

RESOLUTION 2022-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA APPROVING A USE PERMIT TO ALLOW THE ESTABLISHMENT OF A RESTAURANT WITH BAR AND RELATED ON-SITE ALCOHOL SALES/CONSUMPTION ON THE MAIN FLOOR OF A MIXED-USE BUILDING; FOR THE PROPERTY LOCATED AT 205 THE ALAMEDA, THE INTERSECTION OF THE ALAMEDA AND PEARCE STREET, ASSESSOR'S PARCEL NUMBERS: 002-460-001 AND 002-460-002.

WHEREAS, on April 8, 2021, Jesus & Katherine Zavala (Applicant) applied for a Combined Development Permit to develop a mixed-use building, establishment of restaurant with bar, and on-site alcohol sales/consumption; and

WHEREAS, City Staff reviewed the application, made the required determination under San Juan Bautista Municipal Code (SBJMC) Section 11-20-030 (Use Permit – Required Findings), Section 11-18-040 (Site and Design Review); and Historic Resources Board Review (11-06-1200 (C) (6) (a); and

WHEREAS, the Planning Commission on February 1, 2022 and March 1, 2022 conducted duly noticed Public Hearings, considered written and oral public testimony, closed the Public Hearing, determined the project to be Exempt from CEQA in accordance with Guidelines Section 15303 and 15305 and APPROVED the Site and Design Review Permit and Use Permit subject to conditions and based on findings contained in the Planning Commission Resolutions 2022-01 and 2022-02; and

WHEREAS, an appeal was duly filed by the applicant in accordance with Municipal Code Chapter 11-25 of Planning Commission Action referenced in Resolution 2022-02 limiting the restaurant with bar and on site sale and consumption of alcohol to an ABC Type 41 License;

WHEREAS, on April 19, 2022 in accordance with Municipal Code Section 11-25-80, the City Council conducted a new public hearing on the merits of the proposed Use Permit during which the City Council considered written and oral public testimony;

WHEREAS, the City Council has considered the on-site, adjacent and surrounding residential, education, and outdoor recreation uses, the nature of the proposed use, the required subsequent State of California Department of Alcoholic Beverage Control process referenced in the staff report dated March 19, 2022, including requirements for public notice, protest, for obtaining the necessary Type 41 License premise to premise transfer and process for obtaining the Type 47 License for restaurant with bar; and

WHEREAS, considering the on-site and surrounding uses and activities the City Council hereby determines that conditions of approval as referenced in Attachment 1 are necessary to protect the public health, safety and general welfare of persons living and working in the area;

WHEREAS, the City Council, upon reviewing the application materials, staff report, and draft resolution, determined that the project is Categorically Exempt under Section 15303 and 15305 (new construction of small structures and minor alterations to land) of the California Environmental Quality Act; and

WHEREAS, upon reviewing the application materials, applicant appeal, staff report, public testimony and draft resolution, the City Council finds that the project meets or exceeds all of the Use Permit requirements in Section 11-20-030 of the San Juan Bautista Municipal Code, for both requested Use Permits (the allowance of a restaurant with bar and the on-site sales of alcohol) as detailed below:

SECTION 11-20 – USE PERMIT REQUIRED FINDINGS:

The following findings are required for the approval of a Conditional Use Permit Application (11-20-030):

- A) *That the use is necessary or desirable in relation to the purposes and intent of the San Juan Bautista General Plan, Zoning Ordinance, and the economic, social and environmental status of the City.*

Evidence: The proposed uses are both conditionally permitted in the Mixed Use (MU) zoning designation. The proposed uses will provide economic benefit and development to the currently unused parcel, allow an existing business to improve and expand services, and provide increased merchant and sales tax revenue to the city.

- B) *That the use will be properly related to other uses, transportation facilities, and other public facilities in the area, and will not cause undue environmental impacts related to noise, odor, pollution, etc.; and*

Evidence: The proposed uses are consistent with normal activities and uses of a restaurant within the Mixed-Use zoning district (restaurant with bar and on-site alcohol sales/consumption) and will not cause undue environmental impacts related to noise, odor, or pollution. Onsite alcoholic sales and consumption, in this particular case, as conditioned to require limits on hours of operation, interior and exterior noise attenuation, restrictions on outdoor activities, will not result in excessive noise or odors beyond levels considered acceptable for a Mixed-Use zoning district. The proposed uses are consistent with the permitted uses of other restaurant establishments within the Mixed-Use district. (Note: The establishment of a

restaurant within the "MU" zoning district is an allowed use, and does not require the granting of a CUP for this portion of the proposal).

- C) *That the use will not adversely affect the health or safety of persons living or working in the vicinity, or be materially detrimental to the public welfare of the City and its residents.*

Evidence: The proposed uses, as conditioned to require limits on hours of operation, interior and exterior noise attenuation, restrictions on outdoor activities will not adversely affect the health and safety of persons living or working in the vicinity nor will it be detrimental to the public welfare of the City and its residents. The establishment of restaurant with bar and onsite sale/consumption of alcoholic beverages is a conditionally permitted use in the Mixed-Use zoning district. The sale of alcoholic beverages in association with a restaurant, in accordance with Type 41 and Type 47 ABC regulations regarding maintenance of a bona-fide eating establishment, is similar to multiple other establishments within the Mixed-Use zoning district in the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Bautista approves a Use Permit to allow the establishment of a restaurant with bar and related on-site alcohol sales/consumption licensed as either a Type 41 OR a Type 47 ABC License located at 205 The Alameda, The Alameda and Pearce Street, San Juan Bautista (APN: 002-460-002 and 002-460-001), based on findings contained herein and subject to Conditions of Approval contained in Attachment 1.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista on this 19th day of April, 2022, by the following vote:

AYES: Jordan, Edge, Flores, Freels, Freeman

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:



Don Reynolds, Acting Deputy City Clerk



Leslie Jordan, Mayor, Chairperson

Exhibit 1
CONDITIONS OF APPROVAL
USE PERMIT
City Council April 19, 2022

1. The Applicant/Owner shall enter into an Indemnification and Hold Harmless Agreement with the City of San Juan Bautista for the approval of the proposed project. The Applicant/Owner shall be responsible to pay fees for all review time and City/Legal costs prior to recordation and acceptance of the document.
2. The proposed bar within the restaurant shall be open only during the hours of restaurant operation and not later than 9:30 PM.
3. Activities on the site shall only be conducted indoors or within the courtyard area of the restaurant;
4. Noise levels:
 - a) Interior noise levels for on-site residences shall be a sound transmission class of not less than 50 (airborne and structure) unless otherwise field tested for a sound transmission class of not less than 45.
 - b) Ambient Noise levels at property boundaries shall be tested and recorded prior to construction. Noise levels during operation of the restaurant shall not exceed existing ambient levels. Applicant shall submit a noise monitoring report to the Community Development Director within 6 months of commencement of the proposed restaurant use sufficient to demonstrate compliance with this requirement.
 - c) A sound attenuating fence or wall 7' high shall be constructed at the east and south property boundaries, limited to 3' in height within 20' The Alameda and Pearce Street right of way. Wall or Fence height may be 8' high subject to approval of adjacent residences.
 - d) Live music shall be prohibited after 9PM. Amplified music shall be prohibited.
5. Prior commencement of the restaurant with bar with a Type 41 or 47 permit, the applicant shall create a complaint resolution program for approval by the Community Development Director.
6. Windows facing residential properties shall be non-glare type windows.