

ATTACHMENT NO. 1

SUGGESTED FINDINGS AND CONDITIONS FOR APPROVAL ENTITLEMENT PLAN AMENDMENT NO. 19-004:

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 – *Existing Facilities* of the CEQA Guidelines because the project involves negligible expansion of the existing facility.

SUGGESTED FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 19-004:

1. Entitlement Plan Amendment No. 19-004 to amend Conditional Use Permit No. 16-045 to add approximately 1,482 sq. ft. to an existing 5,431 sq. ft. eating and drinking establishment with the onsite sales, service, and consumption of alcohol (Type 47 ABC License) and maintain the previously approved hours of operation of Sunday – Wednesday from 7:00 am – 12:00 am and Thursday – Saturday from 7:00 am – 2:00 am will not be detrimental to the general welfare or persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because the proposed use is not anticipated to generate any significant noise, traffic, parking or other impacts detrimental to surrounding properties and is consistent with the subject property's zoning. Even with additional floor area being added with the service of alcohol, characteristics of the business and operation indicate the primary use will remain restaurant. A full menu of prepared food items for on-site consumption is served during business hours. No outdoor dining area is proposed, indicating the consumption of alcohol will be contained within the building interior. Additionally, live entertainment and patron dancing is not offered on the premises. Finally, the floor layout dedicates 2,948 sq. ft. of restaurant floor area to customer dining and approximately 823 sq. ft. to bar area. The remaining restaurant floor area (1,482 sq. ft.) is dedicated to restrooms, offices, storage, and a complete kitchen with food preparation area. Therefore, it is evident the request for alcohol is ancillary to the primary restaurant use and will serve to augment the overall dining experience. Such a use will not be detrimental to the welfare of persons in the vicinity and will help sustain a vital area for business activity that serves the community. To ensure the proposed use will remain incidental to the primary restaurant use, conditions are included which limit the use and manner in which beer, wine, and distilled spirits may be sold and consumed. Such conditions require availability of food service until at least one hour before closing time, the service of alcoholic beverages within the interior of the restaurant only, the prohibition of dancing and entertainment, illumination and security cameras, and compliance with all applicable laws.
2. Entitlement Plan Amendment No. 19-004 to amend Conditional Use Permit No. 16-045 to add approximately 1,482 sq. ft. to an existing 5,431 sq. ft. eating and drinking establishment with the onsite sales, service, and consumption of alcohol (Type 47 ABC License) and maintain the previously approved hours of operation of Sunday – Wednesday from 7:00 am – 12:00 am and Thursday – Saturday from 7:00 am – 2:00 am will be compatible with the surrounding uses because the project site is located within an existing commercial development with a mix of retail, office, food, service, and hotel uses. The nearest residential uses to the restaurant are approximately 300 feet away to the northwest on 6th Street. These residences are buffered from the subject commercial activity and noise impacts are not anticipated because the tenant storefront is oriented towards Pacific Coast Highway. In addition, parking is available in a parking structure that serves the building. It is anticipated patrons will park in the structure rather than on the street in front of residences. Furthermore, the proposed location has proven suitable for a restaurant use with on-site sales and consumption of alcohol. For approximately two years, the use has operated as a restaurant that sells alcohol for on-site consumption, and the addition is consistent with the existing operations. The Police Department indicated the establishment has not been a problem for the surrounding community. Therefore, the proposed 1,482 sq. ft. addition with on-site sales, service, and consumption of alcohol is compatible with surrounding uses.

3. Entitlement Plan Amendment No. 19-004 to amend Conditional Use Permit No. 16-045 to add approximately 1,482 sq. ft. to an existing 5,431 sq. ft. eating and drinking establishment with the onsite sales, service, and consumption of alcohol (Type 47 ABC License) and maintain the previously approved hours of operation of Sunday – Wednesday from 7:00 am – 12:00 am and Thursday – Saturday from 7:00 am – 2:00 am complies with Specific Plan No. 5 (SP5) zoning district standards, applicable provisions of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), and specific conditions required for the proposed use from Resolution No. 2017-42.
4. The granting of Entitlement Plan Amendment No. 19-004 to amend Conditional Use Permit No. 16-045 to add approximately 1,482 sq. ft. to an existing 5,431 sq. ft. eating and drinking establishment with the onsite sales, service, and consumption of alcohol (Type 47 ABC License) and maintain the previously approved hours of operation of Sunday – Wednesday from 7:00 am – 12:00 am and Thursday – Saturday from 7:00 am – 2:00 am will not adversely affect the General Plan. It is consistent with the Land Use Element designation of M-sp (Mixed Use-specific plan overlay) on the subject property and is consistent with the following objectives and policies of the General Plan:

Land-Use Element

Goal LU-11: Commercial land uses provide goods and services to meet regional and local needs.

Policy LU-11(A): Encourage a variety of commercial uses that cater to local and regional demand to create an environment that means resident needs and increases the capture of sales tax revenues.

Goal LU-12: Commercial and industrial quarters throughout the planning area are renovated and revitalized.

Policy LU-12(B): Encourage renovation of revitalization of deteriorating and struggling nonresidential areas and corridors, particularly commercial locations.

Goal LU-14: Huntington Beach continues to attract visitors and provides a variety of attractions and accommodations during their stay.

Policy LU-14(B): Encourage both coastal and inland visitor serving uses to offer a wide spectrum of opportunities for residents and visitors.

The request to amend Conditional Use Permit No. 16-045 to add approximately 1,482 sq. ft. to an existing 5,431 sq. ft. eating and drinking establishment with the onsite sales, service, and consumption of alcohol (Type 47 ABC License) and maintain the previously approved hours of operation of Sunday – Wednesday from 7:00 am – 12:00 am and Thursday – Saturday from 7:00 am – 2:00 am is consistent with the goals and policies of the General Plan because the proposed use will provide expanded services to the community and regional area and increase sales tax revenues. The 1,482 sq. ft. addition will occupy a vacant suite which will revitalize an underutilized commercial space, and provides a visitor serving use for residents and visitors in the downtown area.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 19-004:

1. The site plan and floor plans received and dated April 16, 2019 shall be the conceptually approved layout.
2. The amended use shall comply with the following, including applicable Conditions of Approval for Conditional Use Permit No. 16-045 listed below:

- a. The restaurant and alcohol sales in the expanded suite area must operate in conjunction with the existing business at 155 5th Street, Suite #183. The expansion into 155 5th Street, Suite #189 is reliant upon the kitchen at 155 5th Street, Suite #183 to meet ABC licensing requirements. Should the business at 155 5th Street, Suite #183 cease operations, the business at 155 5th Street, Suite #189 must also cease operations
- b. Hours of operation shall be limited to between 7:00 am and 12:00 am (midnight), Sunday through Wednesday; and between 7:00 am and 2:00 am, Thursday, Friday, and Saturday. **(CUP NO. 16-045)**
- c. No additional bar or bar station is allowed in expanded area. **(PD)**
- d. Bi-fold windows along the storefront shall remain closed from 10:00 pm to 7:00 am daily. **(COD)**
- e. No new customers shall be permitted after 30 minutes before closing. **(Resolution No. 2017-042, Exhibit A)**
- f. A minimum of 70 percent of the net floor area of the establishment shall be designated as dining area excluding back of the house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas. **(Resolution No. 2017-042, Exhibit A)**
- g. All areas of the alcohol business that are accessible to patrons shall be illuminated such that the appearance and conduct of all people in the alcohol business are visible from inside the alcohol business. **(Resolution No. 2017-042, Exhibit A)**
- h. Alcohol businesses must provide food service until one (1) hour before closing including a cook and food servers shall be on duty. **(Resolution No. 2017-042, Exhibit A)**
- i. The CUP shall not be effective until an ABC license has been issued and provided to the City. **(Resolution No. 2017-042, Exhibit A)**
- j. The CUP shall be for the type of issued ABC License; any change to the type of liquor license shall require an amendment to the CUP. **(Resolution No. 2017-042, Exhibit A)**
- k. In addition to any ABC requirements, the following alcohol related conditions shall be required:
 - i. An employee of the alcohol business must monitor areas where alcohol is served.
 - ii. Alcoholic drinks shall not be included in the price of admission to any alcohol business.
 - iii. All alcohol shall remain within alcohol business premises, including outdoor dining areas.
 - iv. Service of alcoholic beverages for consumption off-site shall not be permitted.
 - v. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
 - vi. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
 - vii. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00p.m.

- viii. Final announcements that inform patrons the kitchen and/or bar will stop accepting orders of alcoholic beverage (i.e., last call for alcohol) shall be at least 15 minutes prior to closing.
 - ix. Each individual patron shall only be served one standard single-sized alcoholic beverage at a time after midnight.
 - x. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted.
 - xi. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired and for existing employees every 12 months. Training shall be provided by ABC or an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(Resolution No. 2017-042, Exhibit A)**
- i. All owners, employees, representatives, and agents must obey all federal, state, and local laws. In addition, all conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by an agency with jurisdiction over the premise are required as part of the CUP to be followed. **(Resolution No. 2017-042, Exhibit A)**
- m. No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time. **(Resolution No. 2017-042, Exhibit A)**
- n. Alcohol businesses shall install and maintain a video surveillance system to monitor all doors, eating areas, parking areas, and public area of premises and shall make the video available to the Police Department. Electronic copies of video must be made available to the Huntington Beach Police Department within 48 hours of request. Digital recordings shall be made available for viewing on- scene upon request by a Police Officer. The business shall retain video surveillance for one-month. All video surveillance cameras must record in color, with digital recording to DVR and able to record in low light. **(Resolution No. 2017-042, Exhibit A)**
- o. In addition to the Downtown Specific Plan and Huntington Beach Zoning and Subdivision ordinance, all signs shall comply with the following:
- i. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. No interior displays of alcoholic beverages or signs which are clearly visible to the exterior.
 - ii. There shall be no window coverings or advertisements that reduce the visibility inside of the business.
 - iii. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business.
 - iv. Signs shall be posted in a conspicuous space at the entrance/exit of the restaurant which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(Resolution No. 2017-042, Exhibit A)**
- p. Dancing and/or dance floor and/or live entertainment is prohibited. (Note: a new or amended Conditional Use Permit and an Entertainment Permit issued by the City is required for these additional activities). **(Resolution No. 2017-042, Exhibit A)**

- q. If there is an outdoor patio/dining area where alcohol is served and/or sold as part of the business, the following shall apply:
 - i. A sign shall be posted in a conspicuous space at the entrance/exit point of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT."
 - ii. The patio shall have a physical barrier minimum 36 inches in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier. **(Resolution No. 2017-042, Exhibit A)**
 - r. If approved to be open past midnight, there shall be a minimum of two identifiable security employees on the premises every Thursday, Friday, and Saturday from 8:00 pm to 2:30 am to control crowds, monitor customers, and ensure doors remain closed. **(Resolution No. 2017-042, Exhibit A)**
3. EPA No. 19-004 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.
4. The Development Services Departments and divisions (Building, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Community Development may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

