

RESOLUTION NO. 2024-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT FOR THE SALE OF BEER, WINE, AND DISTILLED SPIRITS (ABC TYPE-21) AT AN EXISTING GROCERY STORE (MANOLO FARMERS MARKET) LOCATED AT 303 HIGHLAND AVENUE.

WHEREAS, the City Council of the City of National City considered a Conditional Use Permit for off-site sale of beer, wine, and distilled spirits at an existing grocery store (Manolo Farmers Market) located at 303 Highland Avenue; and

WHEREAS, at said public hearing the City Council considered the staff report contained in Case File No. 2024-11 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 October 7, 2024, at which time the 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.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: That the City Council hereby determines the following:

1. The proposed addition of distilled spirits sales 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 in conjunction with a grocery store are allowable within the Minor Mixed-Use Corridor 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. Sales will be incidental to the existing grocery store in a commercial area. Furthermore, alcohol sales (beer and wine) have been approved for sale on site since 1990.
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. In addition, a grocery store with alcohol sales is consistent with the Minor Mixed-Use Corridor zone land use designation contained in the Land Use Code 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 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, because no expansion of the building is proposed. The proposed uses would be incidental to the primary use of a grocery store.
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 hours and the manner in which alcohol is sold. 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 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 the use is proposed within an existing commercial building and the use is similar to other commercial uses in the area, which are permitted in the Minor Mixed-Use Corridor zone.
7. The proposed use is deemed essential and desirable to the public convenience or necessity, because the grocery store, a permitted use in the Minor Mixed-Use Corridor zone, will benefit from the sale of alcohol. The sale of beer, wine, and distilled spirits will contribute to a diversity of local commercial offerings in the area.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the off-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 with a more diverse selection of goods to purchase from the grocer.

Section 2: That the City Council hereby approves the Conditional Use Permit subject to the following conditions:

General

1. This Conditional Use Permit authorizes the sale of beer, wine, and distilled spirits for off-site consumption at an existing grocery store (Manolo Farmers Market) located at 303 Highland Avenue. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2024.11 CUP, dated 8/29/2024.
2. Unless specifically modified by this resolution, all Conditions of Approval of Planning Commission Resolution No. 20-2000 shall remain in full force and effect.
3. 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.
4. This permit shall become null and void at such time as there is no longer a Type 21 California Department of Alcoholic Beverage Control license associated with the property.
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 sales of distilled spirits shall be permitted until the applicant has been issued a Type 21 license from the California Department of Alcoholic Beverage Control.
9. 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.
10. The sale of alcoholic beverages shall only be permitted between the hours of 7:00 a.m. and 10:00 p.m. daily. Sales are only permitted during times when the store is open for the purchase of general commodities.
11. Distilled spirits shall be stored in a lockable cabinet behind the sales counter accessible only to properly trained employees.
12. Prior to the commencement of sales of distilled spirits, the applicant shall implement an electronic age verification system capable of scanning IDs at all points of sale where alcohol may be purchased. The system shall be capable of identifying fake IDs and persons under the age of 21. This system shall be maintained in working order for the life of this permit. The applicant shall continue to incorporate best practices as advised by ABC, which can be found online at <https://www.abc.ca.gov/education/licensee-education/checking-identification/>.
13. Applicant shall provide revised floor plan.
14. All required signage related to the sale of alcohol shall be written in both English and Spanish translation.
15. The premises shall be kept free of graffiti and litter in conformance with the National City Municipal Code. The operator or property manager shall take responsive action within a 24-hour period upon the receipt of any notice provided by Code Enforcement pertaining to graffiti or litter.
16. Containers of alcoholic beverages may not be stored on the premises, after being sold to patrons, for the purpose of later consumption.
17. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

18. 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, advertising, or display of alcoholic beverages.

Indemnification Agreement

The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify the Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, the Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by the Applicant.

Section 3: That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 19th day of November, 2024.

Ron Morrison, Mayor

ATTEST:

Shelley Chapel, City Clerk

APPROVED AS TO FORM:

Barry J. Schultz, City Attorney