



City of Huntington Beach Planning and Building Department

STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Tess Nguyen, Associate Planner *TN*
DATE: January 25, 2011

SUBJECT: CONDITIONAL USE PERMIT NO. 10-028 (BOMBURGER RESTAURANT ALCOHOL SALES)

**APPLICANT/
BUSINESS**

OWNER: Rob Sleenhof, 4206 Spindrift Road, Newport Beach, CA 92663

PROPERTY

OWNER: Robert Koury, 200 Main Street, Suite No. 206, Huntington Beach, CA 92648

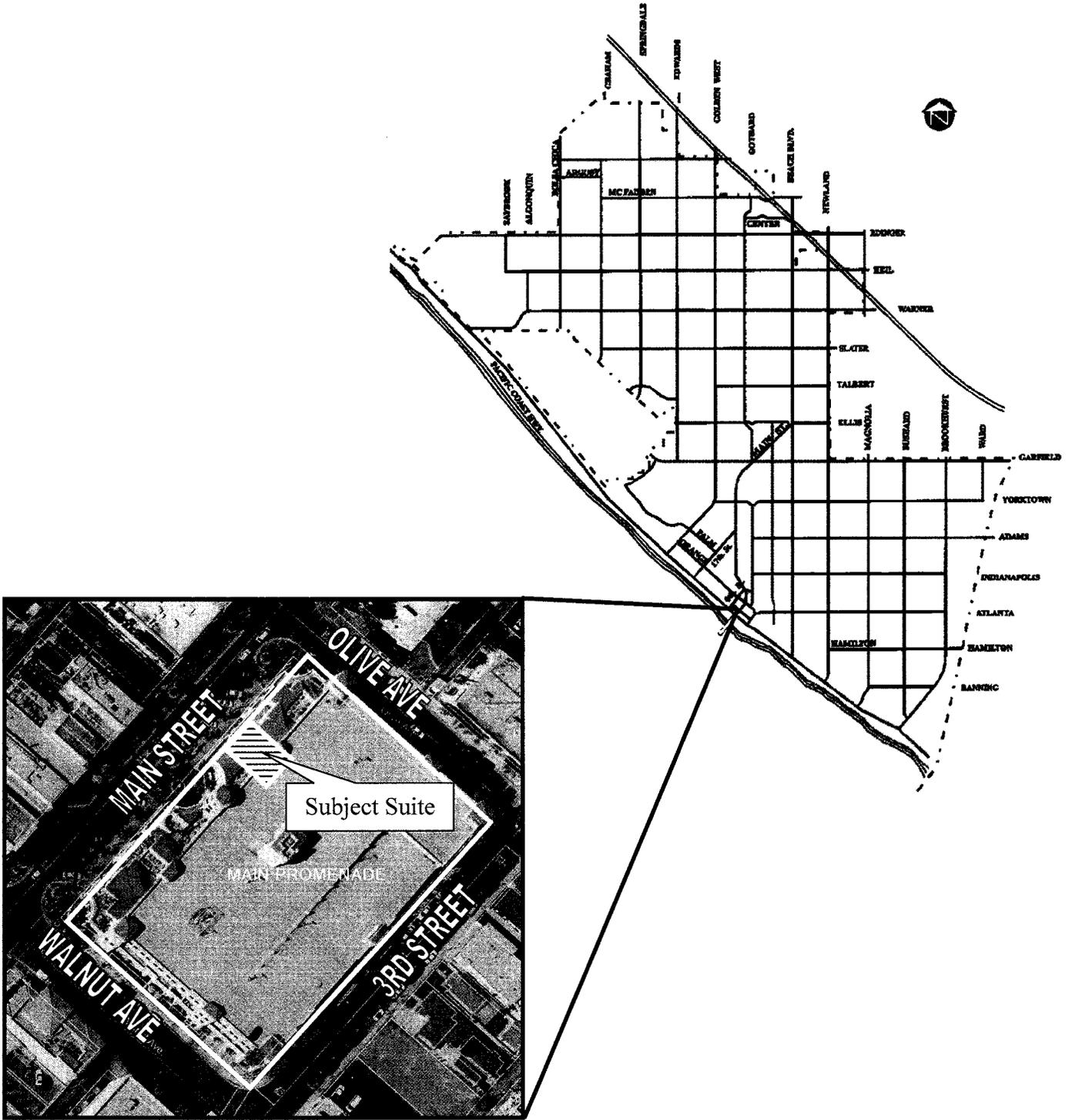
LOCATION: 200 Main Street, Suite No. 114, 92648 (east side of Main Street, between Olive Avenue and Walnut Avenue – Downtown)

STATEMENT OF ISSUE:

- ◆ Conditional Use Permit No. 10-028 request:
 - Permit the sales and service of alcoholic beverages (beer and wine only) for on-site consumption within an existing 1,489 sq. ft. restaurant and 143 sq. ft. outdoor dining area during the hours of 11:00 AM and 10:00 PM.
- ◆ Staff's Recommendation:

Approve Conditional Use Permit No. 10-028 with staff's suggested conditions of approval based upon the following:

 - The existing restaurant and outdoor dining area with the proposed alcohol sales are consistent with the Mixed-Use General Plan Land Use designation.
 - The existing restaurant and outdoor dining area with proposed alcohol sales, conditioned to close by midnight, will comply with the Downtown Specific Plan and City Council Resolution No. 2010-05.
 - The existing restaurant with alcohol sales, conditioned to close by midnight, is consistent with the goals and objectives of the Downtown Specific Plan and will enhance the urban and mixed-use atmosphere of the surrounding retail, restaurant, office, and residential uses.
 - The existing restaurant and outdoor dining area with proposed alcohol sales will not create adverse noise or safety impacts to the surrounding businesses and residents.



VICINITY MAP

CONDITIONAL USE PERMIT NO. 10-028 (BOMBURGER RESTAURANT)
(200 MAIN STREET, SUITE 114)

RECOMMENDATION:

Motion to:

“Approve Conditional Use Permit No. 10-028 with findings and suggested conditions of approval for the hours of operation for the restaurant, outdoor dining area, and alcohol sales and service between 11:00 AM and 12:00 AM (midnight) (Attachment No. 1).”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Approve Conditional Use Permit No. 10-028 with findings and suggested conditions of approval for the hours of operation for the restaurant and outdoor dining area between 11:00 AM and 2:00 AM and the hours of operation for the alcohol sales and service between 11:00 AM and 10:00 PM.”
(Applicant’s Request – Attachment No. 2)
- B. “Continue Conditional Use Permit No. 10-028 and direct staff accordingly.”
- C. “Deny Conditional Use Permit No. 10-028 with findings for denial.”

PROJECT PROPOSAL:

Conditional Use Permit No. 10-028 represents a request to permit the sales and service of alcoholic beverages (beer and wine only) for on-site consumption within an existing 1,489 sq. ft. restaurant and 143 sq. ft. outdoor dining area within District 5 – Mixed-Use, of the Downtown Specific Plan, pursuant to Section 4.7.01(b) – *Permitted Uses* of the Downtown Specific Plan.

The restaurant will employ approximately 12 people, with shifts averaging approximately 3 to 4 employees. The current hours of operation for the restaurant and outdoor dining area are between 11:00 AM and 2:00 AM, seven days a week. The proposed hours of operation for the alcohol service are between 11:00 AM and 10:00 PM, seven days a week. The applicant is requesting to maintain the current hours of operation until 2:00 AM for the restaurant and outdoor dining area while discontinuing the sales and service of alcohol at 10:00 PM. The sale and consumption of alcohol is proposed to occur within the interior of the restaurant as well as the outdoor dining area. The alcohol request is for beer and wine only and does not include a full service bar with spirits.

The subject suite is located within the Main Promenade building, a mixed use development consisting of commercial and parking facilities. The existing restaurant is located within Suite No. 114. The main dining area is located at the front of the unit facing Main Street along with an outdoor dining area adjacent to the restaurant and next to the public walkway along Main Street.

Background:

The City approved the original Conditional Use Permit No. 88-34 and Coastal Development Permit No. 88-27 to permit a 32,073 sq. ft. commercial building integrated with a 5-level parking structure (Main Promenade). In addition, prior City actions for Suite No. 114 include: Conditional Use Permit No. 09-011 to permit the establishment of a 1,489 sq. ft. take-out restaurant approved August 5, 2009;

Administrative Permit No. 10-012 to permit the establishment of a 143 sq. ft. outdoor dining area approved on June 15, 2010.

Study Session:

The Planning Commission raised the following issues at their study session on Tuesday, January 11, 2011:

- *Hours of Operation under City Council Resolution No. 2010-05 for Eating and Drinking Establishments with Alcoholic Beverage Sales in the Downtown Specific Plan Area*
 The hours of operation for any eating and drinking establishment with alcohol beverage sales located within the Downtown Specific Plan area shall be limited to between 7:00 AM to 12:00 AM midnight except for a business proposed in the following locations:

 - a. West side of 5th Street between Walnut Avenue and Orange Avenue, the hours of operation shall be limited to between 7:00 AM to 10:00 PM.
 - b. East side of 3rd Street between Walnut Avenue and Orange Avenue, the hours of operation shall be limited to between 7:00 AM and 10:00 PM.

- *The Application of City Council Resolution No. 2010-05 for Eating and Drinking Establishments in the Downtown Specific Plan Area*
 Lugatti’s Restaurant was the first eating and drinking establishment in the Downtown Specific Plan Area to be approved under the standard conditions of approval for eating and drinking establishment with alcohol beverage sales and entertainment. The project was approved by the Planning Commission on November 9, 2010.

- *Controlling the Hours of Alcohol Beverage Sales*
 Information regarding the methods (i.e. locking mechanisms, etc.) of controlling the hours of alcohol beverage sales will be provided by the applicant at the public hearing on January 25, 2011.

- *Entitlement for Changing the Type of Alcohol Beverage Sales and Service*
 The City requires a Conditional Use Permit to be processed for all alcoholic beverage sales and service with no differentiation between beer and wine and hard liquor. The Department of Alcoholic Beverage Control (ABC), however, does differentiate between on-sale beer and wine for bona fide public eating place (Type 41) and on-sale general for bona fide public eating place (Type 47). Once the Conditional Use Permit for alcohol sales is approved by the City, a business can serve alcohol regardless of the type. However, that business would need to apply for a different type of alcohol license from ABC. In that instance, ABC will contact the Police Department and request input regarding the proposed change in alcohol license type.

- *Comparison Between the Applicant’s Request and City Council Resolution No. 2010-05*
 The only difference between the applicant’s request and City Council Resolution No. 2010-05 is the hours of operation as illustrated below:

<i>Hours of Operation</i>	<u><i>Applicant’s Request</i></u>	<u><i>City Council Resolution</i></u>
Restaurant and Outdoor Dining	11:00 AM – 2:00 AM	7:00 AM – 12:00 AM
Alcohol Sales and Service	11:00 AM – 10:00 PM	7:00 AM – 12:00 AM

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	MV-F6/25-sp-pd (Mixed Use Vertical – 2.0 Max. Floor Area Ratio/ 25 Dwelling Units per Acre – Specific Plan Overlay – Pedestrian Overlay)	SP-5 (Downtown Specific Plan District 5/Coastal Zone)	Commercial Uses/Parking Facility
North of Subject Property (across Olive Avenue):	MV-F6/25-sp-pd	SP-5	Post Office/Commercial
East of Subject Property (across 3 rd Street):	MV-F6/25-sp-pd	SP-5	Commercial/Residential
South of Subject Property (across Walnut Avenue):	MV-F6/25-sp-pd	SP-5	Commercial
West of Subject Property (across Main Street):	MV-F6/25-sp-pd	SP-5	Commercial

General Plan Conformance:

The General Plan Land Use Map designation on the subject property is MV-F6/25-sp-pd (Mixed Use Vertical – 2.0 Max. Floor Area Ratio/25 Dwelling Units per Acre – Specific Plan – Pedestrian Overlay). The proposed project is consistent with this designation and the goals, policies, and objectives of the City’s General Plan as follows:

A. Land Use Element

Goal LU 7 Achieve a diversity of land uses that sustain a City’s economic viability, while maintaining the City’s environmental resources and scale and character.

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding subregion, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Policy LU 15.2.2 Require that uses in the Pedestrian Overlay District be sited and designed to enhance and stimulate pedestrian activity along the sidewalks. Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.

The proposed use is consistent with the Land Use Density Schedules for the Downtown and increases the economic viability of the establishment by offering the sales and service of alcoholic beverages to accommodate the entertainment and recreation needs of residents and visitors. This expansion of services captures visitor and tourist activity within the downtown. The site is located in a mixed-use district of the downtown area and within walking distance of several downtown-parking facilities as well residential uses thus reducing the need for automobile use.

B. Coastal Element

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences.

Policy C 3.2.3: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed use will promote commercial establishments in the Downtown and will expand the available visitor-serving commercial uses within the Coastal Zone.

Zoning Compliance:

This project is located in the SP5-5-CZ (Downtown Specific Plan – District 5, Mixed Use – Coastal Zone) and complies with the requirements of that zone. There is no physical expansion of the approved development proposed as part of this request.

Urban Design Guidelines Conformance: Not applicable.

Environmental Status:

The proposed project is categorically exempt pursuant to Section 15301, Class 1, of the California Environmental Quality Act, which states that minor alterations and operation to existing structures are exempt from further environmental review.

Coastal Status:

The proposed project is within a non-appealable portion of the Coastal Zone. The original entitlement for the Main Promenade including Coastal Development Permit No. 88-27 assumed mixed retail, restaurant, and office uses as part of the project. Therefore, the proposed project a restaurant with outdoor dining and the sale and consumption of alcohol is covered by Coastal Development Permit No. 88-27 approved by the City on October 18, 1988.

Redevelopment Status:

The project is located in the Huntington Beach Redevelopment Project, Main-Pier subarea. The Economic Development Department has reviewed the request and supports the proposed project because it encourages economic vitality for the Downtown area.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements:

The Departments of Planning and Building, Fire, Economic Development, and Police have reviewed the application and identified applicable code requirements (Attachment No. 4).

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on January 13, 2011, and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), applicant, and interested parties. As of January 12, 2011, one communication opposing the request has been received (Attachment No. 8).

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

MANDATORY PROCESSING DATE(S):

November 23, 2010

February 23, 2011

Conditional Use Permit No. 10-028 was filed on October 26, 2010 including a 30-day extension to the mandatory processing time due to the holiday closure. The application was reviewed by the Planning Commission as a study session item on January 11, 2011.

ANALYSIS:

Land use / Compatibility

Staff supports the proposed request based on the stated purpose of District #5 Mixed-Use; Commercial/Office/Residential of the Downtown Specific Plan, which is to create a more urban atmosphere with the Main Street-pier axis as an active, vital and interesting pedestrian way, intersecting with and complementing the visitor-serving commercial area on Pacific Coast Highway and the pier area. This district is a prime mixed-use location within the Downtown and provides visitors and residents with numerous opportunities for visitor-serving as well as year round commercial uses. The addition of alcohol sales and consumption within the existing restaurant and outdoor dining area will promote the

commercial viability along Main Street. The proposed use also enhances and supports the district as well as the other commercial establishments in this high intensity urban part of Downtown.

Staff has determined that the proposed alcohol sales within the existing restaurant and outdoor dining area will be compatible with surrounding uses because it is proposed in a Specific Plan area designated for mixed-use pedestrian-oriented development. The existing restaurant is surrounded by commercial, office, and restaurant uses and therefore will be compatible to its surroundings. The use will be required to comply with conditions of approval pertaining to hours of operation to assure that any potential impacts to the surrounding properties are minimized. Specifically, the restaurant and outdoor dining area will be conditioned to close at 12:00 AM (midnight) to comply with City Council Resolution No. 2010-05. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties. With the suggested conditions of approval, the proposed sale and service of alcoholic beverages within the existing restaurant and outdoor dining area will not result in increased parking, safety, or noise issues, above that expected in a typical mixed-use environment. In general, the proposed entitlement is consistent with scope and intent of the development in the downtown and supported by the General Plan and the Downtown Specific Plan.

Resolution No. 2010-005

In December 2008, the City Council directed staff to establish an Ad Hoc Committee to focus on improving the environment within the downtown area. The Downtown Image Committee was established and met monthly starting in February 2009 to study various issues within the downtown area. In August 2009, recommendations from the Downtown Image Committee were presented to the City Council. The recommendations related to public safety included:

- Increase fines for entertainment permit violations
- Create standardized conditions for new entertainment permits
- Provide information to new tenants requesting alcohol licenses
- Mitigating impacts to residences adjacent to businesses requesting new entertainment permits
- Establishment of residential permit parking zones

As a result of the recommendations, the Planning, Economic Development, and Police Departments developed standardized conditions for eating and drinking establishments with alcoholic beverage sales and eating and drinking establishments with alcoholic beverage sales and live entertainment. In January 2010, the City Council adopted Resolution No. 2010-05 establishing conditions of approval for eating and drinking establishments with alcoholic beverage sales and live entertainment in the Downtown Specific Plan area (Attachment No. 7). The Resolution does permit modifications to the list of conditions of approval by the reviewing body as part of the conditional use permit process via a public hearing.

The requirements of the City Council Resolution No. 2010-05 would be applicable to the request by Bomburger Restaurant for alcoholic beverage sales because of the type of business and location of the project within the Downtown Specific Plan area. Based on the strict application of the Resolution, the proposed restaurant and outdoor dining area with alcohol beverage sales would be subject to all the adopted conditions of approval, including the hours of operation of 7:00 AM to 12:00 AM (midnight).

Alternative Action A

Staff is including the applicant's request as an alternative action (A) that the Planning Commission may consider in reviewing the proposed project. This action is consistent with the applicant's request to maintain the current hours of operation until 2:00 AM for the restaurant and outdoor dining area while discontinuing the sales and service of alcohol at 10:00 PM. The hours of operation in the applicant's request are different than those allowed in City Council Resolution No. 2010-05, namely the hours of operation are limited between 7:00 AM and 12:00 AM (midnight) for eating and drinking establishments with alcoholic beverage sales. Although the hours of operation in the applicant's request are different, they are within the intent of the Resolution. The standard conditions of approval in the Resolution, including the limitation of the hours of operation for establishments with alcoholic beverage sales, came out of the desire to maintain a vibrant and safe downtown commercial area to be enjoyed by visitors, residents, and families. However, the Resolution allowed the reviewing body to modify those standard conditions of approval as part of the Conditional Use Permit via a public hearing. The applicant is proposing to discontinue the sales of alcoholic beverages at 10:00 PM, two hours before the 12:00 AM limit. In addition, the applicant is requesting to have the restaurant and outdoor dining area be open until 2:00 AM, which is consistent with the approved hours of operation of Conditional Use Permit No. 09-011 for the establishment of the restaurant. The Police and Economic Development Departments have no objections to the business remaining open until 2:00 AM because the request is within the intent of the Resolution and would not negatively impact the downtown area (Attachment No. 6).

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval – Conditional Use Permit No. 10-028 (**Staff Recommendation**)
2. Suggested Findings and Conditions of Approval – Conditional Use Permit No. 10-028 (**Alternative Action A**)
3. Project Narrative received and dated November 8, 2010
4. Site and Floor Plan received and dated November 8, 2010
5. Code Requirements Letter dated December 6, 2010 (for informational purposes only)
6. Revised Code Requirements Letter from Economic Development Department dated January 11, 2011 and Police Department dated January 12, 2011 (for information purposes only)
7. City Council Request for Action for January 19, 2010 and City Council Resolution No. 2010-05 (Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales and Live Entertainment)
8. Email from Kim Kramer dated January 11, 2011

SH:HF:TN:kd

ATTACHMENT NO. 1

(STAFF RECOMMENDATION)

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 10-028

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission 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, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 10-028:

1. Conditional Use Permit No. 10-028 to permit the sales and service of alcoholic beverages (beer and wine only) for on-site consumption within an existing 1,489 sq. ft. restaurant and 143 sq. ft. outdoor dining area within District 5 – Mixed-Use of the Downtown Specific Plan 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 proposed use will not create adverse noise or safety impacts to the surrounding businesses and residents based on type of alcohol service (beer and wine only), controlling the area of alcohol sales and consumption, and hours of food service and operation. In addition, the project will comply with City Council Resolution No. 2010-05, standard conditions for approval for eating and drinking establishments with alcoholic beverage sales.
2. The proposed sales and service of alcoholic beverages within an existing restaurant and outdoor dining area will be compatible with surrounding uses because it is proposed in a Specific Plan area designated for mixed-use pedestrian-oriented development. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible to its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol service and hours of operation to assure that any potential impacts to the surrounding properties are minimized. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties.
3. The proposed sale and service of alcoholic beverages will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it will be located. The proposed project as conditioned complies with the base district and other applicable provisions. There is no physical expansion that includes additional floor area to the existing building as part of this request and the use will comply with all building occupancy/exiting requirements.
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 MV-F6/25-sp-pd (Mixed Use Vertical – 2.0 Max. Floor

Area Ratio/25 Dwelling Units per Acre – Specific Plan – Pedestrian Overlay) on the subject property. In addition, it is consistent with the following goals, policies, and objectives of the General Plan:

A. Land Use Element

Goal LU 7 Achieve a diversity of land uses that sustain a City’s economic viability, while maintaining the City’s environmental resources and scale and character.

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding subregion, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Policy LU 15.2.2 Require that uses in the Pedestrian Overlay District be sited and designed to enhance and stimulate pedestrian activity along the sidewalks. Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.

The proposed use is consistent with the Land Use Density Schedules for the Downtown and increases the economic viability of the establishment by offering the sales and service of alcoholic beverages to accommodate the entertainment and recreation needs of residents and visitors. This expansion of services captures visitor and tourist activity within the downtown. The site is located in a mixed-use district of the downtown area and within walking distance of several downtown-parking facilities as well residential uses thus reducing the need for automobile use.

B. Coastal Element

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences.

Policy C 3.2.3: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed use will promote commercial establishments in the Downtown and will expand the available visitor-serving commercial uses within the Coastal Zone.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 10-028:

1. The site plan and floor plan received and dated November 8, 2010 shall be the conceptually approved design.
2. The use shall comply with the following:
 - a. Hours of operation shall be limited to between 7:00 AM and 12:00 AM (midnight) everyday. **(Resolution No. 2010-05)**
 - b. A minimum of 70 percent of the net floor area of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas. **(Resolution No. 2010-05)**
 - c. Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times. **(Resolution No. 2010-05)**
 - d. Alcoholic drinks shall not be included in the price of admission to any establishment. **(Resolution No. 2010-05)**
 - e. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(Resolution No. 2010-05)**
 - f. All alcohol shall remain on the establishment's premises, including within outdoor dining areas. **(Resolution No. 2010-05)**
 - g. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served. **(Resolution No. 2010-05)**
 - h. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business. **(Resolution No. 2010-05)**
 - i. Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City. **(Resolution No. 2010-05)**
 - j. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(Resolution No. 2010-05)**
 - k. The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code. **(Resolution No. 2010-05)**
 - l. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to

the Planning Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.

- m. Prior to commencing live entertainment activities, a copy of an approved Entertainment Permit, as issued by the Business License Department, shall be submitted to the Planning and Building Department.
 - n. Only the uses described in the project narrative shall be permitted.
3. The development services departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.
 4. Conditional Use Permit No. 10-028 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 and Building 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/index.cfm?fuseaction=guidelines>).

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.

ATTACHMENT NO. 2

(ALTERNATIVE ACTION A)

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 10-028

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission 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, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 10-028:

1. Conditional Use Permit No. 10-028 to permit the sales and service of alcoholic beverages (beer and wine only) for on-site consumption within an existing 1,489 sq. ft. restaurant and 143 sq. ft. outdoor dining area within District 5 – Mixed-Use of the Downtown Specific Plan 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 proposed use will not create adverse noise or safety impacts to the surrounding businesses and residents based on type of alcohol service (beer and wine only), controlling the area of alcohol sales and consumption, and hours of food service and operation. In addition, the project will comply with City Council Resolution No. 2010-05, standard conditions for approval for eating and drinking establishments with alcoholic beverage sales with alternate hours of operation.
5. The proposed sales and service of alcoholic beverages within an existing restaurant and outdoor dining area will be compatible with surrounding uses because it is proposed in a Specific Plan area designated for mixed-use pedestrian-oriented development. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible to its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol service and hours of operation to assure that any potential impacts to the surrounding properties are minimized. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties.
6. The proposed sale and service of alcoholic beverages will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it will be located. The proposed project as conditioned complies with the base district and other applicable provisions. There is no physical expansion that includes additional floor area to the existing building as part of this request and the use will comply with all building occupancy/exiting requirements.

7. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of MV-F6/25-sp-pd (Mixed Use Vertical – 2.0 Max. Floor Area Ratio/25 Dwelling Units per Acre – Specific Plan – Pedestrian Overlay) on the subject property. In addition, it is consistent with the following goals, policies, and objectives of the General Plan:

A. Land Use Element

Goal LU 7 Achieve a diversity of land uses that sustain a City’s economic viability, while maintaining the City’s environmental resources and scale and character.

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding subregion, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Policy LU 15.2.2 Require that uses in the Pedestrian Overlay District be sited and designed to enhance and stimulate pedestrian activity along the sidewalks. Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.

The proposed use is consistent with the Land Use Density Schedules for the Downtown and increases the economic viability of the establishment by offering the sales and service of alcoholic beverages to accommodate the entertainment and recreation needs of residents and visitors. This expansion of services captures visitor and tourist activity within the downtown. The site is located in a mixed-use district of the downtown area and within walking distance of several downtown-parking facilities as well residential uses thus reducing the need for automobile use.

B. Coastal Element

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences.

Policy C 3.2.3: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed use will promote commercial establishments in the Downtown and will expand the available visitor-serving commercial uses within the Coastal Zone.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 10-028:

6. The site plan and floor plan received and dated November 8, 2010 shall be the conceptually approved design.
7. The use shall comply with the following:
 - a. The hours of operation for the restaurant and outdoor dining area shall be limited to between 11:00 AM and 2:00 AM, seven days a week. The hours of operation for the alcoholic sales and service shall be limited to between 11:00 AM and 10:00 PM, seven days a week.
 - b. A minimum of 70 percent of the net floor area of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas. **(Resolution No. 2010-05)**
 - c. Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times. **(Resolution No. 2010-05)**
 - d. Alcoholic drinks shall not be included in the price of admission to any establishment. **(Resolution No. 2010-05)**
 - e. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(Resolution No. 2010-05)**
 - f. All alcohol shall remain on the establishment's premises, including within outdoor dining areas. **(Resolution No. 2010-05)**
 - g. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served. **(Resolution No. 2010-05)**
 - h. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business. **(Resolution No. 2010-05)**
 - i. Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City. **(Resolution No. 2010-05)**
 - j. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(Resolution No. 2010-05)**
 - k. The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the

Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code.
(Resolution No. 2010-05)

- l. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
 - m. Prior to commencing live entertainment activities, a copy of an approved Entertainment Permit, as issued by the Business License Department, shall be submitted to the Planning and Building Department.
 - n. Only the uses described in the project narrative shall be permitted.
8. The development services departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.
9. Conditional Use Permit No. 10-028 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 and Building Department a minimum 30 days prior to the expiration date.
10. 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/index.cfm?fuseaction=guidelines>).

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

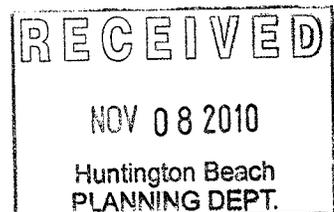
project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

BOMBURGER Conditional Use Permit Application

We are submitting this application in hopes of securing a 41-On Sale Beer and Wine Sales Permit from the Alcoholic Beverage Control. We are currently a 1500 square foot, fully functioning restaurant at 200 Main St. Suite 114. Our hours of operation are 11:00am to 2:00am, and we have roughly 3-4 employees working at any given time. We are expanding our menu in hopes of appealing to a wider range of clientele. In addition to the food items being introduced we would also like to offer Beer and Wine as alternative beverage options to be served only between the hours of 11:00am and 10:00pm in our dining and patio area. We believe that these changes will help us to bolster sales and stay competitive in the busy downtown area.

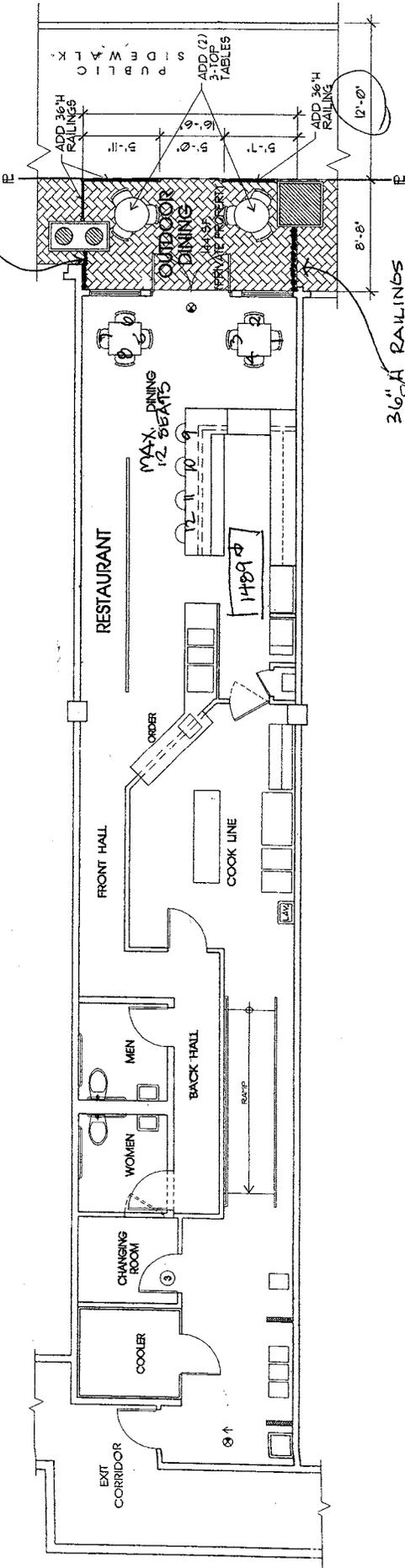
Although we are aware that the resolution states that "hours of operation shall be limited to between 7:00am and 12:00pm", we would like to suggest that discontinuing alcohol sales at 10:00, and continuing to serve food until 2:00am would not conflict with the resolution.

The area immediately surrounding our location is of mixed use, ranging from full service bars, and restaurants, to retail outlets, and miscellaneous service establishments. The downtown area is a tourist rich environment, but also frequented by Huntington Beach Locals alike. Our menu changes, including the addition of beer and wine will appeal to the vast majority of the Main Street crowd, further diversifying this expanding commercial area.



ATTACHMENT NO. 3.1

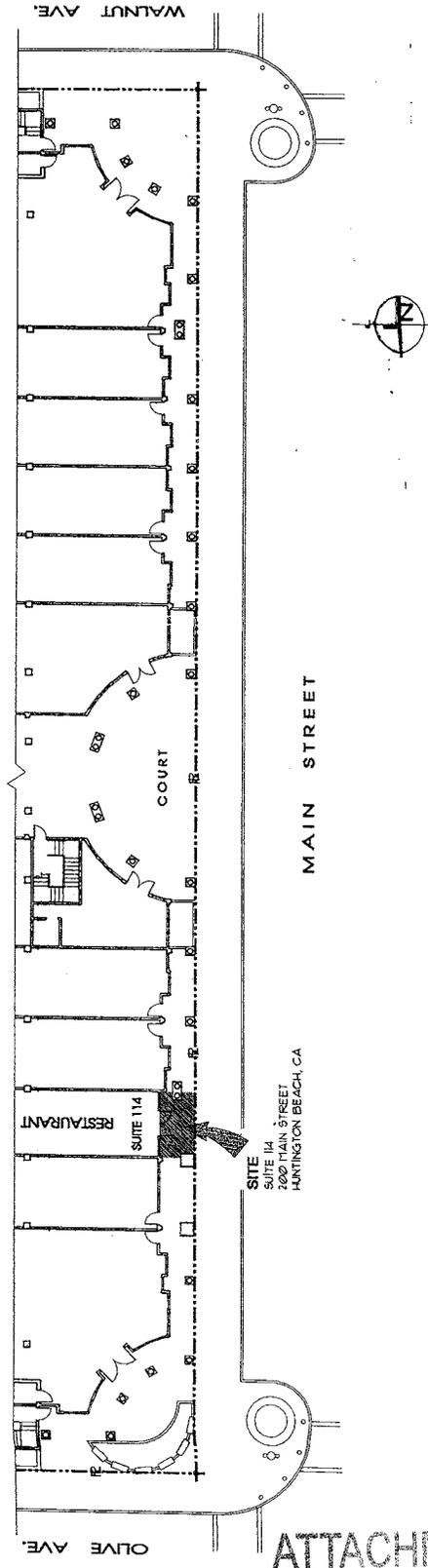
36" H RAILINGS

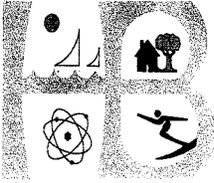


36" H RAILINGS
FLOOR PLAN
 SCALE: 1/8" = 1'-0"

RECEIVED
 NOV 08 2010
 Huntington Beach
 PLANNING DEPT.

DATE: 05/10/10	SCALE: 1/8"=1'-0"	CAD FILE: 10514-A1	BOMBURGER RESTAURANT OUTDOOR DINING	A1
THIS DRAWING IS SITE PROPERTY AND NOT TO BE REPRODUCED BY ANY OTHER PARTY WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT				
JEFF BERGSMAN ARCHITECT			TEAM	05.08.10-0-N 714.524.8888 200 MAIN STREET HUNTINGTON BEACH CA 92648





City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING AND BUILDING

www.huntingtonbeachca.gov

Planning Division
714.536.5271

Building Division
714.536.5241

December 6, 2010

Rob Sleenhof
4206 Spindrift
Newport Beach CA 92663

**SUBJECT: CONDITIONAL USE PERMIT NO. 2010-028 (BOMBURGER ALCOHOL SALES)—200 MAIN STREET #114
PROJECT IMPLEMENTATION CODE REQUIREMENTS**

Dear Mr. Sleenhof:

In order to assist you with your development proposal, staff has reviewed the project and identified applicable city policies, standard plans, and development and use requirements, excerpted from the City of Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes. This list is intended to help you through the permitting process and various stages of project implementation.

It should be noted that this requirement list is in addition to any "conditions of approval" adopted by the Planning Commission. Please note that if the design of your project or if site conditions change, the list may also change based upon modifications to your project and the applicable city policies, standard plans, and development and use requirements.

If you would like a clarification of any of these requirements, an explanation of the Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes, or believe some of the items listed do not apply to your project, and/or you would like to discuss them in further detail, please contact me at 714-374-1744 (tnguyen@surfcity-hb.org) and/or the respective source department (contact person below).

Sincerely,

TESS NGUYEN
Associate Planner

Enclosures

cc: Bill Grove, Building & Safety Department – 714-536-5677
Luis Gomez, Economic Development – 714-536-5544
Jason Kelly, Planning Department
Robert Koury Property, Property Owner

Darin Maresh, Fire Department – 714-536-5531
Bill Stuart, Police – 714-374-5368
Herb Fauland, Planning Manager
Project File

ATTACHMENT NO. 5.1



CITY OF HUNTINGTON BEACH PLANNING DEPARTMENT

PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: NOVEMBER 30, 2010
PROJECT NAME: BOMBURGER ALCOHOL SALES
PLANNING APPLICATION NO.: PLANNING APPLICATION NO. 10-0187
ENTITLEMENTS: CONDITIONAL USE PERMIT NO. 10-028
DATE OF PLANS: NOVEMBER 8, 2010
PROJECT LOCATION: 200 MAIN STREET #114, HUNTINGTON BEACH
PROJECT PLANNER: TESS NGUYEN, ASSOCIATE PLANNER
TELEPHONE/E-MAIL: (714) 374-1744/ tnguyen@surfcity-hb.org
PROJECT DESCRIPTION: TO PERMIT THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES FOR ONSITE CONSUMPTION WITHIN AN EXISTING 1,489 SQ. FT. RESTAURANT AND IN A 143 SQ. FT. OUTDOOR DINING AREA

The following is a list of code requirements deemed applicable to the proposed project based on plans stated above. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

1. The site plan and floor plan approved by the Planning Commission shall be the conceptually approved design.
2. The Development Services Departments (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of Zoning Administrator's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18. **(HBZSO 241.18)**
3. Conditional Use Permit No. 10-028 shall not become effective until the ten calendar day appeal period from the date of Planning Commission approval of the entitlements has

elapsed. **(HBZSO Section 241.14)**

4. Conditional Use Permit No. 10-028 shall become null and void unless exercised within one year 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. **(HBZSO Section 241.16.A)**
5. The Planning Commission reserves the right to revoke Conditional Use Permit No. 10-028 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs. **(HBZSO Section 241.16.D)**
6. The use shall comply with all applicable requirements of the Municipal Code, Building & Safety Department and Fire Department, as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein. **(City Charter, Article V)**
7. Construction shall be limited to Monday – Saturday 7:00 AM to 8:00 PM. Construction shall be prohibited Sundays and Federal holidays. **(HBMC Section 8.40.090)**
8. The applicant shall submit a check in the amount of \$50.00 for the posting of the Notice of Exemption at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the Planning Commission's action. **(California Code Section 15094)**
9. All permanent, temporary, or promotional signs shall conform to Chapter 233 of the HBZSO. Prior to installing any new signs, changing sign faces, or installing promotional signs, applicable permit(s) shall be obtained from the Planning Department. Violations of this ordinance requirement may result in permit revocation, recovery of code enforcement costs, and removal of installed signs. **(HBZSO Chapter 233)**
10. Live entertainment shall not be permitted unless a conditional use permit for this specific use is reviewed and approved. **(HBZSO Section 211.04)**



CITY OF HUNTINGTON BEACH
PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: NOVEMBER 8, 2010
PROJECT NAME: BOMBURGER ALCOHOL SALES
PLANNING APPLICATION NO.: PLANNING APPLICATION NO. 10-0187
ENTITLEMENTS: CONDITIONAL USE PERMIT NO. 10-028
DATE OF PLANS: NOVEMBER 8, 2010
PROJECT LOCATION: 200 MAIN STREET #114, HUNTINGTON BEACH
PROJECT PLANNER: TESS NGUYEN, ASSOCIATE PLANNER
PLAN REVIEWER: BILL GROVE, INSPECTION MANAGER, BUILDING DIVISION
TELEPHONE/E-MAIL: (714) 536-5677/ bgrove@surfcity-hb.org
PROJECT DESCRIPTION: TO PERMIT THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-SITE CONSUMPTION WITHIN AN EXISTING 1,489 SQ. FT. RESTAURANT AND IN A 144 SQ. FT. OUTDOOR DINING AREA.

The following is a list of code requirements deemed applicable to the proposed project based on plans stated above. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

1. A building permit is required for the rail enclosing the outdoor dining area.
2. Any modifications necessary to refrigerate or dispense alcoholic beverages are subject to a permit.

ATTACHMENT NO. 5.4



CITY OF HUNTINGTON BEACH
PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: NOVEMBER 8, 2010
PROJECT NAME: BOMBURGER ALCOHOL SALES
PLANNING APPLICATION NO.: PLANNING APPLICATION NO. 10-0187
ENTITLEMENTS: CONDITIONAL USE PERMIT NO. 10-028
DATE OF PLANS: NOVEMBER 8, 2010
PROJECT LOCATION: 200 MAIN STREET #114, HUNTINGTON BEACH
PROJECT PLANNER: TESS NGUYEN, ASSOCIATE PLANNER
PLAN REVIEWER: LUIS GOMEZ, ECONOMIC DEVELOPMENT
TELEPHONE/E-MAIL: (714) 536-5544/ luis.gomez@surfcity-hb.org
PROJECT DESCRIPTION: TO PERMIT THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-SITE CONSUMPTION WITHIN AN EXISTING 1,489 SQ. FT. RESTAURANT AND IN A 144 SQ. FT. OUTDOOR DINING AREA.

The following is a list of code requirements deemed applicable to the proposed project based on plans stated above. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

Economic Development has reviewed Planning Application No. 10-0187 and supports the request with the following condition:

1. Restaurant hours shall be from 11 am to midnight.



HUNTINGTON BEACH FIRE DEPARTMENT

PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: December 2, 2010

PROJECT NAME: BOMBURGER ALCOHOL SALES

ENTITLEMENTS: PLANNING APPLICATION NO. 10-0187

PROJECT LOCATION: 200 MAIN STREET #114, HUNTINGTON BEACH

PLANNER: TESS NGUYEN, ASSOCIATE PLANNER

TELEPHONE/E-MAIL: (714) 374-1744/ tnguyen@surfcity-hb.org

PLAN REVIEWER-FIRE: DARIN MARESH, FIRE DEVELOPMENT SPECIALIST

TELEPHONE/E-MAIL: (714) 536-5531/ dmaresh@surfcity-hb.org

PROJECT DESCRIPTION: TO PERMIT THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-SITE CONSUMPTION WITHIN AN EXISTING 1,489 SQ. FT. RESTAURANT AND IN A 144 SQ. FT. OUTDOOR DINING AREA.

The following is a list of code requirements deemed applicable to the proposed project based on plans received and dated November 8, 2010. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer- Fire: DARIN MARESH, FIRE DEVELOPMENT SPECIALIST.

Fire Department has no comments for this request.

Fire Department City Specifications may be obtained at:
Huntington Beach Fire Department Administrative Office
City Hall 2000 Main Street, 5th floor
Huntington Beach, CA 92648
or through the City's website at www.surfcity-hb.org

If you have any questions, please contact the Fire Prevention Division at (714) 536-5411.



CITY OF HUNTINGTON BEACH
PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: NOVEMBER 8, 2010
PROJECT NAME: BOMBURGER ALCOHOL SALES
PLANNING APPLICATION NO.: PLANNING APPLICATION NO. 10-0187
ENTITLEMENTS: CONDITIONAL USE PERMIT NO. 10-028
DATE OF PLANS: NOVEMBER 8, 2010
PROJECT LOCATION: 200 MAIN STREET #114, HUNTINGTON BEACH
PROJECT PLANNER: TESS NGUYEN, ASSOCIATE PLANNER
PLAN REVIEWER: W. Stuart, Captain
TELEPHONE/E-MAIL: (714) 374-5368/ bstuart@hbpd.org
PROJECT DESCRIPTION: TO PERMIT THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-SITE CONSUMPTION WITHIN AN EXISTING 1,489 SQ. FT. RESTAURANT AND IN A 144 SQ. FT. OUTDOOR DINING AREA.

The following is a list of code requirements deemed applicable to the proposed project based on plans stated above. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

The applicant clearly acknowledges in the narrative of the application, his request to serve alcohol and remain open until 2:00 AM is in direct conflict with the very first condition listed in City Council Resolution 2010-05. The Police Department does not support approval of a CUP that does not conform with all conditions listed in the resolution.

REVISED



CITY OF HUNTINGTON BEACH
PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: January 11, 2011
PROJECT NAME: BOMBURGER ALCOHOL SALES
PLANNING APPLICATION NO.: PLANNING APPLICATION NO. 10-0187
ENTITLEMENTS: CONDITIONAL USE PERMIT NO. 10-028
DATE OF PLANS: NOVEMBER 8, 2010
PROJECT LOCATION: 200 MAIN STREET #114, HUNTINGTON BEACH
PROJECT PLANNER: TESS NGUYEN, ASSOCIATE PLANNER
PLAN REVIEWER: LUIS GOMEZ, ECONOMIC DEVELOPMENT
TELEPHONE/E-MAIL: (714) 536-5544/ luis.gomez@surfcity-hb.org
PROJECT DESCRIPTION: TO PERMIT THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-SITE CONSUMPTION WITHIN AN EXISTING 1,489 SQ. FT. RESTAURANT AND IN A 144 SQ. FT. OUTDOOR DINING AREA.

The following is a list of code requirements deemed applicable to the proposed project based on plans stated above. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

Economic Development has reviewed Planning Application No. 10-0187 and does not object to the request. Per the Police Departments comments, the proposal to serve alcohol only till 10 pm would not negatively impact the downtown area.

ATTACHMENT NO. 6.1

REVISED



CITY OF HUNTINGTON BEACH
PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: JANUARY 12, 2011
PROJECT NAME: BOMBURGER ALCOHOL SALES
PLANNING APPLICATION NO.: PLANNING APPLICATION NO. 10-0187
ENTITLEMENTS: CONDITIONAL USE PERMIT NO. 10-028
DATE OF PLANS: NOVEMBER 8, 2010
PROJECT LOCATION: 200 MAIN STREET #114, HUNTINGTON BEACH
PROJECT PLANNER: TESS NGUYEN, ASSOCIATE PLANNER
PLAN REVIEWER: W. Stuart, Captain
TELEPHONE/E-MAIL: (714) 374-5368/ bstuart@hbpd.org
PROJECT DESCRIPTION: TO PERMIT THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES FOR ON-SITE CONSUMPTION WITHIN AN EXISTING 1,489 SQ. FT. RESTAURANT AND IN A 144 SQ. FT. OUTDOOR DINING AREA.

The following is a list of code requirements deemed applicable to the proposed project based on plans stated above. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

The police department has reviewed the above described request by the applicant to permit the sales and service of alcoholic beverages (beer and wine) for on-site consumption.

The police department supports the request with the following conditions:

- Alcohol sales occur only between the hours of 11:00 AM and 10:00PM.
- All other standard conditions of approval as enumerated in Huntington Beach City Council Resolution 2010-05 listed under "Eating and Drinking Establishments with Alcoholic Beverage Sales" shall apply except for the hours of operation.

The police department does not object to the business remaining open until 2:00AM for food service only.

ATTACHMENT NO. 6.2

Council/Agency Meeting Held: _____	_____ City Clerk's Signature
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 01/19/10	Department ID Number: PL-10-02

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

SUBMITTED BY: FRED A. WILSON, CITY ADMINISTRATOR

PREPARED BY: SCOTT HESS, DIRECTOR OF PLANNING AND BUILDING *SH*
 STANLEY SMALEWITZ, DIRECTOR OF ECONOMIC DEVELOPMENT *SS*
 KEN SMALL, POLICE CHIEF *KS/ACOP*

SUBJECT: ADOPT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH ADOPTING STANDARD CONDITIONS OF APPROVAL FOR EATING AND DRINKING ESTABLISHMENTS WITH ALCOHOL SALES AND/OR LIVE ENTERTAINMENT WITHIN THE DOWNTOWN SPECIFIC PLAN AREA – DISTRICT 1.

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue: Transmitted for your consideration is a request to adopt a resolution adopting standard conditions of approval for eating and drinking establishments with alcohol sales and/or live entertainment within the Downtown Specific Plan Area – District 1. The list of standard conditions is a result of recommendations by City staff and the Downtown Image Committee, which presented their recommendations to the City Council at their August 17, 2009 meeting.

Funding Source: Not applicable.

Recommended Action:

Motion to:

"Adopt Resolution No. 2010-05 a Resolution of the City Council of the City of Huntington Beach establishing conditions of approval for eating and drinking establishments with alcohol beverage sales and live entertainment. (ATTACHMENT NO. 1)"

REQUEST FOR ACTION

MEETING DATE: 01/19/10

DEPARTMENT ID NUMBER: PL-10-02

Alternative Action(s):

The City Council may make the following alternative motion(s):

"Continue the adoption of Resolution No. 2010-05 and direct staff accordingly."

Analysis:

As a result of the December 15, 2008, City Council meeting, staff was directed to establish an Ad Hoc Committee to focus on improving the environment within the downtown area. The Downtown Image Committee was established and met monthly since February 2009 to study various issues within the downtown area. At the August 17, 2009, City Council meeting, staff presented the Downtown Image Committee's recommendations and indicated that some recommendations would be brought back to the City Council for further direction.

The recommendations presented to the City Council related to public safety included:

- Increase fines for entertainment permit violations
- Create standardized conditions for new entertainment permits
- Provide information to new tenants requesting alcohol licenses
- Mitigating impacts to residence adjacent to businesses requesting new entertainment permits
- Establishment of residential permit parking zones

Over the past several months, Planning, Economic Development and Police Department staff have been working together to develop standardized conditions for new entertainment permits along with standardized conditions for eating and drinking establishments proposing alcohol sales. The draft lists include the following proposed conditions:

Conditional Use Permit for Alcohol Sales:

1. Hours of operation shall be limited to between the hours of 7:00 a.m. and 12:00 a.m. except for businesses proposed on the west side of 5th Street and east side of 3rd Street between Walnut and Orange shall be limited to between the hours of 7:00 a.m. and 10:00 p.m.
2. A minimum of 70 percent of the net floor area shall be designated as dining area.
3. Full food service menus shall be served, at minimum, until one hour before closing and a cook and food server shall be on duty during these times.
4. Alcoholic drinks shall not be included in the price of admission to any establishment.
5. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
6. All alcohol shall remain on the establishment's premises, including within outdoor dining areas.

REQUEST FOR ACTION

MEETING DATE: 01/19/10

DEPARTMENT ID NUMBER: PL-10-02

7. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
8. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
9. Dancing and/or a dance floor and/or live entertainment shall be prohibited unless a conditional use permit and entertainment permit are obtained.
10. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
11. The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcohol Beverage Control, as well as all other relevant sections of the Huntington Beach Municipal Code and Zoning and Subdivision Ordinance.

Conditional Use Permit and Entertainment Permit for Live Entertainment:

1. Hours of operation shall be limited to between the hours of 7:00 a.m. and 12:00 a.m. except for businesses proposed on the west side of 5th Street and east side of 3rd Street between Walnut and Orange shall be limited to between the hours of 7:00 a.m. and 10:00 p.m.
2. A minimum of 70 percent of the net floor area shall be designated as dining area.
3. The seating capacity at all times within the dining area, excluding outdoor dining areas, shall be able to accommodate a minimum of 100 people.
4. Full food service menus shall be served, at minimum, until one hour before closing and a cook and food server shall be on duty during these times.
5. Alcoholic drinks shall not be included in the price of admission to any establishment.
6. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
7. All alcohol shall remain on the establishment's premises, including within outdoor dining areas.
8. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
9. If dancing is allowed, the activity must be specifically identified as part of the Entertainment Permit and only in a pre-approved designated area.
10. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
11. No outside promoters can be used under any circumstances.
12. All exterior doors and windows shall be closed during times of entertainment.
13. All amplified entertainment conducted by a performer shall be confined indoors at all times.
14. Outdoor entertainment shall be limited to:
 - a. Non-amplified entertainment with no more than two performers.
 - b. Amplified entertainment limited to ambient music only.
15. Any outdoor entertainment shall not be audible beyond 50 feet of the source of the entertainment.

REQUEST FOR ACTION

MEETING DATE: 01/19/10

DEPARTMENT ID NUMBER: PL-10-02

16. No entertainment shall be audible beyond 50 feet of the business in any direction.
17. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
18. All provisions of the entertainment permit required by section 5.44 of the Huntington Beach Municipal Code shall continue to apply.

In order to change the current nightclub atmosphere, which has created a public safety issue along with compromising the surrounding neighborhoods' quality of life, the Police Department recommends the hours of operation be limited to between 7:00 a.m. to 12:00 a.m.

Additional conditions may be added or the list may be modified based on each proposed use and reviewed on a case by case basis. The final list of approved conditions of approval will be subject to the applicable hearing body and final action.

The standardized conditions of approval will apply to new eating and drinking establishments requesting a conditional use permit for alcohol sales and/or live entertainment. Existing eating and drinking establishments with a valid conditional use permit for alcohol sales and/or live entertainment will not be subject to the standardized conditions of approval unless the use ceases operation for more than 12 consecutive months.

In addition to the standardized conditions, the Planning and Economic Development Departments will be providing information and handouts at their respective public counters to educate potential downtown business owners the concerns regarding live entertainment and/or alcohol sales. Providing this information early in the application process will help potential downtown business owners understand the conditions of approval that will be placed on their application.

Approval of the resolution is an administrative item, which does not require a public hearing. Staff recommends the City Council approve the resolution for the creation of standardized conditions of approval for eating and drinking establishments with alcohol sales and/or live entertainment.

Environmental Status: Not applicable.

Attachment(s):

City Clerk's Page Number	No.	Description
5	1.	Resolution No.2010-05... A Resolution of the City Council of the City of Huntington Beach establishing conditions of approval for eating and drinking establishments with alcohol beverage sales and live entertainment.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH ESTABLISHING CONDITIONS OF
APPROVAL FOR EATING AND DRINKING ESTABLISHMENTS WITH
ALCOHOLIC BEVERAGE SALES AND LIVE ENTERTAINMENT

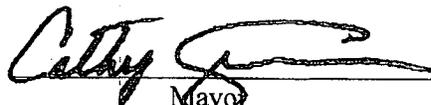
WHEREAS, the City of Huntington Beach desires to maintain a vibrant and safe downtown commercial area to be enjoyed by visitors, residents and families; and

Toward that end, the City Council has established standardized Conditions of Approval for Conditional Use Permits in the Downtown Specific Plan District 1 area with alcoholic beverage sales and/or an entertainment permit,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

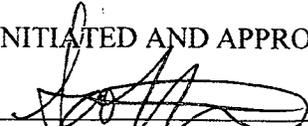
1. That the Conditions of Approval set forth in Exhibit A attached hereto and incorporated by this reference shall apply to all eating and drinking establishments located in the designated area with alcoholic beverage sales.
2. That the Conditions of Approval set forth in Exhibit B attached hereto and incorporated by this reference shall apply to all eating and drinking establishments located in the designated area with alcoholic beverage sales and live entertainment.
3. These proposed conditions shall apply to conditional use permit applications applied for subsequent to adoption of this Resolution and shall remain in effect unless modified by the reviewing body as part of the Conditional Use Permit via a public hearing.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 19th day of January, 2010.


Mayor

REVIEWED AND APPROVED:

City Administrator

INITIATED AND APPROVED:

Director of Planning and Building

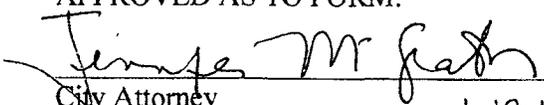
APPROVED AS TO FORM:

City Attorney 1.12.10

EXHIBIT A

EATING AND DRINKING ESTABLISHMENTS WITH ALCOHOLIC BEVERAGE SALES:

The following standard Conditions of Approval shall be part of any Conditional Use Permit from the Zoning Administrator or Planning Commission for the establishment of any eating and drinking establishment with alcohol beverage sales located within the Downtown Specific Plan area, District 1:

- 1) Hours of operation shall be limited to between 7:00 a.m. to 12:00 a.m. midnight except for a business proposed in the following locations:
 - a. West side of 5th Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. to 10:00 p.m.
 - b. East side of 3rd Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. and 10:00 p.m.
- 2) A minimum of 70 percent of the net floor area of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas.
- 3) Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times.
- 4) Alcoholic drinks shall not be included in the price of admission to any establishment.
- 5) There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
- 6) All alcohol shall remain on the establishment's premises, including within outdoor dining areas.
- 7) An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
- 8) All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
- 9) Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City.
- 10) Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
- 11) The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code.

EXHIBIT B

EATING AND DRINKING ESTABLISHMENTS WITH
ALCOHOLIC BEVERAGE SALES AND LIVE ENTERTAINMENT:

The following standard Conditions of Approval shall be part of any Conditional Use Permit from the Zoning Administrator or Planning Commission and the Entertainment Permit from the Police Department for the establishment of any eating and drinking establishment located within the Downtown Specific Plan area with alcohol beverage sales and entertainment, District 1:

- 1) Hours of operation shall be limited to between 7:00 a.m. to 12:00 a.m. midnight except for a business proposed in the following locations:
 - a. West side of 5th Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. to 10:00 p.m.
 - b. East side of 3rd Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. and 10:00 p.m.
- 2) A minimum of 70 percent of the net floor area of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas.
- 3) The seating capacity at all times within the dining area, excluding outdoor dining areas, shall be able to accommodate a minimum of 100 people.
- 4) Full food service menu items shall be served, a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times.
- 5) Alcoholic drinks shall not be included in the price of admission to any establishment.
- 6) There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
- 7) All alcohol shall remain on the establishment's premises, including within outdoor dining areas.
- 8) An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
- 9) If dancing is allowed, the activity must be specifically identified as part of the Entertainment Permit and only in a pre-approved designated area.
- 10) Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
- 11) No outside promoters can be used under any circumstances.
- 12) All exterior doors and windows shall be closed at all times during live entertainment.

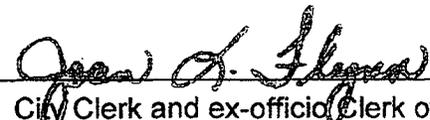
- 13) All amplified entertainment conducted by a performer shall be confined indoors at all times.
- 14) If outdoor entertainment is allowed, it shall be limited to:
 - a) Non-amplified entertainment with no more than two performers.
 - b) Amplified entertainment limited to ambient music only.
- 15) Any outdoor entertainment shall not be audible beyond 50 feet of the source of the entertainment.
- 16) No entertainment shall be audible beyond 50 feet of the business in any direction.
- 17) All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
- 18) All provisions of the entertainment permit required by section 5.44 of the Huntington Beach Municipal Code shall continue to apply.

REST OF PAGE NOT USED

STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, JOAN L. FLYNN the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **regular** meeting thereof held on **January 19, 2010** by the following vote:

AYES: Hardy, Green, Bohr, Dwyer, Hansen
NOES: None
ABSENT: Coerper
ABSTAIN: Carchio



City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California

From: Kim Kramer [mailto:kim@e-mailcom.com]

Sent: Tuesday, January 11, 2011 11:14 AM

To: Mark Bixby; Janis Mantini; Elizabeth Shier; Blair Farley; Barbara Delgleize; Tom Livengood

Cc: Wilson, Fred; Fikes, Cathy

Subject: Bomburger Study Session

Hello Planning Commissioners,

Happy New Year - I hope all of you are doing well and are looking forward to an exciting 2011.

I am writing you today, as I will not be able to attend the Planning Commission study session due to a scheduling conflict.

I understand the Planning Department alternate recommendation for Bomburger is to approve an ABC license with a "stop" at 10PM which coincides with Bomburger's request.

Please consider the following:

The City Council Resolution 2010-05 was the culmination of months of work by over 50 residents, business leaders and community leaders as part of the City's Ad Hoc Downtown Image Committee.

The intent was to control ABC licenses in the Downtown area and restrict them to bona fide restaurants only.

We were concerned that if we instituted a complete ban on new ABC licenses, then legitimate restaurants would be excluded, so that was the compromise.

So far, we have only tested this resolution once with Luggatti's and it worked beautifully.

Now, you are being asked to make way for an ABC license for a "hamburger outlet" that serves only hamburgers, fries, rings and drinks.

This is hardly a restaurant . . . and hardly deserves an ABC license.

Don't we have enough ABC's in the Downtown?

And if you do allow this ABC to go forward, please respect the work of the Ad Hoc Committee and follow the rules we established with a closing of midnight.

Please note that if Bomburger is forced to close at midnight, they will withdraw their request for an ABC license.

ATTACHMENT NO. 8.1

This is because they are a late night hangout and not a restaurant. With an ABC license, they will soon become a bar.

With a "stop" at 10:00PM, they will become a "pre-bar" to the late night bar scene.

This summer you will see a bunch of kids hanging out til 10PM at Bomburger and no one will be eating food; just drinking beers and getting ready to party.

Thanks for your consideration on this matter.

Kim Kramer