

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
MAY 3, 2017**

Planning Application 2017-7160
502 Ross Drive

USE PERMIT to amend the use permit and allow modifications to the floor plan for an expanded bar area and modify condition of approvals and parking management plan to enable valet parking.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved Use Permit shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

GC-3. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-4. INDEMNITY:

The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]

GC-5. NOTICE OF FEES PROTEST:

As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the city as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city impact fee schedule. [SDR] [PLANNING / OCA]

GC-6. CONFORMANCE WITH PREVIOUS PLANNING PERMIT:

The subject site shall comply with all conditions of approval and requirements of planning application Use Permit No. 2990-B, Miscellaneous Plan Permit No. 2015-7776 and Use Permit No. 2016-7970. [PLANNING] [COA]

GC-7. ALCOHOL BEVERAGE CONTROL (ABC):

The project applicant shall obtain all appropriate and/or licenses from the Department of Alcoholic Beverage Control prior to commencement of use approved as part of this permit. [COA] [PLANNING]

GC-8. USE AND ABC COMPLIANCE:

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- a) Non-compliance with the Conditions of Approval for this planning application or the requirements of the Department of Alcoholic Beverage Control at any time may trigger either reconsideration (discretionary review of new application) of the SDP and the imposition of additional Conditions of Approval or the initiation of the revocation process by the Director of Community Development. [COA] [PLANNING]
 - b) NO SMOKING: Tenant is responsible for ensuring customers comply with smoking regulation, per California State law. (SDR) (PLANNING)

GC-9. PERMIT COMPLIANCE REVIEW: The following compliance review is required as noted below:

- a) The applicant will notify in writing to the Planning Officer, the date of commencement of the full liquor service, following approval from ABC, at the subject site. [COA] [PLANNING]
- b) At the end of six months and twelve month of the use commencement date, the applicant shall apply for a Miscellaneous Plan Permit (MPP) to initiate a six month and twelve-month review of this permit. [COA] [PLANNING]
- c) The MPP review shall include consideration of compliance with conditions of approval, public safety issues, impacts on surrounding properties, including residential uses located above the restaurant, and other information deemed appropriate by the Director of Community Development. [COA] [PLANNING]
- d) If compliance is not found, the MPP shall include additional requirements imposed to allow continuance of this use. If after that, compliance is not achieved in a time frame noted, this Use Permit can be revoked. [COA] [PLANNING]

GC-10. DEPARTMENT OF PUBLIC SAFETY REVIEW:

Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed development prior to issuance of a Building Permit. [COA] [PLANNING]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. HOURS OF OPERATION:

The use permitted as part of this application shall comply with the following hours of operation at all times:

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- a) The hours of operation are limited Monday – Sunday from 10:00 AM to 12:00 PM. for standard hours of operation. Hours extending beyond those noted shall require approval of the Director of Community Development through a Miscellaneous Plan Permit. [COA] [PLANNING].

AT-2. DELIVERY HOURS:

Delivery hours for the approved use shall comply with SMC 19.42.030:

- a) Delivery hours are limited to daytime (period from 7:00 a.m. to 10:00 p.m. daily) only.
- b) Nighttime delivery (period from 10 p.m. to 7:00 a.m. daily) is prohibited. [SDR] [PLANNING]

AT-3. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-4. LANDSCAPE MAINTENANCE:

All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]

AT-5. PARKING MANAGEMENT:

- a) On-Site parking management shall conform to the approved parking management plan. [COA] [PLANNING]
- b) The Permittee shall secure a Parking Lease Agreement with the adjacent property at 504 Ross Drive that shall be maintained for the life of the lease agreement or for a period of 20 year whichever is longer.
- c) The Permittee shall notify the City within 30 days of any amendments, renewals, and/or termination of the parking lease to ensure parking requirements are met at all times.
- d) A parking attendant shall be provided during lunch and dinner peak hours to help monitor and redirect patron to overflow parking areas.
- e) The use permit is subject to a six and twelve-month review to monitor the parking conditions and to resolve any parking deficiencies or any operational issues with the valet parking.

AT-6. PARKING LOT MAINTENANCE:

The parking lot shall be maintained in accordance with the approved plans and as follows:

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- a) Clearly mark all employee, customer, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
 - b) Maintain all parking lot striping and marking.
 - c) Assure that adequate lighting is available in parking lots to keep them safe and desirable for the use.
 - d) Require signs to direct vehicles to additional parking spaces on-site, as needed.
 - e) Clearly mark all compact spaces as per approved plans. [COA] [PLANNING]

AT-7. EXTERIOR NOISE:

- (a) Operational noise (including music and speech) may not to exceed 60 dba during daytime and 45 dba during nighttime, as measured at the property lines. [SDR] [PLANNING]
- (b) Outdoor loudspeakers are prohibited at all times.
- (c) Compliance with all provisions of Chapter 19.42.030 of the City of Sunnyvale Municipal Code is required. [COA] [PLANNING]

AT-7. ABC REGULATIONS

- a) The operator shall maintain the required license from the Department of Alcoholic Beverage Control (ABC) and comply with all applicable regulations. Alcohol service shall be in compliance with the issued ABC license. [COA] [PLANNING]
- b) Non-compliance with the Conditions of Approval for this planning application or the requirements of the Department of Alcoholic Beverage Control at any time may trigger either reconsideration (discretionary review of new application) of the SDP and the imposition of additional Conditions of Approval or the initiation of the revocation process by the Director of Community Development. [COA] [PLANNING]
- c) The Permittee shall be responsible for ensuring that all employees receive "Responsible Alcoholic Beverage Service" training as offered through programs established by the Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request. [COA] [PLANNING]
- d) Patrons of all ages, including under 21, must be allowed. [COA] [PLANNING]

AT-8. LOITERING.

Loitering shall not be allowed in the public right-of-way adjacent to the subject site. [COA] [PLANNING]

AT-9. OUTDOOR STORAGE.

No outdoor storage shall be allowed or permitted unless designated on the Approved Plan Set. [COA] [PLANNING]

AT-10. REVOCATION, SUSPENSION AND MODIFICATIONS.

This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance SMC 19.98 (General Procedures) if the use is found to be:

- a) A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b) A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c) The use as presently conducted creates a nuisance. [COA] [PLANNING]