

**RESOLUTION NO \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, APPROVING A USE PERMIT TO ALLOW ON-SITE SALE AND SERVICE OF BEER, WINE AND DISTILLED SPIRITS (ABC LICENSE TYPE 47) IN A NEW RESTAURANT, LOCATED AT 3151 MISSION COLLEGE BOULEVARD, SANTA CLARA, CA**

PLN2018-13114 (Use Permit)

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, on February 21, 2018, Vivek Ganta , BurgerIM restaurant (“Applicant”) applied for a Use Permit to allow on-site sale and service of beer, wine, and distilled spirits (ABC License Type 47) in a new 2,341 square foot restaurant with a 426 square foot outdoor patio seating area, located at 3151 Mission College Boulevard, on the north side of the road within the “Mercado” shopping center (“Site Location”);

**WHEREAS**, the Site Location is currently zoned PD – Planned Development and has the General Plan land use designation of Regional Commercial (RGCO);

**WHEREAS**, in order to implement the proposed activity, the Site Location requires a Use Permit to allow beer, wine and distilled spirits sales in conjunction with food service within the 2,341 square foot restaurant with a 426 square foot outdoor patio seating area occupying a commercial tenant space in the existing Mercado Shopping Center, as shown on the Development Plans;

**WHEREAS**, the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000 *et seq.*, requires a public agency to evaluate the environmental impacts of a proposed project. The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301, Class 1 existing facilities, in that the proposed use will occur at an existing location involving negligible or no expansion of an existing use;

**WHEREAS**, a total of 1,675 vehicle parking spaces are provided for shared use by all of the shopping center tenants. 24 spaces of the total parking spaces are currently available for the BurgerIM restaurant which meets the requirement of 1 space for each three seats per Chapter 18.74 of the Santa Clara City Code (SCCC);

**WHEREAS**, the Use Permit process enables a municipality to exercise control over the extent of certain uses, which, although desirable in limited numbers and specific locations, could have a detrimental effect on the community in specific instances;

**WHEREAS**, commercial uses including restaurants that serve alcoholic beverages are conditionally permitted in the PD zoning district for the Mercado Shopping Center by the Planning Commission with the approval of a Use Permit;

**WHEREAS**, pursuant to SCCC Section 18.110.040, the Planning Commission cannot grant a Use Permit without first making specific findings related to the effect of the project on health, safety, peace, comfort, and general welfare, based upon substantial evidence in the record;

**WHEREAS**, on May 11, 2018, the notice of public hearing for the May 23, 2018 meeting date for this item was posted in three conspicuous locations within 300 feet of the Site Location and mailed to all property owners located within 300 feet of the Site Location; and

**WHEREAS**, on May 23, 2018, the Planning Commission conducted a public hearing, at which all interested persons were given an opportunity to present evidence and give testimony, both in support of and in opposition to the proposed Use Permit.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That the Planning Commission hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.
2. That the Planning Commission hereby finds that approving a Use Permit to allow sale and service of beer, wine, and distilled spirits (ABC License Type 47) in a new 2,341 square foot

restaurant with a 426 square foot outdoor patio seating area is consistent with the commercial uses contemplated in the development of the existing Mercado Shopping Center.

3. That the Planning Commission hereby finds as follows:

A. The establishment or operation of the use or building applied for, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare in that the proposal would serve to expand the options available to local and regional customers by providing a neighborhood restaurant use within an existing shopping center to meet the interests of local customers and residents from the greater region;

B. Said use will not be detrimental to any of the following:

1) The health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, in that the proposal provides a restaurant that serves beer, wine and distilled spirits in conjunction with food in a new commercial tenant space within an existing shopping center which meets all City of Santa Clara codes and regulations; the restaurant will be routinely manned and maintained, and will comply with any and all City and state laws regarding the sale of alcoholic beverages;

2) The property or improvements in the neighborhood of such proposed use, in that the proposed use will occur in an existing retail tenant space, and on-site parking is sufficient and available to service the proposed use and the existing businesses;

3) The general welfare of the City, in that the proposed use expands the options available to the local and regional population by providing a restaurant use to support businesses and residents in the vicinity of the project site;

C. That said use will not impair the integrity and character of the zoning district, in that the proposal is designed and conditioned in a manner to be compatible with adjacent commercial and residential development, on a developed parcel, with adequate parking, and properly designed ingress and egress points; and,

D. That said use is in keeping with the purposes and intent of the Zoning Code, in that a restaurant that serves beer, wine and distilled spirits in conjunction with food, may be conditionally permitted when the use would not be objectionable or detrimental to the adjacent properties in this Planned Development zoning district.

4. That the Planning Commission hereby approves Use Permit PLN2018-13114 to allow on-site sale and service of beer, wine and distilled spirits (ABC License Type 47) in a restaurant, located at 3151 Mission College Boulevard, subject to the Conditions of Approval, attached hereto and incorporated herein by this reference.

5. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 23RD DAY OF MAY, 2018, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST: \_\_\_\_\_  
ANDREW CRABTREE  
DIRECTOR OF COMMUNITY DEVELOPMENT  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Development Plans
2. Conditions of Approval

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