

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE NAPA SANITATION DISTRICT  
GRANTING RELIEF ON APPLICATION  
FOR MODIFICATION OF SECTION 5.02.030.B.2.a.  
OF THE NAPA SANITATION DISTRICT CODE  
AS APPLIED TO THE CORNER AT 660 MAIN STREET  
IN THE CITY OF NAPA**

**RECITALS**

1. Section 5.02.030.B.2.a. of the Napa Sanitation District Code (the “Code”) sets out the capacity charges imposed for exterior spaces that will be used for sit down dining.
2. Section 5.02.030.B.2.a. of the Code sets out the capacity charge for exterior sit down dining spaces to be 3.25 EDU per 1,000 square feet.
3. In October 2014, tenant improvement plans for the restaurant space were submitted to Napa Sanitation District (NapaSan).
4. In May 2015, the tenant improvement plans were approved by NapaSan and building permits for the restaurant were issued by the City of Napa and NapaSan. The permit set of plans did include improvements for the outdoor dining area but the area is noted as “Under Separate Cover”.
5. On August 4, 2015, Napa County Environmental Health Department issued a letter to the restaurant stating that the plans were approved and that the “food facility presents a total of 74 patron seats”. The total number of seats includes the proposed 23 seats to be located in the exterior sit down dining area.
6. On August 31, 2015, NapaSan’s Code changed to include Section 5.02.030.B.2.a, and that provision substantially changed the manner in which restaurant capacity charges were calculated.
7. In September 2015, the restaurant submitted for City of Napa planning approval for outdoor dining.
8. In October 2015, NapaSan wrote conditions of approval for the planning application for outdoor dining which included the requirement to pay capacity charges per Code.
9. In May 2016, the City of Napa approved the application for outdoor dining.
10. In June 2016, Napa County Environmental Health Department issued a permit to operate the restaurant.
11. In July 2016, the restaurant opened for business.

12. In October 2016, an encroachment permit was issued by the City of Napa to install the outdoor dining improvements.

13. The restaurant representatives assert that it should not have to pay the \$16,826 capacity charge of the outdoor dining area because the project originally intended on installing the outdoor dining area. Additionally, the restaurant representatives assert that they would have permitted the outdoor dining area before the NapaSan Code change had they been aware it would have saved the project capacity charge fees.

14. Section 4.01.050 of the Code authorizes the Board of Directors to suspend or modify any provision of the Code as to a particular premises if it finds special circumstances justify such suspension or modification.

15. At its December 7, 2016 Board of Directors meeting, the Board of Directors of the Napa Sanitation District tentatively determined that Section 5.02.030.B.2.a. should be modified for this project such that a capacity charge should not be due as a result of the addition of outdoor dining.

**NOW, THEREFORE BE IT RESOLVED**, in light of the foregoing recitals, that the Board of Directors, pursuant to 4.01.050 of the Code, hereby finds that special circumstances exist with respect to the Property in that:

1. The Corner consistently intended for outdoor dining to be included in the project, as is reflected in its submittals to the City, NapaSan, and the County; and
2. Had The Corner known that the capacity charge would apply to outdoor dining areas after NapaSan's Code change on August 31, 2015 it could have and likely would have sought to have NapaSan and the City of Napa issue permits and pay fees for the outdoor dining area before that date.

Therefore, Section 5.02.030.B.2.a. of the Code is modified as applied to The Corner at 660 Main Street such that no capacity charge is due as a result of the creation of outdoor dining.

I hereby certify that the foregoing Resolution was duly and regularly adopted by the Board of Directors of the Napa Sanitation District, at its regularly scheduled meeting on the 11<sup>th</sup> day of January, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

---

Chair, Board of Directors

---

Secretary, Board of Directors