

## RESOLUTION PC2018-12

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A SIMILAR LAND USE DETERMINATION TO FIND A FOOD TRUCK SIMILAR TO A FOOD KIOSK AND FOR A CONDITIONAL USE PERMIT (18-06) TO ALLOW THE OPERATION OF A FOOD TRUCK/FOOD KIOSK, TO ALLOW FOR OUTDOOR LIVE-ENTERTAINMENT AND ONSITE CONSUMPTION OF ALCOHOLIC BEVERAGES AT 228 SOUTH IMPERIAL AVENUE; IMPERIAL CA 92251

**WHEREAS**, Maria & Laura Cortez and Don Euhus submitted a Conditional Use Permit and Similar Land Use Determination application to operate a food truck/ food kiosk and have outdoor live entertainment and alcohol consumption at 228 South Imperial Avenue; and

**WHEREAS**, a duly notified public hearing was held by the Planning Commission on August 8, 2018; and

**WHEREAS**, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Similar Land Use Determination and Conditional Use Permit.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Section 15303 of the California Environmental Quality Act; and
- E) That the food truck/ food kiosk, onsite outdoor alcohol consumption and outdoor live entertainment, is consistent with those uses allowed in the V-C Village Commercial Zone.

- F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** a Similar Land Use Determination and Conditional Use Permit #CUP18-06 (La Careta) for the operation of a food truck/food kiosk, outdoor onsite alcohol consumption and outdoor live entertainment at 228 South Imperial Avenue, subject to the conditions of approval outlined in Exhibit A and based on the following findings:
1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.
  2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.
  3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
  4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

**PASSED, ADOPTED AND APPROVED** by the Planning Commission of the City of Imperial, this 8<sup>th</sup> day of August 2018.

\_\_\_\_\_  
Planning Commission Chairman

ATTEST:

\_\_\_\_\_  
Planning Secretary

**EXHIBIT A  
RESOLUTION PC2018-12**

**CONDITIONS OF APPROVAL**

For

**Conditional Use Permit (18-06)**

**Raspalandia/La Careta Business  
228 South Imperial Avenue  
Imperial, CA 92251**

1. These conditions of approval reflect that a food truck has been found similar to a food kiosk through the process of a Similar Land Use Determination process.
2. The business has six (6) months to complete their beautification plan. Every phase is to be completed by the timeline provided.
3. Every phase of the beautification plan must be reviewed by the Community Development Department prior to integration for approval.
4. This Conditional Use Permit is granted for food truck/food kiosk, outdoor live-entertainment and outdoor onsite alcohol consumption at 228 South Imperial Avenue, Imperial, CA 92251. This Conditional Use Permit shall only be valid so long as a Type 41 ABC License is obtained and valid.
5. Business hours shall be limited from 5:00 AM to 12:00 PM & 5:00PM to 10PM Mondays through Sundays.
6. Live-Onsite entertainment is bound by the noise element standards and any future noise ordinances.
7. Live-Onsite entertainment days and hours are as follows: Fridays & Saturdays from 8:00PM-11:00PM and are bound by the City of Imperial's Noise Element Standards.
8. Before any outdoor "live-entertainment" events of special events, the applicants/owners must obtain a "Special Events" permit from the Community Services Department and notify parcels within 300 feet of said special event at least two weeks prior to the event.
9. No sales or service to intoxicated patrons.

10. No alcoholic beverages shall be consumed outside of the designated patio/parcel. The City, at its sole discretion, may issue a Temporary Use Permit to allow for special events where alcoholic beverages may be consumed outdoors.
11. The provisions of this Conditional Use Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project. This Conditional Use Permit is only valid for 228 S Imperial Avenue.
12. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control (ABC) license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
13. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.
14. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times.
15. Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
16. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
17. Applicant must implement sound maintenance and housekeeping procedures.
18. Dispose of process solid wastes.
19. The Applicant shall pay all impact and capacity fees as required by the city.
20. All applicable Conditions of Approval shall be completed prior to opening for business.
21. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit

modification, suspension, or termination, or to the appropriate enforcement authority.

22. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
23. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.