

RESOLUTION NO. 4119

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TUSTIN APPROVING DESIGN REVIEW 09-008 AUTHORIZING A MEDICAL-PROFESSIONAL OFFICE USE AND CONCEPTUAL APPROVAL FOR REMODEL OF AN ABANDONED RESTAURANT BUILDING INCLUDING SITE IMPROVEMENTS AT 365 W. FIRST STREET.

The Planning Commission does hereby resolve as follows:

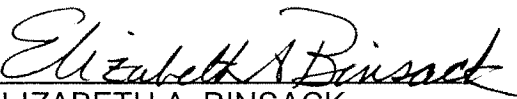
- I. The Planning Commission finds and determines as follows:
 - A. That a proper application for Design Review 09-008 was filed by Nick Theders and Randy Pinkerton requesting authorization to convert and remodel an abandoned restaurant building (formerly Shakey's Pizza) located at 365 West First Street into a physical therapy office including interior and exterior upgrades to the existing structure and site enhancements.
 - B. That the project site is located in the First Street Specific Plan zoning district with Commercial as Primary Use and Office as a Secondary Use land use designation. Office uses, including medical or those licensed by the State of California to practice the healing arts, are permitted by right in the planning sub-area, subject to approval of a site plan by the Planning Commission.
 - C. The project site is designated as Planned Community Commercial/Business by the Land Use Element of the City's General Plan which allows a mix of commercial and office uses. In addition, the project has been determined to be consistent with the Air Quality Sub-element of the City of Tustin General Plan.
 - D. That the approval of Conditional Use Permit 06-005 authorized a temporary day care facility on the site for a period of six (6) months, which was implemented and removed within the specified time frame and is now considered null.
 - E. That the approval of Conditional Use Permit 06-010 and Design Review 06-015 authorized the establishment of a daycare facility and building remodel on the site, but were never implemented, have expired, and are considered null and void.
 - F. That the establishment, maintenance, and operation of an office use will not be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood, nor be injurious or detrimental to the property and improvements in the neighborhood of the subject property, or to the general welfare of the City of Tustin, in that:

1. The proposed office use is a permitted secondary use in the subarea planning unit of the First Street Specific Plan, subject to site plan approval by the Planning Commission.
 2. As conditioned, the establishment, maintenance, and operation of an office use is compatible with other surrounding commercial and residential uses and will not be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood, nor be injurious or detrimental to the property and improvements in the neighborhood of the subject property, or to the general welfare of the City of Tustin.
 3. The location, size, architectural features and general appearance of the proposed development will not impair the orderly and harmonious development of the area, the present or future development therein, the occupancy thereof, or the community as a whole.
 4. The proposed site and building improvements will rehabilitate a deteriorated property, eliminate a blight condition, and enhance the subject site and the First Street corridor as a whole.
 5. As conditioned, conformance with all other applicable development standards will be verified by staff during plan check review.
 6. The proposed site design and architecture is consistent with the First Street Specific Plan Design Guidelines in that the proposed remodel would utilize architecture, materials, and colors suggested in the Guidelines.
- G. This project is determined to be Categorically Exempt pursuant to Section 15301, Class 1 of Title 14, Chapter 3 of the California Code of Regulations (Guidelines for the California Environmental Quality Act). The Class 1 exemption encompasses existing facilities with negligible or no expansion beyond the existing use, including the restoration or rehabilitation of deteriorated or damaged structures to meet current standards of public health and safety.
- II. The Planning Commission hereby approves Resolution No. 4119 authorizing a medical-professional office use and conceptual approval for remodel of an abandoned restaurant building, including site improvements, located at 365 W. First Street, subject to the conditions contained within Exhibit A, attached hereto.

PASSED AND ADOPTED by the Planning Commission of the City of Tustin, at a regular meeting on the 23rd day of June, 2009.



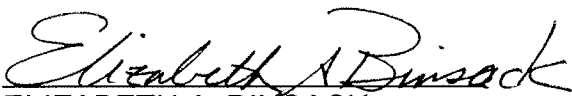
CHARLES E. PUCKETT
Chairperson



ELIZABETH A. BINSACK
Planning Commission Secretary

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF TUSTIN)

I, Elizabeth A. Binsack, the undersigned, hereby certify that I am the Planning Commission Secretary of the City of Tustin, California; that Resolution No. 4119 was duly passed and adopted at a regular meeting of the Tustin Planning Commission, held on the 23rd day of June, 2009.



ELIZABETH A. BINSACK
Planning Commission Secretary

**EXHIBIT A
RESOLUTION NO. 4119
CONDITIONS OF APPROVAL
DESIGN REVIEW 09-008**

GENERAL

- (1) 1.1 The proposed use shall substantially conform to the submitted plans for the project date stamped June 23, 2009, on file with the Community Development Department, except as herein modified, or as modified by the Director of Community Development in accordance with this Exhibit. The Director of Community Development may also approve minor modifications to plans during plan check if such modifications are to be consistent with the provisions of the Tustin City Code and other applicable codes.
- (1) 1.2 Unless otherwise specified, the conditions contained in this Exhibit shall be complied with as specified, subject to review and approval by the Community Development Department.
- (***) 1.3 The subject Design Review (DR) approval shall become null and void unless full construction plans for the proposed project are submitted for plan check within sixty (60) days of the date of DR approval, permits are issued within one hundred twenty (120) days of the date of DR approval, and construction commences within thirty (30) days thereafter. Should the applicant not pursue the proposed project, the property owner shall be responsible for making building and site improvements as proposed. All time extensions may be considered by the Community Development Director if a written request is received within thirty (30) days prior to the expiration date.
- (***) 1.4 Plans shall be reviewed for conformance with all applicable development standards and other requirements of the Tustin City Code (TCC), First Street Specific Plan (FSSP), and building and fire codes at the time of plan check. Should the final project proposal require exceptions to the TCC or FSSP, the Community Development Director reserves the right to forward the project for Planning Commission consideration.
- (***) 1.5 All outstanding code violations shall be corrected and the property brought into full compliance prior to Certificate of Occupancy.
- (***) 1.6 The property owner shall be responsible for maintaining the site in a nuisance-free condition at all times.

SOURCE CODES

- | | |
|-----------------------------|----------------------------|
| (1) STANDARD CONDITION | (5) RESPONSIBLE AGENCY |
| (2) CEQA MITIGATION | REQUIREMENTS |
| (3) UNIFORM BUILDING CODE/S | (6) LANDSCAPING GUIDELINES |
| (4) DESIGN REVIEW | (7) PC/CC POLICY |
| **
*** EXCEPTIONS | |

- (1) **1.7** Approval of Design Review 09-008 is contingent upon the applicant and property owner signing and returning to the Community Development Department a notarized "Agreement to Conditions Imposed" form and the property owner signing and recording with the County Clerk-Recorder a notarized "Notice of Discretionary Permit Approval and Conditions of Approval" form. The forms shall be established by the Director of Community Development, and evidence of recordation shall be provided to the Community Development Department prior to the issuance of building permits.
- (1) **1.8** As a condition of approval of Design Review 09-008, the applicant shall agree, at its sole cost and expense, to defend, indemnify, and hold harmless the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third party against the City, its officers, agents, and employees, which seeks to attack, set aside, challenge, void, or annul an approval of the City Council, the Planning Commission, or any other decision-making body, including staff, concerning this project. The City agrees to promptly notify the applicant of any such claim or action filed against the City and to fully cooperate in the defense of any such action. The City may, at its sole cost and expense, elect to participate in defense of any such action under this condition.
- (1) **1.9** Any violation of any of the conditions imposed is subject to the issuance of an Administrative Citation pursuant to Tustin City Code Section 1162(a).
- (***) **1.10** Prior to issuance of building permits, the property owner shall be responsible for reimbursing the City for costs incurred for code enforcement case V08-0359.
- (1) **1.11** The applicant shall be responsible for costs associated with any necessary code enforcement action, including attorneys' fees, subject to the applicable notice, hearing, and appeal process as established by the City Council by ordinance.

USE RESTRICTIONS

- (***) **2.1** The approval authorizes a medical-dental professional or general office use on the property. Changes to the use may require further review and approval by the Community Development Director or the Planning Commission.
- (1) **2.2** All activities shall comply with the City of Tustin Noise Ordinance.
- (1) **2.3** No outdoor storage shall be permitted except as approved by the Community Development Director.

- (6) **2.4** The applicant and/or property owner on-site shall be responsible for maintaining all on-site landscaping in a healthy and vigorous condition at all times. Maintenance shall include, but is not limited to, trimming, mowing, weeding, removal of litter, fertilizing, regular watering, and replacement of diseased or dead plants.

ARCHITECTURAL

- (4) **3.1** All final exterior colors and textures shall be subject to review and approval of the Community Development Department and final inspection. Colors, materials, and textures shall be noted in construction plans.
- (***) **3.2** The existing chain link security fencing shall be removed and compatible materials proposed for any new walls or fences. A new block wall shall be provided along the western property line adjoining a residential zone pursuant to TCC Section 9271i(2).
- (4) **3.3** All mechanical and electrical fixtures and equipment shall be adequately screened subject to review and approval by the Community Development Department. The screen shall be included as an element of the overall design of the project and blend with architectural design of the building. All electrical, mechanical, and electrical fixtures shall be depicted and noted on the construction drawings and shall be minimum 6" below the top of the screen.
- (4) **3.4** The applicant shall obtain a permit for future installation of signs on the building. Any sign proposal shall conform to the Tustin Sign Code. In addition, the location, placement, size, number, and sign details shall be subject to the final discretion and approval by the Community Development Director.
- (4) **3.5** The exterior treatment of the trash enclosure shall be compatible with the building exterior and shall be planted with crawling vines, subject to review and approval by the Community Development Department.

PLAN SUBMITTAL

- (3) **4.1** At the time of building permit application, the plans shall comply with the 2007 California Building Code (CBC), 2007 California Mechanical Code (CMC), 2007 California Plumbing Codes (CPC), 2007 California Electrical Code (CEC), California Title 24 Accessibility Regulations, 2007 Title 24 Energy Regulations, City Ordinances, and State and Federal laws and regulations.
- (1) **4.2** Building plan check submittal shall include the following:

- Seven (7) sets of construction plans, including drawings for mechanical, plumbing, and electrical.
- Two (2) copies of structural calculations.
- Two (2) copies of Title 24 energy calculations.
- Elevations that include all proposed dimensions, materials, colors, finishes, and partial outlines of adjacent buildings on-site and off-site where applicable.
- Details for the proposed architectural elements.
- The location of any utility vents or other equipment shall be provided on the roof plan. All rooftop equipment and penetrations shall be screened from view by an architecturally compatible and integrated screen, min. 6" higher than the top of the highest equipment.
- A precise landscape and irrigation plan in accordance with City's Landscape and Irrigation Guidelines shall be submitted for review and approval. The landscape areas need would need to be designed to provide adequate vehicle turning movement radius. All plants materials shall be installed prior to final inspection.
- Details of all proposed lighting fixtures and a photometric study prepared by showing the location and anticipated pattern of light distribution of all proposed fixtures. All new light fixtures shall be consistent with the architecture of the building. All exterior lighting shall be designed and arranged as not to direct light or glare onto adjacent properties, including the adjacent streets. Wall-mounted fixtures shall be directed at a 90-degree angle directly toward the ground. All lighting shall be developed to provide a minimum of one (1) foot-candle of light coverage, in accordance with the City's Security Ordinance.
- A note shall be provided on the plans that "All parking areas shall be illuminated with a minimum of one (1) foot-candle of light, and lighting shall not produce light, glare, or have a negative impact on adjacent properties."
- Note on plans that no field changes shall be made without prior approval from the Building Official and architect or engineer of record.

- A note shall be provided on the final plans stating that "A six (6) foot high chain link fence shall be installed around the site prior to building construction stages. A nylon fabric or mesh shall be attached to the temporary construction fencing. Gated entrances shall be permitted along the perimeter of the site for construction vehicles."
- (3) **4.3** The plans submitted shall indicate that restrooms are accessible to persons with disabilities as per State of California Accessibility Standards (Title 24). Plumbing fixture units are required to comply with the 2007 California Plumbing Code Chapter four (4) Table 4-1 as per type of group occupancy, or as approved by the Building Official.
- (3) **4.4** At plan check submittal, the plans shall identify the location, material, and height of the proposed fences or walls, subject to review and approval by the Community Development Department.
- (1) **4.5** Prior to issuance of a demolition, precise/rough grading, and/or building permit with valuation of \$50,000 or greater, the applicant shall submit for approval by the City of Tustin, Construction & Demolition (C&D) debris collection, disposal, and diversion information on the City-prescribed forms.
- (1) **4.6** At least 50 percent of the construction debris shall be diverted from the landfill to the recycling plants. A security deposit in the amount of \$50 per ton (not to exceed \$5,000 per project) for a C&D security deposit will be collected prior to issuance the permit. Prior to final inspection, the applicant shall submit to the City of Tustin documents (i.e. receipt from vendor) showing actual weight or volume of each material of C&D diverted to the recycling center.
- (1) **4.7** The applicant shall comply with all City policies regarding short-term construction emissions, including periodic watering of the site and prohibiting grading during second stage smog alerts and when wind velocities exceed 15 miles per hour.
- (1) **4.8** Pursuant to the City of Tustin's Security Ordinance and the Uniform Fire Code, street numbers shall be displayed in a prominent location on the street side of the building. The numerals shall be no less than six (6) inches in height and shall be of contrasting color to the background to which they are attached and illuminated during hours of darkness.
- (1) **4.9** An adequate size trash enclosure with solid metal, self-closing, self-latching gates is required to be located on the property and maintained to avoid health issues for neighboring commercial and residential areas. Said enclosure shall be screened by a solid decorative wall consistent with the adjacent building's material and finish and be of a minimum height of six (6)

feet. The actual location of the enclosure and types of screening and details of the enclosure shall be submitted at building plan check and are subject to approval by the Community Development Department. The location of the bin, size, and quantity shall be reviewed and accepted by the Public Works Department.

PUBLIC WORKS/ENGINEERING

- (1) **5.1** A separate 24" x 36" street improvement plan, as prepared by a California Registered Civil Engineer, shall be required for all construction within the public right-of-way. The applicant shall construct and/or replace any missing or damaged public improvements adjacent to this development, including but not limited to the existing driveways and sidewalk. Said plan shall include, but not be limited to, the following:
- a) Curb and gutter
 - b) Sidewalk, including curb ramps for the physically disabled
 - c) Drive aprons
 - d) Street lighting
 - e) Catch basin/storm drain laterals/ connection to existing storm drain system
 - f) Domestic water facilities
 - g) Sanitary sewer facilities
 - h) Underground utility connections

In addition, a 24" x 36" reproducible construction area traffic control plan, as prepared by a California Registered Traffic Engineer or Civil Engineer experienced in this type of plan preparation, may be required.

- (1) **5.2** Adequate horizontal and vertical intersection sight line shall be provided. In general a 25' x 25' limited use area triangle provides adequate sight at typical driveways. Additional sight evaluation, however, could be required to satisfy City of Tustin Standard Drawings and Design Standards for Public Works Construction No. 510 for all affected streets. The sight lines would be shown on the grading plan and landscape plan. If detailed analyses are requested, all landscaping within the limited use area would need to comply with City of Tustin Standard Drawings and Design Standards for Public Works Construction No. 510.
- (1) **5.3** Existing sewer, domestic water, reclaimed water, and storm drain service laterals shall be utilized whenever possible.
- (1) **5.4** Any damage done to existing street improvements and utilities shall be repaired before issuance of a Certificate of Occupancy.

- (1) **5.5** Prior to any work in the public right-of-way, an Encroachment Permit shall be obtained from and applicable fees paid to the Public Works Department.
- (1) **5.6** The applicant shall satisfy dedication and/or reservation requirements as applicable, including but not limited to dedication of all required street and flood control right-of-way easements, vehicular access rights, sewer easements, and water easements defined and approved as to specific locations by the City Engineer and other agencies.
- (1) **5.7** Current Federal Americans with Disabilities Act (ADA) requirements shall be met at the drive aprons and sidewalk.
- (1) **5.8** In addition to the normal full-size plan submittal process, all final development plans including, but not limited to: tract maps, parcel maps, right-of-way maps, records of survey, public works improvements, private infrastructure improvements, final grading plans, and site plans are also required shall be submitted to the Public Works Department/Engineering Division in computer aided design and drafting (CADD) format. The standard file format is AutoCAD Release 2007 having the extension DWG. Likewise, layering and linetype conventions are AutoCAD-based (latest version available upon request from the Engineering Division). In order to interchangeably utilize the data contained in the infrastructure mapping system, CADD drawings shall be in AutoCAD "DWG" format (i.e., produced using AutoCAD or AutoCAD compatible CADD software). The most current version of AutoCAD is Release 2007. Drawings created in AutoCAD Release 2000 are compatible and acceptable.

The CADD files shall be submitted to the City at the time the plans are approved and updated CADD files reflecting "as built" conditions shall be submitted once all construction has been completed. The subdivision bonds will not be released until the "as built" CADD files have been submitted.

- (1) **5.9** This development shall comply with all applicable provisions of the City of Tustin Water Quality Ordinance and all Federal, State, and Regional Water Quality Control Board rules and regulations.
- (1) **5.10** The applicant/contractor is required to submit a Construction and Demolition Waste Recycling and Reduction Plan (WRRP) to the Public Works Department. The WRRP must indicate how the applicant will comply with the City's requirement (City Code Section 4351, et al) to recycle at least 50 percent of the project waste material.

The applicant will be required to submit a \$50.00 application fee and a cash security deposit. Based on the review of the submitted Waste Management Plan, the cash security deposit will be determined by the Public Works Department in an amount not to exceed five percent of the project's valuation.

- (1) **5.11** Prior to issuance of a grading and building permit, the applicant shall submit the required security deposit in the form of cash, cashier's check, personal check, or money order made payable to the "City of Tustin."
- (1) **5.12** Facility Solid Waste Collection and Recycling Plan: The applicant, property owner, and/or tenant(s) are required to participate in the City's recycling program.

ORANGE COUNTY FIRE AUTHORITY (OCFA)

- (5) **6.1** Prior to the issuance of a building permit, the applicant shall submit all plans as required per the "Orange County Fire Authority Plan Submittal Criteria" Form for the review and approval of the Fire Chief. Please contact the OCFA at (714) 573-6100 for submittal requirements.

FEES

- (1) **7.1** Prior to issuance of any building permits, payment shall be made of all applicable fees based upon those rates in effect at the time of payment, including, but not limited to, the following:
 - a. Building plan check and permit fees to the Community Development Department.
 - b. Orange County Fire Authority plan check and inspection fees to the Community Development Department.
- (2) **7.2** Within forty-eight (48) hours of approval of the subject project, the applicant shall deliver to the Community Development Department, a CASHIER'S CHECK payable to the County Clerk in the amount of fifty dollars (\$50.00) to enable the City to file the appropriate environmental documentation for the project. If within such forty-eight (48) hour period that applicant has not delivered to the Community Development Department the above-noted check, the statute of limitations for any interested party to challenge the environmental determination under the provisions of the California Environmental Quality Act could be significantly lengthen.