

RESOLUTION NO. PC-2020-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON APPROVING THE APPLICATION FOR CONDITIONAL USE PERMIT (CUP) LOCATED AT 310 MAIN STREET, AS FILED UNDER CASE NO. P19-0432

WHEREAS, on December 5, 2019, Rick Dobbs, representing Middle 8 LLC, applied for Conditional Use Permit approval to: (1) operate a bar; and (2) allow indoor entertainment and music until midnight, seven days a week at 310 Main Street, Suite D (“Project”); and

WHEREAS, zoning for the property is C-C (Central Commercial), Downtown Revitalization, Active Ground-Floor Overlay, Core Area Overlay, Downtown Hospitality Central Core Area District; and

WHEREAS, bars and indoor entertainment and music after 11 p.m. are a conditionally permitted use in the subject District, and require Planning Commission approval of a CUP; and

WHEREAS, the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1, Existing Facilities; and

WHEREAS, on February 12, 2020, the Planning Commission held a duly-noticed public hearing and considered relevant exhibits, recommendations of the City staff concerning this application, and received testimony from the applicant and interested parties.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pleasanton, based on the entire record of proceedings, including the oral and written staff reports and all public comment and testimony:

Section 1: Findings for Conditional Use Permit Approval

With respect to the approval of P19-0432, the Planning Commission makes the following findings as required by Section 18.124.070 of the Pleasanton Municipal Code:

- A. That 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 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 Planning Commission finds the proposed bar and indoor entertainment and music after 11 p.m. would be consistent with these objectives.

The subject site is zoned C-C, Downtown Revitalization, Active Ground-Floor Overlay, Core Area Overlay, Downtown Hospitality Central Core Area District and is located in the Downtown, which permits a variety of commercial, office, and residential uses. Bars are in accordance with the purposes of the C-C District in that they offer commodities and services to the residents of Pleasanton and surrounding areas. As conditioned, the Planning Commission finds the proposed operation would be consistent with the Downtown Specific Plan's goals of increasing the economic diversity of the area and the objectives of the Downtown Hospitality Guidelines and the recently adopted Downtown Specific Plan. The proposed conditions of approval for the project provide the City the ability to ensure the proposed uses meet their conditions of approval.

B. That 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.

As conditioned, the Planning Commission finds the project will not have a detrimental impact to the public health, safety, or welfare, or be materially injurious to the properties or improvements in the vicinity. The uses, as conditioned, would operate in accordance with the standards set forth in the Downtown Hospitality Guidelines developed with the specific intent to avoid and minimize adverse effects of uses such as bars and indoor entertainment and music with late night hours on nearby residential uses. The bar and indoor entertainment and music are required to adhere to the City's Noise Ordinance, which was designed to protect the peace, health, safety, and welfare of the citizens of the City. Furthermore, if the operation of the business results in conflicts pertaining to parking, noise, traffic/circulation or other factors, a condition of approval allows the Planning Commission to determine if the proposal needs to return to the Planning Commission for further consideration or additional mitigation measures.

C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.

The subject site's zoning conditionally permits the establishment of a bar and indoor entertainment and music. Granting a CUP for the bar and indoor entertainment and music would be consistent with the City's ability to regulate zoning as listed in Chapter 18.124 of the Municipal Code. In addition, the Planning Commission finds, as conditioned, the proposed uses will comply with all provisions and requirements of the City's zoning ordinance and Downtown Hospitality Guidelines.

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Section 2: The Planning Commission hereby approves Case P18-0156, the application of Rick Dobbs, representing Middle 8 LLC, for Conditional Use Permit approval to: (1) operate a bar; and (2) allow indoor entertainment and music after 11 p.m. at 310 Main Street, Suite D, subject to the Conditions of Approval shown in Attachment 1, attached hereto and made part of this case by reference.

Section 3: This resolution shall become effective 15 days after its passage and adoption unless appealed prior to that time.


PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on February 12, 2020, by the following vote:

Ayes: Commissioners Allen, Balch, Brown, O'Connor
Noes: None
Absent: Commissioners Pace and Ritter
Abstain: None

ATTEST:



Melinda Denis
Secretary, Planning Commission

DocuSigned by:


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Justin Brown
Vice Chair

APPROVED AS TO FORM:



Julie Harryman
Assistant City Attorney

EXHIBIT A
CONDITIONS OF APPROVAL

P19-0432
310 Main Street
February 12, 2020

The applicant is hereby notified, as part of this approval, that (s)he is required to satisfy and maintain compliance with the conditions of approval below. Where approval by the Director of Community Development, Planning Division, Director of Engineering/City Engineer, City Attorney, Chief Building and Safety Official, Fire Department or other City staff is required, review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations, and accepted practices related to the approval. In addition to complying with the conditions below, the applicant is required to comply with all applicable federal, state, and local laws that pertain to this project whether or not specifically noted herein.

This approval is granted for Conditional Use Permit approval to: (1) operate a bar; and (2) allow indoor entertainment and music after 11 p.m. located on Assessor Parcel No. 094-0102-008-04 at 310 Main Street. Development shall be substantially as shown on the project materials listed below:

- a. Narrative and Project plans, Exhibit B, prepared by Rick Dobbs for Middle 8 LLC, dated "Received" on January 24, 2020, and kept on file in the Planning Division of the Community Development Department.

The project materials listed above are collectively the "Approved Plans".

THIS APPROVAL IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **APPROVAL AND REVISIONS:** The proposed use shall be in substantial conformance with the "Approved Plans," except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance with the approved exhibits.
2. **EXPIRATION – CONDITIONAL USE PERMIT:** This Conditional Use Permit (CUP) approval will lapse and shall become void 1 year following the date on which the CUP became effective, unless prior to the expiration of 1 year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the CUP application; or a certificate of occupancy is issued for the structure which was the subject of the CUP application; or the site is occupied if no building permit or certificate of occupancy is required; or the applicant or his/her successor has filed a request for extension with the Zoning Administrator pursuant to the provisions of the Pleasanton Municipal Code.
3. **APPEAL PERIOD:** The building permit submittal will only be accepted after completion of the appeal period provided in the Municipal Code unless the applicant submits a signed statement acknowledging the plan check fees may be forfeited in the event the approval is overturned on appeal, or the design is significantly changed as a result of the appeal. In no case will a building permit be issued prior to the expiration of the appeal period.

4. **LIABILITY AND INDEMNIFICATION:** To the extent permitted by law, the project applicant shall hold harmless, defend (with counsel acceptable to the City), and indemnify the City, its City Council, its officers, commissions, employee and agents from and against any claim, action, or proceeding brought by a third party against the indemnified parties and/or 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.

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Conditional Use Permits

5. **HOURS OF OPERATION:** The establishment's hours of operation shall be limited to 4 p.m. to 1 a.m., seven days a week. **(project specific condition)**
6. **INDOOR ENTERTAINMENT AND MUSIC:** Indoor entertainment and music shall be limited to 4 p.m. to midnight, seven days a week. **(project specific condition)**
7. **FOOD SERVICE:** Food or snack items shall be available to bar patrons during the operating hours of the bar. **(project specific condition)**
8. **DOORS:** Self-closing door mechanisms shall be installed on all exterior doors. The applicant shall keep all exterior doors of the building closed when not being used for ingress/egress purposes. **(project specific condition)**
9. **WINDOWS:** The establishment's windows shall remain closed during business hours. **(project specific condition)**
10. **MONITORING:** The applicant (or designated representative of the business) shall regularly monitor the area outside the bar and any nearby parking area and take the appropriate action to pick up litter and ensure peace and quiet. **(project specific condition)**
11. **TRASH DISPOSAL:** All employees shall dispose of waste or recyclables in the trash enclosure area on-site. Employees shall not dispose of waste or recyclables in the trash enclosure area prior to 8:00 a.m. or after 11:00 p.m. **(project specific condition)**
12. **SECURITY:** As deemed necessary by the Chief of Police, the applicant shall provide security staff to the satisfaction of the Chief of Police. **(project specific condition)**
13. **DOWNTOWN GOOD NEIGHBOR POLICY:** The applicant (or designated representative of the business) shall adhere to a "good neighbor" policy, meaning that the applicant/business representative/employees must respect the rights of neighboring properties and be aware of the impact of customers leaving late at night and their potential disturbance of residential neighbors. The applicant/business representative/employees shall:
 - a. Ensure the patrons comply with the noise, parking, and outdoor smoking area requirements; and
 - b. Pick up litter created by the business and the patrons on a regular basis in front of the business and by the adjacent neighboring businesses and residences, and, if needed, request City staff's assistance with enforcement on neighboring private properties; and

- c. Ensure the patrons do not loiter in front of the business and by adjacent neighboring businesses and residences, and, if needed work with City staff regarding the installation of enforceable no loitering signage; and
 - d. Post signage near exit doors alerting patrons to residential neighbors. (**project specific condition**)
14. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL: The applicant shall obtain all necessary approvals from the Department of Alcoholic Beverage Control (ABC) prior to operation. (**project specific condition**)
 15. TRAINING FOR INTERVENTION PROCEDURES: Prior to the start of employment, employees that serve alcohol shall undergo an alcohol training program, such as TIPS (Training for Intervention Procedures), designed to prevent intoxication, underage drinking, and drunk driving. (**project specific condition**)
 16. SMOKING: The business shall comply with Chapter 9.24 (Smoking in Public and Work Places). The applicant shall provide a designated smoking area including ash/cigarette receptacle and related directional signage, if deemed necessary by the Director of Community Development after the business is in operation based on customer demand and/or complaints received from adjacent property owners/tenants regarding smoking. (**project specific condition**)
 17. MAINTENANCE: The applicant shall maintain the subject property or if applicable, the area surrounding the tenant space, in a clean and orderly manner at all times.
 18. MODIFICATIONS: If additional hours of operation or activities beyond what is stated in the "Approved Plans" are desired, prior City review and approval is required. The Director of Community Development may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
 19. CONDITIONAL USE PERMIT REVIEW – DOWNTOWN HOSPITALITY AREA: If the operation of this use results in conflicts pertaining to parking, interior or exterior noise, traffic/circulation, or other factors verified by City Code Enforcement staff, then notification of conditional use permit and noise standard violations verified by City Code Enforcement staff shall be provided to the Planning Commission by City staff; the Planning Commission may schedule a public hearing to re-review the conditional use permit; and at the public hearing the Planning Commission may revoke or may modify the conditional use permit to require additional measures such as noise monitoring by the business owner if there was a noise violation.
 20. OUTDOOR STORAGE: There is to be no outdoor storage without prior approval by the City.
 21. SIGNAGE: This approval does not include approval of any signage. If signs are desired, the applicant shall submit a sign proposal to the Planning Division for review and approval prior to sign installation.
 22. EXTERIOR CHANGES: Changes to the exterior of the building shall not be made without prior approval from the Planning Division.
 23. RELOCATION: If the applicant wishes to relocate the use to a new address or tenant suite, the applicant shall secure a new conditional use permit prior to occupying the new building or tenant space.

24. **IMPACT FEES:** The applicant shall pay the required sewer fees, traffic impact fees, and all other fees the proposed use may be subject to prior to building permit issuance. The type and amount of the fees shall be those in effect at the time the building permit is issued.
25. **BUILDING PERMIT:** Any tenant improvement plans shall be submitted to the Building and Safety Division for review and approval prior to operation. The applicant shall obtain a building permit prior to commencement of any work.

End