

RESOLUTION NO. 2022-

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF NATIONAL CITY
APPROVING A CONDITIONAL USE PERMIT FOR
ON-SITE DISTILLED SPIRITS SALES AND
LIVE ENTERTAINMENT AT AN EXISTING
BEER AND WINE-LICENSED BAR (MACHETE BEER HOUSE)
LOCATED AT 2325 HIGHLAND AVENUE.
CASE FILE NO. 2022-08 CUP
APN: 561-312-02**

WHEREAS, the City Council of the City of National City considered a Conditional Use Permit for on-site distilled spirits sales and live entertainment at an existing beer and wine-licensed bar (Machete Beer House) located at 2325 Highland Avenue at a duly advertised public hearing held on September 6, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the City Council considered the staff report contained in Case File No. 2022-08 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, the Planning Commission of the City of National City considered the Conditional Use Permit application at a duly advertised public hearing held on August 1, 2022, at which time the Planning Commission recommended approval of the Conditional Use Permit; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of National City, California, that the evidence presented to the City Council at the public hearing held on September 6, 2022, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because alcohol sales and live entertainment are allowable within the MXC-2 zone pursuant to a CUP and the proposed use meets the

required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.

2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are allowable, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. There is no Specific Plan in the area.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed and the proposal does not add any additional traffic impacts.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the site is occupied by an existing bar serving beer and wine. The addition of distilled spirits and incidental live entertainment would occur within the existing building, which has four off-street parking spaces.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the sale and consumption of distilled spirits is in addition to the existing beer and wine sales for on-site consumption. Alcohol consumption would be continue to be monitored by staff of the bar. In addition, the proposed use will be subject to conditions that limit the sale of alcohol and restrict the hours that it will be available. Furthermore, live entertainment will be limited to appropriate hours and to maximum noise standards to avoid impacts to nearby residential uses.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and use would basically be the same as the current use and is similar to other commercial uses in the area, which are permitted by right in the MXC-2 zone.

7. The proposed use is deemed essential and desirable to the public convenience or necessity, because Distilled spirits, in addition to beer and wine, will contribute to the viability of the bar, an allowed use in the MXC-2 zone, by allowing a greater variety of drink offerings. Live entertainment will also create an enhanced experience for patrons of the establishment. The proposed use is in line with the purpose of the zone, which, among other goals, is to create vibrant places at an urban scale.

BE IT FURTHER RESOLVED that based upon the above referenced findings the application for Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the sale of distilled spirits for on-site consumption and live entertainment at an existing beer and wine-licensed bar (Machete Beer House) located at 2325 Highland Avenue. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-08 CUP, dated 7/19/2022.
2. Before this Conditional Use Permit shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Conditional Use Permit. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Conditional Use Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void at such time as there is no longer a Type 48 California Department of Alcoholic Beverage Control license associated with the property.
4. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. Checks shall be made payable to the County Clerk and submitted to the National City Planning Department.

5. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
6. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
7. This Conditional Use Permit may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

Planning

8. No change in alcohol sales and consumption practices shall be permitted without receiving a Type 48 license from the California Department of Alcoholic Beverage Control (ABC).
9. The sale of alcoholic beverages for on-site consumption shall only be permitted between the hours of 6:00 a.m. and 2:00 a.m. daily.
10. The sale of alcoholic beverages for off-site consumption is not permitted at this location.
11. Permittee shall post signs at all exits and on the front of the building indicating that alcoholic beverages must be consumed inside the bar and may not be taken off-premises.
12. Outdoor tables and seating is permitted for coffee shop patrons in areas that shall not block parking spaces, driveways, and any pathway required by the Americans with Disabilities Act.
13. No public concerts or specific live entertainment events shall be permitted. No advertisement targeted for a specific performer or event may be circulated outside the bar and live entertainment shall be incidental to the bar for the enjoyment of its patrons.
14. The occupancy of the building, inclusive of patrons, staff, and entertainers, shall not exceed the occupancy load determined by the Building Division. The Building Division shall be made aware of any modifications to the floor area of the bar including the addition of permanent staging or seating to determine if the occupancy needs to be updated.
15. Indoor live entertainment shall be permitted between the hours of 6:00 a.m. and 2:00 a.m.
16. All activities shall comply with the limits contained in Table III of Title 12 (Noise) of the National City Municipal Code.

- 17. All entry and exit doors, including windows, shall remain closed after 9:00 p.m. during inside live entertainment activities.
- 18. The rear yard of area of the building is permitted to be used for outdoor storage, screened in compliance with the Land Use Code. No outdoor seating shall be permitted in this area. No patrons shall be granted access to this area.
- 19. All sellers and servers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
- 20. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

- 21. The permittee shall comply with all applicable laws, including, but not limited to all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

BE IT FURTHER RESOLVED that this Resolution shall become effective, final, and conclusive on the day following the City Council meeting where this Resolution is adopted. The time within which judicial review of this decision may be sought is governed by the provisions of Code of Civil Procedures Section 1094.6.

PASSED and ADOPTED this 6th day of September, 2022.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Barry J. Schultz
Interim City Attorney

