

RESOLUTION NO. 2023-01

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT
FOR ALCOHOL SALES (ABC TYPE 47) AT A
PROPOSED RESTAURANT (TEXAS ROADHOUSE) TO BE
LOCATED AT 1908 SWEETWATER ROAD
CASE FILE NO. 2022-33 CUP
APN: 563-231-41

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for alcohol sales at a proposed restaurant (Texas Roadhouse) to be located at 1908 Sweetwater Road. At a duly advertised public hearing held on January 2, 2023, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing, the Planning Commission considered the staff report contained in Case File No. 2022-33 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

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

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on January 2, 2023, support the following findings, which the Planning Commission hereby finds and determines:

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 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, because 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, because the proposal involves the demolition of an existing commercial building, which was previously analyzed for traffic impacts when it was constructed, and the construction of a replacement structure similar in size and use.
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 proposed alcohol sales would be incidental to the primary use of food sales and the proposed restaurant replaces a similar existing building. The new restaurant will have to be built in compliance with the City's Land Use Code and all applicable building and fire codes.
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 proposed use will be subject to conditions that limit the sale of beer, wine, and distilled spirits as well as the hours that it will be available. Alcohol 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) and has been determined to be categorically exempt from environmental review under Class 2, Section 15302 (Replacement or Reconstruction) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that the new restaurant building will replace a commercial building of a similar size. The use would essentially be the same as the original use of the existing structure and the use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.
7. The proposed use is deemed essential and desirable to the public convenience or necessity, because 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.

BE IT FURTHER RESOLVED by the Planning Commission of the City of National City, California that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the sale of beer, wine, and distilled spirits for on-site consumption at a proposed restaurant (Texas Roadhouse) located at 1908 Sweetwater Road. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-33 CUP, dated 10/20/2022.
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 or owner 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 or owner 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 47 California Department of Alcoholic Beverage Control license associated with the property.
4. 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.
5. 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.
6. This Conditional Use Permit may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

Engineering

7. The Property is in the Federal Flood Plain area. Flood hazard permit shall be obtained from the Engineering Department. All proposed structures shall have a minimum of one foot freeboard above the base flood elevation.
8. A Hydrology study (100 year flood) is required for the new project. The study should consider the proposed project area to the closest municipal storm drain collection point. The study should consider the adequacy of the existing storm drain system to convey any additional run off. All Hydrology study findings and recommendations are part of Engineering Department requirements.
9. The Storm Water BMP Requirements Applicability Form I-1 and if required I-2 checklist for the National Pollutant Discharge Elimination System (NPDES) is required to be completed and submitted to the Engineering Department. The checklist will be required when a project site is submitted for review of the City Departments. The checklist is available at the Engineering Division web site at the link below *. If it is determined that the project is subject to the "Priority Project Permanent Storm Water BMP Requirements" and the City of National City Storm Water Best Management Practices of the Jurisdictional Urban Runoff Management Program (JURMP) approved Standard Urban Storm Water Mitigation Plan (SUSMP) documentation will be required prior to issuance of an applicable engineering permit. The SUSMP shall be prepared by a Registered Civil Engineer.

*<http://www.nationalcityca.gov/city-government/engineering-public-works/engineering-division/online-services-forms-fees>.

10. The Best Management Practices (BMPs) for the maintenance of the proposed construction shall be undertaken in accordance with the National Pollutant Discharge Elimination System (NPDES) regulations which may require a Storm Water Pollution Prevention Plan (SWPPP) for the project. An approved SWPPP will be required prior to issuing of a construction permit.
11. All surface run-off shall be treated with an approved Standard Urban Runoff Mitigation Plan (SUSMP) Best Management Practice (BMP) for all Priority SUSMP projects. No runoff will be permitted to flow over the sidewalk. Adjacent properties shall be protected from surface run-off resulting from this development.
12. A grading and drainage plan shall be submitted showing all of the proposed and existing on-site and off-site improvements. The plan shall be prepared in accordance with the City's standard requirements by a Registered Civil Engineer. All necessary measures for prevention of storm water pollution and hazardous material run-off to the public storm drain system from the proposed parking lot or development shall be implemented with the design of the grading. This shall include the provision of such devices as storm drain interceptors, clarifiers, or filters. Best Management Practices for the maintenance of the parking lot, including sampling, monitoring, and cleaning of private catch basins and storm drains, shall be undertaken in accordance with the

National Pollution Discharge Elimination System (NPDES) regulations. A private storm water treatment maintenance agreement shall be signed and recorded against the property in a form acceptable to the City. A check list for preparation of the grading plan/drainage plan is available at the Engineering Department.

13. All existing and proposed curb inlet on property shall be provided with a "No Dumping" signage in accordance with the NPDES program.
14. A sewer permit will be required if applicable. The method of sewage collection and disposal shall be shown on the grading/drainage plan. Any new sewer lateral in the City right-of-way shall be 6 inch in size with a clean out. A sewer stamp "S" shall be provided on the curb to mark the location of the lateral.
15. A soils engineering report shall be submitted for the Engineering Department's review, after Planning Commission approval. The report shall address the stability of all of the existing and proposed slopes on the property. It shall also address the adequacy of the building pads, the criteria for any new retaining wall design, the maximum allowable soil bearing pressure and the required pavement structural sections for the proposed streets, the parking areas, and the driveways. As a minimum, the parking lot pavement sections shall be 2 inch A.C. over 4 inch Class II aggregate base. The street pavement sections shall be in accordance with National City modified Standard Drawing G-34. All soils report findings and recommendations shall be part of the Engineering Department requirements.
16. The existing street improvements along the property frontage(s) shall be kept free from weed growth by the use of special weed killers, or other approved methods.
17. All existing survey monuments, including any benchmark, within the boundaries of the project shall be shown on the plans. If disturbed, a licensed land surveyor or civil engineer shall restore them after completion of the work. A Corner Record shall be filed with the County of San Diego Recorder. A copy of the documents filed shall be given to the City of National City Engineering Department as soon as filed.
18. A permit shall be obtained from the Engineering Department for all improvement work within the public right-of-way, and any grading construction on private property.
19. A title report shall be submitted to the Engineering Department, after the Planning Commission approval, for review of all existing easements and the ownership at the property.
20. The existing storm drain/drainage way located along the northerly property line and the sewer manhole near the northeasterly property corner are accessed through drive lane that allows access to the existing trash enclosure, continued access from this area for maintaining the culvert and sewer will be required.
21. All electrical, telephone and similar distribution service wires for the new structure(s) shall be placed underground.

22. A cost estimate for all of the proposed grading, drainage, street improvements, landscaping and retaining wall work shall be submitted with the plans. A performance bond equal to the approved cost estimate shall be posted. Three percent (3%) of the estimated cost shall also be deposited with the City as an initial cost for plan checking and inspection services at the time the plans are submitted. The deposit is subject to adjustment according to actual worked hours and consultant services.
23. A hydromodification plan or a letter sealed and signed by the Engineer of Work explaining why the project is exempt from hydromodification requirements shall be submitted.

Fire

24. The project shall comply with all applicable standards of the California Fire Code. For more information, contact the Fire Department at 619-336-4550.

Planning

25. No alcohol sales are permitted until the applicant has been issued a Type 47 license from the California Department of Alcoholic Beverage Control.
26. 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.
27. The sale of alcoholic beverages shall only be permitted between the hours of 11:00 a.m. and 11:00 p.m. daily.
28. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
29. Alcohol shall be available only in conjunction with the purchase of food.
30. Building permit plans for this project shall conform to all applicable development standards in the Land Use Code (LUC).
31. Plans submitted for construction shall conform to LUC Chapter 18.46 (Outdoor Lighting) and Section 18.42.040 (Screening mechanical equipment and elevator housing).

32. Plans submitted for improvements must comply with the current editions of the California Building, Electrical, Plumbing, Mechanical, and Fire Codes.
33. Applicant shall comply with all applicable standards required by service providers including, but not limited to, Sweetwater Authority, SDG&E, Cox Cable, and AT&T.
34. Permittee shall post signs at all exits to outdoor areas, indicating that alcoholic beverages must be consumed inside the restaurant and may not be taken off-premises.
35. A landscape and underground irrigation plan shall be submitted as part of the construction permitting process. Installation of landscaping items required by the LUC, including adequate landscaped area, trees, and shrubs shall be maintained for the life of the project.
36. No live entertainment shall be permitted without modification of this CUP.
37. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.
38. Permits shall be obtained for any new signage associated with the new restaurant.

Police

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

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the owner, applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of January 2, 2023, by the following vote:

AYES:

NAYS:

ABSENT: None.

ABSTAIN: None.

CHAIRPERSON