



City of San Juan Bautista

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AGENDA

REGULAR PLANNING COMMISSION MEETING

TUESDAY ~ MARCH 1, 2022 ~ 6:00 P.M.

~ PUBLIC PARTICIPATION BY ZOOM ONLY ~

Join Zoom Meeting <https://zoom.us/j/84858757902>

or call 1 (669) 900-6833

Meeting ID: 848 5875 7902

THIS MEETING WILL BE CONDUCTED PURSUANT TO GOVT. CODE §54953(e)(1)(A).

In order to minimize the spread of the COVID 19 virus the Planning Commission is conducting this meeting by Zoom webinar and will be offering alternative options for public participation. You are encouraged to watch the meeting live on Zoom or Facebook.

PUBLIC COMMENTS WILL BE TAKEN ON AGENDA ITEMS BEFORE ACTION IS TAKEN BY THE PLANNING COMMISSION. DURING THE MEETING: TO PROVIDE VERBAL PUBLIC COMMENTS ON AN AGENDA ITEM DURING THIS MEETING CALL THE PHONE NUMBER LISTED ABOVE OR LOG INTO ZOOM AND ENTER THE MEETING ID NUMBER AS LISTED ABOVE.

When the Chairperson announces public comment is open for the item which you wish to speak, press *9 on your telephone keypad or if joining by Zoom, use the raise your hand icon. When called to speak, please limit your comments to three (3) minutes, or such other time as the Chairperson may decide, consistent with the time limit for all other speakers for the particular agenda item. Comments from other platforms will not be considered during the meeting. If you would like to participate you MUST log in to Zoom.

Written comments may be mailed to the Deputy City Clerk at City Hall (P.O. Box 1420, San Juan Bautista, CA 95045), or emailed to deputycityclerk@san-juan-bautista.ca.us not later than 5:00 p.m., March 1, 2022, and will be read into the record during public comment on the item.

In compliance with the Americans with Disabilities Act, City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the Deputy City Clerk a minimum of 48 hours prior to the meeting at (831) 623-4661.

If you challenge any planning or land use decision made at this meeting in court, you may be limited to raising only those issues you or someone else raised at the public hearing held at this meeting, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure.

Materials related to all items on this agenda are available in the agenda packet on the City website www.san-juan-bautista.ca.us subject to Staff's ability to post the documents before the meeting, or by emailing deputycityclerk@san-juan-bautista.ca.us or calling the Deputy Clerk (831) 623-4661 during normal business hours.

1. Call to Order

Roll Call

Pledge of Allegiance

2. Public Comment on Items Not on the Agenda but Within the Subject Matter

Jurisdiction of the Planning Commission

This portion of the meeting is reserved for persons desiring to address the Commission on matters not on this agenda. The law does not permit Commission action or extended discussion of any item not on the agenda except under special circumstances. If Commission action is requested, the Commission may place the matter on a future agenda.

3. Consent Items

All matters listed under the Consent Agenda may be enacted by one motion authorizing actions indicated for those items so designated. There will be no separate discussion of these items unless requested by a member of the Planning Commission, a staff member, or a citizen.

A. Approve Affidavit of Posting the Agenda

B. Approve Minutes of the February 1, 2022 Regular Planning Commission Meeting

4. Informal Project Review

Any potential and/or future project applicant may present their project to the Commission during Informal Project Review for the purpose of gaining information as preliminary feedback only. No formal application is required and no action will be taken by the Commission on any item at this time.

A. No projects to present.

5. Action Items

A. Adopt a Resolution of the Planning Commission of the City of San Juan Bautista Approving a Conditional Use Permit to Allow the Establishment of a Bar at 205 The Alameda (Corner of The Alameda and Pearce Street), APN: 002-460-001 and 002-460-002. The project is determined to be Exempt from CEQA per 15303 and 15305 of the California Environmental Quality Act. The Applicants are Jesus and Katherine Zavala.

6. Comments

A. Planning Commissioners

B. Community Development Director

7. Adjournment

AFFIDAVIT OF POSTING

I, TRISH PAETZ, DO NOW DECLARE, UNDER THE PENALTIES OF PERJURY THAT I AM THE DEPUTY CITY CLERK IN THE CITY OF SAN JUAN BAUTISTA AND THAT I POSTED THREE (3) TRUE COPIES OF THE ATTACHED PLANNING COMMISSION AGENDA. I FURTHER DECLARE THAT I POSTED SAID AGENDA ON THE 24th DAY OF FEBRUARY 2022, AND I POSTED THEM IN THE FOLLOWING LOCATIONS IN SAID CITY OF SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA.

1. ON THE BULLETIN BOARD AT CITY HALL, 311 SECOND STREET.
2. ON THE BULLETIN BOARD AT THE CITY LIBRARY, 801 SECOND STREET.
3. ON THE BULLETIN BOARD AT THE ENTRANCE TO THE UNITED STATES POST OFFICE, 301 THE ALAMEDA

SIGNED AT SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA,
ON THE 24TH DAY OF FEBRUARY 2022.



TRISH PAETZ
DEPUTY CITY CLERK

**CITY OF SAN JUAN BAUTISTA
PLANNING COMMISSION REGULAR MEETING
FEBRUARY 1, 2022
DRAFT MINUTES**

(Meeting held via Zoom Internet Video/Audio Conference Service)

1. CALL TO ORDER – Chairperson Delgado called the meeting to order at 9:00 p.m.

B. ROLL CALL **Present:** Commissioners Delgado, Matchain, Bains,
Morris-Lopez, and Medeiros

Staff Present: Community Development Director Brian Foucht
and Deputy City Clerk Paetz

2. CEREMONIAL ITEMS

A. Select Chairperson

B. Select Vice Chairperson

A motion was made by Commissioner Bains and seconded by Commissioner Matchain to keep the chairperson and vice chairperson the same as last year. During discussion, Commissioner Morris Lopez commented that she agreed Commissioner Delgado should continue as chairperson but nominated herself for Vice Chairperson. Commissioner Delgado seconded the nomination of Commissioner Morris Lopez as Vice Chairperson.

The vote was taken and was unanimous, 5-0, to appoint Commissioner Delgado to continue as Chairperson, and appoint Commissioner Morris Lopez as Vice Chairperson.

3. PUBLIC COMMENT

No public comment was received.

4. CONSENT ITEMS

A. Approve Affidavit of Posting Agenda

B. Approve Affidavit of Posting Public Hearing Notice

C. Approve Minutes of the November 2, 2021 Planning Commission Meeting

D. Approve Minutes of the December 7, 2021 Planning Commission Meeting

A motion was made by Commissioner Bains and seconded by Commissioner Medeiros to approve all items on the consent agenda. The motion passed unanimously, 5-0.

At which point, Commissioner Morris-Lopez said she was voting against the December 7, 2021 Minutes.

5. INFORMAL PROJECT REVIEW

There were no projects for informal review.

6. PUBLIC HEARING ITEMS

- A. **Review recommendation of the Historic Resources Board; Adopt a Resolution of the Planning Commission of the City of San Juan Bautista Approving a Combined Development Permit Consisting of: 1) Lot Line Adjustment to Adjust Parcel A (0.163 Acres / 7,105 sf) and Parcel B (0.137 Acres / 6005 sf) to Parcel 1 (0.15 Acres/ 6550 sf) and Parcel 2 (0.15 Acres / 6550 sf); 2) Conditional Use Permit to Allow the Establishment of a Bar on the Main Floor; 3) Conditional Use Permit to Allow On-Site Alcohol Sales/Consumption; 4) Site & Design Review Permit to Allow Two Multi-Family Dwelling Units [1 – 2 bed/1 bath (920 sf) and 1 – 1 bed/1 bath (707 Sf)] Totaling 1,627 sf for the Property Located at the Intersection of The Alameda and Pearce Street, APN: 002-460-002 and 002-460-001. The Applicants are Jesus and Katherine Zavala.**

Senior Planner David Mack reviewed his staff report with a slide presentation. The applicant and consultant, Luis Vargas, were present. Luis Vargas provided a site and design review. Chairperson Delgado opened the public hearing. Cara Vonk suggested the handicapped ramp be tan or grey bumps, and something should be done to visually break up the long blank wall on the backside of the building. Wanda Guibert requested an archeological consultant be on site during demolition and construction, and asked that the heritage rose growing on the site be addressed by a local heritage rose association. Chairperson Delgado closed the public hearing. Senior Planner David Mack stated that it should be included in the resolution for approval that the warehouse is of no historic significance, the building will have solar roof tiles that match the roof top, and wall paintings will be included to break up the boring wall. Historical Society Board President Wanda Guibert stated they would like to provide a photo of the woman in the car parked in the warehouse, for the bar wall.

Commissioner Morris Lopez asked if the applicants would comment. Applicant Jesus Zavala responded that his intention with opening JJ's Burgers in a new location came after his rent was increased, together with a desire to improve the corner location. Commissioner Morris Lopez was concerned with ABC laws regarding the bar's proximity to a school. Chairperson Delgado stated she read the State Alcoholic Beverage Control code on the matter and wants the Commission to make a decision tonight.

Community Development Director Brian Foucht stated that the conditions of approval attached to the resolution will include that solar tiles are covered by the building code, the color of the handicapped ramp, conservation of the heritage rose at the Community Development Director's discretion, and work with the Historical Society to get photographs depicting features of the demolished warehouse. The bar and ABC limitation, however, should be addressed at a future meeting.

A motion was made by Chairperson Delgado, and seconded by Commissioner Bains to approve Resolution 2022-01 with the changes noted above integrated into the resolution and conditions of approval. The motion passed 4-1-0-0 with Commissioner Morris Lopez voting against.

7. ACTION ITEMS

A. Review the Recommendation of the Urban Growth Boundary (UGB) Committee and Recommend to the City Council Approval of a Sphere of Influence Study Program.

Chairperson Delgado asked that this item be continued to another meeting, as it was getting late.

ADJOURNMENT

There was no official meeting adjournment as the Zoom access and recording stopped abruptly at 10:30 p.m.



CITY OF SAN JUAN BAUTISTA PLANNING COMMISSION STAFF REPORT

AGENDA TITLE: Use Permit to allow on-site alcohol sales/consumption; CEQA DETERMINATION: Exempt per 15303 and 15305 of the California Environmental Quality Act.

Iworq Permit No. 116 (APNs: 002-460-001 and 002-460-002) (205 The Alameda; Pearce and The Alameda) (Jesus and Katherine Zavala)

MEETING DATE: March 1, 2022

SUBMITTED BY: Brian Foucht, Community Development Director

RECOMMENDED ACTION(S): Staff recommends the following:

1. Approve a Use Permit, subject to conditions and based on findings in the staff report dated March 3, 2022, to allow the establishment of a bar on the main floor of the mixed-use building; and
2. Approve a Use Permit to allow the onsite sale and consumption of alcoholic beverages subject to conditions and based on findings; and

BACKGROUND INFORMATION:

The Planning Commission, on February 1, 2022, in accordance with Municipal Code Section 11-04060 (G), accepted the recommendation of the Historic Resources Board that analysis and conclusions of the Phase 1 Historic Assessment and related peer review (*PAST Consultants, December 2021, and Kent Seavey, January 2022*, respectively) are adequate to conclude that the existing building located at 205 The Alameda is not a historic resource.

The Planning Commission subsequently approved the Site and Design Review Permit to allow construction of Site & Design Review Permit to allow two multi-family dwelling units [1-2bed/1bath (920 SF) and 1-1bed/1bath (707 SF)] totaling 1,627 SF. The Permit was approved subject to 41 Conditions and related findings and evidence.

The Planning Commission determined that the demolition of the existing building on the site and development in accordance with the Site and Design Review Permit are exempt from CEQA per CEQA Guideline Sections 15303 and 15305.

A. CONDITIONAL USE PERMITS:

(NOTE: The following portion of the staff report referencing license transfer, Type 41 and Type 47 Permits, notice and protests, are obtained directly from the California Dept. of Alcoholic Beverage Control (ABC) website:

[Frequently Asked Questions | Alcoholic Beverage Control \(ca.gov\)](#) AND

[Information Regarding Alcoholic Beverage License Applications and Protests | Alcoholic Beverage Control](#)

1. Licensing:

The applicant currently possesses a Type 41 ABC permit and will apply to the ABC for a premise-to-premise transfer of that permit from the existing business at 100 The Alameda to 205 The Alameda. A Type 41 Permit (Restaurant) authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). The applicant must operate and maintain the licensed premises as a bona fide eating place, maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

The applicant proposes to operate via a Type 41, and, when an appropriate license has been obtained from the ABC, a Type 47 ABC license, (Restaurant). This type of permit authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. The applicant must operate and maintain the licensed premises as a bona fide eating place, maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

The applicants may transfer the Type 41 license from 100 to 205 The Alameda and operate the licensed premises during the transfer period if a 120-day permit has been obtained. To qualify for this temporary permit, 100 The Alameda must be currently licensed and have been operating within the past 30 days prior to application.

The ABC *may* deny any retail license located (a) within the immediate vicinity of churches and hospitals, or (b) within at least 600 feet of schools, public playgrounds and nonprofit youth facilities. Generally, ABC will deny a license in the above situations when there is evidence that normal operation of the licensed premises will be contrary to public welfare and morals. *Mere proximity by itself is not sufficient to deny the license.*

ABC will not license a new retail location within 100 feet of a residence unless the applicant can establish that the operation of the proposed premises will not interfere with the quiet enjoyment of the property by residents. (Section 23789 and Rule 61.4)

2. Notice and Protest Provisions

A person or business (applicant) planning to open a new ABC-licensed business, change the ownership, or move an existing business to a new site must apply for the proper license at an ABC district office. As part of the ABC process, which is separate from local zoning/Conditional Use Permit review, notice must be given to the public and to local officials. This notice occurs in several ways:

- **Public Notice** – The applicant must post a white or yellow public notice of intent to engage in the sale of Alcohol (Form ABC-207 or ABC-207-B) in a prominent place at the proposed premises for 30 days (Bus. & Prof. Code § 23985).
- **Written Notice by Mail** – ABC mails a copy of the application to the sheriff, chief of police, district attorney, and city council (or the board of supervisors if in an unincorporated area). In some cases, the applicant must also mail written notice to residents and owners of real property within a 500 - foot radius of the proposed business (Bus. & Prof. Code §§ 23985.5 & 23987).
- **Newspaper Publication** – Certain applicants must publish a notice in the local newspaper (Bus. & Prof. Code § 23986).

Any person may protest an ABC license application within 30 days, after

- The Public Notice is first posted at the proposed business; **or**
- The date the applicant mails written notice to residents or owners of real property within a 500' radius.

ABC provides a form used to register protests which may be mailed, delivered or faxed to the nearest ABC office (Salinas). All protests submitted to the ABC are public records. ABC denial of a license cannot deny a license solely due to personal beliefs. Some of the grounds of protest, which could relate to public welfare and morals, are as follows:

- a) The premises is located within the immediate vicinity of a school, church, hospital, or children's playground and the normal operation of the licensed premises would interfere with their functions. (Bus. & Prof. Code § 23789.) Protests must be specific as to how the sale of alcoholic beverages will adversely affect the facility. *Mere proximity to such a facility is not sufficient legal grounds to deny the license.*
- b) The premises is located in a residential area and the normal operation of the licensed premises would interfere with the quiet enjoyment of their property by the residents of the area. (Dept's. Rule 61.4, found in tit. 4, Cal. Code Regs.) Protests must be specific as to how the sale of alcoholic beverages will adversely affect the residents. The ABC advises that, in some cases, the applicant may be willing to agree to certain conditions. For example, if there could be late-night noise, the applicant may be willing to stop alcohol sales after a certain time. The ABC will then evaluate if the proposed condition is appropriate to impose on the license; however, the City of San Juan Bautista may impose appropriate conditions through the Conditional Use Permit.
- c) The premises or parking lot is located within 100 feet of a residence and the applicant has failed to establish that the operation of the licensed premises would not interfere with the quiet enjoyment of the property by the residents. (Dept's. Rule 61.4.)
- d) Licensing the premises would create a public nuisance as defined in Penal Code Section 370. Specific facts must be stated leading to this conclusion.

- e) Issuance of the license would result in or add to an undue concentration of licenses. (Bus. & Prof. Code § 23958 and 23958.4.) List any problems that existing licensed businesses in the area may be causing.
- f) The following are grounds usually cited by city or county enforcement agencies only. But they can be used by persons who have independent, adequate evidence of same:
- g) In addition to law enforcement – related protests by the City, the City may file a valid protest that the use is inconsistent with the zoning ordinance, that a Conditional Use Permit is required and has not been obtained, or that the use is not in compliance with conditions of the issued CUP. This protest would result in denial of the requested transfer or issuance of the new license. (Bus. & Prof. Code § 23790.)

The ABC will conduct an investigation, as required by law, regarding any valid protest. The ABC looks into the applicant's personal history, the applicant's source of funds, the suitability of the proposed premises, and any issues raised in the protest(s). (Bus. & Prof. Code § 23958.). A public hearing may be held by the ABC regarding any valid protest after which adjudication will occur, the results of which may either be accepted or rejected by the ABC.

The ABC states that some concerns involving ABC licenses include:

- The premises is too close to a school, church, hospital, playground, nonprofit youth facility or residence and would disturb the facility or resident.
- The premises is located in a high-crime area and does not serve public convenience or necessity
- The applicant does not have legal tenancy
- The license would create a public nuisance
- Zoning is improper for alcohol sales.

Regarding these concerns, the ABC states that conditions placed on a license " *May limit the hours of alcohol sales, the type of entertainment allowed, or other aspects of the business. Conditions may eliminate the need to deny a license or may cause a protestant to withdraw his protest.*"

3. Use Permit Considerations

Use Permits are site – specific; therefore, regardless that the applicants possess an existing Type 41 Permit in operation at 100 The Alameda, a new Use Permit is required for a Type 41 License at 205 The Alameda as well as the requested Type 47 License. Typical concerns involving surrounding land uses (schools, public playgrounds, youth facilities within 600' and residences within 100' include:

In this case, the proposed mixed use, by its nature, is within 100' of residences. Residences are adjacent to the South and East of the site and is within 600' of a school and playground (soccer fields) accessible to the public.

To enable successful operation of the bar, staff believes that alcohol consumption and sale must be indistinguishable from operation of the restaurant. This is, in fact a prerequisite for both the Type 41 and Type 47 Licenses. In fact, the ABC considers a Type 47 permit as a “restaurant” use (see above description). Appropriate conditions of approval would include requirements that the bar be in operation only during the time that the restaurant is in operation, that restrictions on the bar operations be limited to late afternoon and a reasonable night time closure, and that any music be undiscernible outside the restaurant, and outdoor activities prohibited.

Other requirements could include a requirement that the applicant distribute complaint reporting forms addressed to the City. The Use Permit will stipulate performance standards to ensure that the proposed use remains compatible with on-site and adjacent residential uses; including but not limited to noise, lighting, hours of operation, noise and outdoor activities. Failure to comply with standards would result in referral to the Planning Commission for remediation and potential CUP revocation, followed by protest filing with the ABC.

The applicant has amended the project description (see attached letter dated February 24, 2022) to refer to hours of operation.

4. Planning Commission Action

The decision of the Planning Commission (resolution) will be forwarded to the ABC in response to a request for administrative zoning verification from the ABC.

The Commission may

- a) Approve this Use Permit as presented (including the letter dated February 24, 2022, attached); or
- b) Approve the Use Permit with conditions of approval (attached to the resolution); or
- c) Deny the Use Permit based on Findings and evidence presented during the public hearing.

Use Permits

SJBMC Section 11-20-030 details the Findings the Planning Commission is required to make for all proposed Use Permit (UP) applications. The proposal requires the issuance of two separate UPs, which are both related to the service of alcohol in the context of restaurant operation. One UP is required to allow the establishment of bar on the first floor of the mixed use building, and another UP is required to allow the on-site sales and consumption of alcoholic beverages. Because both UPs are similar in nature, the analysis below is combined for both UPs.

- 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 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 within the Mixed Use zoning district (restaurant with on-site sale and consumption of alcohol via a Type 41 or Type 47 ABC License) and subject to conditions, will not cause undue environmental impacts related to noise, odor, or pollution. Onsite alcoholic sales and consumption, in general, 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 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. Conditions of approval restrict the hours of operation to hours when students are not expected to be present in the vicinity, prohibit outdoor activities related to the use on the site, require that music not be discernable outside the building or to second floor residents. The establishment of restaurant with 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 is similar to multiple other establishments within the Mixed Use zoning district in the City.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The Conditional Use Permit is categorically exempt from the California Environmental Quality Act per Sections 15303 and 15305. Section 15303 (Class 3) exempts both a restaurant or similar structure not exceeding 2,500 SF in floor area and a duplex or similar multi-family residential structure. Section 15305 (Class 5) exempts minor lot line adjustments nor resulting in the creation of a new parcel. None of the exceptions found in Section 15300.2 apply to the project site, in so much as the project is not located in an area of critical concern, will not pose a cumulative impact, is not located on or adjacent to a scenic highway, and is not located on or near a hazardous materials site.

ATTACHMENTS:

Applicant Letter Proposal 2.24.22
Draft Resolution of Approval

February 23, 2022

City of San Juan Bautista
c/o Brian Foucht, Community Development Director
311 Second St
San Juan Bautista, CA 95045

Re: 205 The Alameda (JJ Homemade Burgers)

Dear Mr. Foucht

This letter is being provided on behalf of our clients Jesus and Kathrine Zavala regarding their proposed development of the mixed-use building at 205 The Alameda which will be developed for their restaurant JJ Homemade Burgers and two apartment units.

The operation of the restaurant will maintain the same operation as its current location at 100 The Alameda. It will operate Monday through Sunday from 11am to 9:30pm. They would like to consider adding a breakfast menu in the future which may change the operation by opening at 7am. Their initial operation will maintain the existing menu and operating days and hours at their new location.

They currently possess a Type 41 ABC license, which will require a premise to premise transfer application for the permit from the existing location at 100 The Alameda to 205 The Alameda. This Type 41 ABC license authorizes the sale of beer and wine within a restaurant business. The Planning Application does propose a bar within the restaurant and proposes to operate with the use of the Type 41 license. The applicant will apply for a Type 47 ABC license and work with the assigned analyst and representative from ABC. This license would allow the sale of beer, wine and distilled spirits for consumption on the licensed premises only. The bar will only operate during the restaurant hours of operation from late afternoon until the closing time of 9:30pm. All licensing requirements and restrictions from ABC will be followed.

If you have any questions or require further information, please contact us.

Respectfully,



Luis Vargas
Sr. Manager/Partner

RESOLUTION 2022-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JUAN BAUTISTA APPROVING A USE PERMIT TO ALLOW THE ESTABLISHMENT OF A RESTAURANT WITH BAR ON THE MAIN FLOOR AND RELATED ON-SITE ALCOHOL SALES/CONSUMPTION; 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 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 conducted a duly noticed Public Hearing, considered written and oral public testimony during the public hearing, closed the Public Hearing and APPROVED the Site and Design Review Permit subject to conditions and based on findings contained in the Planning Commission Resolution 2022-02; and

WHEREAS, the Planning Commission CONTINUED consideration of the Use Permit for restaurant with bar and onsite consumption of alcohol via a Type 41 and Type 47 ABC Licenses; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on February 1, 2022, to consider approval of the Combined Development Permit; and

WHEREAS, the Use Permit for restaurant with bar and on-site sales and consumption of alcohol runs with the land, and is not specific to the existing business and/or business owner/operator, and is transferrable to any subsequent restaurant use and/or business operator/owner on the same site/location and within the existing structure; and

WHEREAS, the Planning Commission 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 1, 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 Planning Commission 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 Planning Commission, upon reviewing the application materials, staff report, and draft resolution, determined that the project is Categorically Exempt under Section 15303 and 15305 of the California Environmental Quality Act.

WHEREAS, upon reviewing the application materials, staff report, and draft resolution, the Planning Commission finds that the project meets 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 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 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 Planning Commission 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 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 A.

PASSED AND ADOPTED by the Planning Commission of the City of San Juan Bautista on this 1st day of March, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Yolanda M. Delgado, Chairperson

ATTEST:

Trish Paetz, Deputy City Clerk

ATTACHMENT 1
CONDITIONS OF APPROVAL
USE PERMIT
Planning Commission March 1, 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 4 PM - 9:30 PM. Hours of operation of the restaurant shall be at the discretion of the applicant.
3. Activities on the site shall only be conducted indoors.
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 Type 47 ABC License or use associated with the existing Type 41 permit, the applicant shall create a complaint resolution program for approval by the Community Development Director. The program shall involve outreach to adjacent residents and distribution of complaint forms with applicant and operator, Planning Department and Code Enforcement Officer contact information.
6. Windows facing residential properties shall be non-glare type windows.