

RESOLUTION NO. _____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA APPROVING A CATEGORICAL EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING A CONDITIONAL USE PERMIT CUP24-0022 TO ALLOW THE SALE OF ALCHOLIC BEVERGAES, INCLUDING TASTING AND EDUCATION, WITHIN AN EXSITING 20,173-SQUARE FOOT RETAIL BUILDING LOCATED WITHIN THE VILLAGE CENTER (VC-3) OF THE EASTLAKE II SECTIONAL PLANNING AREA

WHEREAS, on November 15, 2024, a duly verified application for a Conditional Use Permit (“CUP”) was filed with the City of Chula Vista Development Services Department by California Fine Wine and Spirits, LLC (“Applicant”); Thrifty Payless, Inc. WEC 98G-3, LLC is the property owner (“Property Owner”); and

WHEREAS the area leased by the Applicant, which is the subject of this Resolution, is a portion of an existing commercial shopping center, identified by Assessor’s Parcel Number 595-322-21, and otherwise known as 2230 Otay Lakes Road (“Project Site”); and

WHEREAS the Applicant requests approval of a CUP for the retail sale of alcohol for offsite consumption and for onsite tastings (“Project”); and

WHEREAS, in accordance with Section III.B.33 of the Eastlake II Planned Community District Regulations, liquor stores are permitted in the Village Center (VC-3) zone with a CUP approved by the Planning Commission; and

WHEREAS the Director of Development Services has reviewed the proposed Project for compliance with the California Environmental Quality Act (“CEQA”) and determined that the Project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, and no exceptions to the Categorical Exemption exist pursuant to CEQA Guidelines section 15300.2; and

WHEREAS the Director of Development Services set the time and place for a hearing before the Planning Commission, and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City and its mailing to property owners within 500 feet of the exterior boundaries of the property at least ten (10) days prior to the hearing; and

WHEREAS the hearing was held at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, before the Planning Commission, the Planning Commission heard Staff’s presentation and any public tesitmony, and the hearing was thereafter closed; and

WHEREAS City staff recommends that the Planning Commission approve CUP 24-0022; and

WHEREAS the Planning Commission reviewed and considered the Staff Report and related materials for the CUP, as well as other Project materials, in accordance with all City codes and requirements,

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Chula Vista that, after incorporation of the Recitals above, it hereby makes the following findings:

1. The proposed Project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, and no exceptions to the Categorical Exemption exist pursuant to CEQA Guidelines section 15300.2.
2. **That the proposed use at this particular location is necessary or desirable to provide a service or facility that will contribute to the general wellbeing of its neighborhood or the community.**

The proposed use will add to the vibrancy of the shopping center by occupying a currently vacant space. Further, Total Wine & More is a destination retailer that will create sales tax revenues for the City, which will ultimately contribute to the general wellbeing of the community.

3. **That such use will not, under the circumstances of this particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, nor will it be injurious to property or improvements in the vicinity.**

The Applicant has committed to providing employee training, surveillance cameras, and fiscal incentives to prevent alcohol sales to minors. All necessary building permits will comply with the applicable provisions of the California Building and Fire codes, and the hours of operation, including the sale of alcoholic beverages, will be limited to the hours between 8:00 AM and 10:00 PM Monday through Saturday and between 8:00 AM and 9:00 PM on Sunday. Additionally, the Chula Vista Police Department will monitor compliance with the conditions of the required Type 21, 42, and 86 licenses that the Applicant must obtain from the California Department of Alcoholic Beverage Control (“ABC”).

4. **The proposed use will comply with the regulations and conditions specified in the Eastlake II Sectional Planning Area (“SPA”) Plan and the Chula Vista Municipal Code for such use.**

The Project will adhere to the applicable performance standards set forth in Chula Vista Municipal Code (“CVMC”) Chapter 19.66. Additionally, the proposed conditions of this permit are in proportion to the nature and extent of the impact(s) created by the use in that the conditions imposed are directly related to, and of a nature and scope related to, the size and impact(s) of the use. Approval of this CUP is contingent on the Applicant’s and Property Owner’s commitment to satisfy all conditions of approval for the proposed use and will comply with all applicable regulations.

5. Granting this permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The General Plan designates the site as Retail Commercial (“CR”). This Project, as approved by a CUP pursuant to the Eastlake II SPA Plan, is consistent with CR permitted land uses. The Project is consistent with the General Plan land use designation and will not adversely affect implantation of the General Plan.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Chula Vista, based on the findings above, that it hereby approves CUP24-0022 subject to the following conditions (enforcement responsibility indicated by bold headings):

Police Department

1. Before operations, Applicant shall obtain Type 21, 42, and 86 licenses from the ABC. All operations of the Project shall fully conform with the Type 21, 42, and 86 licenses from the ABC as maintained and renewed.
2. Beer, malt beverages, and wine coolers in containers of 16 ounces or less cannot be sold in chilled single containers but must be sold in manufacturer pre-packaged multi-unit quantities.
3. No loitering shall be allowed near the entrance/exit of the business.
4. Signs must be posted at all exits, advising customers that loitering and open containers of alcohol are prohibited outside of the business.
5. The Applicant shall police the area under their control to prevent loitering of persons about the premises.

Planning Division

6. Except for signage that includes the applicant’s business or trade name, there shall be no other exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
7. The Applicant shall remove graffiti on the building they occupy after actual notice of the same.
8. Sale (including product tasting and education) of alcoholic beverages inside the premises shall be permitted only between the hours of 8:00 AM and 10:00 PM Monday through Saturday and between 8:00 AM and 9:00 PM on Sunday.
9. Class attendance for all wine education classes is limited to the number of seats listed in this permit.

10. The Applicant shall execute this permit only as the authorized use. Any new use or modification/expansion of uses shall be subject to review and approval by the Zoning Administrator.
11. This permit may be reviewed by the Zoning Administrator fifteen (15) years from the date of approval (February 26, 2040) for compliance with the conditions of approval and the applicable codes and regulations in effect at the time of this approval, as well as the conditions of the then effective Type 21, 42, and 86 licenses from the ABC. If reviewed, the Zoning Administrator shall determine, in consultation with the Applicant, whether this permit shall be modified from its original approval or revoked for noncompliance with the original approval, or whether another Conditional Use Permit shall be required. If such review is required, the Zoning Administrator shall determine the timeline for review.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Chula Vista that the following general conditions shall apply to the Project Site for as long as it relies upon this approval:

1. The Applicant shall maintain the Project Site in accordance with the approved plans for CUP24-0022, which include a site plan and floor plans on file with the Development Services Department. The Project shall also maintain compliance with the conditions contained herein and Title 19 of the CVMC.
2. Approval of this permit shall not waive compliance with any provisions of the CVMC nor any other applicable laws and regulations in effect at the time of permit issuance.
3. The Applicant and Property Owner shall and do hereby agree to timely and fully indemnify, protect, reimburse, defend, and hold harmless the City, its City Council members, Planning Commission members, officers, employees, and representatives from and against any and all liabilities, losses, damages, demands, claims, and costs, including any costs, fees, and expenses to prepare the administrative record for any challenge to the Project approvals and/or compile a response to a Public Records Act request(s) to provide the record of proceedings materials for the Project, the City's costs to retain its own defense counsel to defend any challenge to any Project-related approvals, court costs and attorney fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from (a) the City's approval and issuance of this permit and (b) the City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and the Applicant shall acknowledge their agreement to this provision by executing a copy of this permit where indicated below. The Applicant and Property Owner's compliance with this provision is an express condition of this permit and shall be binding on any and all of the Applicant/operator's successors and assigns.

GOVERNMENT CODE SECTION 66020(d)(1) NOTICE

Pursuant to Government Code Section 66020(d) (1), NOTICE IS HEREBY GIVEN that the 90-day period to protest the imposition of any impact fee, dedication, reservation, or other exaction

described in this Resolution begins on the effective date of this Resolution, any such protest must be in a manner that complies with Government Code Section 66020(a), and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void, or annul imposition. The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this Project, and it does not apply to any fees, dedication, reservations, or other exactions which have been given notice similar to this, nor does it revive challenges to any fees for which the statute of limitations has previously expired.

EXECUTION OF RESOLUTION OF APPROVAL

The Property Owner and Applicant shall execute this document signing on the lines provided below, indicating that the Property Owner and Applicant have each read, understood, and agreed to the conditions contained herein and will implement the same. Upon execution, this document shall be signed and returned to the City’s Development Services Department.

Thomas Haubenstricker
for California Fine Wine and Spirits, LLC
(Applicant)

Date

James Craig
for WEC 98G-3 LLC
(Property Owner)

Date

CONSEQUENCE OF FAILURE OF CONDITIONS

If any of the foregoing conditions fails to be met, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fails to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted; deny or further condition issuance of all future building permits; deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted; institute and prosecute litigation to compel their compliance with said conditions; or seek damages for their violation. Failure to satisfy the conditions of this permit may also result in the imposition of civil or criminal penalties.

INVALIDITY; AUTOMATIC REVOCATION

It is the intention of the Planning Commission that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision, and condition herein stated and that in the event that any one or more terms, provisions, or conditions is determined by a Court

of competent jurisdiction to be invalid, illegal, or unenforceable, this Resolution and the permit shall be deemed to be automatically revoked and of no further force and effect.

Presented by:

Approved as to form by:

Robert A. Vacchi
Interim Director of Development Services

for Marco A. Verdugo
City Attorney

PASSED AND APPROVED BY THE PLANNING COMMISSION OF THE CITY OF CHULA VISTA, CALIFORNIA, this 26th day of February 2025, by the following vote, to-wit;

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael De La Rosa, Chair

ATTEST:

Mariluz Zepeda, Secretary