

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS**

Planning Application 2022-7208
301 West McKinley Avenue Suite E-150 (APN: 209-39-002)

SPECIAL DEVELOPMENT PERMIT

to consider a new 14,140 square foot restaurant (Flatstick Pub) with general alcohol service, indoor mini golf course, and a 3,120 square foot mezzanine space.

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. ENTITLEMENTS – EXERCISE AND EXPIRATION:

The approved entitlements shall be null and void two years from the date of approval by the final review authority if the approval is not

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- exercised, unless a written request for an extension is received prior to the expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]
- GC-3. ENTITLEMENTS – DISCONTINUANCE AND EXPIRATION:
The entitlements shall expire if discontinued for a period of one year or more. [SDR] [PLANNING]
- GC-4. ALCOHOL BEVERAGE CONTROL (ABC):
The project applicant shall obtain all appropriate and/or licenses from Department of Alcoholic Beverage Control prior to commencement of use approved as part of this permit. [COA] [PLANNING]
- GC-5. 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-6. 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-7. USE AND ABC COMPLIANCE:
a) Non-compliance with the Conditions of Approval for this permit or the requirements of the Department of Alcoholic Beverage Control at any time may trigger either reconsideration of the SDP and the imposition of additional Conditions of Approval or the initiation of the revocation process by the Director of Community Development.
b) Bar will be treated as part of the restaurant and will not be used as a standalone unit. [COA] [PLANNING]

GC-8. SIGNS:
Any proposed signage requires separate approval by the City prior to installation. [SDR] [PLANNING]

GC-9. ADDITIONS AND ALTERATIONS:
Any proposed changes to the restaurant including, but not limited to, expanding the mezzanine space, or converting the mini golf into additional restaurant seating requires separate approval by the City prior to the changes. [SDR] [PLANNING]

PC: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED PRIOR TO COMMENCEMENT (OR AS NOTED IN THE CONDITION) OF THE APPROVED USE.

PC-1. NOISE VERIFICATION:

- a) Tenant shall comply with all applicable noise policies as contained in the Noise Element of the City of Sunnyvale General Plan and provisions of the City of Sunnyvale Municipal Code. Should terms of the tenant's lease be more restrictive than City Code or policies, compliance with terms of tenant's lease agreement is required.
- b) The tenant must provide adequate sound insulation and vibration isolation measures, so that noise intrusion into the above residences complies with the following standards, as measured 4 feet above finished floor of the residential unit immediately above the facility, with windows and doors closed:
 - i) Noise levels from the facility may not exceed 42 dBA within a dwelling unit located immediately above the facility.
 - ii) Noise levels may not exceed the existing ambient sound level by more than 6 dBA; in no case may local ambient sound level be considered less than 50 dBA.
- c) Walls, floors, and ceilings of tenant spaces must not transmit vibration determined to be objectionable to owners or occupants of the residential units immediately above the facility. If operations of the mini golf exceed maximum sound or vibration levels described in the foregoing, then, at the owner's request and at the tenant's sole cost and expense, the noise or vibration must be reduced to achieve project goals by implementation of appropriate measures.
- d) If, at any time, noise and vibration levels associated with the mini golf are found to be out of compliance with City of Sunnyvale Municipal Code or standards referenced above, compliance must be achieved within 24 hours. City staff shall require noise tests be conducted and noise and vibration attenuation measures be applied to the tenant space in order to effect compliance with noise and vibration standards, should repeated complaints be received, or violations of any applicable standards be verified by City code enforcement personnel. [COA] [PLANNING]

EP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.

- EP-1. **DAMAGE TO EXISTING PUBLIC IMPROVEMENTS:**
Developer shall be responsible to rectify any damage to the existing public improvements fronting and adjacent to the project site as a result of project construction, to City's satisfaction by the Public Works Department. All existing streetlight conduits, streetlight wires, streetlight pull boxes, traffic detector loops, and traffic signal conduits shall be protected in place during construction. Any damaged streetlight conduits, streetlight wires, streetlight pull boxes, traffic detector loops, and traffic signal conduits shall be replaced within 7 days at the expense of the developer. All construction related materials, equipment, and construction workers parking need to be stored on-site and the public streets need to be kept free and clear of construction debris. [COA] [PUBLIC WORKS]
- EP-2. **MAINTAIN PUBLIC STREETS CLEAR:**
All construction related materials, equipment, and construction workers parking need to be stored on-site and the public streets need to be kept free and clear of construction debris. [COA] [PUBLIC WORKS]

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 (as proposed by applicant) at all times:
Sunday – Thursday 11:00 A.M. to 12:00 A.M.
Friday – Saturday 11:00 A.M. to 1:00 P.M.
Changes to the hours will require an amendment to the approved 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]

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- AT-4. NOISE:
The restaurant operation shall adhere to the Noise Ordinance of SMC Section 19.42.030 at all times. [COA] [PLANNING]
- AT-5. LOUDSPEAKERS PROHIBITED:
Out-of-door loudspeakers shall be prohibited at all times except for emergency notification use. [COA] [PLANNING]
- AT-6. UNENCLOSED STORAGE (PROHIBITED):
Unenclosed storage of any kind shall be prohibited on the premises. [COA] [PLANNING]
- AT-7. COMPLAINTS:
The business (owners or employees) shall be responsible for addressing and correcting any complaints received. [COA] [PLANNING]

END OF CONDITIONS