

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF POMONA APPROVING CONDITIONAL USE PERMIT (CUP 10985-2018) TO ALLOW FOR A TYPE 47 ON SALE GENERAL-EATING PLACE LICENSE IN CONJUNCTION WITH A BONA FIDE RESTAURANT AND HOTEL ANCILLARY USES AT THE 14.44 ACRE PROPERTY IN THE TRANSIT ORIENTED DISTRICT – NEIGHBORHOOD ZONE OF THE PHILLIPS RANCH SPECIFIC PLAN LOCATED AT 55-65 RANCHO CAMINO DRIVE (APN 8708-001-945)

WHEREAS, the applicant, YK America Group Inc., has submitted an application for a Conditional Use Permit (CUP 10985-2018) to allow a Type 47 On-Sale General-Eating Place license in conjunction with a new hotel bona fide restaurant and within hotel ancillary uses at the proposed project on the 14.44 acre property located at 55-65 Rancho Camino Drive; Assessor's Parcel Number 8708-001-945;

WHEREAS, the applicant has concurrently submitted a Major Site Development Permit (MAJSDP 9544-2018) to allow development of the site with 6-story, 215-room hotel with conference facilities totaling approximately 164,045 square feet; a 246-space, 2-story parking structure for the hotel; a 6-story mixed-use tower with a 38,469 square-foot health club and 100 dwelling units and 153 resident parking spaces; surface parking for 388 vehicles); a Variance (VAR 10975-2018) to allow less parking lot shading and fewer trees than required in the parking lot; and a Modified Tentative Parcel Map (PARCELMAP 9545-2018), to subdivide the site into four lots;

WHEREAS, the subject property is located within the Transit Oriented District – Neighborhood area of the Phillips Ranch Specific Plan (PRSP);

WHEREAS, the subject property is designated "Transit Oriented District: Neighborhood" by the City's General Plan;

WHEREAS, pursuant to the Phillips Ranch Specific Plan (PRSP), the approval of a Conditional Use Permit is required for the sale of alcohol in conjunction with a bona-fide restaurant;

WHEREAS, the approval of a Conditional Use Permit by the Planning Commission is required for the On-Sale of alcoholic beverages, pursuant to Section .580 of the Pomona Zoning Ordinance;

WHEREAS, the Planning Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on November 28, 2018 concerning the requested Conditional Use Permit (CUP 10985-2018); and

WHEREAS, the Planning Commission of the City of Pomona has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Pomona, California, as follows:

SECTION 1. The City of Pomona, on September 12, 2016, Certified the Final Environmental Impact Report (FEIR) for development of the site with a 6-story, 200-room hotel and conference center and parking structure, a 3-story office building totaling approximately 75,000 square feet, a Tentative Parcel Map to subdivide the site into three lots, and a Specific Plan Amendment to amend the PRSP by creating two new mixed-se land use designations (Activity Center and Transit Oriented District – Neighborhood) to replace the Regional Commercial land use designation. Pursuant to the provisions of the California Environmental Quality Act (CEQA-Public Resources Code, Section 21084 et. seq.), and CEQA Guidelines Section 15164, an Addendum to the Certified FEIR was prepared to evaluate the revised project. Mitigation Measures previously identified in the FEIR will be implemented in addition to all conditions of approval. Mitigation measures address potentially significant impacts related to Traffic and Circulation, Air Quality and Noise. The Addendum determined that the revised project would not result in any new significant impacts not considered and addressed in the Certified FEIR; nor would there be any substantial increase in the severity of any previously-identified environmental impact considered in the Certified EIR. Therefore, the Planning Commission, exercising their independent judgment, has determined that all potential environmental impacts will be reduced to levels less than significant with the implementation of the mitigation measures outlined in the Mitigation Monitoring Program incorporated into the Addendum.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are servable.

SECTION 3. In accordance with Section .580.B of the Pomona Zoning Ordinance (PZO) and the Phillips Ranch Specific Plan (PRSP), the Planning Commission must make findings in order to approve Conditional Use Permit (CUP 7626-2017). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Planning Commission hereby finds as follows

1. *That the proposed use at the particular location will contribute to the general well being of the neighborhood or community.*

The sale of alcoholic beverages (On-Sale General – Type 47 ABC license) for on-site consumption will enhance the operation of the restaurant by providing a service and convenience to the public. The sale of alcohol will be incidental to the primary use, which is a restaurant in a hotel. Furthermore, the addition of alcohol to the services provided will help ensure the economic viability of the restaurant and hotel, thus

increasing the likelihood that the business will continue operating and providing commercial opportunities to local residents. The on-sale alcohol license will not negatively affect the general welfare of the neighborhood.

2. *That such use will, under the circumstances of the particular case, not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity or detrimental to the use, valuation or enjoyment of property or improvements in the vicinity.*

As conditioned, the applicant's request will not be detrimental to the health, safety, peace, or general welfare of persons residing or working in the vicinity since the project is in substantial conformance with the development standards and use requirements of the Pomona Zoning Ordinance. The project will not be detrimental to the use, valuation, and enjoyment of property and improvements in the vicinity since the sale of alcohol is incidental to the primary use of the site as a hotel with a small restaurant.

3. *That the site for the proposed use is of adequate topography, size, and shape to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to allow said use in the neighborhood.*

The restaurant is a small part of the 215-room hotel in the Pomona Ranch Plaza. The site will be sufficient enough in size to accommodate all of the development standards of the Transit Oriented District, such as setbacks, parking, and landscaping. Exceptions to standards for required shading and the number of trees in the parking lot are addressed in the Variance application (VAR 10975-2018).

4. *The site abuts streets and highways adequate in width and improvements to carry traffic generations by the proposed use.*

The subject site takes access from Rancho Camino Drive. Rio Rancho Drive, the 71 and the 60 Freeways are nearby and provide regional connectivity. The FEIR and the Addendum determined that the circulation network in the vicinity is adequate to handle the traffic generated by the project, and that any potential impacts can be fully mitigated.

5. *That granting of such conditional use permit will not adversely affect the General Plan of the City and conforms to the provisions of the zoning ordinance.*

The proposed project is consistent with the following General Plan goals and policies:

"Establish a pattern of retail centers that is based on existing conditions, aligned with investor preferences, and will satisfy current and future market demand."
(Goal 6A.31)

"Over time, concentrate retail investment in "activity centers" that provide a variety of shopping environments that conveniently serve the regional and local community." (Goal 6A.G2)

"Improve the physical quality and shopping experience of existing and new

activity centers throughout the City.” (Goal 6A.G5)

“Establish a pattern of development that takes advantage of local and regional transportation infrastructure.” (Goal 6B.G1)

“Ensure that higher intensity transit-oriented development is built with the care and quality that reflects the City’s values and community pride.” (Goal 6B.G3)

“Create evenly spaced and well-distributed activity cluster destinations that anchor the east and west ends of the Holt Avenue corridor and the SR-71/SR-60 to strengthen the gateway function of these locations.” (Goal 6B.G12)

“Use a variety of regulatory tools to encourage specific types of retail development in locations where it is most feasible and compatible with the pattern of activity centers identified in the Pomona Tomorrow diagram, and discourage it in other locations.” (Policy 6A.P1)

“Strategically identify locations for activity centers that maximize both neighborhood and vehicular accessibility and visibility.” (Policy 6A.P2)

“Use regulatory tools to concentrate height and intensity at these gateway locations (Holt@SR-71 & Indian Hill, SR-60/SR-71).” (Policy 6B.P10)

The applicant is proposing to add alcohol sales for on-site consumption to the business to enhance its economic viability. The proposed use is consistent with the intent of the General Plan’s Transit Oriented District: Neighborhood land use category, which is designed to accommodate this type of commercial use. As previously identified, the site is within an existing commercial shopping center and will contribute to strengthening the City’s existing commercial development by providing additional dining and employment opportunities.

SECTION 4. Based upon the above findings, the Planning Commission hereby approves Conditional Use Permit (CUP 10985-2018) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the Conditional Use Permit or any portion thereof:

PLANNING DIVISION

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Planning Commission on November 28, 2018. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Manager.

2. The applicant shall make reductions of all approved resolutions related to the project, which shall be placed on the title sheet of construction plans prior to the Plan Check submittal.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
4. This approval shall lapse and become void if the privilege authorized is not utilized within one (1) year from the date of this approval (November 28, 2019), in accordance with Pomona Zoning Ordinance Section .580.I. The Planning Commission may extend this period for one (1) year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty (30) days before the expiration date of this approval.
5. The project is subject to a twenty (20) day appeal period. Written appeals may be filed with the City Clerk within twenty days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
6. In case of violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violation of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly

attributable to enforcement of the conditions of approval and/or City law, including, but not limited to, revocation of the herein Conditional Use Permit.

7. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated areas is noticeable distinguishable from the rest of the structure, the property owner shall paint portion of the building to minimize the disparity, subject to the approval of the Development Services Manager. Original surface materials installed and designed to not accept paint material such as stone, metal, brick, faux stone, veneers, etc. shall be restored to original finish with methods accepted and agreed to by the Development Services Manager.
8. No temporary signs relating to any activity on the premise shall be placed or allowed to remain within landscape areas, public right-of-way areas adjacent to the subject site (e.g. telephone poles, traffic signs, and city trees) or other portions on the exterior of the building. The only temporary signs allowed shall be properly permitted banner signs by permit per the City's sign ordinance. Signs placed in any window of the premises shall comply with the City's sign ordinance, and all other conditions under this Conditional use Permit.
9. The property owner shall provide regular maintenance and cleaning of all exterior walkways, patios, canopies, sidewalks, and landscaped parkways in compliance with Pomona City Code 62-351 et seq.
10. There shall be adequate lighting around the property at all times (minimum of 1 foot-candle). This shall be done in such a fashion that persons standing outdoors at night are easily identifiable by law enforcement personnel. Lighting shall be screened so that no spillover occurs onto the adjacent properties.
11. Before issuance of a zoning clearance and business license, the applicant and any successor in interest shall sign a certificate of compliance stating that:
 - a) They have read and understand all the conditions of approval applicable to their project;
 - b) That they are familiar with the daily operations of the use; and
 - c) That the use will operate in compliance with the conditions of approval.

On-Sale General Conditions

12. **Operation:** The restaurant shall be operated as a "bona fide public eating place" as defined by the Business and Profession Code Section 23038. All other uses shall be ancillary to the restaurant. At all times when the premises is open for business the sale and service of food shall be offered in addition to alcoholic beverages.

13. **Hours:** The establishment will only serve alcohol during regular business hours or when serving private parties reserved in advance. Regular business hours are defined as between the hours of 7:00 A.M. and 12:00 A.M., daily.
14. **Sales:** Sales of alcoholic beverages under the on-sale privileges of a Type 47 ABC license shall be restricted to the confines of the building, in the bar area as defined in the approved plans. No sales to minors or obviously intoxicated patrons shall be allowed. Point-of-sale registers will be equipped with standard technology used to determine patron age by driver's license. Patrons shall not be allowed to bring into the location any alcoholic beverage of their own to be consumed within the establishment.
15. **Promotion:** Storefront windows shall be kept clear at all times of paper, paint, cardboard or any other material used for signage. All exterior windows shall be clear glass with no tinting or window coverings either interior or exterior. All interior window signage and exterior signage of any kind, which advertises the sale or availability of alcohol, shall be prohibited.
16. **Training:** The employees who sell alcoholic beverages shall be required to complete a training program in alcoholic beverage compliance, crime prevention techniques and the handling of violence. All new employees shall be required to complete "Licensee Education on Alcohol and Drugs" training that is provided by the California Department of Alcohol and Beverage Control or equivalent responsible beverage service program within thirty (30) days of hire.
17. **Site:** Loitering or panhandling on the premises shall be prohibited. There shall be no pay telephones installed within the enclosed portion of the premises equipped to receive incoming calls. There shall be no new payphones of any kind installed on the exterior of the premises. There shall be no live entertainment, amplified music, dancing or any other activity on the premises that exceeds noise and vibration parameters of Pomona City Code Section 14-9 and City Council Ordinance No. 3939 at any time. No roof top activities shall be allowed with this conditional use permit.
18. **Police/City Contact:** All crimes occurring inside and outside of the location shall be reported to the Police Department at the time of the occurrence. At any time when the licensee is absent from the premises, a responsible party shall be designated who can respond to any inquiries from City officials. The business shall provide a list annually of no less than three employees who can be contacted twenty-four hours a day, to the Pomona Police Department's Records Bureau. The list of names will be used to facilitate a Police response to the location in the event of an emergency or other problem that requires entry into the location during non-business hours.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

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APPROVED AND PASSED THIS 28th DAY OF NOVEMBER, 2018

KYLE BROWN
PLANNING COMMISSION CHAIRPERSON

ATTEST:

MARIO SUAREZ
PLANNING COMMISSION SECRETARY

APPROVED AS TO FORM:

ANDREW JARED
ASSISTANT CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES:
NOES:
ABSTAIN:
ABSENT:

"Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by Sec. 1094.6 C.C.P."