

DECISION NO. 1787-19

A DECISION OF THE ZONING ADMINISTRATOR OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-167-2019 AND REVOKING CONDITIONAL USE PERMIT NO. CUP-096-2017.

BE IT RESOLVED that the Zoning Administrator of the City of Garden Grove does hereby approve Conditional Use Permit No. CUP-167-2019 and revoke Conditional Use Permit No. CUP-096-2017 for a property located on the west side of Harbor Boulevard, north of Chapman Avenue, at 11931 Harbor Boulevard, Assessor's Parcel No. 233-171-30.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-167-2019, the Zoning Administrator of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Innskeepers Hospitality Management, LLC.
2. The request is for Conditional Use Permit approval to operate an existing 118,908 square foot hotel, Residence Inn Hotel, located at 11931 Harbor Boulevard, with a new State Alcoholic Beverage Control (ABC) Type "47" (On-Sale General, Eating Place) License for a proposed restaurant with a lounge/bar within the existing lobby area.
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 International West Mixed Use, and is zoned Planned Unit Development No. PUD-104-82.
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 October 24, 2019, and all interested persons were given an opportunity to be heard.
8. The Zoning Administrator gave due and careful consideration to the matter during its meeting of October 24, 2019, 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 (Conditional Use Permits), are as follows:

FACTS:

The subject site, approximately 2.73 acres in size, is located in the International West Resort Area, on the west side of Harbor Boulevard, north of Chapman Avenue, between the Hilton Garden Inn and Hyatt Regency Orange County. The property has a General Plan Land Use designation of International West Mixed Use and is zoned Planned Unit Development No. PUD-104-82. The 118,908 square foot hotel was approved on December 6, 2001 under Site Plan No. SP-300-01, as a 200-room, eight-story hotel facility. The first floor of the building consists of the main lobby, front desk, registration area, a gift shop, a fitness room, meeting rooms, a kitchen, indoor and outdoor dining areas, guest laundry room, a game room, a hotel laundry facility, and guest rooms. The remaining floors of the hotel contain guest rooms.

The subject property fronts Harbor Boulevard, with driveway ingress and egress to the public parking area off Harbor Boulevard. The property abuts PUD-104-82 zoned properties to the south and west, PUD-118-98 zoned properties to the north, and commercially zoned properties to the east across Harbor Boulevard in City of Anaheim.

The applicant is requesting approval of a Conditional Use Permit to sell and serve beer, wine, and distilled spirits in a proposed restaurant with a lounge/bar and within the existing lobby area of the Residence Inn Hotel under a new State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Eating Place) License. A Type "47" license allows the sale of beer, wine, and distilled spirits for consumption on the premises, but the establishment must operate as a bona fide eating place, and must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. The proposed restaurant, operated by the hotel, will offer food to customers consisting of appetizers, and entrees, such as sandwiches, burgers, salads, and pizza.

The proposed restaurant with a lounge/bar within the existing lobby area, approximately 900 square feet in size, will be located directly to the left of the main entrance to the hotel, on the north side of the building, and the existing gift shop will be converted to storage space for the alcohol. As part of the approval, the consumption of alcohol will be allowed in the fenced-off pool area, which is located directly outside, south of the remaining lobby area. No other floor plan changes are being proposed as part of the application, and the sale and service of alcohol will be limited to the lounge/bar and restaurant area only. The proposed hours of operation are from 7:00 a.m. until 12:00 a.m., seven (7) days a week.

Planned Unit Development No. PUD-104-82 requires a Conditional Use Permit for restaurants that serve alcoholic beverages, which are required to operate under an ABC License.

The Community and Economic Development Department and the Police Department have reviewed the request and support the proposal. All standard conditions of approval for an ABC Type "47" License will apply.

The existing hotel is located in a high-crime district, and in an area with an over-concentration of Alcoholic Beverage Control Licenses. A summary of the district is as follows:

- The subject site is located in Crime Reporting District No. 143.
- The crime count for the District is 138.
- Average crime count per district in the City is 97.
- A District is considered high when it exceeds the Citywide average by 20%.
- The subject District has a crime count of 42% above the Citywide average; therefore, it is considered a high-crime area.
- The subject site is located in Alcoholic Beverage Control Census Report District No. 884.02.
- ABC Census Reporting District No. 884.02 allows for six (6) on-sale licenses within the District. Currently, there are eighteen (18) on-sale licenses in the District. The approval of this CUP will increase the number of on-sale ABC Licenses in the District to nineteen (19).

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 23817.7 provides the following exception:

(a) Notwithstanding Section 23817.5, the department may approve an application for an on-sale, public place license in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

(1) The applicant premises are located in a crime-reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4.

(2) The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

(3) The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body determines that public convenience or necessity would be served by the issuance.

Furthermore, California Business and Professions Code Section 23958 states the following:

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

California Business and Professions Code Section 23958.4(b) provides the following exception:

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

(1) With respect to a nonretail license, a retail on-sale bona fide eating place license, a retail license issued for a hotel, motel, or other lodging establishment, as defined in subdivision (b) of Section 25503.16, a retail license issued in conjunction with a beer manufacturer's license, or a winegrower's license, if the applicant shows that public convenience or necessity would be served by the issuance.

(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 ninety (90) days of notification of a completed application that public convenience or necessity would be served by the issuance. The ninety (90)-day period shall commence upon receipt of 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.

ABC Census Reporting District No. 884.02 shows the subject site to be located in a high-crime area with an over-concentration of on-sale State ABC licenses. Staff is supportive of the request for a new original State ABC Type "47" (On-Sale, General, Eating Place) License. A finding of public convenience or necessity is warranted given the potential community benefit through the addition of a State ABC Type "47" License, which would provide an additional amenity that would enhance the experience at Residence Inn Hotel. 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.

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 International West

Mixed Use and is zoned Planned Unit Development No. PUD-104-82. The sale and service of alcoholic beverages is a conditionally permitted use in subject Planned Unit Development No. PUD-104-82. This approval will allow the Residence Inn Hotel to operate a restaurant with a lounge/bar within the existing lobby area with an ABC Type "47" (On-Sale, General, Eating Place) License. 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 restaurant will be located within the existing lobby area of an existing hotel and the sale and service of alcoholic beverages will only be allowed within the restaurant and a lounge/bar area, and within the fenced off pool area. Therefore, 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.

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. The surrounding vicinity is improved with hotels and restaurants. Therefore, by operating as a restaurant with a lounge/bar within the existing lobby area of the hotel, the use will be compatible with the surrounding uses.

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.

The site, with the existing site improvements, is of adequate size to accommodate the proposed uses within the surrounding area. Modifications are not being proposed to existing yards, walls, fences, parking, loading area, or landscaping. The proposed modification are limited to the interior of the hotel.

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 fronts Harbor Boulevard, which is a fully developed street that provides adequate traffic circulation. The driveway ingress and egress to the public parking area is off Harbor Boulevard. The site is also sufficiently served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities. Site improvements that will affect traffic circulation, or public and private facilities, are not being proposed.

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. The Conditional Use Permit does possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030 (Conditional Use Permits).
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-167-2019.

Dated: October 24, 2019



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ALLISON WILSON  
ZONING ADMINISTRATOR