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RESOLUTION NO. PC 15-04

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH APPROVING A USE PERMIT AMENDMENT TO ALLOW INSTRUCTIONAL ALCOHOL TASTINGS (TYPE 86- INSTRUCTIONAL TASTINGS) AND FULL ALCOHOL SERVICE FOR ON-SITE CONSUMPTION (TYPE 47-ON SALE GENERAL) FOR AN EXISTING CAFÉ AT 1570 ROSECRANS AVENUE, SUITE H (Bristol Farms)

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The Planning Commission of the City of Manhattan Beach conducted a public hearing on June 24, 2015, received testimony, and considered an application for a Use Permit Amendment to allow instructional alcohol tastings in a grocery store (Bristol Farms) as well as full alcohol service on-site in the grocery store's café for the property legally described as Lot 2, P.M. 226-7-8, located at 1570 Rosecrans Avenue, Suite H in the City of Manhattan Beach.
- B. The applicant for the Use Permit Amendment is Bristol Farms.
- C. A Use Permit Amendment is needed in order to allow instructional alcohol tastings as well as the service of alcoholic spirits in the grocery store's café, as the current Use Permit that governs the site (Resolution No. PC 90-29) only permits beer and wine to be served in the café.
- D. The proposed use is permitted by the Commercial Development Permit and Planned Development Permit Amendment that govern the property, Resolution No. PC 89-61 and Resolution No. PC 12-06, respectively.
- E. The project is located in Area District II along the Rosecrans Avenue commercial corridor and is zoned (PD) Planned Development. The surrounding adjacent properties consist of commercial, industrial, and open space uses.
- F. The project is Categorically Exempt (Class 1, Sections 15301) from the requirements of the California Environmental Quality Act (CEQA) as the proposal has no potential for having a significant effect on the environment.
- G. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- H. The project shall be in compliance with applicable provisions of the Manhattan Beach Municipal Code.
- I. A determination of public convenience and necessity is made for the proposed Type 47 alcohol license and Type 86 alcohol license (as conditioned below), which shall be forwarded to the California Department of Alcohol Beverage Control upon City Council acceptance of this project approval.

J. The applicant is requesting an amendment to the existing Use Permit, Resolution PC 90-29. This Resolution incorporates and supersedes previous Resolution No. PC 90-29. Governing Resolution No. PC 89-61 and Governing Resolution No. PC 12-06 remain in full force for the Manhattan Marketplace site, of which Bristol Farms is a tenant.

K. The Planning Commission makes the following findings with respect to this application:

Use Permit Findings

1. *The proposed location of the uses is in accord with the objectives of this title and the purposes of the district in which the site is located.*

The proposed project is located within the (PD) Planned Development district. The project does not encompass a change in classification of use, rather a change in the operational characteristics to include sales of distilled spirits for on-site consumption within the café, as well as the addition of instructional alcohol tastings within the store. The changes are still in accord with the commercial nature of the use previously approved.

2. *The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.*

Instructional alcohol tastings and the sale of distilled spirits for on-site consumption in an existing café that already serves beer and wine will not be detrimental since these activities will have limited night hours, serve a regional customer base, and be insulated from residential and other sensitive uses. Beer and wine has been served in the café since 1990 and there is no record of any ABC violations or alcohol-related problems with the Manhattan Beach Police Department. The applicant's request will service the needs of the community, including the residents and employees who work in businesses located near Rosecrans Avenue.

Furthermore, the General Plan of the City of Manhattan Beach poses certain goals and policies which reflect the expectations and wishes of the City with respect to land uses. The proposed amendment is consistent with the following goals and policies:

Policy Goal LU-6.2: Encourage a diverse mix of businesses that support the local tax base, are beneficial to residents, and support the economic needs of the community.

Policy Goal LU 8: Maintain Rosecrans Avenue as a regional-serving commercial district.

3. *The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located.*

The request to amend the existing Use Permit to allow full alcohol consumption and instructional alcohol tastings is consistent with the existing use as a grocery store and café. The proposed will be in compliance with applicable provisions of the (PD) Planned Development zone, as well as Resolution No. PC 89-61 and Resolution No. PC 12-06; both of which govern the site. Specific conditions of approval are incorporated into the draft Resolution to ensure safe and responsible instructional alcohol tastings and on-site sale of alcohol in the café.

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- 4. *The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, personal safety, and aesthetic, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.*

The proposed amendment will not alter the fundamental use, purpose or character of the existing business as there will be a negligible change in the existing space and layout of the store. The proposed amendment will not create any adverse impacts as it is a minor change to the existing use.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby **APPROVES** the subject Use Permit Amendment subject to the following conditions:

Alcohol Licenses

- 1. The project shall be constructed and operated in substantial compliance with the submitted project description and plans as approved by the Planning Commission June 24th, 2015. Any substantial deviation from the approved plans must be reviewed and approved by the Planning Commission. The subject property shall be in compliance with any previous permit requirements that remain effective.
- 2. The property owner shall obtain approval from the Alcoholic Beverage Control Board and shall be in compliance with all ABC regulations and conditions of approval.
- 3. The primary use of the tenant space shall be for the purpose of retail food and beverage sales; the restaurant/café use, including the kitchen, shall operate incidental to the retail use at all times.
- 4. The permitted hours of the grocery store shall be 24 hours a day, seven days a week. The permitted hours of the restaurant/café operation shall be between 7:00am and 10:00pm.
- 5. The physical area where Type 86 instructional alcohol tastings take place will be restricted to only patrons at least 21 years in age during the actual instructional alcohol tasting session. Instructional alcohol tastings cannot take place on the outdoor patio and must take place inside the grocery store. The location of the tastings are subject to ABC, Planning, and Building & Safety regulations to maintain ADA and emergency access, as well as conformance with any other Municipal Code criteria.
- 6. The Type 86 instructional alcohol tastings shall be conducted in a designated area (maximum instructional tasting event area of 100 square feet) with no seating, furniture, tables, or fixtures. Tasting hours are limited to 11am – 9pm seven days a week. The drink counter shall be the only level surface for placing glasses and other alcohol tasting items. All activities associated with the instructional alcohol tasting shall take place within the instructional tasting event area. Alcohol tastings shall be limited to the amounts specified in the ABC regulations for Type 86 instructional tastings, and shall be subject to all other ABC regulations concerning Type 86 instructional tastings. No direct exterior access to or from the instructional tasting event area shall be allowed. No special events, alcohol tastings parties or similar functions will be allowed in connection with the Type 86 instructional tasting privileges.

7. Food in the café shall be available for café patrons concurrent with any alcohol service.
8. Alcoholic beverages, including alcoholic spirits, beer, and wine, purchased for on-site consumption in the café will not be allowed on the outdoor patio and must be consumed in the café. Bristol Farms will post signery that states "No Alcohol Beyond This Point" on the door leading from the café to the outdoor patio and at other café exits to ensure that no alcohol is taken beyond the café by Bristol Farms patrons.

Operational Restrictions

9. The permitted hours of commercial deliveries to the rear of the store shall be between 7:00am and 10:00 pm only. "Light" trucks (one ton or less) may deliver to the rear between 10:00pm and 7:00am. Deviation from this delivery schedule (with the exception of light trucks as noted) may occur in the event of special legal or other constraints, over which the tenant has no control.
10. A grease interceptor shall be continuously maintained, subject to the review and approval of the Department of Public Works.
11. The project shall comply with all conditions of approval of the master Commercial Planned Development Permit approved for the "Manhattan Marketplace" retail site, per Resolution No. PC 89-61 and the Planned Development Permit Amendment Resolution No. PC 12-06.
12. All signage shall comply with a comprehensive sign program approved for the retail center.

Procedural

13. This Resolution shall become effective when all time limits for appeal as set forth in MBMC Section 10.100.030 have expired.
14. This Use Permit shall lapse two years after its date of approval, unless implemented or extended pursuant to 10.84.090 of the Municipal Code.
15. Pursuant to Public Resources Code Section 21089 (b) and the Fish and Game Code Section 711.4 (c), the project is not operative, vested, or final until the requiring filing fees are paid.
16. The applicant must submit in writing to the City of Manhattan Beach acceptance of all conditions within 30 days of approval of Use Permit.
17. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* Bristol Farms shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs, and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. Bristol Farms shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify Bristol Farms of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify Bristol Farms of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, Bristol Farms shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. Bristol Farms shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require Bristol Farms to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation.

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Bristol Farms shall deposit said amount with the City or enter into an agreement with the City to pay such expenses as they become due.

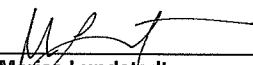
I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of **June 24, 2015** and that said Resolution was adopted by the following vote:

AYES: Chairperson Hersman, Conaway, Apostol

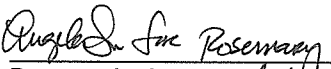
NOES: None

ABSTAIN: None

ABSENT: Bordokas, Ortmann



Marisa Lundstedt
Secretary to the Planning Commission



Rosemary Lackow
Recording Secretary *Lackow*