

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 21-002

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 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. 21-002:

1. Conditional Use Permit No. 21-002 to allow the sale, service, and consumption of beer and wine (ABC License Type 41) within a 1,403 sq. ft. eating and drinking establishment with a 240 sq. ft. outdoor dining patio 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 building with other similar uses. The use is primarily a restaurant and the request for beer and wine is ancillary to the primary use. The additional service of beer and wine sales will benefit and serve the other uses in the downtown commercial core as well as the residential uses in the vicinity. The restaurant is not anticipated to generate additional noise, traffic, or impacts above existing conditions. The commercial storefront is oriented south, facing Olive Avenue, and the outdoor dining patio is oriented west, toward 3rd Street, each along a primary access corridor connecting the downtown commercial district with the surrounding mixed-use and residential neighborhoods and is approximately 60 linear feet from the nearest residence. Additionally, no live entertainment is proposed and the sale, service, and consumption of beer and wine will be contained within the 1,403 sq. ft. restaurant and 240 sq. ft. outdoor dining patio area.
2. The granting of Conditional Use Permit No. 21-002 to allow the sale, service, and consumption of beer and wine (ABC License Type 41) within a 1,403 sq. ft. eating and drinking establishment with a 240 sq. ft. outdoor dining patio will not adversely affect the General Plan because it is consistent with the Land Use Element designation of M-sp (Mixed Use – Specific Plan Overlay – Maximum 30-50 du/ac) 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 permitting the ancillary sale of beer and wine in conjunction with a proposed eating and drinking establishment in a safe manner for residents and customers from the surrounding area. The

proposed establishment provides expanded goods and services to meet the needs of the area and will add to the capture of sales tax revenue. The proposed use is located in a vacant suite within an existing commercial building and is located at the corner of two primary streets within the Downtown Core area with adequate accessibility.

3. Conditional Use Permit No. 21-002 to allow the sale, service, and consumption of beer and wine (ABC License Type 41) within a 1,403 sq. ft. eating and drinking establishment with a 240 sq. ft. outdoor dining patio 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 (HBZSO) because the proposed eating and drinking establishment with beer and wine sales is permitted subject to a Conditional Use Permit within District 1 of the Downtown Specific Plan (SP5) zoning district pursuant to Figure 3-23, "Permitted Uses". The proposed establishment will be located within an existing commercial building, which conforms to applicable site development standards, including parking.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 21-002:

1. The site plan, floor plans, and elevations received and dated May 11, 2021 shall be the conceptually approved design, with the following modification: The colors and materials of the outdoor dining barrier shall be complimentary to the colors and materials of the existing commercial building.
2. The use shall comply with the following conditions as required by City Resolution No. 2017-42:
 - a. The hours of operation shall be limited to the following: Monday – Sunday: 7:00 AM – 12:00 AM
 - b. No new customers shall be permitted to enter the alcohol business 30 minutes before closing.
 - c. A minimum of 70 percent of the net floor area of the alcohol business shall be designated for dining. The dining area excludes areas used for cooking, kitchen preparation, office, storage, and restrooms and also excluding outdoor dining areas.
 - d. 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.
 - e. Alcohol businesses must provide food service until one (1) hour before closing including a cook and food servers shall be on duty.
 - f. CUP No. 2021-002 shall not be effective until an ABC license has been issued and provided to the City.
 - g. CUP No. 2021-002 shall be for the type of issued ABC License; any change to the type of liquor license shall require an amendment to the CUP.
 - h. 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.
- ii. Alcoholic drinks shall not be included in the price of admission to any alcohol business.
- iii. All alcohol shall remain within alcohol business premises, including outdoor dining areas.
- iv. Service of alcoholic beverages for consumption off-site shall not be permitted.
- v. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
- vi. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
- vii. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00 p.m.
- 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.
- ix. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted.
- x. 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.
- i. 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.
- j. No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time.
- k. 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. 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.

- I. 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.
 - ii. There shall be no window coverings or advertisements that reduce the visibility inside of the business.
 - iii. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business.
 - 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."
- m. Dancing and/or dance floor and/or live entertainment is prohibited. (Note: a new or amended Conditional Use Permit and an Entertainment Permit issued by the City is required for these additional activities).
- n. 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."
- o. 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.
- p. 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)**
- q. 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)**
3. A License Agreement, including use fees, shall be obtained from the City for outdoor dining located on public property. **(SP5 Section 3.2.24.3 (2))**
4. The applicant shall enter into a Maintenance Agreement with the City for maintenance of all portions of the public property used and approved for outdoor dining. Said agreement shall be submitted to and approved by the Director of Public Works prior to the commencement of the use. **(SP5 Section 3.2.24.3 (5))**

5. CUP No. 21-002 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.