

July 10, 2024

ARAM AVAGYAN SMASHED BRANDS, INC. 118 N. SAN FERNANDO BLVD. BURBANK, CA 91502

RE: Project No. 24-0000828 – Administrative Use Permit Located at 118 North San Fernando Boulevard

Dear Aram Avagyan:

This letter is to notify you that the Community Development Director has conditionally approved your application for an Administrative Use Permit (Project No. 24-0000828) to authorize the sale of beer and wine for on-site consumption (Type 41 ABC License) in conjunction with an existing sit-down restaurant, Smashed Burbank. The property is located at 118 North San Fernando Boulevard in the BCC-1 (Burbank Center Commercial Retail-Professional) zoning district. Enclosed is the Administrative Use Permit approval with conditions.

Please be advised that the decision of the Community Development Director will become final fifteen (15) days from the date of this letter unless the decision is appealed to the Planning Commission. Any appeal of the Director's decision must be submitted to the Planning Division with the applicable filing fee prior to the expiration of the fifteen (15) day appeal period, or by 5:00 p.m. on July 25, 2024. Please note, any appeal filed between the hours of 12 and 5 p.m. requires an appointment to be scheduled with the Project Planner.

If you have any questions concerning this letter, please call me at (818) 238-5250 or email me at <u>rkeatinge@burbankca.gov</u>.

Sincerely,

ROBERT W. KEATINGE Associate Planner

275 EAST OLIVE AVENUE BURBANK, CA 91502

BURBANKCA.GOV

Enclosures: Attachment 1: Proposed Floor Plan

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Community Development Department Director's Decision

DATE: July 10, 2024

PROJECT TITLE: Project No. 24-0000828 – Administrative Use Permit

PROJECT ADDRESS: 118 North San Fernando Boulevard

APPLICANT: Smashed Brands, Inc.

PROJECT DESCRIPTION: The project consists of a request to authorize the sale of beer and wine for on-site consumption (a Type 41 ABC License) in conjunction with an existing sit-down restaurant ("Project") located at 118 N San Fernando Blvd ("Project Site").

ZONING: BCC-1 GENERAL PLAN: Downtown Commercial

MUNICIPAL CODE CONFORMANCE: The proposed Project is in compliance with the provisions and requirements of Title 10 of the Burbank Municipal Code (BMC). The code requires all proposed restaurants located within the eight-block downtown district intending to serve alcoholic beverages under a different type of Alcoholic Beverage Control license than the type of license used by the previous restaurant to apply for an Administrative Use Permit. The existing restaurant does not propose any tenant improvements or upgrades to the exterior to accommodate the expanded use. The existing restaurant will not add square footage to the downtown area and will be adequately served by the Downtown Parking Area (the "District") per BMC section 10-1-1407.1.

ENVIRONMENTAL REVIEW: The proposed Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), common sense exemption, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no evidence that the proposed project may have a potentially significant effect on the environment, and there are no unusual circumstances that would preclude the use of this exemption.

DATE SIGN POSTED ON-SITE:	June 25, 2024
DATE PUBLIC NOTICE MAILED:	June 24, 2024
DATE OF DIRECTOR'S DECISION:	July 10, 2024

END OF APPEAL PERIOD:

July 25, 2024

Robert W. Keatinge, Associate Planner Patrick Planning Division (818) 238-5250 Commu

Patrick Prescott / Community Development Director

ADMINISTRATIVE USE PERMIT NO. 24-0000828 (118 N. San Fernando Blvd – Smashed Brands Inc., Applicant)

REQUIREMENTS FOR GRANTING AN ADMINISTRATIVE USE PERMIT

The Community Development Director finds the proposed project satisfies the requisite findings contained in BMC 10-1-1407.1(I) and 10-1-1956 for approval of an Administrative Use Permit, subject to the enclosed conditions of approval. For the Administrative Use Permit, the Director finds the following:

1. The use applied for at the location set forth in the application is properly one for which an Administrative Use Permit is authorized by this Code.

BMC 10-1-1407.1 allows the sale of alcoholic beverages for on-site consumption incidental to a restaurant use with the approval of an Administrative Use Permit within the eight-block Downtown Parking Area ("The District"), as defined in BMC 10-1-1407.1(A). The subject property is located within The District.

2. The use is not detrimental to existing uses or to uses specifically permitted in the zone in which the proposed use is to be located.

The existing approximately 1,300 square-foot restaurant operates similarly to other restaurants already in the Downtown area and the BCC-1 (Burbank Center Commercial Retail) Zone, and within the same block. The proposed incidental service of alcohol would not create noise or traffic impacts above what would be expected from a full-service food establishment in a downtown setting. The use is not detrimental to existing uses, as it is consistent with and complementary to the uses permitted in the Downtown area and BCC-I Zone, which includes a variety of retail, entertainment, and other food establishments. Additionally, the property is located within the downtown parking district, which was established to support a well-functioning, active downtown with shared parking for multiple destinations rather than individual self-parked properties as described in BMC 10-1-1407.1(B). The proposed use would not generate any unreasonable detrimental impacts to the existing uses or other uses permitted in the zone.

3. The use will be compatible with other uses in the general area in which the use is proposed to be located.

The use is consistent with the existing and intended uses for the BCC-1 (Burbank Center Commercial Retail Professional) Zone. As established in the BMC, the purpose of this zone is to allow for commercial retail and office uses geared towards a "downtown village" concept. As with other similar restaurant types in the downtown, the business draws pedestrians already in the area, particularly during lunch and dinner time hours and weekends. The subject restaurant is located along North San Fernando Boulevard, between East Olive Avenue and East Orange Grove Avenue, and is one of several restaurants in Downtown Burbank and complements the adjacent businesses. The proposed service of alcohol incidental to the existing restaurant will be compatible with the general downtown area, where there is a variety of retail uses including the Burbank Town Center mall, AMC movie theaters, clothing stores, and a mix of other existing restaurants and retail establishments.

4. The site for the proposed use is adequate in size and shape to accommodate the use and all of the yards, setbacks, walls, fences, landscaping and other features required to adjust the use to the existing or future use is permitted in the neighborhood.

The approximately 1,300 square foot restaurant is located within an existing commercial building. Tenant improvements were completed in February 2022 in order to operate the existing restaurant use. No additional tenant improvements are proposed or required in conjunction with this Administrative Use Permit application. The existing restaurant and the proposed use requested through this permit application are consistent with the requirements and development standards within the BMC for properties within the BCC-1 zone.

5. The site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed use.

The Project Site is served by San Fernando Boulevard, which is a Downtown Collector street. Per the Burbank2035 General Plan, this street classification is intended to serve cars, pedestrians, and bicycles between land uses in the downtown area. The existing restaurant currently functions as a neighborhood serving business, similar to other existing business in the downtown area. The proposed use will not generate traffic above what would be expected from a full-service food establishment in a downtown setting. The site therefore relates to the street that will serve it, as the street is intended primarily for users who are navigating to and from businesses in the downtown area.

6. The conditions imposed are necessary to protect the public health, safety, convenience and welfare.

The attached Conditions of Approval numbered 1 through 49 have been included to ensure that the restaurant operates in a manner that protects the public health, convenience, safety, and welfare. These include conditions such as requiring employees who sell or serve alcoholic beverages to complete a training program in alcoholic beverage compliance, crime prevention techniques, and the handling of violence and restricted hours of operation.

REQUIREMENTS FOR GRANTING AN ADMINISTRATIVE USE PERMIT FOR NEW RESTAURANTS IN THE DOWNTOWN AREA

In addition to making the findings of fact required in a Section 10-1-1956 for approval of an Administrative Use Permit, Community Development Director shall find that the proposed project satisfies the requisite Special Findings for New Restaurants contained in the Burbank Municipal Code Section (BMC) 10-1-1407.1(I)). The Director finds the following:

a. The restaurant is of a type which will complement the other uses in the District and will not burden the shared parking concept. It shall identify itself into one of the ITE trip and parking generation categories (eg. Quality restaurant, Family, High turnover sit down, or fast food), and provide evidence that the demands and impacts on the District which are generated from the restaurant are fully mitigated.

The existing restaurant meets the ITE category of "Fast Casual Restaurant," which is described as a sit-down restaurant with no (or very limited) wait staff or table service. A customer typically orders off a menu board, pays for food before the food is prepared, and seats themselves. The menu generally contains higher-quality, made-to-order food items with fewer frozen or processed ingredients than at a fast-food restaurant. Most patrons eat their meal within the restaurant, but a significant proportion of the restaurant sales can be carry-out orders. A fast casual restaurant typically serves lunch and dinner; some serve breakfast. A typical duration of stay for an eat-in customer is 40 minutes or less.

The subject restaurant is located within the downtown District, which was established to support a well-functioning, active downtown with shared parking for multiple destinations. The additional demand generated by the expanded use of the proposed restaurant will be fully mitigated by the existing nearby public parking garages, the nearest of which is located directly north of the subject property along Orange Grove Ave.

b. The location of the restaurant is not one which leads to the over concentration of certain types of restaurants (as defined in (a) by ITE). The location shall not create an undue amount of any one type of restaurant in any area of the District.

The location of the restaurant will not lead to the over concentration of certain types of restaurants serving alcohol. The downtown area – particularly between Magnolia Blvd. to the north and Olive Ave. to the south – has a wide variety of restaurants including fast-casual and full-service restaurants – with and without incidental alcohol, and restaurant/sports bars. The existing restaurant adds to the downtown's overall variety, where there continues to be a high demand for lunch and dinner food options.

c. The restaurant intends to provide alcohol incidental to food service, and shall provide a floor plan of the tables and bar area, as well as an annual certification of the receipts of alcohol and the receipts of food to evidence compliance with the code.

The Administrative Use Permit is a request to allow the sale of beer and wine for on-site consumption (Type 41 ABC License) in conjunction with existing sit-down restaurant, Smashed Burbank. The sale of alcohol is incidental to the food establishment, and the

applicant has submitted a floor plan that depicts the location of the tables and alcohol service area. Additionally, the project will be conditioned to remain in substantial conformance with the approved plans, and have the sales receipts, accounting ledgers and any other business records pertaining to the sales of food and alcohol open for inspection. Food sales will be conditioned to constitute at least 65 percent of the gross sales revenue for the establishment.

d. The restaurant type (as defined in (a) above) economically stimulates the downtown area by providing quality tenant improvements.

The existing restaurant with incidental alcohol would economically stimulate the downtown area by providing additional dining options within the downtown area. The restaurant remains an active commercial tenant space and has substantial street frontage along North San Fernando Boulevard. As a busy pedestrian-oriented area, the restaurant will continue to contribute to the overall pedestrian appeal of walking around the downtown area.

ADMINISTRATIVE USE PERMIT NO. 24-0000828 (118 N. San Fernando Blvd – Smashed Brands, Inc.)

CONDITIONS OF APPROVAL

PLANNING DIVISION

- 1. Project No. 24-0000828, Administrative Use Permit, approves the sale of beer and wine for on-site consumption (a Type 41 ABC license) in conjunction with an existing sit-down restaurant ("Project")located at 118 N. San Fernando Blvd ("Project Site"). The Project Site consists of an approximately 1,300 square-foot restaurant with outdoor seating.
- 2. The operation/construction on the site shall remain in substantial conformance with the request and with the application materials submitted by the applicant and with the plans approved on July 10, 2024, and placed on file in the office of the Planning Division (Attachment 1).
- 3. This permit shall expire if the proposed use is not initiated within one year of the date of this approval (expires July 10, 2025), unless the permitee/property owner has diligently initiated the permit process for the Project as shown by having applied for a Business Tax Application that includes sale of beer and wine for on-premises consumption.
- 4. The permittee shall comply with all Federal, State, and local laws. Violation or conviction of any of those laws in connection with the use will be cause for revocation of this permit.
- 5. Administrative Use Permit No. 24-0000828 may be modified or revoked by the City should it be determined that the proposed use as permitted by this approval or conditions under which they were permitted are detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity, or if the use is maintained to constitute a public nuisance as defined in the Burbank Municipal Code.
- 6. If excessive calls for police service occur starting after the issuance of a business tax permit, then the business may be considered a public nuisance and such calls may be used as grounds for revocation of this Administrative Use Permit. Excessive calls for service shall be defined as more than three bona fide calls for police assistance in any calendar month.
- 7. All California Department of Alcoholic Beverage Control (ABC) rules and regulations shall be enforced and complied with. The applicant shall submit to the City Planner a copy of the ABC license, including all conditions imposed, which will be kept on file in the Planning Division office.
- 8. By signing and/or using this permit, the permittee acknowledges all the conditions imposed and accepts this permit subject to those conditions and with full awareness of the provisions of BMC 10-1-1960 (Termination/Revocation of Administrative Use Permit). Failure of the permittee to sign these conditions does not affect their enforceability by the City or other responsible entity. These conditions are binding upon all future property owners and occupants of the subject property.

- 9. The sale and consumption of alcohol shall be limited to incidental on-site sales and consumption of beer and wine.
- 10. The applicant shall annually sign and return an affidavit assuring the City that at least 65% of the gross sales revenue is from food sales.
- 11. Any area of the establishment devoted primarily to the sales or consumption of alcohol shall not constitute more than 15 percent of the adjusted gross floor area of the establishment. In determining the floor area devoted primarily to the sales or consumption of alcohol, the City Planner shall consider the following factors: the layout and site plan of the establishment; the location and size of the bar if present; the location and size of the area for storing and dispensing alcohol; whether the size, placement and spacing of tables, stools, and booths indicate that the area is exclusively devoted to the sales or consumption of alcohol; whether there is a wall or other separation in the establishment dividing an area primarily devoted to the sales or consumption of alcohol from the dining area; and whether or not full meals are served in the area.
- 12. The sale of beer and wine shall only occur during the restaurant's business hours:

Monday – Thursday	11:00am to 11:00pm
Friday and Saturday	11:00am to 12:00am
Sunday	11:00am to 11:00pm

Notwithstanding anything to the contrary, the use of the existing outdoor seating, including the sale of alcohol in the outdoor seating area, shall only be allowed daily between the hours of 11 a.m. to 10 p.m. The last call for sales of alcohol shall be no later than 30 minutes prior to the closing time of the restaurant business.

- 13. All alcohol will be stored behind the service area, located behind the service counter of the restaurant.
- 14. When alcohol is served in an original bottle or can, a drinking glass must be provided.
- 15. The employees who sell or serve alcoholic beverages shall be required to complete a training program in alcoholic beverage compliance, crime prevention techniques, and the handling of violence. All new employees shall be required to complete "Licensee Education on Alcohol and Drugs" training that is provided by the California Department of Alcoholic Beverage Control or equivalent responsible beverage service program within thirty (30) days of hire. All restaurant employees serving alcohol shall be in compliance with the minimum age requirements specified in Business and Professional Code Section 25663.
- 16. Patrons shall not be allowed to bring into the location any alcoholic beverage to be consumed within the establishment.
- 17. Within the licensed premise, there shall be no bar or lounge area maintained solely for the purpose of sale, service, or consumption of alcoholic beverages.

- 18. Live Entertainment, Dance Floor, and/or Billiard Tables are not allowed on the Project site.
- 19. "No Loitering or Public Drinking" signs shall be posted inside and outside of the facility.
- 20. This establishment shall not permit or cause noise, which violates Article 2 of Title 9 Chapter 3 of the Burbank Municipal Code. Any noise resulting from the operation of the business or the conduct of the patrons shall be kept at a level so as not to cause any disturbances or nuisances which would be detrimental to other properties in the area or to the welfare of the occupants thereof.
- 21. Music shall be limited to non-DJ pre-recorded background music (i.e., soft, ambient music) within the restaurant building only.
- 22. The installation of exterior speakers for the purpose of such uses as taking orders, making announcements, playing music, or other similar uses shall not be allowed at any time.
- 23. No illuminated alcohol advertising shall be located on the storefront windows or doors.
- 24. If any outdoor seating along North San Fernando Boulevard is proposed for the business in the future, an encroachment permit must be submitted to and approved by the Public Works Department.
- 25. The business shall be operated in such fashion that no odor or exhaust produced by the business is readily detectable or creates a public nuisance for occupants of adjacent properties, residents, and/or pedestrians in the area.
- 26. The applicant shall incorporate a copy of these Conditions of Approval into all plans submitted for Building Plan Check review to the Building Division.
- 27. Any building signs require a separate application(s) and building permit approval(s) from the Building Division and Planning Division prior to installation.
- 28. Prior to transfer of ownership and/or operation of the site, the owner shall provide a copy of this Decision Letter and associated Conditions of Approval for the project to the new owner and/or operator.
- 29. Prior to final sign-off of applicable building permits, the restaurant owner shall register a business license with the Burbank License and Code Division. The applicant shall include these Conditions of Approval as part of the updated Business Tax Application that is provided to the City.

BUILDING DIVISION

- 30. Business Tax should be updated to reflect change in business type.
- 31. All projects shall comply with Title 9, Chapter 1, of the Burbank Municipal Code, and the **2022 edition** of the California Building Code, California Residential Code, California

Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards and Building Energy Efficiency Standards, including all intervening Code Cycles.

- 32. Plans and reports submitted for Plan Check Review are to be submitted electronically. For more information about the online submittal process, please contact the Building Division at 818-238-5220 or via email at eplancheck@burbankca.gov.
- 33. All conditions of approval are to be reproduced on the construction document drawings as part of the Approved Construction Set.
- 34. All Departments that have provide Conditions of Approval are to review drawings and provide final approval via online electronic review, prior to issuance of Building Permit.
- 35. Separate Permits will be required for the following:
 - a. Demolition
 - b. Grading & Shoring
 - c. Architectural & Structural
 - d. Mechanical
 - e. Plumbing
 - f. Electrical
- 36. The property shall comply with accessibility requirements for the various occupancies as stated in California Building Code Chapter 11. Accessibility regulations apply to all common areas and pools and spas.
- 37. Construction projects must comply with Best Management Practices for construction and stormwater runoff requirements of the National Pollutant Discharge Elimination System MS4 Permit.
- 38. The City's mandatory Construction & Demolition Debris Diversion Ordinance requires the recycling and diversion of at least 65% of construction and demolition debris. A refundable deposit and non-refundable administrative fee will be collected prior to permit issuance. The Ordinance applies to all demolitions and to new construction, additions, remodels, renovation, tenant improvement and alteration projects over 500 square feet in scope of work.
- 39. Approved hours of construction are:

Monday – Friday7:00 am to 7:00 pmSaturday8:00 am to 5:00 pm

No construction is permitted by contractors or subcontractors after hours, on Sunday or on City holidays without prior written request and approval from the Community Development Department.

40. Deferral of any submittal items shall have prior approval of building official. The registered design professional in responsible charge shall list the deferred submittals on construction documents for review.

41. Development Impact Fees are assessed by the City for construction of new commercial square footage as listed in the Burbank Fee Schedule and Title 10, Article 22, of the Burbank Municipal Code.

PUBLIC WORKS DEPARTMENT

Engineering Division

- 42. No building appurtenances for utility or fire service connections shall encroach or project into public right-of-way (i.e. streets and alleys). Locations of these appurtenances shall be shown on the building site plan and the off-site improvement plans [BMC 7-3-701.1).
- 43. No structure is permitted in any public right-of-way or any public utility easements/pole line easements [BMC 7-3-701.1, BMC 9-1-1-3203].
- 44. Any work-within the public right-of-way must be permitted and approved by the Public Works Department before construction can commence. All construction work in the public right-of-way must comply with Burbank Standard Plans and must be constructed to the satisfaction of the City Engineer. A Public Works **EXCAVATION PERMIT** is required. The excavation permit requires a deposit acceptable to the Public Works Director to guarantee timely construction of all off-site improvements. Burbank Standard Plans can be accessed at: http://file.burbankca.gov/publicworks/OnlineCounter/main/index.htm
- 45. Building access doors, loading docks doors, and access gates may not swing open into the public right-of-way [BMC 7-3-701.1].

FIRE DEPARTMENT

- 46. All noted information pertaining to the proposed project shall be shown on plans submitted as part of the fire department review for approval.
- 47. While there are no significant fire code requirements for this project, the owner and the owner's architect and/or contractor are responsible for ensuring compliance with all applicable provisions of fire life/safety codes. Failure to cite a specific code requirement in this preliminary document does not relieve the applicant of such responsibility.
- 48. All items reviewed are based on information provided at time of review. The comments provided do not limit or relieve the owner and the owner's architect and/or contractor from the responsibility of ensuring compliance with all applicable provisions of fire/life safety codes. Such compliances may include but are not limited to fire department access for fire fighting, including fire department vehicle access, fire water supplies and appurtenances. Further reviews may require additional requirements or limitations as the project develops and is not limited to the requirements provided in these comments.

49. All references are in accordance with the 2022 Edition of the California Fire Code (CFC) and the California Building Code (CBC) as amended by the Burbank Municipal Code (BMC).

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Signature of Applicant/Permittee

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Signature of Property Owner

