



Legislation Details (With Board Report)

File #: 14-072 **Name:** Avila/Zepeda (De Leon)
Type: General Agenda Item **Status:** Passed
File created: 1/22/2014 **In control:** Board of Supervisors
On agenda: 2/4/2014 **Final action:** 2/4/2014

Title: a. Authorize 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. Adopt Resolution 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)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment A - Draft Board Resolution, 2. Attachment B - ABC Letter Notice, 3. Attachment C - Draft letter to ABC, 4. Attachment D - Sheriff's Office Letter of Opposition, 5. Attachment E - Vicinity Map & Residential Zoning Map, 6. Completed Board Order, Resolution & Executed Letter

Date	Ver.	Action By	Action	Result
2/4/2014	1	Board of Supervisors	approved	Pass

a. Authorize 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. Adopt Resolution 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)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Authorize 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 Street, Pajaro; and
- b. Adopt Resolution 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.

SUMMARY:

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 petitions to remove or modify conditions on

an ABC license. The local jurisdiction has thirty (30) days to file written objections to the proposed removal and/or modification of conditions. Notice of a Petition for removal and/or modification of conditions to an ABC license for Gabino Orozco Avila and Griselda Chavez Zepeda (DBA: Tacos Jacona Restaurant) (hereafter, "Licensee") in the form of a letter dated January 3, 2014 to the Monterey County Board of Supervisors from ABC, which was received by the County on or about January 9, 2014 (Attachment "B" - ABC Letter Notice with enclosures). The Licensee is requesting that the condition which prohibits live entertainment on the premises at any time be removed from the conditional license (See Attachment "B" - ABC File 41-489588 - Conditional License). In addition, the Licensee is requesting that hours of operation be expanded from 8:00 a.m. until 9:00 p.m. to 10:00 a.m. until 2:00 a.m. (See Attachment "B" - Petition). The RMA-Planning Department and County Sheriff's Office are opposed to the removal of the condition which prohibits live entertainment on the premises at any time and to the proposed expansion of hours of operation due to a lack of the required planning permits and health and safety concerns. As the local governing body, the Board of Supervisors must authorize the Chair to sign the letter in opposition to the Petition to remove and/or modify conditions of the ABC license (Attachment "C") per California Business and Profession Code Section 23803.

In addition, due to the statutory thirty (30) day time frame for the local governing body to respond to ABC Notices concerning these types of Petitions to remove and/or modify ABC license conditions, staff is requesting that the Board of Supervisors, in its capacity as the local governing body, delegate its authority to the Planning Director, Sheriff or Director of Health to prepare and sign letters to the ABC in response to any future ABC Notices of Petitions to remove and/or modify conditions on ABC Licenses on behalf of the County of Monterey and Monterey County Board of Supervisors

DISCUSSION:

The subject building is located adjacent to a residential neighborhood and its construction was approved with a Use Permit for a restaurant under Planning Commission File Number PC06248.

RMA-Planning agrees with the ABC license condition which prohibits 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 Attachment "B" - ABC File 41-489588 - Conditional License).

As indicated in the current ABC Conditional License, the 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 Attachment B - 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 RMA Planning Department objects to the removal 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 at 24 San Juan Road and therefore; this site may not be appropriate for live entertainment. 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 premises pursuant to Title 21.

OTHER AGENCY INVOLVEMENT:

This request was referred to the Monterey County Sheriff's Office and the Health Department. Comments are attached as Attachment "D."

FINANCING:

There will be no impact to the general fund.

Prepared by: Wanda A. Hickman, Planning Services Manager ext. 5285

Approved by: Mike Novo, Director, RMA-Planning, ext. 5192

Benny Young, Director Resource Management Agency

cc: Front Counter Copy; Clerk of the Board (10); Wanda Hickman, Planning Services Manager; Gabino Orozco Avila and Griselda Chavez Zepeda; The Open Monterey Project; LandWatch; Heath Department; Commander Vince Hernandez, Monterey County Sheriff's Office; Project File Ref.140010.

Attachment A	Draft Board Resolution
Attachment B	ABC Letter Notice dated January 3, 2014 with Enclosures; Conditional License dated October 21, 2010, Petition to remove and/or modify Conditional License dated September 20, 2013, California Business and Professions Code Section 23803
Attachment C	Draft Letter to ABC - Monterey County's Written Objections to Removal or Modification of Conditions
Attachment D	Sheriff's Office Letter of Opposition
Attachment E	Vicinity Map & Residential Zoning Map