

PLANNING COMMISSION CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. PC-2016-31

RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR
TOTAL WINE & MORE, AS FILED UNDER CASE P16-1313

WHEREAS, Total Wine & More has applied for a Conditional Use Permit to operate a specialty liquor store with ancillary tasting and educational programs located at 4225 Rosewood Drive; and

WHEREAS, zoning for the property is C-C (Central Commercial) District; and

WHEREAS, at its duly noticed public hearing of September 14, 2016, the Planning Commission considered all public testimony, relevant exhibits, and recommendations of the City staff concerning this application; and

WHEREAS, projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities, Class 1; and

WHEREAS, the Planning Commission made the following findings:

1. The proposed location of the Conditional Use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

Some of the objectives of the zoning ordinance are to: foster a harmonious, convenient, workable relationship among land uses, protect existing land uses from inharmonious influences and harmful intrusions, and ensure that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, the proposed liquor store would be consistent with these objectives and would create a new specialty retailer in the City. The proposed liquor store would be operated so as to not impact or interfere with the surrounding uses in that the retail nature, hours of operation, and staffing levels will not generate additional substantial noise or parking demand beyond the existing levels of the shopping center. The proposed use would be within the Rose Pavilion Shopping Center, which is zoned Central Commercial (C-C) District and permits a variety of retail, personal service, and restaurant uses, but requires Conditional Use Permit approval for liquor stores. Operating a specialty liquor store in this shopping center would be in accordance with the purposes and intent of the C-C District in that it provides a specialty retailer that offers commodities and services to the community. The City has approved other similar specialized retail uses (99 Ranch Market and Fresh & Easy Market) within the Rose Pavilion Shopping Center with the same zoning, as well as other similar specialty liquor

stores in other parts of town, such as Beverages and More. These approvals have not resulted in any major impacts to their respective surrounding uses or general area. The proposed conditions of approval would give the City the appropriate controls to ensure that the use does not have any negative impacts on the surrounding businesses and properties. Therefore, this finding can be made.

2. The proposed location of the Conditional Use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The Traffic Engineering Division has reviewed the proposed use and believes it would not result in significant impacts to either City roadways or to the existing shopping center. The proposed location within the Rose Pavilion Shopping Center is approximately 300 feet from the nearest residential properties located in the Fairlands Neighborhood to the south and southeast and are separated by Santa Rita Road, a landscaped median, and an approximately nine-foot high sound wall. Additionally, the existing ingress/egress to and from the shopping center would continue to provide easy access to the shopping center patrons. With the proposed conditions of approval and the alcohol consumption controls to be implemented including: (1) limiting alcohol consumption to individuals aged 21 or older; (2) limiting alcohol tastings to a maximum of eight ounces per customer per day; and (3) serving food with all tastings, the proposed use would not detrimentally affect the surrounding properties. Therefore, this finding can be made.

3. The proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance.

Chapter 18.124 of the Municipal Code states that, because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to their effects on surrounding properties. The site's C-C zoning conditionally permits liquor stores. The recommended conditions of approval will help to integrate the proposed use without detrimentally affecting the surrounding properties and the City in general. As with any use permit, this use can be suspended or revoked if the conditions are not met. As conditioned, the specialty liquor store would comply with all applicable provisions of the Zoning Ordinance. Therefore, this finding can be made.

WHEREAS, the Planning Commission determined that the operate a specialty liquor store with ancillary tasting and educational programs would not be detrimental to the existing uses in the area.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RESOLVES THE FOLLOWING:

Section 1. Approves Case P16-1313, the application of Total Wine & More for a Conditional Use Permit to operate a operate a specialty liquor store with ancillary tasting and educational programs located at 4225 Rosewood Drive, subject to the Conditions of Approval shown in Exhibit A, attached hereto and made part of this case by reference.

Section 2. This resolution shall become effective 15 days after its passage and adoption unless appealed prior to that time.


THIS RESOLUTION ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF PLEASANTON ON THE 14th DAY OF SEPTEMBER 2016 BY THE FOLLOWING VOTE:

AYES: Commissioners Allen, Balch, Nagler, O'Connor, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

ATTEST:



Adam Weinstein
Secretary, Planning Commission



Herb Ritter
Chair

APPROVED AS TO FORM:



~~Julie Harryman~~ Larissa Seto
Assistant City Attorney

**EXHIBIT A
CONDITIONS OF APPROVAL**

**P16-1313
4225 Rosewood Drive, Total Wine & More
September 14, 2016**

PROJECT SPECIFIC CONDITIONS

Planning Division

1. The proposed activities and operations approved by this Conditional Use Permit shall conform substantially to the narrative and project plans, Exhibit B, marked "Received July 20, 2016," on file with the Planning Division, except as modified by the following conditions. Minor changes to the plans or operation may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance to the approved exhibits.
2. If additional hours of operation, number of students or staff, or activities beyond that proposed in the applicant's narrative, Exhibit B, dated "Received July 20, 2016," on file with the Planning Division, are desired, prior City review and approval is required. The Community Development Director may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
3. If operation of this use results in conflicts pertaining to parking, interior or exterior noise, traffic/circulation, or other factors, at the discretion of the Community Development Director, this conditional use permit may be submitted to the Planning Commission for its subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, including imposing traffic impact fees, or may revoke said conditional use permit. Possible mitigation measures can include, but are not limited to: modifying the hours of operation or other measures deemed necessary by the Planning Commission.
4. All on-site alcohol consumption activities shall adhere to the following: (1) alcohol consumption shall be limited to individuals 21 or older; (2) alcohol tastings shall be limited to a maximum of eight ounces per customer per day; and (3) food shall be served with all alcohol tastings.
5. Prior to operation, the applicant shall obtain all necessary approvals from the State Department of Alcoholic Beverage Control (ABC).

STANDARD CONDITIONS

Community Development Department

6. The applicant shall pay all fees to which the use may be subject prior to operation. The type and amount of the fees shall be those in effect at the time the permit is issued.

7. To the extent permitted by law, the project applicant shall defend (with counsel reasonably acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys' fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

Planning Division

8. If the applicant wishes to relocate the use to a new address and/or suite, the applicant shall secure a new conditional use permit prior to occupying the new building or tenant suite.
9. This Conditional Use Permit approval will lapse and shall become void one year following the date on which the use permit became effective, unless prior to the expiration of one year, the applicant initiates the use, or the applicant or his or her successor has filed a request for extension with the Zoning Administrator pursuant to the provisions of the Pleasanton Municipal Code Section 18.12.030.
10. The applicant and/or employees shall maintain the area surrounding the subject tenant space in a clean and orderly manner at all times.
11. Changes to the exterior of the building shall not be made without prior approval from the Planning Division.
12. This approval does not include approval of any signage. If signs are desired, the applicant shall submit a sign proposal to the City for review and approval prior to sign installation.

CODE REQUIREMENTS

Applicants/Developers are responsible for complying with all applicable Federal, State, and City codes and regulations regardless of whether or not the requirements are part of this list. The following items are provided for the purpose of highlighting key requirements.

Planning Division

13. At no time shall balloons, banners, pennants, or other attention-getting devices be utilized on the site except as allowed by Section 18.96.060K of the Zoning Ordinance for grand openings.

Building Division

14. All building and/or structural plans must comply with all codes and ordinances in effect before the Building Division will issue permits.

15. Any tenant improvement plans shall be submitted to the Building and Safety Division for review and approval.
16. Prior to occupancy, the applicant shall contact the Building and Safety Division and Fire Marshal to ensure that the proposed use of the subject building/structures meet Building and Safety and Fire Code requirements. If required, the applicant shall obtain all appropriate City permits.

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