

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 19-001

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 – ENTITLEMENT PLAN AMENDMENT NO. 19-001:

1. Entitlement Plan Amendment No. 19-001 to amend Condition 2.a of CUP No. 16-041 to modify the hours of operation and permit the sales, service, and consumption of general alcohol (ABC Type 47 License) within a proposed 342 sq. ft. outdoor patio 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 use is located within an existing commercial center with other similar uses. The use is primarily a restaurant and the sale and service of general alcohol is ancillary to the primary restaurant use. The amended operation hours and proposed outdoor patio will benefit and serve the other uses in the center as well as the residential uses in the vicinity. The restaurant and proposed patio are not anticipated to generate additional noise, traffic, or impacts above existing conditions. As conditioned, the outdoor patio will not stay open past 10:00 p.m. The storefront of the restaurant and outdoor patio are oriented toward a major street (Magnolia St.). The outdoor patio area is more than 100 ft. from the nearest residence and is buffered from noise related to the business by an existing parking lot and major street. In addition, the sale, service and consumption of general alcohol sales will be contained within the existing restaurant and in the delineated 342 sq. ft. outdoor patio area.
2. The granting of the entitlement plan amendment to amend Condition 2.a of CUP No. 16-041 to modify the hours of operation and permit the sales, service, and consumption of general alcohol (ABC Type 47 License) within a proposed 342 sq. ft. outdoor patio will not adversely affect the General Plan because it is consistent with the Land Use Element designation of CG (Commercial General) on the subject property. In addition, it is consistent with the following goals and policies of the 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 existing eating and drinking establishment in a safe manner for residents and customers from the surrounding area. The extended operation hours for the restaurant and the proposed patio are not anticipated to generate additional noise, traffic, or impacts above existing conditions. The residential uses to the east of the subject site are buffered from noise related to the business by an existing parking lot and major street. The proposed outdoor patio area is more than 100 ft. away from the nearest residence and the entrance of the restaurant and patio area is oriented toward Magnolia Street. Conditions have been added to the request which limit the use and manner in which alcohol may be sold and consumed on-site to ensure the proposed use will be compatible with the surrounding neighborhood while providing a service that will meet the needs of the community and increase sale tax revenue.

3. The proposed Entitlement Plan Amendment No. 19-001 to amend Condition 2.a of CUP No. 16-041 to modify the hours of operation and permit the sales, service, and consumption of general alcohol (ABC Type 47 License) within a proposed 342 sq. ft. outdoor patio 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 because the General Plan land use designation and CG zoning designation anticipated eating and drinking facilities with alcohol service, sale and consumption in this area. The sale and service of alcohol is ancillary to the primary restaurant use and the proposed outdoor patio will serve to augment the overall dining experience. The proposed use will comply with all building occupancy/exiting requirements.

CONDITIONS OF APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 19-001:

1. The site plan, floor plans, and elevations received and dated February 25, 2019 shall be the conceptually approved design.
2. The use shall comply with the following:
 - a. The hours of operation shall be limited to the following:
 - i. Daily (restaurant): 11:00 a.m. – 2:00 a.m.
 - ii. Daily (outdoor patio): 11:00 a.m. – 10:00 p.m.
 - b. Prior to the sales, service, or consumption of alcoholic beverages, the business shall obtain an ABC license authorizing On Sale Alcohol Sales. The business shall be limited to a Type 47 (On Sale Eating Place) or Type 41 (On Sale Beer/Wine Eating Place) ABC license. All conditions contained in the ABC license shall be adhered to. **(PD)**
 - c. There shall be no entertainment, beyond ambient recorded music, allowed without a valid Entertainment Permit issued by the Huntington Beach Police Department. Entertainment which would require additional parking, like

dancing, or modification of plans dated 10-13-16 (CUP 16-041) would need approval by the Planning Department and may require a Conditional Use Permit (CUP) for this specific use. **(PD)**

- d. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available to the public until at least one hour prior to the scheduled closing time. **(PD)**
- e. An employee of the establishment must monitor all areas where alcohol is served. **(PD)**
- f. 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. **(PD)**
- g. No new customers shall be permitted after 30 minutes before closing. **(PD)**
- h. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(PD)**
- i. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00PM. **(PD)**
- j. Last call for drinks shall be no later than 15 minutes before closing. **(PD)**
- k. All alcoholic beverages shall remain within the interior of the restaurant and bar, per §9.44.010 of the Huntington Beach Municipal Code (HBMC). **(PD)**
- l. Consumption of alcoholic beverages by on-duty employees, including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
- m. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
- n. No consumption of alcoholic beverages shall be permitted in the outdoor patio entrance way before the pillar, at any time. **(PD)**
- o. 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 daily. **(PD)**
- p. Only an employee and not a patron will be permitted to carry an alcoholic beverage from the interior portion of the premises to said patio area, nor from said patio area to the interior portion of the premises. **(PD)**
- q. Entertainment shall not be allowed on the patio, unless approved by an Entertainment Permit. **(PD)**
- r. Signs shall be posted in a conspicuous space at the exits of the restaurant and patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**

- s. 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)**
 - t. All persons engaged in the sale or service of alcohol shall complete a mandatory Responsible Beverage Service (RBS) training and certification. This 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. **(PD)**
 - u. 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: 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)**
 - v. All owners, employees, representatives, and agents shall 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)**
3. EPA No. 19-001 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.
4. 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.