



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

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www.ci.glendale.ca.us

March 14, 2013

Cindy Boknam Yim
3731 Foothill Boulevard, Unit "H"
La Crescenta, CA 91214

**RE: 3731 FOOTHILL BOULEVARD
CONDITIONAL USE PERMIT CASE NO. PCUP 1231636 – Beer and Wine
(Moon BBQ #3 Restaurant)**

Dear Ms. Boknam Yim:

On March 13, 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 on-site sales, service and consumption of beer and wine with meals at a full-service restaurant (Moon BBQ #3 Restaurant), located at **3731 Foothill Boulevard**, in the "CH" – Commercial Hillside Zone, described as Portion of Lot 2, Block L, Crescenta Canada Tract, in the City of Glendale, County of Los Angeles.

APPLICANT'S PROPOSAL

Conditional Use Permit

- (1) On-site sales, service and consumption of beer and wine at a full-service restaurant (Moon BBQ #3 Restaurant).

CODE REQUIRES

Conditional Use Permit

- (1) On-site sales, service and consumption of beer and wine at a restaurant requires a Conditional Use Permit in the "CH" Zone.

ENVIRONMENTAL RECOMMENDATION: This project is exempt from the California Environmental Quality Act (CEQA).

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 Land Use Element encourages flexibility in the range and type of services provided in commercial areas, including alcohol sales with food. It classifies the subject site as "CH" - Commercial Hillside Zone which allows beer and wine sales at a full-services restaurant subject to approval of a conditional use permit. Sufficient access from the restaurant is provided to Foothill Boulevard through two driveways. Foothill Boulevard is a major arterial, as shown in the Circulation Element, and has capacity to adequately serve existing traffic circulation to and from the shopping center. It is not anticipated that continuing beer and wine sales will increase parking and traffic circulation impacts since this use will remain an ancillary service to the existing restaurant's food service. Furthermore, the sale of beer and wine with meals serves a public convenience in this location. Potential noise that may be generated by the restaurant would be regulated by the City's Noise Ordinance, which implements the goals of the Noise Element. A restaurant use with ancillary beer and wine service with food has operated successfully at this property since the shopping center opened in 2007, consistent with the General Plan.

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 applicant is requesting to continue selling beer and wine with meals. The proposed restaurant is located in Census Tract 3003.01 with two on-sale establishments where five are the maximum recommended. The existing restaurant is one of the two businesses currently selling alcohol. Part 1 crimes are only 8% above the city average and no Part 1 crimes were associated with this property during the calendar year 2011. Neighborhood Services does not have any open enforcement cases on the restaurant. However, there are illegal signs on the restaurant premises and a condition of approval has been added to require removal of illegal signs to comply with the City zoning code.

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

The Moon BBQ #3 Restaurant is an existing facility located in a shopping center constructed in 2007. The restaurant is currently operating under an approval from Conditional Use Permit No. PCUP 2007-010 to sell beer and wine with meals. The existing restaurant is not located near, nor impact, any church, public or private school or college, day care facility, public park, library, hospital or residential use within the surrounding area. Continuing beer and wine sales at this full-service restaurant would not affect or conflict with adjacent uses. This assumption is confirmed by statistics submitted by the Police Department that state the number of Part 1 crimes in the census tract is only 8% above the City average and that there were no Part 1 crimes associated with this property in 2011. Additionally, Neighborhood Services does not have any code enforcement cases for the restaurant. No concerns were received from other City departments that would indicate that beer and wine served with meals would adversely affect or conflict with or impede normal future development of surrounding property, which is already developed. Conditions of approval and the Planning Hearing Officer's continuing jurisdiction over this case will ensure compliance with City codes, ordinances and regulation.

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

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. Moon BBQ #3 currently serves beer and wine with food and is not proposing to change its existing operation. The restaurant is located in an existing shopping center with adequate public and private facilities to serve it. Foothill Boulevard has sufficient capacity to continue accommodating the restaurant's traffic circulation. 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 this existing restaurant.

Furthermore, for applications involving the sale, serving or consumption of alcoholic beverages, the following criteria shall be considered in making the findings in subsection A. through D. above:

1. That where an existing or proposed on-site use is located in a Census Tract with more than the recommended maximum concentration of on-site uses or that where an existing or proposed off-site use is located in a Census Tract with more than the recommended maximum concentration of off-site used, both as recommended by the California Department of Alcoholic Beverages Control, such use does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area. This has been considered in finding B above.
2. That where the existing or proposed use is located in a crime reporting district with a crime rate which exceeds twenty (20) percent of the city average for Part 1 crimes, as reported by the Glendale Police Department, such use does not nor will not tend to encourage or intensify crime within the district. This has been considered in findings B and C above.
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. This has been considered in finding C above.
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. This has been considered in finding A and D above.
5. That, notwithstanding consideration of the above criteria in subsections 1-4 above, the proposed beer and wine sales, service and on-site consumption use does serve a public convenience or public necessity for the area. This has been considered in finding A above.

SUMMARY OF PLANNING HEARING OFFICER'S DECISION

The Planning Hearing Officer was able to make all four findings necessary for a Conditional Use Permit under Section 30.42 and the additional findings required for consideration of

alcohol sales because the existing restaurant has operated successfully with sales of beer and wine in compliance with City laws. Operation of the restaurant with beer and wine sales meets a public convenience need, is served by adequate public and private facilities and has not been a detriment to the surrounding area with conditions. Although there is signage on the restaurant that does not comply with the zoning code, a condition has been added to require the restaurant to bring signage into code compliance.

CONDITIONS OF APPROVAL

APPROVAL of this Conditional Use Permit for beer and wine 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 permits shall be obtained from the Building and Safety Section and all construction shall be in compliance with the Glendale Building Code and all other applicable regulations.
- 3) That a new Zoning Use Certificate (no fee required) shall be obtained to reflect the conditional use permit approval.
- 4) That all necessary permits (i.e. building, fire, engineering, etc.) shall be obtained from the Building and Safety Division, Permit Services Center and all construction shall be compliance with the Glendale Building Code, Fire Code and all other applicable regulations.
- 5) That the premises shall be operated in full accord with applicable State, County, and local laws.
- 6) That the services of beer and wine shall be in full accord with the regulations and conditions established by the State Department of Alcoholic Beverage Control.
- 7) That at all times when the premises is open for business, the service of any beer and wine shall be made only in those areas designated with a valid ABC license. Consumption of beer and wine will only be in those same licenses areas.
- 8) That no separate bar shall be installed on the premises.
- 9) That beer and wine shall be the only alcoholic beverages served and they shall be served only in conjunction with the consumption of meals and shall be consumed on the premises only. Beer and wine sales shall be less than fifty (50) percent of a restaurant's gross revenues.
- 10) That no exterior signs advertising the sales/service of beer and wine shall be permitted.
- 11) That the sales, service or consumption of beer and wine shall be permitted only between the hours of **11:00a.m. to 12:00 a.m.** each day of the week.

- 12) That the premises 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 (GMC).
- 13) That no patron will be allowed to bring into the restaurant or maintain in the restaurant any beer or wine unless that beer or wine was purchased within that same establishment or unless the facility has an established corkage policy.
- 14) 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.
- 15) That the proposed full-service restaurant shall adhere to the City's Fresh Air (smoking) Ordinance.
- 16) That patrons shall not be permitted to remain in the parking area after closure or to loiter in the parking area while the business is open.
- 17) That the proprietor and his/her employees shall make an active and conscientious effort to keep customers and employees from trespassing on other nearby properties or otherwise make disturbances in the area.
- 18) 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.
- 19) That the facilities shall not be rented, leased or otherwise occupied for purposes not specified.
- 20) That no outdoor storage shall be allowed on the site.
- 21) That the rear door facing the residential area shall remain closed except as necessary for the restaurant operation such as during deliveries of goods and removing trash and recyclable items to the trash enclosure.
- 22) That access to the premises shall be made available to all City of Glendale Planning and Neighborhood Services Division, Police Department, and Fire Department staff, upon request for the purpose of verifying compliance with all laws and conditions of approval.
- 23) That all mitigation measures in the mitigated negative declaration resulting from the processing of Environmental Information Form No. 2003-12 shall be met.
- 24) That the restaurant shall modify existing signage to be in compliance with the zoning code.
- 25) That all conditions listed in the Parking Reduction Permit No. PPRP 2007-010 shall be met.
- 26) That the authorization granted herein shall be valid for a period of **10 years, until March 30, 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 **March 29, 2013**, in the Building and Safety Division, 633 East 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.

REVOCAION, 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 (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 Division (A.Jimenez); Integrated Waste Management Admin. (D.Hartwell); Maintenance Services Section Admin. (D.Hardgrove); Street and Field Services Admin.; Environmental Management (M.Oillataguerra); Alex Woo – representing the applicant; and case planner – Christopher Baxter.