



City of Huntington Beach Planning Department
STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning
BY: Ethan Edwards, AICP, Associate Planner *Ee*
DATE: September 9, 2009

SUBJECT: CONDITIONAL USE PERMIT NO. 09-018 (BJ'S RESTAURANT EXPANSION)

APPLICANT: Jeff Bergsma, Team Design, 221 Main Street 'S', Huntington Beach, CA 92648

BUSINESS

OWNER: Joan Leguay, BJ's Restaurants, Inc., 7755 Center Avenue, Suite 300, Huntington Beach, CA 92647

PROPERTY

OWNER: Robert Koury, 200 Main Street, Suite 206, Huntington Beach, CA 92648

LOCATION: 200 Main Street, Suite 101 & 102, 92648 (east side of Main Street, between Olive Avenue and Walnut Avenue – Main Promenade Building, Downtown)

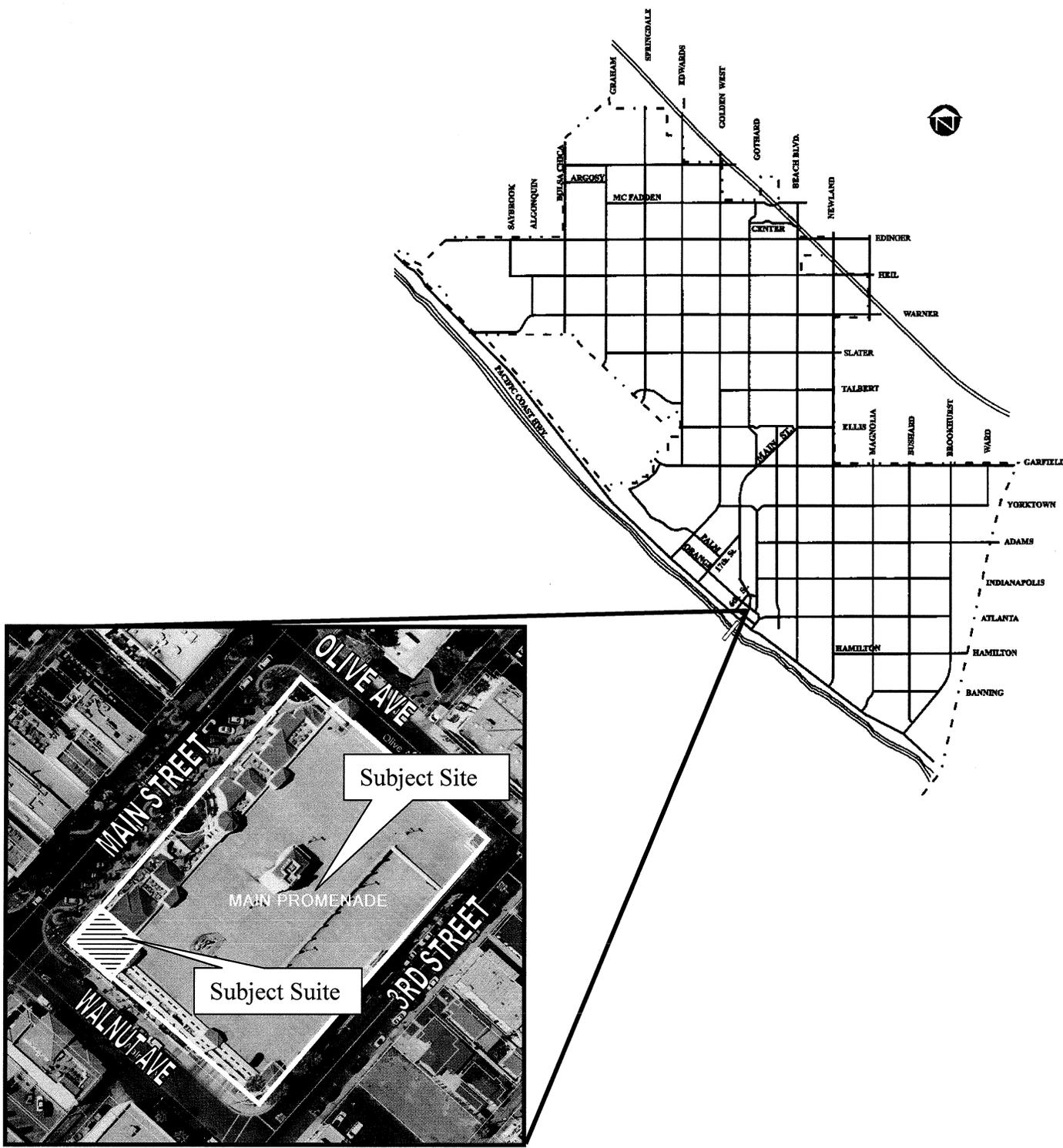
STATEMENT OF ISSUE:

- ◆ Conditional Use Permit No. 09-018 request:
 - Permit construction of approximately 986 sq. ft. addition to an existing restaurant.
 - Permit expansion of restaurant with alcohol sales and consumption.
 - Permit participation in the Downtown Parking In-Lieu Fee Program for five parking spaces.
 - Permit up to 400 sq. ft. of outdoor dining area with alcohol sales and consumption on private property.

- ◆ Staff's Recommendation:

Approve Conditional Use Permit No. 09-018 based upon the following:

 - Addition will be in compliance with the Downtown Specific Plan and Huntington Beach Zoning and Subdivision Ordinance.
 - Restaurant with alcohol sales 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.
 - Required parking will be provided by participation in the Downtown Parking In-Lieu Fee Program and no impacts to parking are anticipated.
 - Addition will be in conformance with the goals and policies of the General Plan.
 - Façade improvements will be in conformance with the Design Guidelines.
 - Outdoor dining promotes the long-range goal of a Pedestrian Mall.



VICINITY MAP

**CONDITIONAL USE PERMIT NO. 09-018
(200 MAIN STREET, SUITE 101)**

Motion to:

“Approve Conditional Use Permit No. 09-018 with findings and suggested conditions of approval (Attachment No. 1).”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Deny Conditional Use Permit No. 09-018 with findings for denial.”
- B. “Continue Conditional Use Permit No. 09-018 and direct staff accordingly.”

PROJECT PROPOSAL:

Conditional Use Permit No. 09-018 represents a request for the following:

- A. To permit the construction of a 986 square foot addition to an existing 3,464 square foot restaurant and expand the restaurant use with alcohol sales and consumption within District 5 – Mixed-Use, of the Downtown Specific Plan, pursuant to Section 4.7.01(b) – *Permitted Uses* of the Downtown Specific Plan.
- B. To participate in the Downtown Parking In-Lieu Fee Program for five parking spaces, pursuant to Section 4.2.13(c) of the Downtown Specific Plan.
- C. To permit up to 400 square feet of outdoor dining area on private property, pursuant to Section 4.5.01 (a) – *Permitted uses* of the Downtown Specific Plan.

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 101. This project proposes to expand the restaurant into the adjacent Suite 102. Tenant improvements include upgraded kitchen equipment, new seating, lighting and millwork. Additionally, the expansion would allow for the addition of a full-service bar and state-of-the-art audio system similar to the existing BJ’s Restaurant located at the intersection of Beach Blvd. and Edinger Ave. The hours of operation for the restaurant including outdoor dining and alcohol service are between 11:00 AM and 12:00 AM (midnight) Monday through Thursday; between 11:00 AM and 1:00 AM Friday; between 10:00 AM and 1:00 AM Saturday; and 10:00 AM and 12:00 AM (midnight) Sunday. Live entertainment has not been proposed for this location and is not part of this request.

The 986 sq. ft. restaurant expansion requires a total of ten on-site parking spaces. The previous retail use of the area to be expanded is credited with five parking spaces which may be applied towards the restaurant’s on-site parking requirement. The remaining five required parking spaces cannot be provided on-site therefore, the applicant requests participation in the Downtown Parking In-Lieu Fee Program. The applicant would be required to show evidence of a City agreement assuring in-lieu fee participation for the five parking spaces. The fee per space, which is established by City Council Resolution, shall be paid by the property owner or tenant and may be in a lump sum payment or paid on an annual basis for up to fifteen years and secured by a mechanism established in the conditions of approval.

The project also includes a façade improvement including new paint and new storefront to replace existing windows and doorway within Suite 102. In addition, a new outdoor dining railing would be installed to match the approved Main Street railing theme.

Background:

The City approved 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) on October 18, 1988. In addition, prior City actions for Suite 101 include: Conditional Use Permit No. 93-22 and Coastal Development Permit No. 93-12 to permit a restaurant with beer & wine approved on December 7, 1993; Conditional Use Permit No. 95-37 and Coastal Development Permit No. 95-12 to permit 272 sq. ft. of outdoor dining approved on February 13, 1996; and Conditional Use Permit No. 00-21 to permit outdoor dining with alcohol on private property for three suites (BJ's, Crabby Kenny's & Sunset Grill) and the expansion of BJ's outdoor dining area from 272 sq. ft. to 400 sq. ft.. This request was approved on June 22, 2000.

The existing approved outdoor dining area is approximately 272 sq. ft and this request proposes to increase the area 128 sq. ft. for a maximum total of 400 sq. ft. All of the outdoor dining area is proposed to be on private property. The previously approved 400 sq. ft. of outdoor dining (CUP No. 00-21) was never constructed by the applicant and the right to expand the outdoor dining area was never exercised. However, the right to have outdoor dining with alcohol was exercised.

Study Session:

The following are questions that were raised during the Planning Commission study session on Tuesday, August 25, 2009:

- The Planning Commission inquired about if there was adequate emergency egress from the restaurant. The applicant has provided a floor plan showing the existing and expanded restaurant area including available exits. The Building & Safety Department and Fire Department has reviewed the issue and determined that the proposed exits as shown on the floor plan meet the requirements for exiting during an emergency. In addition, emergency exiting signs will be installed and visible from all areas within the restaurant as required by the building code.
- The Planning Commission inquired about how server access would function through the front entry and if it would be adequate. The applicant has responded to this question indicating that the overall efficiency and server flow will be greatly improved due to the new internal configuration. Currently, the take-out and hostess functions are combined into one station just inside the entryway. The new configuration will allow for separate take-out and hostess stations to help eliminate congestion near the entryway. In addition, it is not atypical for servers and patrons to share one access into the restaurant. The applicant is confident that overall efficiency will be improved due to the proposed modifications.

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 units/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.

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

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.

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 expansion of the existing restaurant is consistent with the Land Use Density Schedules for the Downtown and increases the economic viability of the establishment by providing a larger dining area to accommodate more patrons. This expansion allows for additional employment opportunities and captures visitor and tourist activity within the downtown; and, the increased outdoor dining will further stimulate pedestrian activity along Main Street. The site is located in a mixed-use district of the downtown area and within walking distance of several downtown-parking facilities as well as residential uses thus reducing the need for automobile use. The proposed outdoor dining area is designed to provide the minimum code required eight-foot wide sidewalk to ensure that the area is physically accessible to pedestrians which is consistent with the remainder of the second block of Main Street.

B. Coastal Element

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.

LCP / DTSP Main Street should be a lively, active commercial district at the street level. The first floor of developments along Main Street should be commercial, with open-air establishments encouraged.

The proposed expansion including outdoor dining area increases the commercial viability of the existing restaurant by allowing for its continued success within the Downtown while expanding its available amenities to its patrons. The expanded outdoor dining will create a more lively pedestrian oriented use and is consistent with the other outdoor dining uses along Main Street. The provision of meeting the parking requirement by participation in the In-Lieu Fee Parking Program will not impact the Downtown Parking Master Plan, Downtown Specific Plan, or coastal resources because it is found to be consistent with the adopted Coastal Element.

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. The applicant proposes to participate in the City’s Downtown In-Lieu Fee Parking Program to satisfy the code requirement for the additional parking spaces required for the restaurant expansion.

Urban Design Guidelines Conformance:

The proposed project is in substantial conformance with the Urban Design Guidelines, Chapter 5, General Downtown/Main Street Commercial. The expanded outdoor dining area would be located partially in front of Suite 102 and into the existing landscaped planter at the southeast corner of the property. This will involve extending the existing patio approximately two-feet into the existing planter. All existing and new outdoor dining areas will be on private property and not impact public right-of-ways. New outdoor dining railing would replace the existing to match the Main Street railing theme which includes a “wheat”

design painted black. A new window system to replace the doorway within Suite 102 would match the existing windows found on the storefront – all trim will be painted black to match. The existing stucco surrounding the window systems and main entry will be painted “Arabian Red”. This color will add variation and provide desirable distinction between upper and lower floors along with a perception of depth to the façade. The combination of Arabian Red and existing beige colored stucco facades along with black trim will compliment the existing architectural style of the building and help accent the corner of the building. All exterior façade improvements were reviewed by the Design Review Board on August 20, 2009 and approved with conditions (Attachment No. 5). Any new signage proposed would require a separate permit.

Environmental Status:

The proposed project is categorically exempt pursuant to Class 1, Existing Facilities, Section 15301 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 and is exempt from a coastal development permit since only the conversion of existing retail space to restaurant area is proposed as part of this request. No external changes or increase in the overall building size is proposed.

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 with a Downtown Parking In-Lieu Fee Program agreement.

Design Review Board:

The project was reviewed by the Design Review Board (DRB) on August 20, 2009. The DRB recommends approval of the project with the following conditions:

1. The site plan, floor plans, and elevations received and dated August 7, 2009 shall be the conceptually approved design with the following modifications:
 - a. Provide a Walnut Street elevation view to ensure that the proposed paint scheme continues and terminates at the existing entry to the stairwell.
 - b. The existing globe lights and indirect lighting on the Main Street/Walnut Street (corner) elevation shall be removed.
 - c. All existing patio railing shall be replaced with new railing as proposed.
 - d. Depict all existing and proposed planter curb alignments.
 - e. Depict the additional outdoor dining area to be covered with pavers to match existing.
 - f. Depict a minimum 18” high solid shrub within the existing landscaped planter to prevent pedestrian trespassing.

2. Prior to the installation of new signage, the glass block located on the building's façade shall be patched with stucco and painted to match existing.

Planning staff concurs with the DRB's recommendation. The applicant has reviewed the recommended conditions of approval and concurs with the DRB's recommendations.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements:

The Departments of Building & Safety, Fire, Police, Public Works, Economic Development, Community Services, and Planning have reviewed the application and identified applicable code requirements (Attachment No. 4) with no major concerns. The Police Department has expressed minor concerns with expanded alcohol consumption resulting in the following suggested conditions of approval (Attachment No. 5):

1. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons.
2. Alcoholic beverages shall be served in a distinctive container different from non-alcoholic beverages.
3. Live entertainment shall not be permitted unless a conditional use permit for this specific use is reviewed and approved.
4. Food from the regular full menu shall be available up to one hour prior to the scheduled closing time.

Planning staff concurs with the Police Department's suggested conditions of approval. The applicant has reviewed the suggested conditions of approval and concurs with staff's recommendations.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on August 27, 2009, 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 September 2, 2009, no communication supporting or opposing the request has been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

MANDATORY PROCESSING DATE(S):

July 15, 2009

September 11, 2009

Entitlement Plan Amendment No. 09-006 was filed on June 16, 2009 and deemed complete July 15, 2009. Conditional Use Permit No. 09-018 was filed on July 29, 2009.

ANALYSIS:

Land use / Compatibility

Staff supports the proposed requests 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 restaurant addition with alcohol sales and consumption and outdoor dining 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 restaurant expansion with alcohol sales and outdoor dining 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 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. The expanded outdoor dining area will be located within private property and is primarily intended to enhance the dining experience for patrons and will not negatively impact adjacent properties. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties. With the suggested conditions of approval, the proposed restaurant expansion with outdoor dining will not result in increased parking, safety, or noise issues, above that expected in a typical mixed-use environment. In general, the proposed entitlements are consistent with scope and intent of the development in the downtown and supported by the General Plan and the Downtown Specific Plan including the Downtown Parking Master Plan.

Outdoor Dining

The previously approved 400 sq. ft. of outdoor dining (CUP No. 00-21) was never constructed by the applicant and the right to expand the outdoor dining area was never exercised. However, the right to have outdoor dining with alcohol was exercised. This request includes the same total outdoor dining area as previously requested in CUP No. 00-21, but proposes to locate the expanded area partially in front of Suite 102 and into the existing landscaped planter at the southeast corner of the property. This will involve extending the existing patio approximately two-feet into the existing planter. All existing and new outdoor dining areas will be on private property and not impact public right-of-ways; and, it is not in close proximity to and will not impact residential uses. The location of the expanded outdoor dining area is oriented toward Main Street and will further stimulate pedestrian activity and visitor-serving commercial uses along this corridor. In addition, new outdoor dining railing would replace the existing to match the Main Street railing theme and provide the necessary safety barrier to ensure public safety.

Parking

The applicant is requesting to participate in the In-Lieu Parking Fee Program for five parking spaces pursuant to Section 4.2.13(c) of the Downtown Specific Plan. The in-lieu fee amount applicable to this project is \$17,297.86 per parking space. Therefore, an \$86,489.30 in-lieu parking fee is required to satisfy the parking requirement for this project. The in-lieu fee payment will be combined with previously collected fees for future parking opportunities within the Downtown. An In-lieu Parking Fee Participation

Agreement is required to be submitted. The agreements shall be reviewed and approved by the Planning Department and City Attorney as to form and content and recorded with the County of Orange. A lump sum payment or first installment payment of the in-lieu fees shall be made to the City Treasurer prior to approval of final building permits.

The Downtown Parking Master Plan (DPMP) identifies specific development thresholds for the subject property. The proposed 986 square foot shift in square footage from retail area to restaurant is consistent with the future development potential identified for the building in the DPMP. The proposed shift will decrease retail square footage and increase the restaurant square footage.

Staff is in support of the request for participation in the Downtown Parking In-Lieu Fee Program based on consistency with the DPMP and the request necessary since there are no other parking opportunities on-site and the program allows continued business expansion and retention in the Downtown.

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval – CUP 09-018
2. Project Narratives received June 16, 2009 and August 12, 2009
3. Site, Demolition, & Floor Plan received and dated June 16, 2009
4. Code Requirements Letter dated July 29, 2009 (for informational purposes only)
5. Police Department Suggested Conditions of Approval dated June 24, 2009
6. Design Review Board – DR 09-017 Notice of Action dated August 20, 2009
7. Draft Downtown Parking In-Lieu Fee agreement

SH:HF:EE:lw

ATTACHMENT NO. 1

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 09-018

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. 09-017:

1. Conditional Use Permit No. 09-018 to permit an approximately 986 sq. ft. expansion of an existing restaurant with alcohol sales by occupying the adjacent existing retail suite within District 5 – Mixed-Use, of the Downtown Specific Plan; to participate in the Downtown Parking In-Lieu Fee Program for 5 parking spaces; and, permit up to 400 sq. ft. outdoor dining area 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 project complies with parking requirements in the downtown via participation in the Parking In-Lieu Fee Program. In addition, the project is consistent with the future development potential identified for the subject building in the Downtown Parking Master Plan; and, expanded outdoor dining will enhance the use and provide enjoyment for patrons of the restaurant.
2. The proposed restaurant expansion with alcohol sales and outdoor dining 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 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. The expanded outdoor dining area will be located within private property and is primarily intended to enhance the dining experience for patrons and will not negatively impact adjacent properties. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties.
3. The proposed expansion 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 including parking. 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 Mixed Use Vertical 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.

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

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.

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 expansion of the existing restaurant is consistent with the Land Use Density Schedules for the Downtown and increases the economic viability of the establishment by providing a larger dining area to accommodate more patrons. This expansion allows for additional employment opportunities and captures visitor and tourist activity within the downtown; and, the increased outdoor dining will further stimulate pedestrian activity along Main Street. The site is located in a mixed-use district of the downtown area and within walking distance of several downtown-parking facilities as well as residential uses thus reducing the need for automobile use. The proposed outdoor dining area is designed to provide the minimum code required eight-foot wide sidewalk to ensure that the area is physically accessible to pedestrians which is consistent with the remainder of the second block of Main Street.

B. Coastal Element

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.

LCP / DTSP Main Street should be a lively, active commercial district at the street level. The first floor of developments along Main Street should be commercial, with open-air establishments encouraged.

The proposed expansion including outdoor dining area increases the commercial viability of the existing restaurant by allowing for its continued success within the Downtown while expanding its available amenities to its patrons. The expanded outdoor dining will create a more lively pedestrian oriented use and is consistent with the other outdoor dining uses along Main Street. The provision of meeting the parking requirement by participation in the In-Lieu Fee Parking Program will not impact the Downtown Parking Master Plan, Downtown Specific Plan, or coastal resources because it is found to be consistent with the adopted Coastal Element.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 09-018:

1. The site plan, floor plans, and elevations received and dated August 7, 2009 shall be the conceptually approved design with the following modifications:
 - a. Provide a Walnut Street elevation view to ensure that the proposed paint scheme continues and terminates at the existing entry to the stairwell. **(DRB)**
 - b. The existing globe lights and indirect lighting on the Main Street/Walnut Street (corner) elevation shall be removed. **(DRB)**
 - c. All existing patio railing shall be replaced with new railing as proposed. **(DRB)**
 - d. Depict all existing and proposed planter curb alignments. **(DRB)**
 - e. Depict the additional outdoor dining area to be covered with pavers to match existing. **(DRB)**
 - f. Depict a minimum 18” high solid shrub within the existing landscaped planter to prevent pedestrian trespassing. **(DRB)**
2. Prior to the installation of new signage, the glass block located on the building’s façade shall be patched with stucco and painted to match existing. **(DRB)**
3. The final building permit(s) cannot be approved until the property owner has submitted an In-Lieu Parking Fee Participation Agreement to the Planning Department for the \$86,489.30 total in parking fees. The agreement shall be reviewed and approved by the City Attorney as to form and content and, when approved, shall be recorded in the Office of Orange County Recorder. The recorded agreement shall remain in effect for the term specified, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach.
4. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons. **(PD)**
5. Alcoholic beverages shall be served in a distinctive container different from non-alcoholic beverages. **(PD)**

6. Live entertainment shall not be permitted unless a conditional use permit has been applied for and approved. **(PD)**
7. Food from the regular full menu shall be available up to one hour prior to the scheduled closing time. **(PD)**
8. The hours of operation for the restaurant including outdoor dining and alcohol service shall be between 11:00 AM and 12:00 AM (midnight), Monday through Thursday; between 11:00 AM and 1:00 AM, Friday; between 10:00 AM and 1:00 AM, Saturday; and, 10:00 AM and 12:00 AM (midnight), Sunday.
9. 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 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.

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.

**BJ's Pizza and Brewery
Downtown Huntington Beach**

BJ's Pizza and Brewery located at Main Street and Walnut is requesting an extension of operating hours to be consistent with its other Huntington Beach and Southern California locations.

BJ's Restaurants, Inc. currently owns and operates 84 casual dining restaurants. BJ's offers an innovative menu featuring signature deep dish pizza complemented with its critically acclaimed handcrafted beers.

BJ's has solid roots in the City of Huntington Beach; not only is it home to our corporate headquarters but Huntington Beach is home to two of our restaurants. Our Beach and Edinger restaurant, opened in 2000 and our Main Street, opened in 1994 have both been award-winning restaurants. Our larger Beach and Edinger location showcases an environment which creates a high energy, fun and family friendly dining environment, to compliment our extensive menu.

At our smaller Main Street restaurant, capacity constraints have limited BJ's ability to offer the same guest experience to our customers that we provide at our Beach and Edinger restaurant. BJ's does however have an immediate opportunity to enhance this restaurant as the adjacent retail space (vacated vitamin store) has become available.

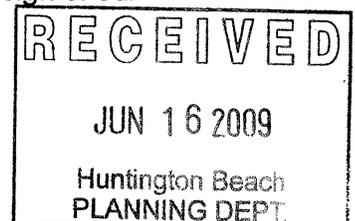
BJ's is proposing a 986 sf expansion of the interior restaurant and a 136 s.f. expansion of the existing patio. The interior expansion will include an enhanced décor package including upgraded seating, lighting and millwork. In addition the expansion will allow for the addition of a bar and a state of the art audio visual system similar to the Beach and Edinger location.

This interior expansion will provide an opportunity to expand the menu as the additional room will allow for the addition of several pieces of kitchen equipment. The bar addition will require BJ's to change from a Type 41 Liquor License to a Type 47 License and this application process is undertaken with the State Alcohol Beverage Control.

The Operating Hours of the Beach and Edinger restaurant are from 11a.m. to 12 a.m. (midnight) Monday through Thursday; from 11a.m. until 1 a.m. on Friday; from 10 a.m. until 1:00 a.m. on Saturday; and on Sunday 10 a.m. until 12 a.m. (midnight). BJ's is proposing that the Main Street restaurant hours be increased to match these operating hours. The extended closing hours will be much earlier than the adjoining restaurants; Hurricane's and Crabby's. Patio beverage service will include different glass styles for alcohol and non-alcoholic beverages. BJ's has proven itself to be a respected restaurant operator for the past 15 years in the City of Huntington Beach and has a sound relationship with the Huntington Beach Police Department and State Alcohol Beverage Control.

BJ's continues to innovate and out-perform our competition. We believe that this will broaden the approachability of our concept to changing consumer demographics, coupled with our unwavering focus to deliver a higher quality dining experience. The expansion and enhancements proposed at our Main Street location is a sign of our continued commitment to these goals.

ATTACHMENT NO. 2.0

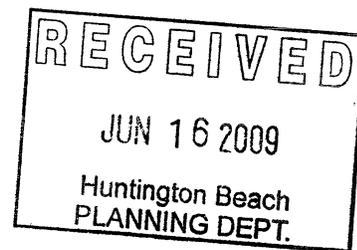


BJ's Pizza and Brewery
200 Main Street
Suite 101
Huntington Beach, CA 92648

June 16, 2009

Narrative for Entitlement Plan Amendment

1. BJ's Pizza and Brewery is an existing 3,464 s.f. restaurant (C.U.P. 9322) with Outdoor Dining (95-37).
2. The scope of proposed work is to convert 996 s.f. of adjacent retail space into an expansion of the existing restaurant; expand kitchen; enlarge the restrooms; add booths and tables to existing dining room; add full service bar and increase the outdoor dining area by 1281 s.f.
3. The proposed operating hours are 11 am to 12 am (midnight) Monday through Thursday; from 11 am until 1 am on Friday; 10 am until 1 am on Saturday; Sunday 10 am until 12 am (midnight). (See attached for further explanation.) There are 10 to 20 employees working at any given time.
4. The reason for initiating this E.P.A. application is a change of use from retail to restaurant and expansion of outdoor dining.
5. The surrounding uses are retail stores and food service.
6. The population serviced by the proposed project is both visitor serving and neighborhood serving.



ATTACHMENT NO. 2.1

BJ's Pizza and Brewery
200 Main Street
Suite 101
Huntington Beach, CA 92648

August 12, 2009

Narrative for Entitlement Plan Amendment

1. BJ's Pizza and Brewery is an existing 3,464 s.f. restaurant (C.U.P. 9322) with Outdoor Dining (95-37).
2. The scope of proposed work is to convert 996 s.f. of adjacent retail space into an expansion of the existing restaurant; expand kitchen; enlarge the restrooms; add booths and tables to existing dining room; add full service bar and increase the outdoor dining area by 1281 s.f.
3. The proposed operating hours are 11 am to 11 pm Sunday through Thursday and from 11 am until 12 am Friday and Saturday. (See attached for further explanation.) There are 10 to 20 employees working at any given time.
4. The reason for initiating this E.P.A. application is a change of use from retail to restaurant and expansion of outdoor dining. We request participation in the In-Lieu Parking Program to satisfy parking requirements.*
5. The surrounding uses are retail stores and food service.
6. The population serviced by the proposed project is both visitor serving and neighborhood serving.

* Amended

ATTACHMENT NO. 2.2

BJ'S PIZZA & BREWERY RESTAURANT EXPANSION & TENANT IMPROVEMENT

SUITE 101 200 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA

GENERAL NOTES	STATISTICS	SHEET INDEX	VICINITY MAP
<p>1. THE DRAWING AND SPECIFICATIONS ARE INTENDED TO COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS AND TO BE IN ACCORDANCE WITH THE LOCATION OF THE BUILDING.</p> <p>2. THE DRAWING IS FOR THE USE OF THE ARCHITECT AND CONTRACTOR ONLY. NO OTHER REVISIONS OR ADDITIONS TO THE DRAWING SHALL BE MADE WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.</p> <p>3. APPROX. 5% OF THE BUILDING INFRASTRUCTURE IS TO BE DEMOLISHED AND RECONSTRUCTED. ANY DEMOLITION SHALL BE ACCORDING TO THE ARCHITECT'S AND CONTRACTOR'S AGREEMENT AND ALL NECESSARY PERMITS SHALL BE OBTAINED PRIOR TO COMMENCEMENT OF WORK.</p> <p>4. GENERAL NOTES AND TYPICAL DETAILS FOR THE PROJECT SHALL BE REFERENCED TO THE ARCHITECT'S AND CONTRACTOR'S AGREEMENT AND ALL NECESSARY PERMITS SHALL BE OBTAINED PRIOR TO COMMENCEMENT OF WORK.</p> <p>5. ALL TRADES SHALL VERIFY ALL WORK IS ACCORDING TO THE ARCHITECT'S AND CONTRACTOR'S AGREEMENT AND ALL NECESSARY PERMITS SHALL BE OBTAINED PRIOR TO COMMENCEMENT OF WORK.</p> <p>6. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.</p> <p>7. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.</p> <p>8. ALL TRADES SHALL VERIFY ALL WORK IS ACCORDING TO THE ARCHITECT'S AND CONTRACTOR'S AGREEMENT AND ALL NECESSARY PERMITS SHALL BE OBTAINED PRIOR TO COMMENCEMENT OF WORK.</p> <p>9. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AGENCIES.</p>	<p>A.P.N.: 931-79-33 C.U.P.: 93-72-19-31 TRACT: 1403 D.B.P. 95 OCCUPANCY: AS RESTAURANT CONSTRUCTION: TYPE II, A FULLY FIRE SPRINKLED</p> <p>OUTDOOR DINING EXISTING: 217 SF EXPANSION: 19 SF TOTAL: 400 SF</p> <p>PARKING EXISTING RETAIL: 96 SF/200 + 5 SPACES PROPOSED RESTAURANT: 96 SF/200 + 10 SPACES TOTAL: 191</p> <p>* REDEVELOPMENT AGENCY AGREEMENT</p>	<p>TITLE SITE PLAN EXISTING FLOOR PLAN AND DEMOLITION NEW FLOOR PLAN EXTERIOR ELEVATIONS</p> <p>FIRE DEPT. NOTES FIRE SPRINKLER SYSTEM SHALL BE INSTALLED OR MODIFIED TO MEET ALL CITY REQUIREMENTS. AUTOMATIC FIRE SPRINKLER SYSTEM SHALL BE INSTALLED (S) FOR PORTABLE FIRE EXTINGUISHERS IN THE PLAN HOTEL. COMPLY WITH CITY SPECIFICATIONS FOR SMOKE EXHAUSTION SYSTEMS. COMPLY WITH LIFE SAFETY, FIRE SAFETY, DURING CONSTRUCTION AND DEMOLITION IN THE PLAN HOTEL.</p> <p>PROPERTY OWNER ROBERT KOURY PROPERTIES 200 MAIN STREET SUITE 200 HUNTINGTON BEACH, CA 714-374-3070</p> <p>OPERATOR / TENANT BU'S RESTAURANT, INC. 7755 CENTER AVE. SUITE 300 HUNTINGTON BEACH, CA 92647 714-800-2408</p>	<p style="text-align: center;">HUNTINGTON BEACH</p>
<p style="text-align: right;">SITE PLAN</p>			

MAIN STREET

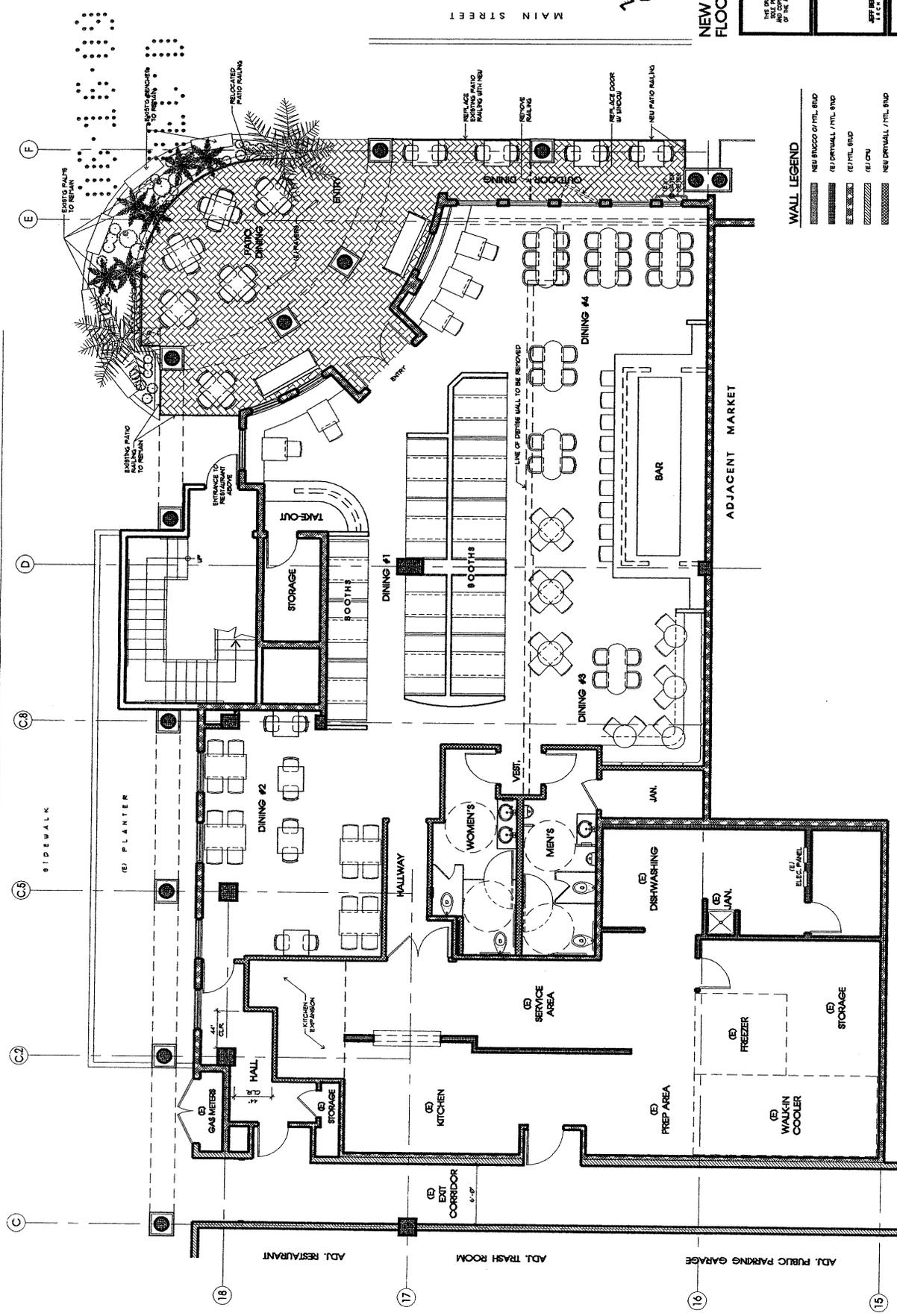


NEW FLOOR PLAN

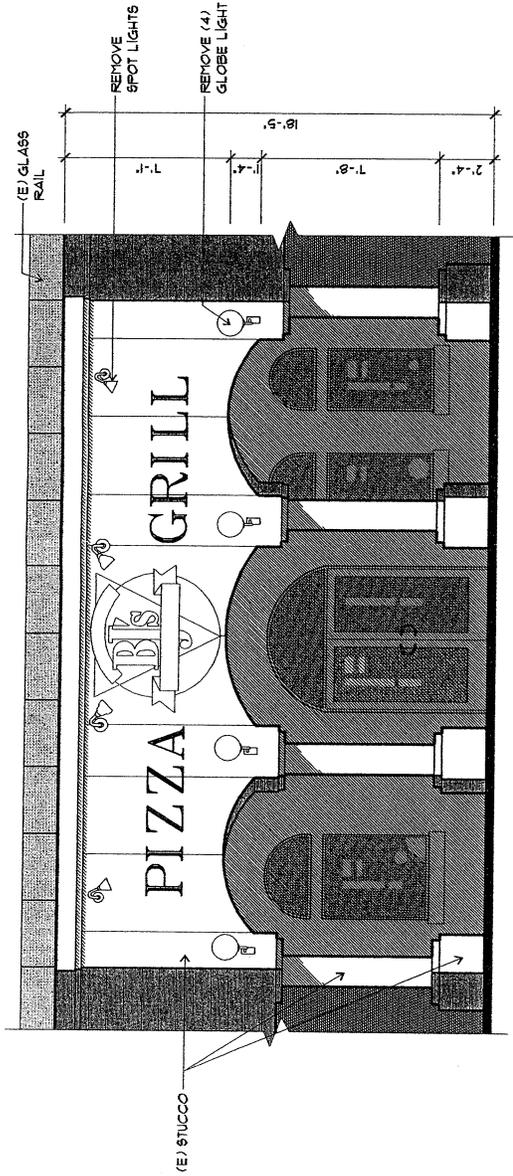
DATE: 06/24/09	SCALE: 1/8" = 1'-0"	PROJECT: 1800-09	BL'S RESTAURANT T.I. BASE TO EXISTING RESTAURANT RECORD DRAWING	TEAM 2000 1000 1000 111 111 111 111 111 111 111 111 111 111 111 111	A2
THE DRAWING IS FOR THE PROJECT AND CANNOT BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT	BY: [Signature]	DATE: 06/24/09			

WALL LEGEND

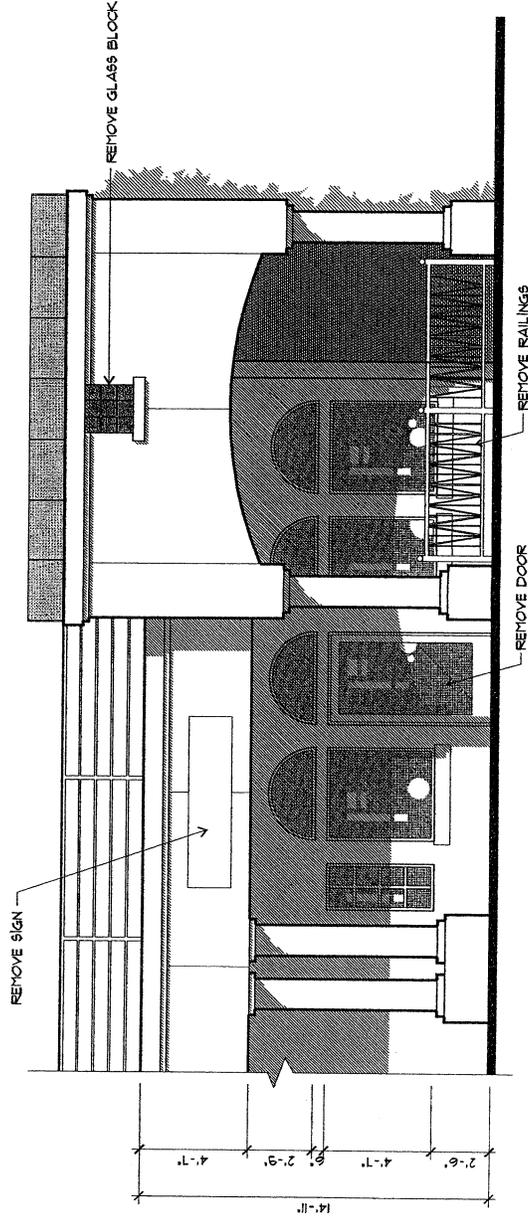
[Pattern]	NEW BRICK ON / PTL END
[Pattern]	RE PARTIAL / PTL END
[Pattern]	RE / PTL END
[Pattern]	RE / CN
[Pattern]	NEW DETAIL / PTL END



06.10.09
06.10.09



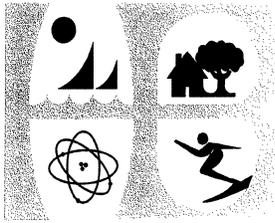
MAIN / WALNUT ELEVATION



MAIN STREET ELEVATION

EXISTING ELEVATIONS

DATE	04/09/09	BY	BL/MS
THE DRAWING IS THE PROPERTY OF THE ARCHITECT AND CANNOT BE REPRODUCED WITHOUT HIS WRITTEN CONSENT.	PROJECT	BL/MS RESTAURANT T.L.	DATE 06/10/09
PROJECT	BL/MS RESTAURANT T.L.	DATE 06/10/09	BY BL/MS
TEAM	BL/MS RESTAURANT T.L.	DATE 06/10/09	BY BL/MS
JEFF BERENSON ARCHITECT			A3



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

July 29, 2009

Jeff Bergsma
Team Design
221 Main Street 'S'
Huntington Beach, CA 92648

SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 2009-006 (200 MAIN STREET, SUITE 101 & 102) / PROJECT IMPLEMENTATION CODE REQUIREMENTS

Dear Applicant,

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 site conditions change, the list may also change.

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 ethan.edwards@surfcity-hb.org or 714-536-5561 and/or the respective source department (contact person below).

Sincerely,

Ethan Edwards, AICP
Associate Planner

Enclosure(s)

xc:

Jason Kwak, Building and Safety Department – 714-536-5278
Brian Smith, Police Department – 714-536-5994
Darin Maresh, Fire Department – 714-536-5564
Simone Slifman, Econ. Dev. Department – 714-536-5186
Josh McDonald, Public Works – 714-536-5561
David Dominguez, Community Services – 714-536-5309
Herb Fauland, Planning Manager
Jason Kelley, Planning Department
Property Owner
Project File

ATTACHMENT NO. 4.0



HUNTINGTON BEACH PLANNING DEPARTMENT

PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: July 29, 2009
PROJECT NAME: COACH'S RESTAURANT EXPANSION
PLANNING APPLICATION NO. PLANNING APPLICATION NO. 2009-154
ENTITLEMENTS: ENTITLEMENT PERMIT AMENDMENT NO. 2009-006
DATE OF PLANS: JUNE 1, 2009
PROJECT LOCATION: 200 MAIN STREET, SUITE 101 & 102, HUNTINGTON BEACH (APN: 937-192-33)
PLAN REVIEWER: ETHAN EDWARDS
TELEPHONE/E-MAIL: 714.536.5561 / ETHAN.EDWARDS@SURFCITY-HB.ORG
PROJECT DESCRIPTION: EPA: To permit approximately 996 sq. ft. expansion of an existing restaurant by occupying the adjacent vacated retail suite (vitamin store) and expanding the existing outdoor dining area by approximately 136 sq. ft. The retail to restaurant expansion will require participation in the Parking In-Lieu Fee Program resulting in payment of five parking spaces (10 spaces required for new restaurant area, 5 space credit for existing retail area). The proposal also includes modifying the operation to permit: an interior remodel to accommodate additional occupancy; a new bar to accommodate a new Type 47 liquor license; and extending the hours of operation.

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.

ENTITLEMENT PLAN AMENDEMENT NO. 2009-006:

1. The floor plans approved by the Planning Commission shall be the conceptually approved design.
2. Prior to submittal for building permits, the following shall be completed:
 - a. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Building & Safety, Fire and Public Works shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical,

ATTACHMENT NO. 4.1

- mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
- b. The property owner shall submit an In-Lieu Parking Fee Participation Agreement to the Planning Department. The agreement shall be reviewed and approved by the City Attorney as to form and content and, when approved, shall be recorded in the Office of the Orange County Recorder. The recorded agreement shall remain in effect for the term specified, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach. **(City Council Resolution Nos. 6720 and 6721)**
3. Prior to issuance of building permits, the following shall be completed:
 - a. An "Acceptance of Conditions" form shall be properly executed by the applicant and an authorized representative of the owner of the property, and returned to the Planning Department for inclusion in the entitlement file. Conditions of approval shall remain in effect in the recorded form in perpetuity, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach.
 4. During construction, the following shall be adhered to:
 - a. All Huntington Beach Zoning and Subdivision Ordinance and Municipal Code requirements including the Noise Ordinance. All activities including truck deliveries associated with construction, remodeling, or repair shall be limited to Monday - Saturday 7:00 AM to 8:00 PM. Such activities are prohibited Sundays and Federal holidays.
 5. The final building permit(s) cannot be approved, until the following has been completed:
 - a. All improvements must be completed in accordance with approved plans, except as provided for by conditions of approval.
 - b. Compliance with all conditions of approval specified herein shall be verified by the Planning Department.
 - c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
 - d. A copy of the recorded In-Lieu Parking Fee Participation Agreement and proof of full payment or first installment payment to the City Treasurer shall be submitted to the Planning Department.
 - e. A Certificate of Occupancy must be approved by the Planning Department and issued by the Building and Safety Department.
 6. The use shall comply with the following:
 - a. All work shall be conducted wholly within the building except as otherwise approved.
 - b. Hours of operation shall be limited to between 11:00 AM and 12:00 AM (midnight), Monday through Thursday; between 11:00 AM and 1:00 AM, Friday; between 10:00 AM and 1:00 AM, Saturday; and, 10:00 AM and 12:00 AM (midnight), Sunday.
 - c. 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. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
 - d. Prior to commencing live entertainment activities, a copy of an approved Entertainment Permit, approved by the Police Department and issued by the Business License Department, shall be

submitted to the Planning Department. All conditions of the Entertainment Permit shall be observed.

- e. Only the uses described in the narrative shall be permitted (See attached Narrative).
7. 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 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.
8. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
9. This approval shall not become effective until the ten calendar day appeal period following the approval of the entitlements has elapsed.
10. This approval 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.
11. The Planning Commission reserves the right to revoke EPA 2009-006 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.
12. The project 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.
13. 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 approval of entitlements.
14. 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.
15. Live entertainment and/or outdoor dining in excess of 400 sq. ft. shall not be permitted unless a conditional use permit for this specific use is reviewed and approved. Outdoor dining occupying less than 400 sq. ft. is subject to Neighborhood Notification and approval by the Director of Planning.



HUNTINGTON BEACH POLICE DEPARTMENT

PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: 6/24/09

PROJECT NAME: BJ'S RESTAURANT EXPANSION

PLANNING APPLICATION NO. PLANNING APPLICATION NO. 2009-169

ENTITLEMENTS: ENTITLEMENT PERMIT AMENDMENT NO. 2009-006 AND DESIGN REVIEW NO. 2009-017

DATE OF PLANS: JUNE 16, 2009

PROJECT LOCATION: 200 MAIN STREET, SUITES 101 & 102, HUNTINGTON BEACH (APN: 937-192-33)

PLAN REVIEWER: DETECTIVE BRIAN SMITH #1168

TELEPHONE/E-MAIL: (714) 536-5994 / BJSMITH@HBPD.ORG

PROJECT DESCRIPTION: **EPA:** To permit approximately 996 sq. ft. expansion of an existing restaurant by occupying the adjacent vacated retail suite (vitamin store) and expanding the existing outdoor dining area by approximately 136 sq. ft. The retail to restaurant expansion will require participation in the Parking In-Lieu Fee Program resulting in payment of five parking spaces (10 spaces required for new restaurant area, 5 space credit for existing retail area). The proposal also includes modifying the operation to permit: an interior remodel to accommodate additional occupancy; a new bar to accommodate a new Type 47 liquor license; and extending the hours of operation. **DRB:** To review the design, colors, and materials of the proposed façade & landscape modifications.

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.

Within the past year, there has only been one report of criminal directly related to the BJ's Restaurant located at 200 Main Street Suite 201. The single report involved an intoxicated male who spit on the manager after he was unable to find his mobile phone. The report indicates the male did not consume any alcoholic beverages at the location.

ATTACHMENT NO. 44

The proposed modification does not appear to significantly alter the businesses design and function as a full service restaurant currently operating with a Type-41 (On Sale Beer and Wine Eating Place) Department of Alcoholic Beverage Control license.

The Police Department does not believe the modification to a Type-47 (On Sale General Eating Place) license, nor the extended hours of operations will drastically affect the business activity or increase the potential to create public nuisances, as the locations primary business and emphasis will continue to be operating as a full service restaurant without live entertainment.

In order to reduce the likelihood of patrons becoming overly intoxicated and minors obtaining alcoholic beverages, we are requesting the following conditions:

1. All areas where the sales, service, and consumption of alcoholic beverages will be permitted must be sufficiently illuminated to permit the identification of patrons.
2. Alcoholic beverages shall be served in a distinctive container different from non-alcoholic beverages.

In order to prevent the location from operating as a night club or public premise, we request the following conditions:

3. Live entertainment will not be permitted.
4. Food from the regular full menu must be available up to one hour prior to the scheduled closing time.



**CITY OF HUNTINGTON BEACH
DEPARTMENT OF BUILDING & SAFETY
PROJECT IMPLEMENTATION CODE REQUIREMENTS**

DATE: JULY 9, 2009
PROJECT NAME: BJ'S RESTAURANT EXPANSION
PLANNING APPLICATION NO. PLANNING APPLICATION NO. 2009-169
ENTITLEMENTS: ENTITLEMENT PERMIT AMENDMENT NO. 2009-006 AND DESIGN REVIEW NO. 2009-017
DATE OF PLANS: JUNE 16, 2009
PROJECT LOCATION: 200 MAIN STREET, SUITES 101 & 102, HUNTINGTON BEACH (APN: 937-192-33)
PLAN REVIEWER: JASON KWAK, PLAN CHECK ENGINEER
TELEPHONE/E-MAIL: (714) 536-5278 / jkwak@surfcity-hb.org
PROJECT DESCRIPTION: **EPA:** To permit approximately 996 sq. ft. expansion of an existing restaurant by occupying the adjacent vacated retail suite (vitamin store) and expanding the existing outdoor dining area by approximately 136 sq. ft. The retail to restaurant expansion will require participation in the Parking In-Lieu Fee Program resulting in payment of five parking spaces (10 spaces required for new restaurant area, 5 space credit for existing retail area). The proposal also includes modifying the operation to permit: an interior remodel to accommodate additional occupancy; a new bar to accommodate a new Type 47 liquor license; and extending the hours of operation. **DRB:** To review the design, colors, and materials of the proposed façade & landscape modifications.

The following is a list of code requirements deemed applicable to the proposed project based on plans received as 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. This list is not intended to be a full and complete list and serves only to highlight possible building code issues on the proposed preliminary plans. Electrical, plumbing, and mechanical items are not included in this review. If you have any questions regarding these comments, please contact the plan reviewer.

I. SPECIAL CONDITIONS:

1. None

II. CODE ISSUES BASED ON PLANS & DRAWINGS SUBMITTED:

1. Project shall comply with the current state building codes adopted by the City at the time of permit application submittal. Currently they are 2007 California Building Code (CBC), 2007 California Mechanical

ATTACHMENT NO. 4.6

Code, 2007 California Plumbing Code, 2007 California Electrical Code, 2007 California Energy Code and the Huntington Beach Municipal Code (HBMC). Compliance to all applicable state and local codes is required prior to issuance of building permit.

2. Due to the change of occupancy group from M (retail) to A (assembly) in the addition area, provide building analysis to verify the existing building's floor area is within the CBC allowable area limitations for mixed use buildings.
3. Please note that a fire rated occupancy separation is required between the proposed area to be converted to an A occupancy area and the existing adjacent retail area (M occupancy) per Table 508.3.3.

PLANNING DEPARTMENT DEVELOPMENT REVIEW REQUEST

TO: Steve Bogart, Public Works
Eric Haghani, Building
Chief Ken Small, Police

Darrin Maresh, Fire
Kellee Fritzall, Economic Development
David Dominguez, Community Services

FROM: Ethan Edwards Ext: 5561

DATE: JUNE 22, 2009

PC ZA DRB STAFF

PETITION(S): Planning Application No. 09-169: Entitlement Plan Amendment No. 09-006,
Design Review 09-017

REQUEST(S): **EPA:** To permit approximately 996 sq. ft. expansion of an existing restaurant by occupying the adjacent vacated retail suite (vitamin store) and expanding the existing outdoor dining area by approximately 136 sq. ft. The retail to restaurant expansion will require participation in the Parking In-Lieu Fee Program resulting in payment of five parking spaces (10 spaces required for new restaurant area, 5 space credit for existing retail area). The proposal also includes modifying the operation to permit: an interior remodel to accommodate additional occupancy; a new bar to accommodate a new Type 47 liquor license; and extending the hours of operation. **DRB:** To review the design, colors, and materials of the proposed façade & landscape modifications.

LOCATION: 200 Main Street, Suites 101 & 102, Huntington Beach (APN: 937-192-33)

ZONE: Downtown Specific Plan (SP5 (district 3)-CZ)

GENERAL PLAN: Mixed Use Vertical (MV-F6/25-sp-pd)

EXISTING USE: Commercial (existing restaurant & vacant retail store)

Please submit your concerns and recommended changes or conditions in writing on or before **July 10, 2009**.

COMMENTS: (Use attachments or back side of sheet if necessary)

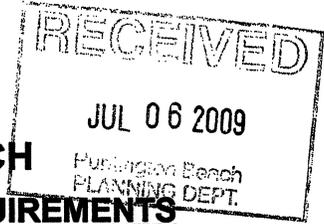
COMMUNITY SERVICES HAS NO CONCERNS WITH THE PROPOSED PROJECT OTHER THAN THAT THE APPROPRIATE PARK FEES BE APPLIED PER 230.02 OF THE ZONING CODE.

RESPONSE BY: DAVID DOMINGUEZ Extension 5709

Attachments: 1. Plans 2. Narrative



CITY OF HUNTINGTON BEACH
PROJECT IMPLEMENTATION CODE REQUIREMENTS



DATE: JULY 6, 2009
PROJECT NAME: B.J.'s PIZZA AND BREWERY
PLANNING APPLICATION NO.: PLANNING APPLICATION NO. 09-169
ENTITLEMENTS: ENTITLEMENT PLAN AMENDMENT 09-006; DRB REVIEW 09-017
DATE OF PLANS: JUNE 16, 2009
PROJECT LOCATION: 200 MAIN STREET, SUITES 101 & 102, HUNTINGTON BEACH
PROJECT PLANNER: ETHAN EDWARDS, ASSOCIATE PLANNER
PLAN REVIEWER: SIMONE SLIFMAN
TELEPHONE/E-MAIL: (714) 536-5186 / simone.slifman@surfcity-hb.org
PROJECT DESCRIPTION: TO PERMIT APPROX. 996 SQ. FT EXPANSION OF THE EXISTING RESTAURANT BY OCCUPYING A PORTION OF ADJACENT VACATED RETAIL SUITE AND EXPANDING THE EXISTING OUTDOOR DINING AREA BY APPROXIMATELY 136 SQ. FT.

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 Economic Development Department has reviewed the proposed project and has the following comments/concerns:

The project will require five (5) additional parking in-lieu spaces, for which an agreement is currently being negotiated with the property owner. The Department has no further comments at this time.

ATTACHMENT NO. 4.9



HUNTINGTON BEACH FIRE DEPARTMENT

PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: JULY 6, 2009

PROJECT NAME: EXPANTION OF BJ'S PIZZA AND BREWERY

ENTITLEMENTS: PLANNING APPLICATION NO. 09-169

PROJECT LOCATION: 200 MAIN STREE SUITE 101 & 102, HUNTINGTON BEACH, CA

PLANNER: ETHAN EDWARDS, ASSOCIATE PLANNER

TELEPHONE/E-MAIL: (714) 536-5561/ Ethan.Edwards@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 APPROXIMATELY 996 SQ. FT. EXPANSION OF AN EXISTING RESTAURANT BY OCCUPYING THE ADJACENT VACATED RETAIL SUITE (VITAMIN STORE) AND EXPANDING THE EXISTING OUTDOOR DINING AREA BY APPROXIMATELY 136 SQ. FT. THE RETAIL TO RESTAURANT EXPANSION WILL REQUIRE PARTICIPATION IN THE PARKING IN-LIEU FEE PROGRAM RESULTING IN PAYMENT OF FIVE PARKING SPACES (10 SPACES REQUIRED FOR NEW RESTAURANT AREA, 5 SPACE CREDIT FOR EXISTING RETAIL AREA). THE PROPOSAL ALSO INCLUDES MODIFYING THE OPERATION TO PERMIT: AN INTERIOR REMODEL TO ACCOMMODATE ADDITIONAL OCCUPANCY; A NEW BAR TO ACCOMMODATE A NEW TYPE 47 LIQUOR LICENSE; AND EXTENDING THE HOURS OF OPERATION. DRB: TO REVIEW THE DESIGN, COLORS, AND MATERIALS OF THE PROPOSED FAÇADE & LANDSCAPE MODIFICATIONS.

The following is a list of code requirements deemed applicable to the proposed project based on plans received and dated June 22, 2008. 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.

PRIOR TO DEMOLITION, GRADING, SITE DEVELOPMENT, ISSUANCE OF GRADING PERMITS, BUILDING PERMITS, AND/OR CONSTRUCTION, THE FOLLOWING SHALL BE REQUIRED:

Building Construction

Exit Signs And Exit Path Markings will be provided in compliance with the Huntington Beach Fire Code and Title 24 of the California Administrative Code. Reference compliance in the plan notes. (FD)

Posting Of Room Occupancy is required. Any room having an occupant load of 50 or more where fixed seats are not installed, and which is used for assembly purposes, shall have the

ATTACHMENT NO. 4,10

capacity of the room posted in a conspicuous place near the main exit per HBFC sec. 1004.3 (FD)

Policy For Maintaining Room Occupancy is required. The Fire Department would like to review your security policy that identifies the training and procedures that your business will use to insure the business occupancy load will be adhered to.

Egress Illumination/Emergency Exit Lighting with emergency back-up power is required. Provide means of egress illumination per HBFC 604.2.4 and UBC 1003.2.9. (FD)

Exit Ways and Aisles Plan is required for this project. HBFC section 408.2.1.Plans shall be submitted indicating the seating arrangement, location and width of exit ways and aisles for approval and an approved copy of the plan shall be kept on display on the premises. (FD)

THE FOLLOWING CONDITIONS SHALL BE MAINTAINED DURING CONSTRUCTION:

- a. Fire/Emergency Access And Site Safety shall be maintained during project construction phases in compliance with HBFC Chapter 14, Fire Safety During Construction And Demolition. (FD)
- b. Fire/Emergency Access And Site Safety shall be maintained during project construction phases in compliance with City Specification #426, Fire Safety Requirements for Construction Sites. (FD)

OTHER:

- a. Discovery of additional soil contamination or underground pipelines, etc., must be reported to the Fire Department immediately and the approved work plan modified accordingly in compliance with City Specification #431-92 Soil Clean-Up Standards. (FD)
- b. Outside City Consultants The Fire Department review of this project and subsequent plans may require the use of City consultants. The Huntington Beach City Council approved fee schedule allows the Fire Department to recover consultant fees from the applicant, developer or other responsible party. (FD)

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

PUBLIC WORKS INTERDEPARTMENTAL COMMUNICATION

PROJECT IMPLEMENTATION CODE REQUIREMENTS

DATE: JULY 17, 2009

PROJECT NAME: BJ'S PIZZA & BREWERY

ENTITLEMENTS: EPA 09-06, DR 09-17

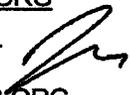
PLNG APPLICATION NO: 2009-0169

DATE OF PLANS: JUNE 16, 2009

PROJECT LOCATION: 200 MAIN STREET, SUITES 101 & 102

PROJECT PLANNER: ETHAN EDWARDS, ASSOCIATE PLANNER

TELEPHONE/E-MAIL: (714) 536-5561 / ETHAN.EDWARDS@SURFCITY-HB.ORG

PLAN REVIEWER: JOSH MCDONALD, CIVIL ENGINEERING ASSISTANT 

TELEPHONE/E-MAIL: 714-536-5509 / JOSHUA.MCDONALD@SURFCITY-HB.ORG

PROJECT DESCRIPTION: EPA: TO PERMIT APPROXIMATELY 996 SQ. FT. EXPANSION OF AN EXISTING RESTAURANT BY OCCUPYING THE ADJACENT VACATED RETAIL SUITE (VITAMIN STORE) AND EXPANDING THE EXISTING OUTDOOR DINING AREA BY APPROXIMATELY 136 SQ. FT. THE RETAIL TO RESTAURANT EXPANSION WILL REQUIRE PARTICIPATION IN THE PARKING IN-LIEU FEE PROGRAM RESULTING IN PAYMENT OF FIVE PARKING SPACES (10 SPACES REQUIRED FOR NEW RESTAURANT AREA, 5 SPACE CREDIT FOR EXISTING RETAIL AREA). THE PROPOSAL ALSO INCLUDES MODIFYING THE OPERATION TO PERMIT: AN INTERIOR REMODEL TO ACCOMMODATE ADDITIONAL OCCUPANCY; A NEW BAR TO ACCOMMODATE A NEW TYPE 47 LIQUOR LICENSE; AND EXTENDING THE HOURS OF OPERATION. DRB: TO REVIEW THE DESIGN, COLORS, AND MATERIALS OF THE PROPOSED FAÇADE & LANDSCAPE MODIFICATIONS.

The following is a list of code requirements deemed applicable to the proposed project based on plans as stated above. The items below are to meet the City of Huntington Beach's Municipal Code (HBMC), Zoning and Subdivision Ordinance (ZSO), Department of Public Works Standard Plans (Civil, Water and Landscaping) and the American Public Works Association (APWA) Standards Specifications for Public Works Construction (Green Book), the Orange County Drainage Area management Plan (DAMP), and the City Arboricultural and Landscape Standards and Specifications. The list is intended to assist the applicant by identifying requirements which shall be satisfied during the various stages of project permitting, implementation and construction. If you have any questions regarding these requirements, please contact the Plan Reviewer or Project Planner.

ATTACHMENT NO. 4.12

**THE FOLLOWING DEVELOPMENT REQUIREMENTS SHALL BE COMPLETED PRIOR TO
ISSUANCE OF A BUILDING PERMIT:**

1. The existing domestic water service currently serving the existing development may potentially be utilized if it is of adequate size, conforms to current standards, and are in working condition as determined by the Water Inspector. If the property owner elects to utilize the existing water service, any non-conforming water service, meter, and backflow protection device shall be upgraded to conform to the current Water Division Standards. Alternatively, a new separate domestic water service(s), meter(s) and backflow protection device(s) may be installed per Water Division Standards and shall be sized to meet the minimum requirements set by the California Plumbing Code (CPC). The new domestic water service shall be a minimum of 2-inches in size. (ZSO 230.84)
2. When fire sprinklers are required by the Fire Department for the proposed development, a separate dedicated fire service line shall be installed with a backflow protection device that conforms to the current Water Division Standards. (ZSO 230.84)
3. Traffic impact fees for commercial development shall be paid at the rate applicable at the time of Building Permit issuance. The current rate of \$163 per net new added daily trip is adjusted annually. This project is forecast to generate 72 new daily trips for a total traffic impact fee of \$11,736.00. The rate is subject to an annual adjustment on December 1st. (MC 17.65)

**THE FOLLOWING DEVELOPMENT REQUIREMENTS SHALL BE COMPLETED PRIOR TO FINAL
INSPECTION OR OCCUPANCY:**

1. All applicable Public Works fees shall be paid at the current rate unless otherwise stated, per the Public Works Fee Schedule adopted by the City Council and available on the city web site at http://www.surfcity-hb.org/files/users/public_works/fee_schedule.pdf. (ZSO 240.06/ZSO 250.16)



HUNTINGTON BEACH POLICE DEPARTMENT

PROJECT CONDITIONS OF APPROVAL

DATE: 6/24/09

PROJECT NAME: BJ'S RESTAURANT EXPANSION

PLANNING APPLICATION NO. PLANNING APPLICATION NO. 2009-169

ENTITLEMENTS: ENTITLEMENT PERMIT AMENDMENT NO. 2009-006 AND DESIGN REVIEW NO. 2009-017

DATE OF PLANS: JUNE 16, 2009

PROJECT LOCATION: 200 MAIN STREET, SUITES 101 & 102, HUNTINGTON BEACH (APN: 937-192-33)

PLAN REVIEWER: DETECTIVE BRIAN SMITH #1168

TELEPHONE/E-MAIL: (714) 536-5994 / BJSMITH@HBPD.ORG

PROJECT DESCRIPTION: **EPA:** To permit approximately 996 sq. ft. expansion of an existing restaurant by occupying the adjacent vacated retail suite (vitamin store) and expanding the existing outdoor dining area by approximately 136 sq. ft. The retail to restaurant expansion will require participation in the Parking In-Lieu Fee Program resulting in payment of five parking spaces (10 spaces required for new restaurant area, 5 space credit for existing retail area). The proposal also includes modifying the operation to permit: an interior remodel to accommodate additional occupancy; a new bar to accommodate a new Type 47 liquor license; and extending the hours of operation. **DRB:** To review the design, colors, and materials of the proposed façade & landscape modifications.

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.

Within the past year, there has only been one report of criminal directly related to the BJ's Restaurant located at 200 Main Street Suite 201. The single report involved an intoxicated male who spit on the manager after he was unable to find his mobile phone. The report indicates the male did not consume any alcoholic beverages at the location.

The proposed modification does not appear to significantly alter the businesses design and function as a full service restaurant currently operating with a Type-41 (On Sale Beer and Wine Eating Place) Department of Alcoholic Beverage Control license.

ATTACHMENT NO. 3.0

The Police Department does not believe the modification to a Type-47 (On Sale General Eating Place) license, nor the extended hours of operations will drastically affect the business activity or increase the potential to create public nuisances, as the locations primary business and emphasis will continue to be operating as a full service restaurant without live entertainment.

In order to reduce the likelihood of patrons becoming overly intoxicated and minors obtaining alcoholic beverages, we are requesting the following conditions:

1. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons.
2. Alcoholic beverages shall be served in a distinctive container different from non-alcoholic beverages.

In order to prevent the location from operating as a night club or public premise, we request the following conditions:

3. Live entertainment shall not be permitted unless a conditional use permit for this specific use is reviewed and approved.
4. Food from the regular full menu shall be available up to one hour prior to the scheduled closing time.

ATTACHMENT NO. 5.1



CITY OF HUNTINGTON BEACH

2000 MAIN STREET

CALIFORNIA 92648

DESIGN REVIEW BOARD

Phone 536-5271
Fax 374-1540
374-1648

NOTICE OF ACTION

August 20, 2009

Jeff Bergsma
Team Design
221 Main Street 'S'
Huntington Beach, CA 92648

APPLICATION: DESIGN REVIEW NO. 09-017 (BJ'S RESTAURANT FAÇADE IMPROVEMENTS)

APPLICANT: Jeff Bergsma, Team Design, 221 Main Street 'S', Huntington Beach, CA 92648

BUSINESS OWNER: Joan Leguay, BJ's Restaurants, Inc., 7755 Center Avenue, Suite 300

PROPERTY OWNER: Robert Koury, 200 Main Street, Suite 206, Huntington Beach, CA 92648

REQUEST: Review the design, colors, and materials of façade and outdoor dining area improvements to an existing restaurant.

LOCATION: 200 Main Street, Suite 101 & 102, 92648 (east side of Main Street, between Olive Avenue and Walnut Avenue – Downtown)

DATE OF ACTION: August 20, 2009

The Design Review Board of the City of Huntington Beach took action on your application (s) on August 20, 2009 and your application was recommended for approval to the Planning Commission. Attached to this letter are the recommended conditions of approval for your application.

Please be advised that the Design Review Board reviews the conceptual plan as a basic request for entitlement and forwards a recommendation to the Planning Commission. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements. Please note that there may be additional requirements prior to commencement of the project.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Design Review Board is only a recommendation and is not appealable. The

ATTACHMENT NO. 6.0

DR No. 09-017
August 20, 2009
Page 2 of 2

recommendation of the Design Review Board will be forwarded to the Planning Commission for consideration. You will be notified of the pending hearing date.

If you have any questions, please contact Ethan Edwards, Associate Planner at (714) 536-5561.

Sincerely,


Andrew Gonzales, Secretary
Design Review Board

AG:EE

ATTACHMENTS:

Recommended Conditions of Approval: DR No. 09-017

Cc: Robert Koury, Property Owner
Joan Leguay, Business Owner
Herb Fauland, Planning Manager
Project File

ATTACHMENT NO. 6.1

ATTACHMENT NO. 1

RECOMMENDED CONDITIONS OF APPROVAL - DESIGN REVIEW NO. 09-017

1. The site plan, floor plans, and elevations received and dated August 7, 2009 shall be the conceptually approved design with the following modifications:
 - a. Provide a Walnut Street elevation view to ensure that the proposed paint scheme continues and terminates at the existing entry to the stairwell.
 - b. The existing globe lights and indirect lighting on the Main Street/Walnut Street (corner) elevation shall be removed.
 - c. All existing patio railing shall be replaced with new railing as proposed.
 - d. Depict all existing and proposed planter curb alignments.
 - e. Depict the additional outdoor dining area to be covered with pavers to match existing.
 - f. Depict a minimum 18" high solid shrub within the existing landscaped planter to prevent pedestrian trespassing.
2. Prior to the installation of new signage, the glass block located on the building's façade shall be patched with stucco and painted to match existing.

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 defense thereof.

ATTACHMENT NO. 6.2

interest with the first payment of _____ Dollars (\$ _____) to be paid within 30 days of issuance of the Certificates of Occupancy for either CUP _____ or _____. Each ensuing payment of _____ Dollars (\$ _____) per space will be made annually, on the anniversary date of the first payment, as set forth in the attached Exhibit B, incorporated herein by this reference.

3. Security Interest: As security for the performance of the obligations of Khoury stated herein, both parties stipulate that this agreement shall constitute a lien against the Property under California Civil Code Section 2881 in the amount of _____ Dollars (\$ _____) on the Property and shall be subordinate to existing encumbrance against the property, but shall have priority over any other liens or encumbrances recorded on the Property. Such lien shall be extinguished upon payment in full of _____ Dollars (\$ _____). This covenant shall run with the land and be binding upon all successors in interest.

Khoury may substitute collateral of equal value to secure the payment of the in-lieu fee with the express written permission of the City, which shall be given provided the collateral is deemed by the City Council to be of equal value.

4. Effect of Default on CUP Nos. _____ and _____: Failure to pay in a timely manner may result in revocation of Conditional Use Permits No. _____ and _____, or other penalties or interests.
5. No Cancellation: No breach of any provision of this Agreement shall entitle any Khoury to cancel, rescind, or otherwise terminate this Agreement or the obligations created thereby.
6. Partial Invalidity: Should any provision of this Agreement be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect unimpaired by the holding.
7. Governing Law: This Agreement shall be construed, interpreted, and enforced under and in accordance with and governed by the laws of the State of California.
8. Amendments: This Agreement may be amended, modified, and/or supplemented only by the written agreement of the Khoury and the City, which amendment, modification, and/or supplement shall be effective and binding upon Khoury.
9. Rights and Remedies Are Cumulative: The rights and remedies of the parties and the City are cumulative, and the exercise by either party or the City, of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by any party.

- DRAFT**
10. Interpretation of Agreement: This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters addressed in this Agreement. In addition, each party has been given the opportunity to consult with experienced and knowledgeable legal counsel. Accordingly, any rule of law (including *Civil Code* section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose and intent of the parties to this Agreement.
 11. Time of the Essence: Time is of the essence of this Agreement.
 12. Further Assurances: The parties agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of this Agreement.
 13. Binding on Successors: This Agreement shall be binding upon and shall inure to the benefit of the City and Khoury and their respective successors and assigns and to the successors and assigns of Khoury or any portion thereof.

IN WITNESS WHEREOF, Khoury has executed this Agreement as of the date first written herein above.

REVIEWED AND APPROVED AS TO
FORM AND CONTENT

KHOURY

By: _____
City Attorney

By _____
Robert Khoury

INITIATED AND APPROVED:

Director of Planning

Director of Economic Development