
**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
ZONING ADMINISTRATOR HEARING ON MAY 30, 2018**

Planning Application 2018-7244
919 East Duane Avenue
SPECIAL DEVELOPMENT PERMIT to allow on sale general alcoholic
beverage service at a new restaurant.

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:

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

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. 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. COMPLIANCE WITH APPROVAL:
Submit a separate Miscellaneous Plan Permit application to review a new trash & recycling enclosure, per Sunnyvale Municipal Code and City's Design Guidelines. The enclosure is required to be installed within 180 days of the approval of this permit. [COA] [PLANNING]
- 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:

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]

GC-9. EXHAUST AND OPENINGS:

No exhaust fans, doors, windows, or openings, of any kind shall be placed on the wall to the rear or where residential use is to the rear of the proposed building, except as may be required by the City, nor shall any machines or fans be placed on the roof of the building which exhaust dust or odors. [COA] [PLANNING]

PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.

PS-1. REQUIRED REVISIONS TO PROJECT PLANS:

The plans shall be revised to include the following:

- a) Repaint the existing parking spaces.
- b) Keep the parking spaces clear of any debris and storage at all times.
- c) Require employees to park in the rear parking lot.
- d) Keep the doors closed during the business hours to minimize noise impacts to surrounding residential neighborhood. [COA] [PLANNING]

BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. NOTICE OF CONDITIONS OF APPROVAL:

A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]

BP-4. BLUEPRINT FOR A CLEAN BAY:

The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

BP-5. RECYCLING AND SOLID WASTE ENCLOSURE:

The building permit plans shall include details for the installation of a recycling and solid waste enclosure. The required solid waste and recycling enclosure shall:

- a) Match the design, materials and color of the main building.
- b) Be of masonry construction. [COA] [PLANNING]

BP-6. RECYCLING AND SOLID WASTE CONTAINER:

All recycling and solid waste containers shall be metal or State Fire Marshall listed non-metallic. The building permit plans shall provide details illustrating compliance with this condition. [COA] [PLANNING]

BP-7. EXHAUST AND OPENINGS:

No exhaust fans, doors, windows, or openings, of any kind shall be placed on the wall to the rear or where residential use is to the rear of the proposed building, except as may be required by the City, nor shall any machines or fans be placed on the roof of the building which

exhaust dust or odors. The building permit plans shall clearly indicate the location of all exhaust equipment, doors and window and shall be subject to review and approval by the Planning Director. [COA] [PLANNING]

BP-8. BEST MANAGEMENT PRACTICES - STORMWATER:

The project shall comply with the following source control measures as outlined in the BMP Guidance Manual and SMC 12.60.220. Best management practices shall be identified on the building permit set of plans and shall be subject to review and approval by the Director of Public Works:

- a) Storm drain stenciling. The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408) 730-7738.
- b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.
- c) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas.
- d) Covered trash, food waste, and compactor enclosures.
- e) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - i) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants.
 - ii) Dumpster drips from covered trash and food compactor enclosures.
 - iii) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - iv) Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
 - v) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]

BP-9. RECYCLING AND SOLID WASTE ENCLOSURE:

The building permit plans shall include details for the installation of recycling and solid waste enclosures that are consistent with SMC 19.38.030. The required solid waste and recycling enclosures shall:

- a) Match the design, materials and color of the main building;
- b) Be of masonry construction;

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- c) Be screened from view;
 - d) All gates, lids and doors shall be closed at all times;
 - e) Shall not conflict with delivery/receiving areas;
 - f) Shall be consistent with the approved Waste and Recycling Management Plan;
 - g) Waste and recycling diversion systems shall be incorporated into the facilities and tenant improvements. [COA][ENVIRONMENTAL SERVICES/PLANNING]
- BP-10. SOLID WASTE DISPOSAL PLAN:
A detailed recycling and solid waste disposal plan shall be submitted for review and approval by the Director of Community Development prior to issuance of building permit. The solid waste disposal plan and building permit plans shall demonstrate compliance with current City requirements and guidelines for non-residential projects. [COA] [PLANNING/ENVIRONMENTAL SERVICES]

DC: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.

- DC-1. BLUEPRINT FOR A CLEAN BAY:
The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]
- DC-2. TREE PROTECTION:
All tree protection shall be maintained, as indicated in the tree protection plan, until construction has been completed and the installation of landscaping has begun. [COA] [PLANNING]
- DC-3. CLIMATE ACTION PLAN – OFF ROAD EQUIPMENT REQUIREMENT:
OR 2.1: Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]), or less. Clear signage will be provided at all access points to remind construction workers of idling restrictions.

OR 2.2: Construction equipment must be maintained per manufacturer's specifications.

OR 2.3: Planning and Building staff will work with project applicants to limit GHG emissions from construction equipment by selecting one of

the following measures, at a minimum, as appropriate to the construction project:

- a) Substitute electrified or hybrid equipment for diesel- and gasoline-powered equipment where practical.
- b) Use alternatively fueled construction equipment on-site, where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel.
- c) Avoid the use of on-site generators by connecting to grid electricity or utilizing solar-powered equipment.
- d) Limit heavy-duty equipment idling time to a period of 3 minutes or less, exceeding CARB regulation minimum requirements of 5 minutes. [COA] [PLANNING]

DC-4. DUST CONTROL:

At all times, the Bay Area Air Quality Management District's CEQA Guidelines and "Basic Construction Mitigation Measures Recommended for All Proposed Projects", shall be implemented. [COA] [PLANNING]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.
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AT-1. HOURS OF OPERATION:

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

- a) The hours of operation are limited to 7:00 a.m. to 10:00 p.m. for standard hours of operation, excluding short duration sales events which may have extended hours. Hours extending beyond midnight 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:

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- All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]
- AT-4. LOUDSPEAKERS PROHIBITED:
Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]
- AT-5. EXTERIOR EQUIPMENT:
All unenclosed materials, equipment and/or supplies of any kind shall be maintained within approved enclosure area. Any stacked or stored items shall not exceed the height of the enclosure. Individual air conditioning units shall be screened with architecture or landscaping features. [COA] [PLANNING]
- AT-6. PARKING LOT MAINTENANCE:
The parking lot shall be maintained in accordance with the approved plans and as follows:
- 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]