

AGENDA ITEM: 6.

DATE: 11-16-09

**STAFF REPORT**

**CONDITIONAL USE PERMIT NO. 09-10**

DATE: November 16, 2009  
TO: Lancaster Planning Commission  
FROM: Planning Department  
APPLICANT: The Rusten House LLC  
LOCATION: 43953 15<sup>th</sup> Street West  
REQUEST: A Conditional Use Permit for on-site sale and consumption of alcohol (Type 47, sale of beer, wine and distilled spirits for a bona fide restaurant) for The Rusten House

RECOMMENDATION: Adopt Resolution No. 09-34 approving Conditional Use Permit No. 09-10.

BACKGROUND: There have been no prior hearings before either the City Council or the Planning Commission concerning this property.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C (Commercial) by the General Plan, is zoned C (Commercial), and is currently a vacant 3,510 square-foot suite. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	<u>GENERAL PLAN</u>	<u>ZONING</u>	<u>LAND USE</u>
NORTH	MR2	HDR	Apartments
EAST	OP	OP	Medical Offices
SOUTH	MU	CPD	Commercial Center
WEST	MU	CPD	Vacant

PUBLIC IMPROVEMENTS: The site is bounded to the north by Avenue J-8, which is improved with two lanes in each direction, and to the east by 15<sup>th</sup> Street West, which is improved with two lanes in each direction. All utilities are available to serve the site.

ENVIRONMENTAL REVIEW: The proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur.

LEGAL NOTICE: Notice of Public Hearing was mailed to all property owners within a 500-foot radius of the project, posted in three places, posted on the subject property, and noticed in a newspaper of general circulation per prescribed procedure.

ANALYSIS: The applicant, The Rusten House LLC., is requesting a conditional use permit for on-site sale and consumption of alcohol in a proposed restaurant within an existing commercial center. A conditional use permit is required for on-site sale of beer, wine and distilled spirits (Lancaster Municipal Code Section 17.42.030). The applicant has requested a Type 47 license for on-site sale beer, wine, and distilled spirits from the California State Department of Alcoholic Beverage Control (ABC).

The Rusten House is an established restaurant that has been operating at the former location, in the City of Lancaster, for the past 41 years. The proposed location would be located at a former restaurant that held a Type 47 liquor license, located in the Arroyo Plaza, 43593 15<sup>th</sup> Street West. Based on the floor plan, and discussions with the applicant, the proposed project meets the definition a “bona fide restaurant” as established by the Municipal Code Section 17.42.020. The hours of operation would be Monday through Friday from 11:00 a.m. to 2:00 p.m., and 5:00 p.m. to 10:00 p.m., Saturday 3:00 p.m. to 10:00 p.m., and Sunday 11:00 a.m. to 10:00 p.m.

The proposed restaurant is exempt from the City’s alcohol ordinance distance requirements (Section 17.42.040A), since it is a bona fide restaurant. However, the proposed project must comply with a list of standard conditions from the alcohol ordinance (Section 17.42.070).

In analysis of the conditional use for alcohol sales, staff reviewed factors regarding public convenience and necessity. The request would not result in a net increase in the number of licenses, since the previous use was also a restaurant with a Type 47 license for on-site sale of beer, wine and distilled spirits. Operation of the restaurant will be conducted by well-trained staff in a manner that will maintain a pleasant dining experience, and enhance the overall ambiance of the commercial center.

The Los Angeles County Sheriff’s Department (Lancaster Station) was not opposed to the issuance of the conditional use permit, based on a conducted investigation and the applicant’s agreement to the conditions.

The proposed project meets the requirements of the zone, and will not adversely affect nearby residences or businesses. The conditions of approval have been included, which would ensure that the safety and general welfare of the surrounding area would be maintained. The alcohol sales are related to the proposed use, and the restaurant would fill a void left by the former restaurant, and add to the choices the neighborhood would have in their dining options. Staff believes the Planning Commission could make a favorable determination in support of the proposal.

Respectfully submitted,

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Christopher Aune, Assistant Planner

cc: Applicant  
Engineer

## **RESOLUTION NO. 09-34**

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 09-10

WHEREAS, a conditional use permit has been requested by The Rusten House for on-site and consumption of alcohol (Type 47, sale of beer, wine and distilled spirits for a bona fide restaurant) in a proposed 3,510 square-foot restaurant located at 43953 15<sup>th</sup> Street West, in the C Zone, as shown on the attached site map; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32 and Chapter 17.42 of the Lancaster Municipal Code; and

WHEREAS, a notice of intention to consider the granting of a Conditional Use Permit has been given as required in Article V of Chapter 17.32 of the Lancaster Municipal Code and in Section 65905 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommended approval of this conditional use application, subject to conditions; and

WHEREAS, public notice was provided as required by law and a public hearing was held on November 16, 2009; and

WHEREAS, the proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur.”

WHEREAS, this Commission hereby adopts the following findings in support of approval of this application:

1. The proposed use of on-site sale and consumption of alcohol would be located in a proposed 3,510 square-foot restaurant, in an existing commercial center and will be in conformance with the General Plan land use designation of (CPD) Commercial Planned Development.
2. The requested alcohol use at the location proposed will not:
  - a. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, because no area adjacent to the existing commercial center. The hours of operation would be from 11:00 a.m. to 2:00 p.m., and 5:00 p.m. to 10:00 p.m., Saturday 3:00 p.m. to 10:00 p.m., and Sunday 11:00 a.m. to 10:00 p.m.

- b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, because City development standards will be met, and adequate parking will be provided.
    - c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare, because adequate sewer, water, drainage, and improvements are be part of the project.
  3. The proposed site is adequately served:
    - a. By 15<sup>th</sup> Street West and Avenue J-8, which are of sufficient width and improved to carry the anticipated daily vehicle trips such use would generate; and
    - b. By other public or private service facilities, including sewer, water, fire, and police services are required.
  4. The proposed use will not result in a significant effect on the environment because all potential impacts have been found to not be significant as noted in the environmental review section of the staff report prepared for this project.
  5. The proposed 3,510 square-foot convenience market is adequate in size and shape to accommodate the development features prescribed in the Zoning Ordinance, or as otherwise required in order to integrate said use with the use in the surrounding areas.

WHEREAS, this Commission hereby adopts the following Conditional Use Permit findings per Section 17.42.050 in support of approval of this application:

1. The proposed restaurant is located in the C zone which permits alcoholic beverages to be sold, served or given away for on-sale or off-sale consumption with a conditional use permit.
2. The proposed use will not adversely affect the nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment to residential districts, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches or other places of religious worship, hospitals, clinics or other health care facilities because it is not in proximity to any of the above.
3. The proposed restaurant serves the public convenience and necessity based on all factors outlined in Section 17.42.060 of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 09-10, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 16<sup>th</sup> day of November 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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JAMES D. VOSE, Chairman  
Lancaster Planning Commission

ATTEST:

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BRIAN S. LUDICKE, Planning Director  
City of Lancaster

**ATTACHMENT TO PC RESOLUTION NO. 09-34**  
**CONDITIONAL USE PERMIT NO. 09-10**  
**CONDITIONS LIST**  
**November 16, 2009**

**GENERAL ADVISORY**

1. All standard conditions as set forth in Planning Commission Resolution Number 06-16 for Conditional Use Permits shall apply except for Condition No. 5, 7-9, 11-24, 29, 31, 32, 37-39.

**ALCOHOL CONDITIONS**

2. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment, and be presented to the City of Lancaster of Los Angeles County Sherriff's personnel upon request.
3. Per the direction of the Planning Director, the applicant shall comply with Lancaster Municipal Code Section 17.42.070 (Conditions of Approval for On-Sale Alcoholic Beverage Establishments).
4. The City reserves the right to review the Conditional Use Permit (CUP) one year from the date the CUP was first approved, and at one-year intervals thereafter.

**17.42.070 Conditions of Approval for On-Sale Alcoholic Beverage Establishments.**

Establishments engaged in the retail sale of alcoholic beverages for on-premises consumption shall operate in a manner which does not interfere with the normal use of adjacent properties. In addition to those conditions which the planning commission, or the city council on appeal, may otherwise impose, all conditional use permits for off-sale alcoholic beverage establishments shall be subjected to the following mandatory conditions of approval:

- A. The exterior of the premises shall be kept free of litter.
- B. Graffiti shall be removed from the site within 72 hours.
- C. Alcoholic beverages shall not be permitted to be consumed in the parking area or other exterior areas of the premises, except for designated outdoor areas approved as part of the application.
- D. Exterior lighting of the parking area shall be kept at an intensity of between one and two-foot candles, so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas. Light sources shall be screened from the adjacent properties and from the sky.

- E. Adequate security measures shall be provided as specified by the planning commission including, but not limited to, retaining trained staff and security personnel and providing security devices, such as surveillance or burglar alarm systems.
- F. Hours of operation, including deliveries to the proposed establishment, shall be compatible with the need and character of the surrounding neighborhood. In order to protect the public health, safety and welfare, the planning commission may limit the hours or operation.
- G. All employees who serve or sell alcoholic beverages shall successfully complete a responsible beverage service training program that meets the requirements of the California Department of Alcohol Beverage Control within 90 days of hire. Records of such training shall be maintained on the premises and made available to the city of Lancaster or the Los Angeles County sheriff's department personnel upon request.
- H. Noise levels at the property line of any sensitive use as listed in Section 17.42.040 adjoining the site of the alcoholic beverage establishment shall not exceed 65 dBA.
- I. The management of any establishment selling alcohol shall take necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises, and to assure timely response to concerns of neighbors and local officials about problems related to alcohol sales and service at the establishment.
- J. The owner of the establishment shall maintain all required permits and/or licenses for the sale of alcoholic beverages in good standing.
- K. The establishment shall conspicuously post in interior sign stating: "We ID everyone under 30 years of age for alcohol sales." The language of such sign shall be English, as well as the predominant language of the establishment's clientele.  
(Ord. 896 § 1 (Exh. A § 29 (part)), 2008)