



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Resolution No. 14-025

Upon motion of Supervisor Parker, seconded by Supervisor Armenta and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Chair to sign a letter to the Department of Alcoholic Beverage Control (ABC) objecting to the removal and/or modification of condition(s) on an ABC Conditional License for Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) located at 45 Brooklyn Avenue, Pajaro; and
- b. Adopted Resolution No. 14-025 authorizing the Planning Director, Sheriff or Director of Health to prepare and sign letters to the Department of Alcoholic Beverage Control (ABC) concerning Petitions for removal and/or modification of conditions on ABC Licenses on behalf of the County of Monterey and the Monterey County Board of Supervisors pursuant to California Business and Professions Code Section 23803.
(REF140010/Avila/Zepeda, 45 Brooklyn Street, Pajaro, North County Area Plan)

PASSED AND ADOPTED on this 4th day of February 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, and Parker

NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on February 4, 2014.

Dated: February 5, 2014
File Number: 14-072

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. 14-025

Resolution of the Monterey County Board of)
Supervisors authorizing the Planning Director,)
Sheriff or Director of Health to prepare and)
sign letters to the Department of Alcoholic)
Beverage Control (ABC) concerning Petitions)
to remove and/or modify conditions on ABC)
Licenses on behalf of the County of Monterey)
and the Monterey County Board of)
Supervisors pursuant to California Business)
and Professions Code Section 23803.)
(REF140010/Avila/Zepeda, 45 Brooklyn)
Street, Watsonville, North County Area Plan))

The request to authorize the Planning Director, Sheriff or Director of Health to prepare and sign letters concerning Petitions to remove or modify conditions on ABC Licenses on behalf of the County of Monterey and Monterey County Board of Supervisors pursuant to California Business and Professions Code Section 23803, came on for public hearing before the Monterey County Board of Supervisors on February 4, 2014. The request was considered at a public hearing along with a request to authorize the Chair of the Board to sign a letter protesting the removal and/or modification of condition(s) on an Alcoholic Beverage Control (ABC) License for Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) located at 45 Brooklyn Street, Watsonville (Pajaro). Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Board of Supervisors hereby finds and decides as follows:

RECITALS

WHEREAS, pursuant to California Business and Professions Code Section 23803, the Department of Alcoholic Beverage Control (ABC) is required to notify local governing bodies of any petition to remove or modify conditions on alcoholic beverage licenses and the local legislative body has thirty (30) days to file written objections to the removal or modification of any condition; and

WHEREAS, Notice of a Petition for removal and/or modification of conditions to a Conditional ABC License was received by the Monterey County Board of Supervisors, in the form of a letter dated January 3, 2014 from ABC, received on or about January 9, 2014 concerning a Petition for removal and/or modification of the Conditional ABC License for Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) (hereafter, "Licensee") located at 45 Brooklyn Street, Watsonville (Pajaro). The Licensee is requesting that the condition which prohibits live entertainment on the premises at any time be removed from ABC Conditional License (ABC File 41-489588). In addition, the Licensee is requesting that the business hours of operation be expanded from the current hours of operation of 8:00 a.m. to 9:00 p.m. to the proposed hours of operation of 10:00 a.m. to 2:00 a.m.; and

WHEREAS, as indicated in the current ABC Conditional License (ABC File 41-489588) the Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) premises are located within the immediate vicinity of residences and an unconditional issuance for operation of the premises could interfere with the quiet and peaceful enjoyment of their property by the residents; and

WHEREAS, as indicated in the current ABC Conditional License (ABC File 41-489588) the Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) premises are located within 100 feet of 11 residences; and

WHEREAS, pursuant to Rule 61.4, Chapter I, Title 4, California Administrative Code, ABC may deny the issuance of a license when the premises to be licensed or any parking lot operated in conjunction therewith are located within 100 feet of a residence; and

WHEREAS, Conditional License (File 41-489588) was issued subject to the condition that, "*I. There shall be no live entertainment on the premises at any time.*"; and

WHEREAS, the RMA Planning Department is opposed to the removal of the condition which prohibits live entertainment on the Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) premises at any time due to the proximity to residential uses; and

WHEREAS, a Use Permit to allow live entertainment is required for the Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) site pursuant to the Monterey County Code (MCC), Title 21 – Zoning Ordinance, MCC Section 21.20.060.X; and

WHEREAS, the Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) site is also located near the new Pajaro Neighborhood Park at 24 San Juan Road and therefore; this site may not be appropriate for live entertainment; and

WHEREAS, proximity to residential uses and the new Pajaro Neighborhood Park would be reviewed during the application process for any Use Permit for live entertainment on the Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) premises pursuant to MCC Section 21.20.060.X of Title 21 – Zoning Ordinance; and

WHEREAS, RMA – Planning Department and the Monterey County Sheriff's Office recommended that the Board of Supervisors object to the removal and/or modification of the conditions due to a lack of required planning permits and health and safety concerns related to proximity to residences and the new Pajaro Neighborhood Park ; and

WHEREAS, the subject building is located adjacent to a residential neighborhood and its construction was approved with a use permit for a restaurant only; and

WHEREAS, the current ABC License condition which prohibits live entertainment on the premises at any time remains appropriate; and

WHEREAS, removal of the ABC License condition which prohibits live entertainment on the premises at any time would require a Use Permit pursuant to Chapter 21.20.060.X of Title 21 of

Monterey County Code; and

WHEREAS, the Board of Supervisors authorized the Chair of the Board to sign a letter to ABC transmitting the County's written objections to the removal and/or modification of condition(s) on the ABC Conditional License for Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) located at 45 Brooklyn Street, Watsonville (Pajaro); and

WHEREAS, it would ordinarily be difficult, and impossible during certain periods of the year, to obtain approval of the full Board of Supervisors to protest or object to the removal and/or modification of an ABC Conditional License within thirty (30) days of receipt of any ABC Notice of a Petition to remove or modify the conditions of an ABC License, particularly when Notice of such a Petition is received during a period when the Board of Supervisors does not meet every week.

DECISION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby delegate its authority pursuant to California Business and Professions Code Section 23803 and authorizes the RMA - Planning Director, Sheriff or Director of Health to prepare and sign letters to the ABC concerning Petitions to remove and/or modify conditions on ABC Licenses on behalf of the County of Monterey and the Monterey County Board of Supervisors.

PASSED AND ADOPTED upon motion of Supervisor Parker, seconded by Supervisor Armenta and carried this 4th day of February 2014, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, and Parker


NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on February 4, 2014.

Dated: February 5, 2014
File Number: 14-072

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy

MONTEREY COUNTY

BOARD OF SUPERVISORS

Louis R. Calcagno, Chair of the Board of Supervisors
District 2 Supervisor



168 W. Alisal Street, 1st Floor
Salinas, California 93901
<http://www.co.monterey.ca.us>

February 4, 2014

Department of Alcoholic Beverage Control (ABC)
Attention: Karyn Nielsen
Salinas District Office
1137 Westridge Parkway
Salinas, California 93907

Re: County of Monterey's Objections to Removal or Modification of Conditions
ABC File Number 41-489588 – ABC Conditional License
Gabino Orozo Avila, Griselda Chavez Zepeda (Licensee)
DBA: Tacos Jacona Restaurant
45 Brooklyn Street, Watsonville, California 95076

Dear: Ms. Nielsen

The Monterey County Board of Supervisors has received the Department of Alcoholic Beverage Control's (ABC) Letter Notice signed by "GM" on your behalf dated January 3, 2014, which was received by the County on or about January 9, 2014, concerning the referenced Licensee's Petition to remove or modify certain conditions on the Conditional License for the aforementioned address. Monterey County hereby submits this written objection to the Licensee's Petition to remove and/or modify the referenced Conditional License pursuant to Government Code Section 23803. The subject building is located adjacent to a residential neighborhood and its construction was approved with a Use Permit for a restaurant only pursuant to Planning Commission File - Permit Number PC06248.

Monterey County objects to the proposed removal of the ABC License Condition No. 1, which states, "*1. There shall be no live entertainment on the premises at any time.*" as indicated on the current ABC license for an "On Sale Beer & Wine Eating Place License Under the Alcoholic Beverage Control Act" for Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant), located at 45 Brooklyn Street, Watsonville (Pajaro) (See ABC File 41-489588 – ABC Conditional License, Condition No. 1). Monterey County also objects to the Licensee's proposed expansion of hours of operation from 8:00 a.m. to 9:00 p.m. to the proposed hours of operation from 10:00 a.m. to 2:00 a.m.

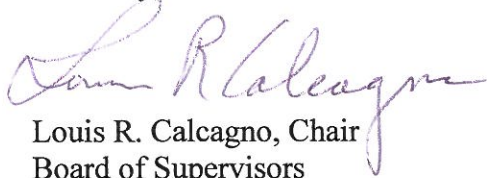
As indicated in the current ABC Conditional License, said premises are located within the immediate vicinity of residences and an unconditional issuance for operation of the premises could interfere with the quiet and peaceful enjoyment of their property by the residents, and the premises are located within 100 feet of 11 residences. Further, pursuant to Rule 61.4, Chapter I, Title 4, California Administrative Code, ABC may deny the issuance of a license when the premises to be licensed or any parking lot operated in conjunction therewith are located within 100 feet of a residence (See Recitals of Conditional License). Therefore, Conditional License (File 41-489588) was issued subject to the condition that, *"1. There shall be no live entertainment on the premises at any time."*

The County of Monterey is opposed to the elimination of the condition which prohibits live entertainment on the premises at any time due to the proximity to residential uses. Further, a Use Permit to allow live entertainment is required pursuant to the Monterey County Code (MCC), Title 21 – Zoning Ordinance, MCC Section 21.20.060.X. The site is also located near the new Pajaro Neighborhood Park located at 24 San Juan Road, Watsonville and; therefore, this site may not be appropriate for live entertainment. Proximity to residential uses and the new Community Park would be reviewed during the application process for any Use Permit for live entertainment on the premises pursuant to Title 21 – Zoning Ordinance.

ABC Condition No. 1, which states, *"1. There shall be no live entertainment on the premises at any time."* is still appropriate for this location. Further, the elimination of this Condition would require a Use Permit pursuant to Chapter 21.20.060.X of Title 21 – Zoning Ordinance. Therefore, Monterey County recommends that the conditions of the current ABC Conditional License not be removed nor modified at this time.

Pursuant to California Government Code Section 23803, ABC may not remove or modify any condition to which an objection has been filed without holding a hearing as provided in Government Code Section 11500 et seq. Please notify the County of Monterey Resource Management Agency (RMA) Planning Director, Mike Novo, and Supervising Manager, Wanda Hickman, 168 W. Alisal Street, 2nd Floor, Salinas, California 93901, of the date and time of any hearing on this matter so that the County's objections can be considered by the appropriate authority within ABC.

Sincerely,



Louis R. Calcagno, Chair
Board of Supervisors
District 2 Supervisor