



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

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Long Beach, CA 90802

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March 4, 2010

CHAIR AND PLANNING COMMISSIONERSCity of Long Beach
California**RECOMMENDATION:**

Approve a Modification to a previously approved 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) at an existing restaurant located at 5734 East 2nd Street within the CNP zone. (District 3)

APPLICANT: George Sabbagh
5734 E. 2nd Street
Long Beach, CA 90803
(Application No. 1001-02)

DISCUSSION

The subject site is located on Naples Island between Ravenna Drive and Campo Walk (Exhibit A – Location Map). The site is located within the Commercial Neighborhood Pedestrian District (CNP) and is developed with a total building area of 2,400 square feet (Exhibit B – Plans & Photographs). The existing structure occupies the entire lot and there is no parking available on the site. The applicant is proposing to modify a Conditional Use Permit approved in 1997 to upgrade the existing alcohol license with a fixed bar from a Type 41, which allows only beer and wine sales with meal service, to a Type 47 license that would allow the sale of distilled spirits for consumption with meals in addition to beer and wine. No other changes to the restaurant operations are proposed.

The restaurant has been operating at the subject site since 1997 without negative impacts to the neighborhood. The Police Department has reviewed the request and has no objection to approval. Staff has evaluated the number of existing alcohol licenses in the subject Census Tract as well as the total number of reported crimes in the subject Police Reporting District. The zoning regulations require that the use shall not be in a reporting district with an over concentration of alcohol sales, as recommended by the California Department of Alcoholic Beverage Control (ABC), and that the use shall not be in a reporting district with a high crime rate as reported by the Long Beach Police Department (LBPD). The project is not located in a high crime area per LBPD; however, it is in an over concentrated district for on-site alcohol sales. In the subject census tract (5775.01), three licenses for on-site alcohol sales are allowed and there are 12 existing, including the

CHAIR AND PLANNING COMMISSIONERS

March 4, 2010

Page 2 of 2

current Type 41 license at the existing restaurant (5734 East 2nd Street). 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 request will not add to the concentration of alcohol licenses in this Census Tract given the fact that this is an upgrade of an existing license. Staff believes that the approval of this application will have minimal impact upon parking in the surrounding area, and recommends Planning Commission approval of the Modification to an approved permit and a Local Coastal Development Permit subject to conditions (Exhibit C – Findings and Conditions of Approval).

PUBLIC HEARING NOTICE

A Notice of Application was sent to the local community groups on January 27, 2010, and public hearing notices were distributed on February 17, 2010, in accordance with the provision of the Zoning Ordinance. No responses have been received at this time.

ENVIRONMENTAL REVIEW

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, a Categorical Exemption (CE 10-003) was issued for the proposed project (Exhibit D – Categorical Exemption).

Respectfully submitted,



REGINALD I. HARRISON
INTERIM DIRECTOR OF DEVELOPMENT SERVICES

RH:DB:JR

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|-------------|--|
| Attachments | Exhibit A – Location Map |
| | Exhibit B – Plans & Photos |
| | Exhibit C – Findings & Conditions |
| | Exhibit D – Categorical Exemption 10-003 |

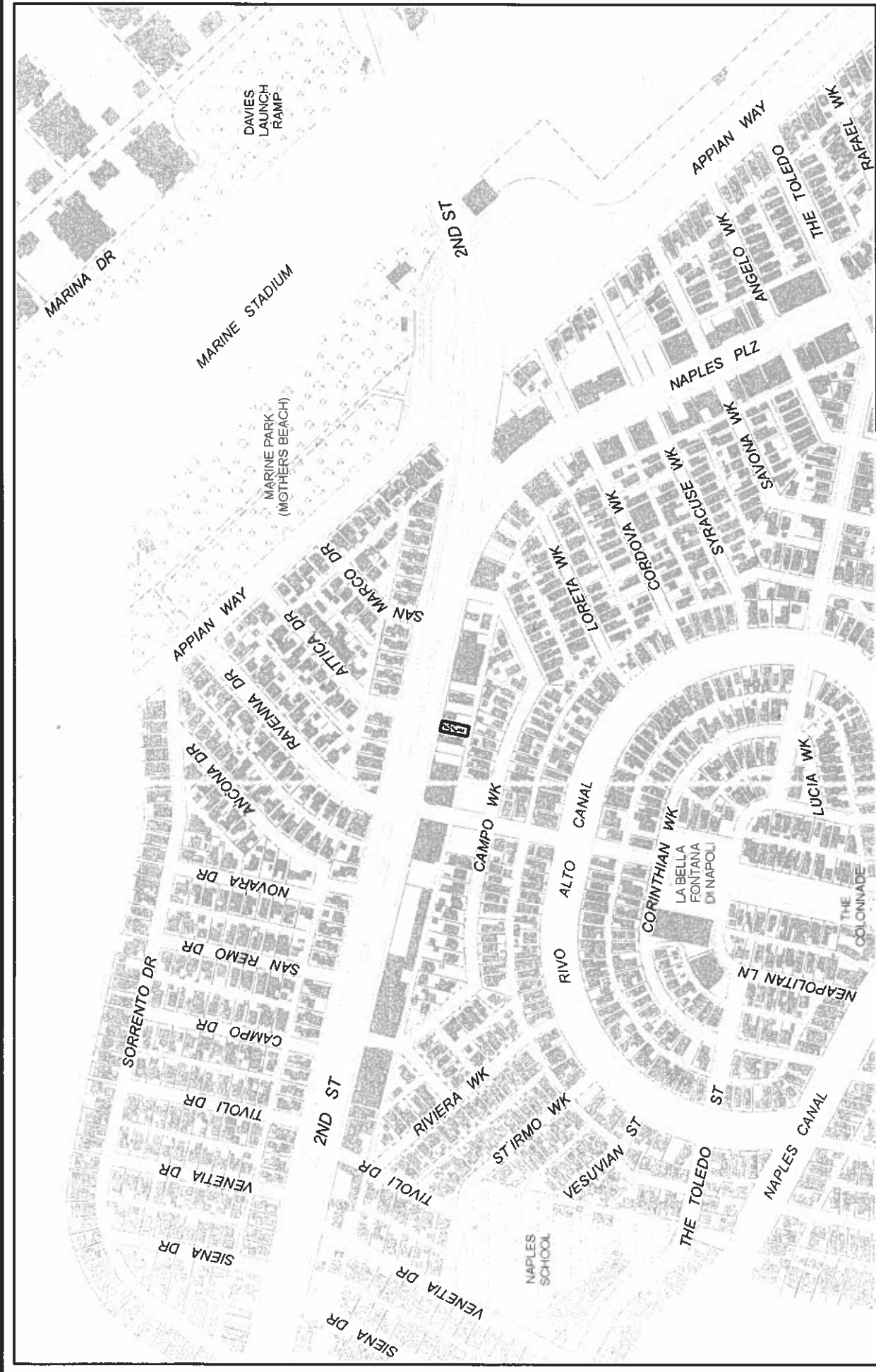
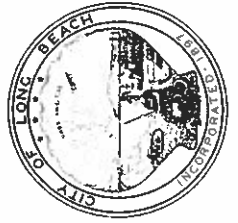


Exhibit A



Subject Property:
5734 2nd St
Application No. 1001-02
Council District 3
Zoning Code : CNP



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

5734 E. 2nd 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

- 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.

Standard Conditions:

17. 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.
18. 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.
19. 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).
20. 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.
21. 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.
22. 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 and the perimeter of the site (including all public parkways).
23. Any graffiti found on site must be removed within 24 hours of its appearance.
24. 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. 2nd 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

use shall not be in a reporting district with an over-concentration of alcohol sales, as recommended by the California Department of Alcoholic Beverage Control (ABC), and that the use shall not be in a reporting district with a high crime rate as reported by the Long Beach Police Department. The project is not located in a high crime area per LBPD; however, it is in an over-concentrated district for on-site alcohol sales. In the subject census tract (5775.01), 3 licenses for on-site alcohol sales are allowed and there are 12 existing. 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. Staff consulted LBPD for this application and they expressed no opposition to approval of this permit.

- E. The use shall not be located within 500 feet of a public school or public park, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat in addition to canned goods.**

The restaurant on the subject site is not located within 500 feet of a public school or public park.

**LOCAL COASTAL DEVELOPMENT PERMIT
FINDINGS
5734 E. 2nd 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 2nd 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 2nd 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.



CITY OF LONG BEACH NOTICE OF EXEMPTION

DEPARTMENT OF DEVELOPMENT SERVICES
333 W. OCEAN BLVD., 5TH FLOOR, LONG BEACH, CA 90802
(562) 570-6194 FAX: (562) 570-6068
lbs.longbeach.gov

TO: Office of Planning & Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: Department of Development Services
333 W. Ocean Blvd, 5th Floor
Long Beach, CA 90802

L.A. County Clerk
Environmental Fillings
12400 E. Imperial Hwy. 2nd Floor, Room 2001
Norwalk, CA 90650

Categorical Exemption CE- 10-003

Project Location/Address: 5734 E 2nd Street., Long Beach CA 90803

Project/Activity Description: _____

The applicant is requesting a modification of approved permit # 9612-19 to include the sale of a full line of alcoholic beverages type 47 in a bona fide restaurant for on-site consumption.

Public Agency Approving Project: City of Long Beach, Los Angeles County, California

Applicant Name: George Sabbagh

Mailing Address: 5734 E 2nd Street., Long Beach, CA 90803

Phone Number: 562-370-0975

Applicant Signature: _____

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1001-02 Planner's Initials: JK

Required Permits: Modification to an approved Conditional Use permit # 9612-19

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15301, Class 1, Existing Facilities

Statement of support for this finding: Existing restaurant

Contact Person: Sherrie Olson

Contact Phone: (909) 519-1899

Signature: Sherrie Olson

Date: 1/6/2010