



City of Huntington Beach Planning Department **STUDY SESSION REPORT**

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning
BY: Tess Nguyen, Associate Planner *TN*
DATE: September 9, 2009
SUBJECT: **SIX-MONTH REVIEW OF CONDITIONAL USE PERMIT NO. 08-009 (METRO Q RESTAURANT)**

**APPLICANT/
BUSINESS**

OWNER: Scott Forst and Ida Vallez, 2398 Willowbrook #16, Anaheim CA 92802

PROPERTY

OWNER: Phuong Pham, 1738 44th Avenue, San Francisco CA 94122

LOCATION: 19092 Beach Boulevard, Suites J, K, L, and M (east side of Beach Boulevard, south of Garfield Avenue)

PROJECT REQUEST AND SPECIAL CONSIDERATIONS

This item represents a six-month review of Conditional Use Permit No. 08-009, approved by the Planning Commission on July 8, 2008. Conditional Use Permit No. 08-009 permitted the establishment of a 4,995 sq. ft. eating and drinking establishment (Metro Q Restaurant) with on-site sale and consumption of alcoholic beverages at 19092 Beach Boulevard, Suites J, K, L, and M. When Conditional Use Permit No. 08-009 was approved, the Planning Commission required a review of the use within six months of the issuance of a Certificate of Occupancy (Condition of Approval No. 4). The Certificate of Occupancy for the Metro Q Restaurant was issued on March 24, 2009.

CURRENT LAND USE, HISTORY OF SITE, ZONING AND GENERAL PLAN DESIGNATIONS

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property	CG-F1 (Commercial General—0.35 Max Floor Area Ratio)	CG (Commercial General)	Commercial
North, South, and West of Subject Property	CG-F1	CG	Commercial
East of Subject Property	RM-15 (Residential Medium Density—Max. 15 du/ac)	RM (Residential Medium Density)	Multi-Family Residential

APPLICATION PROCESS AND TIMELINES

DATE OF COMPLETE APPLICATION:

The Certificate of Occupancy was issued March 24, 2009.

MANDATORY PROCESSING DATE(S):

Within six months of the issuance of a Certificate of Occupancy (September 2009).

CEQA ANALYSIS/REVIEW

The proposed project is Categorically Exempt, pursuant to Section 15309, Class 9 of the California Environmental Quality Act, because the project is a review to check for compliance of conditions of approval.

COMMENTS FROM CITY DEPARTMENTS AND OTHER PUBLIC AGENCIES

The Planning Department, Police Department, and Code Enforcement Division have reviewed the project's conditions of approval to ensure compliance. The Police Department documented four incidents at Metro Q Restaurant. Two incidents related to the Police Department's verification of compliance with applicable Huntington Beach Municipal Codes and Alcoholic Beverage Control laws. The other two incidents involved loud talkers and an intoxicated person escorted from the bar. According to the Police Department, the nature of these incidents did not represent a detriment to the quality of life of the community. The Code Enforcement Division described the process of resolving a complaint regarding window coverings and signs. Staff and business owners were able to work together in resolving the matter.

PUBLIC MEETINGS, COMMENTS AND CONCERNS

There have been no public meetings regarding this project. To date, there have been no comments from the public regarding this project.

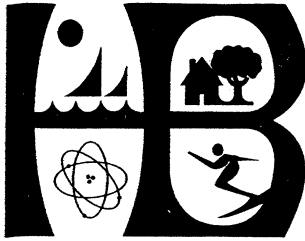
PLANNING ISSUES

The purpose of the six-month review is to verify Metro Q Restaurant's compliance with all conditions of approval and applicable chapters of the Huntington Beach Zoning and Subdivision Ordinance. The review considered complaints, calls for service, and on-site inspections by the Police Department, Planning Department, and Code Enforcement Division. To date, one code enforcement complaint regarding window signs and coverings was received. The applicant was informed of the option to remove the window signs and coverings or request their approval from the Design Review Board. Code Enforcement staff has been working with the business owners towards resolution of the violation and the case was closed on August 19, 2009 (Attachment No. 2). In addition, four Police Department calls for service were received (Attachment No. 3). Based on the low number and nature of the service calls, the Police Department believes that the restaurant should continue to operate under the current conditions (Attachment No. 4). Based on the above information, staff has determined that the restaurant is in compliance with all conditions of approval and no modifications to the conditions are recommended.

Staff recommends the Planning Commission receive and file the six-month review of Conditional Use Permit No. 08-009 as adequate. Pursuant to Condition of Approval No. 4 of Conditional Use Permit No. 08-009, a review of the use within one year of the issuance of a Certificate of Occupancy is required. The one-year review of Conditional Use Permit No. 08-009 will be in March 2010.

ATTACHMENTS:

1. Planning Commission Notice of Action dated July 9, 2008 (CUP No. 08-009)
2. Code Enforcement Division Memorandum dated August 25, 2009
3. Police Department Memorandum dated August 5, 2009
4. Police Department Memorandum dated September 1, 2009



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

July 9, 2008

Scott Forst and Ida Vallez
2398 Willowbrook #16
Anaheim, CA 92802

SUBJECT: CONDITIONAL USE PERMIT NO. 08-009 (APPEAL – METRO Q RESTAURANT)

APPLICANT: Scott Forst and Ida Vallez

APPELLANT: Planning Commissioner Fred Speaker

REQUEST: To permit the establishment of a 4,995 sq. ft. eating and drinking establishment (restaurant) with on-site sales and consumption of alcoholic beverages.

PROPERTY OWNER: Phuong Pham, 1738 44th Avenue, San Francisco, CA 91422

LOCATION: 19092 Beach Boulevard, Suites J, K, L and M, 92648 (east side of Beach Boulevard, south of Garfield Avenue)

DATE OF ACTION: July 8, 2008

On Tuesday, July 8, 2008, the Huntington Beach Planning Commission took action on your application, and your application was **conditionally approved**. Attached to this letter are the findings and modified conditions of approval.

Please be advised that the Planning Commission reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the

ATTACHMENT NO. 1.1

grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand, Five Hundred Forty-One Dollars (\$1,541.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Two Thousand Three Hundred Seventy-Nine Dollars (\$2,379.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is July 18, 2008 at 5:00 PM.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has started.

"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Tess Nguyen, the project planner, at tnghuyen@surfcity-hb.org or (714) 374-1744 or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Scott Hess, Secretary
Planning Commission

By:



Herb Fauland, Planning Manager

SH:HF:TN:lw

Attachment: Findings and Conditions of Approval – CUP No. 08-009

c: Honorable Mayor and City Council
Chair and Planning Commission
Paul Emery, Interim City Administrator
Scott Hess, Director of Planning
Herb Fauland, Planning Manager
Bill Reardon, Division Chief/Fire Marshal
Terri Elliott, Principal Civil Engineer
Gerald Caraig, Permit-Plan Check Manager
Property Owner
Project File

ATTACHMENT NO. 1.2

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 2008-009

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 of the CEQA Guidelines, because the project consists of minor alterations to a commercial suite within an existing shopping center.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 2008-009:

1. Conditional Use Permit No. 2008-009 for the establishment of a 4,995 sq. ft. eating and drinking establishment (restaurant) with onsite sale and consumption of alcoholic beverages within an existing commercial development 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 restaurant with alcohol sales will not generate additional noise, traffic, or other impacts detrimental to surrounding property and inconsistent with the subject property's commercial zoning. The site provides the necessary parking to accommodate the proposed restaurant. The sales and consumption of alcoholic beverages are proposed inside the restaurant only. The main entrance of the restaurant is oriented towards Beach Boulevard, away from residential units.
2. The conditional use permit will be compatible with surrounding uses because it is a commercial use located in an existing commercial development with other commercial uses with similar characteristics such as retail and restaurants. The subject building is oriented towards Beach Boulevard with the front of the building facing the parking area adjacent to Beach Boulevard. The rear of the building faces the eastern property line with no openings. The building design and orientation creates a buffer for the residential land uses to the east to ensure no detrimental impact.
3. The proposed conditional use permit 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 would be located. The eating and drinking establishment (restaurant) with alcohol sales will be located within an existing commercial center, which conforms to land use and on-site parking requirements applicable to the General Commercial (CG) zoning designation.
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 Commercial General on the subject property. In addition, it is consistent with the following objectives and policies of the General Plan:

ATTACHMENT NO. 1.3

A. Land Use Element

Objective LU 10.1.1 Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, and capitalize on Huntington Beach's recreational resources.

B. Economic Development Element

Policy ED 2.4.3 Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market area.

The requested conditional use permit will accommodate existing development by allowing the eating and drinking establishment (restaurant) with alcohol sales. The proposed use will market its services to local residents and residents in the surrounding region thereby expanding the service-based commercial opportunities in the City. It will be located in an existing shopping center, which includes service related uses consistent with the Land Use Density Schedules in the General Plan and is compatible with surrounding commercial development.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2008-009:

1. The site plan, floor plan, and elevation received and dated March 4, 2008, shall be the conceptually approved design with the following modifications:
 - a. The proposed outdoor dining area shall be removed.
 - b. The existing storefront windows shall remain fixed.
2. The use shall comply with the following:
 - a. Hours of operation of the restaurant with alcohol service shall be between 9:00 AM and 1:00 AM seven days a week.
 - b. Regular food service, consisting of the complete dinner menu, shall be available until one hour before the close of business.
 - 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. There shall be no trash disposal from 10:00 PM to 8:00 AM seven days a week.
3. Prior to the issuance of a Certificate of Occupancy, the applicant shall install signs in the parking lot of the restaurant to inform customers where to park. The signs shall generally read "Patrons of Metro Q shall not park on the adjacent property (north) parking lot." A site plan and sign plan indicating the location of the proposed signs and the wording of said signs shall be submitted to the Planning Department for review and approval.

ATTACHMENT NO. 1.4

4. A review of the use shall be conducted by Planning and Police Departments approximately six (6) months and one (1) year of issuance of the certificate of occupancy to verify compliance with all conditions of approval and applicable Chapters of the Huntington Beach Zoning and Subdivision Ordinance. A report of the findings of the staff review shall be forwarded to the Planning Commission. At that time, the Planning Commission may consider modifications to the conditions of approval.
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:

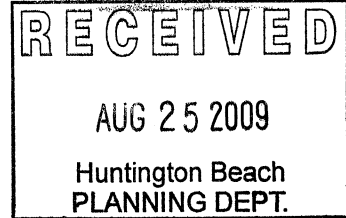
The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, 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. 1.5



CITY OF HUNTINGTON BEACH

INTER-DEPARTMENT COMMUNICATION



TO: Tess Nguyen
Planning Department

FROM: Tim Flanagan
Code Enforcement Officer – S/E Area Officer

SUBJECT: Metro Q Bar & Grill (19092 Beach Blvd Suites # JKLM)

DATE: August 25, 2009

Code Enforcement received a complaint of possible Zoning Violation ZSO 233.22, (C) for MetroQ Bar & Grill located at 19092 Beach Blvd.

July 13, 2009: Code Enforcement staff opened a case, Case Number 2009-0188-253, and performed an inspection of the business. Code Enforcement staff made contact with business owner Ida Vallez and advised her that the black window coverings and business logos must be removed. Code Enforcement staff issued a verbal "Notice of Violation" with a 14-day compliance window (Photo #102-4149—July 13, 2009).

August 3, 2009: Code Enforcement staff performed an inspection and observed the black window coverings, between the purple window coverings at the top and bottom of the window panels, were removed (Photo #102-4235—August 3, 2009). The photo was given Tess Nguyen, the project planner, for compliance advice. Ms. Nguyen indicated that the purple window coverings are not permitted. Ms. Nguyen offered to assist Code Enforcement staff with an on-site inspection to provide clarification for the business owners.

August 10, 2009: Code Enforcement staff met Ms. Nguyen onsite and made contact with co-business owner Scott Forst. Ms. Nguyen advised Mr. Forst that the purple window coverings on the top and bottom portions of the windows must also be removed. Code Enforcement advised Mr. Forst he has 14 days to remove the remaining window coverings. Code Enforcement staff also informed Mr. Forst that paper window coverings may be a violation but staff will discuss the issue with Senior Code Enforcement Officer and will get back to him. Mr. Forst said that the paper is being utilized as window blind, like other units in the retail center.

August 19, 2009: Code Enforcement staff made contact with both business owners onsite and thanked them for compliance. Code Enforcement staff advised the business owners that the case will be closed. In addition, Code Enforcement staff has determined that the paper window coverings being utilized as window blinds are allowed (Photo #102-4341—August 19, 2009). Code Enforcement staff closed the case as violation abated, "In Compliance".

ATTACHMENT NO. 2.1

PHOTOGRAPH DECLARATION



Item # a

☒ **INITIAL INSPECTION PHOTOGRAPHS**
☐ **RE-INSPECTION PHOTOGRAPHS**
☐ **PRE-HEARING PHOTOGRAPHS**

☐ **PRE-ABATEMENT PHOTOGRAPHS**
☐ **POST ABATEMENT PHOTOGRAPHS**

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT I TOOK THE PHOTOGRAPHS TRULY AND ACCURATELY DEPICT THE CONDITION OF THE PROPERTY LOCATED AT THE ADDRESS STATED BELOW, AS IT EXISTED ON THAT DATE.

DATE: 07-13-09
OFFICER: T. Flanagan #1005
ADDRESS: 19092 Beach Blvd #J
CASE NUMBER: 2009-0188-253

ATTACHMENT NO. 2.2

PHOTOGRAPH DECLARATION



Item # a

☐ INITIAL INSPECTION PHOTOGRAPHS
☒ RE-INSPECTION PHOTOGRAPHS
☐ PRE-HEARING PHOTOGRAPHS

☐ PRE-ABATEMENT PHOTOGRAPHS
☐ POST ABATEMENT PHOTOGRAPHS

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT I TOOK THE PHOTOGRAPHS TRULY AND ACCURATELY DEPICT THE CONDITION OF THE PROPERTY LOCATED AT THE ADDRESS STATED BELOW, AS IT EXISTED ON THAT DATE.

DATE: 08-03-09
OFFICER: T. Flanagan #1005
ADDRESS: 19092 Beach Blvd #J
CASE NUMBER: 2009-0188-253

ATTACHMENT NO. 2.3

PHOTOGRAPH DECLARATION



Item # a

☐ INITIAL INSPECTION PHOTOGRAPHS
☒ RE-INSPECTION PHOTOGRAPHS
☐ PRE-HEARING PHOTOGRAPHS

☐ PRE-ABATEMENT PHOTOGRAPHS
☐ POST ABATEMENT PHOTOGRAPHS

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT I TOOK THE PHOTOGRAPHS TRULY AND ACCURATELY DEPICT THE CONDITION OF THE PROPERTY LOCATED AT THE ADDRESS STATED BELOW, AS IT EXISTED ON THAT DATE.

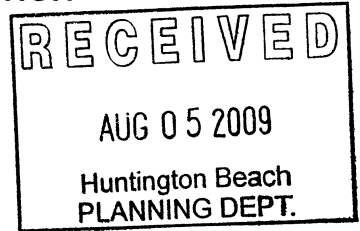
**DATE: 08-19-09
OFFICER: T. Flanagan #1005
ADDRESS: 19092 Beach Blvd #J
CASE NUMBER: 2009-0188-253**

ATTACHMENT NO. 2.4



CITY OF HUNTINGTON BEACH

INTER-DEPARTMENT COMMUNICATION



TO: Tess Nguyen
Planning Department

FROM: Detective Alan Caouette #1021
Police Department Vice Unit

SUBJECT: Metro Q (19092 Beach Blvd Suite J)

DATE: August 5, 2009

Since March 24, 2009 the Huntington Beach Police Department has documented the following incidents at Metro Q:

On April 18, 2009 at approximately 8:30 PM an 18 year old minor decoy from the Huntington Beach Police Department was served an alcoholic beverage by a bartender in violation of §25658(a) of the California Business and Professions Code. The incident was documented under report number 2009-006260.

On April 18, 2009 at 11:38 PM the Huntington Beach Police Department received a citizen's complaint regarding people talking loud to the front of the location. Responding officers advised the subject about the complaint. The incident was logged under call number 09044753.

On June 27, 2009 at 1:46 AM the Huntington Beach Police Department received a call regarding an assault; however the investigation revealed the intoxicated caller was escorted out of the location by staff for being too intoxicated. The incident was logged under call number 09074146.

On July 5, 2009 at 9:06 PM officers from the Huntington Beach Police Department conducted an inspection of the premise. During the inspection the officers observed patrons performing karaoke, which qualifies as entertainment per §5.44.020(c) of the Huntington Beach Municipal Code. The business does not have an Entertainment Permit as required by §5.44.010(a) of the Huntington Beach Municipal Code. The location was issued a \$250.00 Civil Citation. The incident was documented under report number 2009-010991.

No other calls for service or complaints have been received.

ATTACHMENT NO. 3.1



CITY OF HUNTINGTON BEACH

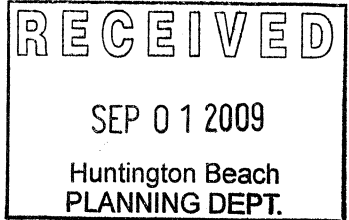
INTER-DEPARTMENT COMMUNICATION

TO: Tess Nguyen
Planning Department

FROM: Thomas Donnelly, Lieutenant
Acting Investigation Division Commander

SUBJECT: Metro Q (19092 Beach Blvd Suite J)

DATE: September 1, 2009



Since March 24, 2009 the Huntington Beach Police Department has documented four incidents at Metro Q. The incidents in nature do not demonstrate a detriment or quality of life issue to the community.

Two incidents were instigated by the police department to check compliance of applicable Huntington Beach Municipal Codes and Alcoholic Beverage Control laws. Since the initial violation, Metro Q has not had any repeated violations.

Two additional incidents involved loud talkers and an intoxicated person escorted from the bar. Both incidents were handled with no violation of law. There have been no additional reported violations to date.

Based on the low number and types of calls, the police department recommends Metro Q be allowed to continue operating under current conditions.

ATTACHMENT NO. 4.1