

DECISION NO. 1773-18

A DECISION OF THE ZONING ADMINISTRATOR OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-143-2018.

BE IT RESOLVED that the Zoning Administrator of the City of Garden Grove does hereby approve Conditional Use Permit No. CUP-143-2018 for a parcel of land located on the east side of Main Street between Acacia Parkway and Garden Grove Boulevard, at 12900 Main Street, Assessor's Parcel No. 090-161-34.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-143-2018, the Zoning Administrator of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Monster Ton.
2. The applicant is requesting Conditional Use Permit (CUP) approval to operate a new restaurant, AUM Beer Club, located at 12900 Main Street (Assessor's Parcel No. 090-161-34), within an existing 4,200 square foot restaurant tenant space, with a State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License, which is to be processed by ABC through a "premises-to-premises" transfer to the subject location.
3. The City of Garden Grove has determined that this project is exempt pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act.
4. The property has a General Plan Land Use Designation of Civic Center Mixed Use, and is zoned CC-2 (Civic Center Main Street). The subject site is improved with an existing 4,200 square foot restaurant tenant space, which is currently vacant and was previously in operation as a restaurant occupied by Doug's Downtown Grill.
5. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
6. Report submitted by City Staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on October 11, 2018, and all interested persons were given an opportunity to be heard.
8. The Zoning Administrator gave due and careful consideration to the matter at its meeting on October 11, 2018, and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Zoning Administrator, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The subject site is improved with an existing 4,200 square foot restaurant tenant space, which is currently vacant and was previously in operation as a restaurant occupied by Doug's Downtown Grill. The tenant space is located on the historic Main Street, which consists of a mix of restaurants, retail shops, service businesses, and offices. The subject property is zoned CC-2 (Civic Center Main Street) and has a General Plan Land Use Designation of Civic Center Mixed Use.

In April of 2007, the City of Garden Grove approved Conditional Use Permit No. CUP-203-07, which allowed Doug's Downtown Grill to operate with a new State Alcoholic Beverage Control Type "41" (On-Sale, Beer and Wine, Public Eating Place) License. The building had been previously occupied by a dance studio, and the tenant space was converted into the restaurant in conjunction with the CUP approval.

In February of 2015, the City of Garden Grove approved Conditional Use Permit No. CUP-030-2015, which allowed the existing restaurant, Doug's Downtown Grill, to upgrade the existing ABC Type "41" (On-Sale, Beer and Wine, Public Eating Place) License to a new ABC Type "47" (On-Sale, General, Public Eating Place) License.

The restaurant is located in a high-crime district, and in an area with an under-concentration of Alcoholic Beverage Control Licenses. A summary of the district is as follows:

- The subject site is located in Crime Reporting District No. 124.
- The crime count for the District is 605.
- Average crime count per district in the City is 176.
- A District is considered high when it exceeds the Citywide average by 20%.
- The subject District has a crime count of 244% above the citywide average; therefore, it is considered a high-crime area.
- The subject site is located in Alcoholic Beverage Control (ABC) Census Report District No. 886.02.
- ABC Census Reporting District No. 886.02 allows for five (5) on-sale licenses within the District. Currently, there are three (3) on-sale licenses in the district. Approval of this ABC Type "47" License will increase the number of licenses in the district by one (1), thereby increasing the total number of on-sale ABC licenses in the district to four (4).

FINDING OF PUBLIC CONVENIENCE OR NECESSITY

A finding for public convenience or necessity would have to be made in order to approve an establishment that is requesting a new original Alcoholic Beverage Control license that is located within a district with a high crime rate and/or in an

area with an over-concentration of ABC licenses. California Business and Professions Code Section 23817.5 prohibits the ABC from issuing new alcoholic licenses in areas of over-concentration. Business and Professions Code Section 23958 states:

The department further shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4.

Business and Professions Code Section 23958.4 provides the following exception:

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

Although the establishment is located in a high-crime area with an under-concentration of on-sale ABC licenses, Staff is able to support a finding for public convenience or necessity given the potential community benefit through the addition of an ABC Type "47" license, which would provide an additional amenity that would enhance the dining experience at the AUM Beer Club restaurant. The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. The conditions of approval will minimize potential impacts to the adjoining area. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

Furthermore, the establishment shall provide an assortment of foods normally offered in restaurants, and the kitchen shall be open, and preparing food, during all hours that the establishment is open. At all times the establishment is open, the sale of alcohol shall be incidental to the sale of food; and the quarterly gross sales of alcoholic beverages shall not exceed 35% of the total gross sale of food during the same period. Lastly, no live entertainment, (karaoke, one-man band, solo performer, live music, etc.) including amplified music, shall be permitted on the premises, unless approved via the conditional use permit process.

The Community and Economic Development Department and the Police Department have reviewed the request and are supporting the proposal. All standard conditions of approval for a Type "47" License will apply.

FINDINGS AND REASONS:

1. That the proposed use will be consistent with the City's adopted General Plan and redevelopment plan.

The subject site has a General Plan Land Use Designation of Civic Center Mixed Use and is zoned CC-2 (Civic Center Main Street). Eating establishments with alcohol sales are conditionally permitted in this zone. This approval will allow the AUM Beer Club restaurant to operate with an ABC Type "47" (On-Sale, General, Public Eating Place) License to sell beer and wine, which is anticipated to be processed by ABC through a "premises-to-premises" transfer to the subject location. Provided that the conditions of approval are complied with, the use will be consistent with the General Plan.

2. That the requested use at the location proposed will not: adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding area, or unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site, or jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare.

The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, as the sale of alcohol will be ancillary to the sale of food. The restaurant is required to operate as a family-style restaurant and will operate with hours of operation that are limited to: 11:00 a.m. to 12:00 a.m., Sunday through Thursday, and 11:00 a.m. to 1:30 a.m., Friday and Saturday. Food is required to be served during all hours of operation, and the sale of alcohol will be incidental to the sale of food. The conditions of approval will minimize potential impacts to the adjoining area. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

The use will not unreasonably interfere with the use, enjoyment or valuation of the property of other persons located within the vicinity of the site, provided the conditions of approval are adhered to for the life of the project.

3. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title or as is otherwise required in order to integrate such use with the uses in the surrounding area.

The site, with the existing site improvements and modifications, is of adequate size to accommodate the proposed uses within the surrounding area.

4. That the proposed site is adequately served: by highways or streets or sufficient width and improved as necessary to carry the kind and quantity of traffic such as to be generated, and by other public or private service facilities as required.

The site is adequately served by the main public street, Main Street, including additional drive aisle access from the rear (east) side of the establishment. The site is also adequately served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities.

INCORPORATION OF FACTS AND REASONS SET FORTH IN STAFF REPORT

In addition to the foregoing, the Zoning Administrator incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Zoning Administrator does conclude:

1. Conditional Use Permit No. CUP-143-2018 does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030 (Conditional Use Permits) and 9.16.020.080 (Alcoholic Beverage Sales).
2. In order to fulfill the purpose and intent of the Municipal Code, and thereby promote the health, safety, and general welfare, the following conditions of approval, attached as Exhibit "A", shall apply to Conditional Use Permit No. CUP-143-2018.

Dated: October 11, 2018

  
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ALLISON WILSON  
ZONING ADMINISTRATOR

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-143-2018**

12900 Main Street  
(Assessor's Parcel No. 090-161-34)

#### **CONDITIONS OF APPROVAL**

##### **General Conditions**

1. Each owner of the property shall execute, and the applicant shall record against the property, a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, within 30 days of approval. This Conditional Use Permit runs with the land and is binding upon the property owner, his/her/its heirs, assigns, and successors in interest.
2. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to the project applicant, the owner(s) and tenant(s) of the property, and each of their respective successors and assigns, including all subsequent purchasers and/or tenants. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Planning Commission, except as otherwise provided herein.
3. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications which do not change the intent of the project may be approved by the Community and Economic Development Director.
4. If major modifications are made to the approved floor plan, site plan, or other related changes that result in the intensification of the project or create impacts that have not been previously addressed, the proper entitlements shall be obtained reflecting such changes.
5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

FINAL

**Public Works Water Services Division**

6. New water service installations 2" and smaller, shall be installed by the City of Garden Grove at owner's/developer's expense. Installation shall be scheduled upon payment of applicable fees, unless otherwise noted. Fire services and larger water services 3" and larger, shall be installed by owner's/developer's contractor per City Standards.
7. Water meters shall be located within the City right-of-way or within a dedicated waterline easement. Fire services and larger water services 3" and larger, shall be installed by contractor with Class A or C-34 license, per City water standards and inspected by an approved Public Works inspection.
8. A Reduced Pressure Principle Device (RPPD) backflow prevention device shall be installed for meter protection. The landscape system shall also have RPPD device. Any carbonation dispensing equipment shall have a RPPD device. Installation shall be per City Standards and shall be tested by a certified backflow device tester immediately after installation. Cross connection inspector shall be notified for inspection after the installation is completed. Owner shall have RPPD tested once a year thereafter by a certified backflow device tester and the test results to be submitted to Public Works, Water Services Division. Property owner must open a water account upon installation of RPPD.
9. Any new or existing water valve located within new concrete driveway or sidewalk construction shall be reconstructed per City Standard B-753.
10. City shall determine if existing water service(s) is/are usable and meets current City Standards. Any existing meter and service located within new driveway(s) shall be relocated at owner's expense.
11. If required, fire service shall have above-ground backflow device with a double check valve assembly. Device shall be tested immediately after installation and once a year thereafter by a certified backflow device tester and the results to be submitted to Public Works, Water Services Division. Device shall be on private property and is the responsibility of the property owner. The above-ground assembly shall be screened from public view as required by the Planning Services Division.
12. Commercial food use of any type requires the installation of an approved grease interceptor prior to obtaining a business license. Plumbing plan for

grease interceptor shall be routed to environmental services for review and approval.

13. In the event that an approved grease interceptor is not already installed, a properly sized grease interceptor shall be installed on the sewer lateral and be maintained by the property owner. There shall be a separate sanitary waste line that will connect to the sewer lateral downstream of the grease interceptor. All other waste lines shall be drained through the grease interceptor. Grease interceptor shall be located outside of the building and accessible for routine maintenance. Owner shall maintain comprehensive grease interceptor maintenance records and shall make them available to the City of Garden Grove upon demand.
14. In the event that an approved grease trap is not already installed, a properly sized grease trap shall be installed on the waste line and maintained by the property owner. There shall be a separate ancillary waste line that will connect to the sewer lateral downstream of the grease trap. All other waste lines shall be drained through the grease trap. Grease trap may be located inside of the building per Orange County Health Department requirements. Prior to City permit issuance, trap location must be approved by the Orange County Health Department as evidenced by their stamp on the plans. Owner shall maintain comprehensive grease trap maintenance records and shall make them available to the City of Garden Grove upon demand.
15. Food grinders (garbage disposal devices) are prohibited per Ordinance 6 of the Garden Grove Sanitary District Code of Regulations. Existing units are to be removed.

### **Fire Department**

16. The business shall comply with the requirements of the California Fire Code, Article 12, and, if not already provided, shall include the following: at least two (2) exits; aisle width to be maintained according to the California Fire Code; doors shall swing in the direction of travel; no knowledge-type locking devices provided as necessary; gates shall be maintained according to the Uniform Fire Code; and exit signs and emergency power equipment to be maintained according to the California Fire Code.
17. The restaurant shall comply with the requirements of the California Fire Code, Article 10, and if not already provided, shall include the following: Provision of a Fire Protection System; and occupancy permits according to the Uniform Fire Code.



**Police Department**

18. There shall be no gaming tables or gaming machines, as outlined in City Code Sections 8.20.010 and 8.20.050, on the premises at any time.
19. Hours of operation for the restaurant shall be permitted Sunday through Thursday from 11:00 a.m. to 12:00 a.m., and Friday and Saturday from 11:00 a.m. to 1:30 a.m. The hours of operation shall be applicable to the entire premises. The City of Garden Grove reserves the right to reduce hours of operation, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business.
20. There shall be no customers or patrons in or about the premises when the establishment is closed.
21. In the event security problems occur, and at the request of the Police Department, the permittee, at his own expense, shall provide a California licensed, uniformed security guard(s) on the premises during such hours as requested by the Police Department.
22. The sale of alcoholic beverages for consumption off the premises is prohibited. No consumption of alcoholic beverages shall occur outside of the establishment at any time, except for within the designated/delineated outdoor dining areas as shown on the approved floor plan for Conditional Use Permit No. CUP-143-2018.
23. There shall be no separate bar or lounge area to provide direct and sole service of alcoholic beverages to customers. Food shall accompany all alcoholic beverages served in all areas within the restaurant (including both interior and outdoor dining areas).
24. There shall be no enclosed booths on the premises at any time. Walls and/or partitions exceeding thirty-six (36) inches in height, which partially enclose or separate booths, shall be of a clear and transparent material. No item shall be placed in the area of the booths that would limit or decrease the visibility of the interior of the business from any location within the business.
25. The business shall show proof to the Police Department that all members of the business staff have completed the LEAD training (Licensee Education on Alcohol and Drugs) through Alcoholic Beverage Control (ABC) or an ABC approved "Responsible Beverage Service (RBS) Training" program.

26. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation up to \$1,000 pursuant to GGMC 1.22.010(a).
27. In the event that an Alcoholic Beverage Control (ABC) License is suspended for any period of time and/or fined for any ABC violation as a result of disciplinary action, the Conditional Use Permit shall be presented to the Hearing Body for review or further consideration.

**Community and Economic Development Department**

28. The establishment shall be operated as a "Bona Fide Public Eating Place" as defined by Alcoholic Beverage Control (ABC) License. The restaurant shall contain sufficient space and equipment to accommodate a full restaurant kitchen, and the kitchen shall be open and preparing food during all hours the establishment is open. The establishment shall provide an assortment of foods normally offered in restaurants. The service of only appetizers, sandwiches and/or salads shall not be deemed in compliance with this requirement.
29. At all times when the establishment is open for business, the sale of alcoholic beverages shall be incidental to the sale of food.
30. The quarterly gross sales of alcoholic beverages shall not exceed 35% of the sales of food.
31. The owner of the establishment shall, upon request, provide the City of Garden Grove with an audited report of sales ratio of food to alcoholic beverages.
32. No outside storage or displays shall be permitted at any time.
33. A prominent, permanent sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THE PREMISES" shall be posted in a place that is clearly visible to patrons of the licensee. The sign lettering shall be four (4) to six (6) inches high with black letters on a white background. The sign shall be displayed near or at the establishment's entrance, and shall also be visible to the public.
34. There shall be no forms of live entertainment, dancing, karaoke, sports bar activity, or disc jockey entertainment permitted on the premises at any time. Amplified music, for ambient purposes only, may be permitted within the

interior restaurant area, but the sound emitted from the premises shall not be audible outside of the establishment, including any time when the 25 foot (25'-0") wide roll-up door is opened.

35. There shall be no raised platform and/or stage on the premises at any time that is used for live entertainment purposes. No dance floor shall be allowed on the premises at any time.
36. The exterior/outdoor patio dining area shall be subject to the following:
  - a. Maintain a perimeter barrier at a minimum height of four feet (4'-0") with clear and adequate visibility, and no visual obstructions, from the public rights-of-ways into the exterior/outdoor patio dining area.
  - b. Install and maintain signage at all patio exits which states "No Alcoholic Beverages Beyond This Point".
  - c. Install new panic hardware (audible - alarm sound type) onto the exit gates. Apply in plain bold front "Emergency Exit Only" onto the push bar of the panic hardware.
  - d. Tables and chairs shall be located within the delineated dining areas, as shown on the approved floor plan for CUP-143-2018. A clear and unobstructed path to all exits shall be maintained.
  - e. Provide adequate lighting to illuminate the exterior/outdoor patio dining area for safety and security.
  - f. Applicant to submit an exterior/outdoor patio dining area monitoring plan/program, for review and approval to the Planning Division, to ensure compliance with the Conditions of Approval.
  - g. Ensure access into the exterior/outdoor patio dining area shall solely be from within the interior restaurant space, and not directly from exterior areas and/or public rights-of-ways.
  - h. Applicant shall install and maintain a security camera surveillance system (monitoring the interior and exterior areas of the restaurant) with camera footage of at least the past 30 days stored and made available to the Police Department at its request.

37. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.16.020.070.
38. There shall be no deliveries to or from the premises before 8:00 a.m. and after 10:00 p.m., seven days a week. Delivery trucks shall be shut off and shall not remain idle during deliveries. However, in the event problems arise where the delivery hours need to be reduced or restricted in order to minimize noise issues, the operator shall modify the delivery hours as prescribed by the City.
39. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
40. The Conditional Use Permit may be called for review by City staff, the City Council, or Planning Commission, if noise or other complaints are filed and verified as valid by the Code Enforcement office or other City department concerning the violation of approved conditions, the Garden Grove Municipal Code, or any other applicable provisions of law.
41. In the event the parking demand generated by the restaurant, at any given time, causes a nuisance, hindrance, and/or problem with parking and/or circulation in the Main Street parking areas, and/or within the adjacent parking areas immediately to the west and/or east of the subject site, the applicant shall devise and implement a plan approved by the City to relieve the situation.

Upon written request by the City, the applicant shall submit a plan to manage parking issues for review and approval by the Community and Economic Development Department. The plan may include, but is not be limited to: reducing the hours of operation, instituting an off-site parking arrangement; having on-site parking control personnel; and/or others actions that may be deemed applicable to the situation.

If the City's Community and Economic Development Director deems such action is necessary to address parking and circulation problems, such action shall be implemented within 30 days of written notice. Failure to take appropriate action shall be deemed a violation of these Conditions of Approval and may result in the City restricting the overall use of the facility.

42. Litter shall be removed daily from the premises, including adjacent public sidewalks, and from all parking areas under the control of the licensee.

These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.

43. The loading area at the rear of the restaurant shall be kept free from all debris and trash. No outside storage shall be permitted in this area.
44. The applicant/property owner shall provide adequate trash enclosures with receptacles to accommodate the uses on the site along with adequate pick-ups during the week. All trash enclosures shall match the color and material of the buildings or block wall on the site and be Code compliant. The trash bins shall be kept inside the trash enclosure, and the gates shall remain closed at all times except during disposal and pick-up. The trash shall be picked up as needed to accommodate the use; the owner/developer shall increase the number of pick-ups as required.
45. The applicant shall submit revised plans to the Building and Safety Division that reflect any revisions made to Permit No. 14-2653 that were not reflected in the original scope of work within 30 days from the date of this approval. Once the revisions to the floor plan are approved by the Building and Safety Division, the applicant shall submit a copy of the revised floor plan to the Planning Division.
46. The area located at the rear of the building shall be properly maintained, and be kept free and clear of any trash and debris. There shall be no storage or parking of commercial vehicles on the property, except for temporary deliveries.
47. The applicant shall abate all graffiti vandalism within the premises. The applicant shall implement best management practices to prevent and abate graffiti vandalism within the premises throughout the life of the project, including, but not limited to, timely removal of all graffiti, the use of graffiti resistant coatings and surfaces, the installation of vegetation screening of frequent graffiti sites, and the installation of signage, lighting, and/or security cameras, as necessary. Graffiti shall be removed/eliminated by the applicant as soon as reasonably possible after it is discovered, but not later than 72 hours after discovery.
48. The applicant shall maintain all landscaped areas in a neat and healthy condition. Landscaping maintenance shall include pruning or removal of overgrown weeds and vegetation. If the applicant chooses to add landscaping in planters, the applicant shall permanently maintain said landscaping.

49. The applicant is advised that the establishment is subject to the provisions of State Labor Code Section 6404.5 (ref: State Law AB 13), which prohibits smoking inside the establishment as of January 1, 1995.
50. No roof-mounted mechanical equipment, including exhaust vents, shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community and Economic Development Department, Planning Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
51. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community and Economic Development Department, Planning Services Division. No advertising material shall be placed thereon.
52. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
53. Signs shall comply with the City of Garden Grove sign requirements. No more than 15% of the total window area and clear doors shall bear advertising or signs of any sort. No signs advertising alcoholic beverages shall be placed on the windows. Any opaque material applied to the store front, such as window tint, shall count toward the maximum window coverage area.
54. Any modifications to existing signs or the installation of new signs shall require approval by the Community and Economic Development Department, Planning Services Division prior to issuance of a building permit.
55. A copy of the decision approving Conditional Use Permit No. CUP-143-2018 shall be kept on the premises at all times.
56. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-143-2018, and his/her agreement with all conditions of the approval.
57. The Conditional Use Permit shall be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.

58. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Conditional Use Permit No. CUP-143-2018. The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City, including, but not limited to, any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein.
59. Any Conditional Use Permit previously governing this tenant space shall become null and void, and superseded in its entirety, by approval of Conditional Use Permit No. CUP-143-2018.
60. The applicant is advised that if the use of the establishment ceases to operate for more than 90 days, then the existing Conditional Use Permit will become null and void and the new applicant shall be required to apply for a new Conditional Use Permit subject to the approval by the Community and Economic Development Department, Planning Services Division.
61. Unless a time extension is granted pursuant to Section 9.32.030.D.9 of Title 9 of the Municipal Code, the use authorized by this approval of Conditional Use Permit No. CUP-143-2018 shall become null and void if the subject use or construction necessary and incidental thereto is not commenced within one (1) year of the expiration of the appeal period and thereafter diligently advanced until completion of the project.