

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

Resolution No.

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, *“1. 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 on this 4th day of February, 2014, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

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___ for the meeting on _____.

Dated:

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

By _____
Deputy