



STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: June 22, 2023

PLANNER: David Carrillo, Assistant Planner

SUBJECT: **Minor Conditional Use Permit 22-427, J'Adore Café Beer and Wine,** a request to allow the indoor and outdoor on-site sale, service, and consumption of beer and wine beverages at an existing 800 square-foot restaurant, located at 165 Avenida Del Mar, suite A, and finding the project is categorically exempt from the California Environmental Quality Act under section 15301 of the CEQA guidelines (14 CCR § 15301, Class 1: Existing Facilities: Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structures involving negligible or no expansion of existing or former use).

LOCATION: 165 Avenida Del Mar, Suite A

ZONING/GENERAL PLAN: Mixed Use 3.0 Zoning District and Architectural, Central Business, and Coastal Zone Overlay Districts (MU3.0-A-CB-CZ)

PROJECT SUMMARY:

- **Background:** The site is a 4,000 square-foot interior lot located in the Downtown district. The lot is developed with a 3,600 square-foot two-story building, with a rear detached storage building, and rear outdoor patio. Existing uses on site include J'Adore Café restaurant (Suite A) and Swirl Boutique clothing shop (Suite B) on the first floor, and a residential unit on the second floor. Surrounding land uses include commercial uses, such as retail shops, personal services, and restaurants, to the north, east, south and west. J'Adore Café has been operating since 2019, and currently offers indoor and outdoor dining between the hours of 7:00 a.m. and 4:30 p.m. The café plans to expand their hours to 9:00 p.m.
- **Proposed Project:** The applicant requests indoor and outdoor on-site sales, service, and consumption of beer and wine at J'Adore Café consisting of 15 indoor seats and 8 outdoor seats. Proposed alcohol service hours are between 10:00 a.m. and 8:00 p.m., daily.
- **Approval Authority:** Per Zoning Ordinance Section 17.40.030, Zoning Administrator approval of a Minor Conditional Use Permit is required for beer and wine service indoors and outdoors, with up to 16 outdoor seats, in conjunction with a restaurant as the primary use.
- **Project Findings:** Staff supports the proposed request for the following reasons:
 - Indoor and outdoor beer and wine service at a restaurant is a conditionally permitted use in the Mixed Use 3.0 Zone.

- The proposed beer and wine service (for on-site consumption) is ancillary to an existing restaurant.
- The purpose and intent of the Mixed Use 3.0 Zone and Central Business Overlay District is to accommodate pedestrian-oriented uses such as restaurants with outdoor dining. The proposed beer and wine service complements the restaurant's food menu and provides further eating options for visitors.
- The request does not intensify required parking as no additional indoor or outdoor seating is proposed. The restaurant currently has an on-street parklet, which provides up to 24 seats in compliance with SCMC Section 17.28.206 - Temporary Parklet Dining. This expanded seating is temporary and does not require additional off-street parking, in accordance with Section 17.28.206.
 - Code compliance staff, the Orange County Sheriff's Department, State Department of Alcoholic Beverage Control reviewed the proposed alcohol service and concluded alcohol can be served and consumed on-site without compatibility issues, provided that operations comply with licensing requirements, conditions of approval, and with regulations.
 - The proposed alcohol service hours are consistent with other restaurants in Downtown which serve hard alcohol and/or beer and wine. The latest alcohol service hour is 12:00am midnight for some restaurants such as South of Nick's and Pizza Port. In August 2022, the Zoning Administrator approved alcohol service hours of 7:00 a.m.-9:00 p.m. for Captain Mauri's restaurant located on Avenida Del Mar.
- **CEQA:** The proposed project is Categorical Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities; Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structures involving negligible or no expansion of existing or former use), because the request is limited to the addition of indoor and outdoor on-site beer and wine service to an existing restaurant.
- **Public Comment:** Public comments on this item have not been received.

RECOMMENDATION

Staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (14 CCR § 15301, Class 1: Existing Facilities); and
2. Adopt Resolution ZA 23-010, approving Minor Conditional Use Permit 22-427, subject to attached conditions of approval.

Attachments:

1. Resolution ZA 23-010
Exhibit A - Conditions of Approval
2. Location Map
3. Photos

RESOLUTION NO. ZA 23-010

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT 22-427, J'ADORE CAFÉ BEER AND WINE, TO ALLOW THE INDOOR AND OUTDOOR ON-SITE SALE, SERVICE, AND CONSUMPTION OF BEER AND WINE BEVERAGES AT AN EXISTING 800 SQUARE-FOOT RESTAURANT, LOCATED AT 165 AVENIDA DEL MAR, SUITE A, AND FINDING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15301 OF THE CEQA GUIDELINES (14 CCR § 15301, CLASS 1: EXISTING FACILITIES: OPERATION, REPAIR, MAINTENANCE, PERMITTING, LEASING, LICENSING, OR MINOR ALTERATION OF EXISTING PRIVATE STRUCTURES INVOLVING NEGLIGIBLE OR NO EXPANSION OF EXISTING OR FORMER USE.)

WHEREAS, on December 2, 2022, an application was submitted by Liliger Damaso, 5243 E. Beverly Blvd., Los Angeles, CA 90022, for Minor Conditional Use Permit (MCUP) 22-427, and deemed complete on May 16, 2023; a request to allow the indoor and outdoor on-site sale, service, and consumption of beer and wine beverages at an existing 800 square-foot restaurant located at 165 Avenida Del Mar, Suite A, within the Mixed Use 3.0 Zoning District and Architectural, Central Business, and Coastal Zone Overlay Districts (MU3.0-A-CB-CZ). The site's legal description is N TR 779 BLK 6 LOT 22 TR 779 LOT 22 BLK 6 NELY 40 FT, and Assessor's Parcel Number 058-082-02; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (14 CCR § 15301, Class 1: Existing Facilities). This is recommended because the request is limited to the addition of indoor and outdoor on-site beer and wine service to an existing restaurant; and

WHEREAS, the Development Management Team (DMT) reviewed the proposed project, and staff issued comment letters on February 22, 2023 to the applicant to ensure compliance with General Plan, Zoning Ordinance, and other applicable City ordinances, codes, and policies; and

WHEREAS, on June 22, 2023, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Zoning Administrator of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities; operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structures involving negligible or no expansion of existing or former use.)

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonably possibility of a significant effect on the environment. The project is not in a scenic corridor, will not alter or impact historic resources, and does not include any hazardous waste sites. The project consists of no physical modifications to the structure or the environment and only involves allowing beer and wine to be served for on-site indoor and outdoor consumption. Thus, the Class 1 exemption applies, and no further environmental review is required.

Section 3. Minor Conditional Use Permit Findings

With respect to Minor Conditional Use Permit (MCUP) 22-427, the Zoning Administrator finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Minor Conditional Use Permit and complies with all the applicable provisions of the Zoning Ordinance, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed, in that:
1. Indoor and outdoor beer and wine service at a restaurant is a conditionally permitted use in the Mixed Use 3.0 Zone;
 2. The proposed beer and wine service (for on-site consumption) is ancillary to an existing restaurant;
 3. The purpose and intent of the Mixed Use 3.0 Zone and Central Business Overlay District is to accommodate pedestrian-oriented uses such as restaurants with outdoor dining. The proposed beer and wine service complements the restaurant's food menu and provides further eating options for visitors; and

4. The General Plan Land Use Element establishes the following goal for the Commercial Land Uses in the City: *“Achieve and maintain a healthy employment base with diverse retail, office, and service uses that: 1) meet citizens’ needs; 2) help generate municipal revenues that improve quality of life; 3) are compatible with adjacent residential neighborhoods; and 4) support the goals and policies of the Economic Development Element of the General Plan.”* The project is consistent with this goal in that it allows for service of beer and wine at a restaurant which could meet the needs of residents to have a variety of restaurants to dine at.
- B. The site is suitable for the type and intensity of use that is proposed, in that:
1. The proposed beer and wine service (for on-site consumption) is ancillary to an existing restaurant;
 2. The request does not intensify required parking as no additional indoor or outdoor seating is proposed; and
 3. Code compliance staff and the Orange County Sheriff’s Department reviewed the proposed alcohol service and concluded alcohol can be served and consumed on-site without compatibility issues, provided that operations comply with licensing requirements, conditions of approval, and with regulations.
- 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:
1. The proposed use must comply with conditions of approval and code requirements to maintain the public health, safety, and welfare of the area, such as the Fire Code, California Building Code, Alcohol Beverage Control licensing requirements, and the Municipal Code. This includes but is not limited to requiring employees to receive alcohol service training to avoid the sale of alcoholic beverages to minors for consumption, limits on hours of operation, and requirements that limit amplified sound, particularly on the patio area;
 2. Should there be a compatibility issue, conditions of approval attached hereto as Exhibit A, allow the City to adjust operating hours and require noise abating measures if changes are necessary to ensure compliance with the noise ordinance and maintain the public health, safety, and welfare of the area; and
 3. Code compliance staff, the Orange County Sheriff’s Department, and the State Department of Alcoholic Beverage Control reviewed the proposed beer and wine service and concluded alcohol can be served and consumed on-site without compatibility issues, provided that operations comply with licensing requirements, conditions of approval, and with regulations.

D. The proposed use will not negatively impact surrounding land uses, in that:

1. The proposed use must comply with conditions of approval and code requirements to maintain the public health, safety, and welfare of the area, such as the Fire Code, California Building Code, Alcohol Beverage Control licensing requirements, and the Municipal Code. This includes but is not limited to requiring employees to receive alcohol service training to avoid the sale of alcoholic beverages to minors for consumption, limits on hours of operation, and requirements that limit amplified sound particularly on the patio area;
2. Should there be a compatibility issue, conditions of approval attached hereto as Exhibit A, allow the City to adjust operating hours and require noise abating measures, if changes are necessary to ensure compliance with the noise ordinance and maintain the public health, safety, and welfare of the area; and
3. Code compliance staff, the Orange County Sheriff's Department, State Department of Alcoholic Beverage Control reviewed the proposed alcohol service and concluded alcohol can be served and consumed on-site without compatibility issues, provided that operations comply with licensing requirements, conditions of approval, and with regulations.

Section 4. Zoning Administrator Approval.

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Conditional Use Permit 22-427, J'Adore Café Beer and Wine, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on June 22, 2023.

Cecilia Gallrdo-Daly, Zoning Administrator

CONDITIONS OF APPROVAL
MINOR CONDITIONAL USE PERMIT 22-427
J'ADORE CAFÉ BEER AND WINE

1.0 GENERAL CONDITIONS OF APPROVAL

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| 1.1 | Within 30 days of approval of this application, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City. Failure to submit this acknowledgement may be grounds to revoke this approval. | Planning |
| 1.2 | The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs, The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. | Planning |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. | Planning |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. | All |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. | Code
Comp |
| 1.6 | No signage is approved through this permit. All signs, including permanent, window, and temporary signage shall comply with Zoning Ordinance, including issuance of any applicable required permits. | Code
Comp
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- 1.7 Prior to the issuance of an ABC alcohol license, the applicant shall submit a site plan and floor plan identifying the alcohol service areas as the interior of Suite A, and the rear outdoor patio directly behind the building and excluding the driveway to the west. Planning
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4.0 PRIOR TO ISSUANCE OF BUILDING PERMITS

- 4.15 The applicant shall obtain approval of a Staff Waiver of a Minor Cultural Heritage Permit (Staff Waiver) for outdoor patio barriers/gates and outdoor lighting. The barriers/gates shall enclose the outdoor patio, consistent with ABC requirements. Planning
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7.0 OPERATIONAL CONDITIONS OF APPROVAL

- 7.3 The sale of beer and wine for outdoor on-site consumption shall be limited to the hours of 7:00 a.m. to 9:00 p.m. Planning
- 7.4 All employees shall 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. Training shall be provided as soon as practical following the hire date of each employee. Evidence of such training shall be maintained on-site during business hours, and made available for inspection by any city official upon request. (SCMC Section 17.16.070) Code
Comp
- 7.6 A manager shall be on the premises at all times, and available to respond to issues raised by representative from the Orange County Sheriff's Department, Orange County Fire Authority, or City of San Clemente Code Compliance, during the hours of operation when alcohol service is occurring. Code
Comp
- 7.7 These conditions of approval shall be posted in a conspicuous location clearly visible to employees to ensure they are informed of and adhere to requirements and policies for all operations of the business, including but not limited to alcohol service. Code
Comp
- 7.8 The use of amplified sound (including the electronically amplified sound of live music, human voice, or other sound within a business, restaurant, bar, or other commercial establishment) is not permitted by this use permit. This prohibition does not include the indoor use of televisions, radios, or reasonable background or ambient music. Code
Comp*
- 7.17 The Applicant shall post a sign or notice at the premises that states, "WARNING: DRINKING WINE, BEER AND OTHER ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS. FOR INFORMATION AND MATERIALS Code
Comp**

RELATING TO FETAL ALCOHOL SYNDROME, CONTACT YOUR LOCAL MARCH OF DIMES.” The notice or sign shall be posted or displayed at the premises in the manner provided for in San Clemente Municipal Code, Title 8 – Health and Safety. [Citation - Section 8.08.010 of the SCMC]

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| 7.18 | Discharge of wash water and other pollutants is prohibited from entering the storm drain system. Applicant must prevent pollutants (e.g. sediment, trash, food waste etc.) and any wash water used during cleanup from entering the storm drain system. | Code
Comp
WQ** |
| 7.19 | The Applicant shall use her/his best judgment and best management practices to ensure commercial activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The business owner/property owner shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states, “It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval,” and any subsequent revision of this section of the code. [Citation - Section 8.52.030(Y) of the SCMC] | Code
Comp** |
| 7.20 | The Applicant shall use his/her 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 and result in police services, which cost the City of San Clemente expense. | Code
Comp
OCSD** |
| 7.21 | The Applicant (including any property owners and managers, and their designees) shall be responsible for ensuring that no noise-generating activities on the subject property are conducted between the hours of ten (10:00) p.m. and seven (7:00) a.m. Such prohibited activities include, but are not limited to, dumping trash into outside trash bins, the use of parking lot sweepers, the use of high-pressure washers, or other maintenance or delivery activities which generate noise having the potential of disturbing neighboring properties. [Citation - Section 8.48.070(P) of the SCMC] | Code
Comp** |

- 7.22 The Applicant understands and acknowledges sound amplification devices located outside any business's primary building are not permitted, unless specifically identified and approved in this permit or subsequent permits approved by the City. [Citation - Section 8.48.080 of the SCMC] Code Comp**

- 7.23 The Applicant understands and acknowledges sound amplification devices located outside any business's primary building are not permitted, unless specifically identified and approved in this permit or subsequent permits approved by the City. [Citation - Section 8.48.080 of the SCMC] Code Comp**

- 7.24 The Applicant (including any property owners and managers, and their designees) shall abide by all applicable laws, including Orange County Health Department and the California Department of Alcoholic Beverage Control (ABC) laws. Code Comp OCHCA ABC**

* Denotes a modified Standard Condition of Approval

** Denotes a project-specific Condition of Approval



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MCUP22-427, J'ADORE CAFE BEER AND WINE
165 AVENIDA DEL MAR, SUITE A

STREET VIEW OF J'ADORE CAFE

