



CITY OF GLENDALE, CALIFORNIA
COMMUNITY DEVELOPMENT DEPARTMENT
Director of Community Development

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Glendale, California 91206-4386
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www.ci.glendale.ca.us

December 20, 2012

Alicia Lavanchy
1455 Campbell Street
Glendale, CA 91207

**RE: 3730 NORTH VERDUGO ROAD
CONDITIONAL USE PERMIT NO. PCUP 1231065
(Divina Cucina)**

Dear Ms. Lavanchy:

On December 12, 2012, 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 on-site sale, service, and consumption of alcoholic beverages at an existing full-service restaurant with covered outdoor dining, located at **3730 North Verdugo Road**, in the "C3" – Commercial Service Zone, described as Lots 27 and 28 Tract No. 1701, in the City of Glendale, County of Los Angeles.

APPLICANT'S PROPOSAL

- (1) Continue on-site sales, service and consumption of beer, wine and distilled spirits at a full-service restaurant (Divina Cucina Restaurant).

CODE REQUIRES

- (1) On-site sales, service and consumption of alcoholic beverages require a Conditional Use Permit in the "C3" 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. The proposed use will be consistent with the various elements and objectives of the General Plan.

The continued operation of this full-service restaurant with alcohol sales is consistent with the various elements and objectives of the general plan, including the North Glendale Community Plan. The service of beer, wine and distilled spirits at this full service restaurant is consistent with the goals and objectives of the General Plan and the North Glendale Community Plan. Divina Cucina Restaurant is located in the C3 Zone, a zone intended to accommodate general commercial activities, in conformance with the Sparr Heights Commercial District designation in the North Glendale Community Plan (NGCP). The restaurant is consistent with NGCP Urban Design goals to respect visual character through architectural design and attractive, well-maintained private structures, as well as support preservation of historic resources. It is in keeping with the economic development policy of the North Glendale Community Plan (NGCP) to create and enhance vibrant commercial areas.

The Circulation Element identifies this section of Verdugo Road as a Major Arterial which can support a full-service restaurant land use activity. The restaurant has operated legally since 1996 and is a typical example of a food service establishment that the Land Use Element and the North Glendale Community Plan support and encourage. Alcoholic beverage sales are a recognized service associated with restaurants and this location serves a public convenience and necessity as demonstrated through its continued success. Furthermore, it provides a complementary service to the adjacent retail and service businesses. Given that the applicant requests the ability to continue to sell, serve and consume alcoholic beverages on-site as an ancillary use to food service, the restaurant with alcohol service will be consistent with the various elements and objectives of the General Plan.

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

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. Divina Cucina Restaurant is located in Census Tract 3008. The Police Department identified it as one of six establishments selling alcohol where six would be allowed. There were 95 Part 1 crimes for the census tract which is 51 percent above the city-wide average. The Police Department noted that even though the restaurant is located in a census tract with a higher than average crime rate it does not appear that it contributed to it. A review of past conditional use permit comments from the Police Department show that no negative comments related to this business were submitted. Therefore, it is not anticipated that the on-site sales of alcoholic beverages with food service at the Divina Cucina Restaurant will have a detrimental effect on the community.

C. The use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property provided that the conditions of approval are followed.

The use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property. There are no churches, public or private schools or college, day care facilities, public park, library, hospital or residential use adjacent to the restaurant that are adversely affected by this restaurant that serves beer, wine and spirits for on-site consumption. Full service restaurants in the Sparr Heights Commercial District and the Montrose Shopping Park serve and sell beer, wine and spirits without adverse impacts. Divina Cucina Restaurant has been an established restaurant in this neighborhood for the past 16 years without any major concerns identified by the Police Department and Neighborhood Services Division. The applicant is not proposing any changes to the existing floor plan or restaurant operation. The proposal is to continue the sales, service and consumption of alcoholic beverages in conjunction with the consumption of food.

D. Adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are provided for the use.

Adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are provided for the proposed use. On September 30, 2005, Conditional Use Permit No. PCUP 2005-027 was granted with conditions to allow alcoholic beverage sales in conjunction with meals at a full-service restaurant. In the current application, the ability to sell, serve and consume alcoholic beverages at the restaurant will remain an ancillary use and it is not anticipated to increase the need for public or private facilities. The surrounding neighborhood is also developed with adequate public and private facilities and infrastructure. No changes are anticipated for the parking demand and the existing 15 on-site parking spaces and 11 leased off-site parking spaces across the alley to the east are providing sufficient parking for the restaurant use. Verdugo Road is identified as a Major Arterial in the Circulation Element. Verdugo Road and the 20-foot wide alley immediately east of the property adequately handle the existing traffic circulation around the site. The continuation of on-site sale, service, and the consumption of alcoholic beverages at the restaurant is not anticipated to intensify traffic circulation and parking demand.

E. That all 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 does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by over concentration as described above in finding B.
- 2) That such use does not or will not tend to encourage or intensify crime within the district as described above in finding B.

- 3) That such use does not or will not adversely impact any other uses within the surrounding area (church, public or private schools or college, day care facility, public park, library, hospital or residential use) as described above in finding C.
- 4) That the proposed use satisfies its transportation or parking needs as described above in finding D.
- 5) That the proposed use does or will serve a public necessity or public convenience purpose for the area as evidenced by the operation of this restaurant with alcoholic beverage on-site sales, service and consumption as described above in finding A .

SUMMARY OF PLANNING HEARING OFFICER'S DECISION

The Planning Hearing officer was able to make all four required findings in favor of the application for a full-service restaurant based on the five criteria required for alcohol-related cases in Sub-Section 30.42.030(F), Glendale Municipal Code. 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 of approval:

- 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 no separate bar shall be installed on the premises.
- 4) That alcoholic beverage shall be served only in conjunction with the consumption of meals and shall be consumed on the premises only. There shall be less than fifty (50) percent of gross revenues from the sale of alcoholic beverages.
- 5) That no exterior signs advertising the sales/service of alcoholic beverages shall be permitted.
- 6) 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 (ABC).

- 7) That at all times when the premises are open for business, the service of any alcoholic beverage shall be made only in the areas designated with an ABC license. Consumption of alcoholic beverages will only be in those same licensed areas.
- 8) That the sales, service or consumption of alcoholic beverages shall be permitted only between the hours of 11:00 a.m. to 12:00 a.m. each day of the week.
- 9) 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).
- 10) That no patron will be allowed to bring into the restaurant or maintain in the restaurant any alcoholic beverage unless that alcoholic beverage was purchased within that same establishment or unless the facility has an established corkage policy.
- 11) That no live entertainment shall be allowed.
- 12) 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.
- 13) That any expansion or modification of the facility or use which 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 Department.
- 14) That the facilities shall not be rented, leased or otherwise occupied for purposes not specified.
- 15) That the existing on-site and leased off-site parking spaces shall be maintained for as long as the business is in operation.
- 16) That the proposed full-service restaurant adheres to the City's Fresh Air (smoking) Ordinance.
- 17) 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.
- 18) That a new Zoning Use Certificate shall be immediately obtained (no fee required) to reflect the new conditional use permit approval.

- 19) That the project shall comply with the conditions of Parking Reduction Permit No. PPRP 2005-007.
- 20) That the authorization granted herein shall be valid for a period of **ten years**, until **JANUARY 5, 2023**, 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 **JANUARY 4, 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 Department.

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 (Christopher Baxter at 818.937.8162) 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,



Laura Stotler
Planning Hearing Officer

LS: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 (A.Jimenez); Integrated Waste Management Admin. (D.Hartwell); Maintenance Services Section Admin. (D.Hardgrove); Street and Field Services Admin.; Environmental Management (M.Oillataguerra); Bill Bergens&Joe Kroening; and case planner – Christopher Baxter.