

RESOLUTION # 18-10
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
HERCULES APPROVING CONDITIONAL USE PERMIT
#CUP 18-2 ALLOWING ABC TREE FARMS TO CONDUCT
3 SEASONAL SALES EVENTS AT MARKET HALL SITE ON THE
NE CORNER OF SAN PABLO AND SYCAMORE AVENUES

WHEREAS, the applicant is ABC Tree Farms, LLC, represented by Jerome R. Klima, Jr., and Holly Prinz Submitted a Conditional s Use Permit application to allow them to operate 3 temporary outdoor seasonal events including a Kid’s Fun Zone, a Halloween pumpkin patch and a Christmas tree lot on an approximately 1-acre portion of a vacant 3.2-acre parcel (APN 404-040-040-, on the eastern end of what is commonly referred to as the Market Hall site) located at the intersection of Sycamore Avenue and San Pablo Avenue; and

WHEREAS, the proposed temporary use of an approximately 1-acre portion of a vacant 3.2-acre parcel for an outdoor Kid’s Fun Zone, Halloween pumpkin patch and Christmas tree lot are Categorically Exempt from the California Environmental Quality Act (CEQA), per Section 15304(e) of the *CEQA Guidelines*, “Existing Facilities”; and

WHEREAS, the Planning Commission finds, after due study, deliberation, and public hearing, that the following circumstances exist with regard to the use permit application:

- a. That the proposed uses are consistent with the General Plan;
- b. That the proposed location of the use conforms with the purposes of the Zoning Ordinance and the purposes of the district in which the site is located, and will comply with the applicable provisions of the Zoning Ordinance;
- c. That the location, size, design, and operating characteristics of the proposed use will be compatible in design, scale, coverage, and density with existing and anticipated adjacent uses;
- d. There is adequate access, traffic, public utility, and public service capacity for the proposed use and surrounding existing and anticipated uses;
- e. There are no potential, significant adverse environmental impacts that could not be feasibly mitigated and monitored; and

WHEREAS, the Planning Commission finds that the applicants agree with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work at or visit this development.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Hercules hereby approves Conditional Use Permit No. 18-2 subject to the attached Conditions of Approval below:

The departments and divisions listed below have primary responsibility for implementing listed conditions of approval.

LEGEND: B = Building CA = City Attorney F = Fire District
 PD = Police Dept. PL = Planning PW = Public Works

1. Conditional Use Permit No. 18-2 is valid only for the following dates and time periods:
 - a. Kid's Summer Fun Zone set-up can begin May 20, 2018 with scheduled operations from June 1, 2018 to September 9, 2018 with hours of operation limited to Fridays, Saturdays and Sundays from 10:00 am to 8:00 pm.; exceptions to operate mid-week for special group reservations may be permitted on a case-by-case basis when approved by the Planning Dept
 - b. Halloween Pumpkin Patch can begin tent setup September 8, 2018 with scheduled operations from September 18 through October 31, 2018 and is allowed to operate 7 days a week Sunday through Thursday 10:00 am to 9:00 pm, and Fridays and Saturdays from 10:00 am to 10:00 pm
 - c. Christmas Tree lot can begin additional setup November 10, 2018 with teardown by January 3, 2019 with scheduled operations from November 20 through December 24, 2018. (PL)
2. Applicant shall obtain all necessary permits and approvals from the City of Hercules. (PL/PW)
3. Applicant shall obtain any necessary permits, including tent permits, as required by the Rodeo–Hercules Fire District. All tents shall be made of fire-retardant material and comply with California state requirements. (F)
4. No hazardous chemicals shall be stored on site. (PW)
5. All signs shall comply with the City of Hercules Sign Ordinance (Chapter 34 of the Hercules Zoning Ordinance). (PL)
6. All halide lights shall be adjusted to minimize light spillover and to avoid impairing visibility for adjacent traffic. (PW/PD)
7. The generator will be installed at a safe distance from visitors and shall be sufficiently screened and secured to prevent injury. All leads into the generator shall be enclosed in conduit, and the generator itself will be prominently labeled with caution or warning signs. (B/PW)
8. During non-business hours, the applicant shall secure the site within 6-ft.-high chain-link fencing and, to the extent possible, shall store equipment within a locked storage container. (B/PW)
9. The project is subject to revocation by the Planning Commission as outlined in Sections 50.400 and 50.500 of the Zoning Ordinance if it has been determined that the applicant or successor(s) failed to abide by any conditions set forth in these Conditions of Approval or applicable laws of the City of Hercules. (PL)
10. All work shall conform to current California Codes. (B)

11. The applicant shall maintain the site free of graffiti. Graffiti applied to any surface of the subject property shall be removed within twenty-four (24) hours of the applicant being notified by the City. The City may remove the graffiti if the applicant fails to remove the graffiti within 24 hours; the applicant shall reimburse the City for the graffiti-removal work. (PL/PW)
12. Overgrown weeds and unsightly vegetation shall be removed and the project site for the proposed outdoor events shall be maintained along the San Pablo and Sycamore Avenue frontages. (PL/PW)
13. Applicant agrees as a condition of approval to indemnify the City, its agents, officers, and employees and to defend at applicant's own expense against and from any claim, action, or proceeding brought within the time period provided for in Section 66499.37 of the Government Code to attack, set aside, void, or annul the approval of this resolution. City shall promptly notify applicant of such claim, action, or proceeding of which City receives notice, and City will fully cooperate with applicant in the defense thereof. Applicant shall reimburse the City for any court costs and attorney's fees which the City may be required to pay as a result of any such action. City may, in its sole discretion, participate in the defense of any such claim, action, or proceeding, but such participation shall not relieve the applicant of the obligations of this condition. (CA)
14. The development or use by the applicant/grantee of any activity or structure authorized by this permit shall constitute acceptance of all of the conditions and obligations imposed by the City on this permit. The applicant/grantee by said acceptance waives any challenges as to the validity of these conditions. (CA)

PASSED AND ADOPTED by the Planning Commission of the City of Hercules on this 7th day of May, 2018, by the following vote:

YES:
NO:
ABSENT:
ABSTAIN:

Dion Bailey, Chair, 2018

ATTEST:

Holly Smyth, AICP Planning Director
And Secretary of the Planning Commission

Exhibit A: Findings with Facts for CUP 18-2

Exhibit B: Site Plan for Summer Fun Zone, Halloween pumpkin patch, and Christmas Tree Lot