

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Council Chambers - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, AUGUST 7, 2024 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Wayne Carvalho

**STAFF MEMBER:** Hayden Beckman, Michelle Romero

**PUBLIC COMMENTS:** **NONE**

**PUBLIC HEARING ITEMS**

**ITEM 1: CONDITIONAL USE PERMIT NO. 23-032 (FRITZANKOTTERS DELI):**

APPLICANT: Michael C. Adams Associates, PO Box 382, Huntington Beach, CA 92648  
PROPERTY OWNER: Warner Springdale LLC, 16101 Goldenwest Street, Huntington Beach, CA 92647  
REQUEST: To convert the existing 473 sq. ft. temporary outdoor dining area to a permanent outdoor dining area, and allow the sales, service, and consumption of alcohol (ABC Type 41 license) within the outdoor dining area.  
ENVIRONMENTAL STATUS: This request is covered by Categorical Exemption, Class 1, Section 15301 of the California Environmental Quality Act.  
LOCATION: 5936 Warner Avenue, 92649 (Southwest corner of Warner Avenue at Springdale Street)  
CITY CONTACT: Jackie Tran

Jackie Tran, Project Planner, displayed project plans and stated the purpose, location, zoning, and existing use of the subject site. Staff provided an overview of the proposed project and the suggested findings and conditions for approval as presented in the executive summary.

Wayne Carvalho, Zoning Administrator, asked staff to elaborate on the parking matrix, the existing patio canopy, and an adjacent business owner's outdoor dining area.

Ms. Tran stated that the center has a surplus of parking and with the outdoor dining area the project will take away three spaces. Overall, the center will still have a surplus of parking of at least 14 spaces. Ms. Tran stated that this project is standalone and will not impact the adjacent business owner and that the applicant is proposing fencing to separate outdoor dining area.

**THE PUBLIC HEARING WAS OPENED.**

Michael Adams, applicant, stated that they are proposing to use the canopy until worn out then they plan to purchase patio umbrellas. He also confirmed that business hours are 11am – 9pm. He commented that their setup will be compatible for the center and community.

Joe Syiek, adjacent business owner, noted that what is currently existing outside their business was a temporary covid solution. He states opposition with the proposed divider because what is existing is a shared open patio space. He comments that the proposed divider will limit space that he has approval for. He notes that he had a verbal agreement with the previous business owner to share the outdoor dining patio space.

Sean Jensen, business owner, stated that the existing outdoor patio area was a temporary solution during covid, but he filed for a permit in order to be granted a permanent outdoor dining area. He noted he would like to modify hours of operation from 11am-10pm.

Michael Adams, applicant, cited that they were willing to sit down with the adjacent business owner and seek common ground. He commented that he wasn't sure if the adjacent business owner's barrier would comply with the conditions of approval and that's why they divided the area.

Michael Adams, applicant, had no comments or concerns with staff's recommendations.

**THERE WAS NO ONE ELSE PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Staff confirmed that the Authorization Letter from the Property Owner was signed.

Mr. Carvalho stated that he would approve the request with modifications to conditions of approval.

- The hours of operations shall be limited to 11:00 AM to 10:00 PM Daily.
- All existing canopies at the project site shall be removed within ten days from the Notice of Action. Any proposal for a permanent cover over the outdoor dining area shall be reviewed and approved by the Department of Community Development by obtaining all applicable permits. Temporary uniform table umbrellas shall be permitted.

**CONDITIONAL USE PERMIT NO. 23-032 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. STAFF STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

**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 15301, Class 1 - Existing Facilities of the CEQA Guidelines, which states that the permitting, licensing, operation and/or minor alteration of existing structures involving negligible expansion are exempt from further environmental review.

**FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 23-032:**

1. Conditional Use Permit No. 23-032, to convert the existing 473 sq. ft. temporary outdoor dining area to a permanent outdoor dining area with the sale, service, and consumption of beer and wine (ABC License Type 41), will not be detrimental to the general welfare of persons working or residing in the vicinity because the proposed use would occur within an existing commercial shopping center with other similar uses. The use is primarily a restaurant and the request for

alcohol service is ancillary to the restaurant use. The sale, service, and consumption of alcohol will be contained within the interior of the building and outdoor patio. Conditions have been added to the request that prohibit dining or the consumption of alcoholic beverages in the outdoor patio area between the hours of 10:00 PM and 7:00 AM and reduced price or promotions of alcoholic beverages after 7:00 PM. These conditions will limit the use and manner in which the expanded outdoor dining area operates to ensure that operations within the patio area would be compatible with the surrounding neighborhood.

2. Conditional Use Permit No. 23-032 to convert the existing 473 sq. ft. outdoor dining area to a permanent patio and allow the sales, service, and consumption of alcohol (ABC License Type 41) will not adversely affect the General Plan because it is consistent with the Land Use Element designation of Commercial General for the subject property as well as the following goals and policies of the City's 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 meets resident needs and increases the capture of sales tax revenues.*

The request will expand the range of goods and services provided in the area by permitting the ancillary sale of alcohol in conjunction with an eating establishment in a safe manner for residents and customers from the surrounding area. The sale, service and consumption of alcohol within the restaurant is not anticipated to generate additional noise, traffic, or impacts above existing conditions. Conditions have been added to the request that limit the use and manner in which the existing eating and drinking establishment and expanded outdoor dining area operates to ensure the proposed request will be compatible with the surrounding neighborhood while providing a service that meets the needs of the community and creating an opportunity to increase the capture of sales tax revenue.

3. The granting of Conditional Use Permit No. 23-032 to convert the existing 473 sq. ft. outdoor dining area to a permanent patio and allow the sales, service, and consumption of alcohol (ABC License Type 41) 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) because alcohol sales within eating establishments are a permitted use within the Commercial General zone, subject to approval of a Conditional Use Permit. The restaurant with alcohol sales will be located within an existing commercial center, which conforms to land use and applicable development standards, including parking. The addition of alcohol sales does not physically expand the use and therefore will not cause the restaurant to be in noncompliance with the HBZSO.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 23-032:**

1. The site and floor plan received and dated May 22, 2024 shall be the conceptually approved design.
2. The use shall comply with the following conditions:
  - a. The hours of operations shall be limited to 11:00 AM to 10:00 PM Daily.
  - b. The business shall obtain an Alcohol Beverage Control (ABC) license authorizing alcohol use in the business and outdoor patio. All ABC requirements shall be met prior to sales, service, or consumption of alcoholic beverages. **(PD)**
  - c. 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. **(PD)**
  - d. Food service from the regular menu must be available to patrons up to one hour before the scheduled closing time, including a cook and food servers shall be on duty. **(PD)**
  - e. An employee of the alcohol business must monitor all areas where alcohol is served. **(PD)**
  - f. Alcoholic drinks shall not be included in the price of admission. **(PD)**
  - g. All alcohol shall remain within alcohol business premises, including outdoor dining area. **(PD)**
  - h. Customers may not carry alcoholic beverages from the walk-up order window to the outdoor dining area themselves. An employee of the business must deliver the alcoholic beverages to the customers within the patio. **(PD)**
  - i. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
  - j. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(PD)**
  - k. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(PD)**
  - l. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00 p.m. **(PD)**
  - m. Last call for drinks shall be no later than 15 minutes before closing. **(PD)**
  - n. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted. **(PD)**
  - o. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 60 days of being hired and for existing employees every 12months. Training shall be provided by ABC or an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(PD)**

- p. 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. **(PD)**
- q. The establishment shall employ a video surveillance security system with a minimum of one-month video library recorded to a DVR or Cloud based system. The cameras minimum requirements will be: clear, color, digital and able to record in low light. The business shall ensure all public areas, entrances, exits, parking areas to the front and adjacent to the business are covered by video surveillance. 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 police personnel conducting investigations. You are required to have someone able to operate the system on duty during all business hours. **(PD)**
- r. 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. **(PD)**
- s. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business and outdoor dining areas. **(PD)**
- t. Signs shall be posted in a conspicuous space at the entrance/exit of the business and outdoor dining area which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- u. 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). **(PD)**
- v. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee. **(PD)**
- w. 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. **(PD)**
- x. No dining or consumption of alcoholic beverages shall be permitted in the outdoor patio areas between the hours of 10:00 PM and 7:00 AM. **(PD)**
- y. The proposed patio shall not obstruct the egress doors from the indoor dining area. No chairs, tables or other items shall be placed in the egress path. The clear width of the exit doors shall be maintained till the public right of way. The plans do not show any canopies or tents. Any tents exceeding 400 square feet will require an operational permit from the HBFD. **(FD)**
- z. All existing canopies at the project site shall be removed within ten days from the Notice of Action. Any proposal for a permanent cover over the outdoor dining area shall be reviewed and approved by the Department of Community Development by obtaining all applicable permits. Temporary uniform table umbrellas shall be permitted.

3. Prior to the submittal of building permits, zoning entitlement conditions of approval shall be printed verbatim on one of the first three pages of all the 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.
4. 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.
5. CUP No. 23-032 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.
6. The Zoning Administrator reserves the right to revoke Conditional Use Permit 23-032 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
7. 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.

**THE MEETING WAS ADJOURNED AT 2:01 P.M. TO THE NEXT REGULARLY SCHEDULED MEETING ON WEDNESDAY, AUGUST 21, 2024, AT 1:30 P. M.**



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Wayne Carvalho  
Zoning Administrator

WC:mr