

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 20-009

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 – CONDITIONAL USE PERMIT NO. 20-009:

1. Conditional Use Permit No. 20-009 to permit the sales, service, and consumption of beer and wine (ABC Type 41 License) within a 1,676 sq. ft. eating and drinking establishment 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 use is primarily a restaurant and the sale and service of beer and wine (ABC Type 41 License) is ancillary to the restaurant use. The restaurant is not anticipated to generate additional noise, traffic, or impacts above existing conditions because the restaurant is not adding new square footage. The sale, service and consumption of beer and wine will be contained within the interior of the building; no outdoor dining is proposed. The storefront of the restaurant is oriented toward Olive Avenue, which includes commercial uses and a parking structure. The nearest residence is located in an adjacent mixed-use building north of the subject site and is buffered from noise by the building itself, as well as its third floor location. The residential uses to the southeast of the subject site are buffered from noise by an approximately 86 ft. wide intersection (3rd St. and Olive Ave.). The Huntington Beach Police Department has reviewed the request for beer and wine service and has provided conditions of approval from Resolution No. 2017-42, which regulate the use and manner in which alcohol may be sold and consumed on-site. Therefore, no impacts will be generated with this request.
2. The granting of Conditional Use Permit No. 20-009 to permit the sales, service, and consumption of beer and wine (ABC Type 41 License) within a 1,676 sq. ft. eating and drinking establishment 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 ancillary sale of beer and wine in conjunction with an eating and drinking establishment in a safe manner for residents and customers in the surrounding area. The proposed operation hours of 10:00 AM to 10:00 PM, Monday – Thursday and 10:00 AM – 12:00 AM, Friday – Sunday for the restaurant are not anticipated to generate additional noise, traffic, or impacts above existing conditions. The nearest residence is located in an adjacent mixed-use building north of the subject site and is buffered from noise by the building itself, as well as its third floor location. Additionally, the residential uses to the southeast of the subject site are buffered from noise by an approximately 86 ft. wide intersection (3rd St. and Olive Ave.). The entrance of the restaurant is oriented toward Olive Ave, which includes commercial uses and a parking structure. Conditions from Resolution No. 2017-42 have been added to the request which limit the use and manner in which beer and wine 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 Conditional Use Permit No. 20-009 to permit the sales, service, and consumption of beer and wine (ABC Type 41 License) within a 1,676 sq. ft. eating and drinking establishment 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 (Downtown Specific Plan) 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 – CONDITIONAL USE PERMIT NO. 20-009:

1. The site plan, floor plans, and elevations received and dated March 13, 2020 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. Monday – Thursday: 10:00 AM – 10:00 PM
 - ii. Friday – Sunday: 10:00 AM to 12:00 AM
 - b. Prior to sales, service, or consumption of alcoholic beverages the business shall obtain an ABC license type 41 (On Sale Beer/Wine eating place). **(PD)**
 - c. No carryout alcohol sales shall be permitted. **(PD)**
 - d. 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)**

- e. 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)**
- f. No new customers shall be permitted to enter the alcohol business 30 minutes before closing. **(Resolution No. 2017-042, Exhibit B)**
- g. A minimum of 70 percent of the net floor area of the alcohol business 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)**
- 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. **(Resolution No. 2017-042, Exhibit B)**
- i. 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)**
- j. The CUP shall not be effective until an ABC license has been issued and provided to the City. **(Resolution No. 2017-042, Exhibit B)**
- k. 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)**
- l. 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)**
- m. 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)**
- n. No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time. **(Resolution No. 2017-042, Exhibit B)**
- o. 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)**
- p. 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)**
 - q. Dancing and/or dance floor and/or live entertainment shall be 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 B)**
- 3. Prior to submittal of building permits, zoning entitlement conditions of approval and code requirements 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.
 - 4. 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.
 - 5. CUP No. 20-009 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.
 - 6. 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.