

## **ATTACHMENT NO. 1**

### **FINDINGS AND CONDITIONS OF APPROVAL**

#### **CONDITIONAL USE PERMIT NO. 22-036**

#### **FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator 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 15303 of the CEQA Guidelines, because the project involves the construction of a new restaurant building not exceeding 2,500 sq. ft. in floor area in an urbanized area with all necessary public services and facilities.

#### **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 22-036:**

1. Conditional Use Permit No. 22-036 to construct an approximately 1,064 sq. ft. fast food restaurant with 1,308 sq. ft. of outdoor dining and two drive-thru lanes on a vacant lot 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 proposed project is surrounded by other commercial uses to the east and south, the Seal Beach Naval Weapon Station and flood channel is located to the north, across the street from Edinger Avenue, and residential uses are located to the west of the subject site and are separated by a drive aisle. The proposed project will not significantly impact nearby sensitive land uses as the building is oriented north towards Edinger Avenue, away from the nearest residential properties, approximately 38 ft. to the west. The outdoor dining areas will be located to the north and east of the building and to ensure compatibility with the surrounding neighborhood, the hours of operation for the use of the outdoor patio area are limited to 7:00 a.m. to 10:00 p.m. Impacts to circulation are not anticipated as adequate on-site parking spaces are provided as well as queuing for both drive-thru lanes. The drive-thru lane to the west will be used for pick-up for pre-orders only. New landscaping will be added throughout the site and along Edinger Avenue.
2. The granting of Conditional Use Permit No. 22-036 to construct an approximately 1,064 sq. ft. fast food restaurant with 1,308 sq. ft. of outdoor dining and two drive-thru lanes on a vacant lot will not adversely affect the General Plan because it is consistent with the Land Use Element designation of Commercial General (CG) on the subject property. In addition, it is consistent with the following objective goals and policies of the General Plan:
  - A. Land Use Element
    - a. Goal LU-1: New commercial, industrial, and residential development is coordinated to ensure that the land use pattern is consistent with the overall goals and needs of the community.
    - b. Policy LU-1 (A): Ensure that development is consistent with the land use designations presented in the Land Use Map, including density, intensity, and use standards applicable to each land use designation.

- c. Policy LU-1 (D): Ensure that new development projects are of compatible proportion, scale, and character to complement adjoining uses.
- d. Goal LU-11: Commercial land uses provide goods and services to meet regional and local needs.
- e. Policy LU-11 (B): Encourage new businesses to locate on existing vacant or underutilized commercial properties where these properties have good locations and accessibility.
- f. Goal LU-12: Commercial and industrial corridors throughout the planning area are renovated and revitalized.

The proposed project will develop a vacant site with a new drive-thru restaurant that is consistent with the CG land use designation. The proposed project will enhance the economic vitality of the site and surrounding areas by providing new job opportunities and general sales tax revenue and by promoting infill development on a vacant site that is surrounded by development. The proposed project will also improve the aesthetic appearance of the site by converting a vacant property to a drive-thru restaurant that will exhibit a retro 1950's architectural style that will improve the character of the site along Edinger Avenue. There will be a 25-foot landscaping buffer area along Edinger Avenue to soften and improve the functionality of the site and the outdoor dining areas from the adjacent arterial.

- 3. The proposed conditional use permit to construct an approximately 1,064 sq. ft. fast food restaurant with 1,308 sq. ft. of outdoor dining and two drive-thru lanes on a vacant lot 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 (HBZSO) and any specific condition required for the proposed use in the district in which it would be located because the project complies with development standards pertaining to height, street side setbacks, floor area ratio, minimum landscaping requirements, and parking. Additionally, the proposed development and use is permitted in the CG (Commercial General) zone, subject to conditional use permit approval, pursuant to Section 211.04 of the HBZSO – CO, CG, and CV Districts: *Land Use Controls*.

#### **CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 22-036:**

- 1. The site plan and floor plan received and dated July 25, 2023, shall be the conceptually approved design with the following modification: the westerly drive-aisle shall be updated to depict adequate on-site queuing distance to accommodate five vehicles before the pick-up window.
- 2. The use shall comply with the following:
  - a. The hours of operation for the outdoor patio shall be limited to 7:00 AM – 10:00 PM, daily.
  - b. The westerly drive-aisle shall be used for pick-up of pre-orders only.

- c. Prior to any new drive-thru business occupying the site, a traffic study shall be conducted by such tenant and reviewed and approved by the Planning Division.
3. At least 14 days prior to any grading activity, the applicant/develop shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timelines for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Community Development Department.
4. Prior to submittal of building permits the following shall be completed:
  - a. One set of project plans, revised pursuant to Condition of Approval No. 1, shall be submitted for review, approval and inclusion in the entitlement file to the Planning Division.
  - b. Zoning entitlement conditions of approval and code requirements identified in separately transmitted memorandum from the Departments of Fire, Community Development, and Public Works shall be printed verbatim on one of the first three pages of all working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical, and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
  - c. A Landscape and Irrigation Plan, prepared by a Licensed Landscape Architect shall be submitted to the Community Development Department for review and approval.
5. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
6. Signage shall be reviewed and approved under a separate permit.
7. During demolition, grading, site development, and/or construction, the following shall be adhered to:
  - a. Construction equipment shall be maintained in peak operating condition to reduce emissions.
  - b. Use low sulfur (0.5%) fuel by weight for construction equipment.
  - c. Truck idling shall be prohibited for periods longer than 5 minutes.
  - d. Attempt to phase and schedule activities to avoid high ozone days first stage smog alerts.
  - e. Discontinue operation during second stage smog alerts.
8. The structure cannot be occupied and the final building permit(s) cannot be approved until the following have been completed:
  - a. All improvements must be completed in accordance with approved plans, except as provided for by the conditions of approval.

- b. Compliance with all conditions of approval specified herein shall be verified by the Community Development Department.
  - c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
  - d. A Certificate of Occupancy must be approved by the Planning Division and issued by the Building Division.
9. CUP No. 22-036 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.
10. The Development Services Departments and divisions (Building & Safety, 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 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.

**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.