

FINDINGS

ZONE VARIANCE

In order for a variance to be granted, all five of the legally mandated findings delineated in City Charter Section 562 must be made in the affirmative. Following (highlighted) is a delineation of the findings and the application of the relevant facts of the case to same:

- 1. The strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.**

The site is located within the San Pedro Community Plan area and has a land use designation of Low II Residential with a corresponding zone of R1. The site is zoned R1-1XL, which is consistent with the land use designation. The property is subject to Community Plan Map Footnote 7, which limits the area to Height District 1XL, allowing two (2) stories or 30 feet for Low II and Low Medium I and II Residential and Neighborhood Commercial Designations. The property is also within the San Pedro Specific Plan Area, which further restricts height to a limit of two stories or 26 feet as measured from the Average Natural Existing Grade to the highest point of the roof, or parapet wall of the building, whichever is higher.

The general purpose and intent of zoning regulations are to limit uses to specific zones in order to comply with the general plan and provide compatibility between respective properties. However, such regulations are written on a citywide basis and cannot take into account individual unique characteristics of a specific property as well as consider changes in the use and demand of land. A variance is a grant of permission to depart from the literal enforcement of a zoning ordinance and allow the property to be used in a manner otherwise not permitted, provided that the spirit of the zoning regulations is observed and substantial consideration is given to the impacts on the surrounding community.

Continued Use of Existing Non-Conforming Historic Café:

The subject property is improved with a one-story commercial structure constructed in 1935 and continuously operated as Walker's Café since 1946 until its temporary closure in 2021. The structure was purpose-built for commercial use and is designated as a Historic-Cultural Monument (HCM).

The café lawfully existed prior to the 1988 legislative rezoning of the property from a commercial zone to RD1.5-1XL, and subsequently to R1-

1XL in 2024. As a result of these legislative actions, the use became nonconforming through no action of the property owner.

The strict application of the R1-1XL regulations would prohibit the continued commercial use of the structure and require conversion to a single-family residential use. Due to the building's original commercial design, layout, parking configuration, and HCM designation, conversion to residential use would require substantial alteration of the structure, potentially compromising its historic integrity. The property's longstanding commercial development pattern and physical improvements are unique circumstances not shared by surrounding residentially developed lots.

The zoning regulations are written on a citywide basis and do not account for properties developed with lawful commercial uses that later became nonconforming as a result of legislative rezoning. In this instance, the literal enforcement of the zoning code would effectively eliminate a long-established historic resource and require substantial structural modification inconsistent with preservation objectives.

Accordingly, the strict application of the zoning ordinance would result in practical difficulties and unnecessary hardship inconsistent with the general purpose and intent of the zoning regulations.

On-Site Sale and Consumption of Beer and Wine:

The applicant requests authorization for the on-site sale and consumption of beer and wine in conjunction with the existing historic café. While alcohol service may be permitted by Conditional Use in commercial zones, the R1-1XL Zone does not provide such an entitlement path. As a result of the legislative rezoning of the property, the applicant must request a variance to maintain an operational component that is customary and incidental to restaurant uses.

Records from the California Department of Alcoholic Beverage Control indicate that a Type 40 (On-Sale Beer) license has been active at the subject property since July 21, 1997, with no record of disciplinary action. The alcohol service has historically operated in conjunction with the café without documented adverse impacts.

Given the café's historic designation and operational model as a neighborhood-serving establishment, the availability of beer and wine service represents a customary accessory component typical of similar small-scale restaurants. The inability to provide this service would materially limit the functionality of the café use relative to comparable establishments located in commercial zones, thereby placing this

uniquely situated property at a disadvantage due solely to legislative zoning changes.

Furthermore, the continued preservation and maintenance of the designated historic structure requires viable commercial operation. Without the ability to provide customary restaurant amenities, including limited alcohol service, the adaptive reuse and preservation of the historic resource would be jeopardized.

For these reasons, the strict application of the zoning ordinance would result in practical difficulties and unnecessary hardship inconsistent with the general purpose and intent of the zoning regulations.

2. There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.

The subject site is a rectangular-shaped lot with an area of approximately 6,138 square feet in the R1-1XL Zone. The property has approximately 50 feet of frontage on the northeast side of Paseo del Mar, approximately 45 feet of frontage along the 20-foot-wide alley to the north, and a lot depth of approximately 130 feet. The site is located within the San Pedro Community Plan area and has a land use designation of Low II Residential with a corresponding zone of R1. The site is zoned R1-1XL, which is consistent with the land use designation. The property is subject to Community Plan Map Footnote 7, which limits the area to Height District 1XL, allowing two (2) stories or 30 feet for Low II and Low Medium I and II Residential and Neighborhood Commercial Designations. The property is also within the San Pedro Specific Plan Area, which further restricts height to a limit of two stories or 26 feet as measured from the Average Natural Existing Grade to the highest point of the roof, or parapet wall of the building, whichever is higher.

The adjacent properties across the alleyway to the north are zoned R2-1XL with a land use designation of Low Medium I Residential and are developed with multi-family dwellings that are up to three (3) stories in height. The adjacent properties to the east are zoned R1-1XL with a land use designation of Low II Residential are developed with both single and multi-family dwellings that are up to two (2) stories in height. The property to the south is zoned OS-1XL with a land use designation of Open Space and developed with Point Fermin Park. The adjacent properties to the west are zoned R1-1XL with a land use designation of Low II Residential are developed with both single and multi-family dwellings that are up to three (3) stories in height.

Continued Use of Existing Non-Conforming Historic Café:

While the subject property is similar in size and configuration to other R1-1XL lots in the vicinity, it is uniquely improved with a purpose-built, one-story commercial structure constructed in 1935 and historically operated as Walker's Café for approximately 75 years. The structure lawfully existed prior to the City's 1988 legislative rezoning of the property from a commercial zone to RD1.5-1XL, and subsequent rezoning to R1-1XL in 2024. As a result of these legislative actions, the long-established commercial use became legal nonconforming through no action of the property owner.

This circumstance does not generally apply to other properties in the same zone and vicinity, which were developed and designed for single-family residential purposes consistent with the R1 zoning regulations. The subject property is uniquely burdened by the presence of a historically significant commercial structure that was constructed and operated in reliance upon prior commercial zoning classifications.

Additionally, the property has been identified through SurveyLA with status codes 3S, 3CS, and 5S3 as eligible for listing in the California Register and locally designated as a Historic-Cultural Monument. The historic significance of the structure is directly tied to its longstanding commercial use as a neighborhood café, including its character-defining features such as the neon signage. The historic designation imposes preservation obligations that are not applicable to other properties within the R1 zone.

Furthermore, the site's location adjacent to Point Fermin Park (Open Space zoning) to the south and multi-family residential zoning (R2-1XL) across the alley to the north creates a transitional context that differs from interior R1 parcels in the neighborhood. The presence of alley access and its corner-adjacent location further reflect development characteristics that historically supported commercial activity.

These combined circumstances, legislative downzoning of a long-standing commercial use, the existence of a purpose-built historic commercial structure, HCM designation, and the property's transitional location, constitute special circumstances applicable to the subject property that do not generally apply to other properties in the same zone and vicinity.

On-Site Sale and Consumption of Beer and Wine:

The special circumstances applicable to the continued café use likewise apply to the request for on-site beer and wine sales. The property's historic designation is tied to its identity as a neighborhood-serving

commercial establishment. The California Department of Alcoholic Beverage Control records indicate that a Type 40 (On-Sale Beer) license has been active at the site since July 21, 1997, without disciplinary history.

The combination of (1) a historically designated commercial structure, (2) longstanding lawful alcohol service, and (3) the absence of an entitlement pathway under the current R1 zoning due solely to legislative rezoning, creates a unique circumstance not generally applicable to other R1 properties in the vicinity. Other R1 parcels were developed as residential uses and do not contain historic commercial improvements or longstanding accessory alcohol service.

Accordingly, these special circumstances are peculiar to the subject property and justify consideration of the requested variance.

- 3. The Variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.**

Continued Use of Existing Non-Conforming Historic Café:

Other properties within the same vicinity that are zoned for commercial use possess the right to operate neighborhood-serving restaurant establishments consistent with their zoning classification. Those properties may lawfully maintain commercial structures and conduct restaurant operations as permitted uses.

Because of the legislative rezoning of the subject property from commercial to residential classifications in 1988 and 2024, the subject site is uniquely deprived of the ability to maintain the commercial use for which it was originally designed and historically utilized. Unlike surrounding residential parcels that were developed as single-family dwellings in conformity with the R1 zone, the subject property contains a purpose-built commercial structure constructed in 1935 and historically operated as a café for approximately 75 years.

Absent the requested variance, the property would be required to discontinue the commercial use and convert the historic structure to a single-family residential use, thereby depriving the owner of the same fundamental property right enjoyed by similarly situated commercial properties in the vicinity, namely, the right to utilize an existing restaurant building for restaurant purposes.

The variance is therefore necessary to preserve and enjoy a substantial

property right, the continued operation of a small-scale restaurant use in a structure designed and historically utilized for that purpose, which is generally possessed by other restaurant properties in the same vicinity but is denied to the subject property solely due to legislative zoning changes and its unique historical development pattern.

On-Site Sale and Consumption of Beer and Wine:

Restaurants located within commercially zoned properties in the same vicinity possess the right to apply for and obtain a Conditional Use Permit for the on-site sale and consumption of beer and wine. This entitlement pathway provides commercial restaurant operators the opportunity to offer customary accessory alcohol service subject to operational safeguards.

Due to the subject property's current R1-1XL zoning — a classification applied through legislative action after decades of lawful commercial operation — the applicant is denied access to the same conditional use entitlement process that is available to similarly functioning restaurant properties located in commercial zones. The inability to even seek that entitlement deprives the subject property of a substantial operational privilege generally available to comparable establishments in the area.

The requested variance restores parity by allowing the historic café to maintain an operational component that is typical and incidental to restaurant uses in the vicinity, subject to appropriate conditions of approval. Without the variance, the property would be uniquely constrained in a manner not generally applicable to other restaurant properties serving the same community.

Accordingly, the variance is necessary for the preservation and enjoyment of a substantial property right generally possessed by other properties in the same zone and vicinity but denied to the subject property due to its unique zoning history and historic development.

4. The granting of the Variance would not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the subject property is located.

The subject site is a rectangular-shaped lot with an area of approximately 6,138 square feet in the R1-1XL Zone. The property has approximately 50 feet of frontage on the northeast side of Paseo del Mar, approximately 45 feet of frontage along the 20-foot-wide alley to the north, and a lot depth of approximately 130 feet. The site is located within the San Pedro Community Plan area and has a land use designation of Low II Residential with a corresponding zone of R1. The site is zoned R1-1XL,

which is consistent with the land use designation. The property is subject to Community Plan Map Footnote 7, which limits the area to Height District 1XL, allowing two (2) stories or 30 feet for Low II and Low Medium I and II Residential and Neighborhood Commercial Designations. The property is also within the San Pedro Specific Plan Area, which further restricts height to a limit of two stories or 26 feet as measured from the Average Natural Existing Grade to the highest point of the roof, or parapet wall of the building, whichever is higher.

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Continued Use of Existing Non-Conforming Historic Café:

The granting of the variance will not authorize new construction, increased floor area, or physical expansion of the existing structure. The historic café will remain a one-story building with a height of 12 feet 10 inches and a total floor area of 736 square feet. The request is limited to interior and exterior rehabilitation of the existing structure and restoration of the historic neon sign.

The proposed rehabilitation has been reviewed by the Office of Historic Resources and found consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, as documented in the April 26, 2024 memorandum prepared by Historic Resources Group. The Cultural Heritage Commission has reviewed the project and will continue to provide oversight. As such, the project enhances preservation of a designated Historic-Cultural Monument rather than intensifying development on the site.

The café historically operated for approximately 75 years at this location. The variance does not introduce a new or intensified use but allows the continuation of a long-established neighborhood-serving establishment. Given the small building size, limited operational hours (8:00 a.m. to 8:00 p.m.), and absence of expansion, the continued operation is not expected to generate impacts materially different from historical operations.

Conditions of approval have been incorporated to ensure compatibility with surrounding residential uses, including operational limitations, noise controls, maintenance requirements, and monitoring provisions. As conditioned, the continued use of the café will not be materially detrimental to the public welfare nor injurious to nearby properties.

On-Site Sale and Consumption of Beer and Wine:

According to the California State Department of Alcoholic Beverage Control (ABC) licensing criteria, Census Tract Number 2976.01 is authorized three (3) on-site and one (1) off-site license. At the present time, there are 17 existing on-site licenses, including one (1) of which belongs to the Applicant.

Within Census Tract No. 2976.01, the following types of alcoholic beverage licenses are active:

- (2) Type 40 – On-Sale Beer (Applicant)
- (3) Type 41 – On-Sale Beer and Wine – Eating Place
- (2) Type 47 – On-Sale General – Eating Place
- (1) Type 48 – On-Sale General – Public Premises
- (3) Type 51 – Club
- (5) Type 58 – Caterer’s Permit
- (1) Type 77 – Event Permit

According to information submitted by the applicant, there are no (0) establishments located within a 1,000-foot radius of the project site.

Concentration can be undue when the addition of a license will negatively impact a neighborhood. Concentration is not undue when the approval of a license does not negatively impact an area, but rather such license benefits the public welfare and convenience. The ABC also has discretion to approve an application if there is evidence that normal operations will not be contrary to public welfare and will not interfere with the quiet enjoyment of property by residents. This request would not result in an additional license to Census Tract Number 2976.01, as the applicant has been operating under an ABC Type 40 License since 1997.

The grant authorized herein incorporates a number of conditions which will continue to make the use of the property and the sale and consumption of beer and wine more compatible with other uses in the surrounding community and provide for monitoring of the establishment. Operational hours have already been addressed in more detail and are limited from 8 A.M. to 8 P.M. daily. Furthermore,

the sale of beer and wine will be closely regulated to prevent sales to minors. The conditions of the grant address noise, security, loitering and maintenance to deter any nuisance activity on or adjacent to the site. The conditions of the grant require STAR/LEAD/RBS training for employees, adequate site maintenance, installation of surveillance cameras, and the maintenance of age verification devices. These conditions are intended to deter or prevent nuisance or criminal activity such as loitering or public drinking and will improve public safety. Conditions reflect consideration of the surrounding sensitive uses such as the residential buildings. Some of the conditions also reflect consideration of current and/ or future residential tenants. As noted, the Background Section of this action also includes recommended conditions to the Department of Alcoholic Beverage Control for consideration in its review of an alcohol license for the subject historic café.

According to statistics provided by the Los Angeles Police Department's Southwest Division, within Crime Reporting District No. 587, which has jurisdiction over the subject property, a total of 110 crimes were reported in 2023 (94 Part I Crimes and 16 Part II Arrests), compared to the Citywide Average of 162 crimes and the High Crime Reporting District Average of 194 crimes. Part II Arrests reported include (1) DUI related arrests, (4) Other Assaults, and (2) Miscellaneous Other Violations. There were no reported crimes for violations to liquor laws, drunkenness, disturbing the peace, disorderly conduct, or gambling. These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes reported in previous years. The above statistics indicate that the crime rate in the reporting district where the subject site is located is lower than the citywide average. Further, no evidence was submitted for the record establishing any link between the subject site and the area's crime rate.

As conditioned, the use is not expected to contribute to the area's crime rate and will not result in an undue concentration of establishments providing alcoholic beverages. Furthermore, specific conditions have been incorporated into this action, which are targeted at safeguarding the community and providing for a reasonable operation. Therefore, the granting of the variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the subject property is located.

- 5. The granting of the Variance will not adversely affect any element of the General Plan.**

Continued Use of Existing Non-Conforming Historic Café:

The General Plan is the City's roadmap for future growth and development. The General Plan Elements establish goals, policies, purposes, and programs that provide for regulatory environment in managing the City, and for addressing environmental concerns and problems. The majority of the policies derived from these elements are in the form of Municipal Code Requirements. The General Plan is comprised of the Framework Elements, seven state-mandated elements, and four additional elements.

The Framework Element establishes the broad overall policy and direction for the General Plan. The variance to allow the continued use and operation of the subject historic café is consistent with the following objectives and policy of the Framework Element:

Objective 7.2: Establish a balance of land uses that provides for commercial and industrial development which meets the needs of local residents, sustains economic growth, and assures maximum feasible environmental quality.

Objective 7.3: Maintain and enhance the existing businesses in the City.

Objective 7.3.2: Retain existing neighborhood commercial activities within walking distance of residential areas.

The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The project site is located in the San Pedro Community Plan. The community plan designates the property for Low II Residential with a corresponding zone of R1. The site is zoned R1-1XL, which is consistent with the land use designation. The San Pedro Community Plan contains the following text:

Goal LU1: Complete, livable and quality residential neighborhoods throughout San Pedro that provide a variety of housing types, densities, forms and designs and a mix of uses and services that support the needs of residents.

LU1.1 Neighborhood character. Maintain the distinguishing characteristics of San Pedro's residential neighborhoods with respect to lot size, topography, housing scale and landscaping, to protect the character of existing stable neighborhoods from new, out-of-scale development.

LU1.2 Adequate housing and services. Provide housing that accommodates households of all sizes, as well as

integrates safe and convenient access to schools, parks, and other amenities and services.

LU1.3 Neighborhood transitions. Assure smooth transitions in scale, form, and character, by regulating the setback, stepbacks, rear elevations, and backyard landscaping of new development where neighborhoods of differing housing type and density abut one another.

LU1.6 Alleys. Maintain and improve existing neighborhood alleys as an alternative, safe, well maintained vehicular access to homes that reduces curb cuts, driveways, and associated pedestrian-automobile conflicts along sidewalks.

LU1.7 Build Green. Developments should be sustainable and attractive, and incorporate green building design, systems and materials to the greatest extent feasible.

Goal LU5: Strong and competitive commercial districts that are aesthetically appealing, pedestrian-oriented, easily accessible and serve the needs of the community while preserving the unique commercial and cultural character of the community.

LU5.1 Investment. Conserve, strengthen and encourage investment in San Pedro's existing commercial districts.

LU5.2 Mix of uses. Encourage the vertical and horizontal integration of a complementary mix of commercial, service, and other nonresidential uses that address the needs of families and other household types living in urban neighborhoods. Such uses may include daycare and school facilities, retail and services, and parks, plazas, and open spaces.

Goal LU6: Attractive, pedestrian-friendly Neighborhood Districts that serve surrounding neighborhoods and business as local gathering places where people shop and socialize.

LU6.1: Neighborhood services. Encourage the retention of existing and the development of new commercial uses that are primarily oriented to the residents of adjacent neighborhoods and promote the inclusion of community services (e.g., childcare and community meeting rooms).

LU6.2: Mix of Uses. Encourage the vertical and horizontal

integration of a complementary mix of commercial, service and other non-residential uses that address the needs of households living in urban neighborhoods. Such uses may include retail and services, entertainment, childcare facilities, daycare and school facilities, public meeting rooms, recreation, cultural facilities, and public open spaces, which enhance neighborhood activity.

LU6.4: Compatible “non-conforming uses” that are a recognized part of a neighborhood (e.g., “Mom and Pop” neighborhood stores), should be allowed to continue in accordance with applicable provisions of the Municipal Code.

Goal LU17: Preservation and restoration of cultural resources, neighborhoods, and landmarks which have historical and/or cultural significance.

LU17.1 Celebrate History. Protect, preserve and enhance San Pedro’s historically significant resources. Support the completion of SurveyLA within the San Pedro Community Plan Area.

LU17.2. Protect, preserve and enhance the historic characteristics of distinctive historic neighborhoods such as Old San Pedro/Downtown, Vinegar Hill HPOZ and study the possible expansion of HPOZ as well as Averill Park and the Cabrillo/27th/Gaffey neighborhood.

The Framework Element and San Pedro Community Plan each recognize the importance of retaining viable neighborhood-serving uses near residences to support a pedestrian-friendly and amenity-rich environment. The proposed variance will assist in providing local amenities for residents of the neighborhood, provide a service to promote neighborhood stability, and encourage a mix of uses.

In light of the above, the project substantially conforms to the purpose, intent, and provisions of the General Plan and the San Pedro Community Plan, as such, the approval of the variance will not adversely affect any element of the General Plan.

On-Site Sale and Consumption of Beer and Wine:

The Framework Element establishes the broad overall policy and direction for the General Plan. Policy 7.3.2 of the Framework Element encourages the establishment and retention of “neighborhood

commercial activities within walking distance of residential areas.”

Approval of the conditional use permit request is consistent with the following Objectives and Policies of the Community Plan:

Goal LU5: Strong and competitive commercial districts that are aesthetically appealing, pedestrian-oriented, easily accessible and serve the needs of the community while preserving the unique commercial and cultural character of the community.

LU5.1 Investment. Conserve, strengthen and encourage investment in San Pedro's existing commercial districts.

LU5.2 Mix of uses. Encourage the vertical and horizontal integration of a complementary mix of commercial, service, and other nonresidential uses that address the needs of families and other household types living in urban neighborhoods. Such uses may include daycare and school facilities, retail and services, and parks, plazas, and open spaces.

The Framework Element and San Pedro Community Plan each recognize the importance of retaining viable neighborhood-serving uses near residences to support a pedestrian-friendly and amenity-rich environment. The proposed variance will assist in providing local amenities for residents of the neighborhood, provide a service to promote neighborhood stability, and encourage a mix of uses.

The ability to serve alcohol with entertainment furthers the Community Plan's aim to encourage activity in the area and provides an amenity for local residents, employees, and visitors to enjoy. With the conditions and limitations imposed by the Zoning Administrator, the surrounding properties should be protected from predictable impacts of the proposed use. In light of the above, the project substantially conforms to the purpose, intent, and provisions of the General Plan and the San Pedro Community Plan, as such, the approval of the variance will not adversely affect any element of the General Plan.