



CITY OF GLENDALE, CALIFORNIA
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division

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April 8, 2013

Brett Engstrom
Agent for Recess Eatery
c/o Art Rodriguez Associates
709 East Colorado Boulevard, Suite 200
Pasadena, CA 91104

**RE: 1102 NORTH BRAND BOULEVARD
CASE NO. PCUP 1300020
(Recess Eatery)**

Dear Mr. Engstrom:

On April 3, 2013, the Planning Hearing Officer conducted and closed a public hearing, pursuant to the provisions of the Glendale Municipal Code, Title 30, Chapter 30.42, on your application for a conditional use permit to allow the sales, service, and on-site consumption of beer and wine at a full-service restaurant in the "C3" – Commercial Service zone, located at **1102 North Brand Boulevard**, described as a Portion of Lots 4 and 5, Sobey Tract, in the City of Glendale, County of Los Angeles.

APPLICANT'S PROPOSAL

Conditional Use Permit

- (1) To allow the sales, service and consumption of beer and wine, Type 41 license, at a full service restaurant.

CODE REQUIRES

Conditional Use Permit

- (1) Approval of a Conditional Use Permit is required for sales, service, and consumption of alcoholic beverages for a full-service restaurant in the "C3" – Commercial Service zone.

ENVIRONMENTAL RECOMMENDATION: Exempt.

REQUIRED/MANDATED FINDINGS

After thorough consideration of the statements contained in the application, the plans submitted therewith, the report by the Community Development Department staff thereon, and the statements made at the public hearing with respect to this application, the Planning Hearing Officer has **GRANTED WITH CONDITIONS** your application based on the following:

A. That the proposed use will be consistent with the various elements and objectives of the general plan.

The sales, service and consumption of beer and wine at the existing restaurant will be consistent with the elements and objectives of the General Plan. One of the purposes of the Commercial Service land use designation is to improve the economic situation of semi-commercial development. Recess Eatery is a locally owned restaurant located on North Brand Boulevard, which contains less intense commercial activity (as opposed to further south on Brand Boulevard). The ability to provide beer and wine at the restaurant will enhance the viability of this business and provide a more complete dining experience. A full-service restaurant is permitted in the "C3" zone and serving alcoholic beverages in conjunction with bona fide food service is a common ancillary use. Potential noise generated by the restaurant will be regulated by the City's Noise Ordinance, which implements the goals of the Noise Element. Given that the project site is already developed and the conditional use permit application only requests the sales, service and consumption of beer and wine at the existing restaurant, other elements of the general plan will not be impacted as a result of the project.

B. That the use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.

The proposed on-site consumption of alcoholic beverages at the existing restaurant will not be detrimental to the safety and public welfare of the neighborhood in general. Recess Eatery has been in operation since May 2009. During the last year, the Police Department did not have any significant calls for service. While the area where the restaurant is located has slightly more crime than in other areas of the city, it has a higher concentration of commercial activity, which may explain the higher crime rate. Restaurants frequently serve alcoholic beverages as part of their food service and such service is generally not associated with public drunkenness or other alcohol-related crimes. Neighborhood Services Division did not have concerns regarding the project aside from requiring compliance with the city's Fresh Air Ordinance.

C. That the use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property.

The on-site consumption of alcoholic beverages at Recess Eatery will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property. The neighborhood surrounding Recess is already fully developed so the project will not impede normal development. The project should not hinder any redevelopment, given the proposed conditional use permit only requests alcohol service at an existing restaurant. Alcohol service in conjunction with food service is a normal and accepted business practice

for restaurants. The restaurant is located on North Brand Boulevard, an area generally developed with lower intensity commercial uses. Residential uses are located abutting these uses on the cross streets. A church/day care is located immediately south of the restaurant. There are no known private or public schools or colleges, libraries or hospitals near the proposed restaurant. There are other restaurants serving alcohol along this stretch of Brand Boulevard. The consumption of beer and wine at Recess Eatery will not conflict with the adjacent and surrounding land uses since it is modest in size and operation and the approval of the conditional use permit will contain conditions limiting the hours of operation and alcohol service.

D. That adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are or will be provided for the proposed use.

The applicant's request to serve alcoholic beverages at the proposed restaurant will not result in inadequate public or private facilities. The project site is already developed and associated facilities are existing. The full service restaurant with alcohol service should not increase utility use. The addition of alcohol service to the existing restaurant is not anticipated to result in demand for additional parking. Glendale Water and Power did not cite concerns related to providing service to the project. Brand Boulevard is identified as a minor arterial in the city's Circulation Element and this street can adequately handle the existing traffic circulation adjacent to the site. The ability to sell, serve and consume beer and wine will remain an ancillary use to the service of meals and is not anticipated to increase the need for new public or private facilities at the existing restaurant.

Furthermore, this request requires that additional findings of fact be made, as follows:

E. For applications involving the sales, serving or consumption of alcoholic beverages, the criteria set forth in Section 30.42.030 (F) to be considered in making the findings in subsection A. through D. above have all been met and thoroughly considered:

1. That such use will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by over concentration.

There are two existing establishments in the census tract with On-Sale of beer and wine licenses. Recess will be the third establishment where six is the limit. The proposed full service restaurant with beer and wine is not expected to adversely impact its surroundings as a result of the alcohol license, Type 41 (beer and wine).

2. That such use will not tend to encourage or intensify crime within the district.

No evidence has been presented which would indicate that a full-service restaurant with beer and wine service in this location has or would encourage or intensify crime within the district. The existing restaurant has been in operation for almost four years without any significant incidents.

- 3. That the existing or proposed use does not or will not adversely impact any church, public or private school or college, day care facility, public park, library, hospital or residential use within the surrounding area.**

The proposed full-service restaurant is located close to two churches, one to the south across Dryden Street, and one to the north and one day care facility. There are no public schools, public parks, or hospital uses. While there are churches and a day care facility located nearby, the restaurant has existed in the commercially zoned property for many years and has not proven to impact neighboring uses. Conditions have been added which will ensure the function of this restaurant and the sale of beer and wine in compliance with municipal codes and state law. The proposed on-site sales, service and consumption of beer and wine with meals at an existing restaurant is not anticipated to adversely impact other neighboring uses in this area.

- 4. That adequate parking and loading facilities are or will be provided for the existing or proposed use or other reasonable alternatives satisfy the transportation and parking needs of the existing or proposed use.**

The site is located in a multi-tenant commercial center. The existing restaurant with counter service is proposed to change to a full service restaurant. Since the floor area of the subject tenant space is less than 2,000 square feet (approximately 1,200 square feet) and the change in use is from retail to full service restaurant, there will not be a need to provide parking. In addition, the outdoor dining area on the private property, adjacent to the public-right-of-way along Dryden Street, is considered pedestrian oriented and would not trigger the need for parking. The proposed use satisfies its transportation or parking needs as described above because adequate access, parking and delivery spaces are available to serve this use.

- 5. That, notwithstanding consideration of the criteria in subsections 1 through 4 above, the continued sales, service and on-site consumption of beer, wine and distilled spirits does serve a public convenience for the area. Compatibility of land uses is important to fostering a productive and thriving community.**

The service of beer and wine with food at a proposed full-service restaurant will serve a public convenience because it is located in an area of the City where such uses are an integral part of a dining and shopping experience in Glendale and surrounding communities. Conditions placed on the approval of the project will ensure that it will not adversely impact nearby businesses and residential uses.

SUMMARY OF PLANNING HEARING OFFICER'S DECISION

The Planning Hearing Officer was able to make all four required findings in favor of the application and was able to justify approval of the case based on the criteria required for alcohol-related cases in Sub-Section 30.42.030(F), Glendale Municipal Code. Restaurant uses exist and have existed in this area. Offering beer and wine will not require any new city services, will not harm public safety and welfare, and is not in conflict with existing or anticipated surrounding land uses. Traffic circulation measures are not anticipated to be impacted as a result of allowing beer and wine at the proposed full service restaurant. The conditions attached to the approval will control the use in a manner necessary to allow the use to properly fit into the specific location.

CONDITIONS OF APPROVAL

APPROVAL of this Conditional Use Permit shall be subject to the following conditions:

1. That the development shall be in substantial accord with the plans submitted with the application and presented at the hearing except for any modifications as may be required to meet specific Code standards or other conditions stipulated herein to the satisfaction of the Planning Hearing Officer.
2. That all necessary licenses as required from Federal, State, County or City authorities, including the City Clerk shall be obtained and kept current at all times.
3. That only beer and wine shall be served and only in conjunction with the consumption of food.
4. That the sales and serving of beer and wine shall be for consumption on the premises only.
5. That no exterior signs advertising the sales/service of alcoholic beverages be permitted.
6. The hours of operation for the restaurant shall not exceed **7:30 a.m. to 10:00 p.m.**
7. The sales and service of beer and wine shall be permitted only between the hours of **7:30 a.m. and 10:00 p.m.** each day of the week.
8. That all music, lighting, noise and odors shall be confined to the occupancy so as not to disturb occupants of other adjacent businesses or properties and patrons on the public right-of-way. The Planning Hearing Officer's opinion shall prevail to arbitrate any conflicts.
9. That the facilities shall not be rented, leased or otherwise occupied for purposes not specified under this permit.
10. That the premise shall remain open to the public during business hours as a full-service restaurant as defined in Chapter 30.70 of the Glendale Municipal Code (G.M.C).
11. That any expansion or modification of the facility or use that intensifies the existing Conditional Use Permit shall require a new Conditional Use Permit application. Expansion shall constitute adding floor area, changes to the use or operation, or any physical change as determined by the Planning Hearing Officer, with concurrence from the Director of Community Development.
12. That the proposed full-service restaurant adheres to the City's Fresh Air Ordinance.

13. That the service of alcoholic beverages shall be in full accord with the regulations and conditions established by the State Department of Alcoholic Beverage Control.
14. That access to the premises shall be made available upon request to all City of Glendale authorized staff (i.e. Community Development Department, Fire Department, Police Department, etc.) for the purpose of verifying compliance with all laws and the conditions of this approval.
15. A trash enclosure shall be provided subject to the approval of the Building and Safety Division, Planning and Neighborhood Services Division, as well as the Public Works Integrated Waste Division.
16. A Zoning Use Certificate shall be applied for and approved for the full service restaurant with beer and wine.
17. Live entertainment is permitted with the exception that no karaoke, no bikini activities or events, no lingerie activities or events, no swimwear activities or events, nor any similar activities or events be allowed where partial clothing of male or female entertainment is provided.
18. That the authorization granted herein shall be valid for a period of five years, until **APRIL 24, 2018**, at which time, a reapplication must be made.

APPEAL PERIOD (effective date), TIME LIMIT, LAPSE OF PRIVILEGES, TIME EXTENSION

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper City and public agency.

Under the provisions of the Glendale Municipal Code, Title 30, Chapter 30.62, any person affected by the above decision has the right to appeal said decision to the Planning Commission if it is believed that the decision is in error or that procedural errors have occurred, or if there is substantial new evidence which could not have been reasonably presented. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms within fifteen (15) days following the actual date of the decision. Information regarding appeals and appeal forms will be provided by the Building and Safety Division upon request and must be filed with the prescribed fee prior to expiration of the 15-day period, on or before **April 23, 2013** in the Building and Safety Division, 633 E. Broadway, Room 101.

APPEAL FORMS available on-line:

<http://www.ci.glendale.ca.us/planning/SubmittingAProject.asp>

To save you time and a trip - please note that some of our FORMS are available on line and may be downloaded. AGENDAS and other NOTICES are also posted on our website.

TRANSFERABILITY

This authorization runs with the land or the use for which it was intended for and approved. In the event the property is to be leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions and/or limitations of this grant.

VIOLATIONS OF THESE CONDITIONS

Violations of conditions required by this determination may constitute a misdemeanor or infraction under section 1.20.010 of the Glendale Municipal Code (GMC) and/or a violation of other local, State or Federal laws or regulations. Unless a specific penalty is provided, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment. Infractions are punishable by a fine not exceeding the sum of five hundred dollars (\$500.00) for each violation.

Violations of conditions required by this determination may be grounds for a revocation.

REVOCATION, CONTINUING JURISDICTION

Section 30.64.020 – Revocation – The Community Development Department shall have continuing jurisdiction over variances and conditional use permits (individual cases heard and decided upon by the Planning Hearing Officer).

To consider the revocation, the Planning Hearing Officer shall hold a public hearing after giving notice by the same procedure as for consideration of a conditional use permit at least ten (10) days notice by mail to the applicant or permittee. Continuing jurisdiction over any case is the purview of the Planning Hearing Officer, with concurrence by the Director of Community Development.

GMC CHAPTER 30.41 PROVIDES FOR

TERMINATION: Every right or privilege authorized by a conditional use permit shall terminate two (2) years after the granting of such, unless the exercise of such right or privilege has commenced in good faith prior to such time, except as otherwise provided for.

EXTENSION: An extension of the conditional use permit may be requested one time and extended for up to a maximum of one (1) additional year upon receipt of a written request from the applicant and demonstration that a reasonable effort to act on such right and privilege has commenced within the two (2) years of the approval date. In granting such extension the applicable review authority shall make a written finding that neighborhood conditions have not substantially changed since the granting of the conditional use permit.

NOTICE – subsequent contacts with this office

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the case planner who acted on this case. This would include clarification and verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **by appointment only**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

Sincerely,



Bradley M. Collin
Planning Hearing Officer

BC:sm

CC: City Clerk (K.Cortes); Police Dept. (Tim Feeley/Z.Avila); City Attorney's Dept. (G. van Muyden/M.Yun); Fire Prevention Engineering Section-(D.Nickles); City Engineer and Traffic & Transportation Section (Roubik Golanian/G.Tom); Director of Public Works and General Manager for Glendale Water and Power (Stephen Zurn); Glendale Water & Power--Water Section (R.Takidin); Glendale Water & Power--Electric Section (M.Kelley/M.Jackson); Parks, Recreation and Community Services Dept. (Emil Tatevosian); Neighborhood Services Division (A.Jimenez); Integrated Waste Management Admin. (D.Hartwell); Maintenance Services Section Admin. (D.Hardgrove); Street and Field Services Admin.; Environmental Management (M.Oillataguerra); Tony Bachour; and case planner Roger Kiesel.