

RESOLUTION 2014-40-PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELL, APPROVING CONDITIONAL USE PERMIT NO. 2014-01 TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION IN CONJUNCTION WITH AN EXISTING EATING ESTABLISHMENT (CULICHITOWN), LOCATED AT 6638 ATLANTIC AVENUE IN BELL CA.

A. RECITALS

WHEREAS, Ramon Guerrero of Culichitown Corporation Inc. (the Applicant) filed a complete application for requesting the approval of Conditional Use Permit 2014-01 described herein ("Application");

WHEREAS, the Application pertains to an approximate 30,500 square foot property on Los Angeles County Assessor's Parcel number 6326-002-401 more commonly known as 6638 Atlantic Avenue, Bell, California ("Property");

WHEREAS, the Applicant requests approval of a Conditional Use Permit and the issuance of a determination of a Public Convenience or Necessity (PCN) for the sale of beer and wine for on-site consumption in conjunction with a bona fide existing restaurant (Department of Alcoholic Beverage Control Type 41 License) as require by Section 17.96.030 (2)(a) of the Bell Municipal Code; and

WHEREAS, an environmental assessment form was submitted by the Applicant pursuant to pertinent City requirements. Based upon the information received and Staff's assessment, the project was determined not to have a significant environmental impact on the environment and is categorically exempt from the California Environmental Quality Act ("CEQA") (Public Resources Code Section 210000 *et seq.*) and pursuant to Section 15301 of the CEQA guidelines, Title 14, Chapter 3 of the California Code of Regulation; and

WHEREAS, on July 23, 2014, the Planning Commission of the City of Bell opened a duly noticed Public Hearing on the Application, and continued the public hearing to a July 30, 2014 City Council meeting; and

WHEREAS, on July 30, 2014, the Planning Commission of the City of Bell conducted a duly noticed continued Public Hearing on the Application, and all legal pre-requisites to the adoption of this resolution have occurred.

B. RESOLUTION

NOW, THEREFORE, THE PLANNING COMMISSION DOES HEREBY FIND, DETERMINE AND DECLARE AS FOLLOWS:

1. All of the facts set forth in the recitals, Part A of this resolution, are true and correct and are incorporated herein by reference.
2. All necessary public hearings and opportunities for public testimony and comment have been conducted in compliance with State law and the Municipal Code of the City of Bell.

3. Upon independent review and consideration of all pertinent information and the information contained in the Notice of Exemption for the CUP, the Planning Commission hereby finds and determines that the proposed project is exempt from California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.) pursuant to the Class 1 categorical exemption in Section 15301(a) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) in that the project involves the occupation of an existing building. The Planning Commission further finds that the proposed project will not result in direct or indirect significant impact on the environment. Accordingly, the Planning Commission adopts the Notice of Exemption.
4. Based upon the ample evidence presented to this Commission during the July 23, 2014 public hearing, including public testimony and written and oral staff reports, this Commission finds as follows:
 - a) The site for the proposed use is adequate in size, shape and topography to accommodate the proposed use. The site plan requires no modifications to the current layout of existing restaurant to accommodate the on-site service of beer and wine in the restaurant. The approval of the use will not result in any changes within the business other than to offer an additional service of beer or wine for on-site consumption to patrons who choose to dine at the facility.
 - b) The subject site has sufficient access to public streets and highways adequate in width and pavement type, to carry the quantity and quality of vehicular and pedestrian traffic expected to be generated by the proposed use. The subject site is located Atlantic Avenue which is a major arterial street that can handle the current and future generated traffic for this existing facility. Additionally, the site is arranged to provide adequate circulation for ingress and egress from Atlantic Avenue.
 - c) The existing building to be utilized in conjunction with the use will be architecturally compatible with the existing and prospective uses of land located in the immediate vicinity of the site. The applicant will not modify the exterior of the building since he had recently upgraded the façade.
 - d) The location of the proposed use on the site is compatible with existing and proposed uses along the commercial corridor along Atlantic Avenue. The proposed on-sale beer & wine for a bona fide eating place will not adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare in that the surrounding area is composed of other similar commercial uses and restaurants that sell beer and wine.
 - e) The conduct of the proposed use is in compliance with the applicable provisions of the general plan of the City of Bell. The proposed use will be promoting economic stability through the provision of an additional service to patrons which will result in the diversification of the commercial base along the Atlantic Avenue corridor.
 - f) The proposed use of the site pertaining to the on-sale beer & wine for a bona fide eating place is deemed to be of necessity to the applicant's business plan and part of the desired services offered to the public as a convenience while dining at the established restaurant and therefore warrants the issuance of a Public Convenience or Necessity determination.

Based upon the foregoing findings, the Planning Commission hereby approves Conditional Use Permit No. 2014-01, subject to the following conditions:

C. CONDITIONS OF APPROVAL

1. The property shall be maintained in accordance with:
 - A. The Applications and Exhibits thereto, "A" through "C" included in the agenda report on file in the office of the Clerk of the City of Bell;
 - B. All applicable laws, including, but not limited to, Bell Municipal Code and the Bell Zoning Code, Specifically Chapter 17, as the same exist as of the date of approval of this Application or as the same may hereafter be amended; and
 - C. All of the conditions of approval as set forth in this Conditional Use Permit No. 2014-01.
2. Culichitown Corporation Inc. (hereinafter "Culichitown") is the sole holder of this entitlement.
3. Culichitown shall obtain and hold a type 41 Alcoholic Beverage Control license that will allow the restaurant to serve alcohol for on-site consumption in conjunction with a bona fide eating establishment only with a valid conditional use permit (CUP No. 2014-01).
4. This Conditional Use Permit is subject to annual review by the appropriate City of Bell Department, including but not limited to Police, Building and Safety, Planning, Public Works, Finance, CAO.
5. That the site must adhere to the existing conditions approved in Conditional Use Permit 91-1 and Zone Variance 91-1.
6. Pursuant to Bell Municipal Code Section 17.96.030 (2)(a)(i), Culichitown Restaurant's total yearly alcohol sales shall make up no more than twenty (20) percent of the restaurant's total yearly gross combined food and alcohol sales.
7. Prior to March 1st of each year the restaurant shall submit to the City's Director of Community Development yearly financial statements for the prior calendar year, demonstrating compliance with Chapter 17.96, Article II, subsection 17.96.030 (2)(a)(i) along with a fee to be established by the City, to pay for processing of said financial statements.
8. Notwithstanding submittal of a financial statement as provided in Condition No. 7, if in the opinion of the Community Development Director or his designee a financial audit of the restaurant is necessary to determine compliance under Condition No. 6, Culichitown must pay the entire reasonable cost for such audit with the auditor to be selected by the director of development services or his or her designee.
9. The chief of police has the power to determine if a continuing police problem exists at the restaurant and if he or she determines such, he or she may require that the restaurant pay the actual and reasonable cost for police services used and/or may require the presence of a police-approved doorman and/or security personnel.

10. Any violation of any of the conditions of approval may subject the Conditional Use Permit to the revocation procedures established by Bell Municipal Code Section 17.96.170. Upon recommendation of the Community Development Director, the body which originally granted the Conditional Use Permit shall conduct a noticed public hearing to determine whether such permit should be revoked.
11. Any increase in the use permitted as a part of this Conditional Use Permit shall be cause to review the Conditional Use Permit pursuant to the modification procedures in Bell Municipal Code Section 17.96.190.
12. Any graffiti placed on any building or structure located on the property shall be removed promptly after its placement. Failure on the Applicant's behalf to remove such graffiti upon twenty-four (24) hours written notice shall empower the City to enter upon the property and cause such removal, or painting over, of said graffiti, at the expense of the Applicant. The Applicant shall promptly pay, upon receipt of an invoice from the City, all the City's reasonable costs of such work.
13. That all textures, materials, and colors utilized on exterior elevations of the building are subject to review by the City of Bell Architectural Review Board and approved by the Community Development Director. All approvals must be obtained prior to installation.
14. No motor vehicles, commercial or otherwise, shall be parked on the property except in marked parking spaces.
15. All exterior building surfaces, including but not limited to doors and windows shall be properly cleaned and maintained at all times. No exterior structural alteration or building color change, other than the colors or building treatments originally approved by this application, shall be permitted without the prior approval of the Director of Community Development.
16. All existing perimeter block walls shall be repaired and treated with paint to match the existing restaurant and all existing wrought iron shall be refurbished to match the building.
17. All exterior chain-link fencing at the rear and side of the property shall be replaced with wrought iron and painted to match other wrought iron fencing on site. Color and style of wrought iron fencing shall be approved by the Community Development Department prior to installation.
18. Tarps are prohibited from use as carports, patio covers, shade covers, and covers for outdoor storage in all front and side setback areas, rear yard areas, and over driveways and in parking and circulation areas.
19. All Planning Commission conditions and requirements shall be completed prior to selling beer and wine.
20. The applicant shall be required to water blast all sidewalk and walkways located along the frontage of the property.
21. The installation of exterior security doors, gates and window coverings, including but not limited to bars, grills, gates and overhead roll down doors, or any exterior mounted covering of any type, shall be prohibited.

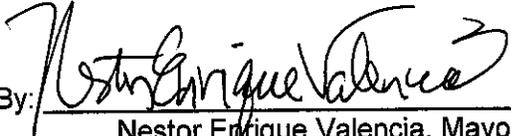
22. Hours of operation shall be between 11:00 a.m. and 10:00 p.m., Sunday through Thursday, and 11:00 a.m. and 11:00 p.m. Friday and Saturday.
23. The landscaping in the planters on the subject site shall be refurbished at the direction of the Planning Department. All existing palm trees shall be trimmed and pruned as needed. No mature trees shall be removed without the permission of the Director of Community Development.
24. The applicant agrees to refurbish the existing parking lot, providing a slurry seal and re striping throughout the site.
25. The applicant shall provide stamped and stained concrete apron between the approach and the gate in the front driveway area. Colors and patterns shall be approved by the Community Development Department prior to installation.
26. The exterior wrought iron pedestrian access gate along Atlantic Avenue, between the buildings, will be refurbished and treated with a solid metal backing to minimize the view to the rear of the property.
27. The applicant guarantees that there will be no deviation from the approved minimum number of parking spaces, including reserved parking, compact parking, loading spaces, car and vanpool parking and any other ancillary forms of parking provided and shall include the minimum of 34 parking spaces as granted in Resolution 91-01.
28. The applicant agrees to maintain proper security lighting on the exterior of the property and the parking area to protect patrons and their vehicles from vandals and other types of crime. Prior to the installation of any new exterior lighting, a lighting plan shall be submitted for review and approval by the City's Police Chief and the Planning and Building Department. Any new and existing exterior lighting shall be fully shielded.
29. The applicant agrees that all tenant improvements shall be in accordance with all necessary local, state and federal guidelines for handicapped access including, but not limited to the Americans with Disabilities Act, and the 2010 California Building Code.
30. There shall be no public telephones located on the property except within an enclosed building. The term "building," as used herein, shall not include telephone booths.
31. The existing decorative trellis cover on the trash enclosure shall be refurbished. The existing trash enclosure shall also be refurbished with solid metal doors and self-closing mechanism. It shall be maintained in accordance with the standards of the City and shall be architecturally compatible with principal structures and shall be located in a manner that will not impede vehicular motion on the property.
32. Any additional signage shall require that a signage plan be submitted separately and approved by the Architectural Review Board, pursuant to the provisions outlined in the Bell Zoning Code.
33. The on-site sale and consumption of beer and wine shall be sold only in conjunction with food service and food shall constitute the majority of the gross sales at the restaurant.
34. Any person serving food shall meet the age requirements as set forth in State law regarding on-site sale of alcohol in conjunction with sale of food.

35. The on-site sale and consumption of beer and wine permitted by this Conditional Use Permit No. 2014-01 shall be in accordance with the applicant's license (as the same may be conditioned) from the California State Alcohol Beverage Control Board (the "ABC License"). Pursuant to Business and Professions Code Sections 23800-23805, the ABC may impose reasonable conditions on the issuance of the ABC License and may cover conditions such as, but not limited to, restrictions as to the hours of sale, display of signs, and employment of designated persons.
36. Copies of the ABC License and certifications shall be maintained on file with the City of Bell in perpetuity.
37. The applicant or a representative shall execute an Affidavit indicating that he/she is aware of all of the terms and accepts all the conditions imposed by the granting of this Conditional Use Permit.
38. All planning conditions of approval shall be printed as general notes on the front pages of the approved set of building plans.
39. The applicant shall comply with all Federal, State, County, and Local laws and ordinances that may apply to this permit.
 - a. Applicant shall be responsible for filing any and all pertinent documents with the Los Angeles County Recorder's Office and that copies of said licenses and certifications shall be maintained on file with the City of Bell
 - b. That the Applicant or a representative shall execute an Affidavit indicating that he/she is aware of all of the terms and accepts all the conditions imposed upon this Conditional Use Permit
40. Applicant shall agree to maintain the property and all related on-site improvements and landscaping thereon, including, without limitation, buildings, parking areas, lighting, signs and walls in a first class condition and repair, free of rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all Federal, State, County and local bodies and agencies having jurisdiction, at applicant's sole cost and expense. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal; (ii) the care of all shrubbery, plantings, and other landscaping in a healthy condition and replacement of diseased or dead plant material with new material at an age similar to the material being replaced; (iii) maintenance of all irrigation systems in properly operating condition; and (iv) the repair, replacement and restriping of asphalt or concrete paving using the same type of material originally installed, to the end that such paving at all times be kept in a level and smooth condition.
41. That the applicant shall agree to defend, indemnify and hold harmless, the City of Bell, its agents, officers and employees from any claim, action or proceeding against the City of Bell or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Bell, its legislative body, advisory agencies, or administrative officers concerning the subject Application. The City of Bell will promptly notify the applicant of any such claim, action or proceeding against the City of bell and the applicant will either undertake defense of the matter and pay the City's associated legal or other consultant costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Bell fails to promptly notify the applicant of any such claim, action or proceeding, or fails to cooperate fully in the defense, the applicant shall not,

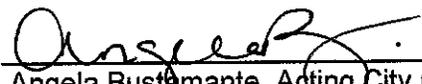
thereafter, be responsible to defend, indemnify or hold harmless the City of Bell. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent, but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

- D. That the City of Bell Clerk shall certify the adoption of this Resolution and shall forward a copy of this Resolution to Culichitown Corporation Inc.

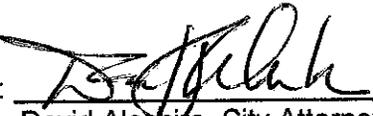
PASSED, APPROVED and ADOPTED this 30th day of July, 2014.

By: 
Nestor Enrique Valencia, Mayor

ATTEST:


Angela Bustamante, Acting City Clerk

APPROVED AS TO FORM

By: 
David Aleshire, City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

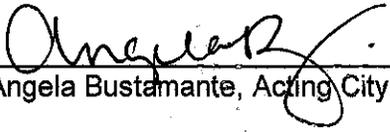
I, Angela Bustamante, Acting City Clerk of the City of Bell, hereby attest to and certify that the foregoing Resolution No. 2014-40-PC is the original resolution adopted by the Bell Planning Commission at its regular meeting held on the 30th day of July, 2014 by the following vote:

AYES: Councilmembers Alvarez, Quintana, Saleh, Vice Mayor Romero and Mayor Valencia

NOES: None

ABSENT: None

ABSTAIN: None



Angela Bustamante, Acting City Clerk