

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

TO: Zoning Administrator
FROM: Jill Arabe, Associate Planner
DATE: August 5, 2015

SUBJECT: CONDITIONAL USE PERMIT NO. 15-016 (SUPER MEX RESTAURANT ALCOHOL AND LIVE ENTERTAINMENT)

LOCATION: 17208 Pacific Coast Highway, 92649 (northeast corner of Pacific Coast Highway and Warner Avenue)

Applicant: Luis Zavala, Super Mex Restaurant, 17208 Pacific Coast Highway, Huntington Beach, CA 92649

Property Owner: Baldavia LLC, John Ballinger & Rod Davis, 645 W. 9th Street, Suite 110-207, Los Angeles, CA 90015

Request: To permit (a) the sales, service and consumption of alcoholic beverages (full service – ABC Type 47 License) and (b) live entertainment consisting of disc jockey, karaoke, and live bands, within a 3,836 sq. ft. restaurant suite. The request includes alcohol service and consumption within a 371 sq. ft. outdoor dining area.

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

Zone: CG-CZ (Commercial General – Coastal Zone)

General Plan: CV-F1 (Commercial Visitor – 0.35 Max. Floor Area)

Existing Use: Vacant

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 consists of interior alterations with negligible expansion of an existing use.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 15-016:

1. Conditional Use Permit No. 15-016 to permit (a) sales, service and consumption of alcoholic beverages (full service – ABC Type 47 License) and (b) live entertainment consisting of disc jockey, karaoke, and live bands, within a 3,836 sq. ft. restaurant suite 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 use is ancillary to an existing restaurant business that currently only serves beer and wine for consumption. The use will primarily occur within the interior of the building, except for alcohol service and consumption extending into a future 371 sq. ft. outdoor dining area located in front of the building and oriented towards Pacific Coast Highway, away from residential uses. The outdoor dining area may only be constructed and utilized with reconfiguration of the parking lot that will provide safe and adequate pedestrian access in front of the building. Hours of operation for the use are consistent with other commercial uses in the center. As conditioned, doors into the restaurant will remain closed during live entertainment hours to minimize potential noise impacts. The use is not anticipated to generate additional noise, traffic, or parking impacts detrimental to the surrounding properties. Live entertainment and the sale of (full service) alcohol for onsite consumption will contribute to the viability of the restaurant by attracting customers and generating lease revenue, thus improving the value of property in the neighborhood.
2. The conditional use permit will be compatible with surrounding uses because it will operate ancillary to a restaurant use and activities will primarily occur within the interior of the building. Although alcohol consumption is also proposed within an outdoor dining area, outdoor dining will not be permitted between the hours of 10:00 p.m. and 7:00 a.m. to minimize potential noise and safety impacts during late night/early times. The restaurant is located within an existing multi-tenant commercial center and consistent with adjacent commercial uses, which serve nearby residents and visitors. Residential uses are located adjacent to the west and north of the site. The closest residential dwelling is approximately 70 feet from the subject building and is separated by an existing six-foot high block wall, driveway, and carports. The restaurant's entrance doors are oriented to the parking lot and Pacific Coast Highway and away from the residential uses. Live entertainment is proposed not to operate past 12:00 a.m. (midnight) consistent with the restaurant use and other commercial uses in the center. The use will be subject to noise regulations to ensure compatibility with surrounding uses.
3. The proposed conditional use permit 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) and any specific condition on the project. The HBZSO authorizes live entertainment and alcohol at the subject property, subject to approval of a conditional use permit. The restaurant with live entertainment and alcohol will be located within an existing commercial center which conforms to land use and applicable development standards.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of General Plan land use designation of Commercial Visitor and the objectives and policies of the General Plan as follows:

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.

The proposed use is compatible with the existing commercial uses in the center such as retail and restaurants. It provides for the sales and service of alcoholic beverages and live entertainment activities within the interior of the restaurant, and alcohol consumption in the outdoor dining area. The proposed use will not generate significant impacts above existing conditions, based upon the conditions imposed on the conditional use permit and entertainment permit.

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 place.

The project is located along a primary corridor of the City that contains existing restaurants and retail uses. The proposed use will serve to strengthen the existing business and commercial center.

C. Noise Element

Objective N 1.8: Minimize the generation of excessive noise level impacts from entertainment and restaurant/bar establishments into adjacent residential or “noise sensitive” land uses.

The proposed use will primarily occur within the interior of the restaurant, except for the outdoor dining area which will permit alcohol service and consumption. However, use of the outdoor dining area is conditioned to be prohibited between the hours of 10:00 p.m. and 7:00 a.m. to minimize potential noise and safety impacts. Additionally, doors will remain closed during entertainment hours. Hours of operation for the proposed use will not exceed restaurant hours, which close at 12:00 a.m. (midnight) consistent with other commercial uses in the center.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 15-016:

1. The site plan received and dated July 8, 2015, and floor plan received and dated May 14, 2015, shall be the conceptually approved design with the modification that the approximately 371 sq. ft. outdoor dining area shall not be permitted until the parking lot reconfiguration and improvements have been reviewed and approved by the Planning and Building Department and complies with applicable standards in the HBZSO.
2. Prior to the sales, service, or consumption of alcoholic beverages, the business shall obtain an ABC license authorizing alcohol use in the restaurant and outdoor dining area. The business shall be limited to a Type 47 (On Sale General – Eating Place) ABC License.
3. Prior to commencement of live entertainment, the business shall obtain an Entertainment Permit from the Huntington Beach Police Department. All conditions contained in the Entertainment Permit shall be adhered to.
4. The use shall comply with the following:

- a. The restaurant with alcohol service shall only operate between the hours of 8:00 a.m. and 12:00 a.m. (midnight).
- b. Live entertainment shall only operate between the hours of 10:00 a.m. and 12:00 a.m. (midnight) and within the interior of the establishment.
- c. All exterior doors shall remain closed during hours of entertainment, except in cases of emergency.
- d. To further reduce the likelihood of noise disturbances from patrons during late night and early morning hours, no dining or consumption of alcoholic beverages shall be permitted within the outdoor patio area between the hours of 10:00 p.m. and 7:00 a.m. **(PD)**
- e. All alcoholic beverages shall remain within the interior of the restaurant and outdoor patio dining area per §9.44.010 of the Huntington Beach Municipal Code (HBMC). A sign shall be posted stating alcoholic beverages are not allowed outside of the restaurant. **(PD)**
- f. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
- g. No reduced price alcoholic beverage promotion shall be allowed after 7:00 p.m., including no promotional drink specials or reduced drink specials.
- h. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
- i. Signs shall be posted in a conspicuous space at the entrance/exist points of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- j. An employee shall maintain continuous supervision at all times of the patio area when the patio area is being utilized for the sales, service or consumption of alcoholic beverages. **(PD)**
- k. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available from the time the business opens to the public, until at least one hour prior to the scheduled closing time. **(PD)**
- l. There shall be no entertainment allowed without a valid Entertainment Permit issued by the Huntington Beach Police Department. Entertainment is not allowed on the patio. **(PD)**
- m. 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)**

- n. All areas where the sales, service, and consumption of alcoholic beverages will be permitted must be sufficiently illuminated to permit the identification of patrons. **(PD)**
 - o. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
 - p. Signage, posters, and advertising with “Do Not Drink and Drive” shall be posted in the business. **(PD)**
 - q. 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)**
 - r. 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)**
 - s. 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 an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(PD)**
 - t. 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)**
 - u. The use conditions listed herein and the Entertainment Permit conditions shall be clearly posted on the premises at all times.
5. CUP No. 15-016 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 Planning and Building Department a minimum 30 days prior to the expiration date.
 6. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
 7. The Development Services Departments and divisions (Fire, Planning & Building, and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building 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.