

## **ATTACHMENT NO. 1**

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

#### **CONDITIONAL USE PERMIT NO. 22-004**

##### **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 commercial building not exceeding 10,000 sq. ft. in floor area in an urbanized area with all necessary public services and facilities.

##### **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 22-004:**

1. Conditional Use Permit No. 22-004 to demolish an existing 7,000 sq. ft. commercial office and construct a 3,415 sq. ft. fast food restaurant with a 1,353 sq. ft. outdoor dining area and dual drive-thru lanes. The project also includes a request for reduced parking and the on-site 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 or detrimental to the value of the property and improvements in the neighborhood because the proposed project the site is surrounded by similar commercial uses to the north, south, east, and west. The propose project will not significantly impact nearby sensitive land uses as the project fronts Brookhurst Street and a parking lot to the south. The nearest residential use is located approximately 230 ft. to the south and is buffered by a parking lot, and other buildings within the commercial center. Adequate automobile drive-thru queuing will be provided and impacts to on-site and off-site circulation are not anticipated. A pedestrian pathway will be added along Brookhurst Street to provide additional pedestrian friendly connectivity and increased landscaping will be added to entrances and parkway along Brookhurst Street. The sale, service, and consumption of beer and wine will be contained within the restaurant and enclosed outdoor patio area. Conditions have been added to the request which prohibits dining or the consumption of alcoholic beverages in the outdoor patio area between the hours of 10:00 PM and 7:00 AM to ensure that operations within the patio area will be compatible with the surrounding neighborhood. As such, impacts to the residential use are not anticipated.

The request for reduced parking is based on a shared parking analysis and a transportation demand management plan, prepared by Kimley-Horn (by Elizabeth Chau and Fareed Pittalwala, P.E., both state-registered traffic engineers), received and dated June 17, 2022. An analysis was provided between the City's off-street parking requirements for the project, the existing conditions of the subject site, and Urban Land Institute (ULI) shared parking methodology. The study concludes that the average parking demand is between 495 and 718 parking spaces. As a result, the shared parking study supports a 20-space parking reduction and adequate on-site parking can be accommodated within the site's existing 730 parking spaces.

2. The granting of Conditional Use Permit No. 22-004 to demolish an existing 7,000 sq. ft. commercial office and construct a 3,415 sq. ft. fast food restaurant with a 1,353 sq.

ft. outdoor dining area, dual drive-thru lanes, reduced parking, and on-site sale, service, and consumption of beer and wine (ABC License Type 41) 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 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 (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.
- f. Policy LU-11 (B): Encourage new businesses to locate on existing vacant or underutilized commercial properties where these properties have good locations and accessibility.
- g. Policy LU-11 (C): Maximize the economic development services provided by the City to existing and prospective businesses and industries.

Goal LU-12: Commercial and industrial corridors throughout the planning area are renovated and revitalized.

The proposed project consists of the development of a drive-thru restaurant building with an outdoor patio, with beer and wine sales within an existing shopping center. The project site will continue to serve adjacent residential development and future development within the City as a whole. The project is located within an established area containing similar commercial uses. The building complies with the City's Urban Design Guidelines for commercial buildings, featuring quality architecture and exterior finish materials, a variety of roof lines and façade treatments, and a functional site layout. The proposed building will include enhanced pedestrian areas, and is conditioned to include a landscape berm along the drive-thru areas to create improved visual relief. The shared parking analysis prepared by Kimley-Horn has determined that the onsite requirement for the eating and drinking establishment is in excess of 12 parking spaces than the expected peak parking demand. The proposed project will further accommodate the redevelopment of an existing commercial site with uses that will serve the needs of local residents and visitors to the City by providing additional commercial serving opportunities. The request will expand the range of goods and services provided in the area by permitting the ancillary sale of beer and wine in conjunction with a proposed eating and drinking establishment in a safe manner for customers and residents. Therefore, the proposed project will be consistent with the

overall goals and needs of the community, provide goods and services to meet regional and local needs, and renovate and revitalize an existing retail shopping center.

3. The proposed conditional use permit to demolish an existing 7,000 sq. ft. commercial office and construct a 3,415 sq. ft. fast food restaurant with a 1,353 sq. ft. outdoor dining area, dual drive-thru lanes, reduced parking, and on-site sale, service, and consumption of beer and wine (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) in that the proposed eating and drinking establishment use with beer and wine sales, service, and consumption is permitted within the CG (Commercial General) zoning district pursuant to Section 211.04 of the HBZSO—CO, CG, and CV Districts: *Land Use Controls* with approval of a Conditional Use Permit. The restaurant and outdoor dining area will be located within an existing shopping center, which conforms to applicable site development standards in terms of minimum yard setbacks, minimum landscaping, and maximum floor area ratio with exception of the request for reduced parking. The shared parking analysis determined that the onsite parking requirement for the eating and drinking facility is in excess of 12 spaces than the expected peak parking demand. Additionally, a Transportation Demand Management (TDM) plan was prepared by the applicant for the commercial building. The plan incorporates TDM measures such as bicycle racks, transit information, and other strategies as required by HBZSO Section 230.36.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 22-004:**

1. The site plan, floor plans, and shared parking analysis received and dated June 17, 2022; the elevations received July 11, 2022; and the TDM plan received and dated July 7, 2022 shall be the conceptually approved design with the following modification: heavier landscaping shall be installed within the entire length of the landscaped portion of the drive-thru to provide a substantial buffer between the drive-thru and the public right-of-way/drive aisle.
2. The use shall comply with the following:
  - a. The hours of operation shall be limited to the following:
    - i. Drive-thru: 7:00 AM – 11:00 PM (Daily)
    - ii. Dining Room: 7:00 AM – 11:00 PM (Daily)
    - iii. Outdoor Patio: 7:00 AM – 10:00 PM (Daily)
  - b. Both drive-thru lanes shall be utilized during peak restaurant hours.
  - c. The applicant shall conduct ongoing monitoring of the drive-thru service to establish that the vehicle queuing occurs within the drive-thru lanes and shopping center drive aisles. Any vehicular queuing related to the project's operation affecting the public right-of-way shall be addressed by the applicant to the satisfaction of Community Development and Public Works.

- d. 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)**
- e. 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)**
- f. 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)**
- g. 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." **(PD)**
- h. 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)**
- i. 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)**
- j. An employee of the alcohol business must monitor all areas where alcohol is served. **(PD)**
- k. Alcoholic drinks shall not be included in the price of admission. **(PD)**
- l. All alcohol shall remain within alcohol business premises, including outdoor dining area. **(PD)**
- m. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
- n. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(PD)**
- o. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(PD)**
- p. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00 p.m. **(PD)**
- q. Last call for drinks shall be no later than 15 minutes before closing. **(PD)**
- r. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted, except when training for knowledge of food pairing, if applicable. **(PD)**

- s. 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. **(PD)**
  - t. 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)**
  - u. No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time. **(PD)**
  - v. 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. The business shall be required to have someone able to operate the system on duty during all business hours. **(PD)**
  - w. 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)**
  - x. There shall be no window coverings or advertisements that reduce the visibility inside of the business. **(PD)**
  - y. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
  - z. Dancing and/or dance floor and/or live entertainment is prohibited. A new or amended Conditional Use Permit and Entertainment Permit, issued by the City, shall be required for these additional activities. **(PD)**
- 3. Non-commercial wall mural/graphics shall not portray any commercial business, product, or food related images. Prior to the installation of any non-commercial wall mural/graphics, the final concept and design shall be reviewed and approved by the Planning Division of the Community Development Department.
  - 4. Signage shall be reviewed under separate permits and processing.
  - 5. At least 14 days prior to any grading activity, the property owner/developer shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site. The notice shall include a general description of

planned grading activities and an estimated timeline 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.

6. Prior to submittal for building permits, the following shall be completed:
  - a. Zoning entitlement conditions of approval, code requirements identified herein 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 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.
  - b. A detailed landscaping plan, including details of the landscape berm and additional landscaping along the length of the drive-thru, shall be submitted to the Planning Division for review and approval.
7. The final building permit(s) cannot be approved until the following have been completed:
  - a. All improvements shall be completed in accordance with approved plans.
  - b. Compliance with all conditions of approval specified herein shall be verified by the Planning Division.
  - c. The applicant shall provide signage directing customers to enter from the shopping center main driveway located immediately west of the project site to the satisfaction of Community Development and Public Works.
8. 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.
9. Conditional Use Permit No. 22-004 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 of Community Development pursuant to a written request submitted to the Planning Division a minimum 30 days prior to the expiration date.
10. The development services departments and divisions (Planning, Building and Safety, Fire, 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 Community Development Director's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Director of Community Development 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.