

PLANNING COMMISSION RESOLUTION NO. 2024-797

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CALABASAS TO APPROVE FILE NO. CUP-2024-002, A REQUEST FOR A CONDITIONAL USE PERMIT (CUP) FOR A TYPE 21 OFF-SALE GENERAL LIQUOR LICENSE FOR A NEW WINE, BEER, AND LIQUOR SPECIALTY SHOP CALLED 'THE LIBRARY', LOCATED AT 23504 CALABASAS RD STE 3, IN THE COMMERCIAL OLD TOWN (CT) ZONING DISTRICT, SCENIC CORRIDOR (-SC) OVERLAY ZONE, AND OLD TOWN MASTER PLAN AREA. THE PROJECT ALSO INCLUDES A REQUEST FOR A DETERMINATION OF SIMILAR USE THAT A WINE, BEER, AND LIQUOR SPECIALTY SHOP IS SIMILAR TO A WINE AND BEER SPECIALTY SHOP, WHICH IS A CONDITIONALLY PERMITTED USE IN THE CT ZONE.

Section 1. The Planning Commission has considered all of the evidence submitted into the administrative record which includes, but is not limited to:

1. Agenda reports prepared by the Community Development Department.
2. Staff presentation at the public hearing held on October 17, 2024, before the Planning Commission.
3. The City of Calabasas Land Use and Development Code, General Plan, and all other applicable regulations and codes.
4. Public comments, both written and oral, received and/or submitted at or prior to the public hearing, supporting and/or opposing the applicant's request.
5. Testimony and/or comments from the applicant and its representatives submitted to the City in both written and oral form at or prior to the public hearing.
6. All related documents received at or prior to the public hearing.

Section 2. Based on the foregoing evidence, the Planning Commission finds that:

1. On September 2, 2024 an application was submitted on behalf of the property owner for File No. CUP-2024-002.
2. The project site is zoned Commercial Old Town (CT). The land use designation for the project site under the City's adopted General Plan is Business, Old Town (B-OT).
3. Properties surrounding the project site are zoned Commercial, Old Town (CT), and have General Plan land use designations of Business Old town (B-OT).
4. The project was reviewed by the Development Review Committee (DRC) on September 17, 2024.
5. Staff determined that the application was incomplete on September 24, 2024 and the applicant was duly notified of this incomplete status.
6. Following a subsequent resubmittal, the application and plans were deemed complete by Staff on October 3, 2024.
7. Notice of the October 17, 2024 Planning Commission public hearing was posted at Juan de Anza Park, the Calabasas Tennis and Swim Center, and at Calabasas City Hall.
8. Notice of the October 17, 2024 Planning Commission public hearing was provided to property owners within 500 feet of the property as shown on the latest equalized assessment roll.
9. Notice of the October 17, 2024 Planning Commission public hearing was mailed or delivered at least ten (10) days prior to the hearing to the project applicant.
10. Notice of the October 17, 2024 Planning Commission public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).
11. A public hearing was held at the October 17, 2024 Planning Commission meeting, during which public testimony was taken.

12. At the October 17, 2024 meeting, the Commissioners recommended that Staff prepare a resolution of approval for File No. CUP-2024-002, to be brought back to the Commission for adoption at the next regularly scheduled Planning Commission meeting.

Section 3. In view of all of the evidence and based on the foregoing findings, the Planning Commission finds as follows:

FINDINGS

Section 17.62.060 of the Calabasas Municipal Code (CMC) allows the Planning Commission to approve a **Conditional Use Permit** provided that the following findings are made:

1. *The proposed use is conditionally permitted within the subject zoning district and complies with all of the applicable provisions of this development code;*

The proposed use is a new wine, beer, and liquor specialty shop, within the Commercial Old Town (CT) zoning district. Per Section 17.11.010 of the CMC, a wine and beer retail shop is allowed in the CT zone with a Conditional Use Permit, where allowed by the Old Town Master Plan. Subject to approval of the associated request for a Determination of Similar Use, the proposed wine, beer, and liquor shop would be most similar to a wine and beer shop, and would therefore be conditionally permitted in the CT zone. The Old Town Master Plan allows ground-floor retail on the subject parcel (Parcel 3 as identified in the master plan), and therefore the proposed retail sale of alcohol is consistent with the requirements of Section 17.11.010 of the CMC.

Additionally, per Section 17.12.035(E), a specialty store where the predominant product sold is wine and beer (up to one hundred percent of the sales floor) may be permitted through approval of a Conditional Use Permit for the establishment and must be conducted in compliance with the Alcoholic Beverage Control Act of the State of California. The applicant's proposed new wine, beer, and liquor specialty shop will comply with all applicable state laws and requirements of the State Department of Alcoholic Beverage Control (ABC). Therefore, the proposed project meets this finding.

2. *The proposed use is consistent with the General Plan and any applicable specific plan or master plan;*

The retail sale of wine, beer, and liquor is consistent with the City of Calabasas General Plan because it contributes to the "...mix of retail and service commercial, office, and business park areas that: meet the retail service needs of Calabasas citizens; contribute to a sound local economic base..." (Policy II-11). Because the new retail store will occupy space within an existing shopping center, the primary retail use of the subject site will not be altered as a result of this project.

Additionally, the project site is located within the Old Town Master Plan area, which allows for ground-floor retail on the subject parcel (identified as Parcel 3 within the Master Plan). The proposed new land use will be retail sales of wine, beer, and liquor. Therefore, the request for a Conditional Use Permit for a new wine, beer, and liquor specialty shop meets this finding.

3. *The approval of the conditional use permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA); and*

The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the California CEQA Guidelines, which exempts licensing of existing public or private structures. The project is also exempt per Section 15061(b)(3) because the new retail store is within an existing shopping center, and no exterior alterations are proposed as part of the proposed project.

Therefore, because the proposed project is exempt from environmental impact review under the California Environmental Quality Act, the proposed project meets this finding.

4. *The location and operating characteristics of the proposed use are compatible with the existing and anticipated future land uses in the vicinity;*

The location and operating characteristics of the requested conditional use permit, with the limitations described in the attached conditions, are compatible with the existing and anticipated future land uses in this area of the City because all activities associated with the operation of the new wine, beer, and liquor specialty shop, including the sale of beer and wine via a Type 21 license issued by the State Department of Alcoholic Beverage Control (ABC), will take place entirely within the existing tenant space in the shopping center, with no exterior modifications proposed and no on-site consumption of alcohol proposed.

Furthermore, the subject site is located within a commercial shopping

center. Surrounding land uses include retail, and existing restaurants that serve beer, wine, and liquor; therefore, the location and operating characteristics of the new retail store selling beer, wine, and liquor is compatible with the existing and future land uses in the vicinity, and the proposed project meets this finding.

Section 17.11.020(C) of the Calabasas Municipal Code (CMC) allows the Planning Commission to approve a **Determination of Similar Use** provided that the following findings are made:

1. *The proposed use meets the intent of, and is consistent with, the goals, objectives and policies of the adopted General Plan;*

The proposed use is a new wine, beer, and liquor specialty shop, located at 23504 Calabasas Rd Ste 3 within the Commercial Old Town (CT) zoning district. The retail sale of wine, beer, and liquor is consistent with the City of Calabasas General Plan because it contributes to the "...mix of retail and service commercial, office, and business park areas that: meet the retail service needs of Calabasas citizens; contribute to a sound local economic base..." (Policy II-11). Therefore, the proposed retail sale of wine, beer, and liquor is consistent with the goals, objectives, and policies of the adopted General Plan, and meets this finding.

2. *The proposed use meets the stated purpose and general intent of the zoning district in which the use is proposed to be located;*

The proposed wine, beer, and liquor specialty shop is located within the Commercial Old Town (CT) zoning district. Section 17.14.010(E) of the CMC describes the CT zone as an area within the limits of Old Town Calabasas, within which a variety of office, retail, and other commercial uses are appropriate to the extent that the development is designed to preserve and enhance the area's historic character and comply with the Old Town Master Plan. The Old Town Master Plan encourages ground-floor retail on this parcel, and the proposed retail store complies with the master plan. The proposed retail store therefore meets the stated purpose and intent of the CT zoning district, and meets this finding.

3. *The proposed use will not adversely impact the public health, safety or general welfare of the city's residents; and*

The proposed wine, beer, and liquor specialty shop is similar to a wine and beer specialty shop, which is a conditionally permitted use in the CT zone. The municipal code does not address wine, beer, and liquor shops;

however, the proposed use shares similar operating characteristics with a wine and beer specialty shop, including in regards to parking, hours of operation, number of employees, etc. The project application was routed to review by the City's Development Review Committee, including to representatives from the Sheriff's Department, who confirmed they have no objections to the proposed new tenant. Additionally, all employees will be required to undergo training for the sale of alcoholic beverages, including training provided by ABC. Lastly, the proposed use will be required to comply with municipal code requirements in regards to noise levels, litter, and conditions on hours of operation. Therefore, the proposed use will not adversely impact the public health, safety, or general welfare, and meets this finding.

4. *The proposed use shares characteristics common with, and is not of a greater intensity, density or generate more environmental impact than, those listed in the zoning district in which it is to be located.*

The proposed wine, beer, and liquor specialty shop shares characteristics with a wine and beer specialty shop, which is a conditionally permitted use in the CT zone per Section 17.11.010 of the CMC. The proposed use will have similar hours of operation, number of employees and customers, nature and location of storage/merchandise, volume and type of sales, parking characteristics, and transportation requirements as would a wine and beer specialty shop; all of which are considerations for a determination of similar use. Additionally, the review authority can attach reasonable conditions to ensure the proposed use will be similar to the permitted use, which are incorporated within Section 4 below. Therefore, with the additional conditions of approval incorporated, the proposed use is similar to those listed in the zoning district, and meets this finding.

Section 4. In view of all of the evidence and based on the foregoing findings and conclusions, the Planning Commission approves File No. CUP-2024-002 subject to the following agreement and conditions:

I. INDEMNIFICATION AGREEMENT

The City has determined that City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorney fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance

of File No. CUP-2024-002, or the activities conducted pursuant to this File No. CUP-2024-002. Accordingly, to the fullest extent permitted by law, the applicant and property owner, and their successor and assigns, shall defend, indemnify and hold harmless the City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of File No. CUP-2024-002, or the activities conducted pursuant to File No. CUP-2024-002. The applicant and property owner, and their successor and assigns, shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.

II. CONDITIONS OF APPROVAL

Community Development Department/Planning/Building and Safety

1. The proposed project shall be built in compliance with the approved plans on file with the Planning Division.
2. The project approved herein is depicted on those sets of drawings, elevations, etc., stamped approved by staff on the approval date. Any modifications to these plans must be approved by the Department of Community Development staff prior to the changes on the working drawings or in the field. Changes considered substantial by the Planning staff must be reviewed by the Planning Commission. The determination of whether or not a change is substantial shall be made by the Director of Community Development.

Prior to issuance of grading or building permits, plans shall be reviewed by the Department of Community Development to ensure compliance with the plans approved by the Planning Commission. The plans shall comply with the conditions contained herein, the Calabasas Municipal Code, and all City Resolutions and Ordinances.

3. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this grant and any law, statute, ordinance

or other regulation applicable to any development or activity on the subject property. Failure of the applicant or its successors to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of the conditions of approval may result in the revocation of this approval.

4. This approval shall be valid for one year and eleven days from the date of adoption of the resolution. The permit may be extended in accordance with Title 17 Land Use and Development Code, Article VI - Land Use and Development Permits.
5. Prior to commencement of construction, all necessary building permits must be obtained from the Building and Safety Division.
6. The project must comply with the building codes in effect at this time, which include the "2022" California Building, Plumbing, Mechanical, and Electrical codes as amended by Chapter 15.04 of the Municipal Code.
7. The project is located within a designated A Very High Fire Hazard Severity Zone. The requirements of Chapter 15.04.900 of the Calabasas Municipal Code that references the 2022 California Fire Code as well as the 2022 Consolidated Fire Protection District Code of Los Angeles County, must be incorporated into all plans.
8. The applicant shall provide the construction contractor(s) and each subcontractor related to the project a copy of the final project Conditions of Approval. The applicant and the City agree that these conditions shall be enforceable through all legal and equitable remedies, including the imposition of fines against each and every person who conducts any activity on behalf of the applicant on or near the project site. The applicant, property owner, and general construction contractor are ultimately responsible for all actions or omissions of a subcontractor.
9. Construction Activities - Hours of construction activity shall be limited to:

7:00 a.m. to 6:00 p.m., Monday through Friday

8:00 a.m. to 5:00 p.m., Saturday

Stacking of construction worker vehicles, prior to 7:00 a.m. in the morning will be restricted to areas that do not adversely affect adjacent residences or schools. No vehicles involved in construction of this project shall block the roadway at any time. The applicant or its successors shall notify the director

of Transportation and Intergovernmental Relations of the construction employee parking locations, prior to commencement of construction.

10. This Conditional Use Permit may be transferred to a subsequent owner/lessee provided that the operation is a similar type and provided that the owner/lessee abides by all of the conditions and restrictions of the Conditional Use Permit. Any transfer of ownership is subject to review and approval by the Community Development Director.
11. Hours of operation shall be no earlier than 8:00 am, and no later than 9:00 pm.
12. Alcoholic beverages may be sold for off-site consumption only.
13. The wine, beer, and liquor specialty shop shall comply with all requirements of the State of California Department of Alcoholic Beverage Control (ABC) and the County of Los Angeles Sheriff's Department.
14. The wine, beer, and liquor specialty shop shall maintain a sommelier on staff. Proof of sommelier certification shall be provided to Staff prior to commencing the proposed use.
15. Tobacco retailing shall not be permitted on the premises of the specialty shop.
16. No ATM is permitted to be installed on the premises of the specialty shop.
17. All current and future tenants/owners shall accept the conditions of this Conditional Use Permit by executing the Affidavit of Acceptance provided by the City Planning Department prior to commencement of alcoholic beverage sales. Applicant shall have this resolution recorded with the Los Angeles County Recorder's Office, and a certified copy of the recorded document shall be filed with the Community Development Department.
18. The City reserves the right to further review of the Conditional Use Permit and conditions of approval, should complaints be received from nearby residents, tenants, or property owners; or, should the number of incidents reported to the Sheriff's Department exceed the number typical for this type of use.

Section 5. All documents described in Section 1 of PC Resolution No. 2024-797 are deemed incorporated by reference as set forth at length.

PLANNING COMMISSION RESOLUTION NO. 2024-797 PASSED,
APPROVED AND ADOPTED this 7th day of November, 2024.

Wendy Fassberg
Chairperson

ATTEST:

Michael Klein, AICP
Community Development Director

APPROVED AS TO FORM:

John Fox
Aleshire and Wynder, LLP
Assistant City Attorney

Planning Commission Resolution No. 2024-797, was adopted by the Planning Commission at a regular meeting held November 7th, 2024 and that it was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

“The Secretary of the Planning Commission shall certify the adoption of this Resolution, and transmit copies of this Resolution to the applicant along with proof of mailing in the form required by law and enter a copy of this Resolution in the book of Resolutions of the Planning Commission. Section 1094.6 of the Civil Code of Procedure governs the time in which judicial review of this decision may be sought.”