

**RESOLUTION No. PC 2022-07**

**A Resolution of the Planning Commission of the  
City of Clearlake Approving a Conditional Use Permit CUP 2021-33 and  
Categorical Exemption, CE 2021-12 for  
Liquor Sales**

WHEREAS Lizbeth Vargas, representative of Delicias Alvarez, applied for approval of a Conditional Use Permit for alcoholic beverage sales (on-site consumption) within an existing established restaurant. The project is located in the CD, Downtown Commercial Zone District located at 14094 Lakeshore Drive, Clearlake, APN 040-033-06; and

WHEREAS, the Planning Commission, on January 25, 2022, concurred with the City Zoning Code Section 18-8 Downtown Commercial (CD) and Section 18-18 Use Regulations, liquor sales are subject to a conditional use permit; and

WHEREAS this use permit application has been made in accordance with Section 18-8 Downtown Commercial (CD) and Section 18-18 Use Regulations of the Zoning Code, as further defined as uses generally allowed; and

WHEREAS the project is Categorical Exempt from Environmental Review in Pursuant to Article 19. Categorical Exemptions of the State California Environment Quality Act (CEQA) Statute and Guidelines under Section 15301. Existing Facilities, Class 1, and,

WHEREAS the use permit application has been processed in accordance with the City's Environmental Review Guidelines; and

WHEREAS adequate public noticing was made for the project in accordance with the Municipal Code; and

WHEREAS the General Plan designates the project site as Commercial. As conditioned, the proposed use would be consistent with the General Plan; and

WHEREAS, in accordance with Section 18-28.040 Findings of the Zoning Code the use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to the property, improvements or potential development in the vicinity with respect to aspects including, but not limited to, the following:

- a) The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures,
- b) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic and the adequacy of proposed off-street parking and loading,
- c) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor,
- d) Treatment given, as appropriate, to such aspects as landscaping, open spaces, parking areas, loading areas, service areas, lighting, and signs.

WHEREAS, with the incorporated conditions of approval, the project complies with the Clearlake Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Clearlake that the project is hereby approved, subject to approved Conditions of Approval

**PASSED AND ADOPTED on this 25th day of January 2022 by the following vote:**

<b>Planning Comissioners</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Chair Lisa Wilson				
Vice Chair Robert Coker				
Commissioner Fawn Williams				
Commissioner Erin McCarrick				
Commissioner Terry Stewart				

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Chairman, Planning Commission

ATTEST: \_\_\_\_\_  
City Clerk, Planning Commission

**CITY OF CLEARLAKE  
CONDITIONAL USE PERMIT (CUP 2021-33)  
CATEGIORICAL EXEMPTION (CE 2021-12)  
CONDITIONS OF APPROVAL  
LIZBETH VARGAS**

Pursuant to the approval of the City of Clearlake's – Planning Commission on **January 25, 2022**, it is hereby granted **Lizbeth Vargas**, with the following conditions of approval **to allow liquor sales located at 14094 Lakeshore Drive, Clearlake, CA 95422; further described as Assessor Parcel Number (APN) 040-033-060** is subject to the following terms and conditions of approval.

**A. GENERAL CONDITIONS:**

1. The use hereby permitted shall substantially conform to the **Site Plan(s), and Project Description** and any conditions of approval imposed by the above **Conditional Use Permit** and Review Authority as shown on the approved site plan for this action **dated September 13, 2021**, including all requirements of the City of Clearlake Municipal Codes.
2. Hours of operation shall be from 6:00 A.M. to no later than 11:00 P.M., Monday through Sunday.
3. This Use Permit does not pertain to the operation of special events such as, live music, karaoke, etc. If the applicant wishes to host special events the applicant shall apply for the necessary permits.
4. Any modifications and/or additions to a use requiring use permit approval shall itself be subject to use permit approval. The addition of an allowed use to a premise occupied by a conditionally allowed use shall require use permit approval of the type required for the existing use. The Community Development Director shall determine when such an addition and/or change is of such a minor or incidental nature that the intent of these regulations can be met without further use permit control.
5. Any conditions established pursuant to these regulations shall be met before the use is established, except that the Community Development Director, Planning Commission or on appeal, the City Council, may establish a schedule for certain conditions to be met after establishment of the use. Continuance of the use shall then be contingent on complying with the schedule for meeting deferred conditions.
6. This use permit does not abridge or supersede the regulatory powers and permit requirements of any federal, state, or local agency requirements, which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain and maintained permits as may be required from each agency.
7. The developer/operator shall be responsible to pay all sales, use, business and other applicable taxes, and all license, registration, and other fees and permits required under federal, state, and local laws and pursuant to the approved Development Agreement for the project.

8. The applicant is responsible for ensuring that all project workers are informed of, understand, and agree to abide by the approved plans and project conditions.
9. Driveways, access roads and parking areas shall be surfaced with asphalt concrete in a manner to minimize dust. Driveway approaches shall be constructed of concrete and built to minimum City of Clearlake standards. An encroachment permit shall be obtained from the City of Clearlake – Public Works Department for any work within the right-of-way.
10. The permit holder shall operate in full compliance with fire safety rules and regulations of the Lake County Fire Protection District.
11. The Conditional Use Permit may be transferred to new owners at the same location upon notifying the City Planning Department of said ownership transfer and upon the new owner's written agreement to maintain all conditions of approval.
12. Any demolition or renovation is subject to the Federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for asbestos in buildings requires asbestos inspections by a Certified Asbestos Consultant for all major renovations and all demolition. An Asbestos Notification Form with the Asbestos inspection report must be submitted to the District at least 14 days prior to beginning any demolition work. The applicant must contact the District for more details and proper approvals. Regardless of asbestos content or reporting requirements all demolition and renovation activities should use adequate water/ amended water to prevent dust generation and nuisance conditions.
13. **Prior to operation**, all parking areas, routes of travel, building access and bathrooms shall meet the American with Disabilities Act (ADA) requirements and must be reviewed and approved of a Certified Accessibility Access Specialist (CASP).
14. **Prior to operation** the facility owner shall contact Environmental health and speak to one of their inspectors regarding possible fee upgrades and if applicant plans to install a bar area in the established restaurant which a plan check will be required.
15. **Prior to operation and/or development**, the applicant shall secure/maintain any required permits from the City of Clearlake (Building Department, Planning and Public Works), Fire District, Lake County Air Quality Management District, Lake County Water Resources Department, Lake County Environmental Health Department, Lake County Special Districts California Department of Alcohol Beverage Control and/or all applicable Federal, State and local agency permits.
16. In lieu of installing curb, gutter, and sidewalk improvements, as normally required, the applicant shall pay a fee to the City equal to the cost of installing the improvements to the City standard. This is in recognition of the project's location within the area of a City project including road and pedestrian improvements to the Lakeshore Drive corridor. The costs shall be determined by a qualified professional, at the expense of the applicant, and with final approval by the City Engineer. **This condition must be completed prior to the use permit having any force or effect.**

17. **Prior to operation,** for the proposed development the following shall be completed:
- Landscaping and Irrigation Plan: *Submit for review and approval a landscaping and irrigation. Plans shall demonstrate compliance with the City's Municipal Code regarding landscaping.*
  - Trash Enclosure Plans: *Submit for review and approval by the City Planning Department a detailed trash enclosure plan. The plans shall show that the enclosure will be constructed of block with an attractive cap and the gates should incorporate solid metal materials painted to match the building colors. The gates should be mounted on separate posts mounted inside the enclosure. A hose bib should be located next to the enclosure for maintenance.*
  - Lighting Plan: *Submit for review and approval by the City Planning Department an exterior lighting plan. Lighting poles, if used, should not exceed 15 feet in height. All lighting shall be shield and directed downwards and adhere to all Federal, State and local agency requirements, including the dark-sky requirements found at <https://www.darksky.org/>. All lighting shall not project beyond the project parcel boundaries*
  - Signage Plan: *Submit for review and approval by the City Planning Department a detailed sign program for all existing and proposed signs. The sign plan shall comply with the City's.*
18. If any subsurface archaeological remains are uncovered, all work shall be halted within 100 feet of the find and the applicant shall retain a qualified cultural resources consultant from the City's approved list of consultants to identify and investigate any subsurface historic remains and define their physical extent and the nature of any built features or artifact-bearing deposits. Significant historic cultural materials may include finds from the late 19th and early 20th centuries including structural remains, trash pits, isolated artifacts, etc.
19. The cultural resource consultant's investigation shall proceed into formal evaluation to determine their eligibility for the California Register of Historical Resources. This shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the features and artifacts do not have sufficient data potential to be eligible for the California Register, additional work shall not be required. However, if data potential exists – e.g., there is an intact feature with a large and varied artifact assemblage – it will be necessary to mitigate any Project impacts. Mitigation of impacts might include avoidance of further disturbance to the resources through Project redesign. If avoidance is determined to be infeasible, pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during Project excavation or testing, curation may be an appropriate mitigation. This language of this mitigation measure shall be included on any future grading plans and utility plans approved by the City for the Project.
20. If human remains are encountered, no further disturbance shall occur within 100 feet of the vicinity of the find(s) until the Lake County Coroner has made the necessary findings as to origin (California Health and Safety Code Section 7050.5). Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Lake County Coroner determines the remains

to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then identify the “most likely descendant(s)”, which parties agree will likely be the Koi Nation based upon the Tribe’s ancestral ties to the area and previous designation as MLD on projects in the geographic vicinity. The landowner shall engage in consultations with the most likely descendant (MLD). The MLD will make recommendations concerning the treatment of the remains within 48 hours as provided in Public Resources Code 5097.98.

21. All hazardous waste shall not be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
22. Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.
23. The storage of hazardous materials equals to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division.
24. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state, and federal regulations.
25. If the approved use permit is not established within one (1) year of the date of approval or such longer time as may be stipulated as a condition of approval, the use permit shall expire.
26. If a structure(s) or associated site development authorized by use permit is not issued building permits (if building permits are required) within three (3) years of the date of approval, the use permit shall expire.
27. **Upon written request received prior to expiration**, the Community Development Director may grant renewals of use permit approval for successive periods of not more than one (1) year each.
  - *Approvals of such renewals shall be in writing and for a specific period.*
  - *Renewals may be approved with new or modified conditions upon a finding that the circumstances under which the use permit was originally approved have substantially changed.*
  - *Renewal of a use permit shall not require public notice or hearing unless the renewal is subject to new or modified conditions. In order to approve a renewal, the Community Development Director must make the findings required for initial approval.*
28. The review authority may revoke or modify the use permit in the future if the review authority finds that the use to which the permit allows is detrimental to health, safety, comfort, general welfare of the public; constitutes a public nuisance; if the permit was obtained or is being used by fraud; and/or if one or more the conditions upon which a permit was granted are in noncompliance or have been violated. Applicant shall be notified of potential violations of the use permit prior to action.

29. The developer/operator shall agree to indemnify, defend, and hold harmless the City or its agents, officers and employees from and against any and all claims, actions, demands or proceeding (including damage, attorney fees, and court cost awards) against the City or its agents, officers, or employees to attach, set aside, void, or annul an approval of the City, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. In providing any defense under this Paragraph, the applicant, business operator, property owner, developer shall use counsel reasonably acceptable to the City. The City shall promptly notify the applicant, business operator, property owner, developer of any claim, action, demands or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the developer/operator of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the developer/operator shall not thereafter be responsible to defend, indemnify, or hold the City harmless as to that action. The City may require that the developer/operator to post a bond, in an amount determined to be sufficient, to satisfy the above indemnification and defense obligation. Developer/operator understands and acknowledges that City is under no obligation to defend any claim, action, demand or proceeding challenging the City's actions with respect to the permit or entitlement.
30. All conditions are necessary to protect the general health, safety and welfare of the public. If any condition of this entitlement is held to be invalid by a court, the whole entitlement shall be invalid. The Planning Commission specifically declares that it would not have approved this entitlement unless all of the conditions herein are held as valid.
31. Said Use Permits shall be subject to revocation or modification by the review authority if the review authority finds that there has been:
- a. Noncompliance with any of the foregoing conditions of approval; or*
  - b. The Planning Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to the City of Clearlake Municipal Code 15.*

**To be Complete by Authorized Representative/Applicant**

**Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**To Be Completed by Authorized Personnel**

**Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_