



Agenda of the Planning Commission

Meeting of August 16, 2021 – 6:00 p.m.

ONLINE ONLY MEETING

<https://www.nationalcityca.gov/webcast>

LIVE WEBCAST

Council Chambers, Civic Center

1243 National City Boulevard

National City, CA 91950

NOTICE: The health and well-being of National City residents, visitors, and employees during the COVID-19 outbreak remains our top priority. The City of National City is coordinating with the County of San Diego Health Human Services Agency, and other agencies to take measures to monitor and reduce the spread of the novel coronavirus (COVID-19). **The World Health Organization has declared the outbreak a global pandemic and local and state emergencies have been declared providing reprieve from certain public meeting laws such as the Brown Act.**

As a result, the National City Planning Commission Meeting will occur only online to ensure the safety of City residents, employees and the communities we serve. A live webcast of the meeting may be viewed on the city's website at <https://www.nationalcityca.gov/webcast>

PUBLIC COMMENTS: There are multiple ways you can make sure your opinions are heard and considered by our Planning Commission as outlined below:

Submit your public comment prior to the meeting: To submit a comment in writing, email, PlcPubComment@nationalcityca.gov provide the agenda item number and title of the item in the subject line of your email. **Public comments or testimony is limited to up to three (3) minutes.**

If the comment is not related to a specific agenda item, AGENDA OF A REGULAR MEETING - NATIONAL CITY PLANNING COMMISSION ONLINE ONLY MEETING <https://www.nationalcityca.gov/webcast> LIVE WEBCAST COUNCIL CHAMBERS CIVIC CENTER 1243 NATIONAL CITY BOULEVARD NATIONAL CITY, CALIFORNIA indicate General Public Comment in the subject line. All email comments received by 4:00 p.m. on the day of the meeting will be read into the record at the Planning Commission meeting and retained as part of the official record. All comments will be available on the City website within 48 hours following the meeting.

Register online and participate in live public comment during the meeting: To provide live public comment during the meeting, you must pre-register on the City's website at <https://www.nationalcityca.gov/government/community-development/planning/public-comment> by 4:00 p.m. on the day of the regular meeting to join the Planning Commission Meeting.

*****Please note that you do not need to pre-register to watch the meeting online, but you must pre-register if you wish to speak.**

Once registered, you will receive an email with a link from Zoom to join the live meeting. You can participate by phone or by computer. Please allow yourself time to log into Zoom before the start of the meeting to ensure you do not encounter any last-minute technical difficulties. *****Please note that members of the public will not be shown on video; they will be able to watch and listen and speak when called upon.**

Public microphones will be muted until it is your turn to comment. Each speaker is allowed up to three (3) minutes to address the Planning Commission. Please be aware that the Chair may limit the comments' length due to the number of persons wishing to speak or if comments become repetitious or unrelated. All comments are subject to the same rules as would otherwise govern speaker comments at the meeting. Speakers are asked to be respectful and courteous. Please address your comments to the Planning Commission as a whole and avoid personal attacks against members of the public, Planning Commissioners, and City staff.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the Planning Department at (619) 336-4310 to request a disability-related modification or accommodation. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Welcome to the National City Planning Commission meeting. The National City Planning Commission conducts its meeting in the interest of community benefit. Your participation is helpful. These proceedings are video recorded.

Roll Call

Pledge of Allegiance by Commissioner Sendt

Approval of Minutes

1. Approval of Minutes from the Meeting of July 19, 2021

Approval of Agenda

2. Approval of the Agenda for the Meeting of August 16, 2021

ORAL COMMUNICATIONS (3 MINUTE TIME LIMIT).

NOTE: Under State law, items requiring Commission action must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature.

PRESENTATIONS

3. Welcome and Introductions – City Attorney's Office

CONTINUED PUBLIC HEARINGS

PUBLIC HEARINGS

4. Resoluiton Taking Action on a Conditional Use Permit for the Addition of Live Entertainment and Expansion of Approved Operating Hours for Alcohol Sales at an Existing Restaurant (Gerry's Grill) located at 3030 Plaza Bonita Road, Suite 2510 (Case File No. 2021-12 CUP)

5. Resolution Taking Action on a Code Amendment Amending Sections 18.20.020 (Zone Classifications), 18.21.040 (Development Standards Residential Zones), 18.21.050 (Second Units), 18.45 (Off-Street Parking And Loading), and 18.50 (Glossary), and Addition of Sections 18.30.380 and 18.30.390 of Title 18 (Zoning) of the National City Municipal Code Related to Accessory Dwelling Units and Junior Accessory Dwelling Units (Case File No. 2021-18A)

OTHER BUSINESS

STAFF REPORTS

Deputy City Attorney

Director of Community Development

Principal Planner

Commissioners

Chairperson

ADJOURNMENT

Adjournment to the regularly scheduled meeting on September 20, 2021 at 6:00 p.m.



Planning Commission Minutes

Planning Commission Meeting portion of the Special Housing Advisory
Committee and Planning Commission Meeting
Meeting of July 19, 2021

ONLINE ONLY MEETING - LIVE WEBCAST

<https://www.nationalcityca.gov/webcast>

Council Chambers, Civic Center
1243 National City Boulevard
National City, CA 91950

These minutes have been abbreviated. Video recordings of the full proceedings are on file and available to the public.

Agenda Items

The meeting was called to order by Vice Chair Sanchez at 7:35 p.m.

Roll Call

Commissioners Present: Dela Paz, Sanchez, Yamane, Roman, Valenzuela, Sendt

Commissioners Absent: Natividad

Staff Also Present: Director of Community Development Armando Vergara, Deputy City Attorney Jennifer Gilman, Director of Housing Carlos Aguirre, Associate Planner David Welch

6. Approval of Minutes from the Meeting of May 17, 2021

Motion by Yamane, second by Sendt to approve the Minutes for the Meeting of May 17, 2021.

Motion carried by the following vote:

Ayes: Dela Paz, Sanchez, Yamane, Roman, Valenzuela, Sendt

Abstain: None.

Noes: None.

Absent: Natividad

Motion approved.

7. Approval of the Agenda for the Meeting on July 19, 2021.

Motion by Yamane, second by Sendt to approve the Agenda for the Meeting on July 19, 2021.

Motion carried by the following vote:

Ayes: Dela Paz, Sanchez, Yamane, Roman, Valenzuela, Sendt

Abstain: None.

Noes: None.

Absent: Natividad

Motion approved.

ORAL COMMUNICATION: None.

PRESENTATIONS: None.

CONTINUED PUBLIC HEARINGS: None.

PUBLIC HEARINGS: None.

OTHER BUSINESS: None.

8. Resolution Taking Action on the 2021-2029 Housing Element and the 2021-2029 Housing Element Negative Declaration (Case File No. 2021-14 GP)

Introduced by Director of Housing Carlos Aguirre.

Motion by Yamane, second by Sendt to adopt the 2021-2029 Housing Element and the 2021-2029 Housing Element Negative Declaration (Case File No. 2021-14 GP)

Motion carried by the following vote:

Ayes: Dela Paz, Sanchez, Yamane, Roman, Valenzuela, Sendt

Abstain: None.

Noes: None.

Absent: Natividad

Motion approved.

STAFF REPORTS:

Deputy City Attorney: Stated that her job title was incorrectly noted as Senior Assistant City Attorney on the meeting agenda.

Armando Vergara, Director of Community Development: None.

Associate Planner: None.

COMMISSIONER REPORTS:

Dela Paz: Thanked Vice Chair Sanchez and Executive Secretary Tonya Hussain for their assistance during the meeting.

There were no other Commissioner reports.

ADJOURNMENT by Vice Chair at 7:41 p.m. to the meeting of August 2, 2021.

CHAIRPERSON

The foregoing minutes were approved at the Regular Meeting of August 16, 2021.



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING – CONDITIONAL USE PERMIT FOR THE ADDITION OF LIVE ENTERTAINMENT AND EXPANSION OF APPROVED OPERATING HOURS FOR ALCOHOL SALES AT AN EXISTING RESTAURANT (GERRY'S GRILL) LOCATED AT 3030 PLAZA BONITA ROAD, SUITE 2510

Case File No.: 2021-12 CUP

Location: Westfield Plaza Bonita

Assessor's Parcel Nos.: 561-471-07

Staff report by: Martin Reeder, AICP – Principal Planner

Applicant: Rawlings Consulting

Zoning designation: MXD-2 (Major Mixed-Use District)

Adjacent use and zoning:

- North: Single-Family Residential across Sweetwater Rd. / RS-2 (Small Lot Res.)
- East: Bonita Creek development / RS-3 (Medium-Low Den. Multi-Unit Res.)
- South: Sweetwater River Park / OS (Open Space)
- West: Interstate 805 Freeway / OS

Environmental review: Not a project per California Environmental Quality Act (CEQA) as defined in Section 15378

Staff recommendation: Approve

Staff Recommendation

Staff recommends approval of the request for extended operating hours and for live entertainment, subject to the attached recommended conditions. The sale of alcohol and live entertainment are conditionally-allowed uses in the Major Mixed-Use District zone and would be accessory to food sales at the restaurant.

Executive Summary

The property was originally approved for a CUP for alcohol sales in 2007 in association with El Torito restaurant, which has since closed. The current business (Gerry's Grill) applied for a new Conditional Use Permit (CUP) in 2018 to replace the then-expired El Torito CUP. The applicant is applying for a CUP modification to extend the hours of operation to 11:00 p.m. Sunday through Thursday and to 1:00 a.m. on Fridays and Saturdays. The applicant is also requesting to offer live entertainment on Thursdays, Fridays, and Saturdays.

Site Characteristics

The project site is Gerry's Grill, a restaurant at the southwest entrance to the Westfield Plaza Bonita shopping center. The mall is located in the southeast corner of National City, south of Sweetwater Road on a 71-acre site in the Major Mixed-Use District (MXD-2) zone, and it includes approximately 1,026,000 square feet of building area and 4,400 parking spaces.

Gerry's Grill is a 6,962 square foot restaurant with 145 indoor seats, including a bar and lounge area, and 28 outdoor seats in a fenced patio area. The patio faces the parking lot to the west, with Plaza Bonita Road and Interstate 805 beyond. The restaurant has been in business since 2018. There are currently seven restaurants with CUPs for on-site alcohol sales at Westfield Plaza Bonita, including the subject restaurant. Gerry's Grill is located on the west side of the mall facing the Sweetwater River Park area. No residences are in this area.

Proposed Use

The applicant is proposing to expand the approved hours of operation for beer and wine sales and add live entertainment at the restaurant. Proposed operating hours are 11:00 a.m. to 11:00 p.m. Sunday through Thursday and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment is proposed Thursday (solo performer) from 7:30 p.m. to 10:00 p.m. and Friday and Saturday (band) from 8:30 p.m. to 11:30 p.m. No dancing is proposed.

Analysis

The latest that other restaurants in Westfield Plaza Bonita were open was midnight. However, that restaurant (Hooters) has since closed. With the restaurant being on the opposite side of the mall to residences, and with it having a separate entrance, the chance for noise impacts is reduced. Nonetheless, a Condition of Approval has been added to require compliance with the maximum noise standards in Table III of Title 12 (Noise) of the Municipal Code. Although extended hours of alcohol sales increase the potential for consuming more alcohol, Conditions of Approval required Responsible Beverage Sales and Service (RBSS), which aims to reduce the likelihood of over-consumption of alcohol.

Section 18.30.050 of the Land Use Code allows for on-site alcohol sales with an approved CUP. Additional requirements for alcohol CUPs include expanded notification, a community meeting, and distance requirements. The same is required for modification of an existing CUP.

Mailing – All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications. Notice of this public hearing was sent to 530 occupants and owners.

Community Meeting - Pursuant to Section 18.30.050 (C) of the National City Zoning Code, a community meeting was held Monday, July 19, 2021 at 5:00 p.m. at the subject restaurant. The meeting advertisement is attached (Attachment 9); there was one attendee from the Institute for Public Strategies (IPS). The applicant stated that the same 530 occupants and owners that were notified of the Planning Commission meeting were notified of the community meeting.

Distance Requirements - Chapter 18.030.050 (D) of the National City Zoning Code requires a 660-foot distance from any public school; there are no schools within 660 feet of the site. In addition, restaurants with greater than 30% of their area devoted to seating are exempt from this distance requirement. The property in question has over 40% of its floor area devoted to seating.

Alcohol Sales Concentration/Location

Per the California Department of Alcoholic Beverage Control (ABC), there are currently 10 on-site sale licenses in this census tract (32.04) where a maximum of four are recommended, meaning that the census tract is considered by ABC to be over-saturated with regard to alcohol sales outlets however, one of the 10

outlets is the subject business. For reference, there are seven on-site alcohol outlets in the census tract within National City (the other three are in Chula Vista). The outlets are:

Name	Address	License Type*	CUP
Applebee's	3030 Plaza Bonita Road #1298	47	Y
Red Robin	3030 Plaza Bonita Road #2520	47	Y
Broken Yolk	3030 Plaza Bonita Road #1106	41	Y
Outback Steakhouse	2980 Plaza Bonita Road	47	Y
Gerry's Grill	3030 Plaza Bonita Road #2510	47	Y
Funky Burgers & Fries	3030 Plaza Bonita Road #1108	41	Y
Crab Pub	3030 Plaza Bonita Road #1430	41	Y

* Type 41 - On-Sale of Beer and Wine

* Type 47 - On-Sale of Beer, Wine, and Liquor

Census tract 32.04 includes the area south of the Interstate 54, north of Bonita Road, west of Sweetwater Road, and east of the Interstate 805. The attached census tract map shows the location of the subject tract (Attachment 7).

Hours of Operation

The current CUP limits alcohol sales to 11:00 p.m. Proposed operating hours are 11:00 a.m. to 11:00 p.m. Sunday through Thursday (no change) and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment is proposed Thursday (solo performer) from 7:30 p.m. to 10:00 p.m. and Friday and Saturday (band) from 8:30 p.m. to 11:30 p.m. The Police Department rates businesses where the sale of alcohol occurs after 11:00 p.m. as a "three" on their rating system, which usually indicates a higher risk.

Police Department (PD)

The ABC Risk Assessment provided by PD allocated a total of 16 points, which places it in the Medium Risk category. Medium risk is considered 13 to 18 points. The addition of live music (without dancing) added two more points to the score from the previous CUP Risk Assessment in 2018.

Institute for Public Strategies

IPS provided comments (Attachment 8) recommending RBSS training for all staff. This is a condition of the previous approval and will remain for the current request, if approved.

Public Comment

No public comment was received as part of the public hearing notice. However, one community member raised concerns at a recent City Council meeting after receiving notice of the community meeting. Concerns were related to increased alcohol consumption and incidents of intoxicated driving.

Findings for Approval

The Municipal Code contains six required findings for CUPs as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code.

The use is allowable within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Alcohol sales and live entertainment are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.

No expansion of the building is proposed. The proposal involves an existing restaurant space, which was previously analyzed for traffic impacts when it was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The proposed alcohol sales and live entertainment would be accessory to the primary use of food sales. A restaurant existed on the site previously.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

The proposed use would be subject to conditions that limit the hours that alcohol is served and the hours that live entertainment is conducted. All previous conditions of approval would continue to be in effect, except as modified by this request.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The project is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.

The following two findings are also included with alcohol CUPs:

7. The proposed use is deemed essential and desirable to the public convenience or necessity.

In this case, live entertainment and the extension of operating hours will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

Findings for Denial

Due to the high crime in the area, there is also a finding for denial as follows:

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

Extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

Conditions of Approval

Previous conditions of approval not modified by this request will remain in place. Conditions of Approval include those specific to on-site alcohol sales per Council Policy 707 (hours of operation, employee training, accessory sales, etc.). Additional conditions modify existing hours, require that sale of alcohol only occur in conjunction with the sale of food, annual business license renewal (standard condition on new permits), and compliance with noise standards in the Municipal Code.

Summary

The proposed use is consistent with the General Plan due to alcohol sales for on-site consumption and live entertainment both being conditionally-allowed uses in the MXD-2 zone. The alcohol sales use would continue to be accessory to the existing restaurant use in an established commercial area. The addition of live entertainment, while increasing the potential for morphing, will also be accessory to the restaurant use. The inclusion of conditions requiring that alcohol not be sold without a food purchase, and requiring compliance with noise standards is intended to alleviate concerns related to area impacts.

Options

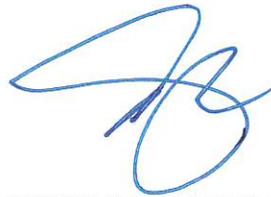
1. Approve 2021-12 CUP subject to the conditions listed within, based on the attached findings, or findings to be determined by the Planning Commission; or
2. Deny 2021-12 CUP based on the attached finding or findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date in order to obtain additional information.

Attachments

1. Recommended Findings
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2021-12 CUP, dated 7/1/2021)
5. Public Hearing Notice (Sent to 530 property owners & occupants)
6. Public comment
7. Census Tract & Police Beat Maps
8. PD and Institute for Public Strategies comments
9. Community Meeting Advertisement
10. Resolutions



MARTIN REEDER, AICP
Principal Planner



ARMANDO VERGARA
Director of Community Development

RECOMMENDED FINDINGS FOR APPROVAL

2021-12 CUP – Gerry's Grill

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing restaurant space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales and live entertainment would be accessory to the primary use of food sales. A restaurant existed on the site previously.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use would be subject to conditions that limit the hours that alcohol is served and the hours that live entertainment is conducted. All previous conditions of approval would continue to be in effect, except as modified by this request.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.

7. The proposed use is deemed essential and desirable to the public convenience or necessity, because live entertainment and the extension of operating hours will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

RECOMMENDED FINDING FOR DENIAL

2021-12 CUP – Gerry's Grill

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

RECOMMENDED CONDITIONS OF APPROVAL

2018-22 CUP – 3030 Plaza Bonita Rd. #2510

General

1. This Conditional Use Permit authorizes the sale of alcohol for on-site consumption at a new restaurant located at 3030 Plaza Bonita Rd. #2510. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2018-22 CUP, dated 9/11/2018.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Deputy City Manager prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Planning

6. All sellers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
7. The sale of alcoholic beverages shall be permitted only between the hours of 10:00 a.m. to 10:00 p.m. Sunday, 11:00 a.m. to 10:00 p.m. Monday through Thursday and 10:00 a.m. to 11:00 p.m. Friday and Saturday.

8. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
9. Alcohol shall be available only in conjunction with the purchase of food.
10. Permittee shall post signs in the patio dining area, including all exits to outdoor seating areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
11. No live entertainment is permitted without modification of this CUP or issuance of a Temporary Use Permit.

2021-12 CUP – 3030 Plaza Bonita Rd. #2510 – Overhead



Gerry's Grill
3030 Plaza Bonita
Suite 2510
National City, CA

Paul Chris Design
Paul Chris Design LLC
11111 S. 15th St.
Suite 200
Phoenix, AZ 85048
Tel: 602.952.8888
www.paulchrisdesign.com

PFM ARCHITECTURE
11111 S. 15th St. Suite 200
Phoenix, AZ 85048
Tel: 602.952.8888
http://pfmarchitecture.com

Project Address
3030 Plaza Bonita, Suite 2510
National City, CA

Applicant
Alcoholic Beverage Specialists
26023 Jefferson Avenue, Suite B
Murrifeta, CA 92562
Attn: Steve Rawlings

Site Plan

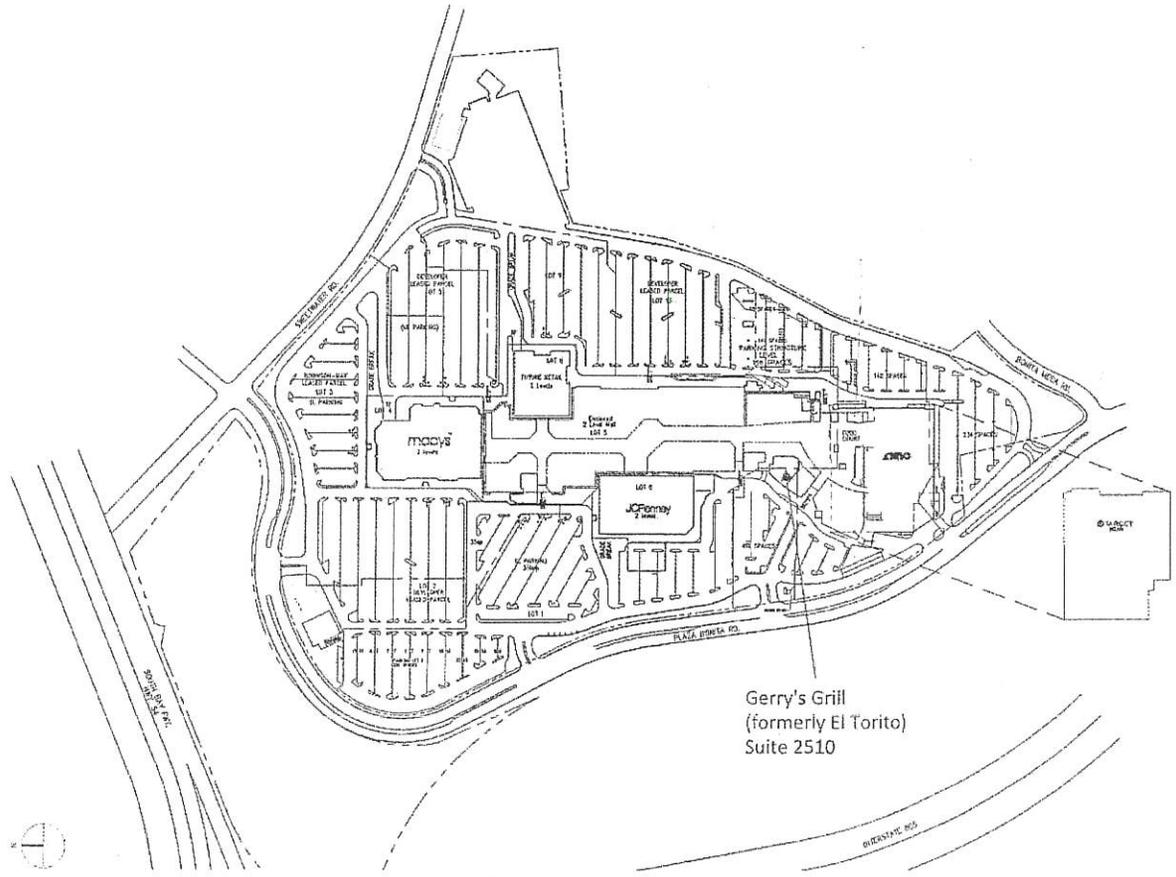


Exhibit A
Case File No.: 2021-12 CUP
Date: 7/1/2021

ATTACHMENT 4

Paul Chris Design, LLC
 Paul Chris Design, LLC
 11111 111th Street, Suite 11111
 National City, CA 92061
 Tel: 619.255.5555
 www.paulchrisdesign.com

PFM ARCHITECTURE
 11111 111th Street, Suite 11111
 National City, CA 92061
 Tel: 619.255.5555
 www.pfmarchitecture.com

Project Address
 3030 Plaza Bonita, suite 2510
 National City, CA

Applicant
 Alcoholic Beverage Specialists
 26023 Jefferson Avenue, Suite B
 Murrieta, CA 92562
 Attn: Steve Rawlings

Floor Plan

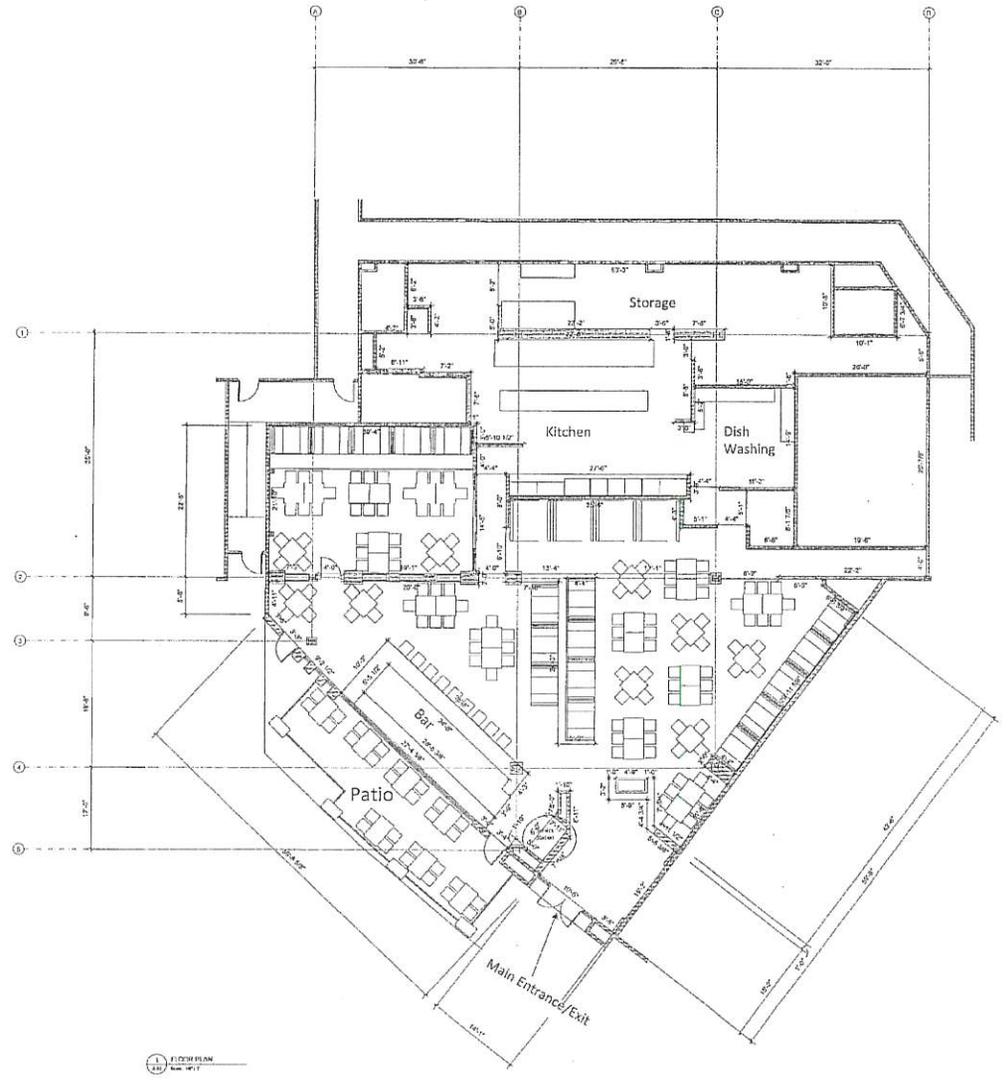
A.01

Gerry's Grill

3030 Plaza Bonita

Suite 2510

National City, CA





CITY OF NATIONAL CITY - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

CONDITIONAL USE PERMIT FOR THE ADDITION OF LIVE ENTERTAINMENT
AND EXPANSION OF APPROVED OPERATING HOURS FOR ALCOHOL SALES
AT AN EXISTING RESTAURANT (GERRY'S GRILL)
LOCATED AT 3030 PLAZA BONITA ROAD, SUITE 2510.
CASE FILE NO.: 2021-12 CUP

The National City Planning Commission will hold a public hearing at their regular online meeting after the hour of 6:00 p.m. **Monday, August 16, 2021**, on the proposed request. The meeting will be LIVE WEBCAST from the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: City-initiated)

Due to the precautions taken to combat the continued spread of coronavirus (COVID-19), City Council Chambers are closed to the public. Anyone interested in this public hearing may observe it on the City's website at <http://www.nationalcityca.gov/government/city-clerk/council-webcast>.

The applicant is proposing to expand the approved hours of operation for beer and wine sales and add live entertainment at the restaurant. Proposed operating hours are 11:00 a.m. to 11 p.m. Sunday through Thursday and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment is proposed Thursday (solo performer) from 7:30 p.m. to 10 p.m. and Friday and Saturday (band) from 8:30 p.m. to 11:30 p.m.

Information is available for review at the City's Planning Division, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 12:00 p.m., **August 16, 2021**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

From: [Ana Morales](#)
To: [council](#); [Clerk](#)
Subject: General Public Comment regarding Gerry's Grill use permit modification
Date: Tuesday, August 3, 2021 1:50:16 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To the Honorable Mayor and Council of the City of National City:

Mayor Alejandra Sotelo-Solis
Vice Mayor Jose Rodriguez
Councilmember Marcus Bush
Councilmember Mona Rios
Councilmember Ron Morrison

I would like to express my disagreement to the use permit modification requested by Gerry's Grill at 3050 Plaza Bonita Rd, National City, CA.

I would like to ask the Mayor and Council of the City of National City to consider NOT accepting a use permit modification to extend the sale and dispensing of alcoholic beverages for on-site consumption until 1am and the live music until 11:30p for Gerry's grill.

While it is true that extending the hours of sale for alcoholic beverages will bring in more revenue to the City, it would be at the expense of the safety of this community. Extending the amount of time alcoholic drinks are sold will inevitably increase the amount of consumption and consequently raise the amount of drunk driving incidents.

Due to the isolated location of the restaurant/grill/bar there are fewer opportunities for other modes of transportation for intoxicated individuals compared to say the Gaslamp in San Diego. Downtown SD has trolley, many bus routes, and lots of uber of lyft options due to the high volume of bars and busy nightlife. We don't have the same options here in this isolated location. By the same token, we don't have a strong law enforcement presence near either. Most people will need to drive to get home even if they have been drinking. Alcohol consumption is conducive to driving under the influence, especially late at night. Most people don't go out to eat at 12am, they go out to drink.

As a resident of National City that lives next to the Plaza Bonita Mall I already have to cope with hearing vehicles racing nearby and drivers doing wheelies in the mall parking lot on weekends, to now have an increase in drivers that might be intoxicated.

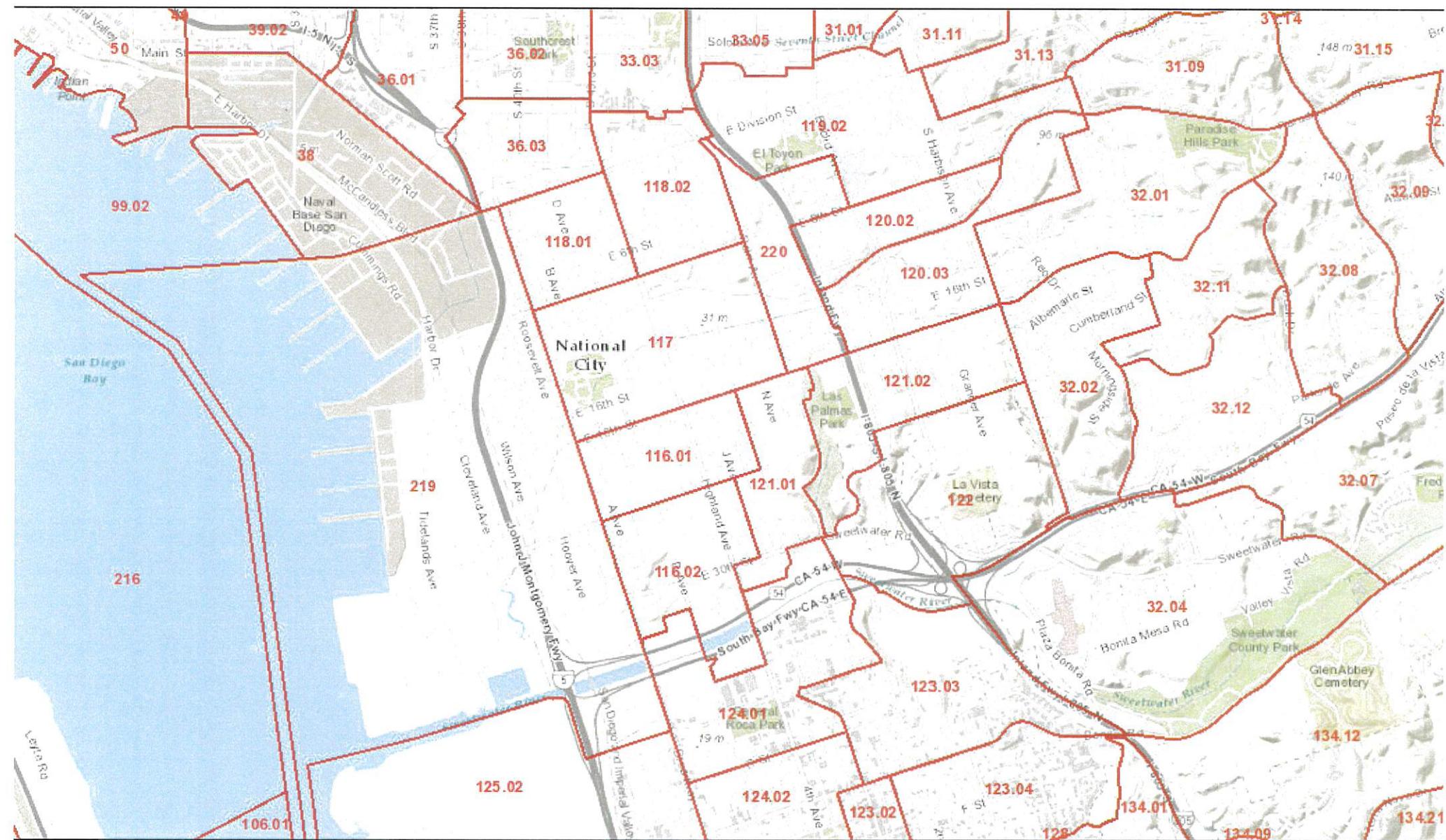
As a new parent, I am concerned for the safety and well-being of my family. I want to keep my family and neighborhood safe, especially during those unwanted late-night visits to ER/urgent care or to the pharmacy to pick up medicine for my child.

I think our community can also agree we need to make sure our neighbors and young students working those late-night shifts on the weekends are able to get home safely.

Let's keep our community and families safe.

Thank you for your time and consideration in reviewing this request.

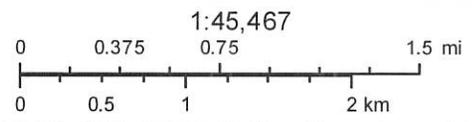
Ana Morales
National City Resident



August 25, 2014

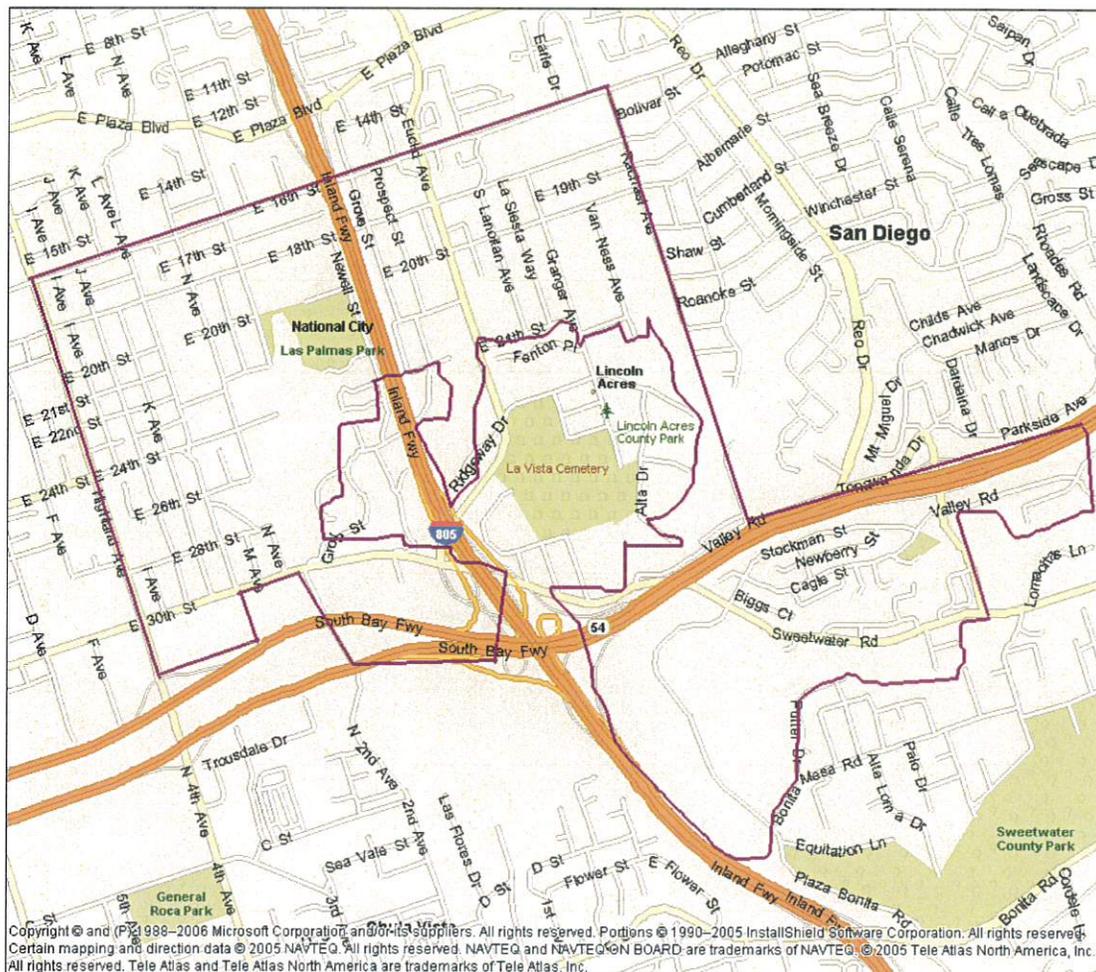
CensusTracts 2010

ATTACHMENT 7



1:45,467

Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp, GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, OpenStreetMap contributors, and the GIS User Community



City of National City Beat 23

Source: Microsoft Mappoint
NCPD CAU, 4/18/07

VI. Calls for Service at Location (for previous 6 months)

- Below (1 pt)
- Average (2 pts)
- ✓ Above (3 pts)

VII. Proximity Assessment (1/4 mile radius of location)

- ✓ Mostly commercial businesses (1 pt)
- Some businesses, some residential (2 pts)
- Mostly residential (3 pts)

Low Risk (12pts or less) Medium Risk (13 – 18pts) High Risk (19 – 24pts) Total Points <u>16</u>
--

VIII. Owner(s) records check

- ✓ No criminal incidents (0 pts)
- Minor criminal incidents (2 pts)
- Multiple/Major criminal incidents (3 pts)

OWNER NAME: Gerardo B. Apoliarioa DOB: 11/01/1967

OWNER ADDRESS: 31005 Courthouse Dr. Union City, Ca 94587

OWNER NAME: _____ DOB: _____

OWNER ADDRESS: _____

Recommendation:

Completed by: W. Walters, Sergeant Badge ID: 398

Environmental Scan for Alcohol License C.U.P.

Gerry's Grill Restaurant

3030 Plaza Bonita Road, Ste. 2510, National City, CA 91950

July 19, 2021

	
<p>Photo of the outside of the building for Gerry's Grill in Westfield Plaza Bonita in National City</p>	<p>Google Earth View of 3030 Plaza Bonita Road, Ste. 2510 and Surrounding Area</p>

The applicant is proposing to expand hours of operation for beer and wine sales and add live entertainment at an existing restaurant (ABC Type 47 license). The business is located east of the 805 Freeway off Sweetwater Road in National City.

The proposed operation hours requested are 11:00 a.m. to 11:00 p.m. Sunday through Thursday and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment with no dancing is proposed Thursday from 7:30 p.m. to 10:00 p.m. and Friday and Saturday a band from 8:30 p.m. to 11:30 p.m.

IPS staff attended the Community meeting on July 19, 2021 and was very satisfied that the business owner will respect the hours requested.

Considerations

Should the CUP be modified, we would recommend that:

1. Staff, management, and owner be required to attend the Responsible Beverage Sales and Service training.

You are invited to attend a:
COMMUNITY MEETING

Date: Monday, July 19, 2021

Time: 5 PM – 6 PM

Address: Gerry's Grill – 3050 Plaza Bonita Rd, National City, CA

This meeting is to inform citizens of a use permit modification to extend the sale and dispensing of beer, wine, and distilled spirits for on-site consumption until 1 am on Friday and Saturday and to have live music. The proposed hours of operation are Sunday – Thursday 11 am – 11 pm and Friday and Saturday 11 am – 1 am. The proposed hours for live entertainment are Thursday 7:30 pm – 10 pm and Friday and Saturday 8:30 pm – 11:30 pm.

We are looking forward to meeting you and discussing any concerns or questions you may have regarding this proposed restaurant operations. If you can't attend the meeting, or if you have any questions before then, please feel free to contact Steve Rawlings, the Applicant's representative, at 951-667-5152 or via email at SER@Rawlingspm.com.

This notice is being sent to you in fulfillment of the City of National City requirements. This outreach effort to our neighbors is necessary because an application for development or use has been filed with the City of National City Planning Department.

RESOLUTION NO. 2021-06

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT FOR THE ADDITION OF
LIVE ENTERTAINMENT AND EXPANSION OF
APPROVED OPERATING HOURS FOR ALCOHOL SALES
AT AN EXISTING RESTAURANT (GERRY'S GRILL)
LOCATED AT 3030 PLAZA BONITA ROAD, SUITE 2510
CASE FILE NO. 2021-12 CUP
APN: 561-471-07

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for THE addition of live entertainment and expansion of approved operating hours for alcohol sales at an existing restaurant (Gerry's Grill) located at 3030 Plaza Bonita Road, suite 2510 at a duly advertised public hearing held on August 16, 2021, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2021-12 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on August 16, 2021, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the MXD-2 land use designation

contained in the Land Use and Community Character element of the General Plan.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing restaurant space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales and live entertainment would be accessory to the primary use of food sales. A restaurant existed on the site previously.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use would be subject to conditions that limit the hours that alcohol is served and the hours that live entertainment is conducted. All previous conditions of approval would continue to be in effect, except as modified by this request.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.
7. The proposed use is deemed essential and desirable to the public convenience or necessity, because live entertainment and the extension of operating hours will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the extension of alcohol sales hours (as stated in Condition No. 7 below) and the addition of live entertainment (subject to the hours stated in Condition No. 8 below) at an existing restaurant located at 3030 Plaza Bonita Road, Ste. 2510. Any plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2021-12 CUP, dated 7/1/2021.

2. Unless specifically modified by this resolution, all Conditions of Approval of Planning Commission Resolution 2018-19 shall remain in full force and effect.
3. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Planning

7. The sale of alcoholic beverages shall only be permitted between the hours of 11:00 a.m. and 11:00 p.m. Sunday through Thursday and between 11:00 a.m. and 1:00 a.m. Friday and Saturday.
8. Live entertainment shall be permitted between the hours of 7:30 p.m. and 10:00 p.m. on Thursdays and 8:30 p.m. and 11:30 p.m. Friday and Saturday. Live entertainment on Thursdays shall be limited to a single performer. A band is permitted on Fridays and Saturdays.
9. Alcohol shall be available only in conjunction with the purchase of food.
10. All activities shall comply with the limits contained in Table III of Title 12 (Noise) of the National City Municipal Code.
11. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

12. The permittee shall comply with all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of August 16, 2021, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON

RESOLUTION NO. 2021-06

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
DENYING A CONDITIONAL USE PERMIT FOR THE ADDITION OF
LIVE ENTERTAINMENT AND EXPANSION OF
APPROVED OPERATING HOURS FOR ALCOHOL SALES
AT AN EXISTING RESTAURANT (GERRY'S GRILL)
LOCATED AT 3030 PLAZA BONITA ROAD, SUITE 2510
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WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for THE addition of live entertainment and expansion of approved operating hours for alcohol sales at an existing restaurant (Gerry's Grill) located at 3030 Plaza Bonita Road, suite 2510 at a duly advertised public hearing held on August 16, 2021, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2021-12 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on August 16, 2021, support the following finding:

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

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AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

TITLE: PUBLIC HEARING – CODE AMENDMENT AMENDING SECTIONS 18.20.020 (ZONE CLASSIFICATIONS), 18.21.040 (DEVELOPMENT STANDARDS RESIDENTIAL ZONES), 18.21.050 (SECOND UNITS), 18.45 (OFF-STREET PARKING AND LOADING), AND 18.50 (GLOSSARY), AND ADDITION OF SECTIONS 18.30.380 AND 18.30.390 OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

Case File No.: 2021-18 A

Staff report by: David Welch – Associate Planner

Project location: Citywide

Applicant: City-initiated Land Use Amendment

Environmental review: Not a project per CEQA

Staff recommendation: Recommend approval of the amendments to the City Council

BACKGROUND

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the amendments to sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of sections 18.30.380 and 18.30.390 to the City Council.

Overview

Section 18.21.050 of the Land Use Code (LUC) regulates second units, which are also referred to as Accessory Dwelling Units (ADUs).

This section of the LUC is null and void after recent updates to the State of California Government Code (GOV) relating to ADUs and Junior Accessory Dwelling Units (JADUs) became effective on January 1, 2021. ADUs and JADUs in the City of National City are regulated by the requirements in GOV Sections 65852.2 and 65852.22 unless the City adopts an ordinance that complies with each section. GOV Sections 65852.2 and 65852.22 are attached for reference.

It should also be noted that Planning Division staff is concurrently working on a draft ordinance related to Mobile Tiny Homes per direction of the City Council. While not part of the current effort related to ADUs and JADUs, the Commission may still provide comments if appropriate.

Housing Advisory Committee

On July 19, 2021, an update on the draft code amendments and additions related to ADUs and JADUs was presented to the Housing Advisory Committee. Staff received several comments related to the proposed language and made some modifications. The following comments were received and addressed:

- *A one-story requirement for ADUs would be overly restrictive for smaller lots. An example is a 3,000 square foot lot only having enough area to construct a 300 square foot ADU.*
 - Staff added language to allow two-story ADUs for lots smaller than 5,000 square feet. In addition, proposed language was added to Table 18.21.040 of the LUC to address conflicts with ADU square footage and the standards for accessory structures.
- *Is there any enforcement of rental duration to keep ADUs from becoming short-term rentals?*
 - Staff added language requiring recorded restrictions for all ADUs. The restrictions must state that the ADU may not be rented for a period of less than 31 days.
- *The City should review the minimizing setbacks (overly restrictive) including the 20 foot front setback for ADUs.*
 - Staff revised the required front setback to a 15 foot minimum instead of 20 feet. This is consistent with the current front setbacks for medium density residential zones.
- *Can the landscaping requirement allow for a tree in the back or elsewhere?*
 - Staff revised the location requirement to allow for a tree in the abutting parkway and the required 15 foot front yard setback for ADUs. This provides more flexibility in mixed-use zones, which do not have a front setback area.

Proposed Changes

Section 18.21.050 of the LUC should be removed completely, as this section is preempted by GOV Sections 65852.2 and 65852.22. In addition, other sections of Title 18 with references to second units are proposed to be removed. New ordinances under Sections 18.30.380 and 18.30.390, as well as related changes within Title 18, are proposed for the regulation of ADUs and JADUs. These ordinance changes are intended to clarify the regulations that permit ADUs and JADUs as well as promote the compatibility of these housing types within existing neighborhoods.

Proposed changes in addition to those required by state law include the following:

- ADUs constructed over garages or on a lot smaller than 5,000 square feet are permitted to have a maximum height of 25 feet instead of the height of the primary structure.
- A minimum front setback of 15 feet and minimum side and rear setbacks of four feet for all ADUs. ADUs are permitted in Mixed-Use zones, which currently have no setbacks unless they abut a Residential zone.
- A landscape requirement of one tree in the required 15 foot setback for ADUs or abutting parkway is added.
- ADUs are required to conform to the adopted single-family infill standards in Section 18.42.070.C of the LUC.
- The maximum size of most detached ADUs is 1,000 square feet instead of 1,200 square feet. A 1,200 square foot detached ADU is still permitted if parking is provided and the unit does not exceed the front setback of the existing home.
- An ADU constructed within the footprint of an existing home will not have a maximum size.
- Both ADUs and JADUs shall have restrictions, recorded with the County, that the units may not be sold separately or rented for periods of less than 31 days.
- JADUs are permitted on lots with an existing single-family dwelling and zoned to allow for residential use. This change will clarify that JADUs are permitted in Mixed-Use zones.

A strikethrough/underline version of the changes are attached to this staff report.

Findings

There are two findings required for approval of a Code Amendment, one related to General Plan consistency and one related to compliance with the California Environmental Quality Act (CEQA).

General Plan Conformance

The requested amendments to this section are consistent with the General Plan.

The adopted 2013-2021 Housing Element provides both for enhanced quality of existing residential neighborhoods and a range of new housing types. Two goals apply in this case:

Goal H-1: Maintain and enhance the quality of existing residential neighborhoods.

Goal H-4: Provide a sufficient number of housing units and range of housing types to meet the current and projected needs of all economic segments of the community.

In addition, the draft Housing Element for the 2021-2029 cycle is required by GOV Section 65852.2 to promote the development of ADUs to meet housing needs. Draft Policy 1.4 is to “promote the development of accessory dwelling units (ADUs) throughout National City to meet residential housing needs.”

CEQA Compliance

This amendment is not considered to be a project under CEQA as any permits issued in relation to ADUs and JADUs would be ministerial and thus not subject to CEQA.

Summary and next steps

Staff is recommending changes to the City’s Municipal Code related to ADUs and JADUs, and recommends that the Planning Commission support the amendments. The recommendation of the Planning Commission will be provided to the City Council at a subsequent public hearing at the City Council.

OPTIONS

1. Recommend approval of the amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 of the Land Use Code based on the attached findings or findings to be determined by the Planning Commission; or
2. Recommend denial of the amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 of the Land Use Code based on findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date.

ATTACHMENTS

1. Findings
2. Proposed Code changes
3. GOV Sections 65852.2 and 65852.22
4. Resolution



DAVID WELCH
Associate Planner



ARMANDO VERGARA
Director of Community Development

RECOMMENDED FINDINGS FOR APPROVAL

1. That the proposed amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 are consistent with the General Plan, as Goal H-1 encourages the maintenance and enhancement of the quality of existing residential neighborhoods and Goal H-4 encourages the provision of a sufficient number of housing units and range of housing types to meet the current and projected needs of all economic segments of the community.

2. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA. Any permits issued in relation to Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs) would be ministerial and thus not subject to CEQA.

DIVISION 2. - ZONING DISTRICTS AND ALLOWABLE LAND USES

TABLE 18.20.020
Zone Classifications

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
Residential		
RS-1 ₁	Large Lot Residential	Low Medium Density Residential
RS-2 ₁	Small Lot Residential	Low Medium Density Residential
RS-3 ₁	Medium-Low Density Multi-Unit Residential	Medium Density Residential
RS-4 ₁	Residential Single-Family	Specific Plan (Westside)
RM-1 ₁	Medium Density Multi-Unit Residential	Medium Density Residential
RM-2 ₁	High Density Multi-Unit Residential	High Density Residential
RM-3 ₁	Very High Density Multi-Unit Residential	High Density Residential
Commercial		
CA	Commercial Automotive	Commercial Automotive
CL	Limited Commercial	Specific Plan (Westside)
CS	Service Commercial	Service Commercial
Mixed-Use		
MCR-1 ₁	Mixed Commercial-Residential	Specific Plan (Westside)
MCR-2 ₁	Mixed Commercial-Residential (Smart Growth Area)	Specific Plan (Westside)

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
MXC-1 ₁	Minor Mixed Use Corridor	Minor Mixed Use
MXC-2 ₁	Major Mixed Use Corridor	Major Mixed Use
MXD-1 ₁	Minor Mixed Use District	Minor Mixed Use
MXD-2 ₁	Major Mixed Use District	Major Mixed Use
Industrial		
IL	Light Industrial	Industrial
IM	Medium Industrial	Industrial
IH	Heavy Industrial	Industrial
Institutional		
I	Institutional	Institutional
Open Space		
OS	Open Space	Open Space
OSR	Open Space Reserve	
Military		
M	Military	Military
San Diego Unified Port District		
UPD	Port Master Plan	San Diego Unified Port District
Specific Plan		
SP ₁	Specific Plan	Specific Plan

[1ADUs and JADUs permitted subject to Sections 18.30.380 and 18.30.390](#)

**Table [18.21.040](#)
Development Standards
Residential Zones**

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Minimum setbacks, Primary structure							
Front	20'	20'	15'	10'/ 15(a)	15'	10'	10'
Side—Interior	5'	5'	5'	3/0(b)	5'	5'	5'
Side—Exterior	10'	10'	5'	10'(a)	5'	5'	10'
Rear	25'	25'	10'	15'	5'	5'	5'
Minimum setbacks, Accessory structure							
Front	20'	20'	15'	10/ 15'(c)	15'	10'	10'
Side—Interior	5'	5'	5'	3'	5'	5'	5'
Side—Corner	5'	5'	5'	10'	5'	5'	5'
Rear	5'	5'	5'	3'	5'	5'	5'
Detached building separation	5'	5'	5'	6'	5'	5'	5'

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Number of detached buildings	3 per full 5,000 ft ² of lot area	3 per full 5,000 ft ² of lot area	3 per full 5,000 ft ² of lot area	3			
Minimum lot area	10,000 SF	5,000 SF	5,000 SF	2,500 SF	5,000 SF	5,000 SF	5,000 SF
Minimum street frontage (Standard)	60'	50'	50'	25'	50'	50'	50'
Minimum street frontage (lots on the bulb of a cul-de-sac)	36'	36'	36'	15'	36'	36'	36'
Maximum density	One du per lot	One du per lot	One du per 2,900 SF of lot area	One du for each 2,500 SF of lot area	One du per 1,900 SF of lot area	One du per 900 SF of lot area	One du per 580 SF of lot area
Minimum usable open space	N/A	N/A	N/A	N/A	See Section 18.41.040		
Maximum lot coverage	75%	75%	75%	N/A	75%	75%	75%
Maximum height, primary structure	35'	35'	35'	35'	45'	65'	95'

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Maximum stories, primary structure	2	2	3	3	4	6	9
Maximum height, accessory structure	35'	35'	35'	35'	45'	65'	95'
	Shall not exceed the number of stories or height of the primary structure.				Shall not exceed the allowed maximum height of accessory structures in adjacent zone within 100-feet of the adjacent zone.		
Maximum area (total), accessory structures— Excluding up to 400 SF of covered parking and area dedicated to an ADU	10% of lot size (d)	10% of lot size (d)	10% of lot size (d)	None	None	None	None

Notes:

- (a) Stoops and porches may extend into the front yard up to the front property line or in the case of a corner parcel, to the side property line. Garages shall maintain a fifteen-foot front yard setback.
- (b) A zero foot minimum side yard, for one side yard on the parcel, is permitted provided that there is a six-foot separation to the adjacent residential structure and that there is a minimum three-foot side yard setback on the opposite side.
- (c) Except for stoops and porches, accessory structures shall not be located in the front yard setback. Porches or stoops should be at least six feet deep.
- (d) No single accessory structure shall have a footprint greater than that of half of the primary structure **excluding area dedicated to an ADU**.

~~18.21.050 – Second units.~~

~~A. Purpose. The purpose of this section is to provide regulations for the establishment of accessory dwelling units in the residential zones. Accessory dwelling units help advance the city's growth and planning policies by:~~

- ~~1. Accommodating new housing units while preserving the character of existing neighborhoods;~~
- ~~2. Allowing efficient use of the city's existing housing stock and infrastructure;~~
- ~~3. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,~~
- ~~4. Providing a means for residents—particularly seniors, single parents, younger singles and younger couples, and empty nesters—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.~~

~~B. Development Standards.~~

- ~~1. Shall be permitted on properties with only one single-family residence on the lot or constructed in conjunction with a single-family residence~~
- ~~2. Shall not be allowed where the city manager or his/her designee determines that roadways, public utilities or services are inadequate;~~
- ~~3. Shall not be allowed on lots that exceed the allowed number of dwelling units;~~
- ~~4. The development standards for accessory structures shall apply to second units, except that the setback requirements for primary structures shall apply and the floor area shall not exceed the maximum area allowed for accessory structures, but in no case shall exceed one thousand two hundred square feet.~~

~~C. Architectural Compatibility. A second dwelling unit shall incorporate the same or substantially similar architectural features with respect to roof pitch, compatible building materials, colors, and design details of the primary dwelling unit.~~

~~D. Parking. One off-street parking space, in addition to that which is required by this code for the primary residence shall be provided. Parking spaces include garages, carports, or uncovered parking.~~

DIVISION 3. SPECIFIC USES

18.30.380 - Accessory Dwelling Units.

- A. Purpose. The purpose of this section is to provide for the construction of Accessory Dwelling Units (ADUs) in areas zoned to allow residential uses pursuant to Government Code Section 65852.2. ADUs help advance the goals and policies of the City's Housing Element by:
1. Providing an affordable type of home to construct without the cost of acquiring new land, dedicated parking, and costly infrastructure;
 2. Accommodating new housing units while preserving the character of existing neighborhoods;
 3. Allowing efficient use of the city's existing housing stock and infrastructure;
 4. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,
 5. Providing a means for residents—particularly seniors, single parents, young singles, and younger couples—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.
- B. Consistency with state law. This section is intended to be consistent with Government Code Section 65852.2. If inconsistency is found with this section and state law, state law shall prevail.
- C. Definitions. For the purposes of this section Accessory Dwelling Unit (ADU) is defined in Section 18.50.010.
- D. ADUs permitted.
1. One ADU is permitted on a lot if all the following are met:
 - a. The lot includes a proposed or existing dwelling.
 - b. The lot is in a zone that allows for a residential use as indicated in Table 18.20.020.
 - c. The proposed ADU is located where the city manager or his/her designee has not determined that public utilities or services are inadequate or the ADU will adversely impact traffic flow or public safety.
 - d. The ADU meets the standards of subsection F.
 2. Two detached ADUs are permitted on a lot with a multi-family residential use if all the following are met:
 - a. The lot includes an existing multi-family residential dwelling.

b. Each ADU does not exceed a total floor area of 1,000 square feet and 16 feet in height.

3. Multiple ADUs are permitted within the portions of existing multi-family residential structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

a. At least one ADU is permitted within an existing multi-family residential structures and up to 25 percent of the existing number of multi-family dwelling units is allowed.

E. Review. The approval of an ADU is subject to a ministerial decision process outlined in Section 18.12.030. For the purposes of this subsection, a staff person designated by the city manager shall review and act on a building permit application for an ADU within 60 days after a complete application is received. An ADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval. An applicant may request a variance subject to Section 18.12.120 in conjunction with an application for an ADU.

F. ADU Development Standards.

1. Density. ADUs are consistent with the allowable density for the lot upon which the ADU is located and the ADU is a residential use that is consistent with existing General Plan and zoning designations for the lot.

2. Location. An ADU may be either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing dwelling. An ADU may be attached to, located within, or detached from an existing or proposed primary dwelling unit, including garages and habitable or non-habitable accessory structures.

3. Parking. No additional parking is required for an ADU. If an ADU is constructed within existing garage or covered parking, then no replacement parking spaces may be required.

4. Height. The maximum height of an ADU is as follows:

a. On a property with a single-family residential primary dwelling, the height of the ADU, attached or detached, shall not exceed the height of the primary dwelling or 16 feet, whichever is greater. For an ADU constructed above a garage or on a lot smaller than 5,000 square feet, the height shall not exceed 25 feet.

b. On a property with a multi-family residential structure, the height of a detached ADU shall not exceed 16 feet.

5. Setbacks.

a. For all ADUs, the front setback shall be a minimum of 15 feet.

b. For all ADUs, the exterior and interior side yard setback shall be a minimum of four feet and the rear yard setback shall be a minimum of four feet.

c. No setback shall be required for an existing living area or permitted accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

6. Landscaping.

a. One 24-inch box tree shall be planted within the required 15 foot front yard setback for ADUs or in the abutting parkway. Existing trees that are at least 15 feet high and 15 feet in width may be used to satisfy this requirement.

7. Building Design Standards. ADUs shall conform to adopted single-family infill standards in Section 18.42.070.C.

8. Size of unit.

a. The minimum size of an ADU is a total floor area of 150 square feet.

b. The total floor area of an ADU attached to a primary dwelling unit shall not exceed 50% of the total floor area of the existing primary dwelling or 1,000 square feet, whichever is greater, save and except (d) and (e) below.

c. The total floor area of a detached ADU shall not exceed 1,000 square feet save and except (d) and (e) below.

d. A detached ADU may have a total floor area up to 1,200 square feet if all the following requirements are met:

1. The front setback of the ADU exceeds the front setback of the existing or proposed primary dwelling unit.

2. No existing parking spaces are removed or the existing spaces are replaced with covered parking.

3. One additional parking space is provided for the ADU.

e. An ADU constructed within the footprint of an existing dwelling or a detached structure shall not be subject to a maximum square footage of total floor area.

f. As provided in state law, an attached or detached ADU with a maximum size of 850 square feet or 1,000 square feet with more than one bedroom shall be permitted in any circumstance subject to a maximum height of 16 feet, four foot side and rear setbacks, and compliance with all building codes.

9. A minimum lot size shall not be required for an ADU under this ordinance.

10. No passageway shall be required for an ADU under this ordinance.

11. ADUs are only required to provide fire sprinklers if they are required for the primary residence.

G. Limitations and other requirements

1. An ADU shall not be sold or otherwise conveyed separate from the primary residence.

2. An ADU may serve as a rental unit or be occupied by family members, guests, or in-home health care providers and others at no cost.

3. Neither the ADU nor the primary dwelling unit shall be rented for a term of less than 31 days. ADUs on multi-family properties shall be subject to this provision, except the restriction shall not apply to existing multi-family units.

4. Owner occupancy of the primary unit or ADU is not required.

5. Trash and recycling. Receptacles are required and shall conform to the requirements of Section 7.10.040 of the Code of Ordinances.

6. Prohibited units. No structure of a temporary nature shall be used as a residence or ADU, neither temporarily nor permanently. Refer to Section 18.20.030.A.

7. Fees. An ADU with less than 750 square feet is exempt from any impact fees imposed by the city. For ADUs 750 square feet or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

8. Before a building permit may be issued for an ADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the ADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; and the ADU may not be rented for a period of less than 31 days. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for life of the ADU.

H. Nonconforming zoning conditions. The correction of existing nonconforming uses, structures, or parcels pursuant to Chapter 18.11 shall not be required as a condition of approval for an ADU.

DIVISION 4. - GENERAL DESIGN AND DEVELOPMENT REGULATIONS

Chapter 18.45 - OFF-STREET PARKING AND LOADING

TABLE [18.45.050](#)
Schedule of Off-Street Parking Requirements by Land Use

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Residential Uses	
Dwelling, single detached (RS-1 zone)	2 covered spaces, plus one additional uncovered space per bedroom greater than four bedrooms or one additional uncovered space for dwellings greater than 2,500 SF, whichever is greater.
Dwelling, single detached (all other RS and RM zones, except within the Westside Specific Plan area)	One covered space and one uncovered space, plus one additional uncovered space per bedroom greater than four bedrooms or one additional uncovered space for dwellings greater than 2,500 SF, whichever is greater.
Dwelling, single attached	1.5 spaces per dwelling unit in a garage or carport
Dwelling, multiple	1.3 spaces per 1-bedroom dwelling unit plus 1.5 spaces per 2-bedroom or more unit, and conveniently located guest parking of ½ space per unit for 20 units or less, plus ¼ space for each unit over 20. Half of the required guest

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
	parking spaces may include parking spaces on dedicated public streets along the sides of the streets that are adjacent to the site.
Fraternity, sorority house, or dormitory	1.5 spaces for each sleeping room
Mobile home parks	2 spaces per unit
Rectory	1 garage space per bedroom
Rooming or boarding house	1 space per guest room
Second dwelling unit	1 space in addition to primary residence parking requirements
<i>Table Continues</i>	

DIVISION 5. - GLOSSARY

Chapter 18.50 - GLOSSARY

[18.50.010] - Generally.

~~Second unit. "Second unit" is a small, self-contained residential unit built on the same lot as an existing primary residence or built in conjunction with a primary residence. It provides complete independent living facilities for one or more persons. Second units are also referred to as "accessory dwelling units," "in-law apartments," "granny flats," "ancillary apartments" or "carriage houses." Second units may be attached to or detached from the primary residence. Refer to Section 18.21.050 for second unit regulations.~~

Accessory Dwelling Unit (ADU): "Accessory Dwelling Unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An ADU also includes an efficiency unit and a manufactured home, as defined in Section 18007 of the Health and Safety Code. Refer to Section 18.030.380 for ADU regulations.

DIVISION 3. SPECIFIC USES

18.30.390 - Junior Accessory Dwelling Units.

- A. Purpose. The purpose of this section is to provide for the construction of Junior Accessory Dwelling Units (JADUs) in areas zoned to allow residential uses pursuant to Government Code Section 65852.22. JADUs help advance the goals and policies of the City's Housing Element by:
1. Providing an affordable type of home to construct without the cost of acquiring new land, dedicated parking, and costly infrastructure;
 2. Accommodating new housing units while preserving the character of existing neighborhoods;
 3. Allowing efficient use of the city's existing housing stock and infrastructure;
 4. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,
 5. Providing a means for residents—particularly seniors, single parents, young singles, and younger couples—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.
- B. Consistency with state law. This section is intended to be consistent with Government Code Section 65852.22. If inconsistency is found with this section and state law, state law shall prevail.
- C. Definitions. For the purposes of this section junior accessory dwelling unit (JADU) is defined in Section 18.50.010.
- D. JADUs permitted.
1. One JADU is permitted on a lot if the following are met:
 - a. The lot includes a proposed or existing single-family dwelling.
 - b. The lot is in a zone that allows for a residential use as indicated in Table 18.20.020.
 - c. The JADU meets the standards of subsection F.
 - d. There is no existing ADU or JADU on the lot or there is an existing detached ADU that does not exceed a total floor area of 800 square feet and does not exceed a height of 16 feet.
 - e. The proposed JADU is located where the city manager or his/her designee has not determined that public utilities or services are inadequate or the JADU will adversely impact traffic flow or public safety.

- E. Review. The approval of a JADU is subject to a ministerial decision process outlined in Section 18.12.030. For the purposes of this subsection, a staff person designated by the city manager shall review and act on a building permit application for a JADU within 60 days after a complete application is received. A JADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval.
- F. Development standards.
1. A JADU may have a total floor area of not less than 150 square feet and not more than 500 square feet, and is permitted within an existing or proposed single-family residential dwelling unit. A JADU constructed within an existing structure may construct an additional 150 square feet for ingress and egress only.
 2. A JADU shall have a separate exterior entry from the primary dwelling unit and shall provide a kitchen or an efficiency kitchen.
 3. Parking. Replacement parking spaces are required when a JADU is created within an existing attached garage. Covered spaces are not required.
- G. Limitations and other requirements.
1. The owner must occupy the single-family residence in which the JADU will be permitted. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
 2. Before a building permit may be issued for a JADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the JADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; the JADU shall not be rented for a period of less than 31 days; and the record owner shall reside on the premises. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for life of the JADU.

DIVISION 5. - GLOSSARY

Chapter 18.50 - GLOSSARY

[18.50.010] - Generally.

Junior Accessory Dwelling Unit (JADU): “Junior Accessory Dwelling Unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure. Refer to Section 18.030.390 for JADU regulations.

State of California

GOVERNMENT CODE

Section 65852.2

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application

shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a

permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit

written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

(7) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(8) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

(Amended (as added by Stats. 2019, Ch. 659, Sec. 2.5) by Stats. 2020, Ch. 198, Sec. 4.5. (AB 3182) Effective January 1, 2021. Section operative January 1, 2025, by its own provisions.)

State of California

GOVERNMENT CODE

Section 65852.22

65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a

hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(Amended by Stats. 2019, Ch. 655, Sec. 2. (AB 68) Effective January 1, 2020.)

RESOLUTION NO. 2021-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NATIONAL CITY, CALIFORNIA, RECOMMENDING ADOPTION TO THE CITY COUNCIL OF A CODE AMENDMENT AMENDING SECTIONS 18.20.020 (ZONE CLASSIFICATIONS), 18.21.040 (DEVELOPMENT STANDARDS RESIDENTIAL ZONES), 18.21.050 (SECOND UNITS), 18.45 (OFF-STREET PARKING AND LOADING), AND 18.50 (GLOSSARY), AND ADDITION OF SECTIONS 18.30.380 AND 18.30.390 OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.

APPLICANT: CITY-INITIATED.

CASE FILE NO. 2019-24 A

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code, per Title 18 (Zoning); and,

WHEREAS, the Planning Commission of the City of National City, California, considered said proposed amendment at a duly advertised public hearing held on August 16, 2021 at which time the Planning Commission considered evidence; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report provided for Case File No. 2021-18 A, which is maintained by the City and incorporated herein by reference; along with any other evidence presented at said hearing; and,

WHEREAS, the Planning Commission recommends adoption to the City Council of the City of National City amendment to Sections 18.20.020 (Zone Classifications), 18.21.040 (Development Standards Residential Zones), 18.21.050 (Second units), 18.45 (Off-street Parking and Loading), and 18.50 (Glossary), and addition of sections 18.30.380 and 18.30.390 of Title 18 (Zoning) of the National City Municipal Code; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, this action is taken in an effort to comply with applicable State and Federal law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Planning Commission of the City of National City, California, that the evidence presented to the Planning Commission at the public hearing held on May 4, 2020, support the following findings:

1. That the proposed amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 are consistent with the General Plan, as Goal H-1 encourages the maintenance and enhancement of the quality of existing residential neighborhoods and Goal H-4 encourages the provision of a sufficient number of housing units and range of housing types to meet the current and projected needs of all economic segments of the community.
2. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA. Any permits issued in relation to Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs) would be ministerial and thus not subject to CEQA.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of August 16, 2021, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON