

## **ATTACHMENT NO. 1**

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

#### **ENTITLEMENT PLAN AMENDMENT NO. 19-011**

##### **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. 19-011:**

1. Entitlement Plan Amendment No. 19-011 to amend Conditional Use Permit No. 10-024 to permit: 1) the remodel of an existing mixed-use building consisting of the conversion of an existing 400 sq. ft. outdoor dining area to an enclosed, two-car garage; convert residential floor area into a new 400 sq. ft. outdoor dining area on the second floor for an existing eating and drinking establishment which results in no added square footage, with live entertainment (Cruiser's); and 2) change the hours of operation from 7:00 AM to 12:00 AM, daily to 7:00 AM to 1:00 AM Thursday - Saturday 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 mixed use building with other similar uses surrounding the site. The Huntington Beach Police Department has reviewed the request to deviate from the hours of operation - set forth in Resolution No. 2017-42 to allow operations to occur from 7:00 AM to 1:00 AM Thursday – Saturday and supports the deviation of the hours of operation, subject to the conditions of approval from Resolution No. 2017-42, which regulates the use and manner in which alcohol may be sold and consumed on-site. The use is primarily a restaurant and the sale and service of general alcohol (ABC Type 47) is ancillary to the primary restaurant use. The restaurant and proposed patio are not anticipated to generate additional noise, traffic, or impacts above existing conditions because the restaurant is not adding new square footage and the existing 400 sq. ft. patio is being relocated to the second floor facing 5<sup>th</sup> Street. In addition, a condition of approval will require hours of operation of the patio from 7:00 AM to 10:00 PM. The storefront of the restaurant and outdoor patio are oriented toward 5<sup>th</sup> Street, which has a mix of commercial and multi-family residential uses. The nearest residence is approximately 80 feet away from the subject site and is buffered from noise by 5<sup>th</sup> Street. In addition, the sale, service and consumption of general alcohol sales will be contained within the existing restaurant and in the delineated approximate 400 sq. ft. outdoor patio area.
2. The granting of the Entitlement Plan Amendment No. 19-011 to amend Conditional Use Permit No. 10-024 to permit: 1) the remodel of an existing mixed-use building consisting of the conversion of an existing 400 sq. ft. outdoor dining area to an enclosed, two-car garage; convert residential floor area into a new 400 sq. ft. outdoor dining area on the second floor for an existing eating and drinking establishment which results in no added square footage, with live entertainment (Cruiser's); and 2) change the hours of operation from 7:00 AM to 12:00 AM, daily to 7:00 AM to 1:00 AM Thursday – Saturday, which deviates from the required hours of operation set forth in Resolution No. 2017-42, will not adversely affect the General Plan because it is consistent with the Land Use Element designation of M - sp 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 allowing the continuance of 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 of 7:00 AM to 1:00 AM Thursday - Saturday for the restaurant and 7:00 AM to 10:00 PM, daily for the proposed patio are not anticipated to generate additional noise, traffic, or impacts above existing conditions. The Huntington Beach Police Department has reviewed the deviation from the hours of operation required in Resolution No. 2017-42 and does not anticipate impacts to the surrounding neighborhood. The residential uses to the west of the subject site are buffered from noise by a 60 ft. wide street (5<sup>th</sup> Street). The proposed outdoor patio area is approximately 80 ft. away from the nearest residence and the entrance of the restaurant and patio area is oriented toward 5<sup>th</sup> Street, which has a mix of commercial and multi-family residential uses. No additional square footage is proposed for the existing residential or commercial uses. Conditions from Resolution No. 2017-42 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. 19-011 to amend Conditional Use Permit No. 10-024 to permit: 1) the remodel of an existing mixed-use building consisting of the conversion of an existing 400 sq. ft. outdoor dining area to an enclosed, two-car garage; convert residential floor area into a new 400 sq. ft. outdoor dining area on the second floor for an existing eating and drinking establishment which results in no added square footage, with live entertainment (Cruiser's); and 2) change the hours of operation from 7:00 AM to 12:00 AM, daily to 7:00 AM to 1:00 AM Thursday - Saturday 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 SP 5- CZ 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. 19-011:**

1. The site plan, floor plans, and elevations received and dated October 3, 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. Sunday, Monday, Tuesday, Wednesday (restaurant): 7:00 AM – 12:00 AM.
  - ii. Thursday, Friday, Saturday (restaurant): 7:00 AM to 1:00 AM.
  - iii. Daily (outdoor patio): 7:00 a.m. – 10:00 p.m. **(PD)**
- b. The fabric awning for the patio structure located on the outdoor dining area shall be maintained in a neat and clean manner, free from any tatters, rips or disrepair. In the event the fabric becomes damaged, it shall be repaired and/or replaced immediately.
- c. Outdoor dining area lighting shall be oriented toward the interior of the building and away from adjacent properties and the public right-of-way.
- d. No new customers shall be permitted after 30 minutes before closing. **(Resolution No. 2017-042, Exhibit B)**
- e. 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 B)**
- f. 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 B)**
- g. 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 B)**
- h. The CUP shall not be effective until an ABC license has been issued and provided to the City. **(Resolution No. 2017-042, Exhibit B)**
- i. 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 B)**
- j. 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. **(Resolution No. 2017-042, Exhibit B)**
  - ii. Alcoholic drinks shall not be included in the price of admission to any alcohol business. **(Resolution No. 2017-042, Exhibit B)**
  - iii. All alcohol shall remain within alcohol business premises, including outdoor dining areas. **(Resolution No. 2017-042, Exhibit B)**

- iv. Service of alcoholic beverages for consumption off-site shall not be permitted. **(Resolution No. 2017-042, Exhibit B)**
- v. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(Resolution No. 2017-042, Exhibit B)**
- vi. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(Resolution No. 2017-042, Exhibit B)**
- vii. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00p.m. **(Resolution No. 2017-042, Exhibit B)**
- 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. **(Resolution No. 2017-042, Exhibit B)**
- ix. Each individual patron shall only be served one standard single-sized alcoholic beverage at a time after midnight. **(Resolution No. 2017-042, Exhibit B)**
- x. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted. **(Resolution No. 2017-042, Exhibit B)**
- 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 B)**
- k. 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 B)**
- l. No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time. **(Resolution No. 2017-042, Exhibit B)**
- m. 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 B)**

- n. 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. **(Resolution No. 2017-042, Exhibit B)**
  - ii. There shall be no window coverings or advertisements that reduce the visibility inside of the business. **(Resolution No. 2017-042, Exhibit B)**
  - iii. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(Resolution No. 2017-042, Exhibit B)**
  - 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 B)**
- o. Entertainment is not allowed on the patio/outdoor dining area. **(Resolution No. 2017-042, Exhibit B)**
- p. Dancing and/or dance floor shall be prohibited. **(Resolution No. 2017-042, Exhibit B)**
- q. 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." **(Resolution No. 2017-042, Exhibit B)**
  - 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 B)**
- r. 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 B)**
- s. No signs shall be placed on or secured to any barrier advertising the serving or availability of alcohol. **(PD, CUP 10-024)**
- t. Outdoor dining areas shall be continuously supervised by management or employees of the establishment. Food establishments serving alcoholic beverages shall have a supervisor on site at all times. Behavior that disrupts customers or passerby's shall not be tolerated and constitutes a violation of these provisions. **(PD, CUP 10-024)**

3. EPA No. 19-011 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.