

December 5, 2013

Hrire Rostomian
1338 Verdugo Blvd.
La Cañada Flintridge, CA 91011

**RE: CONDITIONAL USE PERMIT PCUP 1322174
Benitoite Restaurant—2200 Honolulu Avenue**

On December 4, 2013, the Planning Hearing Officer conducted and closed a public hearing, pursuant to the provisions of the Glendale Municipal Code, Chapter 30.42, regarding your application for a Conditional Use Permit to allow the on-site sales, service and consumption of beer and wine with meals at a full-service restaurant with sidewalk dining at the Benitoite Restaurant located at 2200 Honolulu Avenue, described as Lots 31 and 32, Tract 1701, in the CR (Commercial Retail) Zone.

Applicant's Proposal: A conditional use permit application to allow on-site sales, service and consumption of beer and wine with meals at a full-service restaurant.

Code Requires: Approval of a conditional use permit is required for the on-site sales, service and consumption of beer and wine at a restaurant in the CR Zone (GMC Sec 30.12.020, Table 30.12-A).

CEQA Status: Exempt as a Class 1 "Existing Facilities" exemption pursuant to State CEQA Guidelines Section 15301.

REQUIRED/MANDATED FINDINGS

After thorough consideration of the statements contained in the application, the plans submitted, the report by the Planning Division staff, and the statements made at the public hearing with respect to this application, the Planning Hearing Officer has **GRANTED WITH CONDITIONS** your application based on the following:

A. The proposed use will be consistent with the various elements and objectives of the General Plan.

The Land Use Element classifies the subject site as Regional Commercial and the North Glendale Community Plan identifies the neighborhood as the Montrose Shopping Park. An economic goal of these documents is to create vibrant areas that promote diversity and economic opportunities that support a variety of businesses. The Montrose Shopping Park emphasizes pedestrian amenities and traffic calming features such as public parking lots, curb extensions, wide sidewalks, sidewalk dining and seating in landscape planter areas with shade trees. This commercial district is a shopping and dining destination that draws customers from surrounding communities. The Circulation Element

identifies this section of Honolulu Avenue as an Urban Collector street and Verdugo Road as a Major Arterial both of which can support a new 1,260 square-foot full-service restaurant land use activity. Given that the applicant requests only the ability to sell, serve and consume beer and wine within a new restaurant and in the public right-of-way, the request will be consistent with the various elements and objectives of the General Plan.

B. The use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.

Benitoite Restaurant is located in Census Tract 3006. The Police Department noted there are 33 on-sale establishments selling alcohol where seven would be allowed. Benitoite would be the 34th establishment selling alcoholic beverages. Based on Part 1 crime statistics for this census tract, there were 85 crimes, which is 42 percent above the city-wide average. While Benitoite Restaurant is located in a census tract which exceeds the number of on-sale establishments as recommended by the California Department of Alcoholic Beverage Control and has more crime than some areas of the city, it is a business type that the Montrose Shopping Park encourages and promotes to enhance the shopping experience and economic viability of the area. The current conditional use permit application to begin the sales, service and consumption of beer and wine at a new full-service restaurant, including sidewalk dining, is not anticipated to have a detrimental effect on the community.

C. The use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property provided that the conditions of approval are followed.

Montrose Shopping Park is an area already developed with commercial uses such as restaurants, retail/service and office establishments. The new full-service restaurant will provide another dining option in the area that is not traditionally associated with land uses that adversely affect or conflict with adjacent commercial uses. Additionally, no concerns or comments were submitted by the Police Department or Neighborhood Services Division that would indicate that Benitoite Restaurant would impede the normal development of the area because of the addition of sales, service and consumption of beer and wine in conjunction with the consumption of food.

D. Adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are provided for the use.

A full-service restaurant with ancillary beer and wine sales at a full-service restaurant is not anticipated to increase the need for public or private facilities. The restaurant will be located on a property with buildings constructed in 1914 and 1921. The neighborhood is well established and has historically provided adequate public and private facilities and infrastructure, including three public parking lots within walking distance of commercial land uses for customers and employees, including Benitoite Restaurant. As noted in Finding A, Honolulu Avenue and Verdugo Road can adequately handle the traffic circulation of the new restaurant.

E. That all the criteria set forth in Section 30.42.030 (F) to be considered in making the findings in subsection A. through D. above have all been met and thoroughly considered:

- 1) That such use does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by over concentration as described above in finding B.
- 2) That such use does not or will not tend to encourage or intensify crime within the district as described above in finding B.
- 3) That such use does not or will not adversely impact any other uses within the surrounding area (church, public or private schools or college, day care facility, public park, library, hospital or residential use) as described above in finding C.
- 4) That the proposed use satisfies its transportation or parking needs as described above in finding D.
- 5) That the proposed use does or will serve a public necessity or public convenience purpose for the area as evidenced by the continued operation of this restaurant with alcoholic beverage on-site sales, service and consumption as described above in finding A.

SUMMARY OF PLANNING HEARING OFFICER'S DECISION

The Planning Hearing officer was able to make all four required findings in favor of the application and was able to justify approval of the case based on the five criteria required for alcohol-related cases in Sub-Section 30.42.030(F), Glendale Municipal Code. The conditions attached to the approval will control the use in a manner necessary to allow the use to properly fit into the specific location.

CONDITIONS of Approval

APPROVAL of this Conditional Use Permit shall be subject to the following:

1. The development shall be in substantial accord with the plans submitted with the application and presented at the hearing except for any modifications as may be required to meet specific Code standards or other conditions stipulated herein to the satisfaction of the Planning Hearing Officer.
2. All necessary licenses as required from Federal, State, County or City authorities including the City Clerk shall be obtained and kept current at all times.
3. A new Zoning Use Certificate shall be obtained to reflect the conditional use permit approval (no new fee is required).
4. Benitoite Restaurant shall obtain a sidewalk dining permit by the Public Works Department to operate an outdoor dining area on the sidewalk in the public right-of-way.
5. No separate bar for the exclusive service of beer and wine shall be installed on the premises.

6. Only beer and wine shall be served only in conjunction with the consumption of food. Beer and wine sales shall be less than fifty (50) percent of restaurant's gross revenues otherwise the establishment shall be defined as a tavern.
7. The sale and serving of beer and wine shall be for consumption on the premises only and that the sale of beer and wine for consumption off the premises is strictly prohibited.
8. No patron will be allowed to bring into the restaurant or maintain in the restaurant any beer and wine unless that beer and wine was purchased within that same establishment or unless the facility has an established corkage policy.
9. No exterior signs advertising the sales/service of alcoholic beverages be permitted.
10. No live entertainment shall be allowed.
11. All music, lighting, noise and odors shall be confined to the occupancy so as not to disturb occupants of other adjacent businesses or properties and patrons on the public right-of-way. The Planning Hearing Officer's opinion shall prevail to arbitrate any conflicts.
12. The proprietor and employees shall make an active and conscientious effort to keep customers from trespassing on nearby properties or making disturbances in the area.
13. The facilities shall not be rented, leased or otherwise occupied for purposes not specified.
14. The premise shall remain open to the public during business hours as a full-service restaurant as defined in Chapter 30.70 of the Glendale Municipal Code (G.M.C).
15. Any expansion or modification of the facility or use which intensifies the existing Conditional Use Permit shall require a new Conditional Use Permit application. Expansion shall constitute adding floor area, changes to the use or operation, or any physical change as determined by the Planning Hearing Officer, with concurrence from the Director of Community Development.
16. The proposed full-service restaurant shall adhere to the City's Fresh Air (smoking) Ordinance.
17. The sales, service and consumption of alcoholic beverages shall be in full accord with and only within areas designated by the regulations and conditions established by the State Department of Alcoholic Beverage Control.
18. Access to the premises shall be made available upon request to all City of Glendale authorized staff (i.e. Community Development Department, Neighborhood Services Division, Building and Safety Division, Fire Department, Police Department, etc.) for the purpose of verifying compliance with all laws and the conditions of this approval.

19. The authorization granted herein shall be valid for a period of five years, until December 4, 2018, at which time a reapplication shall be made.

APPEAL PERIOD (effective date), TIME LIMIT, LAPSE OF PRIVILEGES, TIME EXTENSION

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper City and public agency. Under the provisions of the Glendale Municipal Code, Title 30, Chapter 30.62, any person affected by the above decision has the right to appeal said decision to the Planning Commission if it is believed that the decision is in error or that procedural errors have occurred, or if there is substantial new evidence which could not have been reasonably presented. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms within fifteen (15) days following the actual date of the decision. Information regarding appeals and appeal forms will be provided by the Permit Services Center (PSC) or the Community Development Department (CDD) upon request and must be filed with the prescribed fee prior to expiration of the 15-day period, on or before **December 20, 2013**, at the Permit Services Center (PSC), 633 East Broadway, Room 101, Monday thru Friday 7:00 am to 12:00 pm, or at the Community Development Department (CDD), 633 East Broadway, Room 103, Monday thru Friday 12:00 pm to 5 pm.

APPEAL FORMS available on-line:

<http://www.ci.glendale.ca.us/planning/SubmittingAProject.asp>

To save you time and a trip - please note that some of our FORMS are available on line and may be downloaded. AGENDAS and other NOTICES are also posted on our website.

TRANSFERABILITY

This authorization runs with the land or the use for which it was intended for and approved. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions and/or limitations of this grant.

VIOLATIONS OF THESE CONDITIONS

Violations of conditions required by this determination may constitute a misdemeanor or infraction under section 1.20.010 of the Glendale Municipal Code (GMC) and/or a violation of other local, State or Federal laws or regulations. Unless a specific penalty is provided, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment. Infractions are punishable by a fine not exceeding the sum of five hundred dollars (\$500.00) for each violation.

Violations of conditions required by this determination may be grounds for a revocation.

REVOCAION, CONTINUING JURISDICTION

Section 30.64.020 – Revocation – The Community Development Department shall have continuing jurisdiction over variances and conditional use permits (individual cases heard and decided upon by the Planning Hearing Officer).

To consider the revocation, the Planning Hearing Officer shall hold a public hearing after giving notice by the same procedure as for consideration of a conditional use permit at least ten (10) days notice by mail to the applicant or permittee. Continuing jurisdiction over any case is the purview of the Planning Hearing Officer, with concurrence by the Director of Community Development.

GMC Chapter 30.41 provides for:

TERMINATION: Every right or privilege authorized by a conditional use permit shall terminate two (2) years after the granting of such, unless the exercise of such right or privilege has commenced in good faith prior to such time, except as otherwise provided for.

EXTENSION: An extension of the conditional use permit may be requested one time and extended for up to a maximum of one (1) additional year upon receipt of a written request from the applicant and demonstration that a reasonable effort to act on such right and privilege has commenced within the two (2) years of the approval date. In granting such extension the applicable review authority shall make a written finding that neighborhood conditions have not substantially changed since the granting of the conditional use permit.

NOTICE – subsequent contacts with this office

The Applicant is further advised that all subsequent contact with this office regarding this determination must be with the Case Planner and/or Hearing Officer who acted on this case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

Should you have any questions regarding this issue, please do not hesitate to contact the undersigned.

Sincerely,



Jeff Hamilton
Planning Hearing Officer

JH:sm

CC: City Clerk (K. Cortes); Fire Prevention Engineering Section (D.Nickles); Community Development Dept. (T.Foy); City Engineer and Traffic & Transportation Section (Roubik Golanian); Glendale Water & Power--Water Section (M. Munguia); Glendale Water & Power--Electric Section (Belinda Ortiz); Parks, Recreation and Community Services Dept. (Emil Tatevosian); Neighborhood Services (A.Jimenez); Integrated Waste Management (D.Hartwell); Maintenance Services Section (D.Hardgrove); Environmental Management (M.Oillataguerra); Dir. of Public Works; Dir. of Water and Power; Hrire Rostomian--applicant; and case planner – Chris Baxter