

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION OF THE CITY OF TEMECULA TO DENY PLANNING APPLICATION NO. PA18-1390, A MODIFICATION TO AN EXISTING CONDITIONAL USE PERMIT TO ALLOW AN EXISTING RESTAURANT (OLD TOWN PUB & GRUB) TO REVISE THE PREVIOUSLY APPROVED OVERALL OPERATING HOURS AND ENTERTAINMENT HOURS. PROPOSED OPERATING HOURS ARE MONDAY THROUGH SUNDAY 9:00 A.M. TO 1:30 A.M. PROPOSED ENTERTAINMENT HOURS ARE MONDAY / TUESDAY / THURSDAY/SUNDAY 7:30 P.M. - 12:30 A.M., WEDNESDAY 8:00 P.M. - 12:30 A.M., AND FRIDAY / SATURDAY 6:00 P.M. - 1:30 A.M. THE PROJECT IS LOCATED AT 28677 OLD TOWN FRONT STREET (922-045-033)

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council of the City of Temecula does hereby find, determine and declare that:

A. On October 5, 2018, Edward Ryder filed Planning Application No. PA18-1390, Minor Modification to a Conditional Use Permit Application in a manner in accord with the City of Temecula General Plan and Development Code. The Application sought to modify the hours of operation and entertainment hours for the business.

B. The Application was processed including, but not limited to a public notice, in the time and manner prescribed by State and local law.

C. The Planning Commission, at a regular meeting, considered the Application and environmental review on February 21, 2024, at a duly noticed public hearing as prescribed by law, at which time the City staff and interested persons had an opportunity to and did testify either in support or in opposition to this matter. The Planning Commission denied the application at the conclusion of the meeting.

D. On March 4, 2024, Erin Ryder filed a timely appeal of the Planning Commission's decision denying Planning Application No. PA18-1390.

E. The City Council, at a regular meeting, considered Planning Application No. PA18-1390 on August 27, 2024 at a duly noticed public hearing as prescribed by law, at which time City

staff and interested persons had an opportunity to and did testify either in support or in opposition to this matter. At the conclusion of the public hearing, the City Council closed the public hearing.

Section 2. Findings. To approve Planning Application PA18-1390 (Modification to an existing Conditional Use Permit), the City Council would need to make all the following findings as required by Section 17.04.010.E of the Temecula Municipal Code. The Council cannot make one or more of the following findings:

Conditional Use Permit (Code Section 17.04.010.E)

A. The proposed conditional use is consistent with the General Plan and the Development Code.

The proposed conditional use modification is not consistent with the General Plan and Development Code. The Development Code states, "A Conditional Use Permit is intended to allow the establishment of those uses which have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location." This allows the City to provide unique requirements for uses such as the subject establishment. In the case of this establishment, reasonable conditions were incorporated as part of the originally approved Conditional Use Permit allowing it to operate in a manner consistent with the General Plan and Development Code. The establishment operated in a manner inconsistent with these approved conditions and thus generated an excessive amount of Code Enforcement citations, RSO calls for service, and Fire calls for service. This made the establishment's operations inconsistent with the General Plan and Development Code.

The proposed extension of hours is not consistent with Old Town Specific Plan Land Use Economics – Policy 5. This policy states that there needs to be compatibility between both existing and new commercial uses and existing and new residential uses. Old Town has a combination of commercial and residential uses. The excessive calls for service and excessive code enforcement citations illustrate that the existing use is not compatible with existing commercial and residential uses. In addition, Section 9.10.090 of the Temecula Municipal Code states that entertainment shall cease at 11:59 p.m. Therefore, the times proposed by the project cannot be supported.

B. The proposed conditional use is compatible with the nature, condition and development of adjacent uses, buildings and structures and the proposed conditional use will not adversely affect the adjacent uses, buildings or structures.

The proposed project seeks to allow an establishment's operational and entertainment hours to be extended beyond what has been previously approved. The existing establishment has a history of producing an excessive number of calls for service. Many of these calls for service were related to battery, assault with a deadly weapon, driving under the influence (D.U.I.), noise, and drunk in public. From January 1, 2018 to April 5, 2024 the RSO responded to 1,136 calls for service within Old Town. Of these calls, 16% were attributed to Pub and Grub. During the same time frame, Pub and Grub was responsible

for 29% of RSO calls for service between the hours of 12:00 a.m. and 2:00 am. Many of these calls were again related to battery, assault with a deadly weapon, driving under the influence (D.U.I), noise, robbery, and drunk in public. In addition, Fire has provided multiple warnings to the establishment for operating above the allowable occupancy limit. Fire was also required to close the business for operating above the allowable occupancy. Fire responded to a total of 75 calls for service from January 1, 2018 to April 5, 2024. Of these calls, 37 were between the hours of 12:00 am and 2:00 am. Many of the calls were related to drunkenness and assaults. This establishment has a history of having an adverse impact on other uses in Old Town as it has generated a substantial number of calls for service. In addition, this establishment has imposed a burden on the City's Code Enforcement Division that has had to respond to and investigate over 388 incidents at Old Town Pub and Grub because the business was operating past the time allowed pursuant to the Conditional Use Permit.

C. The site for a proposed conditional use is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, buffer areas, landscaping, and other development features prescribed in this development code and required by the Planning Commission or Council in order to integrate the use with other uses in the neighborhood.

The project site currently houses an existing commercial structure containing a restaurant. Restaurant uses have been located at this site and within the subject structure for many years. The site is physically adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, buffer areas, landscaping and other development features required of a restaurant use.

D. The nature of the proposed conditional use is not detrimental to the health, safety and general welfare of the community.

The proposed modification would allow for an increase in operational hours for entertainment and alcohol service to 12:30 a.m. Monday through Thursday and Sunday as well as 1:30 a.m. on Friday and Saturday. The project is currently approved to have entertainment until 10:00 p.m. Wednesday and Thursday and on Friday and Saturday until 12:00 am. The City Council and Planning Commission have provided policy direction that all entertainment shall cease at 11:59 p.m. for the public health and safety, and general welfare of the community per the City of Temecula Municipal Code Section 9.10.090. The reasoning for ceasing entertainment at 11:59 pm was as a result of the increase in the incidents of alcohol related incidents including DUIs and other crimes increasing after midnight. By proposing to operate beyond these hours, the project will be detrimental to the health, safety, and general welfare of the community.

In addition, the establishment has generated an excessive number of calls for service during their operations. Many of these calls for service were related to battery, assault with a deadly weapon, driving under the influence (D.U.I), noise, and drunk in public. From January 1, 2018 to April 5, 2024 the RSO responded to 1,136 calls for service within Old Town. Of these calls, 16% were attributed to Pub and Grub. During the same time frame, Pub and Grub was responsible for 29% of RSO calls for service between the hours

of 12:00 a.m. And 2:00 a.m. Many of these calls were again related to battery, assault with a deadly weapon, driving under the influence (D.U.I), noise, robbery, and drunk in public. In addition, Fire has provided multiple warnings to the establishment for operating above the allowable occupancy limit. Fire was also required to close the business for operating above the allowable occupancy. Fire also responded to a total of 75 calls for service from January 1, 2018 to April 5, 2024. Of these calls, 37 were between the hours of 12:00 am and 2:00 am. Many of the calls were related to drunkenness and assaults. The City's Code Enforcement Division was also required to issue a total of 388 citations between this same time. Furthermore, the Old Town Specific Plan includes Land Use Economics – Policy 5. This policy states that there needs to be compatibility between both existing and new commercial uses and existing and new residential uses. The excessive calls for service and excessive code enforcement citations indicates that that existing use is not compatible with existing commercial and residential uses. As a result, the proposed changes would be considered detrimental to the health, safety, and general welfare of the community.

E. That the decision to approve, conditionally approve, or deny the application for a conditional use permit be based on substantial evidence in view of the record as a whole before the Planning Director, Planning Commission, or City Council on appeal.

The decision to deny the application for a Modification to the existing Conditional Use Permit shall be based on substantial evidence in view of the record as a whole before the Planning Commission or City Council on appeal. The record demonstrates a public health and safety risk associated with extending Old Town Pub and Grub's hours of operation and entertainment hours as requested in the modification application.

Section 3. Environmental Compliance. The City Council hereby makes the following environmental findings and determinations in connection with the denial of the Project.

A. In accordance with the California Environmental Quality Act, the proposed project is exempt from further environmental review pursuant to CEQA Guidelines Section 15061(b)(4) as a project is exempt from CEQA because the project is being disapproved as currently proposed.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula
this 27th day of August, 2024.

James Stewart, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 2024- was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 27th day of August, 2024, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk