

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

**WEDNESDAY, August 5, 2009 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Ricky Ramos

**STAFF MEMBER:** Tess Nguyen, Rami Talleh, Kimberly De Coite (recording secretary)

**MINUTES:** **NONE**

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

**ITEM 1: CONDITIONAL USE PERMIT NO. 2009-011 (BOMBURGER RESTAURANT)**

**APPLICANT:** Jeff Bergsma, Architect

**PROPERTY**

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

**REQUEST:** To permit the establishment of a 1,489 sq. ft. take-out restaurant.

**LOCATION:** 200 Main Street, #114, 92648 (east side of Main Street, south of Olive Avenue)

**PROJECT PLANNER:** Tess Nguyen

Mr. Ramos stated that he understood that there had been an issue with the public notifications and asked staff to elaborate. Tess Nguyen, Associate Planner, stated that staff was made aware after the notices were mailed out that the building tenants had not been notified. She stated that the applicant and property owner had been made aware of this oversight and had contacted the tenants to inform them of the hearing and had them sign a petition acknowledging that they had been notified. She stated that one tenant, in Suite # 115, had not signed the petition and had contacted staff to express concern about the possible increase in noise.

Mr. Ramos asked the applicant when the petition had been circulated. Jeff Bergsma, applicant, indicated that, due to short notice, the petition had been circulated the previous night as well as the morning of the meeting. In response to Mr. Ramos, he indicated that no tenant expressed concern about not getting notified ten days prior to the hearing. He noted that a sign had been posted on the property for the previous two months and most of the tenants had already been made aware of the request. Mr. Ramos briefly reviewed the petition and then instructed staff to bring the project presentation.

Ms. Nguyen 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.

Staff noted that no public comments, outside of the one previously noted, had been received.  
**THE PUBLIC HEARING WAS OPENED.**

Mr. Bergsma, applicant, stated that he had reviewed the conditions of approval and had no issues with the hours of operation. He stated that he was working with the Public Works Department staff regarding the traffic impact fees and the classification of the restaurant.

Mr. Ramos noted that those issues were code requirements and not under his jurisdiction. He encouraged the applicant to continue working with the Public Works staff to resolve the issue.

Captain Chuck Thomas, Police Department, stated that the requested hours of operation (between 8:00am and 2:30am) were of concern for the Police Department. He recommended that the Zoning Administrator adopt the suggested condition of approval restricting the hours of operation to between 8:00am and 2:00am.

**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. 3.

**CONDITIONAL USE PERMIT NO. 2009-011 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 consists of minor alterations to a commercial suite involving no expansion to the existing building.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2009-011:**

1. Conditional Use Permit No. 2009-011 for the establishment of a 1,489 sq. ft. take-out restaurant 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 take-out restaurant will not generate additional noise, traffic, or other impacts detrimental to surrounding properties. The change of use from a retail space to a take-out restaurant space will not result in an intensification of use or create a parking impact. The site provides the necessary parking to accommodate the proposed take-out restaurant based on the shared parking concept of the Downtown Parking Master Plan.

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.
3. The proposed conditional use permit will comply with the provisions of the Downtown Specific Plan 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 take-out restaurant will be located within an existing commercial center. Since the parking requirement for a retail use and for a take-out restaurant is the same, there would be no impact on the parking requirement for the proposed change in use. There is no physical expansion of the approved development proposed as part of the request.
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 including the following policies and objectives identified in the General Plan:

A. Land Use Element

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.

The proposed use will provide a new visitor-serving commercial venue within the Downtown that is consistent with the Land Use Density Schedules for the Downtown and is compatible with surrounding mixed-use development.

B. Coastal Element

Policy C 3.2.4 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 the commercial viability of downtown Huntington Beach and will expand the available visitor-serving commercial uses within the Coastal Zone.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2009-011:**

1. The site plan and floor plans received and dated June 22, 2009 shall be the conceptually approved design.

2. The use shall comply with the following:
  - i. The hours of operation for the restaurant shall be between 8:00 AM and 2:00 AM, seven days a week. (PD)
  - ii. A maximum of 12 seats shall be permitted in the dining area.
3. Live entertainment, alcoholic beverage sales, and outdoor dining with alcohol sales shall not be permitted unless a conditional use permit for this specific use is reviewed and approved.
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/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, AUGUST 12, 2009 AT 1:30 PM.**



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Ricky Ramos  
Zoning Administrator

RR:kdc