glendale california

City of Glendale
Community Development Department
Planning Division

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December 21, 2018

Garo Nazarian
109 East Harvard Street, #306
Glendale, CA 91205

**RE: 3658 FOOTHILL BOULEVARD**
ADMINISTRATIVE USE PERMIT NO. PAUP 1815846
(Olive Branch Restaurant)

Dear Mr. Nazarian:

Pursuant to the provisions of the Glendale Municipal Code, Title 30, Chapter 30.49, the Community Development Department has processed your application to allow the continued sale of beer and wine for on-site consumption at an existing full service restaurant in the "CH" - Commercial Hillside Zone, located at **3658 Foothill Boulevard,** City of Glendale, County of Los Angeles.

CODE REQUIRES
(1) Alcoholic beverage sales require an Administrative Use Permit in the "CH" - Commercial Hillside Zone.

APPLICANT'S PROPOSAL
(1) To allow the continued sale of beer and wine for on-site consumption at an existing full service restaurant.

ENVIRONMENTAL DETERMINATION
The project is exempt from CEQA review pursuant to State CEQA Guidelines Section 15301, Class 1 - Existing Facilities, because the discretionary permit request is to allow the sale of beer and wine for an existing full-service restaurant use within an existing building.

After thorough consideration of the statements contained in the application, the plans submitted therewith, and the analysis by Community Development Department staff, this Administrative Use Permit application is **APPROVED WITH CONDITIONS** based on the following:

## REQUIRED/MANDATED FINDINGS

**A. That the proposed use will be consistent with the various elements and objectives of the general plan.**

The proposed use will be consistent with the General Plan. The project site is located within the Community Services land use designation and the Commercial Hillside (CH) Zone, which is intended to offer a full range of goods and services to the community located along commercial thoroughfares in hillside areas within the city. A full service restaurant serving beer and wine is appropriate in this land use designation and zone because it provides a dining and drinking amenity for this neighborhood and is consistent with other community

services envisioned in the Land Use Element. The service of beer and wine at a full service restaurant is also consistent with the Foothill Boulevard "Main Street Corridor" designation of the North Glendale Community Plan, which encourages neighborhood service uses and amenities such as full service restaurants that serve beer and wine.

In terms of the Housing Element, the project does not include any housing units. The project is consistent with the Circulation Element because it is located on Foothill Boulevard, a Major Arterial, and Lauderdale Avenue, a Neighborhood Collector. The predominant use character of frontage on Foothill Boulevard is community commercial, which is compatible with the proposed use. Although Lauderdale Avenue is a local street with single-family residential uses, the two parking lot entrances on Lauderdale are close to Foothill Boulevard and thus direct the restaurant traffic away from Lauderdale Avenue. The subject site does not contain any historic resources and is not designated for open space or recreational use. The proposed use is compatible with the recommended maximum noise level according to the Noise Element. The site is not within a hazard zone and the conditions placed on the proposed use will ensure the project does not contribute to local crime. The proposed use (on-sale beer and wine) is not a source of or contributor to air pollution.

**B. That the use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.**

The continued sale of beer and wine for on-site consumption at a bona fide restaurant, in compliance with the conditions in this report, is not anticipated to be detrimental to the public health, safety, general welfare, or environment. The subject restaurant has been selling beer and wine at this location for over 20 years, and the continued use is not anticipated to result in detrimental impacts. The Police Department indicates that within the past year, there have been no calls for police service at the location.

The proposed AUP has been reviewed by the Neighborhood Services and Building & Safety Divisions within the Community Development Department, and Police Department to identify potential negative impacts of the project on the public health, safety, general welfare or environment. The Neighborhood Services and Building & Safety Divisions had no comments regarding the proposed project. The Police Department reviewed the project and reported it is located in census tract 3004, where the suggested limit by ABC for on-sale (sale of beer and wine for on-site consumption) establishments is five. Currently, there are three on-sale establishment licenses located in this tract, including the applicant's license. Based on arrests and Part 1 (violent and property) crime statistics in year 2017 for this census tract, there were 110 crimes, which is 40% below the citywide average of 180. The Police Department has recommended standard conditions of approval to prevent any negative impacts to the community from the sale of beer and wine, which have been included in the conditions.

Given these facts, the use and its associated structures and facilities will not be detrimental to the public health or safety, the general welfare, or the environment.

**C. That the use and facilities will not adversely affect or conflict with adjacent uses or impede the normal development of surrounding property.**

The continued sale of beer and wine for on-site consumption will not conflict with the adjacent land uses. The building is located along a major commercial boulevard that is already developed with similar uses; thus, it is compatible with existing development.

Further, the sale of beer and wine is incidental to the primary restaurant use, and any potential negative impacts to the neighborhood will be mitigated or prevented by the conditions. The sale of beer and wine will not impede the normal development of surrounding property because it is a complementary use to surrounding development. The project site is located within the Commercial Hillside (CH) Zone, which is intended to offer a full range of goods and services to the community along commercial thoroughfares in hillside areas of the city. A full-service restaurant providing beer and wine for on-site consumption is appropriate, as it provides an amenity to commercial and residential tenants in the area; therefore, it is consistent with the desired land use for this district.

Within walking distance (1/4 mile) to the site, there are two schools (Dunsmore Elementary School and Anderson W. Clark Magnet High School), three churches (St. James The Less Catholic Church, Mt. Olive Lutheran Church, and Unitarian Universalist Church), one park (Dunsmore Park), and residential uses. While these facilities and uses are within close proximity to the project site, there is no evidence that the existing restaurant operation and sale of beer and wine have been in conflict with these neighboring uses. There are no records from Police or Neighborhood Services of neighborhood complaints of the project within the past year. Furthermore, the draft conditions will mitigate or prevent negative impacts to the neighborhood from the use. The conditions of approval suggested by the Police Department are incorporated into the conditions to ensure any potential negative impacts will be appropriately mitigated. Therefore, the continued sale of beer and wine is not anticipated to be detrimental to the community or adversely conflict with the community's normal development.

**D. That adequate public and private facilities such as utilities, landscaping, parking spaces and traffic circulation measures are or will be provided for the proposed use.**

Adequate public and private facilities such as utilities, landscaping and traffic circulation measures are provided for the use and are existing. The subject site will continue to provide thirteen parking spaces in the shared parking lot for the site tenants.

**REQUIRED ADDITIONAL FINDINGS OF FACT FOR AN AUP FOR ALCOHOL SALES, SERVICE AND CONSUMPTION**

That the following criteria set forth in Glendale Municipal Code Section 30.49.030 (E) be considered in making the findings in subsection A through D above.

1) **That where an existing or proposed on-site use is located in a census tract with more than the recommended maximum concentration of on-site uses or that where an existing or proposed off-site use is located in a census tract with more than the recommended maximum concentration of off-site uses, both as recommended by the California Department of Alcoholic Beverage Control, such use does not or will not tend to intensify or otherwise contribute to the adverse impacts on the surrounding area caused by such over concentration**. As noted in Finding B above, the on-sale uses in the census tract do not exceed the recommended maximum concentration.

2) **That where the existing or proposed use is located in a crime reporting district with a crime rate which exceeds 20 percent of the city average for Part 1 crimes, as reported by the Glendale Police Department, such use does not or will not tend to encourage or intensify crime within the district.** As noted in Finding B above, the crime rate in the subject census tract is 40% *below* the city average.

3) **That the existing or proposed use does not or will not adversely impact any church, public or private school or college, day care facility, public park, library, hospital or residential use within the surrounding area**. As more fully detailed in Finding C above, church, school, park, and residential uses are within walking distance (1/4 mile) to the site. While these facilities and uses are within close proximity to the project site, the suggested conditions of approval made by the Police Department and other conditions relevant to the project have been incorporated into the staff recommendation to ensure any potential negative impacts will be appropriately mitigated.

4) **That adequate parking and loading facilities are or will be provided for the existing or proposed use, or other reasonable alternatives satisfy the transportation and parking needs of the existing or proposed use**. The subject site will continue to provide thirteen parking spaces for shared use by the tenants on site. The site is also located one block from two public transit intersections (Foothill/Boston to the west and Foothill/Dunsmore to the east), each with two bus stops going in either direction.

5) **That, notwithstanding consideration of the criteria in subsections 1 through 4 above, the existing or proposed use does or will serve a public necessity or public convenience purpose for the area.** The applicant's request to allow the continued sale of beer and wine for on-site consumption at a full-service restaurant does serve a public convenience because it serves local residents, businesses, and the surrounding community. Conditions placed on the approval of the project will ensure it will not adversely impact nearby businesses and residential uses.

## PUBLIC COMMENTS RECEIVED

No public comments were received.

## CONDITIONS OF APPROVAL

**APPROVAL** of this Administrative Use Permit shall be subject to the following conditions:

1. That the development shall be in substantial accord with the plans submitted with the application (which show a full service restaurant, not a banquet facility) except for any modifications as may be required to meet specific code standards or other conditions stipulated herein to the satisfaction of the Director of Community Development.

2. That any expansion or modification of the facility or use which intensifies the existing business shall require a new Administrative Use Permit application. Expansion shall constitute adding floor area, increased hours of operation, changes to the use or operation, or any physical change as determined by the Director of Community Development.

3. That all necessary licenses, approvals and permits as required from Federal, State, County or City authorities including the City Clerk shall be obtained and kept current at all times.

4. That a Business Registration Certificate be applied and issued for a full-service restaurant with the on-site sales, service and consumption of beer and wine, subject to the findings and conditions outlined in this decision letter.

5. That the premises shall maintain a bona fide restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurant. Food service shall be available at all times and in all areas of the premises during normal operating hours.

6. That an establishment that primarily provides for the on-premises sale, serving and consumption of alcoholic beverages and that derives more than fifty (50) percent of gross revenues from the sale of alcoholic beverages is by definition of the code a "tavern" and requires approval of a separate conditional use permit. Taverns include bars, pubs, cocktail lounges and similar establishments.

7. That the sale of beer and wine for consumption off the premises is strictly prohibited.

8. That the service of beer and wine shall be in full accord with the regulations and conditions established by the State Department of Alcoholic Beverage Control.

9. That no patron be allowed to bring into the establishment any beer or wine unless that beer or wine was purchased within the same establishment and unless the facility has an established corkage policy allowing and regulating such.

10. That at all times when the premises is open for business, the service of beer and wine shall be made only in the areas as designated with the ABC license. Consumption of beer and wine will only be on those same licensed areas.

11. That the restaurant shall remain open to the public during business hours. If the establishment has a private party during normal business hours, the restaurant still needs to remain open for business to regular customers.

12. That any establishment serving alcoholic beverages which has a dance floor of greater than 200 square feet is considered a nightclub and will require a separate Conditional Use Permit.

13. That dancing is only allowed on the premises in designated dance floor areas, with a proper "Dance" permit.

14. That sufficient measures shall be enforced to effectively eliminate interior and exterior loitering, parking congestion, disturbing noise, disturbing light, loud conversation, and criminal activities.

15. That the proprietor and his/her employees shall make an active and conscientious effort to keep customers and employees from trespassing on other nearby properties or otherwise making disturbances in the area.

16. That music or noise shall be contained within the edifice of the establishment. The business shall comply with the state and local laws and ordinances concerning excessive noise and disturbing the peace.

17. That no live entertainment is permitted without a "Live Entertainment Permit". No karaoke, no bikini activities or events, no lingerie activities or events, no swimwear activities or events, nor any similar activities or events be allowed where partial clothing of male or female entertainment is provided.

18. That the front and back doors to the restaurant shall be kept closed at all times while the location is open for business, except in case of emergency.

19. That there shall be no video machine(s) maintained on the premises.

20. That access to the premises shall be made available to all City of Glendale Planning and Neighborhood Services Division, Police Department, and Fire Department staff upon request for the purpose of verifying compliance with all laws and conditions of this approval.

21. That the restaurant adhere to the City of Glendale's Fresh Air Ordinance, Title 8, Chapter 8.52 of the Glendale Municipal Code.

22. That the premises shall be maintained in a clean and orderly condition, free of weeds, trash, and graffiti.

23. That all signs displayed shall conform to the requirements of the Glendale Municipal Code.

24. That the authorization granted herein shall be valid for a period of **TEN (10) YEARS UNTIL *DECEMBER 21, 2028.***

## APPEAL PERIOD

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper City and public agency.

Under the provisions of the Glendale Municipal Code, Title 30, Chapter 30.62, any person affected by the above decision has the right to appeal said decision to the Planning Commission if it is believed that the decision is in error or that procedural errors have occurred, or if there is substantial new evidence which could not have been reasonably presented. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms within fifteen (15) days following the actual date of the decision. Information regarding appeals and appeal forms will be provided by the Permit Services Center (PSC) or the Community Development Department (CDD) upon request and must be filed with the prescribed fee prior to expiration of the 15-day period, on or before **January 7, 2019** at the PSC, 633 East Broadway, Room 101, Monday thru Friday 7:00 a.m. to 12:00 p.m., or at the CDD, 633 East Broadway, Room 103, Monday thru Friday 12:00 p.m. to 5 p.m.

**APPEAL FORMS available on-line: http://www.glendaleca.gov/appeals**

## TRANSFERABILITY

This authorization runs with the land or the use for which it was intended for and approved. In the event the property is to be leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions and/or limitations of this grant.

## VIOLATIONS OF THESE CONDITIONS

Violations of conditions required by this determination may constitute a misdemeanor or infraction under section 1.20.010 of the Glendale Municipal Code (GMC) and/or a violation of other local, State or Federal laws or regulations. Unless a specific penalty is provided, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars ($1,000.00), or imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment. Infractions are punishable by a fine not exceeding the sum of five hundred dollars ($500.00) for each violation. Violations of conditions required by this determination may be grounds for a revocation.

## REVOCATION, CONTINUING JURISDICTION

Section 30.64.020 – Revocation – The Community Development Department shall have continuing jurisdiction over variances, administrative use permits, and conditional use permits (individual cases heard and decided upon by the Planning Hearing Officer).

To consider the revocation, the Planning Hearing Officer shall hold a public hearing after giving notice by the same procedure as for consideration of a conditional use permit at least ten (10) days' notice by mail to the applicant or permittee. Continuing jurisdiction over any case is the purview of the Planning Hearing Officer, with concurrence by the Director of Community Development.

## GMC CHAPTER 30.4 PROVIDES FOR

Termination

Every right or privilege authorized by an administrative use permit shall terminate two (2) years after the granting of such, unless the exercise of such right or privilege has commenced in good faith prior to such time, except as otherwise provided for.

Extension

An extension of the administrative use permit may be requested one time and extended for up to a maximum of one (1) additional year upon receipt of a written request from the applicant and demonstration that a reasonable effort to act on such right and privilege has commenced within the two (2) years of the approval date. In granting such extension the applicable review authority shall make a written finding that neighborhood conditions have not substantially changed since the granting of the administrative use permit.

Cessation

An Administrative Use Permit may be terminated by the review authority upon any interruption or cessation of the use permitted by the Administrative Use Permit for one year or more in the continuous exercise in good faith of such right and privilege.

**NOTICE – subsequent contacts with this office**

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the case planner. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **By Appointment Only**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

Should you have any questions regarding this issue, please do not hesitate to contact the case planner, Cassandra Pruett at (818) 937-8186 or cpruett@glendaleca.gov

Sincerely,
Philip Lanzafame
Director of Community Development

Laura Stotler
Planning Hearing Officer

LS:CP:sm

City Clerk (K.Cruz); Police Dept. (A.Jenks/Z.Avila); City Attorney's Dept. (G. van Muyden/Y.Neukian); Fire Prevention Engineering Section-(J.Halpert); Traffic & Transportation Section (P.Casanova); General Manager for Glendale Water and Power (S.Zurn); Glendale Water & Power--Water Section (G. Tom/S. Boghosian/R.Takidin); Glendale Water & Power--Electric Section (B. Alshanti/B.Ortiz/E.Olsen); Parks, Recreation and Community Services Dept. (T. Aleksanian); Neighborhood Services Division (R.Sada/J.Jouharian/); Integrated Waste Management Admin. (D. Hartwell); Maintenance Services Section Admin. (D. Hardgrove/J.Cawn); Street and Field Services Admin.; Engineering and Environmental Management (C.Chew/R. Villaluna); and case planner – Cassandra Pruett.