



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING – CONDITIONAL USE PERMIT FOR BEER AND WINE SALES (ABC TYPE-41) AT AN EXISTING RESTAURANT (NIGERIA BREEZE RESTAURANT) LOCATED AT 925 EAST PLAZA BOULEVARD, SUITE 106.

Case File No.: 2022-29 CUP

Location: 925 East Plaza Blvd- Plaza Village Center

Assessor’s Parcel Nos.: 556-590-63

Staff report by: Adan Pacheco – Planning Technician

Applicant: Anwar Spatafore

Zoning designation: MXD-2 (Major Mixed-Use District)

Adjacent use and zoning:

North: Single-family residences / MXD-2

East: AT&T retail outlet / MXD-2

South: South Bay Plaza / MXD-2

West: AutoZone / MXD-2

Environmental review: 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

Planning Commission
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Staff recommendation: Approve

Staff Recommendation

Staff recommends approval of the sale of on-site beer and wine, subject to the attached recommended conditions. The sale of beer and wine is a conditionally-allowed use in the Major Mixed-Use District (MXD-2) zone and would be accessory to food sales at the restaurant.

Executive Summary

The restaurant (Nigeria Breeze Restaurant) has applied for a California Department of Alcoholic Beverage Control (ABC) Type 41 license to sell beer and wine with food at the subject restaurant. Hours of operation are from 10:00 a.m. to 9:00 p.m. Monday through Saturday with Sunday closed.

Site Characteristics

Nigeria Breeze is an existing family-run Nigerian restaurant located in Plaza Village Center at 925 East Plaza Boulevard, Suite 106. The restaurant occupies a 1,760 square foot suite. There is no existing or proposed outside seating area for the restaurant. Parking spaces in the shopping center are sufficient and no new interior improvements have been made.

The Plaza Village Center is mostly where commercial establishments are located. Nigeria Breeze faces both the parking lot and East Plaza Blvd. on the northwest corner of the shopping mall. Single-family homes border the site to the north and are separated by a retaining wall.

Proposed Use

The applicant is proposing to sell beer and wine (ABC Type 41) in conjunction with on-site food sales in the 1,760 square-foot restaurant. Proposed hours of operation are 10:00 a.m. to 9:00 p.m. Monday through Saturday with every Sunday closed. The seating area is comprised of 466 square feet that is all located indoors. No live entertainment is proposed.

Analysis

Section 18.30.050 of the Land Use Code allows for on-site alcohol sales with an approved Conditional Use Permit (CUP). Additional requirements for alcohol CUPs include expanded notification, a community meeting, and distance requirements.

Mailing – All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications. Notice of this public hearing was sent to 358 occupants and owners.

Community Meeting – Pursuant to Section 18.30.050 (C) of the National City Zoning Code, a community meeting was held on Friday, September 23, 2022 from 2:00 p.m. to 3:00 p.m. at the subject restaurant. The meeting advertisement is attached (Attachment 8); there were twenty-five attendees from the community. The applicant stated that the same owners and occupants that were notified of the Planning Commission meeting were notified of the community meeting.

Distance Requirements – In accordance with Chapter 18.030.050 (D) of the National City Zoning Code, restaurants must be 660 feet away from any public school. Restaurants that devote more than 30% of their space to dining are exempt from this rule. However, Nigeria Breeze Restaurant is not within 660 feet of Central Elementary School.

Alcohol Sales Concentration/Location

Per the California Department of Alcoholic Beverage Control (ABC), there are currently 15 on-site licenses in census tract 117 where a maximum of eight are recommended, meaning that the census tract is considered by ABC to be over-saturated with regard to alcohol sales outlets. The area between National City Boulevard and "N" Avenue, as well as East 8th Street and East 18th Street, is included in Census Tract 117.

Police Department (PD)

The ABC Risk Assessment provided by PD allocated a total of 11 points, which places it in the Low Risk category (Low Risk is considered 12 points or less). The risk assessment is included as Attachment 7.

Institute for Public Strategies (IPS)

No comments were received from IPS as of the writing of this report, although they usually recommend at least the need for Responsible Beverage Sales and Service (RBSS) training for all staff. This is a standard condition of approval and is included with this report.

Findings for Approval

The Municipal Code contains six required findings for CUPs as follows:

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.

The use is allowable within the MXD-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. It is incidental to the proposed restaurant use in a commercial area.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. There is no Specific Plan in the area. In addition, a restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan

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.

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.

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.

The proposed alcohol sales would be incidental to the primary use of food sales and because the restaurant exists on the site.

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.

The proposed use will be subject to conditions that limit the sale of beer and wine as well as the hours that it will be available. Beer and wine will only be available with the sale of food. In addition, all staff members serving alcohol are required to receive RBSS training.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

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, the use would basically be the same as the current use and the use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.

The following two findings are also included with alcohol CUPs:

7. The proposed use is deemed essential and desirable to the public convenience or necessity.

Alcohol sales will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages in accordance with applicable law and the recommended conditions.

The use, as proposed and conditioned, will operate in harmony with surrounding uses, will not cause a nuisance, and will benefit the community looking for a quality dining experience.

Conditions of Approval

Standard Conditions of Approval have been included with this permit as well as conditions specific to on-site alcohol sales per Council Policy 707 (hours of operation, employee training, and accessory sales, etc.).

Summary

The proposed use is consistent with the General Plan due to alcohol sales for on-site consumption being a conditionally-allowed use in the MXD-2 zone. The proposed use would be incidental to the proposed restaurant use in a commercial area. The addition of on-site beer and wine sales is not expected to increase the demand for parking, other services on the property, or have any significant effects on the area. Although the census tract in which the restaurant is located is over-concentrated with regard to on-sale alcohol licenses, beer and wine will only be available with the sale of food and the Police Department has ranked the business in the Low Risk category.

Options

1. Approve 2022-29 CUP subject to the conditions listed within, or other conditions, based on the attached findings, or findings to be determined by the Planning Commission; or
2. Deny 2022-29 CUP based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date in order to obtain additional information.

Attachments

1. Recommended Findings
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2022-29 CUP, dated 10/4/2022)
5. Public Hearing Notice (Sent to 358 property owners & occupants)
6. Census Tract & Police Beat Maps
7. Police Department Comments
8. Community Meeting Advertisement
9. Resolution

ADAN PACHECO
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ARMANDO VERGARA
Director of Community Development