

January 5, 2022

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach

California

RECOMMENDATION:

Accept Categorical Exemption CE21-149 and approve Administrative Use Permit AUP21-039, Conditional Use Permit CUP21-010, and Local Coastal Development Permit LCDP 21-034 to modify an existing Alcohol Beverage Control (ABC) Type 41 License (beer and wine for on-site consumption) to a Type 47 License (beer, wine and distilled spirits for on-site consumption) at an existing restaurant with an outdoor patio and to convert an existing service bar (dining ledge) to a new 49.9-square-foot fixed bar in a mixed-used building located at 1900 E. Ocean Boulevard within the Ocean Boulevard (PD-5) Zoning District. (District 2)

APPLICANT: Steve Rawlings
c/o Plunge Restaurant LLC
26023 Jefferson Avenue, Suite D
Murrieta, CA 92562
(Application No. 2105-17)

DISCUSSION

The site is located on the south side of East Ocean Boulevard between 14th and 15th South Place, west of Cherry Avenue and east of Hermosa Avenue (Attachment A - Vicinity Map). The project site is developed with an eighteen-story mixed-use building adjacent to residential uses to the North (across Ocean Boulevard), West, and East. Immediately to the south of the project site is the strand. The subject site is within the Ocean Boulevard (PD-5) Zoning District in the Coastal Zone. The 2019 General Plan Land Use Element Place Type designation is Waterfront (WF). The California Coastal Commission (CCC) has not yet certified the City's Land Use Element. Therefore, the applicable General Plan Land Use designation of the subject site is Land Use Designation (LUD) No.4 (High Density Residential).

A legal non-conforming restaurant currently operates within the existing 3,419-square-foot tenant space located on the second floor and has an existing Alcoholic Beverage Control (ABC) Type 41 (on and off-site beer and wine sales in conjunction with a restaurant) license. The existing restaurant ABC license was approved under a Conditional Use Permit Exemption (App. No. 1612-02) on December 8, 2016. Based on permit history and business license records, the



tenant space has long served residents and the public as a retail/restaurant use. In the 1960s, the tenant space was occupied by Embers Shoreline Restaurant. In the early 2000s, it served as Ocean Deli and Bistro, in 2014 as The View restaurant and market and since 2016 as Plunge restaurant with a Conditional Use Permit Exemption (CUPEX) for a Type 41 license, which allows for on-sale beer and wine. Establishments that only sell alcoholic beverages with meal service, where alcohol sales do not exceed 30 percent of gross sales, and that do not have a fixed bar are eligible for a CUPEX; however, the proposed project is no longer eligible for the CUPEX, based on the proposed installation of the fixed bar and the expansion of the alcohol license to include the sale of distilled spirits, which are described in greater detail below. The applicant proposes to expand the hours of operation; however, Staff is recommending the closing hour of the patio be reduced from the applicant's proposal to ensure compatibility with the surrounding residential uses (see proposed and recommended hours in Tables 2a and 2b below).

Project Proposal and Entitlements

The applicant is proposing an interior remodel as part of this application and is subject to a building permit in addition to the entitlements requested (Attachment B – Plans). The business owner is proposing the interior renovations to the restaurant to provide an upscale dining experience and to draw tourism to the waterfront. The renovation includes the conversion of a serving ledge (a service area used by wait staff that is not currently used by patrons for dining) into a 49.9 square-foot fixed bar area within the existing restaurant. In addition, a Type 47 license is requested to allow of beer, wine, distilled spirits for consumption on the licensed premises and requires the operation and maintenance of the licensed premises as a bona fide eating establishment.

In accordance with Long Beach Municipal Code (LBMC) Section 21.27.060 (A), the request to expand the alcoholic beverage license to expand the range of beverages sold is allowed for a nonconforming use subject to an Administrative Use Permit (AUP), which is described in greater detail further in this report, as well as a Local Coastal Development Permit (LCDP). As stipulated by LBMC Section 21.52.200.1 (A), any use with a fixed bar cannot be exempt from a CUPEX; thus, a CUP is required due to the conversion of a dining ledge to a fixed bar.

Administrative Use Permit.

Pursuant to Section 21.25.403.B and 21.27.060A of the LBMC, a nonconforming nonresidential use may change to another nonconforming use with an AUP, provided that certain findings can be made in support of the use. The applicant is requesting approval to convert a portion of the non-conforming restaurant area, approximately 49.9 square feet, from a dining ledge to a bar. As proposed, the use within this space would remain a restaurant use, the bar area consists of no more than 4.7 percent of the total restaurant area. AUP findings include the requirement that the proposed use is consistent with the General Plan and would not be detrimental to the surrounding community including the public health, safety, and welfare. Staff finds that a restaurant with a bar is a visitor serving use which is supported by the Local Coastal Program and the General Plan, as further described in the attached Findings. A restaurant has been operating at this location since the 1960s without complaints and will be operating in the same

manner. The bar area is not minimal and the establishment will continue to operate as restaurant that serves food at all hours that alcohol is served in accordance with ABC requirements for this license type. conditions of approval restricting the hours of operation and size of the bar are included to ensure that the use continues to be compatible with the adjacent residential uses. Customarily, AUPs are considered by the City's Zoning Administrator, but because the proposed project includes both the AUP and CUP the project is being combined so that they may be considered together by the Planning Commission.

Conditional Use Permit.

In accordance with the Zoning Ordinance, a CUP is required to expand the range of alcohol sold (LBMC 21.27.060.A). The purpose of CUPs is to allow the individual review of certain land uses to ensure they are compatible with surrounding uses, or, through the imposition of conditions, can be made compatible with surrounding uses (Attachment C - Conditions of Approval). In addition to the required CUP findings, Section 21.52.201 of the LBMC establishes a number of special conditions that must be adhered to unless findings of fact can be made to provide relief from the condition (LBMC21.52.100). In accordance with the Zoning Ordinance, the evaluation of the proposed use includes an assessment of parking, the number of licenses recommended by ABC for the area, and that the use not be located within a reporting district with a high crime rate as reported by the Long Beach Police Department (LBPD).

The existing restaurant has two dedicated on-site parking spaces accessible to patrons. The current floor plan for the existing restaurant shows 1,227 square feet dedicated to dining area, 55 square-feet dedicated to a dining ledge, and 250 square feet for an outdoor patio. The proposed floor plans for the restaurant include 1,060 square feet for dining area, 49.9 square feet for a proposed bar, and 250 square-feet dedicated to the outdoor dining area. The proposed expansion of the alcohol license and addition of a bar does not result in a net increase of parking as the amount of area allocated to the bar is an accessory use and the overall reduction of dining seating area (167 square-feet) offsets the parking requirements for the 49.9-square-foot bar (See Table 3). Staff does not anticipate that these modest changes to the operations of the existing restaurant will create any additional demand for parking. The fixed bar will allow the restaurant to provide a more upscale dining experience to its customers.

Table 1: Current and New Floor Plan Square Footages

	Current Floor Plan	New Floor Plan
Dining Area	1,227 square feet	1,060 square feet
Dining Ledge	55 square feet	N/A
Bar	N/A	49.9 square feet
Outdoor Patio	250 square feet	250 square feet

In considering a CUP application for the new bar seating area and sale of distilled spirits in addition to beer and wine, staff evaluated the number of existing alcohol licenses in the subject Census Tract in which this restaurant is located, as well as the total number of reported crimes in the subject Police Reporting District. Section 21.52.201 of the Zoning Code requires that a new CUP for alcohol sales meet a number of special conditions, unless findings of fact can be

made to provide relief from the condition. These conditions include that the establishment not be approved in a reporting district with an over concentration of alcohol sales, as recommended by ABC, and that the use shall not be in a reporting district with a high crime rate as reported by LBPD. Pursuant to Section 21.52.100, all special conditions shall be met unless findings of fact can be made to support the use.

According to the ABC License Report, the subject property is within Census Tract 5766.02 (Attachment D - Census Tract Map), which recommends a maximum of nine (9) on-site alcohol licenses. There are currently four (4) ABC licenses for on-premises sales within this Census tract. Not only is the total number of licenses below the recommended maximum threshold, but the existing restaurant is included as one of the active alcohol licenses in the Census Tract and therefore is not adding a new alcohol license, simply upgrading the license type. Therefore, there would be no net increase in on-site alcohol licenses in the Census Tract as part of this application.

The site is within Police Reporting District 352 with a current crime rate of 176 reported crimes from June 2020-June 2021. The average crime rate across reporting districts is 97. Pursuant to Section 21.15.3338, "high crime" is defined as twenty percent above the City-wide average for all crimes. The threshold for high crime is 116; therefore, this area is considered high-crime. As part of the application's review, LBPD was consulted. With the incorporation of conditions of approval pertaining to lighting, site design, security, and hours of operation (see Table 2) LBPD is not in opposition to this application. Moreover, the conditions established by the approval of the CUP secures operational standards that can be enforced by the City in the future as needed. Furthermore, a restaurant has been operating at this location since the 1960s and has operated in harmony with the surrounding uses.

The primary use is a restaurant, and the sale of alcohol is only for on-site consumption and is a convenience to the patrons. The overall site remains a residential use with the restaurant itself constituting an accessory use of the site. Additionally, the proposed project is not adding a new establishment. The proposed use will continue to operate as a full-service, sit-down restaurant (Attachment E - Operations Statement) and is conditioned accordingly. The recommended conditions of approval are intended to ensure the use continues to operate in a manner compatible with the surrounding area. Such proposed conditions include installation of security cameras and mandatory staff training for proper distribution of alcoholic beverages for on-site consumption only. Table 2a lists the restaurant's current hours of operation, and Table 2b summarizes staff's recommended hours of operation.

Table 2a: Current Operating Hours

Operating Area	Days of the Week	Hours of Operation
Restaurant	Monday - Thursday	11 am – 10pm
	Friday and Saturday	9 am – 11 pm
	Sunday	9 am – 10 pm
Patio	Monday - Thursday	11 am – 10 pm
	Friday and Saturday	9 am – 11 pm
	Sunday	9 am – 10 pm

Table 2b: Staff Conditioned Operating Hours

Operating Area	Days of the Week	Hours of Operation
Restaurant	Monday - Thursday	7 am – 11pm
	Friday and Saturday	7 am – 11pm
	Sunday	7 am – 11pm
Patio	Monday - Thursday	7 am – 9 pm
	Friday and Saturday	7 am – 10 pm
	Sunday	7 am – 9 pm

While the proposed hours generally represent an expansion of operating hours, Staff is recommending the closing hour of the patio be reduced from the applicant's proposal (current operating hours listed in Table 2a) to ensure compatibility with the surrounding residential uses.

Local Coast Development Permit

In accordance with the Zoning Ordinance, a Local Coastal Development Permit is required whenever there is a discretionary application (such as a Conditional Use Permit) (LBMC 21.25.903.B.2). The purpose of the LCDP is to ensure that all public and private development in the Long Beach Coastal Zone is developed consistent with the City's certified Local Coastal Program (LCP).

The proposed alcohol service and bar area would not fundamentally change the existing onsite conditions. . The CUP would continue to promote coastal access with the maintenance of the restaurant use for enjoyment by the broader public, consistent with LCP goals that encourage visitor-serving uses within the Coastal Zone. Consistent with the Coastal Act and LCP, the restaurant provides views of the sandy beach and ocean and is part of the LCP's overall public access approach to the coast. Overall, the proposed restaurant with alcohol service is an accessory use to the existing multi-story residential building. Therefore, the CUP would be consistent with the policies outlined in the LCP as it helps to maintain visitor-serving uses.

Accordingly, Staff recommends that the Planning Commission approve the CUP subject to conditions and all the entitlement related findings of fact (Attachment F - Findings).

PUBLIC HEARING NOTICE

In accordance with provisions of the Long Beach Municipal Code, 1,137 public hearing notices were distributed on December 22, 2021. As of the time of writing this report, staff has received no opposition on this project.

ENVIRONMENTAL REVIEW

In accordance with the Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is exempt per Section 15301 - Existing Facilities Class 1(a), as the scope of the project is within an existing structure (CE-21-149).

Staff recommends that the Planning Commission accept Categorical Exemption CE21-149 and approve the Administrative Use Permit AUP2105-17, Conditional Use Permit CUP21-010, and Local Coastal Development Permit LCDP21-034, to add a new fixed bar to an existing full-service restaurant, subject to Conditions of Approval.

Respectfully submitted,



CHRISTOPHER ALDANA
PROJECT PLANNER



ALEXIS OROPEZA
CURRENT PLANNING OFFICER



PATRICIA A. DIEFENDERFER, AICP
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Attachments:

- Attachment A – Vicinity Map
- Attachment B – Plans
- Attachment C – Conditions of Approval
- Attachment D – Census Tract Map
- Attachment E – Operations Statement
- Attachment F – Findings