



STAFF REPORT
11/20/2019

TO: Planning Commission

FROM: Juan Carrillo, Associate Planner

SUBJECT: Conditional Use Permit No. 316 is a request to serve alcohol (Beer and Wine) ABC License Type 41) at an existing 2,432 square foot restaurant located at 49-405 Grapefruit Boulevard (dba: JC's Burgers). The subject site is in the C-G (General Commercial) zone within an existing shopping center.

STAFF RECOMMENDATION:

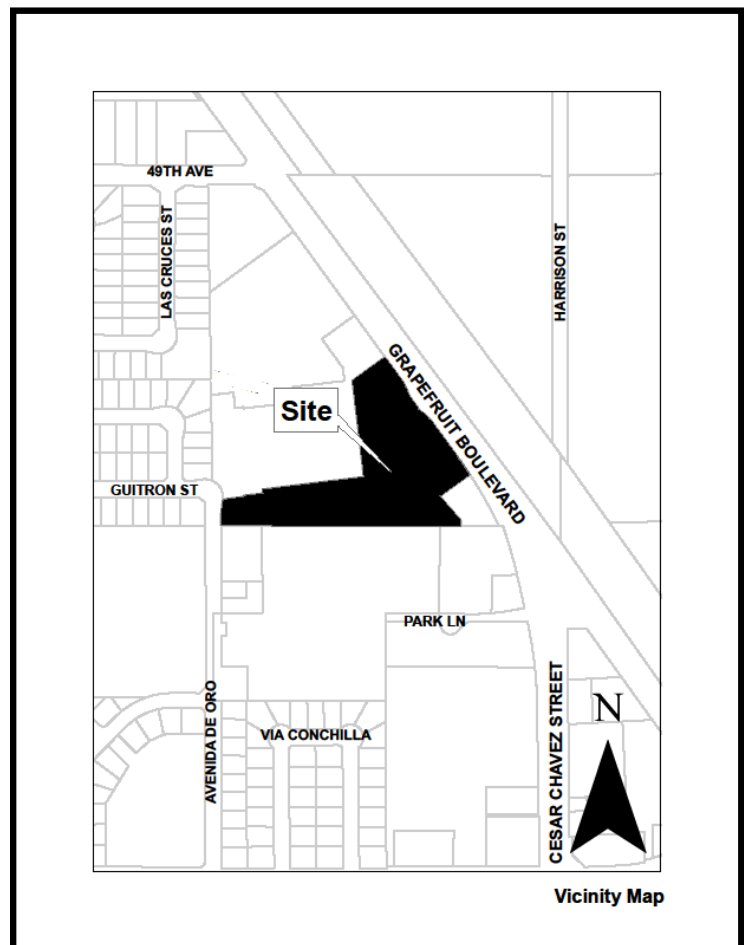
Staff recommends that the Planning Commission approve Conditional Use permit No. 316 requesting to serve alcohol (Beer and Wine ABC License Type 41) at "JC's Burgers" located at 49-405 Grapefruit Boulevard Street pursuant to the findings and conditions of approval contained in the staff report.

SUMMARY:

On December 14, 2016 City Council adopted Ordinance No. 1088 making it a requirement for any establishment pursuing to sell or serve alcohol to obtain a Conditional Use Permit application for liquor, on-sale and off-sale establishments. Conditional Use Permit No. 316 is the third application submitted for compliance with Ordinance No. 1088 in the City of Coachella since the establishment does not currently sell alcohol but proposes to sell alcohol per Section 17.74.015(A)(1) of the Municipal Code.

BACKGROUND:

JC's Burgers obtained its business license on February 5, 2019 and the business currently operates as a 2,432 square foot restaurant within an existing shopping center located at intersection of Grapefruit Boulevard and north of Park Lane. The



restaurant currently does not sell alcoholic beverages. The existing restaurant is within a large shopping center where “Food 4 Less” and other large retailers are located. The existing restaurant was operated by “Wendy’s Restaurants” and it closed its doors in 2013. After Wendy’s closed, “Maxcy’s Grill” opened its doors, and in 2015, Maxcy’s Grill closed its business.

DISCUSSION/ANALYSIS:

The applicant, Mr. Jesus M. Corrales has submitted a request for Conditional Use Permit to allow the on-sale of alcoholic beverages in conjunction with prepared meals at an existing restaurant. The restaurant has been in operation since February 5, 2019. The zoning designation of the shopping center where the restaurant is located is C-G (General Commercial) and restaurants are a permitted use, alcohol sales require approval of a Conditional Use Permit. The Land Use designation is Neighborhood Center where the intended physical character is to provide a comfortable, walkable environment for shoppers and diners.



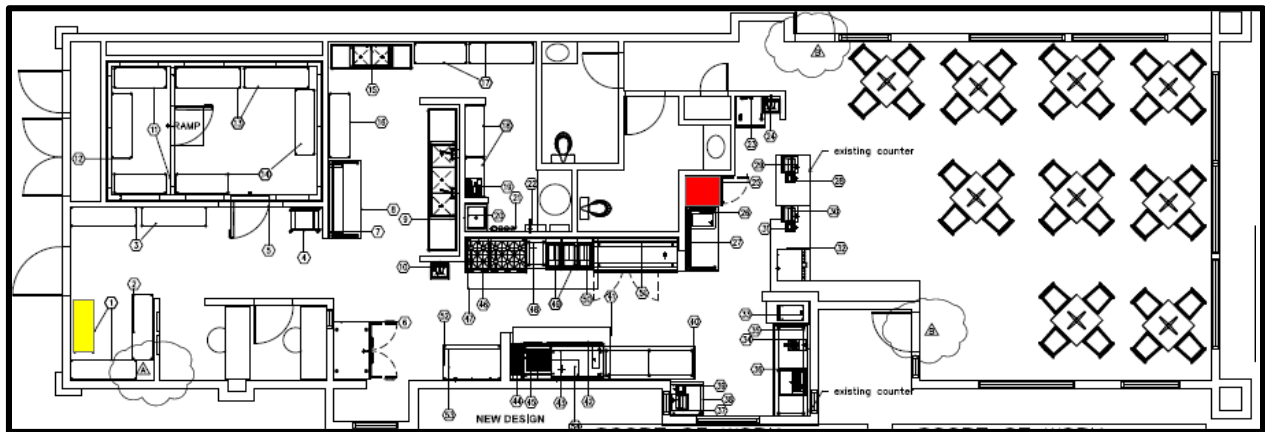
Food 4 Less and JC’s Burgers location

Bona fide eating establishment:

JC's Burgers meets the criteria established in Section 17.74.015 of the Zoning Code in that the business is proposing the following criteria:

- a) Sale of food and non-alcoholic beverages;
- b) Sale of liquor/alcoholic beverages proposed for consumption on premises only;
- c) At least twenty (20) percent of the gross floor area of the building is designed, equipped and used exclusively for the storage and preparation of food and non-alcoholic beverages for consumption;
- d) At least fifty (50) percent of the gross floor area of the building is designed, equipped and used exclusively for seating of patrons for the purpose of serving meals. "Meals" shall mean the usual assortment of foods commonly ordered at various hours of the day for breakfast, lunch or dinner, and not merely appetizers or snacks. "Patrons" shall mean persons who come to a bona fide public eating establishment for the purpose of actually ordering and obtaining a meal therein;
- e) Not more than twenty (20) percent of the gross floor area is dedicated to a bar or the storage, sales and display of liquor/alcoholic beverages and said area is separated by physical barriers from the main seating area for serving meals.

With respect to liquor on-sale establishments that meet the criteria for a bar, billiard, or nightclub, a 700 foot distance requirement is in place. However, this distance requirement does not apply to bona fide eating establishments like JC's Burgers. A floor plan of the restaurant is shown below.



- ALCOHOL STORAGE 2X6
- ALCOHOL DISPLAY 3X4

As shown on the floor plan, storage of alcoholic beverages is a total of 12 square feet and the display area also 12 square feet, not exceeding the bona-fide restaurant criteria mentioned above.

Hours of Operation:

The applicant is proposing to operate the bone fide restaurant from 10:00 a.m. to 9:00 p.m. Sunday thru Thursday and from 10:00 a.m. to 11:00 p.m. Friday and Saturday. Staff has included a condition of approval requiring the sale of meals to be made available to patrons during all hours of operation, and to require the last call for alcohol to be 30 minutes before closing.

Information obtained from the California Department of Alcoholic Beverage Control

The subject site is within Census Tract No. 9404 where based on the census tract population five (5) on-sale licenses are allowed. Currently, there are 15 licenses within Tract Number 9404. Issuance of the requested license for JC's Burgers would make the 16 licenses issued. Pursuant to Business and Professions Code Section 23958.4(3)(b)(1), the California Department of Alcoholic Beverage Control (ABC) may be able to issue a license to a retail on-sale bona fide restaurant if the applicant is able to show that public convenience or necessity (PCN) would be served by the issuance of the additional license requested. Although this is not applicable for this request since the City of Coachella is not required to make the findings for a PCN for all proposed, and qualified, bona fide restaurants.

Environmental Setting:

The subject site is a portion of approximately a one half-acre site fully developed with other stores, including Food 4 Less and retail stores. The site is located at the intersection of Grapefruit Boulevard and north of Park Lane. The subject site is substantially flat, and is substantially surrounded by urban uses, with adjoining zoning and land uses as follows:

North: Existing one story commercial building, multi-tenant uses / (C-G, General Commercial)

South: Vacant commercial land, / (C-G, General Commercial)

East: Union Pacific railroad lines and vacant land beyond across Grapefruit Boulevard, / (C-G, General Commercial)

West: Existing commercial uses, / (R-M, Multi-Family Residential)

Site Plan / Parking and Circulation:

The site is fully developed with three points of access from Grapefruit Boulevard. The site provides ample parking spaces for all the existing uses at the shopping center, additional parking is provided behind the main building. The partial site plan to the right shows the location of JC's

Burgers within the shopping center and the adjacent store fronts. The existing shopping center was developed in the late 90's and all development standards have been met as conditioned at the time of construction. There is a vacant pad at the shopping center for future development. When development is proposed, the vacant pad will have to provide parking as specified in the Municipal Code per today development standards.

ENVIRONMENTAL REVIEW:

The City of Coachella has determined that the proposed project is categorically exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act as an "Existing Facilities" project (CEQA Guidelines, Section 15301a). The project involves minor alterations to interior partition walls, and existing electrical, plumbing, and mechanical systems within an existing commercial building.

CONCLUSIONS AND RECOMMENDATIONS

Based on the analysis contained herein and the findings listed below, staff is recommending that the Planning Commission approve Conditional Use Permit No. 316 with the findings and conditions listed below.

FINDINGS OF APPROVAL FOR CONDITIONAL USE PERMIT NO. 316:

1. The proposed use will not be in conflict with, but will be in harmony with and in accordance with the objectives of the general plan because the proposed restaurant use with alcohol sales is within the Neighborhood Center land use designation according to the General Plan 2035, which allows the intended physical character to provide a comfortable, walkable environment for shoppers and diners. The restaurant will provide its patrons the choice of alcoholic beverages as they dine in the premises.
2. The proposed use will be located, designed, constructed, operated and maintained so as to be compatible with the existing character of the general vicinity and shall not change the essential character of the same area because the proposed use is within a zoning designation of 'C-G' (General Commercial) which permits eating establishment such as the existing restaurant with the approval of a conditional use permit to sell/serve alcoholic beverages (Beer and Wine ABC License, Type 41). The proposed use is on a large site that can be compatible with the adjoining commercial uses and the conditional use permit can be revoked if any of the conditions of approval are violated.
3. Consideration has been given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities, to harmful effect, if any, upon desirable neighborhood character, to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of development, because the existing restaurant is within an existing commercial center with all infrastructure available on-site for the existing 2,432 square foot restaurant. Additionally, there is adequate ingress and egress into and out of the existing commercial center to maintain the adequacy of the traffic circulation system serving the proposed use.

4. Where the proposed use may be potentially hazardous or disturbing to existing or reasonably expected neighboring uses, it must be justified by the common public interest as a benefit to the community as a whole. As conditioned, the proposed use will provide an additional choice of beverage for its patrons. The proposed project will have adequate parking to serve the needs of its patrons and the restaurant use with alcoholic beverages use will serve the residents of the City as well as residents from the adjoining neighborhoods. As such, there will be no hazardous or disturbing effects to the existing and neighboring uses.
5. The proposed use provides vehicular approaches to the property designed for reasonable minimal interference with traffic on surrounding public streets or roads, because all approaches are in full use for the patrons of the commercial center and no alterations are proposed as part of the request to sell and/or serve alcohol at the existing 2,432 square foot restaurant and no negative effects exists.
6. The City of Coachella has determined that the proposed project is categorically exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act as an "Existing Facilities" project (CEQA Guidelines, Section 15301a). The project involves minor alterations to interior partition walls, and existing electrical, plumbing, and mechanical systems within an existing commercial building.

CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT NO. 316:

1. Conditional Use Permit No. 316 is an approval for the sale of alcohol in conjunction with prepared meals. This approval is based on the floor plan submitted for the proposed project. Violation of any of the conditions of approval shall be cause for revocation of the Conditional Use Permit.
2. Alcohol sales must be commenced within 12 months of the effective date of this Conditional Use Permit unless a request for an extension of time is reviewed by the Planning Commission. A request for time extension shall be filed in a timely manner with applicable fees.
3. This approval shall not become effective for any purposes until any appeal period has passed, the applicant has received a Notice of Action with modified conditions, if any, and the applicant has obtained a business license. The additional 2,432 square feet expansion has received a final and a Certificate of Occupancy has been issued for the expansion.
4. Any break in service, meaning the closure of the bona fide restaurant use for a period of 180 consecutive days, will result in the expiration of this CUP.
5. The applicant will agree to defend and indemnify the City of Coachella against all claims, actions, damages, and losses, including attorney fees and costs, in the event that anyone files legal challenges to the approval of this project on the basis of the California Environmental Quality Act (CEQA). Prior to the issuance of building permits, the applicant shall execute a standard indemnification agreement subject to review by the City Attorney.

6. All plan submittals for the proposed 2,432 square foot expansion of the restaurant are the responsibility of the applicant; this includes plan submittals to the City of Coachella, the Riverside County Fire Department or to other agencies for whom plan review and approval is required.
7. The applicant shall be responsible for informing all subcontractors or other business entities providing services related to the project of their responsibility to comply with all pertinent requirements in the Coachella Municipal Code, including the requirement that a business license be obtained by all entities doing business in the City.
8. The use shall meet the standards within the limits established by the PMC as related to emissions of noise, odor, dust, vibration, wastes, fumes, or any public nuisances arising or occurring incidental to the establishment or operation.
9. The applicant shall pay all fees at the time fees are due and comply with all requirements of other outside agencies.
10. Any sign approval for the project is a separate process requiring the issuance of a sign permit and building permit and it is subject to review and approval by the Development Services Department and Building and Safety.
11. The sale of alcoholic beverages is approved under this CUP for the bona fide restaurant with Type 41 On-Sale Beer and Wine ABC License for a cumulative of 2,432 square feet. The operation of the restaurant shall also be in conformance with Section 17.74.015 of the City of Coachella Municipal Code as outlined below for the bona fide restaurant:
 - a) The sale of food and non-alcoholic beverages for consumption on or off the premises; and
 - b) the sale of liquor/alcoholic beverages for consumption on premises only; and
 - c) Where at least twenty (20) percent of the gross floor area of the building is designed, equipped and used exclusively for the storage and preparation of food and non-alcoholic beverages for consumption; and
 - d) Where at least fifty (50) percent of the gross floor area of the building is designed, equipped and used exclusively for seating of patrons for the purpose of serving meals. "Meals" shall mean the usual assortment of foods commonly ordered at various hours of the day for breakfast, lunch or dinner, and not merely appetizers or snacks. "Patrons" shall mean persons who come to a bona fide public eating establishment for the purpose of actually ordering and obtaining a meal therein; and
 - e) Where not more than twenty (20) percent of the gross floor area, or one thousand five hundred (1,500) square feet, whichever is less, is dedicated to a bar or the storage, sales

and display of liquor/alcoholic beverages and said area is separated by physical barriers from the main seating area for serving meals.

12. Hours of operation for the restaurant may be from 9:00 a.m. to 9:00 p.m. Sunday thru Thursday and 9:00 a.m. to 11:00 p.m. Friday and Saturday. The business shall offer the sale of prepared meals at all hours of operation. The last call for alcohol sales shall be 30 minutes before closing time.
13. The applicant shall comply with all requirements imposed by the State Department of Alcoholic Beverage Control and a review of this conditional use permit will be required if the business results in an increase in floor area used for the display of liquor; or a ten-percent increase in the display space of liquor.

Attachments:

1. Vicinity/Aerial Maps
2. Floor Plan