



CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

May 16, 2012

File Number: 2012-7243 **Permit Type:** Special Development Permit
Location: 615 Tasman Drive (near N. Fair Oaks Ave.) (APN: 110-29-038)

Applicant/Owner: Wahoo's Fish Tacos / Jaysac LTD

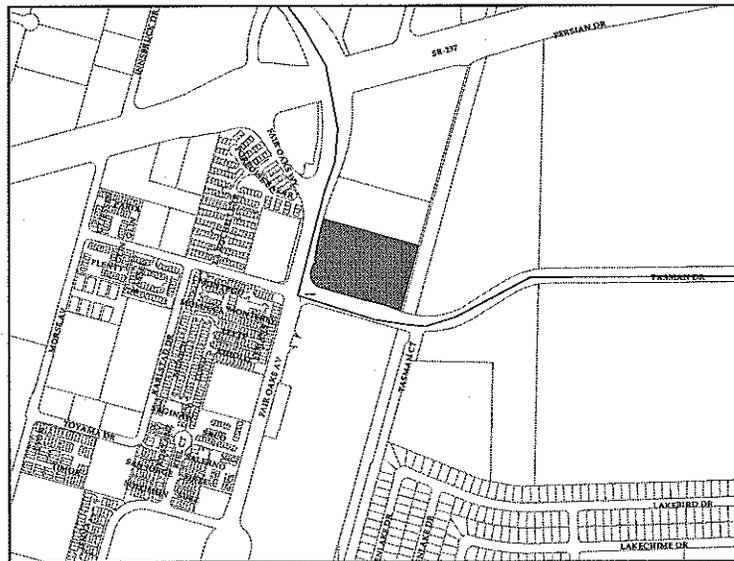
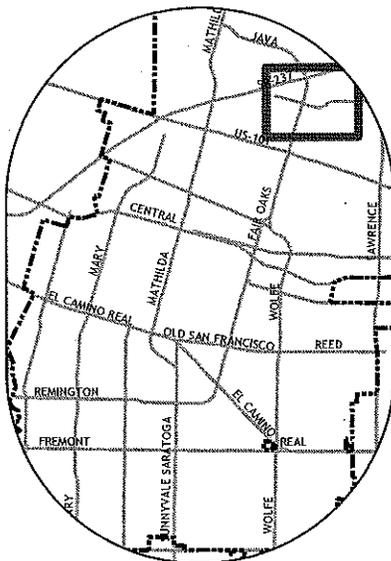
Staff Contact: Shétal Divatia, Associate Planner, (408) 730-7422

Project Description: To allow full liquor service for a previously approved restaurant (Wahoo's Fish Tacos) in an existing mixed-use center (Essex) in a C-2/PD (Highway Business/Planned Development) Zoning District.

Reason for Permit: A Special Development Permit is required for liquor service in a PD (Planned Development) combining zoning district.

Issues: Neighborhood compatibility

Recommendation: Approve with Conditions



N 500 Feet

PROJECT DESCRIPTION

	Existing	Proposed
General Plan:	ITR Mix	Same
Zoning District:	C2/PD	Same
Lot Size:	6.45 ac.	Same
Total Sq. Ft. on Site:	43,585 s.f.	Same
Tenant Sq. Ft.:	2,644 s.f.	Same
Parking:	228	Same
Liquor License	Beer and Wine	General (incl. beer, wine and spirits)

Previous Planning Projects related to Subject Application	Yes
March 29, 2012: MPP (2012-7205) – Approved - Allow a restaurant (Wahoo Fish Tacos) with outdoor seating and Beer and Wine license from ABC.	
Neighborhood Preservation Complaints	No
Deviations from Standard Zoning Requirements	No

Use Description: The current use at the subject location is a restaurant (Wahoo's Fish Tacos) with outdoor seating. The restaurant currently has an On-sale Beer and Wine liquor license from the State Department of Alcohol and Beverage Control (ABC). The applicant proposes to serve spirits (alcoholic beverages) in addition to beer and wine which requires a Special Development Permit from the City and an On-sale General liquor license from ABC. Alcoholic beverages will be served at existing tables (indoor and outdoor) along with meal service, as well as at the existing bar/beverage station located within the restaurant.

Hours of Operation:

Current hours of operation as noted in the previous permit (MPP) are:

- Monday-Saturday 10:30 a.m. - 10 p.m.
- Sunday 11 a.m. - 9 p.m.

Proposed hours of operation will be:

- Monday-Saturday 10:30 a.m. - 10 p.m.
- Sunday 11:00 a.m. - 8 p.m.

Neighborhood Compatibility: The project site is in a recently developed mixed use project at the corner of Fair Oaks Avenue and Tasman Drive in Sunnyvale's Tasman Crossing neighborhood. The restaurant is at the corner of the shopping center facing Tasman Drive with residential uses above it. Surrounding uses are commercial, industrial, office and residential. The

proposed use that will allow alcoholic beverage service at the restaurant is compatible with the purpose of a mixed-use neighborhood.

Department of Public Safety Review: The Department of Public Safety notes that the applicant must comply with all requirements of State Department of Alcohol and Beverage Control (ABC) as noted in Condition of Approval GC-6 (a). Staff suggests a six-month staff level review period for this permit, to identify and address any complaints that may result from this use (Condition of Approval GC-4).

Public Contact: 130 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No response letters were received. Staff has not been contacted by any member of the public related to this application.

Environmental Determination: A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

FINDINGS

In order to approve the Special Development Permit the following findings must be made:

1. *The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.*

Sunnyvale General Plan:

Policy LT-4.7: *Support the location of convenient retail and commercial services (e.g., restaurants and hotels) in industrial areas to support businesses, their customers and their employees.*

Policy LT-4.10a: *Locate commercial uses where traffic can be accommodated especially during peak periods (e.g. lunch time and commute times).*

The restaurant already served beer and wine but will be able to include liquor with food service. The proposed use, as conditioned, at this location in a mixed use shopping center near a transit station will serve a neighborhood that includes newly developed residential as well as industrial and office uses. The proposed use, as conditioned, will provide additional service for restaurant patrons without resulting in negative impacts on the site or surrounding properties.

Staff was able to make the required finding as described above.

2. *The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application*

refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.

The proposed project does not include any expansion or other modifications to the existing building, so no visual impacts to the surrounding areas are anticipated. The site is located in a mixed use shopping center and surrounding uses include residential and industrial. The proposed project, as conditioned, is not expected to have any negative impacts on the site or the surrounding neighborhood. A six-month review of this permit will allow staff and the applicant to identify and address operational issues that may develop.

Staff was able to make the required finding as described above.

ALTERNATIVES:

1. Approve the Special Development Permit with recommended Conditions in Attachment A.
2. Approve the Special Development Permit with modifications.
3. Deny the Special Development Permit.

RECOMMENDATION

Alternative 1. Approve the Special Development Permit with recommended Conditions in Attachment A.

Reviewed by:



Gerri Caruso, Principal Planner

Prepared By: Shétal Divatia, Associate Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Letter from the Applicant

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
May 16, 2012**

**Planning Application 2012-7243
615 Tasman Drive**

Special Development Permit to allow full liquor service at an existing restaurant

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL (COA) AND STANDARD DEVELOPMENT REQUIREMENTS (SDR) SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

GC-3. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. PERMIT COMPLIANCE REVIEW:

The following compliance review is required as noted below:

- a) The applicant will notify in writing to the Planning Officer, the date of commencement of the full liquor service, following approval from ABC, at the subject site. [COA] [PLANNING]
- b) At the end of six months of the use commencement date, the applicant shall apply for a Miscellaneous Plan Permit (MPP) to initiate a six month review of this permit. [COA] [PLANNING]
- c) The MPP review shall include consideration of compliance with conditions of approval, public safety issues, impacts on surrounding properties, including residential uses located above the restaurant, and other information deemed appropriate by the Director of Community Development. [COA] [PLANNING]
- d) If compliance is not found, the MPP shall include additional requirements imposed to allow continuance of this use. If compliance is not achieved in a time frame noted, this Use Permit can be revoked. (COA) (PLANNING)

GC-5. CONFORMANCE WITH PREVIOUS PLANNING PERMIT:

The subject site shall comply with all conditions of approval and requirements of planning permit – Miscellaneous Plan Permit (MPP) 2012-7205 to allow outdoor seating and beer and wine permit. [SDR] (PLANNING)

GC-6. COMPLY WITH OR OBTAIN OTHER PERMITS:

- a) ABC Regulations: Comply with all ABC regulations and license requirements. Failure to comply with all ABC regulations is grounds for revoked. [SDR] (PLANNING)
- b) NO SMOKING: Tenant is responsible for ensuring customers comply with smoking regulation, per California State law. (SDR) (PLANNING)

AT: THE FOLLOWING OPERATIONAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

OPERATIONS

AT-1. HOURS OF OPERATION:

The use permitted as part of this application shall comply with the following hours of operation (as proposed by applicant) at all times:

The hours of operation are limited to:

- Monday – Saturday 10 a.m. – 10 p.m.
- Sunday 11 a.m. -8 p.m.

Hours extending beyond those noted shall require approval of the Director of Community Development through a Miscellaneous Plan Permit. [COA] [PLANNING]

AT-2. DELIVERY HOURS:

Delivery hours for the approved use shall comply with SMC 19.42.030:

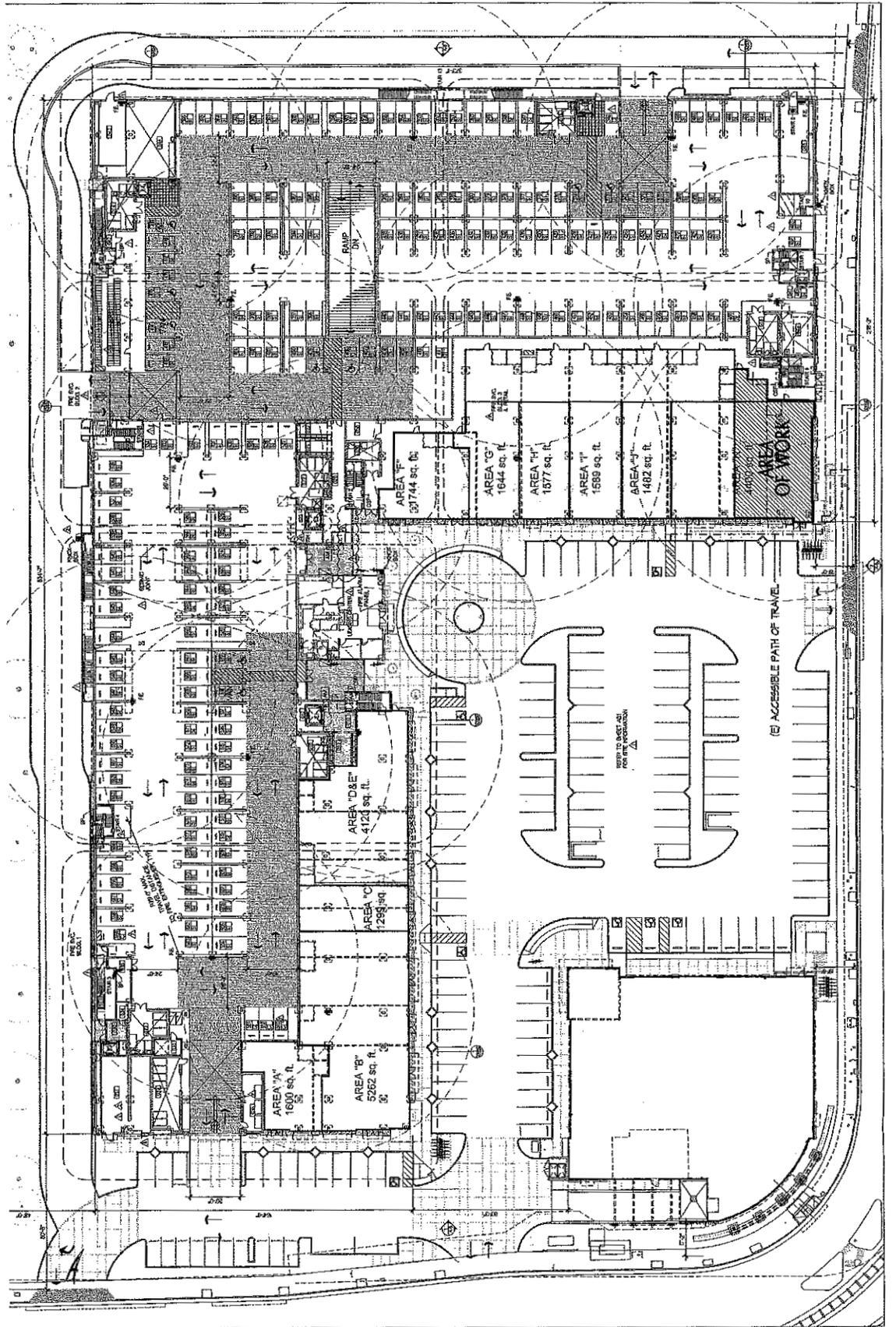
- a) Delivery hours are limited to daytime (period from 7:00 a.m. to 10:00 p.m. daily) only.
- b) Nighttime delivery (period from 10 p.m. to 7:00 a.m. daily) is prohibited. [SDR] [PLANNING]

AT-3. EXTERIOR NOISE:

- a) Operational noise (including music and speech) not to exceed 60 dba during daytime; and 45 dba during nighttime measured at the property lines. (SDR) (PLANNING)
- b) Employees shall ensure that any noise generated by business operations or patrons loitering in the parking lots shall not be audible to residents located above and beyond the property lines during nighttime hours (period from 10 p.m. to 7 a.m. daily). (COA) (PLANNING)
- c) Outdoor loudspeakers are prohibited at all times. (COA) (PLANNING)

AT-4. COMPLAINTS:

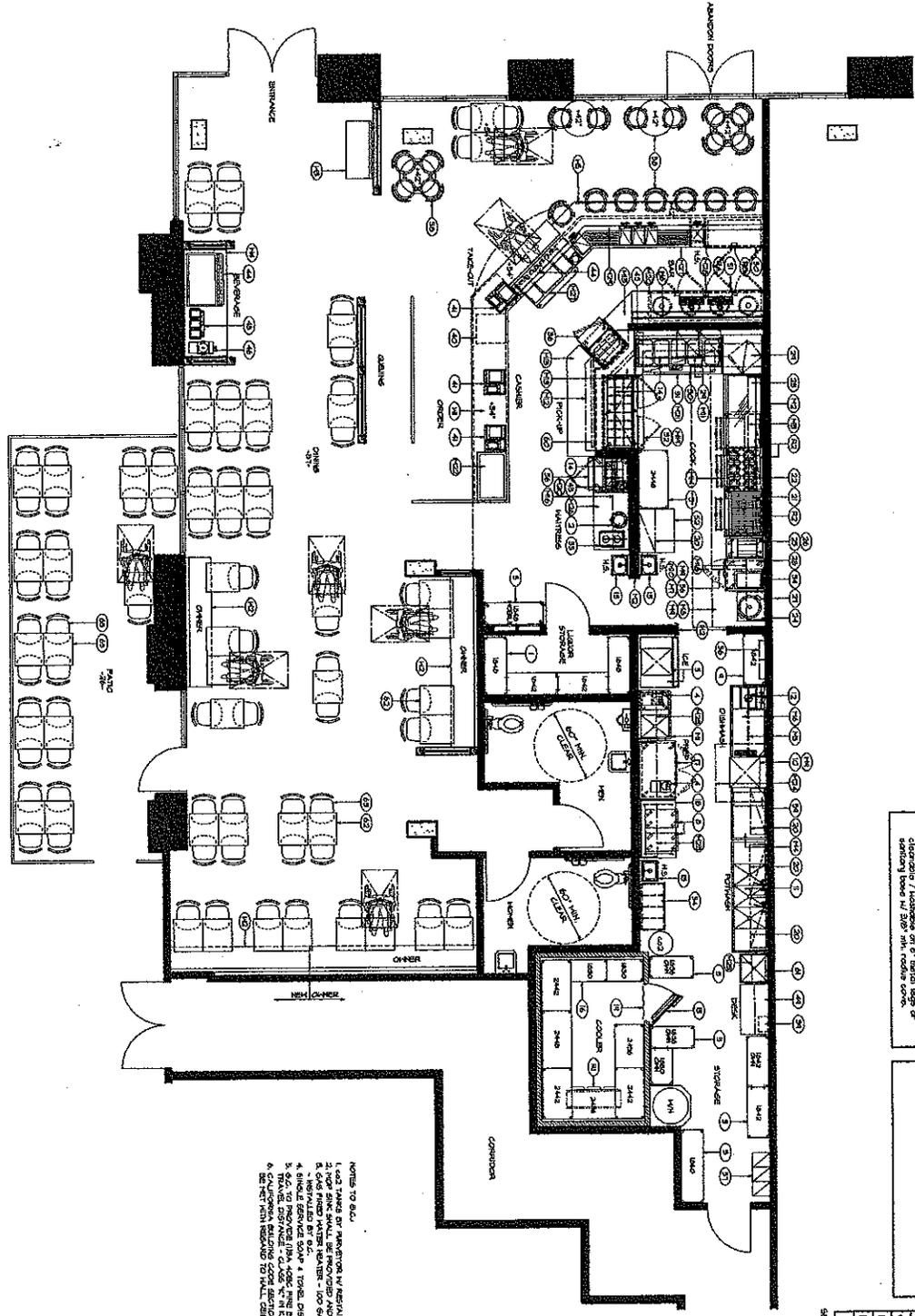
The business (owners or employees) shall be responsible for addressing and correcting any complaints received.



N. FAIR OAKS AVENUE

Tasman Dr.

fixtures & furnishings plan



- HEALTH DEPARTMENT NOTES**
- All walls & base in the food facility must be finished with a smooth, washable, non-absorbent material.
 - Food storage/hold & preparation areas must be finished with a smooth, washable, non-absorbent material.
 - All handwashing or hand sanitizing stations must be provided in the food facility.
 - The handwashing station must be provided in the food facility.
 - All equipment to be used in the food facility must be approved or listed for use in the food facility.
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Symbol DESCRIPTION

A	Refrigerator (height 80")
B	24" deep x 18" diameter x 18" high round vent hood panels per health dept. approval w/ filter system
C	Pre-tempered reinforced panels (Prestalite)
D	Commercial kitchen
E	Tray rack on 1/4" open floor w/ 6" high base & 1/2" radius curve
F	6" high base & 1/2" radius curve
G	Stainless steel countertop
H	Stainless steel countertop
I	Stainless steel countertop
J	47" high painted metal worktable
K	Wood support table
L	18" x 30" round table

ROOM FINISH SCHEDULE

ROOM	FLOOR	WALL	CEILING
RENOVATOR	L	H	A
COOK	F	G, D	A
DINING	K	H, A, J	A
RESTROOM	F	F	A
BAR	F	F	A
STORAGE	F	F	A
WALKWAY	F	F	A
COOLER	F	F	A
CONCRETE	K	H, A, J	A
BAR	F	F	A
LUTION STORAGE	F	F	A

* A: 20% 4" x 4" and 8" x 8" and 8" x 8"

- NOTES TO S.I.C.**
1. CABINETS BY MANUFACTURER IN RESTAURANT CHAIN BY S.I.C.
 2. CABINETS SHALL BE PROVIDED AND INSTALLED BY S.I.C.
 3. CABINETS SHALL BE PROVIDED AND INSTALLED BY S.I.C.
 4. CABINETS SHALL BE PROVIDED AND INSTALLED BY S.I.C.
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Job 21118
 FEB. 23, 2012
 revisions

Wahoo's Fish Taco
 SUNNYVALE
 615 TASMAN DRIVE, STE. Q
 SUNNYVALE, CA 94089

ATTACHMENT B
 Page 2 of 3

Wahoo's Fish Taco
695 Tasman Dr #Q
Sunnyvale, CA 90489

April 3, 2012

PROJECT DESCRIPTION

Dear City of Sunnyvale,

In 1988 three brothers opening a Fish Taco restaurant in Orange County CA with Brazilian, Asian inspired menu items called Wahoo's Fish Tacos. Today there are close to 65 Wahoo's Fish Tacos locations throughout California, Colorado, Texas, Las Vegas, Hawaii and New York. Currently there is one Wahoo's Fish Taco in Northern California located in Santa Row, San Jose.

Our project is located at the corner of Tasman and Fair Oaks in Sunnyvale, CA. We intend to open in July 2012. Since this is a multi use property with retail and residential in the Via Shopping Center we would like to offer a "Full Service" Restaurant, which would include our entire food menu offering, select International beers, margaritas and other specialties drinks that require a type 47 liquor licenses.

Wahoo's Fish Taco Sunnyvale will clearly be a restaurant that offers a complete restaurant experience with the addition of a full bar. The alcohol sales will be around 8% of our total sales. Our hour of operation will be 10:30 to 10:00 M-S and Sunday 11:00 to 8:00.

Thank you for considering our application,



Scot Cochran
Wahoo Fish Taco
Franchisee