

**RESOLUTION NO. 2023-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA CONFIRMING THE DECISION OF THE TEMECULA PLANNING COMMISSION TO REVOKE THE CONDITIONAL USE PERMIT ISSUED TO THE BANK, LOCATED AT 28645 OLD TOWN FRONT STREET**

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

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

A. In November 2007, Craig Puma from CNC Puma Corporation submitted an application to the City for a Minor Conditional Use Permit on behalf of the Bank of Mexican Food Restaurant ("the Bank") located at 28645 Old Town Front Street in Temecula ("the Property"). Craig Puma from CNC Puma Corporation was the applicant. The application including the consent of the property owner Maureen Licata aka Maureen Meardon.

B. On January 3, 2008, the Planning Director approved Planning Application No. PA07-0314, a Minor Conditional Use Permit to upgrade a Type 41 ABC License (On-sale beer and wine-eating place) to a Type 47 ABC License (on-sale general) to authorize the sale of beer, wine and distilled spirits at the Bank.

C. On October 9, 2008, Craig Puma from CNC Puma Corporation submitted an application to the City for a Minor Modification Application on behalf of the Bank of Mexican Food Restaurant ("the Bank") located at 28645 Old Town Front Street in Temecula ("the Property"). Craig Puma from CNC Puma Corporation was the applicant. The application including the consent of the property owner Maureen Licata.

D. On October 9, 2008, the Planning Department approved Planning Application No. PA08-0236, a Minor Modification to Minor Conditional Use Permit (PA07-0314) to extend the hours of operation for the sale, service and consumption of alcohol at the Bank.

E. On February 27, 2012, Craig Puma from CNC Puma Corporation submitted an application to the City for a Minor Modification on behalf of the Bank of Mexican Food Restaurant ("the Bank") located at 28645 Old Town Front Street in Temecula ("the Property"). Craig Puma from CNC Puma Corporation was the applicant. The application including the consent of the property owner Maureen Licata.

F. On February 28, 2012, the Planning Department approved Planning Application No. PA12-0041, a Minor Modification to Minor Conditional Use Permit (PA07-0314) to allow for dinner entertainment for the purpose of providing background music at the Bank. The February 28, 2012 approval contained additional conditions which called out certain hours of operation for the Bank.

G. The Minor Conditional Use Permit (PA07-0314), as modified on October 9, 2008 (PA08-0236) and on February 28, 2012 (PA12-0041) is a single CUP and is referred to collectively hereinafter as "the Bank CUP".

H. Beginning in March 2021, the City's Code Enforcement Division issued 109 Civil Penalty Notice and Orders to the CNC Puma Corporation due to violations of the Bank CUP including for violating approved operational hours beyond 11:00 p.m.; having excessive noise levels including with outside speakers over allowed noise levels; and failing to have a CUP for amplified music and live entertainment.

I. On May 19, 2022, the Planning Director sent a notice to: (1) CNC Puma Corporation care of Brand Landon as the Agent for Service of Process; Craig Puma, the Bank; and Amanda Moore, who is an officer of CNC Puma Corporation and manager of the Bank, advising that he was recommending that the Bank CUP be revoked. The City subsequently sent a notice to Zip Third Investments, LLC, the entity who had become the successor in interest of the Property from the estate of Maureen Licata and advised that the Planning Director was recommending that the CUP be revoked.

J. Consistent with Temecula Municipal Code § 17.03.085, the revocation proceeding was held at a noticed public hearing before the State Office of Administrative Hearings with Administrative Law Judge Nye-Perkins presiding on August 31, 2022 and September 1, 2022.

K. On or about October 19, 2022, Judge Nye-Perkins issued an order revoking the CUP. A copy of the Order is attached hereto as Exhibit "A" as if set forth in full herein.

L. On February 21, 2023, the Planning Commission held a duly noticed public hearing as prescribed by law, at which time the City staff, representatives from CNC Puma, Zip Third Investments, LLC and interested persons had an opportunity to and did comment on whether the Planning Commission should confirm, modify or overrule the proposed Order issued by Administrative Law Judge Nye-Perkins. CNC Puma was represented by legal counsel James Penman of Milligan, Beswick, Levine & Knox, LLP; and Zip Third Investments was represented by Tyler Sherman of Cole Huber LLP and Rick Edwards of Rick Edwards, Inc.

M. The Planning Commission after conducting the public hearing as prescribed by Temecula Municipal Code § 17.03.085 on February 21, 2023 adopted the findings of fact and conclusions of law issued by Judge Nye-Perkins in the October 19, 2022 decision revoking the CUP, subject to the following modifications, specifically finding that the permit holder of The Bank CUP is CNC Puma Corporation, and also finding that the property owner is Zip Third Investments who has property interest in the BANK CUP which runs with the land.

N. The Planning Commission's decision was confirmed by the adoption of PC Resolution No. 2023-04 adopted on March 1, 2023.

O. On April 11, 2023, the Temecula City Council heard the appeals filed by both Zip Third Investments and The Bank from the Planning Commission's granting of Resolution No. 2023-04 that confirmed the decision of the Administrative Law Judge to revoke the CUP subject to modification as to the nature of the CUP held by The Bank. A duly noticed public hearing as

prescribed by law and in accordance with Temecula Municipal Code § 17.03.085 was conducted. At the public hearing, CNC Puma was represented by legal counsel James Penman of Milligan, Beswick, Levine & Knox, LLP; and Zip Third Investments was represented by Rick Edwards of Cole Huber LLP.

Section 2. Council Determination Upholding The Planning Commission Decision

A. The City Council of the City of Temecula hereby upholds the decision of the Temecula City Planning Commission. By this action affirming the decision of the Planning Commission, the City Council is upholding and adopting the findings of fact and conclusions of law issued by Judge Nye-Perkins in the October 19, 2022 decision revoking the CUP, which is attached hereto as Exhibit "A" as if set forth in full, subject to the following modifications, finding that the permit holder of The Bank's CUP is CNC Puma Corporation, and also finding that the property owner is Zip Third Investments who has property interest in the BANK CUP which runs with the land.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Temecula this 25<sup>th</sup> day of April, 2023.

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Zak Schwank, Mayor

ATTEST:

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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. 2023-     was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 25<sup>th</sup> day of April, 2023, by the following vote:

AYES:                    COUNCIL MEMBERS:

NOES:                    COUNCIL MEMBERS:

ABSTAIN:                COUNCIL MEMBERS:

ABSENT:                 COUNCIL MEMBERS:

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Randi Johl, City Clerk