



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF COMMUNITY DEVELOPMENT

Planning Division

714/536-5271

Code Enforcement Division

714/375-5155

Building Division

714/536-5241

NOTICE OF CITY COUNCIL ACTION

April 20, 2017

Heather Anderson
3195B Airport Loop Drive
Costa Mesa, CA 92626

SUBJECT: CONDITIONAL USE PERMIT NO. 16-045 (HQ GASTROPUB)

APPLICANT: Heather Anderson, 3195B Airport Loop Drive, Costa Mesa, CA 92626

**PROPERTY
OWNER:**

Capref Strand, LLC, 8343 Douglas Avenue, Suite 200, Dallas, TX 75225

REQUEST:

Conditional Use Permit No. 16-045 represents a request to reestablish a restaurant with on-site sales and consumption of alcohol in a vacant 5,431-square-foot tenant space; to amend Condition No. 1 from City Council Resolution No. 2013-24, Exhibit A, to allow the restaurant to operate until 2:00 am three days a week in lieu of operating between 7:00 am and 12:00 am daily as required; and to make improvements to the existing building façade for the new restaurant.

LOCATION:

155 5th Street, #183, 92648 (north side of Pacific Coast Highway between 5th Street and 6th Street – The Strand)

DATE OF

ACTION:

April 17, 2017

On Monday, April 17, 2017, Huntington Beach City Council 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 City Council is final.

Please be advised that the City Council 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 two (2) years after final approval, as 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 Christopher Wong, the project planner, at Chris.Wong@surfcity-hb.org or (714) 374-5357 or Community Development Department at (714) 536-5271.

Sincerely,



Scott Hess, AICP
Director of Community Development

Attachment: Findings and Conditions of Approval – CUP No. 16-045

c: Scott Hess, Director of Community Development
Robin Estanislau, City Clerk
Christopher Wong, Associate Planner
Jeffrey Harwin, Property Owner
Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 16-045

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The City Council finds the project will not have a significant effect on the environment, and is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 Existing Facilities, because the project involves a minor alteration to the operation of an existing development involving negligible expansion of an existing use.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 16-045:

1. Conditional Use Permit No. 16-045, which reestablishes on-site sales and consumption of alcoholic beverages (beer, wine, and distilled spirits) in a 5,431-square-foot eating and drinking establishment, and amends Condition No. 1 from City Council Resolution No. 2013-24, Exhibit A, to allow the restaurant to operate until 2:00 am three days a week in lieu of operating between 7:00 am and 12:00 am daily as required, will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood with conditions of approval. Even with 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 3,061 square feet of restaurant floor area to customer dining and bar area. Approximately 73% of this area (2,238 square feet) is dedicated to dining, and 27% (823 square feet) to bar. The remaining restaurant floor area (2,370 square feet) 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. Conditional Use Permit No. 16-045, which reestablishes on-site sales and consumption of alcoholic beverages (beer, wine, and distilled spirits) in a 5,431-square-foot eating and drinking establishment, and amends Condition No. 1 from City Council Resolution No. 2013-24, Exhibit A, to allow the restaurant to operate until 2:00 am three days a week in lieu of operating between 7:00 am and 12:00 am daily as required, will be compatible with surrounding land uses. 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 because the

tenant storefront is oriented towards Pacific Coast Highway and the Pacific Ocean. In addition, parking is available in a parking structure that serves The Strand. 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 eight years, the subject tenant space was occupied by a restaurant that sold alcohol for on-site consumption. The Police Department indicated the establishment was never a problem. Therefore, the proposed restaurant use with on-site sales, service, and consumption of alcohol is compatible with surrounding uses.

3. Conditional Use Permit No. 16-045, which reestablishes on-site sales and consumption of alcoholic beverages (beer, wine, and distilled spirits) in a 5,431-square-foot eating and drinking establishment, and amends Condition No. 1 from City Council Resolution No. 2013-24, Exhibit A, to allow the restaurant to operate until 2:00 am three days a week in lieu of operating between 7:00 am and 12:00 am daily as required, 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. 2013-24.
4. The granting of Conditional Use Permit No. 16-045, which reestablishes on-site sales and consumption of alcoholic beverages (beer, wine, and distilled spirits) in a 5,431-square-foot eating and drinking establishment, and amends Condition No. 1 from City Council Resolution No. 2013-24, Exhibit A, to allow the restaurant to operate until 2:00 am three days a week in lieu of operating between 7:00 am and 12:00 am daily as required, is consistent with the General Plan. The General Plan Land Use Map designates the subject property as M-sp-d (Mixed Use – Specific Plan Overlay – Special Design Standards Overlay). The proposed project, as conditioned, is consistent with this designation and the policies, objectives, and goal of the City’s General Plan as follows:

A. Land Use Element

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding sub-region, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy LU 10.1.8 Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures to prevent negative impacts on adjacent properties.

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Eating and drinking establishments contribute to the economic vibrancy of downtown by serving the commercial, employment, entertainment, and recreation needs of nearby residents and visitors. By allowing on-site sales and consumption of alcohol, this will serve to accommodate and facilitate the success of the proposed eating and drinking establishment. With conditions of approval, on-site sales and consumption of alcohol will be compatible with the land uses in the surrounding neighborhood while providing a

service that is responsive to market needs. Conditions have been added to the permit which limits the use and manner in which alcohol may be sold and consumed, and limits the business hours of operation. This will allow alcohol sale and consumption in a safe manner for customers and residents of the surrounding area. Thus, the sale of beer, wine, and distilled spirits for on-site consumption is consistent with goals, objectives, and policies of the General Plan.

B. Economic Development Element

Policy ED 2.4.3 Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

Objective ED 2.6 Expand and enhance the existing visitor serving uses.

Policy ED 3.2.3 Attract visitor-serving uses near the beach in order to create better linkages between the beach and visitor supporting retail uses.

The project site is located across the street from the beach and in the City's downtown area, which has evolved into a pedestrian-friendly urban village containing a mix of restaurants, retail, and entertainment uses. Allowing on-site sales and consumption of alcohol in a new restaurant will preserve and enhance the range of goods and services provided in this downtown area near the beach. Therefore, the proposed use will facilitate continued viability of the existing commercial center (The Strand), and attract visitors from beyond the region.

C. Noise Element

Objective N 1.8 Minimize the generation of excessive noise level impacts from entertainment and restaurant/bar establishments into adjacent residential or "noise sensitive" land uses.

Policy N 1.8.1 Require that entertainment and restaurant/bar uses take appropriate steps to control the activities of their patrons on-site, as well as within a reasonable and legally justified distance or proximity, to minimize potential noise-related impacts on adjacent residential neighborhoods.

The nearest residences are located on 6th Street, approximately 300 feet away and northwest of the project site. However, the subject restaurant is located along Pacific Coast Highway, which is a State Facility, and oriented towards the Pacific Ocean away from residential areas. In addition, The Strand includes a dedicated parking structure for patrons, thereby reducing noise disturbances from patrons and motorists. Consideration has also been given to occupants of the hotel located above the establishment. Conditions have been imposed that will minimize potential significant noise impacts to these occupants. Therefore, on-site sales and consumption of alcohol is not anticipated to generate noise that will significantly impact surrounding uses as conditioned.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 16-045:

1. The site plan and floor plan received and dated February 16, 2017, shall be the conceptually approved design.
2. The use shall comply with the following:
 - a. Hours of operation shall be limited to between 7:00 a.m. and 12:00 am (midnight), Sunday through Wednesday; and between 7:00 am and 2:00 am, Thursday, Friday, and Saturday. **(Amended Condition No. 1, Resolution No. 2013-24, Exhibit A)**
 - b. 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. 2013-24, Exhibit A)**
 - c. Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times. **(Resolution No. 2013-24, Exhibit A)**
 - d. Alcoholic drinks shall not be included in the price of admission to any establishment. **(Resolution No. 2013-24, Exhibit A)**
 - e. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(Resolution No. 2013-24, Exhibit A)**
 - f. All alcohol shall remain within the establishment's premises. **(Resolution No. 2013-24, Exhibit A)**
 - g. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served. **(Resolution No. 2013-24, Exhibit A)**
 - h. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business. **(Resolution No. 2013-24, Exhibit A)**
 - i. Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City. **(Resolution No. 2013-24, Exhibit A)**
 - j. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(Resolution No. 2013-24, Exhibit A)**
 - k. The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code. **(Resolution No. 2013-24, Exhibit A)**
 - l. No new customers shall be permitted after 30 minutes before closing. **(Resolution No. 2013-24, Exhibit A)**

- m. Last call for drinks shall be no later than 15 minutes before closing. **(Resolution No. 2013-24, Exhibit A)**
- n. Only single-sized drinks and no multiple drinks shall be served after midnight. **(Resolution No. 2013-24, Exhibit A)**
- o. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(Resolution No. 2013-24, Exhibit A)**
- p. 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 an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(Resolution No. 2013-24, Exhibit A)**
- q. Establishments shall install and maintain a video surveillance system to monitor public area of premises and shall make the video available to the police department for any criminal or civil investigation. The business shall employ a video surveillance system and a one-month video library. The minimum requirements for the cameras will be: color, digital recording to DVR and able to record in low light. The business shall ensure all doors, eating areas, and parking areas 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 officers conducting investigations. **(Resolution No. 2013-24, Exhibit A / PD)**
- r. Bi-fold windows along the storefront shall remain closed from 10:00 pm to 7:00 am daily. **(CDD)**
- s. Prior to the issuance of any building permits, an encroachment permit shall be obtained from the California Department of Transportation (Caltrans) for any projections into the public right-of-way. **(CDD / PW)**
- t. Prior to sales, service or consumption of alcoholic beverages the establishment shall obtain an ABC license authorizing On Sale alcohol sales. The establishment shall be limited to a Type 47 (On Sale Eating Place) ABC License. **(PD)**
- u. Signs shall be posted in a conspicuous space at the entrance/exit of the restaurant, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- v. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
- w. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00 pm. **(PD)**
- x. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
- y. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**

- z. 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. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition. **(PD)**
 - aa. There shall be no window coverings or advertisements that reduce the visibility inside of the business. This will assist officers in observing crimes in progress. **(PD)**
 - bb. All owners, employees, representatives, and agents must obey all state, local, and municipal laws, and conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by a regulatory authority with jurisdiction over the premise; at all times. **(PD)**
 - cc. 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. **(CC)**
- 3. The development services departments and divisions (Police, Building and 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 and Police Chief 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 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.
 - 4. Conditional Use Permit No. 16-045 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.
 - 5. A revocation hearing shall be scheduled to consider the revocation of Conditional Use Permit No. 16-045, pursuant to provisions for revocation in the Huntington Beach Zoning and Subdivision Ordinance, if any substantiated and frequent violations of the conditions of approval of Conditional Use Permit No. 16-045, Entertainment Permit, Huntington Beach Zoning and Subdivision Ordinance, Huntington Beach Municipal Code, or any other laws occurs.
 - 6. Incorporation of sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<https://www.builditgreen.org/greenpoint-rated>).

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.