

CITY OF MOUNTAIN VIEW
RESOLUTION NO.
SERIES 2018

A RESOLUTION UPHOLDING THE ZONING ADMINISTRATOR'S APPROVAL OF MODIFICATIONS TO A CONDITIONAL USE PERMIT WHICH CONDITIONALLY PERMITS A BAR AND DRINKING PLACE WITH LIVE ENTERTAINMENT IN AN EXISTING COMMERCIAL BUILDING AT 2135 OLD MIDDLEFIELD WAY

WHEREAS, Conditional Use Permit 008-13-UPA was approved by the Zoning Administrator on July 22, 2013 and conditionally permits a bar and drinking place with live entertainment at 2135 Old Middlefield Way; and

WHEREAS, Florence O'Sullivan, d.b.a. O'Malley's Sports Pub (Appellant), has not complied with conditions of approval imposed in the Conditional Use Permit; and

WHEREAS, City Code Section 36.56.70 (Permit Revocation) allows the Zoning Administrator to hold a duly noticed public hearing in order to revoke or modify any permit or entitlement granted that one or more of the conditions of the permit have not been met and/or that the improvement, use, or activity allowed by the permit is detrimental to public health, safety, or welfare or constitutes a nuisance; and

WHEREAS, on November 8, 2017, the Zoning Administrator held a duly noticed public hearing, in accordance with City Code Section 36.56.20, to review Conditional Use Permit 008-13-UPA due to violations of the City Code, compliance issues, and noise complaints associated with the patio at the permitted premises, and at the conclusion of the hearing approved modifications to the conditions of approval for the Permit requiring the removal of the patio from the premises; and

WHEREAS, the Appellant filed an appeal of the Zoning Administrator's decision on November 22, 2017; and

WHEREAS, on May 8, 2018, pursuant to appeal authority set forth in Section 36.56.50 of the Zoning Ordinance (Appeals), the City Council held a duly noticed public hearing and received and considered all evidence presented at said hearing, including the Appellant's written materials and oral presentation, the Findings Reports from the Zoning Administrator, and City Council report;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mountain View:

1. That the Zoning Administrator's modifications to Conditional Use Permit 008-13-UPA were properly made in accordance with City Code Section 36.56.70;
2. The use, with the modified conditions, is conditionally permitted within the CS Zoning District and complies with all of the applicable provisions of the Zoning Ordinance, including the development standards and parking requirements for the district;
3. The use, with the modified conditions, is consistent with the General Commercial Land Use Designation of the General Plan;
4. With the modified conditions, the location, size, design, and operating characteristics of the use are compatible with the site and building character and environmental conditions of existing and future land uses in the vicinity because the site is located in an area predominantly occupied by commercial and industrial uses which have their main business activity during the day, which is the opposite of the subject establishment, and the operational and security measures required for this establishment, including removal of the outdoor patio which is required with this modification, will minimize disturbances in the evening for neighboring residential uses;
5. With the modified conditions, any special structure or building modifications necessary to contain the proposed use would not impair the architectural integrity and character of the zoning district in which it is to be located because the only modification permitted with this approval is the removal of the back patio, which will be removed in compliance with all Building and Fire Codes;
6. The action to modify conditions of approval to Conditional Use Permit 008-13-UPA complies with the California Environmental Quality Act (CEQA) because the operation of a bar and drinking place with live entertainment in an existing commercial building qualifies as categorically exempt pursuant to Section 15301 ("Existing Facilities") of the CEQA Guidelines; and
7. That the City Council hereby finds that the Zoning Administrator's decision to modify conditions of approval to Conditional Use Permit 008-13-UPA is based on substantial evidence and is hereby upheld subject to the Findings herein.

TIME FOR JUDICIAL REVIEW:

The time within which judicial review of this document must be sought is governed by the California Code of Procedure Section 1094.6 as established by Resolution No. 13850 adopted by the City Council on August 9, 1983.

SW/3/RESO
818-05-08-18r-E