

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

**WEDNESDAY, June 17, 2009 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Ricky Ramos

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

**MINUTES:** May 27, 2009  
**APPROVED AS SUBMITTED**

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

**ITEM 1: ENTITLEMENT PLAN AMENDMENT NO. 2009-004 (AYUMI JAPANESE GRILL –  
OUTDOOR DINING WITH ALCOHOL SALES)**

**APPLICANT:** Cathy Lewis  
**PROPERTY OWNER:** Brookhurst & Adams LLC, 2760 E Spring Street, #200, Long  
Beach, CA 90806  
**REQUEST:** To amend Conditional Use Permit No. 2008-042 to allow an  
approximately 400 sq. ft. of outdoor dining area with alcohol sales  
in conjunction with an existing 3,000 sq. ft. restaurant.  
**LOCATION:** 10035 Adams Avenue #101, 92646 (Northeast corner of Adams  
Avenue and Brookhurst Street)  
**PROJECT PLANNER:** Tess Nguyen

Tess Nguyen, Associate 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 of approval as presented in the executive summary.

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

Mr. Ramos asked staff if the hours of operation for the outdoor dining area were consistent with the hours of operation for the restaurant. Ms. Nguyen confirmed that they were.

Mr. Ramos asked if there were specific design details for the railing required in Condition No. 2(a). Ms. Nguyen stated that it would be open wrought iron railing.

Mr. Ramos asked staff about a particular feature on the plans. Ms. Nguyen stated that the feature was a concrete planter that was above bench height. Mr. Talleh asked if it was a public art feature and Ms. Nguyen stated that it was not.

**AS THERE WERE NO PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST THE PUBLIC HEARING WAS NOT OPENED.**

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

**ENTITLEMENT PLAN AMENDMENT NO. 2009-004 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 it consists of the operation and minor alteration of an existing commercial structure involving negligible expansion of use beyond that previously existing.

**FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 2009-004:**

1. Entitlement Plan Amendment No. 2009-004 for an amendment to an existing Conditional Use Permit to allow an approximately 400 sq. ft. of outdoor dining area with alcohol sales in conjunction with an existing 3,000 sq. ft. 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 use will not generate additional noise, traffic, or other impacts at levels inconsistent with the commercial zoning applicable to the subject property. The outdoor dining area of the restaurant is oriented towards Adams Avenue, away from residential units. Residential uses to the north of the subject site will be adequately buffered from the outdoor dining area by an approximately 185-foot separation, including a 80-foot deep, one-story commercial building and a 6-foot high block wall separating the two properties.
2. The Entitlement Plan Amendment 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. In addition, the outdoor dining area represents only a negligible expansion of an existing restaurant use located within an existing commercial center with adequate parking capacity. It is adequately buffered from residential land uses to ensure no detrimental impact.
3. The proposed Entitlement Plan Amendment 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 (HBZSO). The proposed use is permitted by entitlement in the CG (Commercial General) zone pursuant to Section 211.04 of the HBZSO—CO, CG, and CV *Districts: Land Use Controls*. No additional parking is required for outdoor dining area less than 400 sq. ft.
4. The granting of the Entitlement Plan Amendment 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 goals and policies of the General Plan:

a. Land Use Element

Policy 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

Objective 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 Entitlement Plan Amendment will accommodate existing development by allowing the addition of an outdoor dining area 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.

**CONDITIONS OF APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 2009-004:**

1. The site plan, floor plans, and elevations received and dated April 22, 2009 shall be the conceptually approved design.
2. The use shall comply with the following:
  - a. The security railing for the outdoor dining area shall be designed and installed in a manner that does not obstruct a view of the outdoor dining area or the south side of the business from the parking lot. **(PD)**
  - b. The outdoor dining area shall not be utilized as a storage area for restaurant equipment. **(PD)**
  - c. Window coverings shall not prevent a clear view of the outdoor dining area by employees working inside the restaurant. **(PD)**
  - d. 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.
  - e. Only the uses/activities described in the project narrative received April 22, 2009 shall be permitted.

**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.

**ITEM 2: CONDITIONAL USE PERMIT NO. 09-005 (WOODSON NURSERY)**

APPLICANT: Tim Woodson, Short Term Plant Rental  
PROPERTY OWNER: Southern California Edison, 14799 Chestnut Street, Westminster, CA 92685  
REQUEST: To permit the operation of a wholesale plant nursery for five (5) years (2009-2014).  
LOCATION: 7490 Center Avenue, 92647 (south side of Center Avenue, east of Gothard 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 the request is a result of Code Enforcement activity. The business owner was cited for construction without building permits, overgrown weeds, and placement of structures within the required setback. She stated that the applicant is in the process of resolving those issues.

Ms. Arabe stated that staff had received no public comments. Ms. Arabe stated that the applicant has a general history of consistency and compliance. She noted that all suggested conditions included in the executive summary were inherited from the previous conditional use permit.

Mr. Ramos inquired if the current plan was identical to the original plan. Ms. Arabe stated that it was.

Mr. Ramos asked staff what changes would be required if the use were proposed on a permanent basis. Ms. Arabe stated that the existing fence would need to comply with the minimum required setback. She noted that a 10 foot wide landscaping planter would be required. Mr. Ramos indicated that a striped parking lot would likely also be required.

Mr. Talleh noted that suggested Condition No. 3 was added due to this application being an extension of a current use. He noted that use was originally established as a temporary use

and has remained at the site since 1988. He stated that if the use remained on the site beyond the five year period all applicable code requirements may be applied to the use.

Mr. Ramos asked if there were any other prior Code Enforcement history. Ms. Arabe stated that there was not.

Mr. Ramos asked if Condition No. 2(f) was also carried over from the original Conditional Use Permit. Ms. Arabe confirmed that it was.

Mr. Ramos disclosed that, while working at the Planning Department front counter, he had assisted the applicant and staff members from Southern California Edison in ascertaining the status of the application and the requirements for a permit.

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

Tim Woodson, applicant, stated that he had reviewed the conditions and discussed them with staff and had no comments or questions.

#### **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 minor modifications to the Findings for Approval.

**CONDITIONAL USE PERMIT NO. 09-005 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 or no expansion of use beyond that previously existing.

#### **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2009-005:**

1. Conditional Use Permit No. 2009-005 to permit the operation of a plant/tree rental and wholesale plant nursery for five years (2009-2014) 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 use will not generate traffic, or demand for parking incompatible with the character of the area, or other negative impacts to surrounding properties. The project site, owned by Southern California Edison (SCE), contains two electrical towers on the western portion of the lot; therefore the nursery operation occurs primarily on the eastern portion of the site, adjacent to railroad tracks. The use was previously established and maintained for the past 20 years. It will adhere to and maintain consistency with previous conditions of approval.

2. The conditional use permit will be compatible with surrounding uses because the plant/tree rental and wholesale nursery is a low impact use in the commercial zone. The operation involves the growth and delivery of plants and flowers to businesses and restaurants, and does not involve retail sales. Also, the nursery operation occurs primarily near the railroad tracks, located east of the site, away from existing commercial uses. The conditional use permit will allow the continuation of the nursery for five years.
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 (HBZSO) and any specific condition required for the proposed use in the district in which it would be located. The proposed use is permitted in the CG (Commercial General) zone, subject to conditional use permit approval, pursuant to Section 211.04 of the HBZSO – *CO, CG, and CV Districts: Land Use Controls*. The project is located within an existing SCE site and will not affect the previously approved parking, landscaping, setbacks, or building height.
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 goals and policies of the General Plan:

LU 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

LU 7.1.3: Allow for the continued occupancy, operation, and maintenance of legal uses and structures that exist at the time of the adoption of the General Plan and become non-conforming due to use, density, and/or development requirements.

The wholesale plant nursery has been established for several years to provide plants and flowers to businesses. The operation does not require additional development requirements because it remains consistent and in substantial conformance to previous conditions of approval. As proposed, the trees along the north and east of the site will provide limited screening of the nursery and low profile site.

#### **CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2009-005:**

1. The site plan, floor plans, and elevations received and dated May 4, 2009, shall be the conceptually approved design with the following modifications:
  - a. Trees in containers shall be placed along the north and east property lines without encroaching into the 10 foot by 10 foot site angle cutoff requirement.
  - b. Greenhouse, shade house and office/trailer shall be setback from any property lines a minimum of 10 feet.
2. The use shall comply with the following:
  - a. All outside lighting shall be directed to prevent "spillage" onto adjacent properties.
  - b. Chemical spraying is prohibited.

- c. All chemicals used or stored at the subject site shall be approved by the Orange County Agricultural Department, as required by law.
  - d. The site and access road shall be maintained with gravel ground cover or other suitable material to control dirt and dust.
  - e. No signs shall be permitted that indicate the use is commercial or for retail sales.
  - f. The use shall be limited to plant/tree rentals and occasional wholesale sales only. Retail/commercial sales to the public are prohibited.
  - g. Only the uses described by the submitted narrative dated May 4, 2009, shall be permitted.
3. This conditional use permit shall be void at the end of five years from the date of final approval unless a request is submitted to continue the use. At that time, the nursery may be required to comply with current development standards of the HBZSO.
  4. Modifications per Condition No. 1 shall be completed within 30 days from the effective date of approval of this entitlement.
  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.

**THE MEETING WAS ADJOURNED AT 1:45 PM TO THE NEXT REGULARLY SCHEDULED MEETING ON WEDNESDAY, JULY 8, 2009 AT 1:30 PM.**



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Ricky Ramos  
Zoning Administrator

RR:kdc