


STAFF REPORT

SAUSALITO ZONING ADMINISTRATOR

Project Starbucks Coffee / 14/16 Princess Street
Minor Use Permit, Sidewalk Dining Encroachment Permit
MUP/EP 09-215

Meeting Date December 17, 2009

Staff Alison Thornberry, Assistant Planner 

REQUESTS

- Approval of a **Minor Use Permit** to allow an outdoor dining area with three tables and nine seats in front of the Starbucks Coffee Shop.
- Approval of a **Sidewalk Dining Encroachment Permit** to allow the outdoor dining area to be located in the public right-of-way at 14/16 Princess Street.

PROJECT INFORMATION

Applicant Starbucks Corporation

Property Owners Paul S. Lempio and Saga Perry

Location/Size 14/16 Princess Street; APN 065-131-10
2,670 square feet (see **Exhibit B** for vicinity map)

General Plan Central Commercial

Zoning Central Commercial (CC) District

Authority Minor Use Permit (Zoning Ordinance Section 10.58.020)
Sidewalk Dining Encroachment Agreement (Zoning Ordinance
Section 10.44.220.C.2)

BACKGROUND

The following provides a timeline of the discretionary and permit history of 1403 Bridgeway:

- On **October 11, 1993** the Planning staff approved an occupational permit for Starbuck's Coffee at the project site. The use was permitted as a coffee shop with limited seating and coffee retail sales which was a permitted use.
- In subsequent years the applicant received the required yearly Encroachment Permits for the allowed use of outdoor seating in the public right of way in front of the Starbuck's Coffee.
- The applicant's last Encroachment Permit issued for outdoor dining, expired on **October 31, 1995**.

- On **November 2, 2009** the applicant, Starbuck's Corporation, applied for a Minor Use Permit and Sidewalk Dining Encroachment Permit for outdoor dining for an existing coffee shop.

PROJECT DESCRIPTION

The proposed outdoor dining area is for a coffee shop and retail store located at 14/16 Princess Street, known as "Starbuck's Coffee". The coffee shop currently is permitted to have 16 indoor seats, and the new outdoor dining area will add three tables with nine outdoor seats along the sidewalk. The dining area will be placed directly in front of the building, which currently provides for a approximately eight foot wide pedestrian passageway within the sidewalk. A street tree planter is located in a portion of the sidewalk directly in front of the building, which reduces the pedestrian passageway to approximately four feet one inch from the tree planter to the nearest proposed outdoor dining table. There is also a bike rack located to the west of the street tree planter, which reduces the pedestrian passageway to approximately four feet four inches at the point where it is located in relation to the nearest proposed outdoor dining seat.

A review of records on file with the Community Development Department indicates that there are no specific conditions that would prohibit the location of the outdoor dining in front of Starbuck's Coffee. As such, staff concludes that the addition of the outdoor dining would not violate specific property conditions.

PROJECT ANALYSIS

GENERAL PLAN CONSISTENCY

To approve the proposed project the Zoning Administrator must determine that the project is consistent with all applicable General Plan policies. Staff has identified the following programs and policies as most relevant to the proposed project:

Land Use Consistency

Policy CP-1.5 Encroachments. Manage encroachment of public street rights-of-way by private development. The location of outdoor dining in sidewalks is a permitted use through the issuance of a Minor Use Permit, and a Sidewalk Dining Encroachment Permit as stipulated in Section 10.44.220.C of the Zoning Ordinance. Conditioned on compliance with the requirements for outdoor dining, staff concludes the encroachment can be appropriately managed and will enhance and enliven the streetscape.

Policy LU-2.0 Promote and Enhance Commercial Economic Diversity. Promote and enhance economic viability of all commercial areas throughout the City, while continuing to recognize residential needs, by establishing distinct commercial districts that preserve the variety of uses serving residents and visitors. The subject coffee shop is one of the few coffee shop and retail stores in the immediate area. Enhancement of the coffee shop with outdoor dining will attract customers and promote the establishment's economic viability as a local business that serves local residents, visitors, and employees in Sausalito.

Summary

In summary, the outdoor dining site design is consistent with important features identified in the General Plan with respect to encroachments and economic diversity compatibility with surrounding property owners and businesses.

ZONING CONSISTENCY

The following outlines the applicable Zoning Ordinance regulations for the requested outdoor dining area.

Minor Use Permit

In order to recommend approval or conditional approval of the Minor Use Permit, the Zoning Administrator must determine whether the proposed project is in conformance with the findings listed in Section 10.58.050 of the Zoning Ordinance. Staff concludes the requisite findings for the Minor use Permit can be made to approve the permit, as summarized in the following analysis and in the findings listed in the attached Resolution (see **Attachment 1 of Exhibit B**).

Outdoor Dining Regulations

Pursuant to Section 10.44.220.C of the Zoning Ordinance, outdoor eating areas located in the sidewalk are subject to approval of a Minor Use Permit by the Zoning Administrator and a Sidewalk Dining Encroachment Permit by the Community Development Department. The following summarizes the applicable regulations from this Section and the project's compliance. As indicated in the table below, the proposed outdoor dining area is compliant with the requirements for outdoor dining. Conditions of approval stipulated by Section 10.44.220.C of the Zoning Ordinance have been included in the attached draft resolution of approval.

Outdoor Dining Regulations (10.44.220.C)	Analysis
<p>a. Safe Passage. Safe and adequate passage of 48" width shall be provided both along the sidewalk and from the curb to the sidewalk (to provide for two pedestrians walking side by side or by a single wheelchair.) No tables or chairs shall be placed or allowed to remain on any sidewalk that inhibits passage.</p>	<p>The outdoor dining area provides a pedestrian passageway of eight feet at its widest point and four foot one inch at its narrowest point, which adequately meets the safe passage requirements.</p>
<p>b. Location. Permits shall only be issued to allow the use of sidewalk immediately adjacent to the restaurant seeking the permit.</p>	<p>The outdoor dining area is immediately adjacent to the coffee shop, and thus satisfies this requirement.</p>
<p>c. Food Service. The establishment obtaining the Permit shall be engaged in food service and shall provide such service at the tables subject to the Permit.</p>	<p>The outdoor dining will serve a coffee shop providing food service, which satisfies this requirement.</p>
<p>d. Capacity of outdoor eating area. An outdoor eating area on private property shall not exceed the most restrictive of the following limits, unless otherwise authorized by the Zoning Administrator in the required Minor Use Permit:</p> <ol style="list-style-type: none"> 1. 25 percent (25%) of the indoor dining area of the restaurant; or 2. 5 tables; or 3. A capacity of 20 people. 	<p>The proposed outdoor dining area is exempt from this regulation, since the outdoor dining area is located on public right-of-way and not on private property.</p>

Outdoor Dining Regulations (10.44.220.C)	Analysis
e. Parking. Eating establishments with outdoor eating areas in public rights-of-way shall be exempt from additional parking requirements.	The outdoor dining area is exempt from additional off-street parking requirements.

CONCLUSION

In summary, staff finds merit in the project design and outdoor dining site plan. The project promotes and enhances economic viability in the Central Commercial Zoning District, by creating a use that preserves variety for residents and visitors.

PUBLIC NOTICE AND CORRESPONDENCE

- December 3, 2009 – Notices were mailed to all residents and property owners and interested persons within 300 feet of the project site.
- No written correspondence was received at the time of writing the staff report.

RECOMMENDATION

Staff recommends the Planning Commission approve the attached draft resolution (**Exhibit B**) which takes the following actions regarding the proposed outdoor dining at 14/16 Princess Street:

- Approval of a **Minor Use Permit** to allow an outdoor dining area with three tables and nine seats in front of the Starbucks Coffee Shop.
- Approval of a **Sidewalk Dining Encroachment Permit** to allow the outdoor dining area to be located in the public right-of-way at 14/16 Princess Street.

Additionally, the Zoning Administrator may:

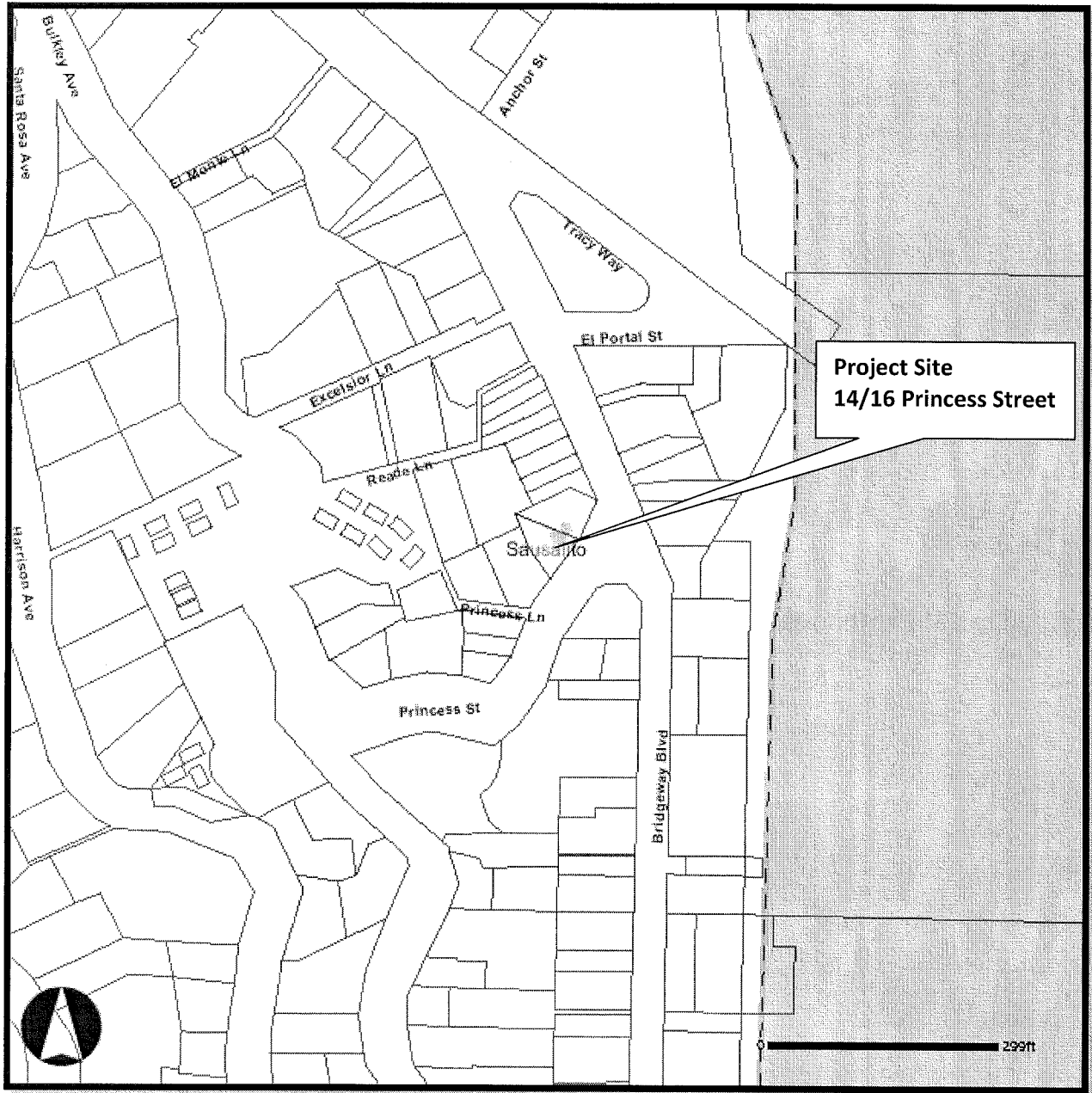
- Approve the application with modifications;
- Continue the application for additional information and/or project revisions; or
- Deny the application and direct Staff to return with a Resolution of Denial.

EXHIBITS

- A. Vicinity Map
- B. Resolution (Draft)

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Vicinity Map



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**SAUSALITO ZONING ADMINSTRATOR
RESOLUTION NO. 2009-xx**

**A RESOLUTION APPROVING A MINOR USE PERMIT AND SIDEWALK DINING
ENCROACHMENT PERMIT FOR AN OUTDOOR DINING AREA TO BE LOCATED IN THE
PORTION OF THE SIDEWALK ADJACENT TO STARBUCK'S COFFEE AT 14/16
PRINCESS STREET
(MUP/EP 09-215)**

WHEREAS, an application has been filed by applicant, Starbuck's Corporation, on behalf of the property owners, Paul S. Lempio and Saga Perry, requesting Zoning Administrator approval of a Minor Use Permit and Sidewalk Dining Encroachment Permit to allow an outdoor dining area in the public right-of-way, adjacent to the coffee shop, Starbuck's Coffee, located at 14/16 Princess Street (APN 065-131-10); and

WHEREAS, the Zoning Administrator conducted a duly noticed public meeting on December 17, 2009 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Zoning Administrator finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301; and

WHEREAS, the Zoning Administrator has reviewed and considered the project plans titled "Starbuck's Coffee – 14/16 Princess Street" date-stamped received on November 2, 2009; and

WHEREAS, the Zoning Administrator has considered all oral and written testimony on the subject application; and

WHEREAS, the Zoning Administrator has considered the information contained in the staff report dated December 17, 2009; and

WHEREAS, the Zoning Administrator finds that, as conditioned herein, the proposed project complies with the requirements of the General Plan and Zoning Ordinance as described in the staff report dated December 17, 2009.

NOW, THEREFORE, THE ZONING ADMINISTRATOR HEREBY RESOLVES AS FOLLOWS:

A Minor Use Permit and Sidewalk Dining Encroachment Permit MUP/EP 09-215 to allow an outdoor dining area with three tables and nine seats in front of the restaurant located at 14/16 Princess Street is approved based upon the findings in **Attachment 1** and subject to the conditions of approval in **Attachment 2**. The project plans are provided in **Attachment 3**.

Date

Jeremy Graves, AICP
Zoning Administrator

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Project Plans

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ITEM NO. 1 PAGE 7

Exhibit B
[7 pages]

ZONING ADMINISTRATOR HEARING
December 17, 2009
MUP/EP 09-215
Starbuck's Coffee – 14/16 Princess Street

ATTACHMENT 1: FINDINGS

MINOR USE PERMIT FINDINGS

Pursuant to Sausalito Municipal Code Section 10.58 (Minor Use Permits), it has been found that the permit is approved based on the following findings:

- A. The proposed use is allowed with issuance of a Minor Use Permit, pursuant to Chapters 10.20 through 10.28 (Zoning District Regulations), Chapter 10.44 (Specific Use Requirements) or any other applicable section of this Title 10.

Outdoor dining areas located on sidewalks in the public right-of-way and are permitted in the Commercial Residential Zoning District with a Minor Use Permit (Zoning Ordinance Section 10.24.030) and subject to the requirements outlined in Zoning Ordinance Section 10.44.220.

- B. The proposed use is consistent with the General Plan, the purposes of the Zoning Ordinance, and the purposes of the applicable zoning district.

The proposed outdoor dining area is consistent with General Plan policies for managing encroachments in the public right-of-way and for promoting the economic viability for commercial neighborhood uses (General Plan Policies CP 1.5 and LU 2.13). The outdoor dining area is also consistent with all applicable Zoning Ordinance regulations for outdoor dining, as conditioned.

- C. The proposed use, together with the applicable conditions, will not be detrimental to the public health, safety, or general welfare of the City

The outdoor dining area provides an adequate pedestrian passageway within the sidewalk on Princess Street, eight feet at its widest point and four feet one inch at its narrowest where a tree planter is located. As such, it is not anticipated the dining area will be detrimental to the public health, safety, or general welfare of the City.

- D. The proposed use complies with all of the applicable provisions of the Zoning Ordinance.

The proposed use complies with all applicable provisions of the Zoning Ordinance, including requirements for outdoor dining areas in sidewalks (Section 10.44.220.C), as described in the staff report dated December 17, 2009.

- E. The proposed use or facility is properly located relative to the community as a whole and to land uses and transportation and service facilities in the vicinity.

The dining area is immediately adjacent to an existing coffee shop, and is properly located in a sidewalk area that provides adequate passageway along Princess Street. The dining area will enhance the establishment in a central commercial area that supports local residents, visitors, and employees in Sausalito.

- F. The size and shape of the subject property is adequate to provide features needed to ensure reasonable compatibility with land uses normally permitted in the surrounding area. Features may include but not be limited to yards, open spaces, walls and fences, parking, loading, landscaping, and such features as may be required by this Title or the Commission.

The outdoor dining area will be placed along the restaurant frontage maintaining a minimum of a four foot passageway in the public right-of-way, and thus will not limit the required pedestrian access along Bridgeway. Outdoor dining is a use normally permitted in the sidewalk, subject to the requirements stipulated by Zoning Ordinance Section 10.44.220.C, and thus is deemed adequate for the subject site.

- G. Public utilities and facilities are or will be adequate to serve the proposed use, including streets and highways paved (and of adequate width) for the quantity and type of traffic it will generate.

All public utilities and facilities are adequate for the proposed use. It is not anticipated that the use will generate additional traffic impacts to Princess Street, and will not adversely impact pedestrian traffic.

- H. The proposed use will not materially adversely affect nearby properties or their permitted uses.

The outdoor dining area is confined to the adjacent sidewalk area in the public right-of-way along the storefront only, and will not extend to nearby properties. It is also located away from nearby single-family residential properties, as it is a cross street to a major thoroughfare through the City (Bridgeway). The new dining area will maintain the required safe passage area on the sidewalk for pedestrians and will not block or diminish the sidewalk passageway. As such the proposed use will not materially adversely affect nearby properties or the public right-of-way.

- I. Findings required by Chapter 10.44 (Specific Use Requirements) for the approval of specific uses are made.

There are no additional findings required by Chapter 10.44 for outdoor dining areas.

ZONING ADMINISTRATOR HEARING
December 17, 2009
MUP/EP 09-215
Starbuck's Coffee – 14/16 Princess Street

ATTACHMENT 2: CONDITIONS OF APPROVAL

1. Approval of this application is limited to the site plan dated stamped received November 2, 2009 and attached herein.
2. The outdoor dining area is approved for three tables and a total of nine seats in the public right-of-way.
3. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
4. Pursuant to Section 10.44.220.C, the outdoor dining area shall conform with the following regulations:
 - a. **Safe Passage.** Safe and adequate passage of 48" width shall be provided along the sidewalk at all times. Should tree grates installed on the sidewalk reduce the passageway to less than 48", plans to provide adequate passage shall be submitted for approval to the Community Development Department.
 - b. **Location.** The permit issued is to only allow the use of the sidewalk, public right-of-way, immediately adjacent to the restaurant located at 1403 Bridgeway.
 - c. **Cleanliness.** Debris, litter or food matter shall be removed from the sidewalk, streets or surrounding property at least once each day during operating hours and at the time tables and chairs are removed from the sidewalk.
 - d. **Food Service.** The applicant shall be engaged in food service and shall provide such service at the outdoor dining area.
 - e. **Insurance.** The Applicant shall obtain liability insurance with policy limits of at least \$500,000 per incident. The City shall be named an additional insured and the policy shall remain in force at all times that the Permit is in effect.
 - f. **Hold Harmless.** The Applicant shall enter into an Encroachment Permit Agreement prepared by and satisfactory to the City Attorney. The Applicant shall agree to conform to these conditions and all applicable city ordinances. The Applicant shall also agree to indemnify the City and hold the city harmless from and against all liability arising out of the Applicant's activities under the Permit or otherwise arising out of the Applicant's placement of tables and chairs in the City sidewalk and/or from permitting the use of such tables and chairs by patrons or otherwise.
 - g. **Orderliness.** All tables and chairs shall be removed from the sidewalk whenever the restaurant is closed or when the restaurant is not serving patrons on the sidewalk. The Permit shall provide for the placement of tables and chairs for the use of diners only. No entertainment shall be permitted along the sidewalk by the restaurant. No food preparation

shall take place along the sidewalk, and no serving trays or bus stations shall be located along the sidewalk.

- h. **Preeminence.** The Applicant shall acknowledge that its use of the sidewalk under the Permit is subordinate to the public's right to use the sidewalk for passage and travel. Permit shall be revocable from time to time by order of the City to allow for a public event or other public use of the sidewalk subject to the Permit or if the use of the sidewalk for dining purposes conflicts with any public use of the sidewalk. The Applicant shall also acknowledge that the use of the sidewalk is subject to temporary suspension any time the City or any utility company or easement holder requires access to the sidewalk or any utility under the sidewalk, or requires use of the sidewalk in conjunction with any construction project.
- i. **Fee.** The Applicant shall be required to pay the City an annual permit fee, based on square footage of the permit area, as established by Resolution of the City Council.
- j. **Compliance with All Regulations.** The Applicant shall comply with all regulations of State Alcoholic Beverage Control and the County of Marin Department of Public Health, and any other agency that controls the operations of the restaurant.
- k. **Revocable.** All Sidewalk Dining Permits and Encroachment Permits shall be subject to permanent revocation by the City at any time.

Advisory Notes

Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

- 1. This approval will expire in one (1) year from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted.
- 2. All applicable City fees as established by City Council resolutions and ordinances shall be paid.

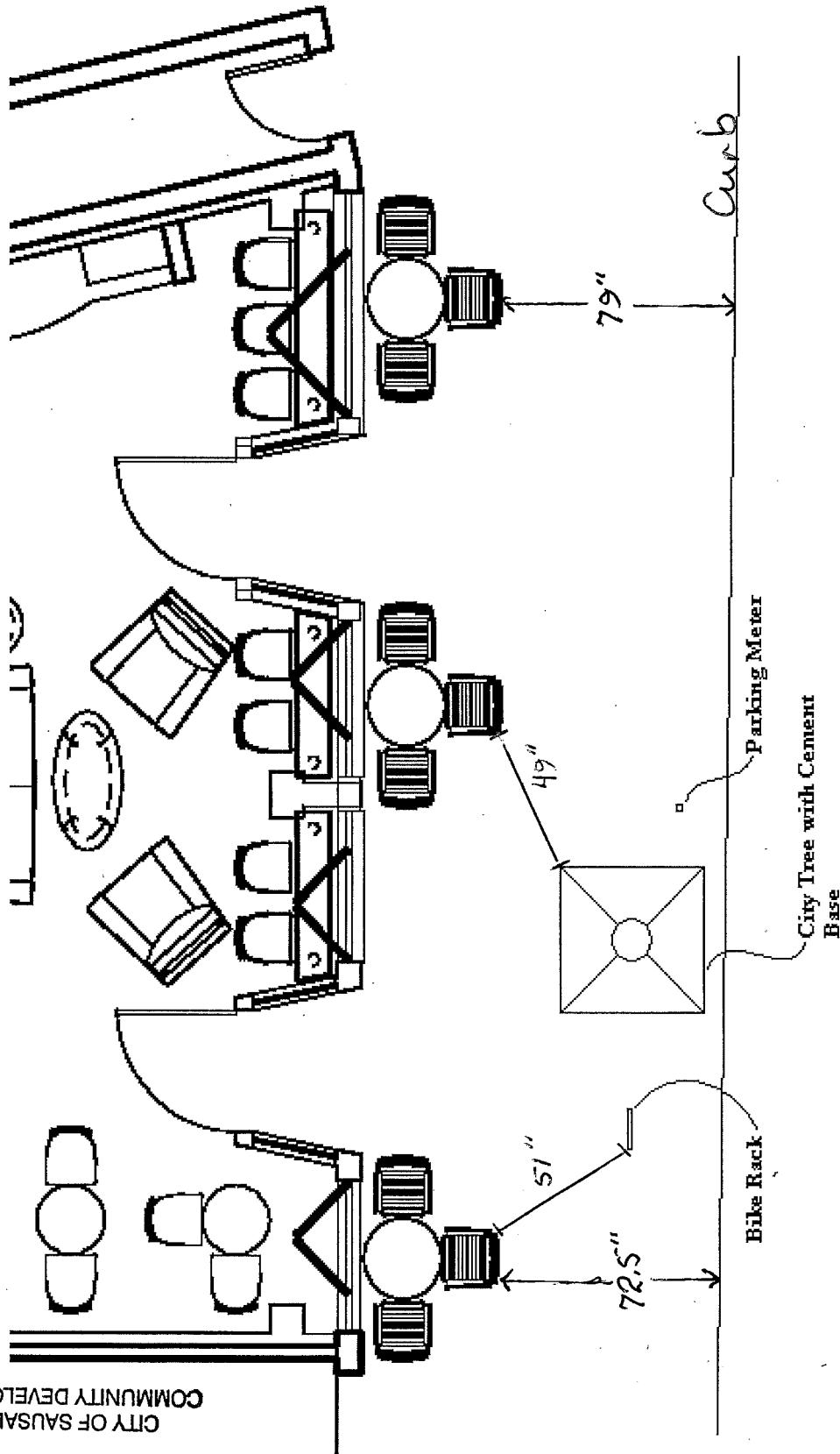
ZONING ADMINISTRATOR HEARING
December 17, 2009
MUP/EP 09-215
Starbuck's Coffee – 14/16 Princess Street

ATTACHMENT 3: SITE PLAN

RECEIVED

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CITY OF SAUSALITO
COMMUNITY DEVELOPMENT



Starbucks Coffee

STORE #: **606** : SAUSALITO
14-16 PRINCESS STREET
SAUSALITO, CA 94965
COUNTY: MARIN

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