

October 24, 2012

**TO: PATRICIA HACHIYA
HEARING OFFICER**

**FROM: DIANE ARANDA
ZONING PERMITS EAST SECTION**

**SUBJECT: MINOR MODIFICATION TO
CONDITIONAL USE PERMIT NO. 200600256
18184 COLIMA ROAD, ROWLAND HEIGHTS**

The Applicant, Wing Lun Ng, is requesting a minor modification of condition number 18 (a) of Conditional Use Permit (CUP) 200600256, which was approved on October 8, 2008, authorizing the sales of beer and wine for on-site consumption at an existing restaurant, located in the C-2-BE (Neighborhood Business-Billboard Exclusion) zone. The minor modification of condition number 18 (a) is to allow the restaurant to operate from 11 a.m. to 1 a.m., seven days a week.

The construction of the 26, 830 square feet multi-tenant YES Plaza commercial center was approved with Plot Plan 27578. A total of 268 parking spaces are provided for the subject property. Plot Plan 200501303 authorized the conversion of the existing commercial unit into a restaurant on August 18, 2005.

The request will allow Shabu-Shabu restaurant to extend their hours of operation and remain open seven days a week. This will allow the restaurant to have similar operation days and hours in comparison to the other restaurants in the area. The restaurant is located within an existing commercial corridor on Colima Road that contains retail and restaurant establishments. The restaurant has been in operation for over five years with no history of complaints, or zoning violations. The extended hours of operation should not cause a burden, or negative impact, and serve as a public convenience to the surrounding community. Condition Number 18 (a), ***as currently approved***, reads as follows:

(a) "Hours of operation for the restaurant, including the sale of beer and wine for on-site consumption, shall be limited to 4:30 p.m. to 10:30 p.m., Tuesday through Sunday, six days a week."

In view of the facts presented above, Staff recommends **Approval** of the Minor Modification to CUP 200600256, with the following changes to the conditions:

(a) *"Hours of operation for the restaurant, including the sale of beer and wine for on-site consumption, shall be limited to 11:00 a.m. to 1:00 a.m., seven days a week."*

All other conditions of approval of the original CUP 200600256 grant remain in effect and unchanged.

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HEARING OFFICER'S FINDINGS AND ORDER:

REQUEST: Minor modification to condition of approval 18 (a) to previously approved Conditional Use Permit No. 200600256.

FACTUAL SUMMARY:

The subject minor modification to Conditional Use Permit No. 200600256 was approved on consent at the November 6, 2012 Hearing Officer meeting, with the following findings.

Findings

1. The applicant, Wing Lun Ng, has requested a minor modification to the conditions of approval for Conditional Use Permit No. 200600256 to modify the hours and days of operation.
2. The project was approved on October 7, 2008 to allow the sales of beer and wine for on-site consumption at an existing restaurant, located at 18184 Colima Road in the C-2-BE (Neighborhood Business-Billboard Exclusion) zone.
3. The restaurant occupies 1,800 square feet in an existing multi-tenant shopping center with a total floor area of 26, 830 square feet and a total of 268 parking spaces provided.
4. Zoning on the subject property is C-2-BE (Neighborhood Business-Billboard Exclusion).
5. The surrounding properties are zoned as follows:
North: C-1 (Restricted Business) and A-1 (Light Agricultural)
South: C-2-BE (Neighborhood Business-Billboard Exclusion) and R-3-30U (Limited Multiple Residence)
East: C-2-BE (Neighborhood Business-Billboard Exclusion), R-3-30U (Limited Multiple Residence) and C-3-BE (Billboard Exclusion Zone)
West: R-1-10,000 (Single-family Residences), R-3-30U (Limited Multiple Residence)
6. The subject property is located within an existing shopping center that consists of retail, restaurants and office space.
7. Surrounding land uses include single family residences, office, and commercial uses.
8. The land use designation within the Rowland Heights Community Plan for the subject property and surrounding area is Commercial. Areas within this designation are suited for retail, commercial, service and office uses. While there are no specific policies concerning commercial uses in the Rowland Heights Community

Plan, the Countywide General Plan defined local commercial uses as individual enterprises, or small scale multi-use centers, serving the needs of the local community. Examples of such uses include facilities providing neighborhood or community convenience goods and services and local community/neighborhood-serving office and professional services. The plan provides guidelines for the location, scale, design and circulation characteristics of local commercial services.

This approval action authorizes the modification of Conditions No. 18 (a) of previously approved Conditional Use Permit No. 200600256 regarding the operation hours and days.

9. The modification to Condition No. 18 (a), to allow extended operating hours, seven days a week, will allow the restaurant to operate in a similar manner than all the other restaurants in the area.
10. The requested modification to Condition No. 18 (a) reads as follows:
 - (a) *“Hours of operation for the restaurant, including the sale of beer and wine for on-site consumption, shall be limited to 11:00 a.m. to 1:00 a.m., seven days a week.”*
11. In accordance with the requirements specified in Section 22.56.1620 of the County Code, notices were sent to homeowners within a 500-foot radius of the subject property, legal advertising was placed in The San Gabriel Valley Tribune Newspaper, and the subject property was posted for a 30-day period.
12. Staff did not receive correspondence in favor or opposition during the 15-day comment period.
13. Pursuant to Section 22.56.1630 of the County Code, if more than one protest to the request for a minor modification to a conditional use permit is not received during the appeal period the Hearing Officer shall approve the request.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

REGARDING THE MINOR MODIFICATION OF THE CONDITIONAL USE PERMIT:

- A. That not more than one protest to the granting of the application was received within the specified protest period;
- B. That the burden of proof for the conditional use permit as modified has been satisfied as required by Los Angeles County Code Section 22.56.040;

- C. That approval of the application will not substantially alter or materially deviate from the terms and conditions imposed in the granting of the previously approved conditional use permit; and
- D. That approval of the application is necessary to allow the reasonable operation and use granted in the conditional use permit.

AND, THEREFORE, the information submitted by the applicant and presented at the hearing substantiates the required findings for a minor modification to a conditional use permit as set forth in Section 22.56.1630, Title 22, of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is categorically exempt (Class 1 – Existing Facilities) from the requirements of the California Environmental Quality Act and that the project will not have a significant effect on the environment.

In view of the findings of fact presented above, the requested minor modification to Conditional Use Permit No. 200600256 is approved subject to the attached addendum.

Attachments: Addendum

c: Zoning Enforcement, Building and Safety

MM:DA

**ADDENDUM TO CONDITIONAL USE PERMIT
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2006-00324-(4)
CONDITIONAL USE PERMIT NO. 200600256**

MINOR MODIFICATION OF CONDITION NUMBER 200600256 OF CONDITIONAL USE PERMIT NUMBER R2006-00324-(4)

Pursuant to Section 22.56, Part 11 of the County Zoning Ordinance (Conditional Use Permit – Modifications or Eliminations of Conditions), and in conformance with the Hearing Officer approval action regarding minor modification to Conditional Use Permit Number 200600256 on November 6, 2012. Condition Number 18 (a) of the originally approved Conditional Use Permit Number 200600256 is hereby eliminated.

BY:

**Patricia Hachiya, Hearing Officer
Department of Regional Planning
County of Los Angeles**

1. This grant authorizes the use of the subject property for the sale of beer and wine for on-site consumption at an existing restaurant, as depicted on the approved Exhibit "A". This grant is subject to all of the following conditions of approval.
 2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
 3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition No. 10.
 4. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitation period. The County shall notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense.
 5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation; and
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.
- The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.
6. This grant shall expire unless used within two (2) years from the date of approval. A one-year time extension may be requested in writing with the payment of the applicable fee, at least six (6) months before the expiration date.
 7. If any material provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
 8. Prior to the use of this grant, the terms and conditions of the grant shall be recorded in the office of the County Recorder. In addition, upon any transfer or lease of the subject property



during the term of this grant, the permittee shall promptly provide a copy of the grant and its terms and conditions to the transferee or lessee, as applicable, of the subject property. Upon recordation, an official copy of the recorded conditions shall be provided to the Director.

9. **This grant will terminate on October 7, 2018.** Upon termination of this grant, entitlement to the use of the property shall be subject to the regulations then in effect. If permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning at least six months prior to the termination of this permit, whether or not any modification of the use is requested at that time.

Upon termination of this grant, entitlement to the use of the property shall be subject to the regulations then in effect. If permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning at least six months prior to the termination of this permit, whether or not any modification of the use is requested at that time.

10. The subject property shall be 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 permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Prior to the use of this grant, the permittee shall deposit with the County of Los Angeles the sum of \$750.00. These monies shall be placed in a performance fund that shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval, including adherence to development in accordance with the approved site plans on file. The fund provides for five (5) biennial zoning inspections of the site. Inspections shall be unannounced.
11. If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible for and shall reimburse the Department of Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently \$150.00 per inspection).
12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance. In the event that the county deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the applicant shall compensate the county for all costs incurred in such proceedings.
13. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.

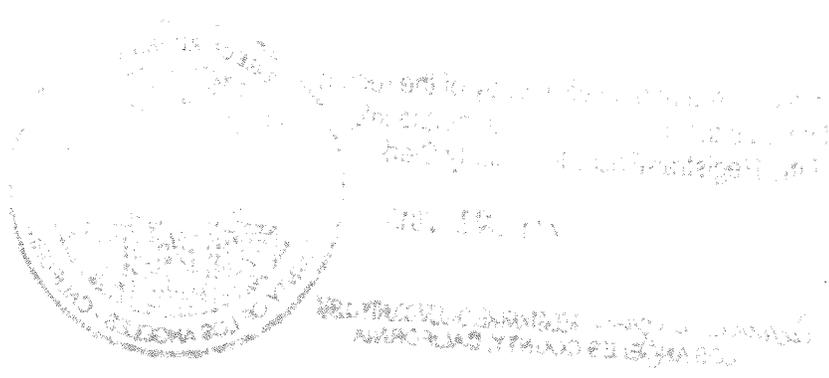
14. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided to the satisfaction of and within the time periods established by said Department.
15. All structures shall comply with the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works.
16. All structures shall comply with the requirements of the Los Angeles County Department of Health Services.
17. The property shall be developed and maintained in substantial conformance with the approved Exhibit "A". In the event that subsequent revised plans are submitted, the permittee shall submit three (3) copies of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property's owner.
18. The operation of this restaurant, including the sale of beer and wine for on-site consumption, is further subject to all of the following conditions:
 - a. Hours of operation for the restaurant, including the sale of beer and wine for on-site consumption, shall be limited to 4:30 p.m. to 10:30 p.m., Tuesday thru Sunday, six days a week.
 - b. The occupancy of the restaurant is limited to a maximum of 37 persons;
 - c. The sale of alcoholic beverages shall be sold to customers only when food is ordered and consumed within the subject restaurant only. The sale and serving of alcoholic beverages for consumption outside the restaurant is prohibited;
 - d. There shall be no loitering permitted on the premises under the control of the permittee. Signage shall be posted on the premises prohibiting loitering. The signage shall be in English and the predominant second language in the neighborhood;
 - e. The permittee shall post signage on the premises in both English and the predominant second language in the neighborhood, which is clearly visible to members and guests, prohibiting the consumption of alcohol outside of said facility;
 - f. The permittee shall develop and implement a Designated Driver program (i.e. free soft drinks or coffee to a designated driver of a group). The permittee shall submit the program to the Director of Planning for approval prior to the approval of the Exhibit "A". A printed two-sided card explaining this program shall be placed on all tables in the restaurant or an explanation regarding the program shall be printed on the menu;
 - g. All employees of the facility shall participate in the Licensee Education on Alcohol and Drugs (LEAD) Program offered by the California Department of Alcoholic Beverage Control. This training shall be on-going and all new employees shall be required to attend. The licensee shall display a certificate or plaque in the lobby of the establishment indicating its participation in this program;



- h. All servers of alcoholic beverages must be a minimum of 18 years of age;
- i. The permittee shall not advertise or hold any "happy hour" drink specials, "two for one" specials, or similar promotions;
- j. Temporary signs or banners advertising alcoholic beverage "specials" or any similar promotions shall not be displayed on the exterior walls or fascia of the building;
- k. The permittee shall not advertise the sale of alcoholic beverages on the exterior walls or windows of the subject building or at any location on the subject property. No self-illuminating advertising for alcoholic beverages shall be located on the exterior of buildings or windows;
- l. In the event of extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such graffiti shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization;
- m. The permittee shall provide adequate lighting above all entrances and exits to the restaurant premises. The lighting shall be of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons entering or exiting the premises during operating hours and shall be designed so as to direct light and glare only onto the facility premises. Said lighting and glare shall be deflected, shaded and focused away from all adjoining properties;
- n. The licensed premises shall have no other coin operated amusements, such as pool tables, juke boxes, video games or other similar equipments at any time;
- o. No live entertainment, dancing, or dance floor is authorized in or outside the premises;
- p. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas on the premises over which the permittee has control;
- q. Off-site signs are prohibited, unless approved by the Department of Regional Planning. The placement of portable signs on sidewalks adjacent to the subject property and temporary signs on walls and poles is prohibited;
- r. Temporary window signs shall not exceed 25 percent of the area of any single window or of adjoining windows on the same frontage;
- s. All regulations of the State of California prohibiting the sale of alcoholic beverages to minors shall be strictly enforced;
- t. The permittee shall abide by all requirements, licensing or otherwise, established for the sale of alcoholic beverages by the State Department of Alcoholic Beverage Control;

- u. The permittee shall keep telephone numbers of local law enforcement agencies posted in the restaurant in plain view near the cashier's or similar public service area;
 - v. The permittee shall maintain a current contact name, address, and phone number on file with the Department of Regional Planning at all times;
 - w. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any County Sheriff, Zoning Inspector or Department of Alcoholic Beverage Control agent. The manager and all employees of the facility shall be knowledgeable of the conditions herein; and
 - x. Temporary signs, banners, streamers and flags shall not be displayed on the exterior walls or fascia of the building;
19. Any outdoor dining shall be designated to a specific area and be illustrated on the approved Exhibit A. Outdoor dining shall comply with all requirements of the Los Angeles County Zoning Ordinance.
20. Any outdoor dining must comply with parking requirements and the requirements specified in Section 22.28.070(g), Title 22 of the Los Angeles County Code.

MM:DA
9/24/08



This is a true and certified copy of the record
if it bears the seal, imprinted in purple ink,
of the Registrar-Recorder/County Clerk

MAY 21 2010

Dean C Logan REGISTRAR-RECORDER/COUNTY CLERK
LOS ANGELES COUNTY, CALIFORNIA

