RESOLUTION NO. PC-2026-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING TO ALLOW THE SALE OF ALCOHOL FOR ON-SITE CONSUMPTION AND LIVE ENTERTAINMENT AFTER 11:00 P.M. WITHIN 200 FEET OF A RESIDENTIAL ZONE FOR AN EXISTING RESTAURANT (EZ KEBAB) AND MINOR CONDITIONAL USE PERMIT TO ALLOW ADDITIONAL OUTDOOR PUBLIC AREA IN THE C2 ZONE AT 1951 HARBOR BOULEVARD

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA FINDS AND DECLARES AS FOLLOWS:

WHEREAS, Planning Application PCUP-25-0009 was filed by Roland Karam (EZ Kebab; dba: Bei Restaurant), authorized agent for the property owner, Harry Daglas, on June 27, 2025, requesting approval of the following:

Conditional Use Permit (CUP) to allow the sale of alcohol for on-site consumption and live entertainment after 11:00 P.M. within 200 feet of a residential zone for an existing restaurant, EZ Kebab, and a Minor Conditional Use Permit (MCUP) to allow the expansion of the outdoor public area that will exceed 50% of the indoor area.

WHEREAS, a duly noticed public hearing held by the Planning Commission on November 9, 2026 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is categorically exempt pursuant to CEQA Guidelines Section 15301 (Class 1 – Existing Facilities) and Section 15303 (Class 3 – New Construction); and

WHEREAS, the CEQA categorical exemption for this project reflects the independent judgement of the City of Costa Mesa.

NOW, THEREFORE, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibit B, the Planning Commission hereby **APPROVES** Planning Application PCUP-25-0009 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon

the activity as described in the staff report for Planning Application PCUP-25-0009 and upon applicant's compliance with each and all of the conditions in Exhibit B, and compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 9th day of NOVEMBER, 2026.

Jeff Harlan, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Carrie Tai, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2026-XX was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on November 9, 2026 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

_____
Carrie Tai, Secretary
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS

A. The proposed project complies with Costa Mesa Municipal Code section 13-29(g)(2) because:

a. **Finding:** The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

Facts in Support of Finding. The proposed project is to allow an existing restaurant to expand its hours of operation and sale of alcoholic beverages after 11:00 P.M. within 200 feet of a residential zone, as well as allow live entertainment in the existing patio and an additional outdoor patio. The restaurant is located within an established commercial corridor along Harbor Boulevard, with commercial uses to the north, south, and east across Harbor Boulevard, and multiple-family residential uses located to the west across a public alley. The proposed live entertainment would be limited to the existing outdoor patio near the intersection of Harbor Boulevard and Bernard Street, away from the adjacent residential properties. The City's Code Enforcement history identifies seven noise-related complaints between October 2025 and May 2026, primarily associated with amplified music, karaoke, and weekend entertainment activities. To address these concerns and maintain compatibility with surrounding residential uses, Conditions of Approval have been included to limit the location and type of live entertainment, restrict amplified sound equipment, require speakers to be oriented toward Harbor Boulevard and away from residential properties, and prohibit subwoofers, amplified bass, disc jockey performances, and outdoor dancing. Additional conditions require management to remain on-site during operating hours, monitor sound levels, and comply with the City's Noise Ordinance. Furthermore, the conditions provide the City with authority to require additional noise mitigation measures, including sound attenuation improvements, modifications to sound equipment, or an acoustical analysis, if noise complaints or violations are verified. These operational restrictions and enforcement provisions would minimize potential late-night noise disturbances and maintain compatibility with surrounding commercial and residential uses. Therefore, the proposed use, as conditioned, would not be materially detrimental to other properties within the area.

b. **Finding:** Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Facts in Support of Finding. The proposed use, as conditioned, would not generate adverse noise, traffic, or parking impacts that are unusual for commercially zoned properties. Conditions of Approval are recommended to ensure late-night operations, live entertainment, sound levels, and outdoor

activity are conducted in a manner that would allow for the quiet enjoyment of the surrounding neighborhood. The City's Police Department and Code Enforcement have reviewed the request and, with the recommended Conditions of Approval, indicated that it has no concerns regarding the proposed extended hours of operation, alcohol service and proposed live entertainment.

c. **Finding:** Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

Facts in Support of Finding. The restaurant is permitted by right in the C2 (General Business) zone and the extended hours of operation and proposed live entertainment are conditionally permitted, subject to conditions of approval as included in this application. The new outdoor patio area is conditionally permitted with approval of an MCUP. The General Plan land use designation of the property is General Commercial. The existing restaurant use is an appropriate commercial use for the General Commercial land use designation. The proposed project would allow an existing restaurant to expand its hours of operation and sale of alcoholic beverages after 11:00 P.M. within 200 feet of a residential zone, as well as allow live entertainment in the existing patio and an expansion of seating area associated with the new proposed outdoor patio. Furthermore, the proposed project is consistent with General Land Use Policy LU-1.1, LU-6.1 and LU-6.7 in that the proposed project would contribute to a mix and balance of commercial goods, services, and employment opportunities and would also retain the existing commercial business and continue to provide dining opportunities for local businesses, visitors, and residents.

B. Pursuant to CMMC section 13-29(e), all planning applications shall be reviewed for consistency with the following review criteria. Below is a summary of the project's conformity with each criterion:

(1) Compatible and harmonious relationship between the proposed building and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood.

The proposed modification to operations would be compatible and harmonious with the existing neighboring commercial properties and surrounding neighborhood. The restaurant is permitted by right in the C2 (General Business) zone and the extended hours of operation and proposed live entertainment are conditionally permitted, subject to conditions of approval as included in this application. As conditioned, the use would not result in adverse noise, traffic, parking, trash, lighting, or other operational impacts and would not be materially detrimental to nearby residential properties. The City's Police Department and Code Enforcement Division have reviewed the request and indicated that they have no concerns regarding the proposed extended hours of operation, alcohol service, and live entertainment, subject to the recommended conditions of approval. Condition of

Approval No. 3 requires the Harbor Boulevard driveway closure and associated curb, gutter, and sidewalk improvements; Condition of Approval No. 2 addresses the existing right-of-way encroachment. The approved outdoor dining areas must maintain pedestrian, emergency, and circulation clearances under Condition of Approval No. 11. Building, Fire, and Engineering requirements remain applicable to the improvements.

(2) Safety and compatibility of the design of buildings, parking area, landscaping, luminaries and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation.

Safety and compatibility are maintained through the proposed project design as there will be no increase to the gross floor area of the existing building, as no tenant improvements will be made to the interior of the existing tenant space. All other improvements, such as the proposed patio will comply with applicable Building Code requirements. No parking spaces will be impacted through this project, however, with the proposed patio area to be located within previous driveway area, the drive approach along Harbor Boulevard will be closed. Existing pedestrian circulation will still be maintained. Conditions of Approval Nos. 4 through 14 establish limits on entertainment location and sound equipment, require management oversight, regulate outdoor dining and maintenance, and control exterior lighting.

(3) Compliance with any performance standards as prescribed in the Zoning Code.

All performance standards have been deemed to be met as described in the analysis section of this report.

(4) Consistency with the General Plan and any applicable specific plan.

The restaurant is permitted by right in the C2 (General Business) zone and the extended hours of operation and proposed live entertainment are conditionally permitted, subject to conditions of approval as included in this application. The new outdoor patio area is conditionally permitted with approval of an MCUP. The General Plan land use designation of the property is General Commercial. The existing restaurant use is an appropriate commercial use for the General Commercial land use designation. Furthermore, the proposed project is consistent with General Land Use Policy LU-1.1, LU-6.1 and LU-6.7 in that the proposed project would provide a mix of commercial goods and services, and employment opportunities and would also retain the existing commercial business and continue to provide dining opportunities for local businesses, visitors, and residents.

(5) The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.

The zoning application is for a unique project-specific case at a unique site with special circumstances and will not be precedent setting for future development.

(6) When more than one planning application is proposed for a single development, the cumulative effect of all the planning applications shall be considered.

The proposed project includes two application type requests, of which the cumulative effect has been considered through this report.

C. **Environmental Determination.** The project is categorically exempt from the provisions of the CEQA pursuant to CEQA Guidelines section 15301 (Class 1 – Existing Facilities) and section 15303 (Class 3 – New Construction). The project involves the expanded hours operation of an existing restaurant with proposed accessory patio cover improvement. As conditioned and proposed, the project will have little or no impact on the surrounding area. There will be no resulting increase in the existing floor area of the tenant space. Furthermore, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines section 15300.2 apply. The Project would not result in a cumulative impact; would not have a significant effect on the environment due to unusual circumstances; would not result in damage to scenic resources; is not located on a hazardous site or location and would not impact any historic resources.

EXHIBIT B

CONDITIONS OF APPROVAL

Plng. 1. Approval of Planning Application PCUP-25-0009 is valid for two (2) years from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and a valid building permit has been maintained by making satisfactory progress as determined by the Building Official; 2) a certificate of occupancy has been issued. A time extension can be requested no less than thirty (30) days or more than sixty (60) days before the expiration date of the permit and submitted with the appropriate fee for review to the Planning Division. The Community Development Director may extend the time for an approved permit or approval to be exercised up to 180 days subject to specific findings listed in Title 13, section 13-29 (k) (6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority.

2. Prior to issuance of building permits for the new patio, as noted on the project plans, the encroachment of the existing patio shall either be removed from the Public Right-Of-Way or the Applicant and property owner shall enter into a recorded Encroachment Agreement in the form approved by the City Attorney, that includes, but is not limited to, provisions requiring removal of the encroachment at the City's request. Failure to adhere to the terms of the Encroachment Agreement shall constitute grounds for revocation of this Conditional Use Permit.

3. The existing driveway approach along Harbor Boulevard shall be closed and replaced with full-height curb, gutter, and sidewalk improvements in accordance with City standards.

4. The business shall be conducted at all times in a manner that preserves the quiet enjoyment of the surrounding neighborhood. The operator shall be responsible for minimizing disturbances associated with restaurant operations, including live entertainment, amplified sound, outdoor dining, patron activity, delivery services, and vehicles entering and exiting the property. Restaurant management shall monitor the premises and adjacent areas under the operator's control and promptly address disturbances associated with the business. If noise complaints are received and verified by the City, the Community Development Director may require additional measures to minimize noise impacts and ensure continued compatibility with surrounding uses.

5. A manager or designated responsible employee shall be present on the premises during all operating hours. A current telephone number for restaurant management shall be posted in a conspicuous location accessible to the public. Management shall promptly respond to complaints regarding noise, patron activity, or other operational disturbances associated with the restaurant.

6. All restaurant operations, including outdoor dining, live entertainment, amplified sound, and patron activities, shall comply with the City's Noise Ordinance. A manager or designated employee shall be present during live entertainment to monitor and control sound levels. Speakers and other sound equipment shall be operated at levels that comply with applicable noise standards.

   If noise complaints or violations associated with the restaurant are verified by the City, the Community Development Director may require additional measures to minimize operational impacts, including, but not limited to, reducing sound levels, modifying or removing sound equipment, installing sound attenuation improvements, modifying the hours or location of live entertainment, or requiring an acoustical analysis prepared by a qualified professional at the applicant's expense, consistent with applicable City procedures. Failure to implement required corrective measures may result in further enforcement action, including consideration of modification or revocation of the Conditional Use Permit pursuant to applicable City procedures.

7. The hours of operation for the restaurant, including alcohol service, shall be limited to 11:00 a.m. to 2:00 a.m., daily. All restaurant operations, including alcohol service, shall cease no later than 2:00 a.m. All operations shall comply with applicable California Department of Alcoholic Beverage Control (ABC) regulations.

8. The sale and consumption of alcoholic beverages shall remain accessory to the operation of the full-service restaurant. Alcoholic beverages shall be served and consumed only within areas authorized by the California Department of Alcoholic Beverage Control. Any expansion of the licensed premises shall require applicable ABC authorization. The establishment shall not operate as a bar, nightclub, or independent entertainment venue without obtaining any required City approvals.

9. All persons required by state law to obtain Responsible Beverage Service (RBS) certification shall maintain valid certification throughout their employment in positions requiring such certification. The business operator shall maintain compliance with applicable ABC requirements.

10. Live entertainment shall be limited to the existing outdoor patio located adjacent to the intersection of Harbor Boulevard and Bernard Street, as identified on the approved plans. Live entertainment shall cease no later than 12:00 A.M. (midnight), daily. Entertainment shall be limited to acoustic music, vocals, piano, keyboard, oud, and similar low-intensity musical performances accessory to the restaurant use. A maximum of one external speaker shall be permitted, which shall be oriented toward Harbor Boulevard and away from adjacent residential properties. Subwoofers, amplified bass, disc jockey performances, outdoor dancing, and additional outdoor sound equipment shall be prohibited. Live entertainment and amplified music shall comply with applicable City noise regulations and public entertainment permit requirements. Live entertainment, amplified music and/or dancing may only be permitted subject to City issuance of a "public entertainment permit." Contact Code Enforcement (714-754-5623) for application information.

11. Outdoor dining shall be limited to the existing and proposed patio areas identified on the approved plans. The total outdoor dining area and maximum seating capacity shall not exceed those authorized by this approval and applicable Building and Fire requirements. No additional outdoor seating, expansion of dining areas, or relocation of entertainment activities shall occur without prior Planning Division review and any required discretionary approvals. All outdoor dining areas shall maintain required pedestrian access, emergency access, and circulation clearances. The operator shall ensure that outdoor furniture, planters, and other improvements remain within their approved locations.

    Outdoor dining and customer seating within the existing and proposed patio areas shall be permitted only during the approved restaurant operating hours and shall cease no later than 2:00 A.M., daily. Outdoor dining activities shall remain subject to applicable City noise regulations and the operational restrictions established by these Conditions of Approval. Live entertainment shall cease by 12:00 A.M. (midnight), regardless of the restaurant's approved closing time.

12. The property, including courtyard, landscaping, parking areas, restroom facilities, trash areas, and fencing, shall be maintained in a clean and orderly condition at all times. Outdoor trash disposal, glass and bottle collection, and other noise-generating maintenance activities shall be prohibited between 11:00 p.m. and 7:00 a.m. All outdoor dining areas, parking areas, and adjacent portions of the property shall be maintained free of litter and debris associated with restaurant operations.

13. All exterior lighting shall be directed downward and shielded to prevent light spillover onto adjacent residential properties. No flashing, moving, or

other entertainment-oriented exterior lighting shall be permitted without additional City approval.

14. Third-party food delivery and pickup activities shall be conducted in a manner that minimizes noise and circulation impacts on surrounding properties. Delivery drivers shall utilize designated waiting and pickup areas identified on the approved plans and shall not obstruct drive aisles, parking spaces, sidewalks, or required emergency access. The operator shall prohibit delivery-driver waiting, congregating, or pickup activities within the public alley adjacent to the residential properties. Management shall monitor delivery activities and promptly address excessive noise, vehicle idling, or other disturbances associated with delivery services.

15. The use of this site shall comply with the approved plans and these conditions of approval. Any change in the operational characteristics of the use shall be subject to Planning Division review and may require an amendment to the Conditional Use Permit. Modifications are subject to the final review authority determined by the Community Development Director or his/her designee.

16. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, legal action, or proceeding (collectively referred to as “proceeding”) brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant’s project, or any approval granted by City related to the applicant’s project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney’s fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant’s obligation to indemnify the City for all the City’s costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City’s interests, and applicant shall indemnify City for all such costs incurred by City.

17. A copy of the conditions of approval for the conditional use permit shall be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

18. If any section, division, sentence, clause, phrase or portion of this approval is for any reason held to be invalid or unconstitutional by a decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

19. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, consistent with Revocation provision listed in CMMC 13-169.

20. Prior to issuance of building permit for the new patio or operation of extended hours or live entertainment, outstanding fees and code citations related to the Code Enforcement Case (CODE-1586) shall be paid.

CODE REQUIREMENTS

The following list of federal, State and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

Plng.

1. Permits shall be obtained for all signs and window signs according to the provisions of the Costa Mesa Sign Ordinance.

2. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time.

3. All noise-generating construction activities shall be limited to 7AM to 7PM Monday through Friday and 9AM to 6PM. Saturday. Noise-generating construction activities shall be prohibited on Sunday and the following Federal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

4. Street addresses shall be visible from the public street and may be displayed either on the front door, on the fascia adjacent to the main entrance, or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum six (6) inches in height with not less than one-half-inch stroke and shall contrast sharply with the background.

5. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.