

## **CONDITIONAL USE PERMIT**

**5316 ½ E 2<sup>nd</sup> Street**

**Application No. 2208-04 (CUP22-026)**

**May 4, 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 has a 1989 General Plan Land Use Designation of Land Use District No. 8P Pedestrian-Oriented Retail Strip, which is intended for a variety of smaller scale stores providing a variety of convenience goods and services. Surrounding uses include commercial retail shops, restaurants, bars, and financial institutions along the block of East 2<sup>nd</sup> Street. The Conditional Use Permit (CUP) would allow an upgrade of an existing Alcoholic Beverage Control (ABC) license from an ABC Type 41 to an ABC Type 47 to allow the sale of beer, wine, and distilled spirits for on-site consumption at the existing restaurant and bar which includes the legal non-conforming sale of beer and wine in conjunction with family-style dining that offers regional and authentic Mexican and new-age fusion cuisine is consistent with the purpose and goals of the PlaceType.

The use is accessory to the primary use, a restaurant, which would allow the sales of beer, wine, and distilled spirits for on-site consumption. Additionally, the subject site is located in the Neighborhood Pedestrian (CNP) Zoning District. Restaurant uses, such as Taco Shore, is an allowed use within the district if a CUP is granted. Thus, the existing restaurant and proposed ABC license upgrade from an ABC Type 41 to an ABC Type 47 license would be consistent with the zoning regulations and will also support residents and visitors. The recommended conditions of approval are intended 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.

The upgrade to an ABC Type 47 license requires the restaurant to also comply with the California Department of Alcoholic Beverage Control (ABC). Under ABC requirements, the ABC Type 47 license is designated for businesses, like Taco Shore, to be established as a bona fide eating place that primarily serves food. ABC restricts alcohol beverage sales to not exceed 30 percent of the total of food sales for a restaurant. Therefore, a restriction is placed on the restaurant from

operating as a bar. Additionally, a condition will require the project to reduce the bar area seating to a total of eight bar top seats which shall be evenly distributed throughout the two bar top seating areas within the restaurant. Bar top area #1 shall have a maximum number of four bar top seats including ADA compliant seating. Bar area #2 shall be modified to accommodate a maximum number of four bar top seats. Patrons are prohibited from standing around the bar area to ensure the hallways are kept clear.

The Local Coastal Program (LCP) identifies the subject site, and the shopping strip along 2nd Street as a whole, as a commercial strip serving the adjacent neighborhoods and coastal visitors. The existing restaurant operates under an ABC Type 41 alcohol license and is currently open to the public, both residents and visitors are benefiting from the use. Therefore, the proposed upgrade of an existing alcohol license from an ABC Type 41 to an ABC Type 47 for an existing restaurant and bar is consistent with the LCP.

**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 upgrade of an ABC Type 41 to an ABC Type 47 alcohol license will not be detrimental to the surrounding community including public health, safety or general welfare, environmental quality or quality of life as specific 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.

**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 2,139-square-foot retail tenant space. The project does not include new construction, exterior improvements, or expansion of the existing restaurant structure, bar area, or outdoor patio as part of the proposed project. However, the restaurant must comply with the 2022 Edition of the California Building Standards Code and the Long Beach Municipal Code

(LBMC), as required by State law which will require minor interior improvements. 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 use within the tenant space was also a sit down ready-to-eat restaurant with alcohol sales that was formerly occupied by Taco Surf. The former restaurant required a total of 22 parking spaces pursuant to today's zoning code under Chapter 21.41: Off-Street Parking and Loading Requirements of the Long Beach Municipal Code (LBMC). Due to the absence of on-site parking, legal non-conforming parking rights apply to the parking for the use, and the existing restaurant shall not exceed the non-conformity. The alcohol license will allow the restaurant to expand the type of alcohol service to include distilled spirits to customers on private property, however the change proposed would not increase the parking demand. Although there is no on-site parking, the Belmont Shore area offers the public single-space on-street meter parking along 2<sup>nd</sup> Street and a public parking lot at the rear end of the site located at 191 Pomona Avenue (approximately 112 feet away) that provides 32 parking spaces to the business and other surrounding uses.

**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 CUP 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. The 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.

The project site is located within Long Beach Police Department (LBPD) Reporting District 571 within the East Division. The crime rate for the reporting district is 110 crimes. Pursuant to Section 21.15.1338, "high crime" means a crime rate in a crime reporting district that is 20 percent above the City-wide average for all crimes. The threshold for high crime is 66 for the calendar year 2022. Therefore, this area is designated as a high crime area. In the past year, there has been approximately two calls for service (04/11/22 to 04/22/23) primarily due to transient related matters. The LBPD reviewed the CUP request for this location and has no objection to its approval with proper conditions of operation.

According to the ABC License Report, the subject property is within Census Tract 5773, which allows a maximum of five on-site alcohol licenses. There are currently twelve alcohol licenses for on-site consumption sales within this Census Tract. This Census Tract is located in the Belmont Shore commercial district, where there is a large concentration of restaurants and bars along 2nd Street. The existing restaurant is included as one of the active alcohol licenses in the Census Tract. The approval of this CUP request will not add to the concentration of alcohol licenses in this Census Tract given that this is an upgrade of an existing ABC Type 41 alcohol license to an ABC Type 47 alcohol license.

- 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 school or public park.

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 existing restaurant use is located in is developed in such a way that it has no existing parking. Also, the

site configuration precludes the addition of parking on-site. The former restaurant required a total of 22 parking spaces pursuant to today’s zoning code under Chapter 21.41: Off-Street Parking and Loading Requirements of the Long Beach Municipal Code (LBMC). Due to the absence of on-site parking, legal non-conforming parking rights apply to the parking for the use, and the existing restaurant and bar shall not exceed the non-conformity. The alcohol license will allow the restaurant to expand the type of alcohol service to include distilled spirits to customers, however the changed proposed would not increase the parking demand.

**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.**

Section 21.45.400 specifies types of projects that require compliance with green building standards. The proposed project does not propose any additional square footage. Therefore, this provision does not apply.

**LOCAL COASTAL DEVELOPMENT FINDINGS  
5316 ½ East 2<sup>nd</sup> Street  
Application No. 2208-04(LCDP22-046)  
May 4, 2023**

Pursuant to Section 21.25.904 of the Long Beach Municipal Code, a Local Coastal Development 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:

**A. THE PROPOSED DEVELOPMENT CONFORMS TO THE CERTIFIED LOCAL COASTAL PROGRAM INCLUDING BUT NOT LIMITED TO ALL REQUIREMENTS FOR REPLACEMENT OF LOW AND MODERATE-INCOME HOUSING; AND**

The Local Coastal Program (LCP) identifies the subject site, and the shopping strip along 2nd Street as a whole, as a commercial strip serving the adjacent neighborhoods and coastal visitors. The existing restaurant and bar which includes the legal non-conforming sale of beer and wine operates under an Alcoholic Beverage Control (ABC) license ABC Type 41 and is currently open to the public, both residents and visitors are benefiting from the use. Therefore, the proposed upgrade of an existing alcohol license from an ABC Type 41 to an ABC Type 47 for an existing restaurant with a bar is consistent with the LCP.

No low and moderate-income housing will be removed as a result of the project.

**B. THE PROPOSED DEVELOPMENT CONFORMS TO THE PUBLIC ACCESS AND RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT. THIS SECOND FINDING APPLIES ONLY TO DEVELOPMENT LOCATED SEAWARD OF THE NEAREST PUBLIC HIGHWAY TO THE SHORELINE.**

This second finding only applies to development located seaward of the nearest public highway to the shoreline. The subject site is not within this area. Thus, this second finding does not apply.

**C. FOR AN APPLICATION FOR A RELIGIOUS ASSEMBLY USE, IF AN EXCEPTION OR WAIVER OF LCP REQUIREMENTS IS SOUGHT UNDER SECTION 21.52.219.8.G, THAT THE EXCEPTION OR WAIVER ALLOWS THE MINIMUM DEVIATION FROM LCP REQUIREMENTS NECESSARY TO COMPLY WITH RLUIPA, AND THAT THE DECISION MAKER HAS IMPOSED ALL CONDITIONS NECESSARY TO COMPLY WITH ALL PROVISIONS OF THE LCP, WITH THE EXCEPTION OF THE PROVISION(S) FOR WHICH IMPLEMENTATION WOULD VIOLATE RLUIPA.**

The project does not include a religious assembly use; therefore, this finding is not applicable to the proposed project.

**D. THE PROPOSED DEVELOPMENT IS SITED, DESIGNED AND MANAGED TO MINIMIZE THE TRANSPORT OF POLLUTANTS BY RUNOFF INTO COASTAL WATERS AND GROUNDWATER, AND TO MINIMIZE INCREASES IN RUNOFF VOLUME AND VELOCITY FROM THE SITE WHICH MAY ADVERSELY IMPACT COASTAL RESOURCES OR COASTAL BLUFF STABILITY. BEST MANAGEMENT PRACTICES SHALL BE IMPLEMENTED, AS APPLICABLE, INCLUDING BUT NOT LIMITED TO APPLICABLE LOCAL, REGIONAL, STATE AND FEDERAL WATER QUALITY PERMITS, STANDARDS AND GUIDANCE PROVIDED IN THE LCP, BEST PRACTICES AND OTHER MEASURES AS MAY BE RECOMMENDED BY THE CITY ENGINEER.**

The project entails an upgrade of an existing alcohol license from a Type 41 (beer and wine) to a Type 47 (beer, wine, and distilled spirits) at an existing 2,139-square-foot restaurant with a bar which includes the legal non-conforming sale of beer and wine. No physical new construction, exterior improvements, or expansion of the existing restaurant structure, bar areas, or outdoor patio are part of the project. However, the restaurant must comply with the 2022 Edition of the California Building Standards Code and the Long Beach Municipal Code (LBMC), as required by State law which will require minor interior improvements. The minor interior improvements to the existing structure will not trigger the transport of pollutants and runoff that could impact coastal

resources.

**E. FOR AN APPLICATION TO RESTRICT SHORT-TERM RENTALS IN ACCORDANCE WITH THE PROVISIONS AND PROCEDURES OUTLINED IN CHAPTER 5.77 (SHORT-TERM RENTALS) OF THE CERTIFIED LCP, THE PROJECT SHALL CONFORM WITH THE CERTIFIED LOCAL COASTAL PROGRAM, INCLUDING WITH THE PROVISIONS RELATING TO COASTAL ACCESS AND RECREATION. THE REQUIRED FINDINGS MUST INCLUDE A CUMULATIVE IMPACTS ANALYSIS INFORMED, AT LEAST IN PART, BY MONITORING DATA COLLECTED ON APPROVED PROJECTS THAT RESTRICT STRS AND ON STRS THROUGHOUT THE COASTAL ZONE. THE RESPONSIBLE HEARING BODY SHALL ALSO FIND:**

**I.THE PROPOSED RESTRICTION WOULD NOT RESULT IN THE SUBSTANTIAL LOSS OF VISITOR-SERVING ACCOMMODATIONS (I.E., A REDUCTION IN AVAILABLE OVERNIGHT ACCOMMODATION ROOMS, INCLUDING BUT NOT LIMITED TO SHORT-TERM RENTALS, HOTELS, AND/OR MOTELS, WITHIN ¼ MILE OF VISITOR-SERVING RECREATIONAL USES, THE BEACH, BAY, OCEAN, OR TIDELANDS).**

**II.THE PROPOSED RESTRICTION WOULD NOT RESULT IN THE LOSS OF LOWER-COST OVERNIGHT ACCOMMODATIONS. LOWER-COST OVERNIGHT ACCOMMODATIONS SHALL BE DEFINED AS THOSE CHARGING APPROXIMATELY TWENTY FIVE PERCENT (25%) LESS THAN THE STATEWIDE AVERAGE DAILY ROOM RATE OR LESS.**

**III.THE PROPOSED RESTRICTION WOULD NOT RESULT IN THE NET LOSS OF SHORT-TERM RENTALS BELOW FOUR HUNDRED TWENTY-FIVE (425) SHORT-TERM RENTAL UNITS (BOTH HOSTED AND UN-HOSTED AND/OR PRIMARY OR NON-PRIMARY) HISTORICALLY OCCURRING IN THE COASTAL ZONE.**

**IV.THE PROPOSED RESTRICTION WOULD BE NECESSARY TO PROTECT THE NEIGHBORHOOD STABILITY, HOUSING ACCESS, AND WOULD BE CONSISTENT WITH THE NEIGHBORHOOD CHARACTER ESTABLISHED IN THE LOCAL COASTAL PROGRAM (LCP).**

The project entails an upgrade of an existing alcohol license from a Type 41 (beer and wine) to a Type 47 (beer, wine, and distilled spirits) at an existing 2,139-square-foot restaurant with a bar which includes the legal non-conforming sale of beer and wine.