

REPORT TO CITY COUNCIL

DATE: AUGUST 14, 2024

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: DENICE THOMAS, COMMUNITY DEVELOPMENT DIRECTOR
ROBBY NESOVIC, PRINCIPAL PLANNER

SUBJECT: ADOPT RESOLUTION NO. 24-2079 APPROVING CONDITIONAL USE PERMIT NUMBER CUP-2023-0026 TO ALLOW A TYPE 47 LICENSE FOR ON-SITE CONSUMPTION OF ALCOHOLIC BEVERAGES AT AN EXISTING RESTAURANT AND TO REVISE THE FACILITY'S HOURS OF OPERATION; AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Following the continued public hearing on July 10, 2024, the City Council voted with three "ayes" and one "no" to approve Conditional Use Permit CUP-2023-0026, allowing a type 47 alcoholic beverages license and revising the hours of operation for the existing Cronies Bar and Grill restaurant. One Councilmember recused themselves prior to the hearing. Staff has prepared a resolution for the City Council's approval, as well as, modified conditions of approval to account for the new approved hours of operation, which are now from 8:00 a.m. to 10:00 p.m., seven days a week.

FISCAL IMPACT

This project will have no impact on the City's Fiscal Year 2024-25 Budget as the applicant has paid all applicable fees, which covered staff's time processing the case and public notification fees.

RECOMMENDATION

Staff recommends the City Council approve Resolution No. 24-2079 approving Conditional Use Permit Number CUP-2023-0026 to allow a type 47 license for on-site consumption of alcoholic beverages at an existing restaurant and to revise the facility's hours of operation; and making a determination of exemption under the California Environmental Quality Act.

Attachments:

1. Resolution No. 24-2079
 - a. Conditions of Approval for CUP-2023-0026

RESOLUTION NO. 24-2079

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT CASE NO. CUP-2023-0026 TO ALLOW A TYPE 47 LICENSE FOR ON-SITE CONSUMPTION OF ALCOHOLIC BEVERAGES AT AN EXISTING RESTAURANT AND TO REVISE THE FACILITY'S PERMITTED HOURS OF OPERATION; AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

SECTION 1. PROJECT BACKGROUND AND PROJECT DESCRIPTION.

The City Council of the City of Agoura Hills does hereby find, determine and declare that:

A. On June 5, 2014, the Planning Commission of the City of Agoura Hills adopted Resolution No. 14-1106, approving Conditional Use Permit (CUP) No. 14-CUP-002 to allow a Type 41 alcoholic beverages license for Cronies Sports Grill ("Cronies"). The approved hours of operation for 14-CUP-002 were from 8:00 a.m. to 11:00 p.m. Sunday through Thursday, and from 8:00 a.m. to 12:30 a.m. Friday and Saturday.

B. An application was duly filed by Dave Foldes for Cronies Sports Grill (Croag Inc.) on November 28, 2023, with respect to the real property located at 5687 Kanan Road (Assessor's Identification Number 2053-007-030), requesting the approval of a Conditional Use Permit (Case No. CUP-2023-0026) to allow a Type 47 license for on-site consumption of alcoholic beverages at an existing restaurant and to extend the facility's hours of operation.

C. The Planning Commission held a public hearing on April 4, 2024, where evidence, both written and oral, as well as supporting documentation, was duly presented to, and considered by the Planning Commission.

D. On April 18, 2024, the Planning Commission of the City of Agoura Hills adopted Resolution No. 24-1290, denying CUP No. 2023-0026 based on the findings listed in Resolution No. 24-1290.

E. Following the adoption of Resolution No. 24-1290, the applicant filed an appeal on May 3, 2024. The appeal application was accompanied by an appeal application fee, and a letter stating the reasons for the appeal. The appeal application also rescinded the applicant's request for extended hours. The appeal hearing was initially scheduled and noticed for May 22, 2024, and at the request of the applicant, the hearing was continued until July 10, 2024.

F. At the continued public hearing on July 10, 2024, evidence, both written and oral, as well as supporting documentation, was duly presented to, and considered by the City Council. At the hearing, the applicant volunteered to revise their permitted hours of operation to match the current hours of operation of 8:00 a.m. to 10:00 p.m. only, seven days a week, as reflected in the conditions of approval attached as Exhibit "A" and incorporated by reference.

SECTION 2. PROCEDURAL FINDINGS. The City Council of the City of Agoura Hills does hereby find, determine, and declare that:

A. California Environmental Quality Act (CEQA). The Project has been reviewed pursuant to the CEQA and has been determined to be Categorically Exempt from the CEQA Guidelines per § 15061(b)(3) because it can be seen with certainty that the proposed project will not have a significant effect on the environment. The Project site is adequately buffered from nearby residential areas, so switching from a Type 41 to a Type 47 ABC license and reducing the hours of operation would not impact nearby sensitive uses. Furthermore, the Project does not modify the shopping center's existing physical improvements. No exception to this categorical exemption applies as set forth in § 15300.2 of the CEQA Guidelines, including, but not limited to, subsection (c) which relates to unusual circumstances that could have a significant effect on the environment.

B. Conditional Use Permit. Pursuant to the Agoura Hills Municipal Code (AHMC) § 9673.2.E, and based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the City Council makes the following findings for the Conditional Use Permit:

1. The proposed use, as conditioned, is consistent with the intent and purpose of Article IX of the AHMC, the goals and objectives of the general plan and any applicable specific plan, and the purposes of the district in which the use is located. The on-site consumption of alcoholic beverages at a restaurant is permitted in, and consistent with the intent and purpose of, the Commercial Service – Mixed Use – Affordable Housing (CS-MU-AH) district with a CUP. The Project is consistent with General Plan Goals LU-2 (City of Diverse Uses) and LU-27 (Community-serving Shopping Centers) in that the Type 47 license will increase the services and options provided to the community residents and visitors and will help to improve the economic vitality of the shopping center.

2. The proposed use, as conditioned, is compatible with the surrounding properties based on the factors set forth in AHMC § 9673.2.E.2. The entry to the restaurant faces east, away from the adjoining residential development to the west, which is further separated from the project site by a drainage channel. A large parking lot and Kanan Road separates the business from the residential development to the east thereby limiting impacts on the peaceful enjoyment of residential properties. Due to the location of the business in the shopping center, the Project would not have the potential to generate significant offsite noise

because the front of the business faces a large parking lot and two major arterials which would reduce offsite noise impacts. A change in license type to a Type 47 would not significantly increase vehicular or pedestrian traffic, and the proposed use does not require any additional parking spaces compared to the currently permitted use. A reduction in the permitted operating hours to be limited from 8:00 a.m. to 10:00 p.m. ensures that the Project remains compatible with the surrounding sensitive uses. No physical changes to the site are proposed.

3. As conditioned, the purpose and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare based on the factors set forth in AHMC § 9673.2.E.3. The Project does not physically alter the site and would not impact public and private roads used to access the property, which are currently adequate to accommodate emergency vehicles. The site is adequately buffered from adjacent properties, limiting the potential for the project to result in littering or public intoxication on adjacent properties. Furthermore, the permitted hours of operation under the conditional use permit is reduced and revised to match the current hours of operation of 8:00 a.m. to 10:00 p.m., seven days a week, so there would be a decrease in the hours of operation. Additionally, a Type 47 license requires alcohol servers and managers to be Responsible Beverage Service (RBS) certified by the California Department of Alcoholic Beverage Control (ABC) by undergoing training to ensure on-premises servers of alcoholic beverages and their managers are educated on the dangers of serving alcohol to minors and over-serving patrons. The Project would not involve activities that would increase the likelihood of fire or other lifesaving emergencies, and would have no impact on the drainage of the site since no construction is proposed.

4. The proposed use complies with all applicable provisions of Article IX of the AHMC, and no variances or modifications have been requested. The Zoning Ordinance permits the on-site consumption of alcoholic beverages with a CUP at a sit-down restaurant in the CS-MU-AH district. The tenant space exists within a permitted structure that operates within the confines of the current zoning code and the request will not require any modification or variance to the building or the site. Serving alcohol under a Type 47 license requires the business to be a bona fide eating facility wherein a substantial amount of the sales are for food and the restaurant will continue to operate in this manner.

5. The proposed use is not in violation of applicable provisions of the AHMC or of federal, state, or local law. The on-sale alcohol service use is conditionally allowed in the CS-MU-AH zoning district. The operating hours are limited to 8:00 a.m. to 10:00 p.m., as reflected in the conditions of approval, attached hereto as Exhibit "A", and the sale of alcohol will be restricted to the approved floor plan. Any changes to the location of sales (i.e., expansion to outdoor dining) or the hours of operation will require an amendment to the Conditional Use Permit and/or Outdoor Dining Permit, subject to the approval of the Planning Commission. The restaurant will operate with a Type 47 license,

which requires all alcohol servers and their managers to be RBS certified as part of ABC licensing process. The new license will comply with all local, state and federal laws.

C. Alcoholic Beverage Sales. Based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the City Council finds, pursuant to the AHMC § 9396.3, that:

1. As conditioned, the requested use at the proposed location will not adversely affect the use of a school, park, playground, or similar use within a 500-foot radius. The restaurant is adjacent to the Kumon Math and Reading Center of Agoura, however, the restaurant is existing and has operated without any reported impacts to the learning center. The learning center closes at 6:30 p.m., so the reduction of Cronies' permitted operating hours to 8:00 a.m. to 10:00 p.m. would not cause an adverse effect for the learning center. The nearest school is located to the north of the Project site outside of the 500-foot boundary and is buffered by two other shopping centers, and the reduced hours of operation would ensure that the Project does not have potential adverse impacts on nearby residential areas.

2. As conditioned, the requested use at the proposed location is sufficiently buffered by public and private improvements from residentially zoned areas within the immediate vicinity so as not to adversely affect said areas. A fully enclosed, 100-foot-wide flood control channel separates the shopping center from residentially zoned areas on the west and south sides of the center and a major arterial road from residentially zoned areas on the east side of the center. Customers can only enter the business from the main parking lot, which ensures control of unintended public gatherings.

3. The exterior appearance of the structure will not be inconsistent with the external appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight or property deterioration, or to substantially diminish or impair property values within the neighborhood. No changes are proposed to the interior and/or the exterior of the tenant space. The exterior improvements are like and similar to other restaurants in the shopping center.

4. As conditioned, the upkeep and operating characteristics of the facility are compatible with and will not adversely affect the livability or appropriate development and use of abutting properties and the surrounding neighborhood. Reduced hours of operation of the facility to 8:00 a.m. to 10:00 p.m. will ensure that the Project is compatible with surrounding properties. The facility will operate similar to other restaurants in the shopping center, and a considerable portion of the businesses' sales will be food items. Pedestrian and vehicular access to the restaurant is provided from the interior parking lot of the shopping

center, and will not disturb the residential neighborhoods across Kanan Road, or those across the flood control channel in the rear of the shopping center.

5. The sale of alcoholic beverages may be restricted to certain hours of each day of the week as necessary to ensure that activities related to the project are compatible with the quiet enjoyment of the neighborhood. The permitted operating hours of the establishment is reduced and restricted to 8:00 a.m. to 10:00 p.m. only, seven days a week, as reflected in the conditions of approval, attached hereto as Exhibit "A", to ensure compatibility with other uses in the area and to ensure the quiet enjoyment of the neighborhood. The site is adequately buffered from residential areas which ensures that activities related to the Project are compatible with the quiet enjoyment of the neighborhood.

6. If an off-sale alcoholic beverage establishment, the requested use is not located in the freeway overlay land use district, unless it is a supermarket/foot store larger than ten thousand square feet of floor area. The Project is not an off-sale license, and, therefore, is not required to abide by the type, location and size limitation imposed by the finding.

7. The requested use will not contribute to an undue concentration of alcoholic beverage establishments in the area. Various types of alcoholic beverage licenses have been issued to businesses in the shopping center and they have not resulted in a nuisance to the adjacent residential neighborhoods and/or caused undue burden on City staff and enforcement agencies in order to preserve the public peace. Additionally, the existing restaurant already has a type 41 license, so the Project would not result in an additional alcoholic beverage establishment, rather, it would change the type of the existing license to a type 47.

8. The requested use is not located in what has been determined to be a high-crime area, or where a disproportionate number of police calls occur. The Los Angeles County Sheriff's Department has confirmed that the requested use is not located in a high-crime area, or where a disproportionate number of police calls occur. In addition, the Conditional Use Permit is expressly conditioned to limit its operating hours from 8:00 a.m. to 10:00 p.m. only, seven days a week, as reflected in the conditions of approval, attached hereto as Exhibit "A". The Sheriff's Department does not anticipate increases in service calls because of the requested license.

9. If the sale of alcohol is proposed at an establishment that also offers live entertainment, said conditional use permit request shall be reviewed in conjunction with the conditional use permit for live entertainment. The restaurant owners are not requesting, and will not be providing, live entertainment to patrons as part of this Project. Therefore, the request for live entertainment is not being reviewed in conjunction with the CUP for the on-site consumption of alcohol.

SECTION 3. APPROVAL. Based on the aforementioned findings, the City Council hereby approves Conditional Use Permit Case No. CUP-2023-0026, subject to Conditions of Approval, attached herein as Exhibit A, with respect to the property described in Section I hereof.

SECTION 4. CERTIFICATION. The City Clerk shall certify to the adoption of this Resolution, and shall cause this Resolution to be entered in the official records of the City.

PASSED, APPROVED and ADOPTED this 14th day of August, 2024, by the following vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

EXHIBIT "A"
CONDITIONS OF APPROVAL FOR RESOLUTION NO. 24-2079

(See attached.)

CONDITIONS OF APPROVAL
(Case No. CUP-2023-0026)

STANDARD CONDITIONS

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the required forms and related fees with the City.
2. The approval of this permit shall not be effective for any purpose until the Applicant has agreed in writing that the Applicant is aware of, and accepts, all Conditions of this Permit with the Planning Division.
3. The approval of this permit shall not be effective for any purpose until the applicant and property owner have agreed in writing that they are aware of, and accept, all Conditions of this permit with the Department of Planning and Community Development.
4. Except as specifically modified by conditions of approval, the Project shall operate in conformance with the approved plans and project description. The Project shall further comply with all conditions of approval stipulated in this resolution attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
5. If any provision of this permit is held or declared invalid, the approval shall be void and the privileges granted hereunder shall lapse.
6. If any condition herein is violated, the permit shall be suspended, and the privileges granted hereunder shall lapse; provided that the Applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
7. The facility must comply with all requirements of the Agoura Hills Municipal Code and of the specific zoning designation of the subject property.
8. The facility shall operate in compliance with all applicable local, state and federal laws and regulations.
9. Unless this permit is used within two (2) years from the date of City approval, Case No. CUP-2023-0026 will expire. A written request for a one (1) year extension may be considered prior to the expiration date.
10. Operation of the use shall not be granted until the facility complies with all Conditions of Approval as determined by the Planning Director.
11. I understand that the receipt of the approvals and the rights granted pursuant to such approvals are for my benefit (or that of my principal). Therefore, if the approvals, any conditions attached thereto, or any other City permits issued pursuant to such approvals, are challenged by a third party, I will be responsible for defending against

this challenge. I agree to accept this responsibility for defense at the request of the City and also agree to defend and indemnify (with counsel of the City's choosing), and hold the City harmless from any costs, claims, demand, financial loss, penalties, fines, judgments, or liabilities arising from the approvals, any conditions attached thereto, or any City permits issued pursuant to such approvals, including without limitation, any award or attorney's fees that might result from the third party challenge, excepting only liability arising from the sole negligence, gross negligence, or intentional misconduct of City. For the purpose of this indemnity, the term "City" shall include the City of Agoura Hills, its officers, officials, employees, agents, and representatives. For the purpose of this indemnity, the term "challenge" means any legal or administrative action to dispute, contest, attack, set aside, limit, or modify the approval, project conditions, or any act upon which the approval is based, including, but not limited to, any action alleging a failure to comply with the California Environmental Quality Act or other laws.

SPECIAL CONDITIONS

12. The Applicant shall comply with all requirements of the California Department of Alcohol Beverage Control.
13. The applicant shall provide and maintain an accessible path of travel from the public right of way and the parking stall to the project entrance.
14. The outdoor dining area shall be enhanced with landscaping, such as potted plants, to screen the area and provide additional visual separation, subject to the review and approval by the Director of Planning and Community Development.
15. The CUP shall be valid strictly for license type 47 as defined by the California Department of Alcohol Beverage Control (ABC).
16. The approved hours of operation for the facility and outdoor dining area are from 8:00 a.m. to 10:00 p.m. only, seven days a week.
17. This Conditional Use Permit authorizes consumption of alcohol on-site only, which includes the existing outdoor dining area. No retail sale of alcohol for off-site consumption is allowed.
18. Live entertainment is not permitted as part of this permit.
19. No amplified sound and/or music shall be permitted in the designated outdoor dining area.
20. Signage on the site is limited to the signage permitted by the Agoura Hills Municipal Code and any approved sign program or permit. New building signage shall be permitted by separate permit.
21. The site shall be maintained clean, sanitary, and free of litter and any other waste materials and shall be cleaned regularly daily.

22. All temporary movable items associated with the operation of the facility shall be stored away when the facility is closed.
23. No pickup or delivery of merchandise shall occur before 7:00 a.m. on any morning.
24. The facility shall maintain a current business license and provide current emergency contact information at all times.
25. The Planning Director is authorized to prepare and execute a letter of Public Convenience or Necessity for this approval, if required by the California Department of Alcohol Beverage Control.

END