

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, August 12, 2009 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Ricky Ramos

**STAFF MEMBER:** Jill Arabe, Rami Talleh, Kimberly De Coite (recording secretary)

**MINUTES:** July 22, 2009  
July 29, 2009  
**APPROVED AS SUBMITTED**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: CONDITIONAL USE PERMIT NO. 2009-008 (GUTYS RESTAURANT ALCOHOL SALES)**

**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.

**LOCATION:** 6441 McFadden Avenue, 92647 (north side of McFadden Avenue, west of Edwards Street)

**PROJECT PLANNER:** Jill Arabe

Jill Arabe, Assistant Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions for approval as presented in the executive summary.

Ms. Arabe stated that staff had received no public comments.

Mr. Ramos noted that the proposed outdoor dining area is currently located in a parking area. He asked if the project would still comply with the parking requirements with the removal of those spaces. Ms. Arabe stated that it would. Mr. Ramos asked if additional parking would be provided for outdoor dining. Ms. Arabe stated that the site currently has a surplus of parking and no new spaces would be needed to meet parking requirements for outdoor dining. Mr. Ramos asked if the outdoor dining would be greater than five tables. Ms. Arabe stated that there are currently five tables for outdoor dining and could expand by adding more tables in the future.

Mr. Ramos asked if staff felt the rear enclosure was compatible with the surrounding building and painted to match. Ms. Arabe stated that staff had no concerns with the color and design of the enclosure due to its location on site. Mr. Ramos confirmed with staff that the enclosure would be a five foot tall wooden fence.

Mr. Ramos asked staff if the project would still comply with the parking requirement if two parking spaces were removed as required by suggested Condition of Approval No. 1. Ms. Arabe confirmed that the project would still comply with code and stated that the spaces listed in Condition No. 1 were not actually on site and the modification was intended to allow the site plans to accurately reflect the site.

Mr. Ramos asked if Condition No. 2(d) meant that the door would need to remain closed but would still be accessible during the day. Ms. Arabe confirmed this.

#### **THE PUBLIC HEARING WAS OPENED.**

Aldo Duran, applicant, stated that he had addressed his questions to staff prior to the meeting. Mr. Ramos asked Mr. Duran if he had any further concerns and Mr. Duran stated that he did not.

#### **THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Mr. Ramos stated that, based on the information provided, he could approve the request as recommended by staff with modifications to the Finding No. 4.

**CONDITIONAL USE PERMIT NO. 2009-008 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. STAFF STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

#### **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.

#### **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 and consumption of alcohol 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 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.

**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) shall be 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.

**THE MEETING WAS ADJOURNED AT 1:40 PM TO THE NEXT REGULARLY SCHEDULED MEETING ON WEDNESDAY, SEPTEMBER 9, 2009 AT 1:30 PM.**



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Ricky Ramos  
Zoning Administrator

RR:kdc