

RESOLUTION NO 2011-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK, CALIFORNIA, GRANTING THE APPEAL OF PLANNING COMMISSION DECISION TO DENY A CONDITIONAL USE PERMIT FOR A TOBACCO STORE LOCATED AT 540 RALEY'S TOWNE CENTRE NO. 23

WHEREAS, applicant Tareq Airehani filed Planning Application No. PL2011-008UP for a Conditional Use permit to allow a Tobacco Store located at 540 Raley's Towne Centre No. 23 (APN 143-051-054) ("Project"), in accordance with the City of Rohnert Park Municipal Code Section 17.06.060 and following;

WHEREAS, the subject property is located within the Regional Commercial (C-R) zoning designation;

WHEREAS, on March 10, 2011, the Rohnert Park Planning Commission held a duly noticed public hearing, received oral and written testimony concerning the Project, deliberated, and denied the application and directed staff to bring back a Resolution denying the Conditional Use Permit;

WHEREAS, on March 17, 2011, Tareq Airehani filed a timely appeal of the Planning Commission's decision in accordance with Rohnert Park Municipal Code Section 17.25.015 C. and following;

WHEREAS, on March 24, 2011, the Planning Commission adopted Resolution No. 2011-06 denying PL2011-008UP;

WHEREAS, on April 26, 2011, the City Council of the City of Rohnert Park held a duly noticed public hearing to consider the appeal of the Planning Commission decision for denial;

WHEREAS, the City Council independently reviewed written and oral information received from City staff concerning the Project, including but not limited to the information that was before the Planning Commission;

WHEREAS, the City Council received oral and written testimony from the appellant and members of the public and independently reviewed and considered such testimony;

WHEREAS, the City Council granted the appeal and directed staff to bring back a resolution affirming this action; and

WHEREAS, the Project is categorically exempt from the California Environmental Quality Act, pursuant to California Code of Regulations Title 19. Categorical Exemptions Section 15301 Existing Facilities Class 1: the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures...involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Rohnert Park, California, grants the appeal and approves Planning Application PL2011-008UP based on the following findings:

- A. *That the proposed location of the conditional use is consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.*

The proposed location is in a C-R Regional Commercial District that allows for "tobacco stores" by conditional use approval, therefore, the proposed use is an appropriate one at this location. The Commercial Districts, and in particular the Regional Commercial District, are intended to provide, among other things, appropriate areas for office uses and retail and service establishments that serve the needs of the city and area communities. A tobacco store at this location would accomplish this purpose because it would be the only such store in the vicinity.

- B. *That the proposed location of the conditional 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, and that the operation and maintenance of the Conditional Use will be compatible with the surrounding uses.*

The project will not have a negative effect on the public health, safety, or welfare; or be materially injurious to properties or improvements in the vicinity. The applicant will be required to obtain all necessary permits pertaining to a tobacco store in accordance with Chapter 8.32 of the Rohnert Park Municipal Code, which regulates the use and location of tobacco facilities and related products. The store would be located between a check cashing store and a Kragen Auto Parts store and therefore would be compatible with the other uses in the shopping center.

- C. *The proposed conditional use will comply with each of the applicable provisions of this Title [Title 17, the Zoning Ordinance.]*


The Project must comply with applicable provisions of the Zoning Ordinance, including without limitation Article II of Chapter 17.06 and Articles I, XIII, and XIV of Chapter 17.25, as well as Chapter 8.32, which regulates the use and location of tobacco facilities and related products.

BE IT FURTHER RESOLVED, that the City Council approval of Planning Application No. PL2011-008UP is subject to the following conditions:

1. The use permit approval shall expire one year from the City Council approval date, unless prior to the expiration date one of the following events occur: (1) a business license or a building permit is issued and construction is commenced and diligently pursued toward completion so that the use is initiated; or (2) an extension is requested and approved.

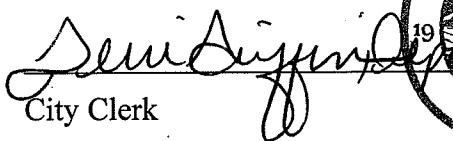
DULY AND REGULARLY ADOPTED on this the 10th day of May, 2011.

CITY OF ROHNERT PARK



Mayor Pro Tempore

ATTEST:


City Clerk



AHANOTU: <u>AYE</u>	CALLINAN: <u>AYE</u>	MACKENZIE: <u>AYE</u>	STAFFORD: <u>AYE</u>	BELFORTE: <u>ABSENT</u>
AYES: (4)		NOES: (0)	ABSENT: (1) ABSTAIN: (0)	