

## RESOLUTION 2016-28-PC

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELL APPROVING CONDITIONAL USE PERMIT 2016-01 FOR A TYPE 86 "INSTRUCTIONAL TASTING" ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE FOR NORTHGATE GONZALES MARKET LOCATED AT 6801 ATLANTIC AVENUE IN THE C-3 HEAVY COMMERCIAL ZONE.

**WHEREAS**, Northgate Gonzalez Market (the Applicant") filed a complete application requesting the approval of Conditional Use Permit 2016-01 described herein ("Application");

**WHEREAS**, the Application pertains to an approximate 110,400 square foot property on Los Angeles County Assessor's parcel number 6325-023-017 and 6325-017-021, more commonly known as 6801 Atlantic Avenue, Bell, California ("Property");

**WHEREAS**, the Applicant requests approval of a Conditional Use Permit to allow for a Type 86 "Instructional Tasting" Alcoholic Beverage Control (ABC) License at a existing Retail Grocery located within an existing 33,222 square foot building, pursuant to Bell Municipal Code, Chapter 17.96.030 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(a) Class 1 "Existing Facilities" of the California Environmental Quality Act Guidelines, Title 14, Chapter 3 of the California Code of Regulation; and

**WHEREAS**, on May 25, 2016, the Planning Commission of the City of Bell conducted a duly noticed Public Hearing on the Application, and all legal pre-requisites to the adoption of this resolution have occurred.

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

#### SECTION 1: Recitals

- a) All of the facts set forth in the recitals, are true and correct and are incorporated herein by reference.
- b) 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.

#### SECTION 2: CEQA Determination

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 allowance of an additional service in an existing grocery store 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 and directs the Staff to file the Notice of Exemption as required by law.

### SECTION 3: Findings

Based upon substantial evidence presented to this Commission during the May 25, 2016 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 Grocery store to accommodate the on-site service for the tasting events to be proposed on site. 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 tasting to patrons who choose to shop 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 proposed use is ancillary to the existing store operation and only provides an additional service to already existing patrons who shop at the grocery store.
- 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 entitlement is only for an additional service; no development will be taking place as part of the project. 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 tasting license 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.
- 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.

### SECTION 4: Approval

Based upon the foregoing findings, the Planning Commission hereby approves Conditional Use Permit No. 2016-01, subject to the conditions contained in Exhibit A which is attached and incorporated herein.

PASSED, APPROVED and ADOPTED this 25<sup>th</sup> day of May, 2016.

By:   
Alicia Romero, Chair

APPROVED AS TO FORM

By:   
David Aleshire, City Attorney

**CERTIFICATE OF ATTESTATION AND ORIGINALITY**

I, Angela Bustamante, Interim City Clerk of the City of Bell, hereby attest to and certify that the foregoing Resolution No. 2016-28-PC is the original resolution adopted by the Bell Planning Commission at its regular meeting held on the 25<sup>th</sup> day of May, 2016 by the following vote:

AYES: Councilmembers Quintana, Saleh, Vice Mayor Gallardo and Mayor Romero

NOES: None

ABSENT: Councilmember Valencia

ABSTAIN: None

  
Angela Bustamante, Interim City Clerk

## EXHIBIT A

### CONDITIONS OF APPROVAL

1. The property shall be maintained in accordance with:
  - A. The Applications and Exhibits thereto, "A" through "C" included in this 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. 2016-01.
2. Northgate Gonzalez Markets (hereinafter "Northgate") is the sole holder of this entitlement.
3. Northgate shall obtain and hold a type 86 Alcoholic Beverage Control license that will authorize the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.
4. The property owner/business operator shall at all times during an instructional tasting event have the instructional tasting area separated from the general public by a rope or barrier approved by the Director of Community Development in conjunction with ABC.
5. The property owner/business operator shall not impose a charge of any sort from tastings at an instructional tasting event.
6. The property owner/business operator shall prominently display signage prohibiting persons less than 21 years of age from entering the instructional tasting event area.
7. The property owner/business operator shall prohibit a person less than 21 years of age from serving, or being served, wine, beer, or distilled spirits at an instructional tasting event.
8. The property owner/business operator shall not conduct any on-sale retail sales to consumers attending the instructional tasting event.
9. The property owner/business operator shall not permit any consumer to leave the instructional tasting area with an open container of alcohol.
10. An instructional tasting event shall only take place between the hours of 10 a.m. and 9 p.m.
11. An instructional tasting event shall be limited to a single type of alcoholic beverage. Type of alcoholic beverage means distilled spirits, wine, or beer.

12. A single tasting of distilled spirits shall not exceed one-fourth of one ounce and a single tasting of wine shall not exceed one ounce. No more than three tastings of distilled spirits or wine shall be provided to any person on any day. The wine or distilled spirits tasted shall be limited to the products that are authorized to be sold by the holder of the type 86 license under its requisite off-sale license.
13. The tasting of beer is limited to eight ounces of beer per person per day. The beer tasted shall be limited to the products that are authorized to be sold by the holder of the type 86 license under its requisite off-sale license.
14. No more than one authorized licensee or its designated representative may conduct an instructional tasting event that includes the serving of tastes of wine, beer, or distilled spirits.
15. All tastes shall be served by an employee or the designated representative of the authorized licensee.
16. The property owner/business operator shall prohibit an authorized licensee or its designated representative from giving away a premium, gift, free goods, or other thing of value in connection with an instructional tasting event that includes tastings of an alcoholic beverage.
17. 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.
18. That the site must adhere to the existing conditions approved in Conditional Use Permit 99-04 and Resolution 99-40.
19. The chief of police has the power to determine if a continuing police problem exists at the store and if he or she determines such, he or she may require that the store 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.
20. 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.
21. 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.
22. The on-site sale and consumption of beer and wine permitted by this Conditional Use Permit No. 2016-01 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.

23. Copies of the ABC License and certifications shall be maintained on file with the City of Bell in perpetuity.
24. 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.
25. The applicant shall comply with all Federal, State, County, and Local laws and ordinances that may apply to this permit.
  1. 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
  2. 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
26. 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.
27. 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.
28. That the City of Bell Clerk shall certify the adoption of this Resolution and shall forward a copy of this Resolution to Northgate Gonzalez Market.