

CONDITIONAL USE PERMIT 3156-22

RESOLUTION NO. PC 24-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORANGE APPROVING CONDITIONAL USE PERMIT 3156-22 FOR AN ACCESSORY 596 SQUARE FOOT COMMERCIAL RECREATION FACILITY USE, AXE THROWING, IN ASSOCIATION WITH THE OPERATION OF A 7,681 SQUARE FOOT FULL-SERVICE RESTAURANT LOCATED AT 1535 WEST KATELLA AVENUE

APPLICANT: SAUCED BBQ AND SPIRITS ORANGE LP

Moved by Commissioner _____ and seconded by Commissioner _____ that the following Resolution be adopted:

WHEREAS, the Planning Commission has authority per Orange Municipal Code (OMC) Section 17.10.030 to make a final determination on an application for a Conditional Use Permit; and

WHEREAS, OMC Table 17.13.030 identifies commercial recreation facilities as Conditionally Permitted uses in specified zones, including the Urban Mixed Use zone; and

WHEREAS, the application for Conditional Use Permit 3156-22 was processed in the time and manner prescribed by state and local law; and

WHEREAS, Conditional Use Permit No. 3156-22 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15301 (Class 1- Existing Facilities); and

WHEREAS, Sauced BBQ and Spirits Orange LP is requesting a commercial recreation facility use to allow for an accessory axe throwing area at an existing full-service restaurant; and

WHEREAS, the Planning Commission conducted a duly advertised public hearing on October 3, 2022 at which time interested persons had an opportunity to testify either in support of or opposition to a commercial recreation facility use at a property described as follows:

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Orange, City of Orange, and described as follows:

That portion of Lots 2 and 3 of the Travis Tract, in the City of Orange, County of Orange, State of California, as shown on a Map recorded in Book 5, Page 120 of Miscellaneous Records of Los Angeles, County, California, together with that portion of Lot W of the Van De Graaff Tract, as shown on a Map recorded in Book 4, Page 440 of said Miscellaneous Records, being more particularly described as follows:

Parcel 1 of Lot Line Adjustment No. LL 2000-07, recorded December 5, 2000 as instrument No. 00- 660226 of Official Records of said Orange County, California.

Excepting from a portion of said land all oil, gas and other hydrocarbon substances that may be produced, saved and sold, as excepted and reserved by Bertha Bargsten, Doris Prothero and Edna Bargsten, in deed recorded October 27, 1938 in Book 951, Page 561 of Official Records of said Orange County, California.

APN's: 375-301-16 and 375-311-25

(End of Legal Description)

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission approves Conditional Use Permit 3156-22 to allow the applicant to operate an accessory commercial recreation facility use in conjunction with a full-service restaurant, based on the following findings:

SECTION 1 – FINDINGS

General Plan Findings:

1. *The project must be consistent with the goals and policies stated within the City's General Plan.*

The project is consistent with the goals and policies stated within the City's General Plan. This use is part of an existing restaurant use that seeks to add a commercial recreation facility use as an accessory component to its business operations. As conditioned, the use will operate in a manner that will ensure that there are no impacts to the surrounding businesses. As such, the proposed use is consistent with Land Use Goal 3.0 in that it provides a solid economic base and contributes to building vibrant commercial districts within the City of Orange. Furthermore, the proposed project is consistent with Economic Development goals 1.0 and 2.0 in that it sustains a diversified economic base and strong fiscal stability within the City by helping the business attract new clientele and helps retain an existing restaurant by expanding provided services. The subject business will continue to function as a restaurant, but will add the commercial recreational facility use in an effort to increase business and attract new patrons.

Conditional Use Permit Required Findings:

1. *A Conditional Use Permit shall be granted upon sound principles of land use and in response to services required by the community.*

The request is granted upon sound principles of land use and in response to services required by the immediate and surrounding community, in that Sauced BBQ and Spirits is an existing restaurant offering an atmosphere and cuisine experience that may benefit by having a commercial recreation facility use. Additionally, the proposed use will not result in any exterior modifications to the property and the operator will be conditioned such that there will be preventative measures taken to ensure that the use will operate harmoniously with the surrounding businesses. Therefore, the proposed commercial recreation facility use will be similar to other uses permitted within the urban mixed use zone and will directly serve the needs of the business by delivering an entertaining and recreational use that is desired by patrons.

2. *A Conditional Use Permit shall not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.*

The proposed accessory recreational facility will be within an existing restaurant with a Type 47 alcohol license and will not cause an expansion of use. Therefore, the current provided parking is sufficient for the proposed use. Furthermore, the proposed conditions of approval and nature of commercial recreation facility will ensure that there are no issues regarding security and land use compatibility. The proposed use will not result in a deterioration of surrounding land uses or create special problems for the area in which it is located.

3. *A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is located.*

The proposed commercial recreation facility was considered in relationship to its effects on the community and neighborhood plan and surrounding businesses. The subject property is zoned as Urban Mixed Use (UMU) and is within the commercial center known as The Stadium Promenade. This commercial center is comprised of multiple restaurants, retail establishments, a movie theater, and hotel. Due to the proximity of this location to the sports stadiums within the City of Anaheim, this location is part of a vibrant gateway and commercial district which supports various regional attractions. This is recognized in the City's General Plan as the subject location and surrounding area is part of the Katella Avenue Corridor Focus Area. As such, the proposed commercial recreation facility supports the community and the focus area it is located in.

4. *A Conditional Use Permit, if granted, shall be made subject to those conditions necessary to preserve the general welfare, not the individual welfare of any particular applicant.*

The project is subject to conditions to ensure the operation of the facility will not have an adverse impact on the general welfare. Conditions below reference providing adequate security measures and parking.

SECTION 2 – ENVIRONMENTAL REVIEW

Categorical Exemption: This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1, Existing Facilities) because the project consists of a new use at an existing restaurant with no expansion of the existing restaurant or intensification of use. There is no public review required.

SECTION 3 – CONDITIONS OF APPROVAL

BE IT FURTHER RESOLVED that the following conditions are to be imposed with approval:

1. The project shall conform in substance and be maintained in general conformance with plans and exhibits date labeled August 18, 2022, including any modifications required by conditions of approval, and as approved by the Planning Commission. Any future expansion in area or in the nature and operation of the use approved by Conditional Use Permit No. 3156-22 shall require an application for a new or amended Conditional Use Permit.
2. In conjunction with the operation of the business, any proposed increase in nature and operation of the use approved by Conditional Use Permit No. 3156-22 shall require an application for a new or amended Conditional Use Permit.
3. The maximum square footage of the commercial recreation facility use is limited to 596 square feet within the existing restaurant space.
4. No amplified sound shall be allowed to be used inside the tenant suite that is audible from the outside of the suite.
5. There shall be no live entertainment (including karaoke), disc jockey, amplified music, or dancing permitted on the premises at any time. Amplified music over a built-in system designed for background music shall be permitted so long as the music is not audible outside when doors are open.
6. In conjunction with the operation of the business, should parking issues arise on the site or the surrounding neighborhood, the applicant shall work with the Community Development Department to resolve any issues. If such issues are not resolved to the City's satisfaction, the Conditional Use Permit shall be presented to the Planning Commission for their consideration of further conditions, modifications or revocation.
7. The applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permits, save and except that caused by the City's active negligence. The City shall promptly notify the applicant of any such claim, action, or proceedings and shall cooperate fully in the defense.

8. Prior to the operation of the business the applicant shall file for or, if applicable, amend a business license with the Business License Division. Failure to obtain the required business license will be cause for revocation of this approval.
9. Prior to issuance of business license, the applicant shall ensure compliance with the California Fire Code to the satisfaction of the City of Orange Fire Department.
10. Conditional Use Permit 3156-22 shall become void if not vested within two years from the date of approval. Time extensions may be granted for up to one year, pursuant to OMC Section 17.08.060.
11. These conditions shall be reprinted on the second page of the construction documents when submitted to the Building Division for the plan check process.
12. The applicant shall comply with all federal, state and local laws, including all City regulations. Violation of any of those laws in connection with the use will be cause for revocation of this permit.
13. Prior to the issuance of building permits, the applicant shall pay all applicable development fees including but not limited to: City sewer connection, Orange County Sanitation District Connection Fee, Transportation System Improvement Program, Fire Facility, Police Facility, Park Acquisition, Sanitation District, and School District, as required.
14. Except as otherwise provided herein, this project is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted to the Community Development Director for approval. If the Community Development Director determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plan, the Community Development Director may approve the changed plan without requiring a new public hearing.
15. Construction permits shall be obtained for all construction work, as required by the City of Orange Building Division and Public Works Grading Division. Failure to obtain the required building permits will be cause for revocation of this permit.
16. Conditional Use Permit No. 2959-14 shall be surrendered upon approval of this Conditional Use Permit, CUP No. 3156-22.
17. In addition to the above conditions, the applicant shall comply with prior conditions of approval for CUP No. 1753-89 and CUP No. 2295-99 contained in Attachment A to this Resolution.

I hereby certify that the foregoing Resolution was adopted on October 3, 2022 by the Planning Commission of the City of Orange by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dave Vazquez, Planning Commission Chair

Date

ATTACHMENT A
CUP NO. 1753-89 AND CUP NO. 2295-99 APPLICABLE CONDITIONS OF APPROVAL

Planning:

1. In conjunction with the operation of the restaurant the property owner, or designated operator, shall be responsible to maintain the property to a level deemed adequate by the Community Development. This includes, but is not limited to, the buildings, carports, landscape on-site, recreational facilities, trash areas, signage, utilities, property walls, and gates.
2. No display of signs or devices advertising the availability of alcoholic beverages shall be visible from the outside of the restaurant.
3. All alcoholic beverages shall be consumed within the restaurant and patio areas.
4. Compliance with all ABC requirements.
5. The outdoor dining area will be delineated by a permanent barricade of not less than 36 inches, constructed of wrought iron or masonry. Wood or chain link materials are not permitted. Exclusive access to the patio will be provided and supervised through the restaurant's interior. Any secondary egress gate will be marked and alarmed, "Emergency Exit Only." The design of the patio enclosure may be subject to other requirements of the State Alcoholic Control Board and commercial entertainment center management.
6. The use of the building is considered to be a restaurant, with an accessory commercial recreation facility use, and interior construction will remain consistent with plans submitted for review by the Planning Commission. None of the floor area will be designated for dancing or live entertainment unless a subsequent CUP is approved by the Planning Commission.
7. Sales, service, and consumption of alcoholic beverages shall not commence before 11:00 AM and must cease one hour prior to closing time.
8. Approval of this Conditional Use Permit request is also based upon the Alcohol Management and Education Program that was submitted by the applicant and approved by the Police Chief on June 1, 1999. This agreement may be amended from time to time with written approval by the Police Chief.