



## STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: May 4, 2016

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**PLANNER:** Sean Nicholas, Associate Planner *SN*

**SUBJECT:** Minor Conditional Use Permit 16-120, Blaze Pizza Beer and Wine, a request to consider beer and wine service for indoor and outdoor onsite consumption associated with a new family restaurant at the Outlets at San Clemente.

**LOCATION:** 225 West Avenida Vista Hermosa, Suite A

**ZONING/GP:** Marblehead Coastal Specific Plan Regional Commercial (MHCSP-RC1)

**BACKGROUND:**

- Blaze Pizza is a family dining experience within the Outlets at San Clemente (Outlets) shopping center. The make your own pizza franchise is requesting beer and wine service for indoor and outdoor onsite consumption. The restaurant already has an approved enclosed outdoor patio. The restaurant is planning on opening in mid-May and will be the second restaurant open at the Outlets.
- The applicant requests the service of beer and wine, indoors and outdoors, from 10:00 a.m. to 10:00 p.m., seven days a week. This is their normal operating hours. No beer and wine will be permitted to be purchased for offsite consumption.
- The hours of operation are consistent with other family restaurant establishments, and the 10:00 p.m. close time of the outdoor patio is consistent with recent beer and wine approvals.
- The building is adjacent to West Avenida Vista Hermosa, and is located about 180 feet away from future residents within the Sea Summit development. The patio is enclosed with a wall to further reduce potential noise impacts from the outdoor patio. No live or amplified sound is proposed.
- Zoning Ordinance Section 17.36.020 requires Zoning Administrator approval of a Minor Conditional Use Permit (MCUP) to serve beer and wine for indoors and outdoors onsite consumption within the Regional Commercial zoning district.
- If approved, Blaze Pizza will be the first restaurant to have alcohol service of any kind, but staff does anticipate as other restaurants get developed there will be additional alcohol requests for the center.
- This proposal complies with the required findings for a Minor Conditional Use Permit for the following reasons:
  - The sale and consumption of beer and wine is contained entirely within the building and the enclosed outdoor dining area. Additionally, there is no anticipated

- increase to the intensity of the use as the beer and wine will be for the restaurant's customers as part of their meals.
- The proposed use is ancillary to the primary restaurant establishment, and the project has been conditioned to comply with all applicable codes, and incorporates best management practices. The use will remain a family establishment.
  - The project has been conditioned to restrict the hours of operation of the service of beer and wine between 10:00 a.m. to 10:00 p.m., seven days a week. These hours are consistent with many other recent approvals for similar uses involving the consumption of beer and wine with similar family restaurants.
  - Staff supports the applicant's request because the proposed use meets the required findings.
  - Staff has not received public comments on this application as of the date this report was prepared.

### **RECOMMENDATION**

STAFF RECOMMENDS THAT the Zoning Administrator approve MCUP 16-120, Blaze Pizza Beer and Wine, subject to the attached Resolution and Conditions of Approval.

#### Attachments:

1. Resolution No. ZA 16-018  
Exhibit 1 - Conditions of Approval
2. Location Map  
Plans

RESOLUTION NO. ZA 16-018

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO APPROVE MINOR CONDITIONAL USE PERMIT 16-120, BLAZE PIZZA BEER AND WINE, A REQUEST FOR THE ONSITE INDOOR AND OUTDOOR CONSUMPTION OF BEER AND WINE AT A NEW RESTAURANT LOCATED AT 225 WEST AVENIDA VISTA HERMOSA, SUITE A**

**WHEREAS**, on March 30, 2016 an application was submitted, and deemed complete on April 14, 2016, by Burriss Enterprise, LLC, 2318 City Lights Drive, Aliso Viejo, CA 92656, a request for indoor and outdoor onsite consumption of beer and wine at a bona fide restaurant at 225 West Avenida Vista Hermosa, Suite A, the legal description being Lot 325, of Tract 8817; Assessor's Parcel Number 691-422-10; and

**WHEREAS**, the Planning Division completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA) and recommends that the Zoning Administrator determine that the project be found categorically exempt from CEQA in accordance with Section 15301 as a Class 1 exemption because the project is a service provided at an existing facility; and

**WHEREAS**, on April 7, 2016, the City's Development Management Team reviewed the application for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

**WHEREAS**, on May 4, 2016, the Zoning Administrator held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City Staff, and other interested parties.

**NOW, THEREFORE**, the Zoning Administrator of the City of San Clemente hereby resolves as follows:

**Section 1:** The project is categorically exempt from the California Environmental Quality Act (CEQA) as a Class 1 exemption because the project is a service provided at an existing facility.

**Section 2:** With regard to the Minor Conditional Use Permit (MCUP) for the outdoor on-site consumption of beer and wine, the Zoning Administrator finds as follows:

- A. The indoor and outdoor onsite consumption of beer and wine at a bona fide restaurant is permitted within the Regional Commercial (RC1) zoning district of the Marblehead Coastal Specific Plan pursuant to the approval of a Minor Conditional Use Permit (MCUP) and complies with all the applicable provisions of the Municipal Code, Specific Plan, and the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed in that the onsite sale and consumption of beer and wine is ancillary to a new family restaurant. The outdoor patio is appropriately

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screened so as to not negatively impact future residents at Sea Summit. There is no amplified or live entertainment proposed.

- B. The site is suitable for the type and intensity of use proposed, in that the sale and consumption of beer and wine is contained entirely within the building and the enclosed outdoor dining area. Additionally, there is no anticipated increase to the intensity of the use as the beer and wine will be for the restaurant's customers as part of their meals, and there are no modifications being proposed to the approved number of seats.
- C. The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties and improvements in the vicinity, in that the development must comply with all code requirements including but not limited to Fire Code, California Building Code, Alcoholic Beverage Control, and the San Clemente Municipal Code. Additionally, the proposed use is ancillary to the primary restaurant establishment, and the project has been conditioned to ensure that the project complies with all applicable codes, and incorporates best management practices.
- D. The proposed use will not negatively impact surrounding land uses in that the sale and consumption of beer and wine has been conditioned to restrict the hours of operation of the service of beer and wine to maintain compatibility with the surrounding properties and must comply with the City's Noise Ordinance.

**Section 3:** The Zoning Administrator hereby approves the categorical exemption, Minor Conditional Use Permit 16-120, Blaze Pizza Beer and Wine, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1.

**PASSED AND ADOPTED** at a regular meeting of the Zoning Administrator of the City of San Clemente on May 4, 2016.

SAN CLEMENTE ZONING ADMINISTRATOR

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James Pechous, Zoning Administrator

**CONDITIONS OF APPROVAL\***  
**MINOR CONDITIONAL USE PERMIT 16-120**  
**BLAZE PIZZA BEER AND WINE**

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive]* (PIng.)\_\_\_\_\_
  
2. Thirty days after project approval, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect unless such written consent is submitted to the City. *[Citation – City Attorney Legal Directive]* (PIng.)\_\_\_\_\_
  
3. The sale of beer and wine for onsite consumption shall be limited to the operating hours of 10:00 a.m. to 10:00 p.m. daily. Any proposed change in the hours of operation shall require an amendment to this Minor Conditional Use Permit. All beer and wine shall be consumed onsite, and no purchase of beer and wine for offsite consumption is permitted. *[Citation – Division 9 (Alcoholic Beverages),*

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*Section 25631 to 25633 of Business & Professions Code, State of California]* (PIng.)\_\_\_\_\_

4. The owner or designee shall obey all rules, regulations and conditions imposed upon the project through, but not limited to, the Alcoholic Beverage Commission (ABC) and relevant State laws. Revocation of, or sale of said ABC license to another person at another location, shall render any City approved CUP for alcohol service at the subject property null and void. Prior to any sale of the ABC license, the owner or designee shall notify the Community Development Department of the sale. *[Citation – Division 9 (Alcoholic Beverages), Business and Professions Code, State of California]* (PIng.)\_\_\_\_\_
5. The owner or designee shall be responsible for ensuring that all employees receive 'Responsible Alcoholic Beverage Service' training as offered through programs established by the Orange County Health Care Agency and 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. *[Citation - Section 17.16.070.K of the of the SCMC]* (PIng.)\_\_\_\_\_
6. MCUP 16-120 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use does not require the issuance of a building permit, the use shall not be deemed to have commenced until the date the use becomes operational. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)\_\_\_\_\_
7. The owner or designee shall have the right to request an extension of MCUP 16-120 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval in compliance with section 17.12.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)\_\_\_\_\_
8. Pursuant to Section 17.12.150(C) of the Zoning Ordinance, the on-site sale and consumption of alcohol use shall be deemed to have lapsed, and MCUP 16-120 shall be deemed to have expired, ninety (90) days after the date the on-site sale and indoor and outdoor consumption of beer and wine ceases operation and/or the business closes at such location. *[Citation - Section 17.12.150(C) of the SCMC]* (PIng.)\_\_\_\_\_
9. The business owner shall use her/his best judgment and best management practices to ensure activities on the premises will be conducted in a manner that will not be disruptive to other commercial or residential neighbors. The property owner, applicant, or designee shall be responsible for immediately resolving any problems associated with the activity and/or issues of concern raised by neighbors. ■■ (PIng.)\_\_\_\_\_

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10. If it is found that the permitted hours of operation are not appropriate to mitigate impacts on neighboring properties, at the discretion of the Police Department or Code Compliance, the permitted hours of operation may be revised.

■ (PIng.) \_\_\_\_\_

\* All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- Denotes project specific Condition of Approval



# LOCATION MAP

# ATTACHMENT 2

MCUP 16-120, Blaze Pizza Beer and Wine  
225 West Avenida Vista Hermosa, Suite A



No scale 