

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

TO: Zoning Administrator
FROM: Tess Nguyen, Associate Planner
DATE: February 16, 2010

SUBJECT: **CONDITIONAL USE PERMIT NO. 10-031 (MAMA'S ON 39 AND MALIBU FISH GRILL ALCOHOL SALES)**

LOCATION: 21022 Beach Boulevard, Suite No. 101 (Mama's on 39) and Suite No. 105 (Malibu Fish Grill), 92646 (southeast corner of Beach Boulevard and Atlanta Avenue)

Applicant: Bijan Sassounian, 21190 Beach Boulevard, Huntington Beach, CA 92649 (Malibu Fish Grill)

Pete Truxaw, 21022 Beach Boulevard, #101, Huntington Beach, CA 92649 (Mamas on 39)

Property Owner: Bijan Sassounian

Request: To permit the sales and service of alcoholic beverages for on-site consumption within (a) an existing 5,000 sq. ft. restaurant and 900 sq. ft. outdoor dining area (**Mama's on 39 Restaurant**); and (b) an existing 3,450 sq. ft. restaurant and an approximately 400 sq. ft. outdoor dining area (**Malibu Fish Grill Restaurant**)

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

Zone: SP14 (Beach and Edinger Corridors Specific Plan – Neighborhood Center)

General Plan: M-sp-d (Mixed Use- Specific Plan- Design Overlay)

Existing Use: Vacant Commercial Suites

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 consists of minor alteration to a commercial suite within an existing shopping center.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 10-031:

1. Conditional Use Permit No. 10-031 to permit the sales and service of alcoholic beverages for on-site consumption within (a) an existing 5,000 sq. ft. restaurant and 900 sq. ft. outdoor dining area (Mama's on 39 Restaurant) and (b) an existing 3,450 sq. ft. restaurant and an approximately 400 sq. ft. outdoor dining area (Malibu Fish Grill Restaurant) 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 sales of alcohol within the restaurant and outdoor dining area are not anticipated to generate additional noise, traffic, or other impacts detrimental to surrounding properties and inconsistent with the subject properties' Beach and Edinger Corridors Specific Plan (SP 14) zoning. The main entrances of the restaurants and outdoor dining areas are oriented toward Beach Boulevard and Atlanta Avenue, away from residential uses located to the south and east of the subject site. The outdoor dining area shall be enclosed by a minimum 3 ft. high wall/fence. Residential uses are adequately buffered from the restaurants and outdoor dining areas by two adjoining roadways (Atlanta Avenue and Beach Boulevard) which provide a minimum 100 ft. separation, including a 110 ft. separation across an adjacent flood control channel to the east and a 900 ft. separation to the south.
2. The conditional use permits will be compatible with surrounding uses because the onsite sale and consumption of alcohol will be ancillary to a restaurant use and occur entirely within the building and outdoor dining area within an established commercial shopping center containing similar and complementary uses. The onsite alcoholic sales and consumption represents a negligible expansion of a restaurant use.
3. The proposed conditional use permits will comply with the provisions of the base district of SP 14 (Beach and Edinger Corridors Specific Plan—Neighborhood Center) and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. Alcohol sales are permitted within SP 14 zoning district with approval of a conditional use permit. The restaurant and outdoor dining area with alcohol sales will be located at an existing shopping center, which conforms to applicable site development standards in terms of minimum yard setbacks and minimum landscaping, and maximum floor area ratio.
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 M-sp-d (Mixed Use—Specific Plan Overlay—Design Overlay) on the subject property. In addition, it is consistent with the following policy and objective of the General Plan:

A. Land Use Element

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

Objective LU 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.

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.

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 proposed uses increase the economic viability of the establishments by offering the sales and service of alcoholic beverages to accommodate the entertainment and recreation needs of residents and visitors. The proposed uses will market its services to local residents and residents in the surrounding region thereby expanding the service-based commercial opportunities in the City. The uses will be located within an existing shopping center, which includes service related uses.

SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 10-031:

1. The floor plans received and dated December 3, 2010 shall be the conceptually approved design.
2. The use shall comply with the following:
 - a. Alcohol service and consumption shall be limited to the interior of the restaurant and bar, and within the confines of the fenced outdoor dining area. **(PD)**
 - b. A sign shall be clearly posted identifying that alcoholic beverages are not allowed outside of the restaurant/patio. **(PD)**
 - c. No dining or consumption of alcoholic beverages will be permitted on the outdoor patio areas between the hours of 10:00 PM and 7:00 AM. **(PD)**
 - d. Food service from the regular menu shall be available from the time the business opens to the public, until at least one (1) hour prior to the scheduled closing time. **(PD)**
 - e. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**

- f. The rear door shall be kept closed at all times during the operation of the premises, except in cases of emergency. Said door shall not consist solely of a ventilated or security screen door. **(PD)**
 - g. All owners, employees, representatives, and agents must obey all state, local, and municipal laws, and conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by a regulatory authority with jurisdiction over the premise; at all times.
 - h. Prior to the sales of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by ABC, shall be submitted to the Planning and Building Department. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
 - i. The use conditions listed herein shall be clearly posted on the premises at all times.
- 3. Conditional Use Permit No. 2010-031 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
 - 4. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems(<http://www.builditgreen.org/green-building-guidelines-rating>).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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