

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS APPROVING A SPECIAL USE PERMIT TO ALLOW THE SALE AND CONSUMPTION OF ALCOHOL FOR CERTAIN PROPERTY WITHIN SAID CITY AT 2150 WEST HILLCREST DRIVE (APN #667-0-113-075) [APPLICATION: 2022-70779-SUP (LATIGO HILLCREST, LLC)]

SECTION 1

WHEREAS, the applicant has filed with the City an application under the provisions of the City of Thousand Oaks Municipal Code requesting the following:

1. Special Use Permit 2022-70779-SUP: To allow a California Department of Alcoholic Beverage Control (ABC) Type 47 License (On-sale General – Eating Place) to accommodate a potential future commercial use.

WHEREAS, pursuant to California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City prepared a Draft Environmental Impact Report (Draft EIR) for the project and following public review of the Draft EIR the City prepared a Final Environmental Impact Report (Final EIR) responding to public comments and refining the Draft EIR (2022-70774-EIR); and

WHEREAS, the City also prepared a Mitigation Monitoring and Reporting Program regarding implementation of mitigation measures specified in the EIR (MMRP) pursuant to the requirements of CEQA and the CEQA Guidelines; and

WHEREAS, on June 5, 2023, the Planning Commission of the City of Thousand Oaks conducted a duly advertised public hearing and recommended approval of the project to City Council; and

WHEREAS, pursuant to Section 9-4.2803(a)(1) of the Thousand Oaks Municipal Code, the matter was referred to City Council for a decision, and upon notice duly given as required by law, a public hearing was held by the City Council of the City of Thousand Oaks on June 20, 2023, at which time evidence, both oral and written, including the applicant's testimony, public input, City Staff Report and exhibits, were presented and received, and arguments were heard from all interested parties appearing in the matter; and

WHEREAS, a resolution is required to formalize City Council action pursuant to Section 9-4.2803(a)(1) of the Thousand Oaks Municipal Code and this resolution

is adopted for that purpose and reflects the action of a majority of the members of the City Council.

SECTION 2

WHEREAS, the findings of the City Council to approve 2022-70779-SUP of said application are as follows:

1. *The project is consistent with the Thousand Oaks General Plan and any applicable specific plan or redevelopment plan (TOMC Section 9-4.2803(c)(1)).*

The project is consistent with the Thousand Oaks General Plan because the restaurant with alcoholic beverage consumption is an allowed ancillary use within a commercial building with approval of a Special Use Permit. The commercial space within the mixed-use project that is proposed to be within the SP-24 zone, and the site is proposed to be designated as "Commercial/Residential" under the Land Use Element of the General Plan. Therefore, the project is consistent with the goals and policies of the City's General Plan.

2. *The project complies with all applicable laws, regulations and policies, including the Thousand Oaks Municipal Code (TOMC Section 9-4.2803(c)(2)).*

With the implementation of the suggested conditions, the project will satisfy all applicable laws, regulations and policies, including the Thousand Oaks Municipal Code.

The project has also been reviewed by other City departments and agencies for conformance with applicable laws, regulations, and policies, and provided appropriate conditions of approval. Additionally, any proposed future tenant must obtain and maintain an alcohol license from the California Department of Alcoholic Beverage Control. Therefore, the restaurant and on-site sale and consumption of alcoholic beverages complies with all applicable laws, regulations, and policies.

3. *The project will not be detrimental to the public health, safety or general welfare (TOMC Section 9-4.2803(c)(3)).*

With the conditions of approval imposed, the project will not be detrimental to public health, safety or general welfare because a) The City reserves the right to review any future proposed use which would include alcohol service through a separate Minor Modification application to ensure compatibility with the surrounding uses, including the commercial and residential uses on site and b) the Police Department has reviewed the request and finds it to be acceptable, subject to conditions of approval. Additionally, the restaurant must obtain and maintain an alcohol license from the California Department of Alcoholic Beverage Control.

4. *The project has been reviewed in conformance with the provisions of the California Environmental Quality Act (TOMC Section 9-4.2803(c)(4)).*

The proposed Special Use Permit has been reviewed for conformance with the provisions of the California Environmental Quality Act. For this application, the City is the Lead Agency and, on behalf of the Applicant, the City Council is being asked to certify the Final Environmental Impact Report that was prepared for the project. The Final EIR identifies where all areas listed as potentially significant have been mitigated to levels that are no longer significant, through the inclusion of mitigation measures, which the applicant shall comply with under the proposed conditions of approval.

5. *The proposed use at the proposed location will be compatible with land uses in the vicinity (TOMC Section 9-4.2803(c)(5)).*

The potential use involving sale and consumption of alcohol at the project site will be compatible with land uses in the vicinity that are predominantly commercial and industrial uses, including an existing restaurant located within the Amgen headquarter building located at 1 Amgen Center Drive, 7-Eleven retail use across Rancho Conejo Boulevard, and gas station at the northwest corner of the subject property. The commercial spaces which could be leased by tenants seeking to serve alcohol are clustered close to the West Hillcrest Drive and Rancho Conejo Boulevard intersection and are physically separated from the residential uses on the adjacent property to the east by onsite multifamily structures, parking areas, and landscaping. Conversely, as the commercial uses will be open to the public it is anticipated to be an amenity to those living in the adjacent residential development and those working in the adjacent industrial and commercial developments. Therefore, the project will be compatible with the land uses in the vicinity.

NOW, THEREFORE, BE IT RESOLVED that said application for 2022-70779-SUP is approved by City Council, subject to conformance with the conditions set forth and attached hereto and made a part hereof. Except as otherwise expressly indicated, said conditions shall be fully performed and completed, or at the City's discretion, shall be secured by bank or cash deposit or other security satisfactory to the City Attorney before the use or occupancy of the property is commenced and before a Certificate of Occupancy is issued. The violation of any of the conditions of said Special Use Permit shall be grounds for revocation by the Planning Commission or City Council.

This decision became final under Section 9-4.2803(a)(1) of the Thousand Oaks Municipal Code when the City Council voted on and rendered its decision at the end of the above-referenced public hearing. As stated on the City Council's written and posted agenda, all applicants, appellants, parties and persons affected by or having any interest in this matter should note that this final decision of the

City Council, and any other City action on this entitlement application, is subject to a judicial review under Section 1094.5 of the California Code of Civil Procedure. Pursuant to California Code of Civil Procedure Section 1094.6, a judicial review of that decision must be filed within 90 days of that City Council decision. Other statutes, however, may shorten the statute of limitations, or may impose different filing requirements.

PASSED AND ADOPTED this XXX day of XXXX, 202X, by the following vote:

Ayes:

Noes:

Absent:

Kevin McNamee, Mayor
City of Thousand Oaks, California

ATTEST/CERTIFY:

Laura B. Maguire, City Clerk

Date Attested: _____

APPROVED AS TO FORM:
Office of the City Attorney

Patrick J. Hehir, Chief Assistant City Attorney

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

The presence of electronic signature certifies that the foregoing is a true and correct copy as approved by the City of Thousand Oaks City Council on the date cited above.

SPECIAL USE PERMIT 2022-70779-SUP CONDITIONS OF APPROVAL

STANDARD

1. **Land and Application** – The Special Use Permit is granted for the land described in the application, any attachment thereto, and as shown on the submitted “Project Plan Set,” dated May 26, 2023.
2. **Scope of Permit Approval** – The Special Use Permit is granted to allow the sale and consumption of alcohol, for future restaurants located within the commercial portion of a mixed-use project through the review and approval of a Minor Modification application for each proposed use as shown on the submitted “Project Plan Set,” dated May 26, 2023.
3. **Approval Period** – The above referenced permits are granted for the period set forth in 2022-70777-DAGR.
4. **Approval Contingency** – Approval for the Special Use Permit is contingent upon the adoption or approval of Land Use General Plan Amendment (LU) 2021-70169-LU; Zoning Change (Z) 2022-70776-Z; Specific Plan (SP) 2022-70778-SP; Development Agreement (DAGR) 2022-70777-DAGR; Development Permit (DP) 2022-70773-DP; Protected Tree Permit (PTP) 2022-70780-PTP; and Environmental Impact Report (EIR) 2022-70774-EIR.
5. **Compliance with Applicable Laws, Rules, and Regulations** – The applicant shall at all times comply with any and all local, city, county, state and federal laws, regulations and orders now in effect or which may hereafter be enacted pertaining to the approved modification or affecting the installation, operation or maintenance of the mixed-use development.
6. **Regulatory Agency Approval** – The requirements of all applicable regulatory agencies shall be met, and approval obtained, prior to gas release, Certificate of Occupancy, or as authorized by the City's Building and Safety Division. Copies of all required licenses shall be submitted to the Community Development Department.
7. **Payment of Fees** – Approval is subject to the applicant paying all fees and assessments to the City of Thousand Oaks, as required by the Municipal Code.
8. **Acknowledgment** – The applicant acknowledges that all aspects of this project are of special concern to and regulated by the City of Thousand Oaks, which has established specific criteria and standards concerning development within the City. Any change, modification, or alteration to improvements on the subject property shall first be approved by the City of Thousand Oaks. Any unauthorized changes may require future corrective work and may result in a City Code compliance effort.

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9. **Unauthorized Changes** – The applicant acknowledges that the exterior treatment, location of structures and architectural features of the development are of special concern to, and regulated by, the City of Thousand Oaks, which has established criteria and standards concerning development within the City. Any substantial change, modification, or alteration to the architectural design, or in the exterior treatment of any building and structure, including building colors, materials, changes in walkways, doorways, window locations, or in the parking, landscaping and other related features, must first be approved by the City of Thousand Oaks prior to performing the work. Unauthorized change(s) or failure to comply with the conditions of this permit may require future corrective work and result in a City Code violation and appropriate action.
10. **Indemnification** – The applicant agrees to defend, indemnify and hold harmless the City, its agents, officials, and employees from any claim, action or proceeding against the City or its agents, officials or employees to attack, set aside, void or annul an approval of the City. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in the defense.
11. **Signed Acceptance of Conditions** – A signed Acceptance of Conditions affidavit shall be executed by the applicant and property owner, or his duly authorized representative, and shall be returned to the Community Development Department prior to the issuance of a building permit.
12. **Other Applicable Permits** – All entitlements and conditions of approval associated with related development, including 2021-70169-LU; 2022-70776-Z; 2022-70778-SP; 2022-70777-DAGR; 2022-70773-DP; 2022-70780-PTP; and 2022-70774-EIR apply. In addition, all entitlements and conditions of approval associated with prior onsite development approved by the City of Thousand Oaks (OTP 1235, Z 1977-419, SUP 2001-1037, DP 1977-371 and Minor Modification Nos. 1 through 4, DP 1982-512 and Minor Modification Nos. 1 through 4, and SUP 2001-1037) are rescinded, voided and of no further effect. The property's Title Report is to be updated to remove references to Covenants, Agreements and Declarations required by the permits which are rescinded, voided and of no further effect.
13. **Transferable Permit** – The Special Use Permit may be transferable to a new owner/lease provided that the operation is of similar type to the approved use and provide that the new owner/lease agrees to all imposed conditions of the existing special use permit, subject to an administrative review and determination by the Community Development and Thousand Oaks Police Departments.

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14. **Revocation of Permit** – Any verified complaints of excessive levels of noise, violations of conditions of this permit or other nuisance issues related to the operation of the business, shall constitute grounds for initiation of proceedings to consider revocation of this Special Use Permit Major Modification and/or further restriction of the hours of operation by the Planning Commission.
15. **Title 24 Requirements** – All requirements of the California Uniform Building Code Title 24, California Code of Regulations, shall be met, as required by law.

RESTRICTIONS

16. **Hours of Operation** – The sale and consumption of alcohol shall be limited to the hours of operation for the subject restaurant or tenant space.
17. **Personnel** – The licensee shall have readily identifiable personnel to monitor and control the behavior of customers inside the building premises, and any adjacent property under the establishment's control to ensure the areas are free of people loitering or causing a disturbance, and that these areas are cleared of patrons within 30 minutes after closing.

Sale and service of alcoholic beverages shall be permitted only during normal business hours and only when food service is also available.

The business staff shall be responsible for maintaining the area adjacent to the premises over which he has control free of litter.

18. **Alcoholic Beverage Permit and Approvals** – Prior to the onsite sale of alcoholic beverages, the applicant shall receive all necessary permits and approvals from any applicable County, State or Federal agencies and shall comply with all requirements of the State of California Department of Alcoholic Beverage Control.
19. **Off-Premise Sales Prohibited** – Any sale of alcoholic beverages for consumption off premises is strictly prohibited. The consumption of alcoholic beverages is limited to the interior bar area and as allowed per Liquor License Type 48 through the California Department of Alcoholic Beverage Control.
20. **Employee Training** – Employees involved in the sale or service of alcoholic beverages shall provide evidence that they have either:

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- a. Completed training given by the State of California Department of Alcoholic Beverage Control (ABC) in Leadership and Education in Alcohol and Drugs program (LEAD), or equivalent as determined by the Police Department, and retain such certificate of completion, or
 - b. Have completed an accepted equivalent by the ABC's local office to ensure proper distribution of beer, wine and distilled spirits to adults of legal age. If any prospective employee designated to sell alcoholic beverages does not currently have such training, then,
 - c. The ABC licensed proprietors shall confirm with the Police Department's Crime Prevention Bureau, within 30 days of the Planning Commission's entitlement approval, that a date certain has been scheduled with the local ABC office to complete the LEAD course.
 - d. Within 30 days of taking said course, the employees, or responsible employer shall deliver copies of each required course completion certificate to the Police Department's Crime Prevention Bureau.
 - e. It shall be the responsibility of the applicant and/or the restaurant management staff to provide the employees with the knowledge and skills that will enable them to comply with their responsibilities under state and city laws and ordinances.
21. **Noise Control** – Proposed restaurant operations shall be conducted inside the establishment only. During restaurant hours, all exterior doors of the Amenity Building shall be kept closed. Sound volume during restaurant operations shall be regulated to ensure that the restaurant operations cannot be heard from off-site residential properties. It shall be the responsibility of the business owner and bar operator to ensure noise generated by the café operations will be confined to the interior of the establishment.
22. **Live Entertainment** – Live entertainment shall not be allowed unless otherwise approved by the Community Development Department.
23. **Security** – The Thousand Oaks Police Department reserves the right to make further comments or conditions related to security or safety prior to issuance of occupancy permits, and the applicant will correct any safety or security concerns upon written notice by the Police Department within the time period set forth in any such notice.

The applicant shall notify the Thousand Oaks Police Department representative at least one week prior to special entertainment events, which are reasonably anticipated to attract a larger or different patronage.

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The Police Department reserves the right to require security personnel for such events

24. **Revocation** – If after written notice from the Police Department or City of Thousand Oaks, and subsequent failure to comply with such notice, regarding confirmed violations of the Municipal Code, including but not limited to excessive noise disturbances, unruly or violent incidents, illicit use or sale of drugs, alcohol-related violations, or violations of imposed conditions on any City permit, the City may initiate revocation proceedings. A request for revocation of this permit shall be referred to the Planning Commission.
25. **Transferable Permit** – This Special Use Permit may be transferred to another owner/lessee provided the operation is in substantial conformance with the approved use and provided that the new owner/lessee agrees to all imposed conditions of the existing Special Use Permit, subject to an administrative review and determination by the Community Development Department.
26. **Permits from Other Agencies** – Prior to commencement of any food-service operations and/or alcohol consumption, the applicant shall receive all necessary permits and approvals from any applicable County, State or Federal agencies.
27. **Compliance with Other Laws** – The applicant shall comply with all federal, state and local laws including COVID-19 regulations. Violation of any of those laws in connection with the use authorized herein will be cause for initiation of revocation proceedings.
28. **Alcoholic Beverages** – The on-site sale and consumption of alcoholic beverages shall require the filing of a Minor Modification application to 2022-70779-SUP for review and consideration by the Community Development Department.

POLICE DEPARTMENT

29. **Interior and Exterior Activities** – The applicant shall have readily identifiable personnel to monitor and control the behavior of customers inside the building premises, and any adjacent property under the establishment's control (i.e. interior plaza area) to ensure the areas are free of people loitering or causing a disturbance, and that these areas are cleared of patrons within thirty (30) minutes of closing.
 - a. Any entertainment provided shall not be audible beyond the area under control of the licensee(s).
 - b. To maintain the restaurant licensing for the sale of alcohol and the restaurant use approved by this body, the quarterly gross

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sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.

- c. Full meal service shall be available to patrons at all times alcoholic beverage sale privileges are being exercised.
- d. The sale of alcoholic beverages for consumption off the premises is prohibited.
- e. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s).
- f. Loitering is prohibited on these premises or the area under control of the licensee(s).
- g. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
- h. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) and/or property owner shall be removed or painted over within 48 hours of being applied and the affected area shall match the originally-approved exterior color.

30. **Employee Training** – Employees involved in the sale or service of alcoholic beverages shall provide evidence that they have either of the following:

- a. Completed training given by the State of California Department of Alcoholic Beverage Control (ABC) through an administered “Leadership and Education in Alcohol and Drugs” (LEAD) Program in the form of an ABC issued certificate; or
- b. Have completed an accepted equivalent by the ABC to ensure proper distribution of beer, wine and distilled spirits to adults of legal age.
- c. If any prospective employee designated to sell alcoholic beverages does not currently have such training, then,
 - i. The ABC-licensed proprietors shall confirm with the Police Department’s Intelligence Led Policing Unit: Special Projects and Technology, a minimum of 90 days prior to occupancy of the tenant space that a date certain has been scheduled with the local ABC office to complete the LEAD course.

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- ii. Within 30 days of taking said course, the employees, or responsible employer shall deliver copies of each required course completion certificate to the Police Department's Intelligence Led Policing Unit: Special Projects and Technology.

It shall be the responsibility of the applicant and/or the restaurant management staff to provide the employees with the knowledge and skills that will enable them to comply with their responsibilities under state and city laws and ordinances.

31. **Video Surveillance System** – A video surveillance system shall be required for a 360-degree view around and inside the restaurant facility. The surveillance system will be HD quality, have night vision capabilities and be able to retain video data for no less than 30 days. The final number of cameras shall be agreed to by the applicant and representatives of the Police Department and camera footage will be made available to the Thousand Oaks Police Department upon request for viewing.
32. **Additional Security Measures and Considerations** – The Thousand Oaks Police Department also reserves the right to make further comments or conditions related to security or safety after the issuance of occupancy permits, and the applicant will correct any safety or security concerns upon written notice by the Police Department within the time period set forth in any such notice.
