

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 20-019

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. 20-019:

1. Conditional Use Permit No. 20-019 to permit the sale, service, and consumption of alcohol (ABC License Type 47) within an existing 2,592 sq. ft. eating and drinking establishment with an approximately 302 sq. ft. outdoor dining area and allow live entertainment that may include a solo musician, solo comedian, live band (with up to three musicians), disc jockey, or karaoke 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 visitor-serving commercial area with other similar uses. The use is primarily a restaurant and the sale and service of alcohol (ABC Type 47 License) and live entertainment are ancillary to the restaurant use. The restaurant is not anticipated to generate additional noise, traffic, or impacts above existing conditions. The proposed live entertainment will be conducted entirely within the interior of the building. The outdoor dining area previously served the residence above the building. The existing outdoor space will serve the restaurant as an outdoor dining area. The outdoor dining area is oriented towards the street and approximately 115 feet east of the nearest residential use, which is buffered by North Pacific Ave., a greenbelt, and South Pacific Ave. Conditions have been added to limit the live entertainment to ensure it will be compatible with the existing mixed-use building, such as requiring live entertainment to end at least 30 minutes prior to closing each night, prohibiting dancing, and prohibiting entertainment on the outdoor patio.
2. The granting of Conditional Use Permit No. 20-019 Conditional Use Permit No. 20-019 to permit the sale, service, and consumption of alcohol (ABC License Type 47) within an existing 2,592 sq. ft. eating and drinking establishment with an approximately 302 sq. ft. outdoor dining area and allow live entertainment that may include a solo musician, solo comedian, live band (with up to three musicians), disc jockey, or karaoke will not adversely affect the General Plan because it is consistent with the Land Use Element designation of CV 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 alcohol in conjunction with an eating and drinking establishment in a safe manner for residents and customers in the surrounding area. The building is located in an area designated for commercial uses that will serve tourists and visitors. The proposed operation hours for the restaurant are not anticipated to generate additional noise, traffic, or impacts above existing conditions. The live entertainment will end at least 30 minutes prior to closing each night. The nearest residence is located approximately 115 feet east of the subject site and is buffered from noise by two streets and a greenbelt. The live entertainment will be conducted entirely within the interior of the restaurant. 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. Conditions have been added to limit the live entertainment to ensure it will be compatible with the existing mixed-use building, such as requiring live entertainment to end at least 30 minutes prior to closing each night, prohibiting dancing, and prohibiting entertainment on the outdoor patio.

3. The proposed Conditional Use Permit No. 20-019 to permit the sale, service, and consumption of alcohol (ABC License Type 47) within an existing 2,592 sq. ft. eating and drinking establishment with an approximately 302 sq. ft. outdoor dining area and allow live entertainment that may include a solo musician, solo comedian, live band (with up to three musicians), disc jockey, or karaoke will comply with the provisions of the Sunset Beach Tourist district of the Sunset Beach Specific Plan and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance because the Commercial Visitor General Plan land use designation and specific plan anticipated eating and drinking facilities with alcohol service, sale and consumption in this area. The sale and service of alcohol and live entertainment 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. 20-019:

1. The site plan and floor plans received and dated February 8, 2021 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 – Thursday (restaurant interior): 10:00 AM – 10:00 PM
 - ii. Friday – Saturday (restaurant interior): 10:00 AM to 12:00 AM
 - iii. Monday – Sunday (outdoor patio): 10:00 AM – 10:00 PM

- b. All entertainment must cease no less than 30 minutes prior to the posted or scheduled closing time, and no later than the time authorized by this permit. Live entertainment hours:
 - i. Solo musician, solo comedian: Sunday 1:00 PM – 8:00 PM
 - ii. Solo musician, solo comedian, 3 piece band, karaoke: Monday – Wednesday 1:00 PM – 9:30 PM
 - iii. Karaoke, DJ, solo comedian, solo musician: Thursday 1:00 PM – 9:30 PM
 - iv. Karaoke, DJ, 3 piece band: Friday – Saturday 1:00 PM – 11:30 PM **(PD)**
- c. Prior to commencing live entertainment activities, an Entertainment Permit shall be obtained from the Police Department. All conditions in the Entertainment Permit shall be adhered to. **(PD)**
- d. Types of entertainment: amplified and non-amplified music consisting of 3-piece bands, single acoustic guitar player, single piano player, single comedian, DJ and karaoke. **(PD)**
- e. 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)**
- f. A sign shall be posted in a conspicuous space at the exit point in the patio which shall state “NO ALCOHOLIC BEVERAGES BEYOND THIS POINT.” **(PD)**
- g. The patio shall have a physical barrier 36 inches in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier. **(PD)**
- h. An employee of the establishment must monitor all areas where alcohol is served. **(PD)**
- i. No carryout alcohol sales shall be permitted. **(PD)**
- j. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00PM. **(PD)**
- k. 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)**
- l. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted. **(PD)**
- m. Entertainment shall not be allowed on the patio. **(PD)**

- n. 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)**
- o. 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)**
- p. Consumption of alcoholic beverages by on-duty employees and supervisory personnel is forbidden, except when training for knowledge of food pairing, if applicable. **(PD)**
- q. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
- r. Dancing is prohibited. **(PD)**
- s. Clearly legible signage shall be affixed inside the restaurant entrances/exits points which shall state "NO OPEN ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- t. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
- u. 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)**
- v. 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)**
- w. 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)**
- x. 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)**
- y. All exterior doors and windows shall be closed during times of entertainment. **(PD)**

- z. All live entertainment must remain inside the establishment at all times. **(PD)**
 - aa. Entertainment shall not be audible beyond 50 feet of the building in any direction. **(PD)**
 - bb. Security Guard (SG), Proprietary Private Security Officer (PSO), or Private Patrol Operator (PPO): One security guard for every 50 patrons when entertainment is present. **(PD)**
 - cc. All security guards must be clearly identifiable as security and possess a valid license issued by California's Bureau of Security and Investigative Services (BSIS). If in-house security is used, business must have either a Proprietary Private Security Employer (PSE) license to employ PSO or a Private Patrol Operator (PPO) to use SG. If using an outside security company, that company must possess a valid Private Patrol Operator (PPO) license issued by BSIS and a City of Huntington Beach Business License. **(PD)**
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. 20-019 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.