

AGENDA ITEM: 2.

DATE: 01-23-12

**STAFF REPORT**

**CONDITIONAL USE PERMIT NO. 11-13**

DATE: January 23, 2012

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: Bravery Brewing Company

LOCATION: 42705 8<sup>th</sup> Street West

REQUEST: A Conditional Use Permit to allow a Type 23 Alcoholic Beverage Control License to operate a micro-brewery, including the sale of beer for consumption on or off the premises, live music, and a request for a waiver under Section 17.42.040.C of the Lancaster Municipal Code to allow the sale of beer within 300 feet of a religious assembly area, in the LI (Light Industrial) Zone

RECOMMENDATION: Adopt Resolution No. 12-01 approving Conditional Use Permit No. 11-13.

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 LI (Light Industrial) by the General Plan and is zoned LI (Light Industrial), and is currently a 5,040± square-foot vacant unit. 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 | LI                  | LI            | Mini-storage          |
| EAST  | LI                  | LI            | Light-Industrial uses |
| SOUTH | LI                  | LI            | Mini-storage          |
| WEST  | C                   | C, CPD        | Vacant                |

**PUBLIC IMPROVEMENTS:** The site is bounded to the east by 8<sup>th</sup> Street West, which is improved with one lane in each direction, and to the west by 10<sup>th</sup> Street West, which is improved with three north-bound lanes and one south-bound lane. All utilities are available to serve the site.

**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, Bart Avery, is seeking approval of a conditional use permit for a Type 23 Alcoholic Beverage Control License (ABC) to operate a micro-brewery, including the sale of beer for consumption on or off the premises, and occasional live music. A conditional use permit is required to allow live music use per Lancaster Municipal Code Section 17.16.070.A.1.c.d, and is required for an Alcoholic Beverage Control license per Lancaster Municipal Code Section 17.42.030 for a primary on and off-sale alcoholic beverage establishment. A key issue in reviewing this request is whether a waiver, for being located within 300 feet from a religious facility, should be granted under Section 17.42.040.C of the Municipal Code. Related questions, such as whether operation restrictions should be placed on the use, also must be evaluated, but can only be done within the context of the waiver issue.

The applicant proposes to open a micro-brewery facility within an existing one-story industrial building. A micro-brewery is defined as a small-scale brewery operation that typically is dedicated solely to the production of specialty beers. Although some micro-breweries do include restaurants or pubs, this facility will not have food available except for snack foods. If a restaurant is proposed in the future, this CUP would need to be amended. The ABC license, once issued, will also allow the applicants to sell their product to any other restaurant or retailer. The Bravery Brewery would produce approximately 15 to 20 of their own brands of craft beer, to be distributed to restaurants, cafes, and other establishments throughout the region. In addition, the applicant is requesting an accessory tasting area for customers to sample and purchase specialty beer. This type of tasting area is typical for a small craft beer manufacturer. The live music would include jazz/guitar performances. The live music would occur on average of once or twice per week.

ABC does not classify the proposed use as a bar or club. ABC would not allow minors into the brewery and the tasting room if this were the designation. Therefore, staff does not recommend adding any age restrictions to the proposed use. Bravery staff would adhere to the ABC guidelines for asking for identification for those purchasing beer that appear under 30 years of age.

The applicant proposes to operate the tasting room Thursday and Friday between the hours of 4:00 p.m. to 10:00 p.m., Saturday between the hours of 12:00 p.m. to 10:00 p.m., Sunday between the hours of 12:00 p.m. to 7:00 p.m., and occasional open hours could occur on Wednesdays between the hours of 4:00 p.m. to 10:00 p.m.

The total square-footage of the building is 5,040± square feet. The floor plan indicates a stage area of 200± square feet, an indoor public area of 1,300± square feet, and a fenced outdoor area of 1,600± square feet. The remainder square-footage is devoted to restrooms, storage, administrative uses,

manufacturing, and bottling. The areas not devoted to the public would be cordoned-off, and management would ensure the public does not access these areas. The total square-footage of the building is 5,040± square feet.

Sufficient parking exists for the project; parking for the indoor public area is calculated at one automobile space for every 100 square feet of floor area (1/100). The indoor public area at 1,300 square feet would require 13 parking spaces, and 13 spaces are available for the business. Additional parking will be available during the hours when the adjacent businesses are closed. According to the parking calculation, the other two businesses in the complex do not operate after 6:00 p.m. on weekdays, or after 3:30 p.m. on Saturdays, and both are closed on Sundays (see site plan for complete parking calculation).

#### Separation Distance Requirements

The City's alcohol ordinance Section 17.42.040 establishes separation distance requirements between certain types of alcohol sellers and uses identified as "sensitive uses." This provision in the ordinance goes to the core reason that the City has enacted regulations for alcohol sales, which is to deal with the potential for negative external effects on adjacent areas that certain alcohol establishments can create. These effects can include noise, loitering, trash and debris, or increased need for police services, for example, but are not intended to include more social concerns (whether the consumption of alcohol in the community is good or bad, for example). The ordinance makes a distinction between retail uses that sell alcohol as an incidental activity (grocery stores, drug stores, etc.), and those that are primary alcohol sellers, such as nightclubs or bars that sell alcoholic beverages for on-site consumption and are considered primary on-sale beverage establishments. Incidental activity (e.g. grocery stores, drug stores) are considered to have external negative effects that are minimal, and the positive effects that the retail uses provide to the community outweigh these negative effects. Primary alcohol sellers, on the other hand, are considered more likely to create adverse effects on surrounding uses.

#### Waiver of Distance Requirements

The City's alcohol ordinance (Section 17.42.040.C) contains a provision to allow for a waiver of the normal distance requirements of the alcohol ordinance. The waiver provision acts as a "safety valve" when application of normal requirements produces results that are not in line with the overall intent of the ordinance. The waiver provision requires that two findings be made: first, that the alcohol beverage establishment will serve a specific community need; and second, that the approved waiver is not expected to create an adverse effect on adjacent property, uses, or residents. These provisions are written broadly to allow for a fair evaluation of specific circumstances. The City has approved three waiver requests in the past. The Planning Commission approved a waiver of distance requirement in November 2008 of the location of the V.F.W. Post location on Division Street, a site that is within 300 feet of residential property and within 1,000 feet of a school. In this case, the Commission felt that a V.F.W. Post met a specific community need, and that any impact on adjacent uses was expected to be minimal, because of the private nature of the facility. The Planning Commission approved a waiver of distance requirement for off-site sale and consumption of alcohol (Type 20, sale of beer and wine only) at an existing minimarket at CrossPoint Development located at 1006 West Avenue H; and a request for a waiver for a site adjacent to residentially zoned

property. The Planning Commission approved a waiver of distance requirement in November 2011, to allow the sale of beer and wine within 300 feet of a religious assembly area for a proposed concert venue/nightclub with on-sale consumption of alcoholic beverages (Alcoholic Beverage Control Type 42, on-sale beer and wine - public premises). In this case, the Commission found that with the application of certain operating conditions, any potential adverse effects would be minimized, when weighed against the community benefits of the use.

As noted previously, the alcohol ordinance sets separation distance to help minimize potential conflicts between certain types of alcohol establishments and sensitive uses, but also allows for a waiver of those in cases where specific need is identified, and the use is not expected to adversely affect the adjacent area. Bravery Brewery is seeking a waiver from the distance requirement of being located less than 300 feet from Shekinah Worship, located south of the project site, at 42640 10<sup>th</sup> Street West. There are a number of issues and concerns that can legitimately be considered by the Planning Commission in analyzing this request:

1. Bravery Brewery is located where the other two businesses in the complex do not operate on Sundays, after 6:00 p.m. on weekdays, or after 3:30 on Saturdays; therefore, it would not compromise or negatively affect surrounding businesses. Bravery Brewery staff would prevent any loitering, and work to reduce any negative impacts to the existing industrial area.
2. The site is located within 300 feet of the church to the south of the project site. The mutual property lines are within 80 feet, however, the mutual front doors are more than 500 feet apart. The church is located in a separate center, and does not share access with the proposed brewery location. The church obtains access from 10<sup>th</sup> Street West while the brewery would be predominantly accessed from 8<sup>th</sup> Street West. The applicant has contacted the church office, and has obtained a letter from the pastor giving his approval and support for the brewery, and stated that he feels that the brewery “will not be an issue of concern for the church or the congregation.”
3. The Sheriff’s Department was contacted as part of the initial review of this request. 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 added conditions.
4. The City’s alcohol ordinance assumes that a primary alcohol seller such as a brewery may have a negative effect on surrounding sensitive uses. The waiver process essentially places the burden of proof for the waiver on the applicant; in other words it is the applicant’s responsibility to justify granting the waiver, not the City’s responsibility to justify the separation distance established by the ordinance.
5. The Planning Commission has the ability to place restrictions on the operations of an alcohol establishment, provided that the restrictions are reasonably related to addressing potential negative effects. In the past, these restrictions have included conditions related to security on and off the site, and hours of operation. Staff feels that the proposed micro-brewery, with

conditions of approval, would ensure that the project does not adversely impact the neighboring businesses, because it is located adjacent within an industrial.

Staff believes that the applicant's proposal would provide the City with its second micro-brewery within the entire Antelope Valley, and that the alcoholic beverage establishment will meet a specific community need.

Staff is recommending approval of the proposed alcohol and entertainment use for Bravery Brewery, because the proposed project meets the requirements of the zone, will meet a community need, will not adversely affect nearby residences or businesses, and security would be provided inside and outside the premises. The conditions of approval have been included, which would ensure that the safety and general welfare of the surrounding area would be maintained. 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. 12-01

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 11-13

WHEREAS, a conditional use permit has been requested by Bravery Brewing Company, to allow a Type 23 Alcoholic Beverage Control License to operate a micro-brewery, including the sale of beer for consumption on or off the premises, live music, and a request for a waiver under Section 17.42.040.C of the Lancaster Municipal Code to allow the sale of beer within 300 feet of a religious assembly area, for a site located at 42705 8<sup>th</sup> Street West, in the 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 23, 2012; 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 a waiver of normal distance requirements pursuant to Section 17.42.040.C of the Lancaster Municipal Code:

1. The on and off-site sale of alcohol at the proposed micro-brewery will meet a specific need, because there is only one other brewery in the Antelope Valley, and, therefore, it will provide increased public convenience by providing a wider range of locally-manufactured product choices.
2. The distance waiver to allow on-site and off-site sale of alcohol within 300 feet of a religious assembly is not expected to result in adverse effect upon such use, because the location of the church is in a separate center with separate access from the micro-brewery. The business will be operated by well-trained staff in a safe,

controlled, well-organized manner, and the pastor from the church has submitted a letter stating that the proposed use will not affect the existing religious assembly.

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

1. The proposed micro-brewery and the related on and off-site sale of alcohol would be located within an existing building, and will be in conformance with the General Plan land use designation of (LI) Light Industrial.
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 business would be located in the Light Industrial zone where no homes are located. The tasting room would operate largely outside of the operating hours of the adjacent businesses, as follows: Thursday and Friday between the hours of 4:00 p.m. and 10:00 p.m., Saturday between the hours of 12:00 p.m. and 10:00 p.m., Sunday between the hours of 12:00 p.m. and 7:00 p.m., and occasional open hours opening could occur on Wednesdays between the hours of 4:00 p.m. and 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 have been met, adequate parking is provided, and on-site security would 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 available.
3. The proposed site is adequately served:
  - a. By 8<sup>th</sup> Street West and 10<sup>th</sup> Street West, 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. The proposed use will not result in a significant effect on the environment, because the site is already developed and adequately served by necessary street and utilities.

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 use for a Type 23 Alcoholic Beverage Control License to operate a micro-brewery, including the sale of beer for consumption on or off the premises, and occasional live music, is located in the LI (Light Industrial) Zone, which permits alcoholic beverages to be sold for on and off-site 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 places of religious worship, hospitals, clinics or other health care facilities, because conditions have been placed on the applicant, which will provide an adequate level of safety.
3. The proposed micro-brewery serves the public convenience and necessity based on all factors outlined in Section 17.42.060 of the Municipal Code, because it will expand the availability of locally manufactured product and provide additional choices for the public.



NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 11-13, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 23<sup>rd</sup> day of January 2012, 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. 12-01**  
**CONDITIONAL USE PERMIT NO. 11-13**  
**CONDITIONS LIST**  
**January 23, 2012**

**GENERAL ADVISORY**

1. All standard conditions as set forth in Planning Commission Resolution No. 10-23 for Conditional Use Permits shall apply except for Condition Nos. 4, 7a, c, d, e, 8, 10, 11, 13, 14, 16-30, 35-37, and 43-46.

**ADDITIONAL CONDITIONS**

2. Hours of operation for the tasting area would be Thursday and Friday between the hours of 4:00 p.m. to 10:00 p.m., Saturday between the hours of 12:00 p.m. to 10:00 p.m., Sunday between the hours of 12:00 p.m. to 7:00 p.m., and occasional tasting room hours could occur on Wednesdays between the hours of 4:00 p.m. to 10:00 p.m.
3. There shall be no pool tables or coin-operated video games in the premises.
4. The licensee shall monitor the area under its control, in an effort to prevent the loitering of persons about the premises.
5. No person under the age of 21 shall serve alcoholic beverages.
6. The applicant shall install a video camera surveillance system for all entrances and exits, compatible with the requirements of the City's forthcoming surveillance ordinance.