

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

TO: Zoning Administrator
FROM: Jill Arabe, Assistant Planner
DATE: August 12, 2009
SUBJECT: **CONDITIONAL USE PERMIT NO. 2009-008 (GUTYS RESTAURANT ALCOHOL SALES)**
LOCATION: 6441 McFadden Avenue, 92647 (north side of McFadden Avenue, west of Edwards Street)

**Applicant/
Business**

Owner: Aldo Duran, 6441 McFadden Avenue, Huntington Beach, CA 92647

Property

Owner: James Cox, 5366 Duncannon Avenue, Westminster, CA 92683

Request: To permit the establishment of on-site alcohol sales and consumption within an existing restaurant and outdoor dining area. The request also includes the establishment of a 576 sq. ft. outdoor dining area at the rear of the building.

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

Zone: CG (Commercial General)

General Plan: CN – F1 (Commercial Neighborhood – 0.35 Maximum Floor Area Ratio)

Existing Use: Restaurant

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

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

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

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2009-008:

1. Conditional Use Permit No. 2009-008 for the establishment, maintenance and operation of the on-site sales of alcohol and consumption within an existing restaurant and 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 existing building is located approximately 50 feet from residential uses to the west. Potential noise or traffic generated by the proposed use is not anticipated to negatively impact noise-sensitive uses to the west because the restaurant will be closed by 8 PM. Residential uses are buffered by a property line block wall, drive aisle, and parking lot. The outdoor dining use is surrounded by minimum five-foot high wood fencing. Entrance doors into the restaurant are located along the west side of the building facing the residential uses and the south side fronting McFadden Avenue. The door on the west side of the building will remain closed during business hours. Alcohol consumption will be limited to the interior of the business and rear patio area, and the service of food from the regular menu will be available during all business hours of operation. Also, the site provides the necessary parking to accommodate the project.
2. The conditional use permit will be compatible with surrounding uses because the sales and consumption of alcohol will occur on-site within the interior and rear outdoor dining area of the restaurant and during normal business hours of operation, similar to commercial uses within the vicinity. The restaurant is located within an existing commercial development and consistent with adjacent neighborhood oriented uses, which serve the local residents.
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. The restaurant with alcohol sales is located within an existing commercial center and complies with on-site parking requirements. Alcohol sales are permitted in the CG (Commercial General) zone subject to approval of a conditional use permit.
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 Neighborhood (CN) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

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

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 conditional use permit will cater to existing development by expanding a restaurant with alcohol sales and outdoor dining. 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 within an existing commercial center, which includes service and retail uses.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2009-008:

1. The site plan received and dated July 17, 2009 shall be the conceptually approved layout with the modification that two parking spaces (#6 and #44) are removed.
2. The use shall comply with the following:
 - a. The sale, service, and consumption of alcoholic beverages will be restricted to the interior and rear patio of the business. **(PD)**
 - b. Food service from the regular menu shall be available during all times the business is open to the public. **(PD)**
 - 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. The door located at the west side of the restaurant shall remain closed during regular business hours.
 - e. The hours of operation shall be as follows:
 - i. Monday through Saturday: 10 AM – 8 PM
 - ii. Sunday: 10 AM – 6 PM
3. 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.