

November 12, 2018

Jib ROUNGCHUN
34142 Amber Lantern
Dana Point, CA 92629

MINOR CONDITIONAL USE PERMIT CUP18-0018(M)

APPLICANT: Jib ROUNGCHUN (Thai This Restaurant)

OWNER: H&K Takenaga Enterprises

LOCATION: 34119 Pacific Coast Highway, Suite A (682-232-02)

REQUEST: A request to establish the sale and serving of beer and wine (Alcoholic Beverage Outlet) for on premise consumption at 34119 Pacific Coast Highway, Suite A by authorizing the California Department of Alcohol Beverage Control to issue a Type 41 License to Thai This Restaurant.

ENVIRONMENTAL: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorical Exempt per Section 15301 (Class 1 – Existing Facilities).

DETERMINATION: The Community Development Director hereby
_____ APPROVES
_____ DENIES
the requested Minor Site Development Permit described herein subject to the attached findings and applicable conditions.

Matt Schneider, Director
Community Development Department

BACKGROUND:

Suite A is located at the north end of an in-line multi-tenant commercial building on a lot fronting both Pacific Coast Highway and Del Prado Avenue and in the inner couplet of the City's Town Center. The site is located in the Town Center Mixed Use (TCMU) zoning district and the Take Out Restaurant use is a permitted use in the Town Center. The 1,514 square foot suite was previously occupied by a Take-Out Restaurant use (Pizza Hut).

Thai This is a local take-out restaurant offering traditional Thai food and proposes the sale of beer and wine. The restaurant originally operated out of the nearby site located at 24501 Del Prado Avenue within the City's Town Center. However, that site was demolished in 2016. In conjunction with minor suite improvements currently being reviewed by the City's Community Development Department, the business owner has applied to the California Alcoholic Beverage Control (CABC) for a Type 41 License in order to provide the sale and serving of beer and wine for on premise consumption.

DISCUSSION:

Pursuant to the Land Use Matrix of the Dana Point Town Center Plan and in accordance with the special use standards of Section 9.07.040(b)(2)(B) of the Dana Point Zoning Code (DPZC), a minor conditional use permit (CUP(M)), is required to establish an alcoholic beverage outlet within one hundred (100) feet of any area zoned or used for residential purposes. In September of 2018, the business owner (Jib Rongchum) of Thai This take-out restaurant submitted building plans for tenant improvements to the City of Dana Point. Mr. Rongchum has also requested approval of the requisite CUP(M) in order to allow the sale and serving of beer and wine for onsite consumption.

As defined in the DPZC, a Take-Out Restaurant provides no more than four (4) tables and sixteen (16) seats, either inside or outside, for on premise consumption. Thai This proposes the service and sale of beer and wine within the confines of Suite A and the request does not include outdoor beer and wine service. As shown in the attached building plans, Mr. Rongchum proposes only minor interior improvements and less than 16 chairs with no outside seating. Existing suite improvements include mechanical, plumbing, electrical and restaurant equipment. Pursuant to CABC requirements, beer and wine sales and consumption is limited to Suite A.

Based on the preceding analysis, findings supporting the project and the associated discretionary permit are described in the following section.

FINDINGS:

Conditional Use Permit CUP 18-0018

- A) The proposed conditional use is consistent with the City of Dana Point General Plan and Municipal code **in that a take-out restaurant is identified as a permitted use**

within both the Land Use Matrix of the DPTCP as well as the Master Land Use Matrix within the DPZC. Additionally, pursuant to Section 9.07.040(b) of the Dana Point Zoning Code (DPZC), establishments are required to obtain a Minor Conditional Use Permit for the issuance of ABC licenses within 100 feet of any area zoned or used for residential purposes.

- B) The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other land use development features prescribed in the Dana Point Municipal Code and required in order to integrate the use with existing and planned uses in the vicinity **in that other than minor interior tenant improvements, there are no physical improvements proposed to the site in order to accommodate the proposed take-out restaurant. Additionally, prior to issuance of the Type 41 license, a CABC inspector will visit the site to verify that the restaurant satisfies CABC licensing provisions.**
- C) The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of Section 9.07.040 (Alcoholic Beverage Outlets), of the Dana Point Municipal Code will be observed **in that the beer and wine service is accessory to and in conjunction with the proposed take-out restaurant. Because beer and wine is only sold and consumed within Suite A, the proposed service will not be contrary to the public interest or injurious to nearby properties.**
- D) The proposed use will not enlarge or encourage the development of a “skid row” area **in that the subject beer and wine service is proposed within a tenant suite in an existing in-line, multi-tenant commercial building that has been operating as a take-out restaurant for several years. Consumption of alcoholic beverages is limited to CABC approved sale and consumption areas within the proposed restaurant. There will be no expansion to the existing suite or changes to the exterior of the building. Issuance of a CABC Type 41 license would serve public convenience or necessity.**
- E) The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any other city program **in that the subject site and use are not subject to any neighborhood conservation program, nor will it interfere with any other City program.**
- F) All applicable regulations of the zoning district in which the use is permitted will be observed **in that pursuant to the Land Use Matrix of the Dana Point Town Center Plan, establishments which serve or sell alcohol are conditionally permitted within the TCMU zoning district. Conditions of approval contained in this permit will ensure the alcoholic beverage outlet use, operating with a CABC license, will not result in adverse impacts to neighboring development.**

- G) The requirements of the California Environmental Quality Act have been satisfied **in that the project qualifies as a Class 1 (Section 15301 Existing Facilities) exemption pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) because the project involves the establishment of an alcoholic beverage outlet within an existing retail business in commercial zone.**

CONDITIONS OF APPROVAL:

The City of Dana Point hereby approves Minor Conditional Use Permit CUP18-0018(M) for the referenced project. This permit is valid subject to the following conditions of approval:

A. General:

1. Approval of this application establish an Alcoholic Beverage Outlet use for the sale and serving of beer and wine for on premise consumption at 34119 Pacific Coast Highway, Suite A by authorizing the California Department of Alcohol Beverage Control (ABC) to issue a Type 41 License to Thai This Restaurant. Subsequent changes to the approved scope-of-work shall be in substantial compliance with those plans presented to the Community Development Director, and in compliance with applicable provisions of the City of Dana Point General Plan and Municipal and Zoning Codes.
2. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plot plan, he may approve the amendment without requiring a new public hearing.
3. This discretionary permit(s) will become void two (2) years following the effective date of the approval if the privileges authorized are not implemented or utilized or, if construction work is involved, such work is not commenced with such two (2) year time period or; the Director of Community Development or the Planning Commission, as applicable grants an extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the initial two-year approval period, or any subsequently approved time extensions.
4. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.

5. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify and hold harmless the city shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions or proceedings against the City, its officers, employees, or agents arising out of or resulting from negligence of the applicant or the applicant's agents, employees or contractors. Applicant's duty to defend, indemnify and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

6. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
7. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
8. Pursuant to the DPZC definition of a Take-Out Restaurant, Thai This shall maintain no more than no more than four (4) tables and sixteen (16) seats, either inside or outside, for on premise meal consumption at all times.
9. The sale and serving of beer and wine for on site consumption shall be limited to the interior confines of Suite A. Outdoor consumption of beer and wine is prohibited.
10. The hours of operation shall be Monday through Sunday 10:00 A.M. to 11:00 P.M.
11. The applicant shall obtain all applicable permits for the proposed improvements.
12. The proposed use shall comply with the provisions of the City's Noise Ordinance at all times.
13. In order to reduce the noise caused by the clanking of bottles into trash/recycling containers at the close of business, all glass containers shall be properly disposed of

after 7:00 A.M., the following day into appropriate trash/recycling bins.

14. There shall be appropriate and conspicuous postings of a notice inside the premises, indicating that consumption of beer and wine outside the approved consumption areas is prohibited by law, except as may be permitted in the designated outdoor dining area. The notice shall be at least one and one-half (1.5) square feet in size.
15. A separate Special Event Permit shall be issued for any future activities which temporarily intensify the impacts (i.e., parking, traffic, noise, light and glare, etc.) of Thai This take-out restaurant.
16. Any proposed exterior building signage shall be reviewed and approved under a separate planning and building permit.
17. The City shall maintain the option to reconsider the Conditional Use Permit (and conditions contained herein), at any time if the Community Development Director finds it necessary to re-evaluate impacts of the use on the surrounding community.
18. Retail and or meal service(s) shall be provided and available by the associated on premise businesses at all times the alcoholic beverage outlet is open for business.
19. Deliveries and refuse collection shall be prohibited between the hours of 10:00 P.M. and 8:00 A.M. daily, unless otherwise approved by the Director of Community Development.
20. The applicant/operator shall ensure that the trash dumpsters and/or containers are maintained to control odors.
21. All trash shall be stored within the building or within containers stored in a trash enclosure (three walls and self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.

B. Prior to Building Plan Check Submittal:

22. The subject "Conditions of Approval" section of this permit shall be copied in its entirety, placed directly onto a separate plan sheet behind the cover sheet of any plans submitted to the City of Dana Point Building/Safety Division for plan check.
23. Building(s) shall comply with the 2016 editions of the Building Code with all local amendments.
24. Building plan check submittal shall include the following construction documents:
 - Building and electrical/plumbing/mechanical plans (4 Sets)

All documents prepared by a registered-design-professional shall be wet-stamped

& signed.

25. Health department review is required.

26. An individual Certificate-of-Occupancy is required for "Thai This."

27. Building Code Analysis: Provide building code analysis showing conformance to Chapter 3 and 5 of the California Building Code (CBC). Specify occupancy group(s), types of construction, including fire sprinklers (if new or existing), location on property, actual and allowable floor area, and conforming existing.

28. Accessibility: Plans should clearly show compliance with CBC Chapter 11B Accessibility to Public Buildings, Public Accommodations, Commercial Buildings and Public Housing.

29. Existing Building shall provide for disabled access. Show how path of travel; parking; restrooms; entrance will comply.

C. Prior to Issuance of a Building Permit or release on certain related inspections, the applicant shall meet the following conditions:

30. Verification of all conditions of approval are required by all City Departments.

31. All approvals from outside Departments and Agencies are required.

32. All applicable supplemental development impact fees shall be paid prior to building permit issuance.

D. Prior to Certificate of Occupancy sign off, the applicant shall meet the following:

33. The applicant shall contact the Planning Division to conduct an inspection of the restaurant to identify compliance with all conditions prior to contacting the Building/Safety Division for final project sign-off.

34. Building/Safety division sign off is required to finalize Certificate of Occupancy.