

**HUNTINGTON BEACH
OFFICE OF THE ZONING ADMINISTRATOR
EXECUTIVE SUMMARY**

TO: Zoning Administrator
FROM: Hayden Beckman, Planning Aide
DATE: May 1, 2013

**SUBJECT: CONDITIONAL USE PERMIT NO. 13-009 (PANERA BAKERY CAFÉ
OUTDOOR DINING)**

LOCATION: 19461 Main Street, Suite 101, 92648 (northwest corner of Main Street and Yorktown Avenue)

Applicant: William Fancher, Fancher Development Services, 1342 Bell Avenue, Suite 3K, Tustin, CA 92780

Property Owner: Paula Langevin, Seacliff Village Shopping Center, Inc., 130 Vantis, Suite 200, Aliso Viejo, CA 92656

Request: To permit the establishment, maintenance, and operation of an approximately 700 sq. ft. outdoor patio dining area expansion to be located in front of a vacant restaurant tenant space with new patio furniture including freestanding heaters and shade umbrellas in conjunction with the interior and exterior improvements for a new eating and drinking establishment.

Environmental Status: This request is covered by Categorical Exemption, Section 15301, Class 1, California Environmental Quality Act.

Zone: SP9 (Holly Seacliff Specific Plan)

General Plan: MH –sp (Mixed Use Horizontal – Specific Plan Overlay)

Existing Use: Vacant commercial tenant space

RECOMMENDATION: Staff recommends approval of the proposed project based upon the following findings:

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because it involves negligible expansion of use beyond that previously approved.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 13-009:

1. Conditional Use Permit No. 13-009 for the establishment, maintenance and operation of an approximately 700 square foot expansion of outdoor dining area located in front of a vacant restaurant tenant space will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The vacant restaurant tenant space currently has 825 square feet of outdoor dining area located to the rear of the suite, facing the Main Street and Yorktown Avenue intersection. The expanded outdoor dining patio area is located in front of a tenant space facing the shopping center parking lot area and is not oriented toward sensitive surrounding uses. The restaurant tenant is proposing exterior façade improvements, new outdoor dining furniture and freestanding gas heaters to provide a more comfortable dining experience for customers. Further, adequate parking is provided on site and the proposed project is consistent with the Master Site Plan of the shopping center.
2. The conditional use permit will be compatible with surrounding uses because the expansion of outdoor dining services will activate the large patio and sidewalk area in front of the vacant restaurant tenant space with a higher concentration of pedestrian activity than currently exists. The subject restaurant maintains hours of operation that are compatible with both commercial uses on-site and surrounding uses, and does not serve alcoholic beverages. The expanded outdoor dining patio will enable the restaurant to serve a more diverse group of customers and provide a more pedestrian friendly environment to the subject property.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in the Holly Seacliff Specific Plan and Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The approximately 700 square foot outdoor dining patio area expansion conforms to all setbacks, required parking, and other provisions of the Holly Seacliff Specific Plan and is consistent with the entitlement history of the subject site.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Mixed Use Horizontal on the subject property which permits eating and drinking establishments with outdoor dining subject to Conditional Use Permit approval. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Goal LU 10: Achieve the development of a range of commercial uses.

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, service visitors to the City, and capitalize on Huntington Beach's recreational resources.

B. Economic Development Element

Policy ED 2.4.1: Encourage and assist existing and potential commercial owners to modernize and expand their commercial properties.

The provision of an expanded outdoor dining area within the front patio area of the subject tenant suite will provide the tenant additional outdoor dining opportunities for customers on-site while activating an expansive patio area not previously utilized to its full potential. The subject shopping center currently features large outdoor dining areas located elsewhere on the property that are utilized by customers of multiple businesses. The expanded outdoor dining patio will be located adjacent to the primary pedestrian access link that currently connects surrounding office, public and institutional uses with the commercial uses located throughout the subject shopping center.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 13-009:

1. The site plan, floor plans, and elevations received and dated March 12, 2013 shall be the conceptually approved design with the following modifications:
 - a. Identify location of existing tree to be removed and location of replacement on-site or identify location of two replacement trees to be provided on-site. Existing mature trees that are to be removed must be replaced at a 2 for 1 ratio with a 36" box tree or palm equivalent (13' – 14' of trunk height for Queen Palms and 8' – 9' of brown trunk). **(CEQA Categorical Exemption Section 15304)**
 - b. Identify the area and type(s) of landscape improvements to be installed to mitigate the removal of approximately 168 square feet of landscaped area in front of the lease space. The scope of landscape improvements shall be subject to the review and approval of the Director of Planning & Building.
2. The outdoor dining patio area cannot be occupied until the following has been completed:
 - a. A revised site plan shall be submitted to the Planning Division for review and inclusion in the entitlement files in accordance with Condition No. 1(a) and 1(b).
3. The use shall comply with the following:
 - a. The cumulative configuration of outdoor dining patio area located in front of the tenant space shall not exceed 675 square feet.
 - b. Pedestrian circulation through and around the outdoor dining areas shall be maintained at all times.
 - c. All previous conditions of approval of Conditional Use Permit No. 97-56 (for establishment of Seacliff Village Shopping Center), Conditional Use Permit No. 99-08 (for the establishment of pad Building B) and Conditional Use Permit No. 01-57 (for establishment of a restaurant use with alcohol sales and consumption within the interior and rear outdoor patio), shall remain in effect.
 - d. The hours of operation of the expanded outdoor dining patio area shall remain consistent with that of the restaurant use.
 - e. The tenant shall be responsible for daily maintenance of the outdoor dining area including the removal of trash, food waste, and debris.

- f. The tenant shall be responsible for the storing of furniture after hours by stacking the chairs and locking them to the tables.
 - g. Umbrellas used for both outdoor dining areas shall be removed from the tables and stored on the interior of the tenant space at the conclusion of food service each day.
 - h. All outdoor dining furniture shall be maintained in a neat and clean manner.
 - i. The sale and consumption of alcohol shall not be permitted within the front outdoor dining patio area unless approved through a Conditional Use Permit by the Zoning Administrator.
4. CUP No. 13-009 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
5. Incorporating sustainable or “green” building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green’s Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/green-building-guidelines-rating>).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney’s fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.