

AGENDA ITEM: 5.

DATE: 06-21-10

STAFF REPORT

CONDITIONAL USE PERMIT NO. 10-10

DATE: June 21, 2010

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: Nirmal Gill

LOCATION: 1324 West Avenue I

REQUEST: A Conditional Use Permit for on-site sale and consumption of alcohol (Type 41, sale of beer and wine) for a proposed restaurant in an existing building

RECOMMENDATION: Adopt Resolution No. 10-28 approving Conditional Use Permit No. 10-10.

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 and is zoned C (Commercial), and is currently a 3,630 square-foot vacant restaurant. 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	C	Multi-family residences
EAST	C	C	Retail
SOUTH	UR	R-7,000	Single-family residences
WEST	C	C	Bar

PUBLIC IMPROVEMENTS: The site is bounded to the north by Avenue I, which is improved with three 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, Nirmal Gill, is requesting a conditional use permit for on-site sale and consumption of alcohol in an existing vacant restaurant. A conditional use permit is required for on-site sale of beer and wine per Lancaster Municipal Code Section 17.42.030. The applicant has requested a Type 41 license for on-site sale beer and wine from the California State Department of Alcoholic Beverage Control (ABC).

The applicant is proposing to open Magoo's Pizza restaurant in the vacant building. Based on the floor plan and discussions with the applicant, the proposed project would continue to meet the definition a "bona fide restaurant" as established by the Municipal Code Section 17.42.020. The hours of operation would be Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday and Saturday from 11:00 a.m. to 12:00 a.m., and Sunday from 12:00 p.m. to 10:00 p.m.

The proposed use 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. Operation of the restaurant will be conducted by well-trained staff in a manner that will create a pleasant dining experience. The alcohol sales will accompany the proposed restaurant use.

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 will complement the proposed restaurant. Staff believes the Planning Commission could make a favorable determination in support of the proposal.

Respectfully submitted,

Christopher Aune, Assistant Planner

cc: Applicant
Engineer

RESOLUTION NO. 10-28

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

WHEREAS, a conditional use permit has been requested by Nirmal Gill for on-site and consumption of alcohol (Type 41, sale of beer and wine for a bona fide restaurant) in an existing 3,630 square-foot vacant restaurant located at 1324 West Avenue I, in the C (Commercial) 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 June 21, 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.”

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

1. The proposed use would be located within an existing 3,630 square-foot restaurant, and will be in conformance with the General Plan land use designation of (C) Commercial.
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 the request is for alcohol sales in conjunction with a restaurant. The hours of operation would be Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday and Saturday from 11:00 a.m. to 12:00 a.m., and Sunday from 12:00 p.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 Avenue I, 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 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.

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 alcohol use within an existing bona-fide restaurant is located in the C (Commercial) 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. 10-10, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 21st day of June 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster

ATTACHMENT TO PC RESOLUTION NO. 10-28
CONDITIONAL USE PERMIT NO. 10-10
CONDITIONS LIST
June 21, 2010

GENERAL ADVISORY

1. All standard conditions as set forth in Planning Commission Resolution Number 10-23 for Conditional Use Permits shall apply except for Condition No. 5, 7, 10, 11, 13, 14, 16-30, 36, 37, and 42-46.
2. Per direction of the Planning Director, the applicant shall install landscaping and irrigation per Ordinance 907 within the existing landscape planters prior to occupancy.

ALCOHOL CONDITIONS

3. The typical hours of operation of the restaurant use shall be from Monday through Thursday from 11:00 a.m. to 10:00 p.m., Friday and Saturday from 11:00 a.m. to 12:00 a.m., and Sunday from 12:00 p.m. to 10:00 p.m.