

# CITY OF LONG BEACH

# H-2

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 4<sup>th</sup> Floor Long Beach, CA 90802 (562) 570-5237 Fax: (562) 570-6205

May 11, 2010

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Receive supporting documentation into the record, conclude the public hearing, deny the appeal, and uphold the Planning Commission decision to approve a Modification to a Conditional Use Permit and Local Coastal Development permit to upgrade an alcohol license from a Type 41 (beer and wine) to a Type 47 (beer, wine, and distilled spirits) at an existing restaurant located at 5734 East 2<sup>nd</sup> Street, and withdraw the public notice of protest approved by the City Council on January 19, 2010. (District 3)

## DISCUSSION

On March 4, 2010, the Planning Commission voted 5-1 to approve a Modification to a Conditional Use Permit and a Local Coastal Development Permit to upgrade an alcohol license from a Type 41 (beer and wine) to a Type 47 (beer, wine, and distilled spirits) located at a 2,400-square-foot restaurant use at 5734 East 2<sup>nd</sup> Street (Exhibit A – Plans and Photographs). The Planning Commission decision was appealed on March 15, 2010 (Exhibit B - Appeal). The appellants contend that the proposed hours of operation are unacceptable. Planning staff recommended that on-premise liquor sales end at 11:00 p.m. on weekdays and 11:30 p.m. on weekends (Exhibit C – Findings and Conditions of Approval). The Planning Commission approved Planning staff's recommended hours of operation, and mandated additional security measures including: (1) requiring the business owner to provide a security patrol car, and (2) requiring the installation of an alarm system at the rear exit doors.

The restaurant has been operating at the subject site since 1997 without negative impacts to the neighborhood. The Long Beach Police Department (LBPd) has reviewed the request and has no objection to approval. Though the project site is not located in a high crime area per LBPd, it is in an over concentrated district for on-site alcohol sales uses. ABC reports that the existing liquor license for the subject property is in good standing and the restaurant has no history of nuisance or disorder at the site. This approval will not add to the concentration of alcohol licenses in this Census Tract given that this is an upgrade of an existing license. With the incorporated Conditions of Approval, staff is recommending approval (Exhibit C – Findings and Conditions of Approval).

On January 19, 2010, the City Council voted to submit a public notice of protest to ABC

HONORABLE MAYOR AND CITY COUNCIL

May 11, 2010

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because the City's administrative process had not yet been completed. If the appeal is denied, this public notice of protest should be withdrawn so that the applicant can complete its process with ABC.

This letter was reviewed by City Attorney Michael Mais on April 15, 2010 and by Budget Management Officer Victoria Bell on April 26, 2010.

TIMING CONSIDERATIONS

The Municipal Code requires City Council action within 60 days of positive action by the Planning Commission, which took place on March 4, 2010.

FISCAL IMPACT

There is no fiscal impact and no job impact associated with the recommended action.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



*for* REGINALD I. HARRISON  
INTERIM DIRECTOR OF DEVELOPMENT SERVICES

RH:DB:JR

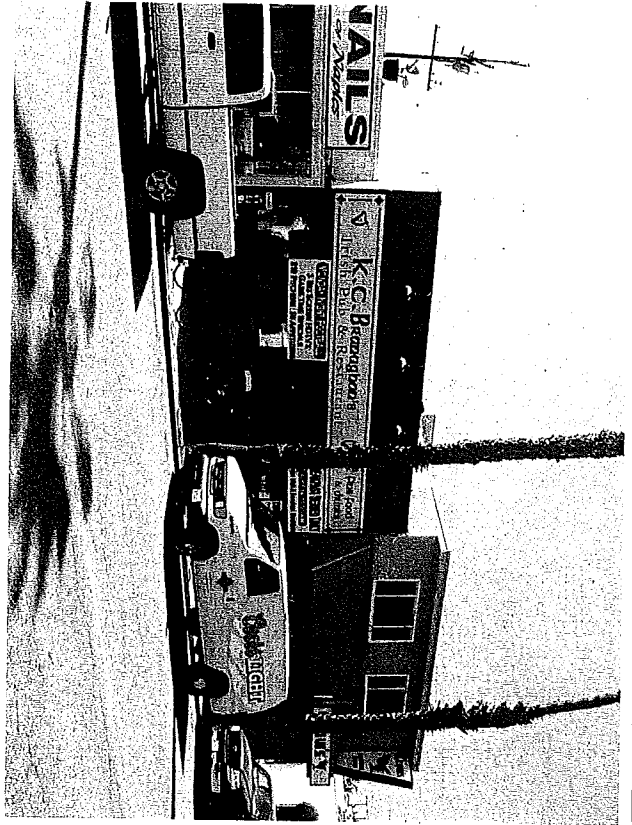
P:\Planning\City Council Items (Pending)\Council Letters\2010-06-07\CC5734 E 2<sup>nd</sup> Street

Attachments: Exhibit A – Plans and Photographs  
Exhibit B – Appeal  
Exhibit C – Findings and Conditions of Approval

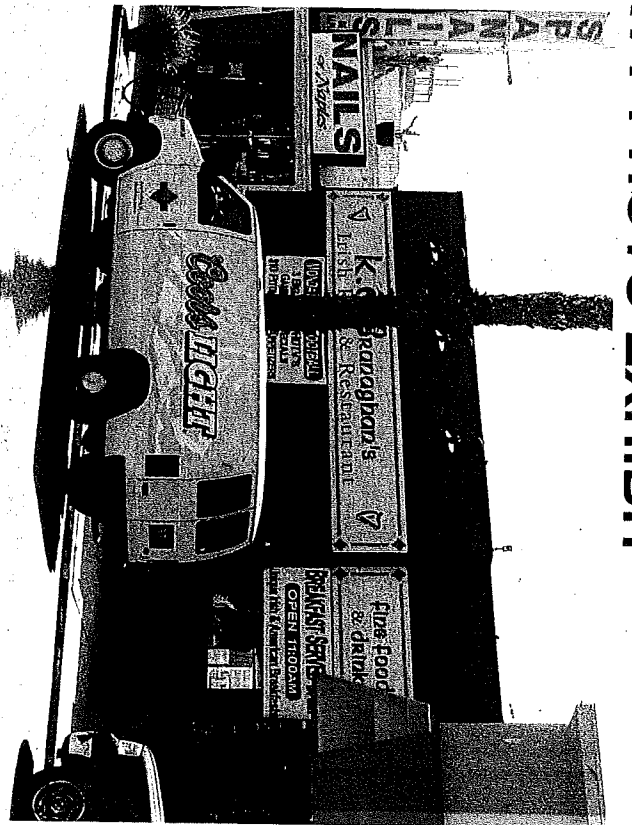
APPROVED:

  
\_\_\_\_\_  
PATRICK H. WEST  
CITY MANAGER

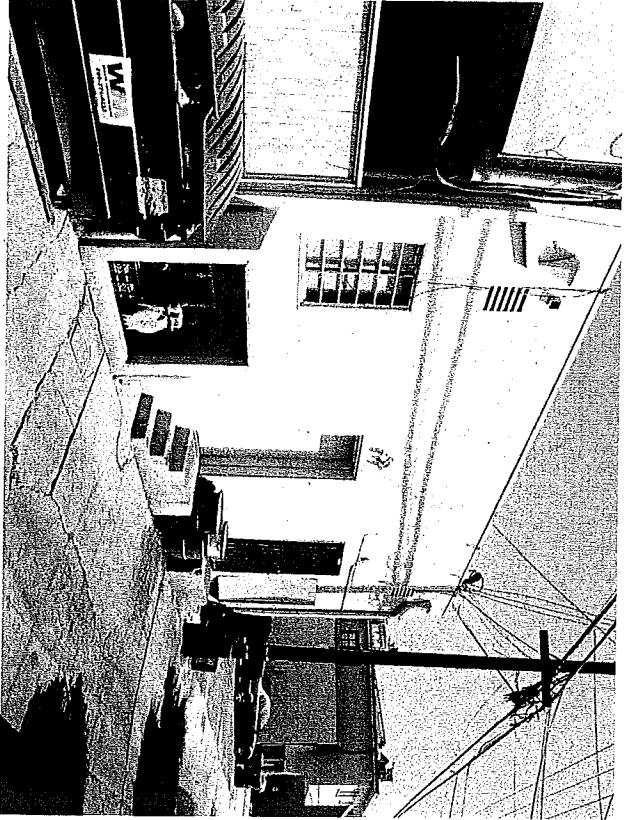
SUBJECT PROPERTY PHOTO EXHIBIT



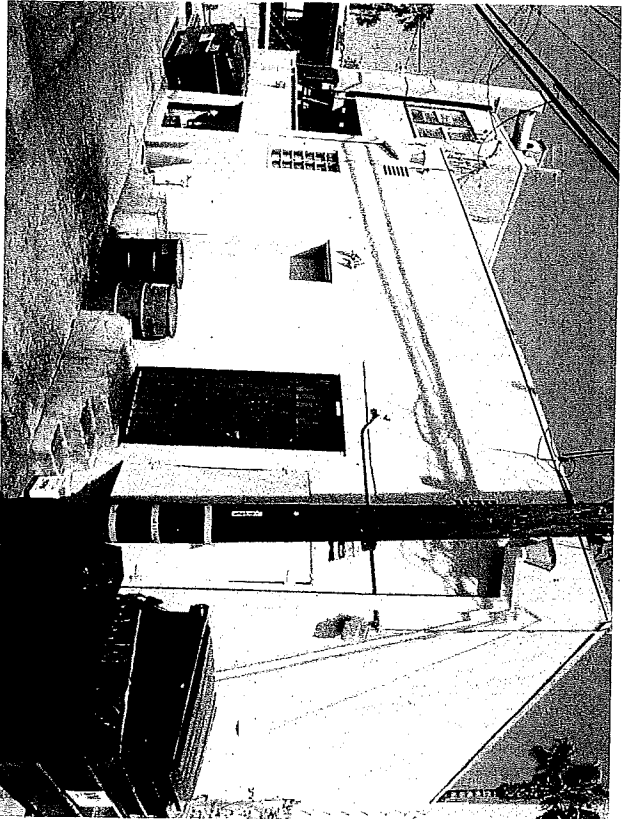
1. Northeast



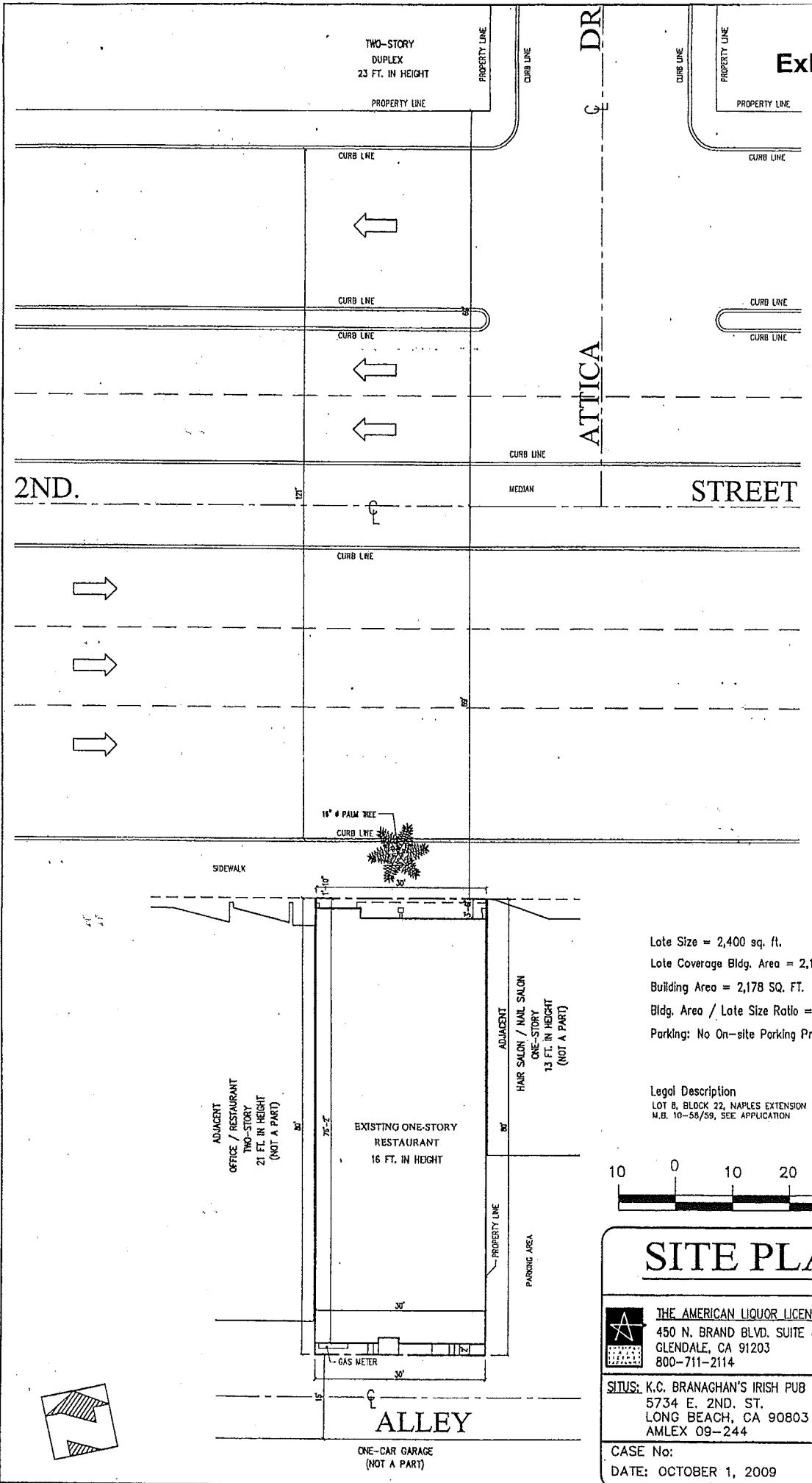
2. North



3. Southeast



4. South




Lote Size = 2,400 sq. ft.  
 Lote Coverage Bldg. Area = 2,178 Sq.Ft.  
 Building Area = 2,178 SQ. FT.  
 Bldg. Area / Lote Size Ratio = 0.9  
 Parking: No On-site Parking Provided

Legal Description  
 LOT B, BLOCK 22, NAPLES EXTENSION TRACT  
 M.B. 10-58/59, SEE APPLICATION



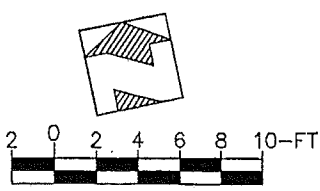
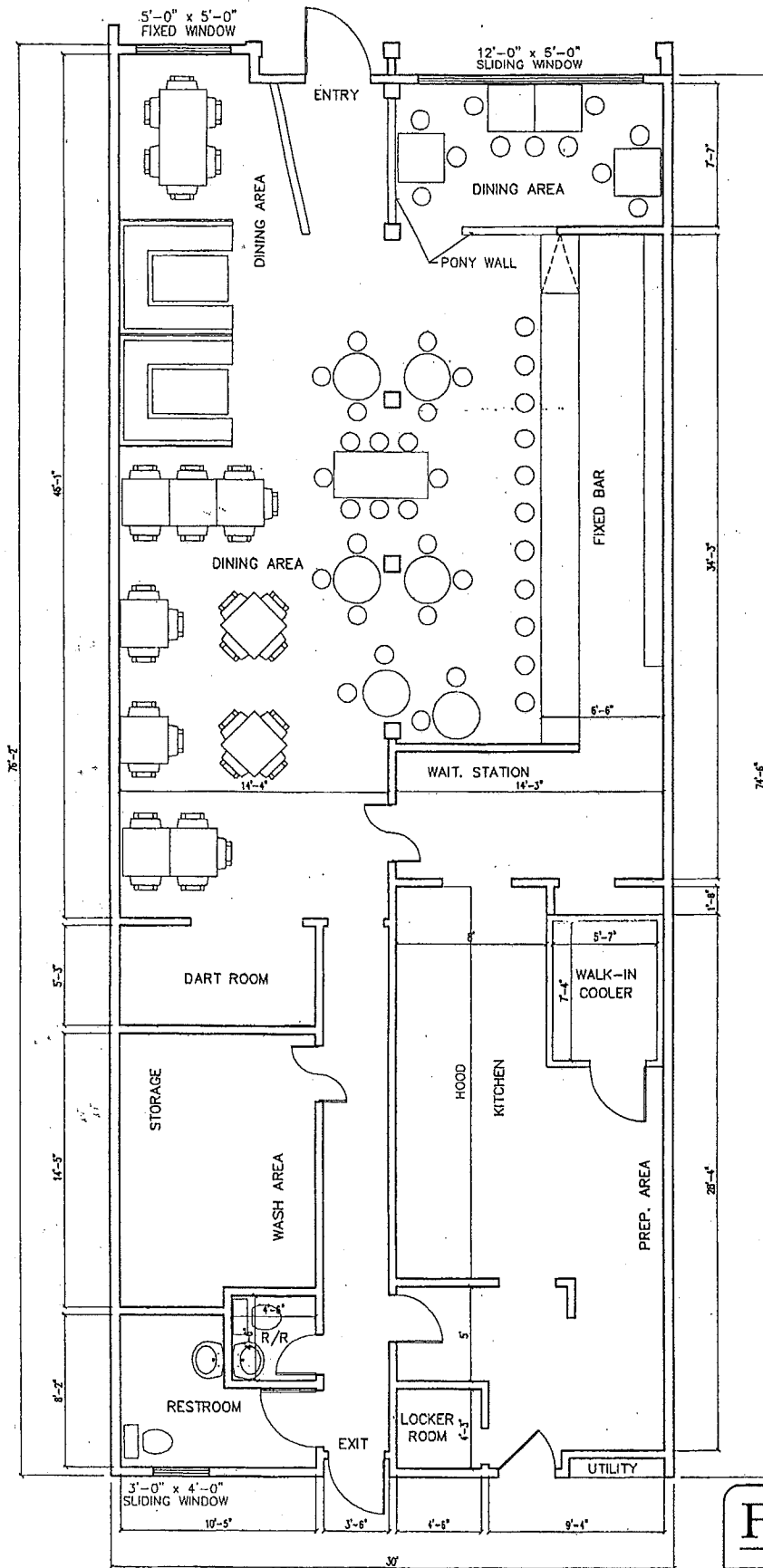
## SITE PLAN

 THE AMERICAN LIQUOR LICENSE EXCHANGE  
 450 N. BRAND BLVD. SUITE 600  
 GLENDALE, CA 91203  
 800-711-2114


SITUS: K.C. BRANAGHAN'S IRISH PUB & RESTAURANT  
 5734 E. 2ND. ST.  
 LONG BEACH, CA 90803  
 AMLEX 09-244

CASE No:  
 DATE: OCTOBER 1, 2009

**Exhibit A**



**FLOOR PLAN**


**THE AMERICAN LIQUOR LICENSE EXCHANGE**  
 450 N. BRAND BLVD. SUITE 600  
 GLENDALE, CA 91203  
 800-711-2114  
**SITUS: K.C. BRANAGHAN'S IRISH PUB & RESTAURANT**  
 5734 E. 2ND. ST.  
 LONG BEACH, CA 90803  
 AMLEX 09-244  
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# CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5<sup>th</sup> Floor

Long Beach, CA 90802

(562) 570-6194

FAX (562) 570-6088

## APPLICATION FOR APPEAL

An appeal is hereby made to Your Honorable Body from the decision of the

|   |  |
|---|--|
| <input type="checkbox"/> Zoning Administrator           | on the <u>4</u> day of <u>March</u> , 20 <u>10</u> |
| <input checked="" type="checkbox"/> Planning Commission |  |
| <input type="checkbox"/> Cultural Heritage Commission   |  |
| <input type="checkbox"/> Site Plan Review Committee     |  |

Appellant(s): Sandra Denisac, Cindy Bambram

Project Address: KC Branaghan's, 5734 E 2<sup>nd</sup> St. Long Beach

Reasons for Appeal:

This licensing process has been out of the regular order. The appellants do not wish to deny the application but would like the council to consider one additional condition for approval. We request that operating hours of this establishment be changed to closing at 10 pm Sunday - Thursday and 11 pm on Friday + Saturday, as done similarly with Lucilles in Belmont Shore

Your appellant herein respectfully requests that Your Honorable Body  ~~reject~~ <sup>amend</sup> the decision and  Approve <sup>with amendment</sup> ~~this application.~~ <sup>ORDER</sup>  Deny

|            | Appellant 1              | Appellant 2             |
|------------|--------------------------|-------------------------|
| Name:      | <u>Sandra Denisac</u>    | <u>Cindy Bambram</u>    |
| Address:   | <u>5741 Campo Walk</u>   | <u>5792 Campo Walk</u>  |
| City/ZIP:  | <u>Long Beach Ca</u>     | <u>Long Beach 90803</u> |
| Phone:     | <u>90803</u>             | <u>562-433-2303</u>     |
| Signature: | <u>Sandra M. Denisac</u> | <u>Cindy Bambram</u>    |
| Date:      | <u>3/15/10</u>           | <u>3/15/2010</u>        |

Attach additional sheets if necessary for further appellants.

Appeals must be filed within 10 days after the decision is made (LBMC 21.21.502).

(Staff Use Only Below This Line)

Received by: SV App. No.: 1001-02 Filing Date: 3/15/2010

Materials Required:  Plans  Photographs  Special Materials

Fee: \$52.00  Fee Paid Project (receipt) No.: PZON12562

**MODIFICATION TO AN APPROVED PERMIT  
CONDITIONAL USE PERMIT  
CONDITIONS OF APPROVAL**

5734 E. 2<sup>nd</sup> Street

Application No. 1001-02

Date: March 4, 2010

1. The use permitted on the subject site, in addition to the other uses permitted in the CNP zoning district, shall be to allow the upgrade of a liquor license from a Type 41 to a Type 47 to an existing restaurant with a fixed bar.
2. This permit and all development rights hereunder shall terminate one year from the effective date of this permit unless construction is commenced or time extension is granted, based on a written and approved request submitted prior to the expiration of the one year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
3. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the *Conditions of Approval Acknowledgement Form* supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date).

**Special Conditions:**

4. This approval allows the existing liquor license at the subject location to be upgraded from a Type 41 (beer and wine only) to a Type 47 (beer, wine, and distilled spirits) for on-premises sales at a bona fide eating establishment.
5. There shall be no expansion of the existing fixed bar or dining area allowed. The restaurant shall maintain the existing size and square footage of these areas as shown on the current plans dated October 1, 2009.
6. The subject location shall be maintained as a sit-down restaurant with a full menu available at the bar and the surrounding dining area. Any change in the operation shall be reviewed by the Director of Development Services to ensure compliance with this approval. Any major modifications shall be reviewed by the Planning Commission.
7. In the event the restaurant business at the subject location is sold to another entity or person, the rights granted under this Conditional Use Permit will be modified to the extent that the liquor license shall be downgraded to a Type 41 alcohol (beer and wine only) license. If the new owner wishes to upgrade

Conditions of Approval

Case No. 1001-02

Date: March 4, 2010

Page 2 out of 4

to a Type 47 license (beer, wine, and distilled spirits), they will be required to apply for a Conditional Use Permit and the Planning Commission shall review and act on that request.

8. On-premise liquor sales shall end at 11:00 PM on weekdays and 11:30 PM on weekends. Liquor sales for off-premises consumption shall be prohibited. The applicant may submit for a modification of this condition after one year of this application's final action date for administrative consideration of extended hours of alcohol sales
9. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
10. The permittee shall maintain full compliance with all applicable laws, ABC laws, ordinances and stated conditions. In the event of a conflict between the requirements of this permit, Conditional Use Permit, or Alcoholic Beverage Control license, the more stringent regulation shall apply.
11. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
12. No live entertainment that requires the approval of an Entertainment Permit through the Business License Division shall be allowed.
13. The area abutting the alley behind the restaurant shall be kept in a neat and orderly condition at all times. Trash and recycling containers shall be stored out of the public alley. Containers shall be kept closed and shall not be overflowing with refuse. Open storage of supplies, equipment, products, or other materials shall be prohibited.
14. During the hours of operations, the rear door of the establishment shall remain closed at all times except to accept deliveries and in cases of an emergency.
15. Deliveries to and from the premises shall be limited to the hours of 8:00 Am to 10:00 PM.
16. The operator of the approved use shall prevent loitering in all parking areas and landscaping areas serving the use during and after hours of operation. The operator must clean the parking areas of trash and debris on the daily basis. Failure to comply with this condition shall be grounds for permit revocation. If loitering and/or noise problems develop, the Director of Development Services may require additional preventative measures such as, but not limited to, additional lighting or private security guards. The



applicant may submit for a modification of this condition after one year of this application's final action date for administrative consideration of removal of this condition.

17. The operator shall install an alarm system at the rear exit doors along with security cameras and lighting along the alleyway.
18. The applicant shall provide a security patrol car to patrol the premises at all times.

**Standard Conditions:**

19. If, for any reason, there is a violation of any of the conditions of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
20. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These specific requirements must be recorded with all title conveyance documents at time of closing escrow.
21. This approval is required to comply with these conditions of approval as long as the use is on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of city officials, to verify compliance. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by City Council (Sec. 21.25.412, 21.25.212).
22. All conditions of approval must be printed verbatim on all plans submitted for plan review to the Department of Development Services. These conditions must be printed on the site plan or a subsequent reference page.
23. The Director of Development Services is authorized to make minor modifications to the approval design plans or the any of the conditions of approval if such modifications shall not significantly change/alter the approved design/project. Any major modifications shall be reviewed by the Zoning Administrator or Planning Commission, respectively.
24. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of exterior facades of the building, designated parking areas serving the use, fences

Conditions of Approval

Case No. 1001-02

Date: March 4, 2010

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and the perimeter of the site (including all public parkways).

25. Any graffiti found on site must be removed within 24 hours of its appearance.
26. The applicant shall defend, indemnify, and hold harmless the City of Long Beach, its agents, officers, and employees from any claim, action, or proceeding against the City of Long Beach or its agents, officers, or employees brought to attack, set aside, void, or annul an approval of the City of Long Beach, its advisory agencies, commissions, or legislative body concerning this project. The City of Long Beach will promptly notify the applicant of any such claim, action, or proceeding against the City of Long Beach and will cooperate fully in the defense. If the City of Long Beach fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Long Beach.

**MODIFICATION TO AN APPROVED PERMIT  
CONDITIONAL USE PERMIT  
FINDINGS**

5734 E. 2<sup>nd</sup> Street

Application No. 1001-02

MARCH 4, 2010

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, a Conditional Use Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption and incorporation into the record of proceedings:

1. **THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;**

The project site is located in Land Use District #8P – Pedestrian-Oriented Retail Strip District. LUD #8P is intended to preserve areas of small-scale neighborhood-serving retail and personal service uses where shoppers arrive by foot, or park a car once and walk to several destinations. Restaurants and bars are identified as consistent with the requirements of this district, so the principal use of the site is consistent with the General Plan. No specific plan applies to the subject site. The site is located in area (E) of the Local Coastal Plan and the request to upgrade the existing liquor license with no additional square footage is consistent with requirements of the plan. The project is also consistent with the zoning regulations of the CNP district, as the on-site sale of alcoholic beverages at a restaurant with a fixed bar is allowed through the Conditional Use Permit process in this district.

2. **THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE; AND**

The proposed use will not be detrimental to the surrounding community. A restaurant has been operating at the subject site since 1997 and was licensed under the name of Limericks restaurant which was sold in 2008 to the current restaurant owner K. C. Branaghan's. The restaurant has an existing Type - 41 liquor license from the California Department of Alcoholic Beverage Control (ABC) approved since 1997. The current request to upgrade the liquor license to allow the sale of distilled spirits in addition to beer and wine will effectively expand the menu choices available at the restaurant and will have an insignificant potential to negatively affect the surrounding area. Approval of this Modification to an approved Conditional Use Permit will allow the City to place conditions of approval on this operation. These will include the hours of operation, hours of deliveries and no live entertainment without the approval of the city.

3. **THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR SPECIFIC CONDITIONAL USES, AS LISTED IN CHAPTER 21.52.**

Section 21.52.210 states that the following conditions shall apply to all alcoholic beverages sales uses requiring a conditional use permit:

- A. The operator of the use shall provide parking for the use equivalent to the parking required for new construction regardless of the previous use as to legal nonconforming rights.**

The restaurant has no on-site parking as the building itself occupies the entire lot; however, it retains vested nonconforming parking rights. The Conditional Use Permit request only involves the upgrade of the existing liquor license from a Type 41 to a Type 47. No additional dining area is being added and the existing fixed bar is not being expanded, thus the only change will be to the menu and the types of drinks that can be served with meals. Consequently, staff does not believe that the parking demand will be significantly increased, or that the use will generate any significant negative effects. For these reasons, staff requests the Planning Commission waive this finding.

- B. The operator of the use shall provide night lighting and other security measures to the satisfaction of the Chief of Police.**

Staff consulted with the Long Beach Police Department on this application. The LBPD did not have any objections to the request and felt the security measures and lighting in place on the site were sufficient and they did not request any specific upgrades to the site as a condition of approval.

- C. The operator of the use shall prevent loitering or other activity in the parking lot that would be a nuisance to adjacent uses and/or residential neighborhoods.**

The subject site has no parking lot. However, the conditions of approval will require that the operator prevent loitering and other related nuisances regardless of the lack of an on-site parking lot.

- D. The use shall not be in a reporting district with more than the recommended maximum concentration of the applicable on or off-premise sales use, as recommended by the Long Beach Police Department, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet floor area, and also providing fresh fruit, vegetables, and meat, in addition to canned goods.**

In consideration a Conditional Use Permit application for the sale of alcoholic beverages, staff evaluates the number of existing alcohol licenses in subject Census Tract as well as the total number of reported crimes in the subject Police Reporting District. Section 21.52.210 of the zoning regulations requires that the

**LOCAL COASTAL DEVELOPMENT PERMIT  
FINDINGS  
5734 E. 2<sup>nd</sup> Street  
Application No. 1001-02**

**1. THE PROPOSED DEVELOPMENT CONFORMS TO THE CERTIFIED LOCAL COASTAL PROGRAM, INCLUDING BUT NOT LIMITED TO ALL REQUIREMENTS FOR REPLACEMENT OF LOW AND MODERATE-INCOME HOUSING**

The site is located in the Naples area (Area E) of the Local Coastal Plan. The Naples neighborhood, specifically the 2<sup>nd</sup> Street corridor, is consistent with the CNP zone and includes pedestrian oriented neighborhood commercial uses with single-family and multi-family dwelling units surrounding the commercial area. As is typical with improvements near the coast, the pattern of development is dense and the Local Coastal Program does identify parking as an issue. However, the Local Coastal Program also takes note that the commercial uses along 2<sup>nd</sup> Street have existed for many years. The subject property has been a restaurant since the 1990's and has operated as K.C. Branaghan's since 2008. Now doing business as K.C. Branaghan's, the applicant is requesting an upgrade of the existing liquor license. As there is no additional square footage being added and the existing bar is not being expanded, the impact to parking will be minimal and the approval of the CUP will conform with the Local Coastal Program. No low and moderate-income housing will be removed as a result of this proposal.

**2. THE PROPOSED DEVELOPMENT CONFORMS TO THE PUBLIC ACCESS AND RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT.**

The subject property is not immediately adjacent to the beach and beach access points, thus there are no issues with public access or obstructing recreational opportunities for the public. The proposed development conforms to the public access and recreation policies of Chapter 3 of the Coastal Act.