

AGENDA ITEM: 6.

DATE: 08-20-12

STAFF REPORT

CONDITIONAL USE PERMIT NO. 12-13

DATE: August 20, 2012

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: Floridalma McKoy

LOCATION: 43533 Sierra Highway

REQUEST: A Conditional Use Permit to allow on-sale beer and wine (Type 41 Alcoholic Beverage Control License) at Joey’s Restaurant, in the MU-E (Mixed Use-Employment) Zone

RECOMMENDATION: Adopt Resolution No. 12-17 approving Conditional Use Permit No. 12-13.

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 MU (Mixed Use) by the General Plan and is zoned MU-E (Mixed Use-Employment), and is currently a 3,788± square-foot 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	MU	MU-E	Auto sales
EAST	C	CPD	Union Pacific Rail Road
SOUTH	MU	MU-E	Auto sales
WEST	MU	MU-E	Vacant

PUBLIC IMPROVEMENTS: The site is bounded to the east by Sierra Highway, which is improved with two lanes of traffic in each direction.

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, Floridalma McKoy, is seeking approval of a conditional use permit to allow on-sale beer and wine (Type 41 Alcoholic Beverage Control License) at Joey's restaurant. A conditional use permit is required for an Alcoholic Beverage Control license per Lancaster Municipal Code Section 17.42.030 for an incidental on-sale alcoholic beverage establishment.

Based on the floor plan and discussions with the applicant, the proposed project would meet the definition of a "bona fide restaurant" as established by the Municipal Code Section 17.42.020. The hours of operation would be daily between 10:00 a.m. to 10:00 p.m., and the sale of alcohol would be concurrent with regular business hours.

As a bona fide restaurant, the alcohol use is exempt from the distance requirements of the City code, since the sale of beer and wine will be incidental to the sale of food. The applicant will be required to comply with all standard conditions from the alcohol ordinance for on-sale alcoholic beverage establishments (Section 17.42.070).

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. Operation of the restaurant will be conducted by well-trained staff in a manner that will create a pleasant dining experience. 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,

Christopher Aune, Assistant Planner

cc: Applicant
Engineer

RESOLUTION NO. 12-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 12-13

WHEREAS, a conditional use permit has been requested by Floridalma McKoy, to allow on-sale beer and wine (Type 41 Alcoholic Beverage Control License), at Joey's restaurant located at 43533 Sierra Highway, in the MU-E (Mixed Use-Employment) 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 August 20, 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 this application:

1. The proposed use would be located within an existing building, and will be in conformance with the General Plan land use designation of (MU) Mixed Use.
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 on-sale and consumption of alcoholic beverages (Alcoholic Beverage Control Type 41 beer and wine) within a bona-fide restaurant. The hours of operation would be daily between 10:00 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 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 of the project.
3. The proposed site is adequately served:
 - a. By Sierra Highway, 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 on-sale consumption of beer and wine within a bona-fide restaurant is located in the MU-E (Mixed Use-Employment) Zone, which permits alcoholic beverages to be sold, served or given away for on-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 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 use 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. 12-13, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 20th day of August 2012, 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. 12-17
CONDITIONAL USE PERMIT NO. 12-13
CONDITIONS LIST
August 20, 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.

ALCOHOL CONDITIONS

2. The typical hours of operation for the restaurant shall be daily between 10:00 a.m. to 10:00 p.m.