

CONDITIONAL USE PERMIT

2038 – 2040 E. 4th Street

Application No. 2206-16 (CUP22-022)

January 5, 2023

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, a Conditional Use Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption, and incorporation into the record of proceedings:

1. THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;

The site is designated as the Neighborhood-Serving Centers and Corridors-Low (NSC-L) PlaceType in the General Plan Land Use Element (LUE), which allows for commercial uses to meet daily needs for goods and services. This LUE PlaceType is intended for commercial uses that serve the day-to-day need for goods and services of residents in the surrounding area. The proposed Conditional Use Permit (CUP) for alcohol sales is in conjunction fine dining casual Greek Cuisine restaurant is consistent with the purpose and goals of the PlaceType. One of the citywide goals identified in the Land Use Element is to support neighborhood preservation and enhancement (Goal No. 4 of the Land Use Element, page 117-118). Under this goal, the City strives to provide amenities and enhance facilities to support residential neighborhoods with commercial spaces and services. Improving access to wide range of uses, including establishing commercial and retail uses on the periphery of neighborhoods or in commercial hubs to better serve residents and incorporating a variety of design enhancements and sustainable practices is consistent with and implements this and other General Plan goals.

The proposed sale of alcohol is ancillary to the primary use as a restaurant. The diversity of offerings proposed at the restaurant establishment improves nearby residents' access to a variety of goods and services needed on a daily basis, promoting sustainable development patterns and reducing vehicular trips. The use as conditioned would be consistent with General Strategy No. 10 (Land Use Element page 118) – to “create complete neighborhoods with identifiable centers and a full range of supporting neighborhood-serving uses to meet the daily needs of residents.” Conditions of approval have been included to prevent nuisances and minimize negative impacts to surrounding areas, which include requiring visibility into the restaurant space by restricting film or other similar obstructions from being installed along the tenant space windows, and mandatory staff training to ensure that staff are adequately trained to address any issues that might arise in association with the sale of alcohol.

No specific plan applies to the subject site nor is the site within the Local Coastal

Program area. The General Plan Land Use Element PlaceType designation (NSC-L) has been established to accommodate commercial uses. Therefore, approval of the Conditional Use Permit for the sale of beer, wine and distilled spirits for on-site consumption is an appropriate use, as it provides alcohol sales as an accessory use in conjunction with the primary restaurant use within a commercial area.

2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE; AND

The proposed on-site alcohol sales are an ancillary part of the primary use as a Greek Cuisine restaurant with a wide variety of menu food options. Conditions of approval have been incorporated to mitigate detrimental effects on the surrounding community. These conditions include measures pertaining to security, noise, alcohol service training, loitering, and lighting. By imposing these conditions, the proposed use shall operate in a manner that is sensitive to surrounding uses.

In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE22-180) was prepared for this project. The proposed use will be established within an existing 1,943 square foot commercial space. The establishment will employ 20-30 staff members, with 5-10 staff members on-site at any given time during hours of operation, and the hours of operation will be daily Sunday through Thursday from 8:00 a.m. to 11:00 a.m. and Friday and Saturday from 8:00 a.m. to 12:00 a.m. As conditioned, the site will be equipped with a surveillance system, which will include interior and exterior cameras to deter criminal activity and promote safety. The proposed use, as conditioned, would not be detrimental to the surrounding community.

3. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR SPECIFIC CONDITIONAL USES, AS LISTED IN CHAPTER 21.52.

Section 21.52.201 states that the following conditions shall apply to all alcoholic beverage sales uses requiring a Conditional Use Permit unless waived with written findings:

A. The operator of the use shall provide parking for the use equivalent to the parking required for new construction regardless of the previous use as to legal nonconforming rights.

The proposed use is located within an existing 1,943-square-foot commercial tenant space. The project does not include exterior improvements nor expansion in size and is strictly limited to interior improvements only. The site is developed with a commercial building built out to the front property line. As it currently exists, the site has no off-street parking and parking could not be added without a substantial rebuild of the property. The previous uses were an office and fitness training use, which required a total of 20 spaces to be provided. The proposed

restaurant has a parking requirement of 14 spaces, which is lower than the previous parking requirements. The legal non-conforming parking rights applied to the proposed restaurant. This shopping area along 4th Street has a public parking lot at the southeast corner of Cherry Avenue and 4th Street that supports this shopping area.

B. The operator of the use shall provide night lighting and other security measures to the satisfaction of the Chief of Police.

As conditioned, the project site is ensured to provide adequate security lighting along with security cameras to the satisfaction of the Chief of Police.

C. The operator of the use shall prevent loitering or other activity in the parking lot that would be a nuisance to adjacent uses and/or residential neighborhoods.

As conditioned, the applicant shall be required to prevent loitering or other activity at the site.

D. The use shall not be in a reporting district with more than the recommended maximum concentration of the applicable on or off-premise sales use, as recommended by the Long Beach Police Department.

In consideration of a Conditional Use Permit application for the sale of alcoholic beverages, staff evaluated the number existing alcohol licenses in the subject Census Tract, as well as the number of reported crimes in the subject Police Reporting District. Long Beach Municipal Code Section 21.52.201 of the zoning regulations requires that the use shall not be permitted in a reporting district with an over-concentration of alcohol sales, as recommended by the California Department of Alcoholic Beverage Control (ABC), and that the use shall not be permitted in a reporting district with a high crime rate, as reported by the Long Beach Police Department. Pursuant to Long Beach Municipal Code Section 21.52.100, that condition shall be imposed unless findings of fact can be made to provide relief from the condition.

According to the ABC License Report, the subject property is within Census Tract 5712.01 which, which allows a maximum of four (4) on-site alcohol licenses. There are currently 18 alcohol licenses for on-site consumption sales within this Census Tract (Attachment E – ABC Stats). Adding a 19th on-site alcohol license at this location will contribute to the over concentration of on-site sales within the census tract. However, as it relates to the subject project, with the proposed business model, as the primary use is a restaurant with alcohol sales being a secondary use, the proposed project is not adding an establishment whose primary business involves the sale of alcohol such as a bar and is not anticipated to have the negative impact that can sometimes be associated with alcohol sales. The

proposed primary and accessory use improves nearby residents' access to a variety of goods and services, consistent with General Plan Strategy No. 10 (Land Use Element page 118) – to “create complete neighborhoods with identifiable centers and a full range of supporting neighborhood-serving uses to meet the daily needs of residents.” The recommended conditions of approval are intended to ensure the use operates in a manner compatible with the surrounding area. Such proposed conditions include requiring visibility into the restaurant space by restricting film or other similar obstructions from being installed along the tenant space windows and door, and mandatory staff training to ensure that staff are adequately trained to address any issues that might arise in association with the sale of alcohol.

The Police Department has also reviewed the CUP request for this location. The site is located within Police Reporting District 434 within the East Division, which is not designated as a high crime area. The Long Beach Police Department has reviewed the CUP request and has no objection to its approval. Additional conditions pertaining to lighting and security have been included to help mitigate any potential negative impacts to the surrounding community. Therefore, a finding can be made in the affirmative for this proposed CUP

- E. The use shall not be located within 500 feet of a public school or public park, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat in addition to canned goods.**

The subject site is not located within 500 feet of a public park, however the site is located within approximately 415 feet from a public school (Luther Burbank Elementary School). Although the location is within 500 feet of a public school, the school already exists adjacent to a commercial corridor with several restaurants including some that serve alcohol. Additionally, it is not within a high crime area, and conditions pertaining to lighting and security have been included to maintain the safe conditions within the surrounding community.

Section 21.52.266 states that the following conditions shall apply to restaurants selling alcoholic beverages of any kind:

- A. The operator of the use shall prevent loitering in any parking areas serving the use; and**

As mentioned in the finding above and as conditioned, the applicant shall be required to prevent loitering or other activity at the site.

- B. Parking shall be provided as required by Chapter 21.41 (Off-Street Parking and Loading Requirements) regardless of status of the previous use with regard to legal nonconforming parking**

As mentioned in the finding above, the building where the proposed use is located in is developed in such a way that it has no existing parking. The applicant is proposing only minor interior improvements to the floor plan which include a 683 square-foot dining area and 325 square-foot fixed bar. The remaining 935 square feet consists of the kitchen, restrooms and storage space. The previous commercial uses, an office use and fitness training use, required a total of 20 spaces to be provided. The proposed restaurant will provide a dining area of 683 square feet, and therefore a total of 14 spaces is required. Although there is no on-site parking, this shopping area is supported by a public parking lot located on the southeast corner of Cherry Avenue and E. 4th Street that provides 27 parking spaces to the surrounding uses. A total of 300 parking spaces, including for the proposed use, would be required on site based on the current active businesses operating within the development. Given the built-out nature of the site and surrounding uses, in addition to the nearby available public parking, a finding can be made that this proposal provides sufficient parking.

4. THE RELATED DEVELOPMENT APPROVAL, IF APPLICABLE, IS CONSISTENT WITH THE GREEN BUILDING STANDARDS FOR PUBLIC AND PRIVATE DEVELOPMENT, AS LISTED IN SECTION 21.45.400.

The proposed project does not propose any additional square footage. Therefore, this provision does not apply.