

DECISION NO. 1775-18

A DECISION OF THE ZONING ADMINISTRATOR OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-145-2018.

BE IT RESOLVED that the Zoning Administrator of the City of Garden Grove does hereby approve Conditional Use Permit No. CUP-145-2018 for a parcel of land located on the east side of Euclid Street, south of Acacia Parkway, at 12900 Euclid Street (Container Nos. C-110 & C-115), Assessor's Parcel No. 090-164-37.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-145-2018, the Zoning Administrator of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Beachwood Blendery, LLC (Attn: Gabe Gordon).
2. A request for Conditional Use Permit (CUP) approval to operate a new brew pub/wine-tasting establishment, Beachwood Brewing, located at 12900 Euclid Street, C-110 and C-115 (Assessor's Parcel No. 090-164-37), within a food-focused multi-tenant development, known as SteelCraft, which is comprised of recycled and re-purposed metal shipping containers. Beachwood Brewing will operate with a new State Alcoholic Beverage Control (ABC) Type "23" (Brew Pub/Micro-Brewery) License, which allows for on-sales and off-sales of beer and wine.
3. The City of Garden Grove has determined that this project is exempt pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act.
4. The property has a General Plan Land Use Designation of Civic Center Mixed Use, and is zoned CC-3 (Civic Center Core). The subject property is currently a 1.86-acre vacant City-owned lot, located on the east side of Euclid Street, south of Acacia Parkway.
5. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
6. Report submitted by City Staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on November 15, 2018, and all interested persons were given an opportunity to be heard.
8. The Zoning Administrator gave due and careful consideration to the matter at its meeting on November 15, 2018, and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Zoning Administrator, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The subject property is currently a 1.86-acre vacant City-owned lot, located on the east side of Euclid Street, south of Acacia Parkway. The property has a General Plan Land Use Designation of Civic Center Mixed Use and is zoned CC-3 (Civic Center Core). The property is adjacent to the Community Center Park, the Garden Grove Fire and Police Departments, City Hall, and various office buildings with CC-3 zoned properties to the east, south, and to the west, across Euclid Street, and CC-OS (Civic Center – Open Space) zoned properties to the north, across Acacia Parkway.

In 1977, the Garden Grove Planning Commission approved Site Plan No. SP-188-77, to allow the construction of an approximately 10,940 square foot restaurant pad building on the subject property. In 1978, the newly constructed building was occupied by a restaurant, Black Angus Steakhouse, until it closed its business in 2002, and remained vacant following its closure. In 2014, a demolition permit was obtained and all existing improvements were removed from the property. The property has remained vacant ever since.

In November of 2017, the City of Garden Grove approved Site Plan No. SP-044-2017, Variance No. V-017-2017, and Conditional Use Permit No. CUP-116-2017, which allowed the development a food-focused multi-tenant project, known as SteelCraft, which included a proposal to construct a new 9,532 square foot two-story building, consisting primarily of recycled and re-purposed metal shipping containers, along with other associated site improvements. Additionally, a Variance was approved to allow a deviation from the maximum setback requirement, along the Euclid Street frontage, and from the minimum ground floor height requirement for commercial ground floor spaces. And finally, a Conditional Use Permit was approved to allow entertainment and/or alcohol sales or consumption within the communal dining areas of the SteelCraft development. SteelCraft will house approximately fourteen (14) businesses including local craft food and dessert eateries, a coffee shop, communal outdoor dining areas, along with a brew pub/micro-brewery, and a wine-tasting establishment/craft wine vendor (Beachwood Brewing).

At this time, the SteelCraft development (shell) is currently under construction, which includes approximately twenty (20) shipping containers ranging between 20 foot to 40 foot in length, and at 8-foot widths, along with various other site improvements (i.e., landscaping, parking lot, lighting, etc.). Additionally, the tenant improvement plans for the containers are currently in plan check with the City, and permit issuances are anticipated in the near future.

The establishment is located in a high-crime district, in an area with an under-concentration of Alcoholic Beverage Control (ABC) on-sale Licenses, and an even-concentration of ABC off-sale Licenses. A summary of the district is as follows:

- The subject site is located in Crime Reporting District No. 124.
- The crime count for the District is 605.
- Average crime count per district in the City is 176.
- A District is considered high when it exceeds the Citywide average by 20%.
- The subject District has a crime count of 244% above the Citywide average; therefore, it is considered a high-crime area.
- The subject site is located in Alcoholic Beverage Control (ABC) Census Report District No. 886.02.
- An ABC Type "23" (Brew Pub/Micro-Brewery) License authorizes the same privileges and restrictions as an ABC Type "01" License, which, in part, allows for the sale of beer to consumers for both on- or off-site consumption.
- ABC Census Reporting District No. 886.02 allows for five (5) on-sale licenses within the District. Currently, there are three (3) on-sale licenses in the district. Approval of this ABC Type "23" License will increase the number of on-sale licenses in the district by one (1), thereby increasing the total number of on-sale ABC licenses in the district to four (4).
- ABC Census Reporting District No. 886.02 allows for two (2) off-sale licenses within the District. Currently, there are two (2) off-sale licenses in the district. Approval of this ABC Type "23" License will increase the number of off-sale licenses in the district by one (1), thereby increasing the total number of off-sale ABC licenses in the district to three (3).

FINDING OF PUBLIC CONVENIENCE OR NECESSITY

A finding for public convenience or necessity would have to be made in order to approve an establishment that is requesting a new original Alcoholic Beverage Control license that is located within a district with a high crime rate and/or in an area with an over-concentration of ABC licenses. California Business and Professions Code Section 23817.5 prohibits the ABC from issuing new alcoholic licenses in areas of over-concentration. Business and Professions Code Section 23958 states:

The department further shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4.

Business and Professions Code Section 23958.4 provides the following exception:

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

Although the establishment is located in a high-crime area with an under-concentration of on-sale ABC licenses and an even-concentration of off-sale ABC licenses, Staff is able to support a finding for public convenience or necessity given the potential community benefit through the addition of an ABC Type "23" license, which would enhance the overall dining experience for patrons of the SteelCraft establishment, which includes several food/dining vendors. The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. The conditions of approval will minimize potential impacts to the adjoining area. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

SteelCraft will house approximately fourteen (14) businesses, which will include several local craft food and dessert eateries, where an assortment of foods normally offered in restaurants will be served, during all hours that SteelCraft is open. Although Beachwood Brewing, under an ABC Type "23" License, is not required to serve food or operate as a bona-fide public eating place (i.e., restaurant), it is anticipated that the sale of alcohol from its operation will be incidental to and accompany the sale and consumption of food sold from other food tenants within SteelCraft.

The Community and Economic Development Department and the Police Department have reviewed the request and are in support of the proposal. All recommended conditions of approval for an ABC Type "23" (Brew Pub/Micro-Brewery) License will apply.

FINDINGS AND REASONS:

1. That the proposed use will be consistent with the City's adopted General Plan and redevelopment plan.

The subject site has a General Plan Land Use Designation of Civic Center Mixed Use and is zoned CC-3 (Civic Center Core). Brew pubs/wine-tasting establishments are conditionally permitted in this zone. This approval will allow the brew pub/wine-tasting establishment to operate with an ABC Type "23" (Brew Pub/Micro-Brewery) License for on-sales and off-sales of beer and

wine. Provided that the conditions of approval are complied with, the use will be consistent with the General Plan.

2. That the requested use at the location proposed will not: adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding area, or unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site, or jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare.

The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. SteelCraft will house approximately fourteen (14) businesses, which will include several local craft food and dessert eateries, where an assortment of foods normally offered in restaurants will be served, during all hours that SteelCraft is open. Although Beachwood Brewing, under an ABC Type "23" License, is not required to serve food or operate as a bona-fide public eating place (i.e., restaurant), it is anticipated that the sale of alcohol from its operation will be incidental to and accompany the sale and consumption of food sold from other food tenants within SteelCraft.. The brew pub/wine tasting establishment will operate with hours of operation that are within the allowances of the SteelCraft establishment, which are permitted between 6:00 a.m. to 12:00 a.m., seven (7) days a week. The conditions of approval will minimize potential impacts to the adjoining area. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

The use will not unreasonably interfere with the use, enjoyment or valuation of the property of other persons located within the vicinity of the site, provided the conditions of approval are adhered to for the life of the project. All applicable requirements under the approval of the Conditional Use Permit for the overall SteelCraft development (Conditional Use Permit No. CUP-116-2017), including any additional Conditions of Approval as part of this Conditional Use Permit (CUP-145-2018) will apply to the Beachwood Brewery operation.

3. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title or as is otherwise required in order to integrate such use with the uses in the surrounding area.

As a tenant of SteelCraft, Beachwood Brewing's customers will utilize the outdoor communal dining areas within the enclosed confines of the SteelCraft development. The overall SteelCraft development was approved under separate entitlements (Site Plan No. SP-044-2017, Variance No. V-017-2017,

and Conditional Use Permit No. CUP-116-2017) wherein at that time, the site, with the existing and proposed site improvements and modifications, was found to be of adequate size to accommodate the proposed uses, including the Beachwood Brewing tenant, within the surrounding area. All applicable requirements under the approval of the Conditional Use Permit for the overall SteelCraft development (Conditional Use Permit No. CUP-116-2017), including any additional Conditions of Approval as part of this Conditional Use Permit (CUP-145-2018) will apply to the Beachwood Brewery operation.

4. That the proposed site is adequately served: by highways or streets or sufficient width and improved as necessary to carry the kind and quantity of traffic such as to be generated, and by other public or private service facilities as required.

The site is adequately served by the main public streets, Euclid Street and Acacia Parkway. The site is also adequately served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities.

INCORPORATION OF FACTS AND REASONS SET FORTH IN STAFF REPORT

In addition to the foregoing, the Zoning Administrator incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Zoning Administrator does conclude:

1. Conditional Use Permit No. CUP-145-2018 does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030 (Conditional Use Permits) and 9.16.020.080 (Alcoholic Beverage Sales).
2. In order to fulfill the purpose and intent of the Municipal Code, and thereby promote the health, safety, and general welfare, the following conditions of approval, attached as Exhibit "A", shall apply to Conditional Use Permit No. CUP-145-2018.

Dated: November 15, 2018



ALLISON WILSON
ZONING ADMINISTRATOR

EXHIBIT "A"

Conditional Use Permit No. CUP-145-2018

12900 Euclid Street (C-110 & C-115)
(Assessor's Parcel No. 090-164-37)

CONDITIONS OF APPROVAL

General Conditions

1. The applicant shall execute a "Notice of Agreement with Conditions of Approval and Discretionary Permit of Approval," as prepared by the City Attorney's Office. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to each of the following: the project applicant, SteelCraft Garden Grove, L.P., the developer of the project, the tenants(s) of the property, future transferees of the property from the City of Garden Grove, and each of their respective successors and assigns. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any changes of the Conditions of Approval require approval by the Planning Commission, except as otherwise provided herein.
2. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications which do not change the intent of the project may be approved by the Community and Economic Development Director.
3. Minor modifications to these Conditions of Approval may be approved by the Community and Economic Development Director, in his or her discretion. The approved site plan, floor plan, and use of the subject property, as represented by the Applicant, are an integral part of the decision approving this Conditional Use Permit. Proposed modifications to the floor plan, site plan, the project, these Conditions of Approval, or other related changes that result in the intensification of the project or create impacts that have not been previously addressed, determined by the Community and Economic Development Director not to be minor in nature shall be subject to approval of new and/or amended land use entitlements by the applicable City hearing body.
4. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

FINAL

Public Works Water Services Division

5. The applicant shall install reduced pressure principal devices per City Standard B-770 on the domestic and irrigations supply lines. Any carbonation dispensing equipment shall have an internal stainless steel RPPD device. Installation shall be per City Standards and shall be tested by a certified backflow device tester immediately after installation. Cross connection inspector shall be notified for inspection after the installation is completed. Owner shall have RPPD device tested once a year thereafter by a certified backflow device tester and the test results to be submitted to Public Works, Water Services Division. The applicant must open a water account upon installation of RPPD device.
6. If fire service is required, the applicant shall install a fire service connection per City Standard B-773 with a FDC. Fire service shall have above ground backflow device with a double check valve assembly. Device shall be tested immediately after installation and once a year thereafter by a certified backflow device tester and the results to be submitted to Public Works, Water Services Division. Device shall be on private property and is the responsibility of the applicant. The above ground assembly shall be screened from public view as required by the Planning Division.
7. Any new or existing water valve located within new concrete driveway or sidewalk construction shall be reconstructed per City Standard B-753.
8. The applicant shall camera the existing sewer lateral to determine its condition, and if it is not used it needs to capped and plugged at the right-of-way. If needed, the applicant shall install a new manhole connection on the existing 6" sewer main and a new 6" extra strength VCP sewer lateral installed within the sewer main easement.
9. Commercial food use of any type shall require the installation of an approved grease interceptor prior to obtaining a business license.
10. In the event that an approved grease interceptor is not already installed, a properly sized grease interceptor shall be installed on the sewer lateral and maintained by the applicant. There shall be a separate sanitary waste line that will connect to the sewer lateral downstream of the grease interceptor. All other waste lines shall be drained through the grease interceptor. Grease interceptor shall be located outside of the building and accessible for routine maintenance. The applicant shall maintain comprehensive grease interceptor

maintenance records and shall make them available to the City of Garden Grove upon demand.

11. Food grinders (garbage disposal devices) are prohibited per Ordinance 6 of the Garden Grove Sanitary District Code of Regulations. Existing units are to be removed.

Police Department

12. There shall be no gaming tables or gaming machines, as outlined in City Code Sections 8.20.010 and 8.20.050, on the premises at any time.
13. Hours of operation for the brew pub/wine-tasting establishment tenant shall be permitted between 6:00 a.m. to 12:00 a.m., seven (7) days a week. The City of Garden Grove reserves the right to reduce hours of operation of the establishment, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business.
14. Alcoholic beverages shall only be sold and served in cups/containers that are distinct and different than cups/containers of non-alcoholic beverages. In the event there are multiple (more than one) vendors selling and/or serving alcoholic beverages within the SteelCraft establishment, said alcoholic beverages shall only be sold and served in distinctive cups/containers, different than cups/containers of non-alcoholic beverages, and with a logo from the location it has been dispensed from.
15. The business shall show proof to the Police Department that all members of the business staff have completed the LEAD training (Licensee Education on Alcohol and Drugs) through Alcoholic Beverage Control (ABC) or an ABC approved "Responsible Beverage Service (RBS) Training" program.
16. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation up to \$1,000 pursuant to GGMC 1.22.010(a).
17. In the event that an Alcoholic Beverage Control (ABC) License is suspended for any period of time and/or fined for any ABC violation as a result of disciplinary action, the Conditional Use Permit shall be presented to the Hearing Body for review or further consideration.

Community and Economic Development Department

18. The establishment shall be operated as a brew pub/wine-tasting establishment, and within the privileges and restrictions for an Alcoholic Beverage Control (ABC) Type "23" License, as defined by the California Department of Alcoholic Beverage Control. As a tenant of SteelCraft, the brew pub/wine-tasting establishment's customers will utilize the outdoor communal dining areas within the enclosed confines of the SteelCraft development. All applicable requirements under the approval of the Conditional Use Permit for the overall SteelCraft development (under Conditional Use Permit No. CUP-116-2017), including any additional Conditions of Approval included herein, as part of Conditional Use Permit No. CUP-145-2018, will apply to the brew pub/wine-tasting establishment.
19. No storage or displays, outside the enclosed confines of the SteelCraft establishment, shall be permitted at any time.
20. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.16.020.070.
21. The Conditional Use Permit may be called for review by City staff, the City Council, or Planning Commission, if noise or other complaints are filed and verified as valid by the Code Enforcement office or other City department concerning the violation of approved conditions, the Garden Grove Municipal Code, or any other applicable provisions of law.
22. In the event the parking demand generated by the brew pub/wine-tasting establishment, at any given time, causes a nuisance, hindrance, and/or problem with parking and/or circulation within the areas on-site, or any adjacent areas off-site, the applicant shall devise and implement a plan approved by the City to relieve the situation.

Upon written request by the City, the applicant shall submit a plan to manage parking issues for review and approval by the Community and Economic Development Department. The plan may include, but is not be limited to: reducing the hours of operation, instituting an off-site parking arrangement; having on-site parking control personnel; and/or others actions that may be deemed applicable to the situation.

If the City's Community and Economic Development Director deems such action is necessary to address parking and circulation problems, such action shall be implemented within 30 days of written notice. Failure to take

FINAL

appropriate action shall be deemed a violation of these Conditions of Approval and may result in the City restricting the overall use of the facility.

23. No roof-mounted mechanical equipment, including exhaust vents, shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community and Economic Development Department, Planning Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
24. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community and Economic Development Department, Planning Services Division. No advertising material shall be placed thereon.
25. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
26. Signs shall comply with the City of Garden Grove sign requirements. No more than 15% of the total window area and clear doors shall bear advertising or signs of any sort. No signs advertising alcoholic beverages shall be placed on the windows. Any opaque material applied to the store front, such as window tint, shall count toward the maximum window coverage area.
27. Any modifications to existing signs or the installation of new signs shall require approval by the Community and Economic Development Department, Planning Services Division prior to issuance of a building permit.
28. A copy of the decision approving Conditional Use Permit No. CUP-145-2018 shall be kept on the premises at all times.
29. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-145-2018, and his/her agreement with all conditions of the approval.
30. The Conditional Use Permit shall be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.
31. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents

Conditional Use Permit No. CUP-145-2018
Conditions of Approval

and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Conditional Use Permit No. CUP-145-2018. The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City, including, but not limited to, any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein.

32. The applicant is advised that if the use of the establishment ceases to operate for more than 90 days, then the existing Conditional Use Permit will become null and void and the new applicant shall be required to apply for a new Conditional Use Permit subject to the approval by the Community and Economic Development Department, Planning Services Division.
33. Unless a time extension is granted pursuant to Section 9.32.030.D.9 of Title 9 of the Municipal Code, the use authorized by this approval of Conditional Use Permit No. CUP-145-2018 shall become null and void if the subject use or construction necessary and incidental thereto is not commenced within one (1) year of the expiration of the appeal period and thereafter diligently advanced until completion of the project.