

FISCAL IMPACT:

All project costs are borne by the applicant.

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Attachments:

1. City Planning Commission Recommended Conditions
2. City Planning Commission Report - March 18, 2010
3. City Planning Commission Draft Minutes - March 18, 2010

c: Public Works Department, Rob Van Zanten

CITY PLANNING COMMISSION
RECOMMENDED CONDITIONS

Case Number: **P09-0550** (Conditional Use Permit)

Meeting Date: March 18, 2010

CONDITIONS *All mitigation measures are noted by an asterisk (*).*

The applicant is advised that the business or use for which this conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the approval of the Community Development Department, Planning Division.

Case Specific

• **Planning**

1. The Planning Commission makes the necessary findings in the applicant's favor to grant the following variances. As justification, the applicant's written justifications are referenced:
 - a. To allow alcohol sales within 22 feet and 45 feet of two single family residentially zoned properties, where the Zoning Code requires a minimum distance of 100 feet from a residential dwelling or property zoned for residential uses as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest residential property line.
 - b. To allow alcohol sales within 1,000 feet of other businesses licensed by the State of California for off-sale general alcoholic beverage sales with less than 15,000 square feet of gross floor area or which sells alcoholic beverages as its principal business.; and
 - c. To allow the project site to be approximately 18,200 square feet in area where a minimum of 20,000 square feet is required for new lots in the CR – Commercial Retail Zone.
2. All applicable conditions of related Planning Cases P09-0551 (Rezoning) and P10-0128 (Certificate of Appropriateness) shall apply to this project.
3. This permit is issued based upon the business operations plan and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify the Planning Division of any change in operations and such change may require a revision to this permit. Failure to notify the City of any change in operations is material grounds for revocation of this conditional use permit.
4. Six Months following commencement the sale of alcohol at this facility, staff will review the impacts associated with the alcohol sales on the surrounding neighborhood. Information from the Police Department including, but not limited to, calls for service and crime report data, will be obtained to determine the specific impacts of the business on the surrounding area. If more than three verified complaints are received by the City prior to the required six month review of this case, or within any 12 month period, the CUP shall be automatically referred to the Planning Commission for consideration of revocation.

Prior to Grading Permit Issuance:

5. As deemed necessary by the Public Works Department, a 40-scale precise grading plan shall be submitted to the Planning Division for construction of the on-site parking lot and include the following:
 - a. Hours of construction and grading activity are limited to between 7:00 a.m. and 7:00 p.m. weekdays and 8:00 a.m. and 5:00 p.m. Saturdays. No construction noise is permitted on Sundays or Federal Holidays;
 - b. Compliance with City adopted interim erosion control measures;
 - c. Compliance with any applicable recommendations of qualified soils engineer to minimize potential soil stability problems;
 - d. Include a note requiring the developer to contact Underground Service Alert at least 48 hours prior to any type of work within pipeline easement;
 - e. The project shall abide by the SCAQMD's Rule 403 concerning Best Management Practices for construction sites in order to reduce emissions during the construction phase. Measures may include:
 - (a) Development of a construction traffic management program that includes, but is not limited to, rerouting construction related traffic off congested streets, consolidating truck deliveries, and providing temporary dedicated turn lanes for movement of construction traffic to and from site;
 - (b) Sweep streets at the end of the day if visible soil material is carried onto adjacent paved public roads;
 - (c) Wash off trucks and other equipment leaving the site;
 - (d) Replace ground cover in disturbed areas immediately after construction;
 - (e) Keep disturbed/loose soil moist at all times;
 - (f) Suspend all grading activities when wind speeds exceed 25 miles per hour;
 - (g) Enforce a 15 mile per hour speed limit on unpaved portions of the construction site.
6. Should cultural, historical or archaeological items be found during grading and construction activity, the construction and grading of this project shall be halted in the vicinity of the find and a qualified archaeologist shall be hired at the applicant's expense to work with the Planning Division to determine the finds' significance and possible mitigation measures.

7. If human remains are found during the excavation, the Native American Graves Protection Act Guidelines and State law require that construction personnel halt work in the immediate area; leave the remains in place; contact the City Manager, the City Historic Preservation Officer, and the Riverside County Coroner. Until a representative from the Coroner's office reviews the remains in the field, they must not be removed. If the Coroner determines that the remains are prehistoric, the Coroner contacts the Native American Heritage Commission and the most likely descendent from the Native American community is informed. The final disposition of remains is coordinated by representatives of the property owner and the most likely descendent and perhaps assisted by the City's Historic Preservation Officer and/or the project archaeologist.

During grading and construction activities:

8. During all project grading on site, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.
9. The Construction Contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
10. The Construction Contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
11. During all project site construction, the Construction Contractor shall limit all construction-related activities that would result in high noise levels to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or federal holidays.
12. Noise-reducing design features shall be utilized consistent with standards in Title 24 California Code of Regulations and Title 7 of the Municipal Code.

Prior to Building Permit Issuance:

13. Landscaping and irrigation plans and perimeter wall plans shall be submitted for Design Review staff for review and approval for the new landscaped areas as depicted on the conceptually approved site plan. Design modifications may be required as deemed necessary. A separate application and filing fee is required.
14. Plans submitted for Landscaping and irrigation Design Review shall include the following:
 - a. No Decomposed Granite shall be used;
 - b. Landscaping shall be complementary to the use (e.g. grape vines, etc.);
 - c. Fast growing vines shall be proposed and trained to grow up the decorative masonry walls along the easterly, westerly and southerly sides; and
 - d. The location and design details of any fencing as required by ABC to enclose the outdoor tasting area

Prior to commencement of alcohol sales:

15. A Covenant and Agreement shall be recorded to the satisfaction of the Planning Division Staff and City Attorney's Office requiring the wine tasting facility at 3524 Central Avenue to operate solely in conjunction with "La Bodega Wines & Spirit" at 3512 Central Avenue.
16. A written security plan shall be provided to the Riverside Police Department and Planning Division for review and approval.
17. All conditions of related Certificate of Appropriateness case P10-0108 shall be completed.
18. Related Planning Case P09-0551 (Rezoning) shall be adopted and all conditions implemented.
19. The driveway off of Central Avenue shall be identified with appropriate on site signage as an "Entrance Only" driveway.
20. "Left Turn Only" signs shall be installed on-site, facing the on-site parking lot, at the Laura Lane driveway.
21. Parking lot arrows shall be installed as to depict the allowable directions of travel in all on-site drive aisles.
22. The existing 6-foot high wood fence along the westerly property line shall be removed and replaced with a 6-foot high decorative masonry wall, subject to Planning staff review and approval. However, such wall shall be reduced to a height of 3 feet at the southerly end of the parking lot, facing Laura Lane.
23. Install the landscape and irrigation per the approved plans and submit the completed "Certificate of Substantial Completion" (Appendix C of the water Efficient Landscaping and Irrigation Ordinance Summary and Design Manual) signed by the Designer/auditor responsible for the project. Call Kyle Smith, at (951) 826-5220 or kjsmith@riversideca.gov to schedule the landscape inspection at least a week prior to needing the release of utilities.

Operational conditions:

24. The hours are limited to the hours of ~~11:00~~ **9:00** a.m. to ~~9:00~~ **11:00** p.m., seven days a week. Any proposed modification to these hours will require a modification to this Conditional Use Permit. This condition applies to special events as well as regular operations.
25. Operation of the facility shall comply with the minimum standards of the City's Noise Code (Title 7) related to the interior and exterior noise levels at all times.
26. No speakers that would project amplified noise onto the exterior patio are permitted in conjunction with this use.
27. Approval of this request is limited to the on and off-sale of beer and wine only. Any proposed intensification of alcohol sales will require a consideration by the Zoning Administrator.

28. The premises on which the business is located shall be posted to indicate that it is unlawful for any person to drink or consume any alcoholic beverage in any public place or posted premises in accordance with Section 9.05.020 of the Municipal Code.
29. A sign shall be posted in the front of the business indicating that no loitering is permitted per the Riverside Municipal Code.
30. The management at each location of off-sale of alcoholic beverages pursuant to this section shall be responsible for educating the public regarding drunk driving laws and the related penalties for breaking those laws. (This includes minimum age law, open container law and driving while intoxicated law.) This can be accomplished by posting prominent signs, decals or brochures at the point of purchase and providing adequate training for employees.
31. The parking lot and walkway areas must remain clean and maintained in accordance with the City's Municipal Code.
32. The subject alcoholic beverage license shall not be exchanged for a public premises type license or operated as a public premise.
33. There shall be no sales of "singles" of fortified wine / liquor products.

- **Police Department**

34. The existing block wall on the easterly side of the proposed wine and beer tasting facility property shall be increased to a six foot high masonry wall, subject to Planning staff review and approval.
35. The lighting in the parking lot of the premises shall be directed, positioned and shielded in such a manner so as not to unreasonably illuminate the area of nearby residents.
36. Music shall be played indoors only and shall not be projected onto the outdoor areas, including the patio areas and/or surrounding public spaces.
37. A dance floor shall not be created or allowed in conjunction with this Conditional Use Permit.
38. The posting of flyers and other propaganda within the outdoor areas of the project site and/or adjacent public and private property, including vehicles, shall be strictly prohibited.
39. The licensee/employees shall attend a three-hour LEAD (License, Education, Alcohol and Drugs) class presented by the Riverside Office of the Alcoholic Beverage Control within 90 days of obtaining an ABC sales license.
40. The conditional use permit shall be subject to a mandatory six-month review following the date of issuance of the conditional use permit. This review shall be conducted by the Planning Division in consultation with other agencies, including the State ABC, City Police Department and the City Code Enforcement Division.
41. Should there be three or more complaints within any 12-month period received and verified by the Riverside Police Department regarding disturbances caused at the site by patrons or staff, this shall automatically be grounds for revocation proceedings before the City Council.

42. No loitering shall be permitted on any property adjacent to the licensee's premises and under control of the licensee.
43. The licensee shall be responsible for maintaining free of graffiti the area adjacent to the premises over which they have control.
44. The licensee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
45. No open wine or other alcoholic beverages shall be permitted beyond the patio area as depicted on the site plans submitted, or on the property adjacent to the licensed premises under the control of the licensee.
46. No persons under 21 shall be permitted on the premises.
47. A security camera surveillance system for the interior and patio areas shall be provided for constant recording subject to the approval of the Riverside Police Department
48. Failure to prevent extraordinary police services to your business in violation of Riverside Municipal Code Chapter 9.60 shall result in the owner being liable for the cost of the extraordinary police service and will be cause for revocation of this permit.

Standard Conditions

- **Planning**

49. There shall be a two-year time limit in which to commence construction of the project beginning the day following approval by the Planning Commission unless a public hearing is held by City Council; in that event the time limit begins the day following City Council approval.
50. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim, action or proceeding and the City will cooperate in the defense of the proceeding.
51. This project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.

52. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
53. The applicant shall comply with all federal, state and local laws and shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of this permit.
54. This permit is issued based upon the business operations plan and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify Community Development Department, Planning Division, of any change in operations and such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this conditional use permit.
55. The applicant herein of the business subject to this conditional use permit acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
56. Failure to abide by all conditions of this permit shall be cause for revocation.
57. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
58. The subject property shall be developed and operated substantially as described in the text of this report and as shown on the plot plan on file with this case except for any specific modifications that may be required by these conditions of approval.
59. The applicant shall continually comply with all applicable rules and regulations in effect at the time permit is approved and exercised and which may become effective and applicable thereafter.

- **Public Works**

60. Deed for widening Central Avenue to 60 feet from monument centerline to Public Works specifications.
61. Installation of sidewalk on Laura Lane to Public Works specifications.
62. Size, number and location of driveways to Public Works specifications.
63. Relocation of existing street light as required to accommodate the proposed driveway approach on Laura Lane to Public Utilities Electric Engineering and Public Works specifications.

64. Cash payment for 1/2 the cost of future median construction in Central Avenue to Public Works specifications.
65. Prior to final inspection for the development project, the applicant shall pay the Transportation Uniform Mitigation Fee (TUMF) in accordance with the fee schedule in effect at the time of payment. If the project improvements include qualifying right-of-way dedications and/or street improvements to a TUMF regional arterial roadway as identified on the Regional System of Highways and Arterials, the developer may have the option to enter into a Credit/Reimbursement Agreement with the City and Western Riverside Council of Governments (WRCOG) to recover costs for such work based on unit costs as determined by WRCOG.

The terms of the agreement shall be in accordance with the RMC Chapter 16.68 and the TUMF Administrative Plan requirements. Credit/reimbursement agreements must be fully executed prior to receiving any credit/reimbursement. An appraisal is required for credit/reimbursement of right of way dedications and credit/reimbursement of qualifying improvements requires the public bidding and payment of prevailing wages in accordance with Sate Law. For further assistance, please contact the Public Works Department.

66. Prior to issuance of a building or grading permit, the applicant shall submit to the City for review and approval, a project-specific WQMP that:
 - a. Addresses Site Design BMP's such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas and conserving natural areas;
 - b. Incorporates the applicable Source Control BMP's as described in the Santa Ana River Region WQMP and provides a detailed description of their implementation;
 - c. Incorporates Treatment Control BMP's as described in the Santa Ana River Region WQMP and provides information regarding design considerations;
 - d. Describes the long-term operation and maintenance requirements for BMP's requiring long-term maintenance; and
 - e. Describes the mechanism for funding the long-term operation and maintenance of the BMP's requiring long-term maintenance.
67. Prior to issuance of any building or grading permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument acceptable to the City Attorney to inform future property owners of the requirement to implement the approved project-specific WQMP. Other alternative instruments for requiring implementation of the approved project-specific WQMP include: requiring the implementation of the project-specific WQMP in the Home Owners Association or Property Owners Association Conditions, Covenants and Restrictions (C,C&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the project-specific WQMP; or equivalent may also be considered. Alternative instruments must be approved by the City prior to the issuance of any building or grading permits.

68. If the project will cause land disturbance of one acre or more, it must comply with the statewide General Permit for Storm Water Discharges Associated with Construction Activity. The project applicant shall cause the approved final project-specific WQMP to be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.
69. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:
 - a. Demonstrate that all structural BMP's described in the project-specific WQMP have been constructed and installed in conformance with approved plans and specifications;
 - b. Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project-specific WQMP; and
 - c. Demonstrate that an adequate number of copies of the approved project-specific WQMP are available for the future owners/ occupants.

- **Fire Department**

70. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments. Contact Bob Jerz at (951) 826-5455 for questions.
71. Construction plans shall be submitted and permitted prior to construction.
72. Any required fire hydrants shall be installed and operational prior to Fire Department release of permit.
73. Fire Department access is required to be maintained during all phases of construction.

- **Public Utilities**

74. No Comments

- **Park and Recreation**

75. No Comments

CITY PLANNING COMMISSION
RECOMMENDED CONDITIONS

Case Number: **P09-0551** (Rezoning)

Meeting Date: March 18, 2010

CONDITIONS OF APPROVAL

Case Specific

• **Planning**

1. The CR-SP - Commercial Retail and Specific Plan (Magnolia Avenue) Overlay Zones shall be applied to the subject property as shown on Exhibit 4 of the staff report.
2. All applicable conditions of related Planning Cases P09-0550 (Conditional Use Permit) & P10-0108 (Certificate of Appropriateness) shall apply to this project.

Prior to commencement of alcohol sales:

3. Planning Case P09-0551 (Rezoning) shall be adopted and implemented

Standard Conditions

• **Planning**

4. The City Attorney's Office shall prepare the appropriate rezoning ordinance for City Council adoption.
5. When all of the conditions of approval have been completed, the applicant shall initialize finalization of this rezoning.
6. In approving this case, it has been determined that the proposed project could have the potential for adverse effects on wildlife resources and the applicant is responsible for payment of Fish and Game fees at the time the Notice of Determination is filed with the County.
7. There shall be a two-year time limit in which to satisfy the approved conditions and finalize this action. Subsequent one-year time extensions may be granted by the City Council upon request by the applicant. Any extension of time beyond five years may only be granted after an advertised public hearing by the City Council.
8. All necessary parcel description describing the exact area to be rezoned shall be prepared, signed and sealed by a licensed Land Surveyor or Civil Engineer authorized to practice Land Surveying in the State of California for the area of the property to be rezoned. Descriptions are required to be on 8 1/2 inch by 11 inch paper with the title "Attachment A" at the top.

- **Public Works**

9. Deed for widening Central Avenue to 60 feet from monument centerline to Public Works specifications.

- **Public Utilities**

10. None

- **Park and Recreation**

11. None