

Project Plans: See Exhibits A-H

Background Information: On April 29, 1994, an Investigation and Report (I&R) was completed regarding a parking/seating determination for Harlow's Restaurant for a proposed banquet facility on the second floor (I&R 94-040). There was a previous Variance to waive parking for a 50 seat restaurant issued by the Planning Commission on July 8, 1976 (P7292). On October 26, 1978, the Planning Commission waived nine more seats for the restaurant expansion to bring the total of allowed seats to 77. The I&R determined that a maximum of 183 seats for the restaurant and banquet facility would be allowed based on an acquired parking area, previous parking variances, and parking credits. Upon a site visit, staff found that a total of 159 seats were located in the restaurant area (including 17 outdoor seats).

Additional Information: The applicant proposes to locate 28 seats for a restaurant on the sidewalk adjacent to the building. Eighteen seats of the outdoor seating will be located in the public right-of-way and requires a Special Permit. There will be 14 tables with two seats. Five tables with two seats (ten total seats) located adjacent to the building are located on the private property of the restaurant. The seating located on private property is required to be included in the total seating for parking requirements. There are no parking requirements for outdoor seating in the public right-of-way. Also, moving seven seats from on-site into the public right-of-way will allow the seats to be added inside for parking credit purposes.

The area will be enclosed with a decorative wrought iron fence in order to provide alcoholic beverage service to the outdoor tables. The existing fence will be expanded and additional furniture added.

The site is located within the Marshall School Neighborhood Association organization area. The proposed plans have been submitted to the neighborhood association and no comments were received.

Agency Comments

The proposed project has been reviewed by the various City Departments. Their comments have been included as conditions of approval.

Environmental Determination:

This project will not have a significant effect on the environment and is exempt from environmental review pursuant to State EIR Guidelines {California Environmental Quality Act, Section 15305(b)}.

Conditions of Approval

1. The new furniture and expanded fence design shall match the existing furniture and fence.
2. There shall be stripes painted on the sidewalk to match the fence color indicating the clear zone from all the doors to the exits in the fence (See Staff Exhibit G for location).
3. The main entrance (northwest entrance) shall have a recessed fence entrance a minimum of three feet long and four feet wide (or to match the width of the existing building entrance) that shall remain open without a gate.
4. There shall be emergency exit gates that opens outward in the fence for the second and third entrances/exits located along the building to the east of the main entrance of the restaurant. The openings shall have a recessed fence entrance a minimum of three feet long that is to be secured with a gate that matches the width of the existing building entrance and is a minimum of three feet wide (See Staff Exhibit G for location). The gate in the northeast corner will not require a recessed fence, but shall have a striped corridor from the building to the gate.
5. All gates shall be equipped with non-locking panic hardware.
6. The fence shall be no less than three feet in height and no more than four feet in height.
7. The fence location shall conform to the revised plans to be reviewed and approved by Planning staff.
8. No live music shall be allowed in the sidewalk area.
9. No lights or signs shall be attached to or hung from the trees located in the sidewalk area.
10. The street tree wells will be enlarged by the City in the near future and the fenced area shall be relocated to maintain a four foot wide clear zone of sidewalk area.
11. Restaurant windows shall be left unobstructed to all viewing of the interior of the business by patrolling police and so that the outdoor seating area is visible for monitoring from inside the restaurant. Where windows are not appropriate for this purpose, closed circuit television shall be used.
12. Hours of operation of the sidewalk dining area shall be 11:30 a.m. to 2:00 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.
13. None of the furniture shall block any exit.
14. All illegal activities observed on or around the business shall be promptly reported to the

police.

15. 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. Alcohol service shall be limited to this enclosed area only subject to the following:

****Sale of alcoholic beverages for consumption off of the premises is prohibited.
16. Size and location of the tables shall conform to the revised plans to be reviewed and approved by Planning staff.
17. The sidewalk area within 100 feet of the restaurant and sidewalk cafe shall be monitored for trash that may be produced by this establishment. The employees and owners of the establishment shall be responsible for keeping this area clean of trash generated by the restaurant/sidewalk cafe use.
18. A Certificate of Insurance shall be submitted to the Zoning Administrator for the review and approval of the Zoning Administrator and City Department of Risk Management prior to issuance of the Encroachment Permit for the sidewalk cafe until the Encroachment Permit resolution is issued. **The public right-of-way cannot be used for a sidewalk cafe until the Encroachment Permit resolution is issued.**
19. The applicant shall contact the Zoning Administrator's staff for a final inspection of the sidewalk cafe area to insure compliance with conditions of approval prior to operation of the sidewalk cafe area (contact Sandra Yope, 264-7158).
20. The applicant shall record the Lot Line Merger prior to the issuance of an Encroachment permit. (Contact Anwar Ali in Public Works at 264-7992)

Findings of Fact:

1. The proposed project, as conditioned, is based upon sound principles of land use in that sidewalk cafes allow for more people and activity on the streets.
2. The project will not be detrimental to the public health, safety, or welfare nor result in a nuisance in that:
 - a. adequate sidewalk area will be provided for pedestrians; and
 - b. the surrounding area will be monitored for trash and kept clean.
3. The project is consistent with the General Plan and Central City Community Plan which designate the subject site as Community Neighborhood Commercial and Offices and General Commercial respectively.

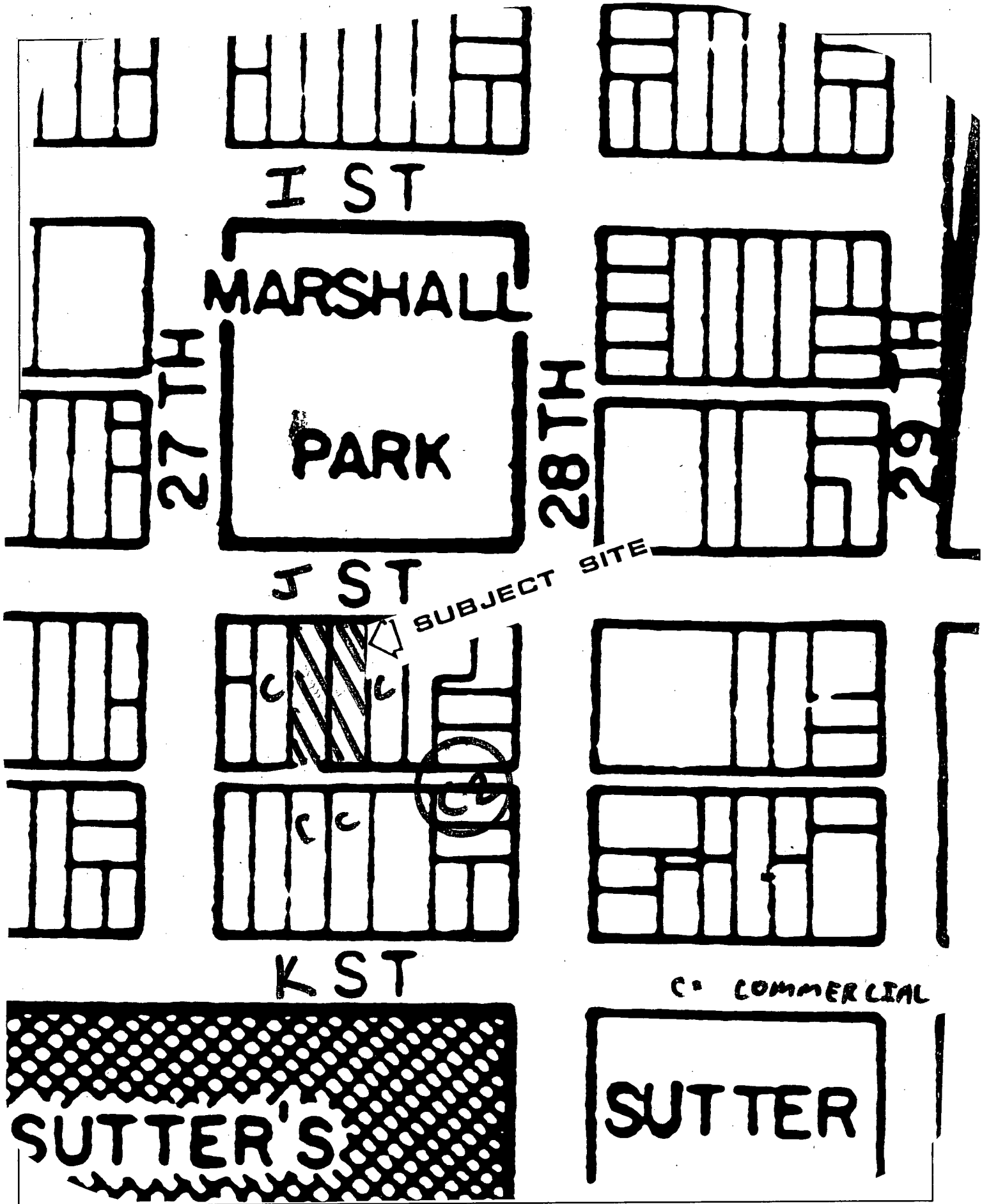
Joy D. Patterson

Joy D. Patterson
Zoning Administrator

A use for which a Special Permit is granted must be established within two years after such permit is approved. If such use is not so established the Special Permit shall be deemed to have expired and shall be null and void. A Special Permit use which requires a Building Permit shall be deemed established when such Building Permit is secured and construction thereunder physically commenced. If no building permit is required, the use shall be deemed established when the activity permitted has been commenced.

The decision of the Zoning Administrator may be appealed to the Planning Commission. An appeal must be filed within 10 days of the Zoning Administrator's hearing. If an appeal is not filed, the action of the Zoning Administrator is final.

cc: File
Applicant
ZA Log Book
Police Department- Lynne Ohlson (Mail Code 2121)



LAND USE & ZONING MAP