

AGENDA ITEM: 5.

DATE: 01-19-10

**STAFF REPORT**

**CONDITIONAL USE PERMIT NO. 09-11**

DATE: January 19, 2010

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: El Toreo Mexican Restaurant

LOCATION: 830 West Avenue L

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 a 2,440 square-foot El Toreo Mexican Restaurant

RECOMMENDATION: Adopt Resolution No. 10-03 approving Conditional Use Permit No. 09-11.

BACKGROUND: There have been no prior hearings before either the City Council or the Planning Commission concerning this property. However, Site Plan Review No. 05-03 was approved by staff on December 6, 2005, for a 33,300 square-foot commercial center to include retail sales and fast food.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C (Commercial) by the General Plan and is zoned LI (Light Industrial). 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	Montecito Apartments
EAST	LI	LI	Sharky's Billiards
SOUTH	LI	LI	Self-Storage Facility
WEST	C	LI	Vacant

**PUBLIC IMPROVEMENTS:** The site is bounded to the north by Avenue L, to the east by 8<sup>th</sup> Street West, and to the west by 10<sup>th</sup> Street West. 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, El Toreo Mexican Restaurant, is requesting a conditional use permit for on-site sale and consumption of alcohol in a proposed restaurant within an existing commercial center. The Lancaster Municipal Code, Section 17.42.030 states that “no place where alcoholic beverages are sold, served, or given away as a normal course of business for on-sale or off-sale consumption, shall be established without first obtaining a conditional use permit from the City of Lancaster.” The applicant has requested a Type 47 license for on-site sale of beer, wine, and distilled spirits from the California State Department of Alcoholic Beverage Control (ABC).

The applicant currently has eight (8) restaurants operating within the Lancaster and Palmdale areas. Based on the floor plan and discussions with the applicant, the proposed project meets the definition of a “bona fide restaurant” as established by the Municipal Code Section 17.42.020. The hours of operation would be Sunday through Thursday from 11:00 a.m. to 10:00 p.m. and Friday and Saturday from 11:00 a.m. to 11:00 p.m. The use of on-site security for the restaurant will not be provided. However, the applicant has contracted to have an alarm system installed.

The proposed restaurant is exempt from the City’s alcohol ordinance distance requirements (Section 17.42.040.A), 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).

The amount of parking spaces provided on the original Site Plan Review No. 05-03 site plan is 197. The present parking calculation, which includes restaurants (Carl’s Jr., Panda Express, Jackie’s, SubMarina, and El Toreo) and retail/office spaces, would place the demand parking spaces for this commercial center at 198. El Toreo would be permitted based on this information, and that no other restaurant uses are allowed to occupy the site.

In the conditional use process for alcohol sales, factors regarding public convenience or necessity must be considered. 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 proposed establishment has been reviewed by the Los Angeles County Sheriff’s Department (Lancaster Station) for a history of law enforcement problems, crime rate, etc. and their recommended approval was given on January 5, 2010.

Staff is recommending approval of the proposed alcohol use for the proposed restaurant, because it meets all 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 function of the proposed use, and the restaurant would add to the inventory of dining establishments to the City, thereby contributing to the vibrancy of the area.

Respectfully submitted,

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Elma Watson, Assistant Planner

cc: Applicant

## RESOLUTION NO. 10-03

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 09-11

WHEREAS, a conditional use permit has been requested by El Toreo Mexican Restaurant for on-site and consumption of alcohol (Type 47, sale of beer, wine and distilled spirits for a bona fide restaurant), located at 830 Avenue L, in LI (Light Industrial) 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 January 19, 2010; 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; and

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 within the proposed 2,440 square-foot restaurant, in an existing commercial center will be in conformance with the General Plan land use designation of (C) Commercial.
2. The requested 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 the existing building entrance faces Avenue L. The hours of operation would be from 11:00 a.m. to 10:00 p.m., Sunday through Thursday, and from 11:00 a.m. to 11:00 p.m. on Friday and Saturday.

- 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 is 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 part available to serve the site.
  3. The proposed site is adequately served:
    - a. By 10<sup>th</sup> Street West and Avenue L, which is 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 as required.
  4. 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.
  5. The existing commercial center is adequate in size and shape to accommodate the proposed use.

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 LI (Light Industrial) 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 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 either 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. 09-11, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 19<sup>th</sup> day of January 2010, 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. 10-03**  
**CONDITIONAL USE PERMIT NO. 09-11**  
**CONDITIONS LIST**  
**January 19, 2010**

**GENERAL ADVISORY**

1. All standard conditions as set forth in Planning Commission Resolution No. 06-16 for Conditional Use Permits shall apply except for Condition Nos. 5, 7-9, 11-24, 31, 32, 37, 38, and 39.
2. The total building square-footage of the center is 32,424 square feet. As of January 11, 2010, there is 10,546 square feet of building space dedicated for restaurant use. The current approved restaurants located in this center are:
  - 852 West Avenue L - Carl's Jr.
  - 840 West Avenue L - Panda Express
  - 830 West Avenue L, Suite 101 – Jackie's
  - 830 West Avenue L, Suite 131 – SubMarina
  - 830 West Avenue L, Suite 139 – El Toreo

The present parking calculation meets the required number of parking spaces for this center; however, no additional restaurant uses will be allowed to occupy this site. If a current restaurant tenant vacates a space, a new parking calculation will be required for the new restaurant tenant.

**ALCOHOL CONDITIONS**

3. 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 Sheriff's personnel upon request.
4. 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), except as specifically modified in these conditions.
5. 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 for conformance with the Municipal Code.
6. The typical hours of operation of the restaurant use shall be from 11:00 a.m. to 10:00 p.m. Sunday through Thursday, and from 11:00 a.m. to 11:00 p.m. Friday and Saturday.