

*(Amended by staff 1/13/94, Amended by CPC 1/13/94)*

**RESOLUTION NO. 1524**

ADOPTED BY THE SACRAMENTO PLANNING COMMISSION  
ON DATE OF JANUARY 13, 1994

A RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING A  
VARIANCE AND SPECIAL PERMIT FOR PROPERTY LOCATED AT 2724-  
2730 CAPITOL AVENUE

(P93-168) (APN: 007-0172-020 and 007-0172-010, 013, 014, 016, 017, 018  
and 019)

WHEREAS, the City Planning Commission on January 13, 1994 held a public hearing on the request for approval of a variance to provide off-site parking and a special permit to allow a sidewalk cafe at 2724- 2730 Capitol Avenue for Bernardo's Cafe.

WHEREAS, the proposed project is exempt from environmental review pursuant to State EIR Guidelines (CEQA Section 15305 a and b).

WHEREAS, the Planning staff has submitted to the City Planning Commission its report and recommendations on the proposed development;

WHEREAS, the Planning Commission adopts the following findings of fact for the variance:

1. Granting the variance does not constitute a special privilege extended to an individual property owner in that variances would be granted to other property owners facing similar circumstances.
2. Granting the variance would not be detrimental to the public welfare nor result in the creation of a public nuisance in that:
  - a. many patrons will walk to the site; and,
  - b. adequate off-site parking is made available;
3. Granting the variance does not constitute a use variance in that a restaurant is allowed in the General Commercial (C-2) zone.
4. The project is consistent with the General Plan and Central City Community Plan which designate the site for General Commercial uses.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF SACRAMENTO THAT:

1. This variance for five off-site parking spaces and a special permit for a 70 seat sidewalk cafe is hereby approved, subject to the following conditions:
  - a. Applicant shall continuously post information on ridesharing and the use of alternative forms of transportation (bicycling, walking, etc.). A transit pass subsidy of at least 50% of the cost of a Regional Transit monthly pass shall be made continuously available to all employees.
  - b. Bicycle racks shall be provided to the satisfaction of the Planning Director prior to issuance of occupancy permit(s).
  - c. Off-site parking lease(s) shall be continuously maintained for a minimum of five parking spaces. An annual report shall be submitted to the Planning Director (*in January each year*) providing the status of the off-site parking lease(s). Should the lease be terminated or expire, the applicant is responsible for obtaining new provisions for the off-site parking spaces. A new, or revised lease may for the five spaces may be approved by the ~~Zoning Administrator~~ *Planning Director*. Approval of any additional off-site parking or parking waivers shall be subject to the review and approval of the Planning Commission. Applicant shall begin lease negotiations for expiring leases six months prior to the expiration of each lease. (*Amended by staff 1/13/94*)
  - d. The arrangement of sidewalk seating and fencing shall be reviewed and approved by the Fire Department, *Transportation Division* and Planning Director prior to placement of the seats on the sidewalk. (*Amended by staff 1/13/94*)
  - e. A revocable encroachment permit shall be issued by the Zoning Administrator prior the placement of seats in the public right-of-way.
  - f. The seating must be visible for internal monitoring. Where windows are not appropriate for this purpose, closed circuit television shall be used.
  - g. Restaurant windows shall be left unobstructed to all viewing of the interior of the business by patrolling police.

- h. Signs shall be clearly posted and maintained on the premises prohibiting consumption of alcoholic beverages on the non permitted areas of the business or adjacent public areas. The signs shall be worded as follows: "UNLAWFUL TO ENTER, BE OR REMAIN ON ADJACENT PARKING LOT OR ADJACENT PUBLIC SIDEWALK WITH AN OPEN ALCOHOLIC BEVERAGE CONTAINER. C.P.C. 647E(A); S.C.C. 26.24(c)."
- i. Hours of operations of the sidewalk cafe dining area shall be 8 a.m. to 12 a.m. *When the sidewalk area is not in use for seating and service, all removable fixtures (i.e. chairs, planters, tables, etc.) shall be stored on the restaurant property. (Amended by staff 1/13/94)*
- j. The applicant shall be responsible for maintaining clean sidewalks during and following hours of sidewalk dining use and the removal of litter generated by the business in the immediate neighborhood.
- k. All illegal activities observed on or around the business shall be promptly reported to the police.
- l. If the applicant wishes to serve alcohol beverages, service is to be limited to the fenced area immediately adjoining the north entrance of the building. *The applicant may revise the plan to relocate the four foot walkway to the north in order to expand the enclosed area adjacent to the building subject to the review and approval of the Police Department and Zoning Administrator prior to issuance of the revocable permit (this will eliminate seating between the four foot walkway and the curb).* Alcohol service shall be limited to this enclosed area only subject to the following:
1. Sale of alcoholic beverages for consumption off of the premises is prohibited.
  2. Alcoholic beverages will be served in non-breakable containers. *(Amended by CPC 1/13/94)*
- m. *A minimum two foot clearance between the curb and fencing (or other decorative barrier), as shown on the site plan, shall be maintained for parking meter access. (Amended by staff 1/13/94)*

- n. The proposed materials and colors for the fencing (or alternative decorative barrier), sidewalk furniture and awnings shall be submitted for the review and approval of Design Review staff prior to issuance of the Encroachment Permit. (Amended by staff 1/13/94)

Michael M. Reyer  
CHAIRPERSON

ATTEST:

Suzanne Hemstad  
SECRETARY TO PLANNING COMMISSION

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