

## **ATTACHMENT NO. 1**

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

#### **CONDITIONAL USE PERMIT NO. 21-026**

#### **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 of the CEQA Guidelines, because the project consists of negligible or no expansion of an existing structure.

#### **FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 21-026:**

1. Conditional Use Permit No. 21-026 to establish a restaurant with on-site sale, service, and consumption of general alcohol (ABC Type 47 License) within an existing 2,740 sq. ft. tenant space and 441 sq. ft. outdoor dining area 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 located within an existing commercial development with a mix of retail, office, food, service, and hotel uses. The proposed restaurant with alcoholic sales will serve residential uses in the vicinity. The proposed use is not anticipated to generate any significant noise, traffic, or other impacts detrimental to surrounding properties. The nearest residential uses to the restaurant are approximately 135 feet to the northwest across Walnut Avenue. In addition, the project is consistent with City Council Resolution No. 2017-42 standard conditions of approval for restaurants with only alcohol sales in the Downtown area. Conditions of approval have been included which limit the use and manner in which alcohol may be sold and consumed. Such conditions require availability of food service until at least one hour before closing time, the prohibition of off-site alcohol service, illumination and security cameras, and compliance with all applicable laws.
2. The granting of Conditional Use Permit No. 21-026 to establish a restaurant with on-site sale, service, and consumption of general alcohol (ABC Type 47 License) within an existing 2,740 sq. ft. tenant space and 441 sq. ft. outdoor dining area 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 designation and the goals and policies of the General Plan as follows:

#### **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.

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

The proposed conditional use permit will expand the range of goods and services provided in the area by establishing a new restaurant with alcohol sales within the Downtown Core District that is consistent with the surrounding mixed-use development. Conditions of approval have been added to the request that limit the manner to ensure the proposed restaurant with alcohol sales 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 revenues.

3. Conditional Use Permit No. 21-026 to establish a restaurant with on-site sale, service, and consumption of general alcohol (ABC Type 47 License) within an existing 2,740 sq. ft. tenant space and 441 sq. ft. outdoor dining area complies with Specific Plan No. 5 (Downtown Specific Plan) zoning district standards, applicable provisions of the Huntington Beach Zoning and Subdivision Ordinance, and specific conditions required for the proposed use from Resolution No. 2017-42.

**CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 21-026:**

1. The site plan and floor plans received and dated November 15, 2021 shall be the conceptually approved layout.
2. The use shall comply with the following:
  - a. Hours of operation shall be limited to:
    - i. Restaurant: 7:00 a.m. to 12:00 a.m., daily
    - ii. Outdoor Dining Area: 7:00 a.m. to 10:00 p.m., daily
  - b. No new customers shall be permitted after 30 minutes before closing. **(Resolution No. 2017-042, Exhibit A)**
  - c. 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)**
  - d. 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)**
  - e. 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)**
  - f. The CUP shall not be effective until an ABC license has been issued and provided to the City. **(Resolution No. 2017-042, Exhibit A)**
  - g. 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)**
  - h. 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 (*if the business is permitted to operate 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)**
  - j. No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time. **(Resolution No. 2017-042, Exhibit A)**
  - k. 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)**

- I. 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)**
- m. 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)**
- n. 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)**
- o. 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)**
- p. 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 area 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. The establishment is required to have someone able to operate the system on duty during all business hours. **(PD)**

- q. Prior to sales, service, or consumption of alcoholic beverages, the business shall obtain an ABC License Type 47 (On Sale General, Eating Place). **(PD)**
3. The Development Services Departments (Community Development, Fire, and Police) 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.
  4. Conditional Use Permit No. 21-026 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. Conditional Use Permit No. 21-026 shall not become effective until the appeal period following the approval of the entitlement has elapsed.
  6. The Zoning Administrator reserves the right to revoke Conditional Use Permit No. 21-026 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 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.

**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.