

ARTICLE 17, PART I

CONDITIONAL USE PERMITS

17.01 PURPOSE

The purpose of a conditional use permit is to provide sufficient flexibility in the use regulations in order to further the objective of this Ordinance. Certain types of land uses require special consideration in a particular zone or in the City as a whole because they possess unique characteristics or present special problems which make automatic inclusion as permitted uses either impractical, or undesirable. For such uses a conditional use permit may be granted provided such use would not be detrimental to the adjoining properties, and is in consistency with the particular zone and underlying General Plan. For such uses certain safeguards and conditions may be required to protect the public health, safety convenience, and general welfare.

17.02 GENERAL PROVISIONS

- A. Approval of a conditional land use shall not constitute a change of zoning classification and shall be granted by the Planning Commission for the specific use requested subject to such reasonable modification, conditions and restrictions as may be determined by the Planning Commission or as specifically provided herein.
- B. A conditional land use permit shall be required for all uses listed as conditional uses in the zone regulations, or elsewhere in this Zoning Law.
- C. Alcoholic Beverages Sales: Any use that engages in on or off sale alcoholic beverages and that is required to operate under a state Alcoholic Beverage Control (ABC) license, except restaurants as described in Section 9.00 (37), supermarkets, major discount retail stores, or florist shops which include the incidental sale of wine with gift or floral baskets, shall be subject to the approval of a conditional use permit including:
 - 1. An application for an original or new ABC license, including for otherwise permitted or conditionally permitted uses
 - 2. Any change in the type of existing ABC license
 - 3. Premise to premise transfer of an existing ABC license

4. Any increase in the floor area in an ABC licensed establishment
5. Any change in operating conditions from what was originally imposed by the City or ABC, including but not limited to any change of hours of operation or entertainment
6. A request to establish live entertainment or dancing in an ABC licensed establishment
7. Any ABC licensed establishment that has its license revoked, suspended or surrenders its license to ABC or discontinues use of the license for 30 days or has its conditional use permit revoked or vacates the property, will be required to file and have approval a new Conditional Use Permit before reestablishing the use
8. Any ABC licensed establishment not previously possessing a conditional use permit when there is an ownership change

17.03 PROCEDURE

A. Application

Application for a conditional use permit shall be filed with the Planning Department on a form prescribed by the Planning Department and shall include the following data and exhibits:

1. Name and address of the applicant.
2. Statement that the applicant is the owner or the authorized agent of the owner of the property on which the use is proposed to be located.
3. Address and legal description of the property.
4. A statement, together with maps, site plans, charts, diagrams, renderings, and other data or exhibits to clearly indicate and define the intended use of the property and its relationship to adjacent properties. Such statement and accompanying exhibits shall indicate the manner of compliance with all applicable provisions of the Ordinance.
5. The names and addresses of all owners of real property within a distance of three hundred (300) feet from the exterior boundary limits of the property involved in said application as appears in the current records of the Riverside County Assessor.

B. Application in Conjunction with related actions.

Application for a use permit may be made at the same time as application for, but not limited to, zone changes, condominium and condominium conversions pertaining to the same property in which case the Commission shall hold the public hearing on the use permit and the related application at the same meeting and may combine the two hearings. For the purpose of this section the date of the Commission decision on the use permit application shall be deemed to be the same as the date of enactment by the City Council as may be required for the related action.

C. Fees

The application for Conditional Use Permit and/or related cases shall be accompanied by appropriate fees established by the City Council. The purpose of the fees is to defray the costs incidental to the handling and proceedings of the applications.

D. Staff Investigation

The Planning Department shall make an investigation of the application to provide the information required for action and shall report the findings to the Commission.

17.04 DEVELOPMENT STANDARDS for uses which include on-sale and/or off-sale alcohol for which a conditional use permit is required

1. The business shall not be located within six (600) hundred feet of a public or private school (preschool thru 12th grade), church, public park, youth facility or other similar use.
2. The business shall not be located within one hundred (100) feet of any existing residential dwelling or property zoned for residential uses as measured from any point upon the exterior walls of the building or building lease space containing the business to the nearest property line of the residential zoned property.
3. A use proposing to include an off-sale ABC license shall be located a minimum distance of one thousand (1000) feet from any existing business with an off-sale ABC license
4. No sale of alcoholic beverages shall be made from a drive-thru lane or drive-thru window

5. A use proposing to include an off-sale ABC license shall be in a location that is fully visible from a public street with an unobstructed view from the public street
6. The business shall have lighting to provide illumination for security and safety of parking and access areas
7. Off-site alcohol sale premise shall post a sign to indicate that it is unlawful for any person to consume alcoholic beverages in any public place or where posted
8. The business shall be operated in such a manner that sound emitting from the premises shall not be audible beyond the boundaries on which it is located or from penetrating into adjoining lease spaces
9. The Planning Commission may establish such other conditions it deems necessary to carry out the hours of operation, including but not limited to requiring adequate security and safety measures, lighting, parking and noise buffers.
10. The Planning Commission or, upon appeal, the City Council, may grant variances from the development standards of this section. However, such requests shall increase the property notification requirements from a three hundred (300) foot radius to a one thousand (1000) foot radius from the subject property

17.05 PLANNING COMMISSION HEARING

A. Public Hearing

The Commission shall hold at least one public hearing on each application for a conditional use permit.

1. Notification of the public hearing shall be by mailing a notice not less than ten (10) days prior to the date of such hearing, to the applicant and to the owners of all property within at least three hundred (300) feet of the boundaries of the property for which the conditional land use is requested. Failure to send notices by mail to any such property owner, where the address of such owner is not shown or is different than that shown in the County Assessor's records, shall not invalidate any proceedings in connection with a proposed conditional use.
2. Notice shall be published at least (10) days before said hearing in a newspaper of general circulation published and circulated in the City of San Jacinto or, if there is none, notice shall be published in a newspaper of general circulation, printed and published in the County of

Riverside giving the time, place, purpose and general description of the area affected.

B. Hearing and Review

1. At the public hearing, the commission shall review the application and the accompanying material and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained particularly with respect to the findings prescribed in Section 17.04 (3) of this article.
2. The Planning Commission may continue any matter and may continue any hearing in order to obtain additional information. Persons previously notified need not be notified of the resumption of said hearing unless the Planning Commission so orders.

C. Action by Commission

1. Following the close of a public hearing on a conditional use permit application, the Commission shall act on said application within 30 days. The Commission may grant by resolution a conditional use permit as the permit was applied for or in modified form, or the application may be denied. A conditional use permit may be revocable, may be granted for a limited time period, or may be granted subject to such conditions as the Commission may prescribe. Conditions may include, but shall not be limited to, requiring special yards, open spaces, buffers, fences, and walls; requiring installation and maintenance of landscaping; requiring street dedications and improvements; granted with regulation of points of vehicular ingress and egress; regulation of traffic circulation; regulation of signs; regulation of hours of operation and methods of operation; control of potential nuisance; prescribing standards for maintenance of buildings and ground; and prescription of development schedules.
2. Except as herein prescribed, a conditional use permit may not grant variances to the regulations otherwise prescribed in this ordinance for fences, walls, hedges, screening, and landscaping; site area, width, and depth; front, rear, and side yards; coverage; height of

structures; distances between structures; usable open space; signs; off-street parking facilities and off-street loading facilities, or frontage on a public street. The Commission may consider and grant variances, concurrently with consideration of a conditional use permit, as prescribed by Article 18 (Variances).

3. Findings

The Commission shall make the following findings before granting a conditional use permit:

- a. That the proposed location of the conditional use is in accord with the objectives of this Ordinance and the purposes of the zone in which the site is located.
- 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 properties or improvements in the vicinity.
- c. That the proposed conditional use will comply with each of the applicable provisions of this Ordinance.

3a. For conditional use permits that include on-sale and/or off-sale alcoholic beverages, the Commission shall make the following additional findings:

- d. That the proposed use will not be detrimental to surrounding properties and neighborhoods including, but not limited to, assuring the use does not contribute to loitering, public drunkenness, noise, obstructing pedestrian and vehicular traffic, parking, crime, interference with pedestrian corridors used by children, defacement and damage to structures
- e. The proposed use will not lessen or impact the suitability of adjacent commercially zoned properties for commercial uses
- f. The proposed use will not adversely affect the welfare of residents in the area or result in an undue concentration in the neighborhood of establishments dispensing alcoholic beverages, including beer and wine. For purposes of this subsection, "undue

- concentration” shall be defined as provided in California Business and Profession Code 23958.4
- g. Notwithstanding subsection (f) above, the Planning Commission may grant a conditional use permit despite an undue concentration of establishments dispensing alcoholic beverages, as defined in California Business & Profession Code 23958.4, if the public convenience and necessity would be served by the issuance of the conditional use permit and the use otherwise meets the findings of this section
 - h. The Planning Commission may establish such other conditions it deems necessary to carry out the hours of operation, including but not limited to requiring adequate security and safety measures, lighting, parking and noise buffers.

17.06 EFFECTIVE DATE OF CONDITIONAL USE PERMIT; CITY COUNCIL REVIEW

A. Planning Commission Vote

An action to approve a conditional land use shall require a majority vote of the entire Planning Commission.

B. Ratification of City Council. At the soonest possible time following the date of a decision of the Planning Commission on a conditional use permit application, the City Council shall ratify the decision of the Planning Commission or set the matter for Public Hearing. The decision shall become final immediately following the City Council action or upon the expiration of the prescribed 15 day appeal period, which occurs last, unless the Planning Commission has requested review of its decision. Any permits may be issued the day following the effective or final date of the decision.

17.07 APPEAL TO CITY COUNCIL

A decision of the Planning Commission on a conditional use permit application may be appealed to the City Council by the applicant or any other person aggrieved thereby, and must be submitted within fifteen (15) days in writing together with payment of an appeal filing fee. If the decision of the City Council on an appeal is affirmative, the conditional use permit shall become effective immediately after it is granted.

A. New Application

Following the denial of a conditional use permit application or the revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same site shall be filed within one year from the date of denial or revocation of the permit.

17.08 EXISTING CONDITIONAL USE

A conditional use legally established prior to the effective date of this ordinance or prior to the effective date of subsequent amendments to the regulations or zone boundaries, shall be permitted to continue, provided that it is operated and maintained in accord with the conditions prescribed at the time of its establishment, if any.

17.09 CONDITIONAL USE PERMIT TO RUN WITH THE LAND

Conditional use permit granted pursuant to the provisions of this article shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the conditional use permit application.

17.10 LAPSE OF CONDITIONAL USE PERMIT

A. Conditional use permit issued under the terms of this article shall lapse as follows:

- (1) If no improvements to the real estate concerned are to be made, and the work thereon shall not have been commenced within six months from the date upon which such permit shall have been granted unless by conditions of the permit a different time is allowed; or,
- (2) If improvements to the real estate concerned are to be made, and the work thereon shall not have been commenced within two years from the date upon which such permit shall have been granted unless by conditions of the permit a different time is allowed; or,
- (3) If such work shall have been commenced, the same shall be suspended for a period in excess of 90 days. For

purposes of this ordinance, work shall be deemed to have been commenced at such time as any portion of the on-site improvements shall be placed in or on the real property and affixed thereto in permanent position. Upon application therefore duly made not less than 10 days prior to the lapsing of a permit, the Commission shall have authority to extend the period mentioned in subdivisions (1) and (2) above for an additional period of one year. The Commission shall have the power in its discretion to require a public hearing on any such application for an extension upon such notice as it shall prescribe. In the event the Commission shall deny any such application for extension, the applicant may within 10 days of the decision of the Commission appeal such decision to the City Council and the decision of the City Council thereon shall be final.

17.11 MODIFICATION

Minor modifications or revisions of an approved conditional use permit may be approved by the Commission if it is determined by the Commission that the changes would not affect the findings prescribed in Section 17.04 A (3) (Findings). Modifications or revisions inconsistent with the approved conditional use permit shall be subject to the provisions of this section.

17.12 TEMPORARY CONDITIONAL LAND USE PERMITS

Planning Commission

- a. The Planning Commission may approve structures or uses that are of a temporary nature, valid for a period of up to five (5) years after the date of approval, subject to extension, the amount of time to be determined by the Commission. The Commission is authorized to approve any temporary use or structure it deems appropriate regardless of Section 17.05, subsection "C" 3 a and c of this article. (see the below note).

NOTE: The above referenced section pertains to the findings of approval for a CUP. The two subsections quoted, specifically require conformance to the underlying zone and the zoning ordinance. The intent of this proposal is to allow the Commission to approve temporary uses whether they are consistent with the applicable zone or not.

- b. Notwithstanding Section 17.12 (A) above, the Procedure for approval of a temporary conditional land use shall be identical to the procedure for obtaining conditional land use approval as set forth in this article, including ratification by the City Council. An application for an extension of time of a temporary conditional land use permit shall be filed prior to the expiration date of the original temporary conditional land use permit. The expiration of the temporary conditional land use permit shall be stayed until the Planning Commission determines whether to grant the extension.
- c. The Planning Commission may establish conditions it deems necessary in regard to the proposed use to carry out the intent and purposes of this ordinance.
- d. "D" is deleted in its entirety. See section 17.13 below.

17.13 TEMPORARY LAND USE PERMITS

Director of Community Development

- a. The Director of Community Development may approve structures or uses of a temporary nature, valid for a period of not more than one (1) year after the date of approval, subject to extension, except as noted elsewhere in this section.
- b. The Procedure for approval of temporary land uses subject to this section requires the submittal of the appropriate form, including any exhibits required by the Department of Community Development, accompanied by the appropriate fee.
- c. The Director of Community Development may establish any conditions she/he deem necessary in regard to the proposed use to carry out the intent and purpose of this ordinance.
- d. The Director of Community Development is authorized to grant the following temporary uses:
 - i. Storage of equipment during construction activities.
 - ii. Sales or construction offices used during construction
 - iii. Storage of structures or equipment, including boats & trailers
 - iv. Office and/or storage space
 - v. Agricultural uses
 - vi. Other uses of a temporary nature which are deemed to be similar to those listed above.

ORDINANCE NO. 452, ADOPTED 09-05-67, ORDINANCE NO. 460, ADOPTED 02-04-69
 ORDINANCE NO. 706, ADOPTED 06-07-81, ORDINANCE NO. 1085, ADOPTED 03-01-01
 ORDINANCE NO. 04-17 ADOPTED 09-02-04