

CITY PLANNING COMMISSION

1231 "I" STREET, SUITE 200, SACRAMENTO, CA 95814

APPLICANT:	<u>Greg Hatfield, 7979 Hanford Way, Sacramento, CA 95823</u>		
OWNER:	<u>Richard Mendoza, 2728 J Street, Sacramento, CA 95816</u>		
PLANS BY:	<u>Applicant</u>		
FILING DATE:	<u>6/9/93</u>	ENVIR. DET.:	<u>Negative Declaration</u>
ASSESSOR'S PCL. NO.:	<u>007-0111-007</u>		
REPORT BY:	<u>Mike Dale</u>		

- APPLICATION:**
1. Negative Declaration
  2. Special Permit for a 12-seat outdoor dining area (sidewalk cafe); and
  3. Variance to waive 10 parking spaces for a 60-seat restaurant on 0.15<sub>±</sub> developed acres in the General Commercial (C-2) zone.

**LOCATION:** 2724 J Street  
(City Council District 3)

**SUMMARY:** The applicant is requesting the necessary entitlements to operate a 60-seat delicatessen at the above location. Twelve of the proposed seats will be located on the public sidewalk along J Street. Staff recommends approval subject to conditions.

**PROJECT INFORMATION:**

General Plan Designation:	Community / Neighborhood Commercial & Offices
Central City Community Plan Designation:	General Commercial
Existing Zoning of Site:	General Commercial (C-2)
Existing Land Use of Site:	Vacant Building

**Surrounding Land Use and Zoning:**

North:	Marshall Park: C-2
South:	Eastern Star Temple, Offices: C-2
East:	Restaurant: C-2
West:	Commercial, Offices, Residential: C-2

Site Dimensions:	Irregular (6,400 sf, 0.15 <sub>±</sub> acres)
Proposed Seats:	60 (48 On-Site, 12 Sidewalk)
Parking Required:	16 (1 Space Per 3 Seats for 48 Seats)
Parking Credited:	5
Parking Provided:	1
Building:	Two-Story, Existing Brick and Stucco Exterior, Tile Roof
Property Area:	0.15 <sub>±</sub> Developed Acres
Public Improvements:	Existing
Utilities:	Existing

**BACKGROUND INFORMATION:** On December 15, 1988, the Planning Commission approved a lot line adjustment to combine three contiguous parcels (APNs: 007-0111-008, 009, and 010) with the subject parcel (P88-219). To staff's knowledge, the lot line adjustment has not yet been recorded by the County Recorder. On January 26, 1989, the Commission approved a various entitlements for a four-story, 52,720 square foot medical office building with 127 on-site parking spaces. The building was never built, and the entitlements have since expired. On January 14, 1993, the Commission approved a variance to waive twelve parking spaces for a 120 seat restaurant to be located adjacent to the subject site at 2724-30 J Street. The approval was then appealed to the City Council who then upheld the Commission's earlier decision.

On June 29, 1993, the City Council approved an ordinance amending various sections of the City's zoning code relating to sidewalk cafes on the public right-of-way (M92-035). The effect of this ordinance was to provide standards for outdoor seating on public sidewalks and to promote such seating by eliminating the parking requirement. The current proposal is subject to these new provisions.

The subject site is located on the south side of J Street - approximately 80 feet west of 28th Street. The site accommodates a two-story building (known as the "Mendoza Building") with retail space on the ground floor and office space on the second level. A paved parking area and alley are located to the south behind the building. A vacant building is located to the east, Radio Shack is located to the west, and Marshall Park is located opposite J Street to the north.

**PROJECT EVALUATION:** Staff has the following comments:

A. Land Use

The subject site is zoned General Commercial (C-2) which is compatible with the Community / Neighborhood Commercial & Offices designation of the General Plan and the General Commercial designation of the Central City Community Plan. Restaurants such as the proposed delicatessen are permitted uses in the C-2 zone. The proposed land use is compatible with the surrounding commercial and office land uses.

B. Site Plan

The subject site consists of a portion of Building B and a portion of the available parking area located behind Building B. Forty-eight seats will be located on-site at the ground level (***44 inside, 2 outside on private property***), and 12 seats will be located on the public sidewalk along J Street. The second-level office space will be retained. As a result of earlier Planning Commission approvals, the parking area located behind Buildings A and B will be shared (as shown). Minor repair work is proposed for the exterior of the building. (*Amended by staff 8/24/93*)

C. Outdoor Dining

The applicant is requesting a special permit to allow twelve seats for outdoor dining in the public right-of-way. According to the recently adopted sidewalk cafe ordinance, the proposed sidewalk seating area must meet an established criteria. ~~These criteria form conditions of approval a through l on pages 4 and 5 of this report.~~ ***The submitted plans do not provide adequate detail to determine compliance with the adopted criteria. Therefore, staff recommends the applicant***

**submit a revised site plan, to scale, and elevation plans for review and approval of the Design Review staff and Zoning Administrator. The plans should indicate the following:**

- a. **property lines**
- b. **location of tables, chairs, accessory service facilities, perimeter barrier element and any fixed elements on the sidewalk within a 25 foot radius around the outdoor cafe area.**
- c. **show four foot clear zone dimension from outer perimeter of outdoor cafe fixture to nearest fixed structure of sidewalk.**
- d. **elevations showing front and side views of outdoor dining facilities including all proposed above grade improvements such as planter boxes, umbrellas, awnings, tables, chairs, etc. Photographs of aforementioned items may be substituted for drawings.**
- e. **photos of facade of proposed cafe building and the adjacent building facades.**

**The applicant does not indicate in his application if alcohol will be served on the public right-of-way. The applicant should be aware that prior to providing alcohol service on the public right-of-way (sidewalk) approval by the Police Department is required. (Amended by staff 8/24/93)**

The City ~~has begun encouraging~~ **encourages** outdoor dining through flexible use of the public right-of-way as a means of promoting a more active streetscape. ~~Provided that the property owner adheres to the established criteria,~~ **Therefore,** staff supports the applicant's request for outdoor seating in the public right-of-way. (Amended by staff 8/24/93)

#### D. Parking

Section 2-E-55-d of the City's Zoning Ordinance states that: no parking shall be required for sidewalk cafes on the public right-of-way. For this reason, parking is required only for the 48 seats to be located on-site.

As described in the Technical Appendixes (Attachment 2), the proposal is short ten off-street parking spaces, so the applicant is requesting a variance to waive ten of these spaces. The shortage of parking is not considered to be significant due to the nature of the proposed business. The delicatessen will provide mostly sandwiches and salads with limited table service, if any. The majority of the customers are not expected to drive to the restaurant, but rather walk from local office and commercial buildings. Due to the presumed local - and not regional - draw of customers to the proposed delicatessen, staff believes that the technical shortage of parking will not pose a problem for local property owners and/or merchants. Staff therefore supports the applicant's request for a variance to waive 10 parking spaces.

As it may be possible for the proposed land use to change from a delicatessen to a more full service restaurant thereby attracting customers from greater distances, staff recommends that approval of the variance be conditional upon maintenance of, and adherence to, the delicatessen-type of service.

#### E. Agency Comments

Copies of the proposal have been routed to the Public Works Department (Engineering Development and Transportation Sections), Utilities Department, Building Division, the City Arborist, the and local neighborhood associations. The following comments were received:

**Engineering Development:**

Tables within the R/W shall be approved in a manner consistent with the current standards.

**Transportation:**

The proposed project is consistent with the land uses allowed within the existing zoning - therefore, the proposed project is not anticipated to create a traffic/circulation impact.

**Marshall School Neighborhood Association:**

On behalf of the Marshall School Neighborhood Association, we support and have no objection to the developers request for the parking variance as it relates to the Marshall Grounds Deli (see Attachment 3).

**Design Review/Preservation:**

Design Review/Preservation staff has reviewed and approved plans for the proposed project. The exterior work involves primarily repairs and replacement to match the existing. None of the work will adversely affect the architectural and historic character of this listed structure. *The sidewalk cafe portion has not been reviewed by the Design Review staff. Prior to issuance of a revocable permit, the outdoor cafe should be reviewed by the Design Review staff. (Amended by staff 8/24/93)*

**F. Environmental Determination**

The Environmental Coordinator has determined that the project, as proposed, will not have a significant effect on the environment. A Negative Declaration has therefore been filed pursuant to Title 14 of the California Administrative Code and Chapter 63 of the Sacramento City Code. A copy of the Initial Study may be reviewed and/or obtained at the City Environmental Services Division, 1231 I Street, 3rd Floor, Sacramento, CA 95814.

**RECOMMENDATION:** Staff recommends that the Planning Commission take the following actions:

- A. Ratify the Negative Declaration;
- B. Approve the Special Permit for a 12-seat outdoor dining area (sidewalk cafe) ~~via the attached resolution (Attachment 1),~~ subject to conditions, and based on findings of fact which follow; and
- C. Approve the Variance to waive 10 parking spaces for a 60-seat restaurant ***subject to conditions and on 0.15 ± developed acres in the General Commercial (C-2) zone*** based on findings of fact which follow.

CONDITIONS:**Special Permit - Sidewalk Cafe:**

- a. ~~The sidewalk cafe shall not obstruct sidewalk pedestrian traffic, accessibility to vehicles parked adjacent to the curb, or create public health or safety hazards.~~
- b. ~~Sidewalk Clear Zone Requirement: A four foot minimum clear dimension for pedestrian use is required between the property line and the edge of curb. This clear zone area must be paved.~~
- c. ~~Obtain a revocable encroachment permit pursuant to the Sacramento City Code.~~
- d. ~~The sidewalk cafe shall be used only for seating. Storage, kitchen, or restroom uses are not allowed. Tables and/or chairs must be movable unless otherwise approved by the Zoning Administrator upon concurrence with other City Agencies/Departments.~~
- e. ~~Placement of tables and/or chairs shall be limited to the sidewalk area frontage adjacent to the use.~~
- f. ~~Tables and/or chairs shall be placed on sidewalks only in conjunction with a use that serves food and/or beverages. (Service of alcoholic beverages on any sidewalk shall be pursuant to Sacramento City Code Chapter 26.)~~
- g. ~~A decorative element separating the outdoor cafe seating area from adjacent pedestrian traffic must be provided. The design and materials of such element must complement and be compatible to the architectural design of the restaurant building facade or of a design that adds visual interest to the streetscape. Any and all exterior modifications, including signage, shall be subject to the review and approval by the Design Review Staff or Board.~~
- h. ~~The sidewalk cafe area may be uncovered, partially covered or fully covered by means of umbrellas, awnings or canopies. The awning or canopy material covering a sidewalk cafe shall be temporary or retractable and may extend into the public right of way from the face of the building up to the maximum clear zone dimension of six feet. Width and height of awnings and canopies shall meet U.B.C. requirements. Awnings, canopies, and umbrellas must be made of fire treated or non flammable materials.~~
- i. ~~Decorative/accent lighting may be incorporated into the outdoor cafe awning or canopy and shall meet all City Code requirements.~~
- j. ~~Upon approval by the Zoning Administrator, the applicant shall obtain all required building/electrical permits prior to construction.~~
- k. ~~A City permit approving the sidewalk cafe and the allowed number of tables and/or chairs shall be displayed in a prominent location easily accessible to the public.~~
- l. ~~In addition to the above criteria, the property owner must file with the City a certificate of insurance indicating a minimum liability coverage of \$500,000. (Amended 8/24/93)~~

1. ***The applicant shall submit a revised site plan for the review and approval of Design Review staff and the Zoning Administrator. The plans shall indicate the following:***
  - a. *property lines*
  - b. *location of tables, chairs, accessory service facilities, perimeter barrier element and any fixed elements on the sidewalk within a 25 foot radius around the outdoor cafe area.*
  - c. *show four foot clear zone dimension from outer perimeter of outdoor cafe fixture to nearest fixed structure of sidewalk.*
  - d. *elevations showing front and side views of outdoor dining facilities including all proposed above grade improvements such as planter boxes, umbrellas, awnings, tables, chairs, etc. Photographs of aforementioned items may be substituted for drawings.*
  - e. *photos of facade of proposed cafe building and the adjacent building facades.*
2. ***The applicant shall obtain a revocable encroachment permit from the Zoning Administrator prior to Placing any tables or chairs on the public right-of-way.***
3. ***The applicant shall provide to the Zoning Administrator proof of insurance acknowledging the City of Sacramento as the certificate holder prior to approval of the revocable encroachment permit. (Amended by staff 8/24/93)***

**Variance - Waive 10 Parking Spaces:**

Prior to issuance of building permits, including all tenant improvements, plans shall be routed to Planning staff to ensure that the nature of the proposed business is that of a delicatessen in which the menu consists primarily of sandwiches, salads, and beverage with limited table service.

**FINDINGS OF FACT:**

**Special Permit - Sidewalk Cafe:**

1. The special permit, as conditioned, is based on sound principles of land use planning in that the proposed land use is permitted in the General Commercial (C-2) zone and is compatible with the surrounding commercial and office land uses.
2. The special permit will not be detrimental to the public health, safety, or welfare nor result in a nuisance in that:
  - a. the outdoor seating area shall be subject to the City's rules and regulations pertaining to sidewalk cafes;
  - b. any and all exterior modifications shall be subject to the review and approval by the Design Review Staff or Board; and
  - c. the property owner shall be required to file of Certificate of Insurance with the City as specified above.
3. The proposal is consistent with the General Plan which designates the site for Community /

Neighborhood Commercial and Offices, and the Central City Community Plan which designates the site as General Commercial. Sidewalk cafes are allowable in the C-2 zone subject to approval of a special permit.

**Variance - Waive 10 Parking Spaces:**

1. The variance does not constitute a special privilege extended to one individual property owner in that the same variance would be appropriate for any other property owner facing similar circumstances.
2. The proposal does not constitute a use variance in that restaurants (including delicatessens) are acceptable uses in the C-2 zone.
3. The proposal, as conditioned above, will not be injurious to the public welfare nor to property in the vicinity of the applicant in that:
  - a. The outdoor seating area will be subject to the rules and regulations of the City's Sidewalk Cafe Regulations which provide for adequate space for pedestrian traffic along the public right-of-way; and
  - b. The delicatessen will serve mostly local clients who will not drive to the restaurant but rather walk.

~~Attachment 1~~  
~~Resolution Special Permit Sidewalk Cafe~~

~~RESOLUTION NO.~~

~~ADOPTED BY THE SACRAMENTO CITY PLANNING COMMISSION~~

~~ON DATE OF AUGUST 26, 1993~~

~~APPROVING A SPECIAL PERMIT TO ALLOW A SIDEWALK CAFE  
AT 2724 "J" STREET (APN: 007 0111 007)  
(P93-096)~~

~~WHEREAS, the Planning Director has submitted to the Planning Commission a report and recommendation concerning the Special Permit for property located at 2724 J Street; and~~

~~WHEREAS, the Environmental Services Manager has prepared a negative declaration subject to no mitigation measures; and~~

~~WHEREAS, the Special Permit is consistent with General Plan policies.~~

~~NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Sacramento:~~

~~that the Special Permit for the property located at 2724 J Street, City of Sacramento, be approved as shown and described in Exhibits A, B, C, and D, attached hereto, subject to the following conditions:~~

- ~~a. The sidewalk cafe shall not obstruct sidewalk pedestrian traffic, accessibility to vehicles parked adjacent to the curb, or create public health or safety hazards.~~
- ~~b. Sidewalk Clear Zone Requirement: A four foot minimum clear dimension for pedestrian use is required between the property line and the edge of curb. This clear zone area must be paved.~~
- ~~c. Obtain a revocable encroachment permit pursuant to the Sacramento City Code.~~
- ~~d. The sidewalk cafe shall be used only for seating. Storage, kitchen, or restroom uses are not allowed. Tables and/or chairs must be movable unless otherwise approved by the Zoning Administrator upon concurrence with other City Agencies/Departments.~~
- ~~e. Placement of tables and/or chairs shall be limited to the sidewalk area frontage adjacent to the use.~~
- ~~f. Tables and/or chairs shall be placed on sidewalks only in conjunction with a use that serves food and/or beverages. (Service of alcoholic beverages on any sidewalk shall be pursuant to Sacramento City Code Chapter 26.)~~
- ~~g. A decorative element separating the outdoor cafe seating area from adjacent pedestrian traffic must be provided. The design and materials of such element must complement and be compatible to the architectural design of the restaurant building facade or of a design that adds visual interest to the streetscape. Any and all exterior modifications, including signage, shall be subject to the review and approval by the Design Review Staff or Board.~~



- ~~h. The sidewalk cafe area may be uncovered, partially covered or fully covered by means of umbrellas, awnings or canopies. The awning or canopy material covering a sidewalk cafe shall be temporary or retractable and may extend into the public right of way from the face of the building up to the maximum clear zone dimension of six feet. Width and height of awnings and canopies shall meet U.B.C. requirements. Awnings, canopies, and umbrellas must be made of fire treated or non flammable materials.~~
- ~~i. Decorative/accent lighting may be incorporated into the outdoor cafe awning or canopy and shall meet all City Code requirements.~~
- ~~j. Upon approval by the Zoning Administrator, the applicant shall obtain all required building/electrical permits prior to construction.~~
- ~~k. A City permit approving the sidewalk cafe and the allowed number of tables and/or chairs shall be displayed in a prominent location easily accessible to the public.~~
- ~~l. In addition to the above criteria, the property owner must file with the City a certificate of insurance indicating a minimum liability coverage of \$500,000.~~

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CHAIRPERSON

ATTEST:

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SECRETARY TO CITY PLANNING COMMISSION

*(Amended by staff 8/14/93)*

## Attachment 2 Technical Appendixes

### Parking

Section 2-E-55-d of the City's Zoning Ordinance states that: no parking shall be required for sidewalk cafes on the public right-of-way. For this reason, parking is required only for the 48 seats to be located on-site.

Building B was previously approved to support 5,158 square feet of retail space on the ground floor and 5,158 square feet of office space on the second level. Seven of the parking spaces located behind the building have been allocated for Building B pursuant to a previous approval. The retail space located in Building B would typically require 21 parking spaces, and the office space would typically require 12 parking spaces for a total of 33 required parking spaces. Due to the fact that only seven parking spaces were provided on-site for Building B, the building has been operating with a shortage (or a "credit") of 26 parking spaces.

The applicant's proposal will utilize 1,463 square feet of the ground floor retail space in Building B. That much retail space would typically require six parking spaces ( $1,463/250 = 6$ ) to be located on-site. However, the proportional amount of on-site parking afforded to the 1,463 square feet of retail space in Building B equals one of the seven parking spaces ( $1,463/5,158 \times 21/33 \times 7 = 1$ ). Therefore, the actual shortage (or "credit") of on-site parking for the proposal is 5 ( $6 - 1 = 5$ ). The subject site is therefore credited with 5 parking spaces (see chart below).

Building B	Retail	Office	Delicatessen	Total
Existing	5,158 sf	5,158 sf	0 sf	10,316 sf
Parking Req.	21 spaces	12 spaces	0 spaces	33 spaces
Credit	17 spaces	9 spaces	0 spaces	26 spaces
Proposed	3,695 sf	5,158 sf	1,463 sf	10,316
Parking Req.	15 spaces	12 spaces	6 spaces	33 spaces
Credit	12 spaces	9 spaces	5 spaces	26 spaces

The current proposal requires 16 parking spaces ( $48/3$ ). Since one parking space is located on-site, the proposal is short 15 parking spaces. Since the site is credited with 5 parking spaces, as described above, the total shortage of parking is reduced to 10 spaces. The applicant is therefore requesting a variance to waive ten off-street parking spaces.

# ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE ADDING SECTION 12.04.121 TO CHAPTER 12 OF THE SACRAMENTO CITY CODE RELATING TO THE ISSUANCE OF REVOCABLE PERMITS FOR OUTDOOR SIDEWALK CAFES AND AMENDING SECTION 38.06.063 OF CHAPTER 38 OF THE SACRAMENTO CITY CODE, RELATING TO SIDEWALK WIDTHS FOR OUTDOOR SIDEWALK CAFES.**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

## **SECTION 1**

The following section is added to Chapter 12 of the Sacramento City Code to read as follows:

**§12.04.121 Director of Planning and Development or Designee is hereby granted authority to issue Revocable Permits for Outdoor Sidewalk Cafes.**

The Director of Planning and Development or designee, may review application for and approve or conditional approve revocable permits for Outdoor Sidewalk Cafes.

## **SECTION 2**

Section 38.06.063 of Chapter 38 of the Sacramento City Code is amended to read as follows:

**§38.06.063 Except as otherwise provided in Sections 7.52 through 7.59 and Chapter 51 of this code and Section 2-E-55 of the Comprehensive Zoning Ordinance, no person shall use any portion of the sidewalks of the city for any purpose whatsoever, except for sidewalk purposes or for such purposes as may otherwise be provided by this chapter; provided, however, that merchants or persons having occasion to receive or deliver goods may use the sidewalk in front of the premises occupied by them for the purpose of receiving or delivering such goods, and provided, further,**

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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