



Los Angeles County Department of Regional Planning



Planning for the Challenges Ahead

Jon Sanabria
Acting Director of Planning

November 3, 2009

Jun Young Lee
42320 Columbia Court
Lancaster, CA 93536

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NUMBER R2008-01851-(5)
CONDITIONAL USE PERMIT NO. 200800151
3720 SIERRA HIGHWAY, ACTON (APN NO. 3217-021-026)**

Dear Applicant:

Hearing Officer, Mitch Glaser, by his action of November 3, 2009, **APPROVED** the above described Conditional Use Permit to authorize the sale of beer and wine for on-site consumption at a proposed 2,100 square foot full service restaurant, Miso Sushi.

The applicant or **ANY OTHER INTERESTED PERSON** may **APPEAL** the Hearing Officer's decision to the Regional Planning Commission at the office of the commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the commission secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at 5:00 p.m. on November 17, 2009.** Any appeal must be delivered in person to the commission secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. A Condition requires that the permittee records an affidavit accepting the conditions before the grant becomes effective.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact **Maral Tashjian** of the Special Projects Section at (213) 974-1516 or e-mail at Mtashjian@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Jon Sanabria
Acting Director of Planning

Samuel Dea, Supervising Regional Planner
Special Projects Section

SD:mt

Enclosures: Approved Findings and Conditions, Affidavit (Permittee's Completion)
c: DPW (Building and Safety); Zoning Enforcement

PROJECT NUMBER R2008-01851-(5)
CONDITIONAL USE PERMIT NUMBER 200800151

HEARING OFFICER'S FINDINGS AND ORDER:

REQUEST: The applicant, Jun Young Lee, is requesting a Conditional Use Permit to authorize the sale of beer and wine for onsite consumption in a proposed 2,100 square foot restaurant, Miso Sushi, located within an existing multi-tenant commercial center. The restaurant use was approved by plot plan number RPP200701850, but has not yet been established. The restaurant will operate daily from 10 a.m. until 10 p.m.

PROCEEDINGS BEFORE THE HEARING OFFICER:

November 3, 2009 Public Hearing

A duly noticed public hearing was held on November 3, 2009 before the Hearing Officer. The applicant, Jun Young Lee, and two other members of the public, Gi Suk Lee and Yi Jong Kim were present. Yi Jong Kim testified in support of the project. The Hearing Officer asked staff if the current number of parking spaces provided in the multi-tenant commercial center was sufficient for future conversions of retail spaces to restaurants. Staff informed the hearing officer that if such project was proposed in the future, parking would be analyzed during the review process. The hearing officer then closed the public hearing and expressed his intent to approve the subject project, subject to the recommended conditions.

Findings

1. The subject property is located at 3720 Sierra Highway, Acton, within the unincorporated community of Acton in Antelope Valley, in the Soledad Zoned District. The Assessor Parcel Number of the subject property is 3217-021-026.
2. The subject property is zoned C-3 (Unlimited Commercial). Surrounding properties are zoned as follows:
 - North: C-2-DP (Neighborhood Commercial – Development Program)
 - South: C-2 (Neighborhood Commercial), A-1-10,000 (Light Agriculture, 10,000 sq. ft. minimum lot area), A-1-1 (Light Agriculture, one acre minimum lot area)
 - East: C-3-DP-U/C (Unlimited Commercial - Development Program)
 - West: C-3
3. The subject property is currently developed with a multi-tenant commercial center. Surrounding land uses are as follows:
 - North: Sierra Highway, Vacant Land, Single-Family Residence
 - South: Antelope Valley Freeway (14 Freeway), Vacant Land, Vasquez High School
 - East: Commercial
 - West: Commercial
4. The site plan depicts an 18,880 sq. ft. multi-tenant commercial building with 7,956 sq. ft. of landscaping and 130 parking spaces on a rectangular-shaped, level, 1.78 acre (77,537 square feet) parcel. Access to the site is provided by Sierra Highway to the north via two 26-foot wide driveways.

5. The existing commercial center was established by Plot Plan number RPP200400322. The restaurant was approved by Plot Plan number RPP200701850 on February 14, 2008. Signage for the restaurant was approved by an amendment to Plot Plan RPP200701850 on January 27, 2009.
6. General Plan Consistency: The subject property is located within the Community Commercial land use category of the Antelope Valley Areawide General Plan. The Community Commercial land use designation is intended for uses such as supermarkets, drug stores, small clothing stores and gift shops, hardware stores, shoe stores, jewelry stores, specialty shops, ice cream parlors, candy stores, coffee shops, small restaurants, donut shops, branch banks and savings and loan firms, etc. The selling of alcoholic beverages is ancillary to restaurant operations, and is therefore consistent with the allowed uses of the underlying land use category.
7. The following policies of the Countywide General Plan are applicable to the subject project:

A. Promote neighborhood commercial facilities which provide convenience goods and services and complement community character through appropriate scale, design and locational controls. (Land Use Element: Ensure Compatibility of Development - Policy No. 9, Page III-12)

The operation of a local serving restaurant with onsite alcohol sales can be found appropriate with this designation, with appropriate conditions.

B. Ensure continuing opportunity for citizen involvement in the land use decision-making process. (Land Use Element: Improve Land Use Decision-Making Process - Policy No. 28, Page III-15)

The applicant presented the proposed project proposal to the Acton Town Council on August 3, 2009. The meeting provided another opportunity for the public to participate in the decision-making process in addition to the scheduled hearing to be held on November 3, 2009.

8. Compliance with the Zoning Ordinance and the Acton Community Standards District (Section 22.44.126):

Unless specifically modified by a conditional use permit during the discretionary review process, premises in Zone C-3 shall be subject to the following development standards under Part 5 of Chapter 22.28 of the Los Angeles County Code:

A. Lot Coverage

According to Section 22.28.220 (A), no more than 90 percent of the net area may be occupied by buildings, with a minimum of 10 percent of the net area landscaped with a lawn, shrubbery, flowers and/or trees.

The existing multi-tenant commercial building on-site is 18,880 square feet, which occupies 24% of the 1.78 acre (77,537 square feet) parcel. 7,956 square feet of the property is landscaped, which amounts to 10% of the property.

B. Parking

Section 22.28.220 (B) refers to Part 11 of Chapter 22.52 for parking requirements. Per Section 22.52.1110, for entertainment, assembly, and dining uses, one automobile parking space plus adequate access thereto shall be provided for each three persons based on the occupant load as determined by the County Engineer.

The Department of Public Works has determined that the occupant load for the proposed 2,100 square foot restaurant is 77 persons, requiring 26 parking spaces. The retail units require 59.7 parking spaces, and the office unit requires 0.3 parking spaces, resulting in a total of 86 required parking spaces. 130 parking spaces are provided for the entire site.

9. Neighborhood Impact/Land Use Compatibility

The subject property is located between Sierra Highway, a county-designated major highway, and the Antelope Valley Freeway (14 Freeway), and is surrounded by commercial uses, vacant land, and single family residences. Sensitive uses within a 600-foot radius of the property include a single-family residence to the north and the Vasquez High School of the Acton-Agua Dulce Unified School District to the south. Sierra Highway separates the subject property from the residence to the north, and the 14 Freeway separates the subject property from the school to the south. The adjacent freeway and highway can sufficiently buffer the sensitive uses located to the north and south of the project site.

The subject property is located within a high crime reporting district, however, the Sheriff Department expressed no objection to the proposed use, and the five crimes reported at the site were not alcohol-sales related. The proposed use will not negatively contribute to criminal activity at this site.

Currently there is one existing establishment, a gas station with a convenience store, that sells alcoholic beverages for off-site consumption approximately 500 feet southwest of the subject property. According to the Department of Alcoholic Beverage Control, there is an undue concentration of alcohol serving establishments within the census tract that the subject property is located within, however, due to the rural character of the census tract area, sparse development, and limited proximity of the public to convenience goods and services, public convenience outweighs the undue concentration. A full service restaurant serving beer and wine accompanying a meal can be considered an amenity to surrounding residents. The proposed use is compatible with the surrounding neighborhood as conditioned.

10. County Departments and Outside Agency Comments and Recommendations:

- A. A letter, dated August 10, 2009, was received from the Acton Town Council indicating support for the project.
- B. Correspondence was received from the Los Angeles Sheriff Department Palmdale Station dated February 16, 2009. According to the letter, the Sheriff's Department has no objection to the issuance of a conditional use permit for alcohol beverage sales as long as the sales occur in a restaurant as specified in the application. The letter also disclosed that five calls for service have occurred on the property in the past five years, resulting in five crimes reported. These crimes included burglary, theft, and vandalism.
- C. A B&P Worksheet was received from the Department of Alcoholic Beverage Control, Van Nuys District Office, on February 2, 2009. The worksheet includes crime reporting district- and census tract-based statistics on reported criminal activity and existing alcohol licenses. According to the worksheet, the subject property is located in crime reporting district number 2646 where 317 offenses occurred in 2007. The average number of offenses in Los Angeles County is 154 per reporting district, therefore district 2646 is deemed a high crime reporting district. The subject property is located in census tract number 9108.04 where three alcohol licenses are allowed, and three exist. Therefore the census tract number 9108.04 has an undue concentration of alcohol permits exists.

- 11. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and DRP website posting.
- 12. The applicant has provided the required Burden of Proof to substantiate all facts identified by Section 22.56.040 of the Los Angeles County Code.
- 13. The Department of Regional Planning has determined this project to be Categorically Exempt (Class 1 Exemption - Minor Alteration to Existing Facilities) under the California Environmental Quality Act (CEQA) and the Los Angeles County environmental guidelines.
- 14. The project is consistent with the Los Angeles Countywide General Plan, Antelope Valley Areawide General Plan, and the provisions of the Zoning Code.
- 15. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to impose **five (5)** biennial inspections.
- 16. The location of documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and

materials shall be the Section Head of the Zoning Permits Section, Los Angeles County Department of Regional Planning.

BASED ON THE FORGOING, THE HEARING OFFICER CONCLUDES:

- A. That the proposed use will be consistent with the adopted general plan for the area;
- B. That the requested use at the location proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare;
- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area;
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required;
- E. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground or any similar use within a 600-foot radius;
- F. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area;
- G. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community; and
- H. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a conditional use permit as set forth in Sections 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). The project is within a class of projects, which have been determined not to have a significant effect on the environment in that it meets the criteria set forth in section 15303 of the State CEQA

Guidelines and Class 1 of the County Environmental Document Reporting Procedures and Guidelines, Appendix G.

2. In view of the findings of facts presented above, Conditional Use Permit Number 200800151 is **APPROVED**, subject to the attached conditions.

Attachments: Conditions
Affidavit

c: Hearing Officer, Zoning Enforcement, Building and Safety

This grant authorizes the sale of alcoholic beverages (beer and wine) for on-site consumption at a proposed 2,100 square foot restaurant, Miso Sushi, located within an existing multi-tenant commercial center.

1. 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.
2. All facilities shall be maintained as depicted on the approved Exhibit "A", subject to all of the following conditions of approval:
 - a. The sale of alcoholic beverages shall be permitted between the hours of 10:00 a.m. to 10:00 p.m. Monday through Sunday;
 - b. The permittee shall not advertise the sale of alcoholic beverages on the exterior walls or windows of the subject restaurant or at any location on the subject property. No self-illuminating advertising for alcoholic beverages shall be located on the buildings or windows;
 - c. Telephone numbers of local law enforcement shall be posted adjacent to the cashier's areas within the bar and service area of the restaurant;
 - d. There shall be no alcoholic beverages consumed in open areas adjacent to the subject restaurant under the control of the permittee;
 - e. There shall be no loitering permitted on the premises under the control of the permittee;
 - f. The permittee shall provide adequate lighting above the entrance of the premises. This lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons entering or exiting the premises. Exterior lighting shall comply with section 22.44.126 (C.8) of the Acton Community Standards District and other County regulations;
 - g. The permittee shall instruct all employees in the regulations regarding no loitering and no consumption of alcoholic beverages outside the subject restaurant. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
 - h. The permittee shall maintain the property in a neat and orderly fashion and maintain free of litter all areas on the premises under which the permittee has control;
 - i. The permittee shall not install or maintain video games, pool tables, or similar game activities or equipment on site;
 - j. The licensed premises shall have no other coin operated amusements at any time, other than official State Lottery machines, such as small carousel rides or similar riding machines;

- k. No dancing or dance floor is permitted;
 - l. The total occupancy of the restaurant and bar shall not exceed 77 persons;
 - m. The permittee shall make available not less than 26 parking spaces for the restaurant;
 - n. There shall be no cover charge or prepayment fee for food and/or beverage service required for admission to the restaurant;
 - o. The restaurant shall not be used for private parties (booking of the entire restaurant by one party);
 - p. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any County Sheriff or ABC investigator. The restaurant manager and all employees of the restaurant shall be knowledgeable of the conditions herein;
 - q. All servers of alcoholic beverages must be at least 18 years old; and
 - r. The sale of alcoholic beverages for consumption off the premises is prohibited.
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. Notwithstanding the foregoing, this condition (No. 3), and Condition Nos. 4, 5, and 6 shall be effective immediately upon final approval of this grant by the County.
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 (10) 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.
- 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 final approval by the county. A single one-year time extension may be requested in writing and with payment of the applicable fee.
7. If any 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 property during the term of this grant, the permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee, as applicable, of the subject property.
9. **This grant will terminate on November 3, 2019.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the 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 (6) months prior to the termination date 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 which 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 plan on file. The fund provides for **five (5) biennial (once every two years)** inspections. 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 one of the conditions of this grant, the permittee shall be financially responsible 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. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently \$150 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's health or safety or so as to be a nuisance.
13. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
14. The subject property shall be maintained in substantial conformance with the plans marked Exhibit "A." In the event that subsequent revised plans are submitted, the permittee shall submit four (4) 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 owner.
15. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of Los Angeles County 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.
16. All structures shall conform with the requirements of the Division of Building and Safety of the Department of Public Works.
17. The permittee shall maintain all landscaping in a neat, clean and healthy condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary. Water facilities shall consist of a permanent water-efficient irrigation system, such as "bubblers" or drip irrigation, for irrigation of all landscaped areas except where there is turf or other ground cover.
18. All structures, walls and fences open to public view shall remain free of extraneous markings, drawings or signage that was not approved by the Department of Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises.
19. In the event of graffiti or other 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 markings 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.