
9. The sale of alcoholic beverages for on-site consumption shall only be permitted between the hours of 6:00 a.m. and 1:00 a.m. daily.
10. The sale of alcoholic beverages for off-site consumption shall only be permitted between the hours of 12:00 p.m. and 10:00 p.m. daily.
11. The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
12. No sale of wine shall be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
13. Permittee shall post signs in the patio dining area, including all exits to outdoor seating areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
14. Live entertainment shall be conducted as an accessory use to the public market for the enjoyment of its patrons. No concerts or specific live entertainment events shall be permitted.
15. Live entertainment shall be permitted between the hours of 8:00 a.m. and 1:00 a.m.
16. All activities shall comply with the limits contained in Table III of Title 12 (Noise) of the National City Municipal Code.
17. All entry and exit doors, including windows, shall remain closed after 9:00 p.m. during inside live entertainment activities.
18. Speakers located on the patio along 'A' Avenue shall be turned off no later than 9:00 p.m. daily
19. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

20. The permittee shall comply with all applicable laws, including, but not limited to all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

BE IT FURTHER RESOLVED that the applicant has requested the waiver of Condition 11 of this Resolution, which is a policy condition of City Council Policy 707; and

BE IT FURTHER RESOLVED that only the City Council may waive a policy condition at a public hearing; and

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council in order to conduct said public hearing; and

BE IT FINALLY RESOLVED that this Resolution shall become effective on the day following review and approval by the City Council after a duly noticed public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 18, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON

RESOLUTION NO. 2022-16

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
DENYING A CONDITIONAL USE PERMIT MODIFICATION FOR THE ADDITION OF
LIVE ENTERTAINMENT AND MODIFIED HOURS OF OPERATION AT AN EXISTING
PUBLIC MARKET (MARKET ON 8TH) LOCATED AT 41 EAST 8TH STREET.
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WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2022-18 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on July 18, 2022, support the following finding:

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective on the day following review and approval by the City Council after a duly noticed public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of July 18, 2022, by the following vote:

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