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**Title:** Action on Use Permit for ABC License Type 41 for Lupita’s Taqueria Restaurant at 2341 El Camino Real

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Statement of Justification and Plans, 2. Resolution Approving a Use Permit, 3. Conditions of Approval

Date	Ver.	Action By	Action	Result
10/23/2019	1	Planning Commission		

**REPORT TO PLANNING COMMISSION**

**SUBJECT**

Action on Use Permit for ABC License Type 41 for Lupita’s Taqueria Restaurant at 2341 El Camino Real

**REPORT IN BRIEF**

Project: Use Permit to allow on-site sale and consumption of beer and wine (ABC Type 41 License) for subject site.

Applicant: Jose Hernandez

Owner: Charles Hammers

General Plan: Community Mixed-use

Zoning: Thoroughfare Commercial (CT)

Site Area: 1,400 square foot interior tenant space

Existing Site Conditions: Existing restaurant

Surrounding Land Uses:

North: Single family residences fronting Bray Avenue

South: Commercial uses across El Camino Real

East: Commercial uses along El Camino Real

West: Commercial uses along El Camino Real

Issues: Consistency with the City’s General Plan and Zoning Ordinance

Staff Recommendation: Adopt the resolution approving the Use Permit, subject to conditions of approval

**BACKGROUND**

The applicant is requesting a Use Permit to allow on-site sale and consumption of beer and wine (ABC License Type 41) in the existing Lupita’s Taqueria restaurant located at 2341 El Camino Real. The restaurant occupies a 1,400 square foot tenant space in a multi-tenant commercial building. The

restaurant would not provide live entertainment as part of the regular operation. The proposed restaurant hours of operation, along with the sale and service of beer and wine, are from 10:00 a.m. to 9:00 p.m. daily.

## **DISCUSSION**

### *Consistency with the General Plan:*

The subject property has a General Plan designation of Community Mixed-use. This classification is intended to encourage a mix of residential and commercial uses along a major street. A broad range of retail uses are allowed, including regional shopping centers and restaurants. The project is also consistent with the following General Plan policies:

#### *5.3.3-P1 - Provide a mix of retail and commercial uses to meet the needs of local customers and draw patrons from the greater region.*

The proposal is consistent with this policy in that the new restaurant will provide another eatery option within the larger mall complex.

#### *5.3.3 P5 - Encourage public amenities and active uses in commercial centers and along commercial corridors.*

The proposal is consistent with this policy in that it will support the continued operation of a restaurant, which is considered an active use in an existing commercial center.

### *Zoning Conformance:*

Under the zoning designation for the subject site, Thoroughfare Commercial (CT), restaurant uses are allowed by right, while alcohol sales and consumption are considered conditional uses. Therefore, a Use Permit is required to establish and maintain the proposed alcohol sales and on-site consumption. The applicant has provided a letter of justification to support the Use Permit request.

Section 18.110.040 of the City Code provides the following criteria for the issuance of a Use Permit.

In order to grant any use permit, the findings of the Planning Commission shall be:

- (a) That 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;
- (b) That said use will not be detrimental to any of the following:
  - (1) The health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use;
  - (2) Property or improvements in the neighborhood of such proposed use; or
  - (3) The general welfare of the City;
- (c) That said use will not impair the integrity and character of the zoning district; and
- (d) That said use is in keeping with the purposes and intent of this title.

The Planning Commission may designate such conditions in connection with the use permit as

it deems necessary to secure the purposes of this title, and may require guarantees and evidence that such conditions will be complied with by the applicant.

The Planning Commission is able to make these findings as follows. The proposed Use Permit supports the operation of a restaurant, a use consistent with General Plan policies and the intent of the CT zoning district. The proposed Use Permit will include conditions limiting the operation of the establishment so as to avoid any potential impacts. A restaurant use, including the sale of beer or wine for consumption on the premises, is consistent with the character of the El Camino Real corridor, and compatible with adjacent uses.

The leasing space is located within an existing shopping center, which provides shared parking available to all patrons visiting the shopping center. Included in the Conditions of Approval (C6) is a requirement for the Planning Commission to review the Use Permit within 12 months from the date the applicant obtains an ABC Type 41 License. After six months from obtaining the ABC license, the City will conduct an administrative review of ABC violations and police service calls and report any significant occurrences to the Planning Commission.

*Conclusion:*

The proposal is consistent with the General Plan and Zoning designations for the existing shopping center. The proposed on-site sale and consumption of beer and wine is an ancillary use which would provide convenience to restaurant guests that would further enhance a quality commercial use, meet the needs of local customers, and draw patrons from the greater region.

**ENVIRONMENTAL REVIEW**

The action being considered is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Class I Existing Facilities, in that the activity consists of the permitting of a proposed use that will occur inside an existing building involving negligible or no expansion of use.

**FISCAL IMPACT**

There is no cost to the City other than administrative staff time and expense for the typically covered by processing fees paid by the applicant.

**COORDINATION**

This report was coordinated with the City Attorney's Office.

**PUBLIC CONTACT**

A notice of public hearing of this item was posted in three conspicuous locations within 300 feet of the project site and mailed to property owners within 300 feet of the project site. Planning Staff has not received public comments for this application.

**RECOMMENDATION**

Adopt a resolution approving a Use Permit for the sale and consumption of beer and wine (ABC License Type 41) in the existing Lupita's Taqueria restaurant located at 2341 El Camino Real, subject to conditions of approval.

Prepared by: Steve Le, Assistant Planner I  
Reviewed by: Alexander Abbe, Assistant City Attorney  
Approved by: Reena Brilliot, Planning Manager

**ATTACHMENTS**

1. Statement of Justification and Plans
2. Resolution Approving a Use Permit
3. Conditions of Approval