

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 20-002

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 15332 of the CEQA Guidelines, because the project is characterized as in-fill development that meets the following criteria:

- a. The project is consistent with the applicable General Plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public services.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 20-002:

1. Conditional Use Permit No. 20-002 to permit the construction of a three-story mixed use building consisting of a three-story, 5,968 sq. ft. restaurant with 545 sq. ft. of outdoor dining and the sale, service, and consumption of alcohol (ABC License Type 47); ground level parking to serve the commercial use; and a three-story 1,716 sq. ft. townhome with a 364 sq. ft. two-car garage and an 825 sq. ft. roof top deck 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 project is proposed to meet all required development standards, including code required parking on-site. The commercial use is a restaurant and the sales, service, and consumption of alcohol will be an ancillary part of the use. The sale, service and consumption of alcohol will occur entirely within delineated portions of the restaurant and the proposed 545 sq. ft. outdoor patio. The nearest residential use is located approximately 35 ft. to the east and is buffered by an existing street (18th St.). The outdoor dining area will oriented to the south, towards an existing parking area and greenbelt. The sales, service, and consumption of alcohol is not permitted in the outdoor dining area between the hours of 10:00 PM and 7:00 AM to ensure any potential impacts to surrounding uses are minimized. The mixed-use building will be compatible with surrounding uses because the proposed building will maintain a relatively similar layout to previously approved uses, the building scale is compatible with the adjacent buildings, and the project is adjacent to other visitor-serving commercial uses along Pacific Coast Highway. The use is not anticipated to generate additional traffic, noise, or other impacts to surrounding properties. Parking and circulation will occur onsite and function similarly to previous uses; sufficient parking is provided to accommodate both uses on site, and does not impact coastal access in the vicinity. Therefore, impacts are not anticipated to the surrounding uses.
2. The granting of Conditional Use Permit No. 20-002 will not adversely affect the General Plan. The General Plan Land Use Map designation on the subject property is currently CVmu

(Commercial Visitor – Mixed Use Overlay). Mixed use projects are allowed within the property zoning and land use designation; the project, as designed, is consistent the General Plan goals and policies identified below:

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.

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.

Policy LU 1 (C): Support infill development, consolidation of parcels, and adaptive reuse of existing buildings.

Goal LU 4: A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

Policy LU 4 (C): Encourage a mix of residential types to accommodate people with diverse housing needs.

Goal LU 11: Commercial land uses provide goods and services to meet regional and local needs.

Goal LU 1 (B): Encourage new businesses to locate on existing vacant or underutilized commercial properties where these properties have good locations and accessibility.

Goal LU 14: Huntington Beach continues to attract visitors and provides a variety of attractions and accommodations during their stay.

Policy LU 14 (B): Encourage both coastal and inland visitor-serving uses to offer a wide spectrum of opportunities for residents and visitors

Goal C 3: Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences.

Policy C 3.2.4: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including, but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed project consists of the construction of a three-story mixed use building consisting of a three-story, 5,968 sq. ft. restaurant with 545 sq. ft. of outdoor dining and the sale, service, and consumption of alcohol (ABC License Type 47); ground level parking to serve the commercial use; and a three-story 1,716 sq. ft. townhome with a 364 sq. ft. two-car garage and an 825 sq. ft. roof top deck. The new mixed-use building is located in an area designated for commercial uses that will serve tourists and visitors. The proposed project will provide a visitor-serving commercial use that meets the regional needs. The commercial use is a restaurant and the sales, service, and consumption of alcohol will be an ancillary part of the use. The sale, service and consumption of alcohol will occur entirely within delineated portions of the restaurant and the proposed 545 sq. ft. outdoor patio. Outdoor dining will be allowed between the hours of 7 AM and 10 PM. Additionally, the project provides both a

visitor serving commercial use and residential use that will meet the need of future and existing residents on an underutilized parcel consistent with the General Plan.

3. The proposed conditional use permit for the construction of a three-story mixed use building consisting of a three-story, 5,968 sq. ft. restaurant with 545 sq. ft. of outdoor dining and the sale, service, and consumption of alcohol (ABC License Type 47); ground level parking to serve the commercial use; and a three-story 1,716 sq. ft. townhome with a 364 sq. ft. two-car garage and an 825 sq. ft. roof top deck will comply with the development standards and land use provisions in the Sunset Beach Specific Plan, including maximum height, setback requirements and parking. The project is located within the Sunset Beach Tourist (SBT) District of Sunset Beach, which requires approval of a conditional use permit from the Zoning Administrator for commercial land uses. Adequate vehicular circulation and access is provided for the project. Because this location has reverted to the original permit jurisdiction, the City has also reviewed it for compliance with the California Coastal Act and has determined that this project request meets the standards for an “approval in concept.”

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 20-002:

1. The site plan and elevation received and dated June 30, 2020 and the floor plan received and dated July 29, 2020, shall be the conceptually approved design with the following modification:
 - a. The serving area flooring shall be delineated with a different material (such as paint, tile, or carpet) from the rest of the restaurant and shall be limited to a maximum of 1,200 sq. ft. The serving area shall match the floor plan received and dated July 29, 2020. Modifications to the approved layout shall require Community Development approval.
 - b. The commercial parking shall be clearly signed and identified as parking available for the commercial use on-site and shall be also be depicted on the plans.
2. The use shall comply with the following:
 - a. The hours of operation shall be limited to the following:
 - i. Sunday – Wednesday (restaurant) : 7:00 AM – 11:00 PM
 - ii. Thursday – Saturday (restaurant): 7:00 AM – 2:00 AM
 - iii. Monday – Sunday (outdoor patio): 7:00 AM – 10:00 PM
 - b. Prior to sales, service or consumption of alcoholic beverages the business shall obtain an ABC license authorizing alcohol use in the restaurant. The business shall be limited to either a Type 41 (Beer & Wine Eating Place) or a Type 47 (On Sale Eating Place) ABC License. **(PD)**
 - c. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available from the time the business opens to the public, until at least one hour prior to the scheduled closing time. **(PD)**

- d. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00PM. **(PD)**
- e. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted. **(PD)**
- f. 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)** Consumption of alcoholic beverages by on-duty employees and supervisory personnel is forbidden, except when training for knowledge of drink and food pairing. **(PD)**
- g. Live entertainment is allowed with a valid Entertainment Permit issued by the Huntington Beach Police Department. Entertainment which would require modification of plans dated 6/30/20 & 7/29/20 or that require addition parking, like patron dancing, would need approval by the Planning Division and may require a Permit for that specific use. **(PD)**
- h. Entertainment shall not be allowed on the patio. **(PD)**
- i. 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)**
- j. A sign shall be posted in a conspicuous space at the entrance/exit points of the restaurant and the patio which shall state "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- k. The patio shall have a physical barrier of no less than 6 foot in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier and to contain the noise. **(PD)**
- l. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
- m. 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)**
- n. An employee of the establishment must monitor all areas where alcohol is served. **(PD)**
- o. 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)**
- p. 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)**

- q. 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)**
 - r. 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. Any conditions of approval, imposed by the California Coastal Commission that are more restrictive than those set forth in this approval shall be adhered to.
 - 4. The operation of the mixed-use building shall remain as described in the project narrative received and dated January 27, 2020.
 - 5. Prior to submittal for building permits, the following shall be completed:
 - a. Evidence of Coastal Development Permit approval by the California Coastal Commission shall be submitted to the Community Development Department.
 - b. Zoning entitlement conditions of approval, California Coastal Commission 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.
 - 6. At least 14 days prior to any grading activity, the applicant shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. 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.
 - 7. During demolition, grading, site development, and/or construction, the following shall be adhered to:
 - a. Construction equipment shall be maintained in peak operating condition to reduce emissions.
 - b. Use low sulfur (0.5%) fuel by weight for construction equipment.
 - c. Truck idling shall be prohibited for periods longer than 5 minutes.
 - d. Attempt to phase and schedule activities to avoid high ozone days first stage smog alerts.

- e. Discontinue operation during second stage smog alerts.
 - f. Ensure clearly visible signs are posted on the perimeter of the site identifying the name and phone number of a field supervisor to contact for information regarding the development and any construction/grading activity.
8. The final building permit(s) cannot be approved until the following have been completed:
- a. All improvements must be completed in accordance with approved plans.
 - b. Compliance with all conditions of approval specified herein shall be verified by the Community Development Department.
 - c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
9. Conditional Use Permit No. 20-002 shall become null and void unless exercised within two years of the date of final Coastal Commission 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.
10. 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.