

## **ATTACHMENT NO. 1**

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

#### **ENTITLEMENT PLAN AMENDMENT NO. 19-009**

#### **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. 19-009:**

1. Entitlement Plan Amendment No. 19-009 to amend CUP No. 14-014 to permit the expansion of an existing 1,500 sq. ft. restaurant with 150 sq. ft. of outdoor dining with on-site sales, service, and consumption of beer and wine (ABC Type 41 License) into the adjacent 1,440 sq. ft. tenant space with 200 sq. ft. of outdoor dining and a 32 space parking reduction within an existing commercial center 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 shopping center. The use is primarily a restaurant and the sale and service of general alcohol (ABC Type 41) is ancillary to the primary restaurant use. Alcohol service will only occur within the interior of the restaurant and in the 150 sq. ft. outdoor dining area of the newly expanded restaurant area (Outdoor Dining Area B as depicted in Condition No. 1). The proposed restaurant expansion is not anticipated to generate additional noise, traffic, or impacts above existing conditions because the shared parking study prepared by K2 Traffic Engineering, received October 31, 2019, demonstrates that peak parking demand for the property, including the restaurant expansion, will not exceed the number of parking spaces at the property. The property provides 240 parking spaces to patrons and at peak demand, there is a surplus of 6 parking spaces with the proposed expansion. The nearest residences are approximately 116 ft. to the west of the building. The residences are buffered by an existing driveway and the restaurant expansion and outdoor dining orients towards Brookhurst Street, away from the residents to the west. Residences to the north are approximately 288 ft. from the proposed use and are buffered by a commercial parking lot, residential RV storage, and driveway.
2. The granting of Entitlement Plan Amendment No. 19-009 to amend CUP No. 14-014 to permit the expansion of an existing 1,500 sq. ft. restaurant with 150 sq. ft. of outdoor dining with on-site sales, service, and consumption of beer and wine (ABC Type 41 License) into the adjacent 1,440 sq. ft. tenant space with 200 sq. ft. of outdoor dining and a 32 space parking reduction within an existing commercial center 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 allowing the continuance of the ancillary sale of alcohol in conjunction with an existing eating and drinking establishment and outdoor dining in a safe manner for residents and customers from the surrounding area. The conditioned hours of operation for the restaurant and outdoor dining are not anticipated to generate additional noise, traffic, or impacts above existing conditions. The business entrance and outdoor patio are oriented towards Brookhurst Street. The nearest residences to the east are buffered by an existing driveway and parking lot. The nearest residences to the north are buffered by a commercial parking lot, residential RV storage, and driveway. 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 Entitlement Plan Amendment No. 19-009 to amend CUP No. 14-014 to permit the expansion of an existing 1,500 sq. ft. restaurant with 150 sq. ft. of outdoor dining with on-site sales, service, and consumption of beer and wine (ABC Type 41 License) into the adjacent 1,440 sq. ft. tenant space with 200 sq. ft. of outdoor dining and a 32 space parking reduction 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 Commercial General 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 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. 19-009:**

1. The site plan, floor plans, elevations, and shared parking study received and dated October 31, 2019 shall be the conceptually approved design.
2. The use shall comply with the following:
  - a. The hours of operation for the restaurant shall be limited to: 7:00 a.m. – 11:00 p.m., daily.
  - b. The hours of operation for the outdoor dining areas shall be limited to: 7:00 a.m. – 10:00 p.m., daily.
    - i. There shall be no alcohol service in Outdoor Dining Area A as depicted on the plans received and dated October 31, 2019.
  - c. The business shall obtain an Alcoholic Beverage Control (ABC) license authorizing alcohol use in the business. All ABC requirements shall be met prior to sales, service, or consumption of alcoholic beverages. **(PD)**

- d. All alcohol sold by the establishment shall be placed in distinctively marked containers, clearly indicating the contents of the container, thus discouraging customers from carrying the containers out to their cars or to the beach. **(PD)**
- e. No dining or consumption of alcoholic beverages will be permitted on the outdoor patio areas between the hours of 10:00 PM and 7:00 AM. **(PD)**
- f. The outdoor dining/patio area shall have a physical barrier of no less than 36 inches in height surrounding the outdoor dining areas and designed in a manner that will prohibit passing alcohol through the barrier. **(PD)**
- g. If the outdoor dining/patio area is not completely enclosed with a barrier or gate, then the opening in the barrier cannot be larger than 48 inches. Only an employee and not a patron will be permitted to carry alcoholic beverages from the interior portion of the premises to said patio area, nor from said patio area to the interior portion of the premises. **(PD)**
- h. No carryout alcohol sales shall be permitted. All alcoholic beverages shall be consumed within the restaurant or outdoor dining/patio area. **(PD)**
- i. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00PM. **(PD)**
- j. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted. **(PD)**
- k. All employees engaged in the sale or service of alcohol shall complete 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 ABC or an ABC approved RBS trainer. Records of the training shall be maintained on-site for review. **(PD)**
- l. Consumption of alcoholic beverages by on-duty employees and supervisory personnel is forbidden, except when training for knowledge of food pairing, if applicable. **(PD)**
- m. There shall be no entertainment allowed without a valid Entertainment Permit issued by the Huntington Beach Police Department. Entertainment which would require modification of plans dated 10/31/19 or that require addition parking, like dancing, would need approval by the Planning Department and may require a Permit for that specific use. **(PD)**
- n. Clearly legible signage shall be affixed inside the restaurant and outdoor dining/patio area entrances/exits points which shall state "NO OPEN ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- o. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**

- p. 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)**
  - q. All areas where the sales, service, and consumption of alcoholic beverages will be permitted must be sufficiently illuminated to permit the identification of patrons. **(PD)**
  - r. 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)**
  - s. 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. You are required to have someone able to operate the system on duty during all business hours. **(PD)**
  - t. 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)**
3. EPA No. 19-009 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.