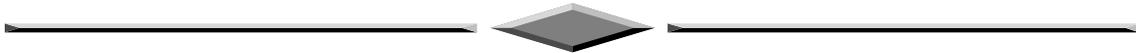


**HUNTINGTON BEACH
OFFICE OF THE ZONING ADMINISTRATOR
EXECUTIVE SUMMARY**

TO: Zoning Administrator
FROM: Kimo Burden, Planning Aide
DATE: May 3, 2017

SUBJECT: **ENTITLEMENT PLAN AMENDMENT NO. 16-009 (HERO'S PUB-CONTINUED FROM THE MARCH 1, 2017, MEETING)**

LOCATION: 714 Adams Avenue Suite 101, 92648 (south of Adams Ave., west of Beach Blvd.)



Applicant: Regis A. Guerin, 20431 Kenworth Circle, Huntington Beach, CA 92646

Property Owner: Manizheh Yomtoubian, Trustee, P.O. Box 3595, Newport Beach, CA 92660

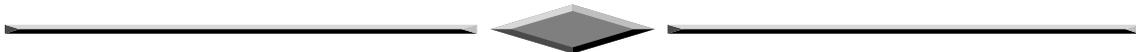
Request: To amend Conditional Use Permit No. 03-024 to modify Condition 2.e to permit the sale, service and consumption of beer and wine (ABC Type 41 License) within an outdoor patio area and to relocate the existing outdoor patio area to the north side of the building.

Environmental Status: This request is covered by Categorical Exemption, Section 15301, Class 1, California Environmental Quality Act.

Zone: CG (Commercial General)

General Plan: CG-F1 (Commercial General -.35 FAR)

Existing Use: Restaurant



RECOMMENDATION: Staff recommends approval of the proposed project based upon the following findings:

SUGGESTED 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 involves no expansion in the overall floor area of an existing restaurant.

SUGGESTED FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 16-009:

1. Entitlement Plan Amendment No. 16-009 to amend Conditional Use Permit No. 03-024 to modify Condition 2.e to permit the sale, service and consumption of beer and wine (ABC Type 41 License) within an outdoor patio area and to relocate the existing outdoor patio area to the north side of the building 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. The proposed relocation and addition of beer and wine within the 315 sq. ft. patio area is not anticipated to generate noise, traffic, parking or other impacts detrimental to surrounding properties or inconsistent with the subject property's commercial zoning. The residential uses to the south of the subject site are buffered from the relocated outdoor patio area by the existing two story commercial building and by an approximately 5 ft. 6 in. high perimeter blockwall. The relocated outdoor patio area will be approximately 75 ft. away from the nearest single family dwelling and as proposed, the existing rear exit door facing the residential uses to the south will be walled off, creating an additional noise barrier. The storefront of the restaurant and entrance to the patio area are oriented toward Adams Avenue, away from nearby residences. In addition, the sale, service and consumption of beer and wine beverages will be contained within the 1,000 sq. ft. restaurant and in the delineated 315 sq. ft. outdoor patio area.
2. Entitlement Plan Amendment No. 16-009 to amend Conditional Use Permit No. 03-024 to modify Condition 2.e to permit the sale, service and consumption of beer and wine (ABC Type 41 License) within an outdoor patio area and to relocate the existing outdoor patio area to the north side of the building will be compatible with surrounding uses because the project consists of a commercial use similar to those found in the vicinity. Additionally, the onsite consumption of beer and wine beverages will be ancillary to the existing restaurant and will occur entirely within the previously approved 1,000 sq. ft. restaurant and the delineated 315 sq. ft. outdoor patio area. Based upon the operational conditions imposed, including limiting outdoor patio hours from 8:00 AM to 9:45 PM, the relocated outdoor patio area is not anticipated to result in negative impacts on adjacent properties.
3. The proposed Entitlement Plan Amendment No. 16-009 to amend Conditional Use Permit No. 03-024 to modify Condition 2.e to permit the sale, service and consumption of beer and wine (ABC Type 41 License) within an outdoor patio area and to relocate the existing outdoor patio area to the north side of the building will comply with the provisions of the base district, other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, and any specific condition required for the proposed use in the district in which it would be located. The existing 1,000 sq. ft. restaurant and the relocated 315 sq. ft. outdoor patio area conforms to applicable site development requirements including minimum setbacks, minimum landscaping, and minimum onsite parking. The relocated 315 sq. ft. outdoor patio area shall be limited to a maximum number of five tables and 20 seats, so as not to require additional parking. Vehicular and pedestrian access to neighboring businesses will not be obstructed with the installation of the 315 sq. ft. outdoor patio area. It will also comply with the minimum ADA requirements of a four foot sidewalk width. The onsite consumption of alcoholic beverages is permitted in the Commercial General (CG) zoning district with the approval of a conditional use permit.
4. The granting of Entitlement Plan Amendment No. 16-009 to amend Conditional Use Permit No. 03-024 to modify Condition 2.e to permit the sale, service and consumption of beer and wine (ABC Type 41 License) within an outdoor patio area and to relocate the existing

outdoor patio area to the north side of the building will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CG on the subject property. In addition, it is consistent with the following objective and policies of the General Plan:

A. Land Use Element

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy LU 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures to prevent negative impacts on adjacent properties.

B. Economic Development Element

Policy ED 2.4.3: Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market area.

The proposed 315 sq. ft. outdoor patio area for the onsite sale, service and consumption of beer and wine (ABC Type 41 License) will be ancillary and incidental to the existing restaurant. The proposed use will market its services to local residents and residents in the surrounding region thereby expanding the service-based commercial opportunities in the City. Based upon the operational conditions imposed, the relocated outdoor patio area is not anticipated to result in negative impacts on adjacent properties.

SUGGESTED CONDITIONS OF APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 16-009:

1. The site plan, floor plans, and elevations received and dated March 30, 2017 shall be the conceptually approved design.
2. Signage attached to the building and near the patio area shall direct patrons to not loiter, smoke or drink in the open space along east side of the restaurant.
3. Prior to submittal for building permits, zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Fire and Public Works 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. All conditions from the previously approved Conditional Use Permit No. 03-024 shall be adhered to with exception of condition of approval No. 2.e which is amended by EPA 16-009.
5. The use shall comply with the following:

- a. The proposed 315 sq. ft. outdoor patio area shall be limited to a maximum number of five tables and 20 seats.
- b. Hours of operation of the restaurant shall be limited to between 6:00 a.m. and 2:00 a.m. **(PD)**
- c. Hours of operation of the outdoor patio area shall be limited to between 8:00 a.m. and 9:45 p.m. daily.
- d. The establishment shall be limited to a Type 41 (On Sale Beer and Wine Eating Place) ABC License. **(PD)**
- e. Live and recorded music shall be prohibited outdoors. **(PD)**
- f. The front patio shall have a physical barrier of at least 36 inches in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier. **(PD)**
- g. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
- h. Live Entertainment shall not be permitted unless a Conditional Use Permit (CUP) for this specific use is reviewed and approved and a valid Entertainment Permit issued by the Huntington Beach the Police Department. **(PD)**
- i. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available to the public until at least sixty (60) minutes prior to the scheduled closing time. **(PD)**
- j. All alcoholic beverages shall remain within the interior of the business and within the confines of the patio area, per §9.44.010 of the Huntington Beach Municipal Code (HBMC). **(PD)**
- k. Signs shall be posted in a conspicuous space at the entrance/exit of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- l. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
- m. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00PM. **(PD)**
- n. No new customers shall be permitted after 30 minutes before closing. **(PD)**
- o. Last call for drinks shall be no later than 15 minutes before closing. **(PD)**
- p. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(PD)**
- q. An employee of the business must monitor all areas where alcohol is served. **(PD)**

- r. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
 - s. 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)**
 - t. 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)**
 - u. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
 - v. All persons engaged in the sale or service of alcohol shall complete a 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 an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(PD)**
 - w. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business. **(PD)**
 - x. The business shall employ a video surveillance system and a one-month video library. The minimum requirements for the cameras will be: color, digital recording to DVR and able to record in low light. The business shall ensure all doors, eating areas, and parking areas 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 officers conducting investigations. **(PD)**
 - y. 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)**
6. Entitlement Plan Amendment No. 16-009 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.
7. 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 Department 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.

8. Incorporating sustainable or “green” building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green’s Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/green-building-guidelines-rating>)

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.