

RESOLUTION NO. 2019-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DESERT HOT SPRINGS MAKING FINDINGS OF PUBLIC CONVENIENCE OR NECESSITY FOR ISSUANCE OF A TYPE 41 (ON-SALE, BEER & WINE - BONA FIDE PUBLIC EATING PLACE) ALCOHOLIC BEVERAGE CONTROL LICENSE FOR THE LAS BRISAS RESTAURANT LOCATED AT 13180 PALM DRIVE, IN THE CITY OF DESERT HOT SPRINGS, CALIFORNIA

WHEREAS, the City of Desert Hot Springs ("City") is a charter city and recognized for certain purposes as a political subdivision of the State of California; and

WHEREAS, Patricio Salazar, the "Applicant," has filed a Conditional Use Permit application with the City, as Applicant desires to sell beer and wine at the "Las Brisas" restaurant located on 13180 Palm Drive ("Subject Property"), within the City of Desert Hot Springs, California; and

WHEREAS, the California Department of Alcoholic Beverage Control ("ABC") requires a "Type 41" (On-Sale Beer & Wine – Eating Place) ABC license for such use, which allows the sale of beer and wine for the on-premise consumption where minors are allowed on the premises; and

WHEREAS, Applicant has applied for an ABC Type 41 license to sell beer and wine for on-premises consumption within the Subject Property; and

WHEREAS, pursuant to Section 23958 of the State of California Business and Professions Code, the ABC is required to deny an application if either the applicant or the premises for which a license is applied do not qualify for a license, or if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4; and

WHEREAS, Section 23958.4(b)(2) of the State of California Business and Professions Code provides that ABC may issue a license if the local governing body of the area in which the applicant premises are located...determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance; and

WHEREAS, notice of a public hearing of the Planning Commission of the City of Desert Hot Springs ("Planning Commission") to consider the application was given in accordance with the City's Zoning Ordinance and applicable law; and

WHEREAS, on May 14, 2019, a public hearing on the requested application was held by the Planning Commission and the Planning Commission voted to approve the application; and

WHEREAS, on May 14, 2019, a public hearing on the requested application was held by the Planning Commission and the Planning Commission made a finding of public convenience or necessity for issuance of a Type 41 (On-Sale Beer & Wine – Eating Place) ABC liquor license; and

WHEREAS, the Planning Commission carefully considered the staff report, all of the information, evidence, together with oral and written testimony presented at the public hearing and made findings of public convenience or necessity that: 1) the Las Brisas restaurant will

occupy an existing commercial tenant space in the Stater Bros. shopping center; and, 2) the Las Brisas restaurant will be located in the C-G zone (Commercial General Zoning District), which specifically allows restaurants as a “conditionally permitted use” within the zoning district; and, 3) that the proposal, as conditioned, will not adversely affect the adjoining land uses in which it is located because the sale of beer and wine is ancillary to primary use as a restaurant; and, 4) the proposed hours of the restaurant will be limited to 10 AM to 10 PM; and, 5) the Las Brisas restaurant intends to sell beer & wine as a menu item to provide a convenience to diners who patronize the restaurant for their meals; and, 6) the Las Brisas restaurant would be at a disadvantage to competing restaurants without the granting of a resolution of convenience or necessity; and, 7) having a beer and wine license is an imperative component to opening and running a successful restaurant; and, 8) the Conditions of Approval imposed on the project will ensure that the sale of alcoholic beverages will be carefully controlled; and 8) the Las Brisas restaurant will operate in a professional and orderly manner and is considered a good business citizen; and 9) the traffic generated by the continued use of the commercial tenant space as a restaurant will not impose an undue burden upon the parking lot or surrounding streets which are designed and improved to carry the traffic in the area; and 10) the approval of a resolution of public convenience or necessity, with the conditions imposed by the Planning Commission, will not be detrimental to the health and safety of the citizens of the City of Desert Hot Springs as the sale of alcoholic beverages is ancillary to the main use of the facility as a restaurant and sales will be limited to patrons of the restaurant; and, 11) the Police Department has indicated no specific concerns related to on-sale beer and wine sales and the operation of this business, subject to the conditions of approval; and, 12) the Las Brisas restaurant will be subject to all rules and regulations for the State Alcohol Control Board.

NOW THEREFORE, the Planning Commission of the City of Desert Hot Springs does hereby resolve as follows:

Section 1. Recitals

That the foregoing recitals are true and correct and made a part of this Resolution.

Section 2. Environmental Findings, Conclusions and Determinations

That Section 21084 of the Public Resources Code requires the California Environmental Quality Act (“CEQA”) Statutes & Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents. In accordance with the provisions of CEQA, this project is Categorical Exempt from further environmental review as a Class 1 project, under Section 15301 (Existing Facilities).

Section 3. Findings of Public Convenience or Necessity

That the Planning Commission finds and determines that public convenience and necessity would be served by the issuance of a Type 41 ABC License for the following reasons: 1) the Las Brisas restaurant will occupy an existing commercial tenant space in the Stater Bros. shopping center; and, 2) the Las Brisas restaurant will be located in the C-G zone (Commercial General Zoning District), which specifically allows restaurants as a “conditionally permitted use” within the zoning district; and, 3) that the proposal, as conditioned, will not adversely affect the

adjoining land uses in which it is located because the sale of beer and wine is ancillary to primary use as a restaurant; and, 4) the proposed hours of the restaurant will be limited to 10 AM to 10 PM; and, 5) the Las Brisas restaurant intends to sell beer & wine as a menu item to provide a convenience to diners who patronize the restaurant for their meals; and, 6) the Las Brisas restaurant would be at a disadvantage to competing restaurants without the granting of a resolution of convenience or necessity; and, 7) having a beer and wine license is an imperative component to opening and running a successful restaurant; and, 8) the Conditions of Approval imposed on the project will ensure that the sale of alcoholic beverages will be carefully controlled; and 8) the Las Brisas restaurant will operate in a professional and orderly manner and is considered a good business citizen; and 9) the traffic generated by the continued use of the commercial tenant space as a restaurant will not impose an undue burden upon the parking lot, or surrounding streets which are designed and improved to carry the traffic in the area; and 10) the approval of a resolution of public convenience or necessity, with the conditions imposed by the Planning Commission, will not be detrimental to the health and safety of the citizens of the City of Desert Hot Springs as the sale of alcoholic beverages is ancillary to the main use of the facility as a restaurant and sales will be limited to patrons of the restaurant; and, 11) the Police Department has indicated no specific concerns related to on-sale beer and wine sales and the operation of this business, subject to the conditions of approval; and, 12) the Las Brisas restaurant will be subject to all rules and regulations for the State Alcohol Control Board.

Section 4. Severability.

That should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 5. Repeal of Conflicting Provisions

That all the provisions heretofore adopted by the Planning Commission that are in conflict with the provisions of this Resolution are hereby repealed.

Section 6. Effective Date

That this Resolution shall take effect upon the adoption and approval by the Planning Commission.

Section 7. Passage and Adoption

That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of the City of Desert Hot Springs; and shall make a minute of passage and adoption thereof in the records of the proceedings of the Planning Commission of the City of Desert Hot Springs, in the minutes of the meeting at which the same is passed and adopted.

(Record of vote and signatures on following page.)

PASSED AND ADOPTED by the Planning Commission of the City of Desert Hot Springs at a regular meeting held on the 14th day of May 2019, by the following vote:

AYES,

NAYS,

ABSENT,

ABSTAINING,

ATTEST:

APPROVED:

Jerryl Soriano, CMC, City Clerk

Larry Buchanan, Chairman of the
Planning Commission

APPROVED AS TO FORM:

Jennifer A. Mizrahi, City Attorney