



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

September 15, 2021

Jeff Bergsma
TEAM Design
221 Main Street, Suite S
Huntington Beach CA 92648

SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 2021-001 (KILLARNEY'S ROOFTOP DINING - CONTINUED FROM AUGUST 10, 2021 MEETING)

APPLICANT: Jeff Bergsma, TEAM Design, 221 Main Street, Suite S, Huntington Beach CA 92648

PROPERTY OWNER: Gregory Newman, 703 Pier Avenue, Suite B-815, Hermosa Beach CA 90254

REQUEST: To amend Conditional Use Permit No. 99-021 to permit the conversion of an existing restaurant rooftop to a 1,936 sq. ft. dining area with alcohol sales and service. This request includes participation in the Downtown Parking In-Lieu Fee Program for sixteen (16) parking spaces required for the new dining area, and deviation from the Exhibit B Standard Conditions of City Council Resolution No. 2017-42 regarding hours of operation.

LOCATION: 209 Main Street, 92648 (West side of Main Street, north of Walnut Avenue)

DATE OF ACTION: September 14, 2021

On Tuesday, September 14, 2021, the Huntington Beach Planning Commission took action on your application, and your application was **conditionally approved**. Attached to this letter are the findings and conditions of approval.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of Two Thousand, Three Hundred Fifty-Three Dollars (\$2,353.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Three Thousand, Seven Hundred Seventy-Eight Dollars (\$3,778.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **Friday, September 24, 2021 at 5:00 PM.**

Please be advised that the Planning Commission reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, or at an alternative time specified as a condition of approval, unless actual construction has started.

"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Hayden Beckman, the project planner, at hayden.beckman@surfcity-hb.org or (714) 536-5561 or the Community Development Department Zoning Counter at (714) 536-5271.

Sincerely,

Ursula Luna-Reynosa, Secretary
Planning Commission

By:



Jane James, Planning Manager

ULR:JJ:HB:is

Attachment: Findings and Conditions of Approval – EPA No. 2021-001

c: Honorable Mayor and City Council
Chair and Planning Commission
Oliver Chi, City Manager
Ursula Luna-Reynosa, Director of Community Development
Tim Andre, Fire Division Chief
Mike Vigliotta, Chief Assistant City Attorney
Bob Milani, Principal Civil Engineer
Hayden Beckman, Senior Planner
Property Owner
Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 21-001

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that this 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 of the CEQA Guidelines because the project consists of the minor alteration of an existing structure involving a negligible expansion of an existing structure.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 21-001:

1. Entitlement Plan Amendment No. 21-001 to amend Conditional Use Permit No. 99-021 to permit the conversion of an existing restaurant rooftop to a 1,936 sq. ft. dining area with alcohol sales and service, participation in the Downtown Parking In-Lieu Fee Program, and deviation from the Exhibit B Standard Conditions of City Council Resolution No. 2017-42 regarding hours of operation will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because the site is located within the Downtown core, an existing mixed-use area with other similar uses surrounding the site. The use will be required to comply with conditions of approval pertaining to alcohol service and hours of operation to assure that any potential impacts to the surrounding properties are minimized. The expanded outdoor dining and alcoholic beverage offerings provide an additional service to the community and surrounding regional area. The request will serve to augment the overall customer experience by providing an additional convenience and coastal views for patrons. Furthermore, the sale of alcoholic beverages is for on-site consumption only and will not generate detrimental impacts to surrounding properties.
2. The granting of Entitlement Plan Amendment No. 21-001 to amend Conditional Use Permit No. 99-021 to permit the conversion of an existing restaurant rooftop to a 1,936 sq. ft. dining area with alcohol sales and service, participation in the Downtown Parking In-Lieu Fee Program, and deviation from the Exhibit B Standard Conditions of City Council Resolution No. 2017-42 regarding hours of operation will not adversely affect the General Plan because it is consistent with the Land Use Element designation of Mixed Use – Specific Plan Overlay (M-sp) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

Land Use Element

Policy LU-1 (C): Support infill development, consolidation of parcels, and adaptive reuse of existing buildings.

Policy LU-2 (B): Ensure that new and renovated structures and building architecture and site design are context-sensitive, creative, complimentary of the city's beach culture, and compatible with surrounding development and public spaces.

Policy LU-8 (B): Reinforce Downtown as the city's historic center and as a pedestrian and bicycle-oriented village with commercial, entertainment, and recreation uses to meet the needs of residents and visitors.

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 meets resident needs and increases the capture of sales tax revenues.

The occupancy of the existing restaurant's rooftop for an expansion of outdoor dining with alcohol sales represents a unique design as adaptive reuse of an existing open-air rooftop space without adding bulk or massing that could impact the streetscape along Main Street. The rooftop dining patio caters to both visitors and residents alike in that it will provide a new accessible space for ocean-view outdoor dining that remains a consistent resident and visitor attraction to the Downtown commercial core, benefitting surrounding commercial uses.

3. Entitlement Plan Amendment No. 21-001 to amend Conditional Use Permit No. 99-021 to permit the conversion of an existing restaurant rooftop to a 1,936 sq. ft. dining area with alcohol sales and service, participation in the Downtown Parking In-Lieu Fee Program, and deviation from the Exhibit B Standard Conditions of City Council Resolution No. 2017-42 regarding hours of operation will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance because the Downtown Specific Plan encourages the provision of outdoor dining when located directly adjacent to the eating establishment and anticipates the sale of alcohol in conjunction with eating establishments and outdoor dining areas within District 1. The sale of alcohol within the expanded rooftop outdoor dining area is ancillary to the primary restaurant use and will serve to augment the overall customer experience by providing an additional convenience and coastal views for patrons.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 21-001:

1. The site plan and floor plans received and dated May 10, 2021 shall be the conceptually approved design.
2. The interior restaurant and outdoor dining areas shall comply with the following:
 - a. Dining and consumption of alcoholic beverages within the rooftop and Main Street outdoor dining areas shall be limited to between 8:00 AM and 10:00 PM daily. **(PC)**
 - b. Dining and consumption of alcoholic beverages within the interior restaurant shall be limited to between 8:00 AM and 2:00 AM daily. **(PD)**
 - c. The rooftop outdoor dining patio area shall be continuously supervised by management or employees of the establishment when customers are present. A supervisor shall be on-site at all times. Behavior that disrupts customers or passersby shall not be tolerated and constitutes a violation of these provisions. **(PD)**

- d. No new customers shall be permitted to enter the business 30 minutes before closing. **(Resolution No. 2017-42)**
- e. A minimum of 70 percent of the net floor area of the alcohol business shall be designated for dining. The dining area excludes areas used for cooking, kitchen preparation, office, storage, and restrooms, and also excluding outdoor dining areas. **(Resolution No. 2017-42)**
- f. All areas of the alcohol business 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. 2017-42)**
- g. Alcohol businesses must provide food service until one (1) hour before closing including a cook, and food servers shall be on duty. **(Resolution No. 2017-42)**
- h. The EPA shall not be effective until an ABC license has been issued and provided to the City. **(Resolution No. 2017-42)**
- i. The EPA 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. 2017-42)**
- j. 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 off-site consumption 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 7:00 PM.
 - 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. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted.
- x. 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 for an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(Resolution No. 2017-42)**
- k. All owners, employees, representatives, and agents must obey all federal, state, and local laws. In addition, all conditions of the Entitlement Plan Amendment, 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 EPA to be followed. **(Resolution No. 2017-42)**
- l. No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time. **(Resolution No. 2017-42)**
- m. 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. 2017-42)**
 - i. The video surveillance system must also cover the rooftop patio / outdoor dining area, the staircases leading up to the rooftop patio / outdoor dining area, and the elevator providing access to the rooftop patio/ outdoor dining area. **(PD)**
- n. 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 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. 2017-42)**

3. All other conditions of approval required under Conditional Use Permit No. 99-012/Costal Development Permit No. 99-021 and Conditional Use Permit No. 03-009 shall remain valid except as modified herein.
4. The Development Services Departments (Fire, Community Development, 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 Zoning Administrator's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18.
5. Entitlement Plan Amendment No. 21-001 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.

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.