

**HUNTINGTON BEACH  
OFFICE OF THE ZONING ADMINISTRATOR  
EXECUTIVE SUMMARY**

**TO:** Zoning Administrator  
**FROM:** Tess Nguyen, Associate Planner  
**DATE:** January 15, 2014  
**SUBJECT:** **CONDITIONAL USE PERMIT NO. 13-032 (EL PORTON RESTAURANT ON-SITE ALCOHOL SALES)**  
**LOCATION:** 8863 Adams Avenue, 92646 (northwest corner of Adams Avenue and Magnolia Street)

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**Applicant:** Henry Ataei, 1910 West Palmyra Avenue, unit 8, Orange, CA 92668

**Property Owner:** Jodyne Roseman, Pacific Plaza Shopping Center, LP, 1741 Grand Avenue, Del Mar, CA 92014

**Request:** To permit the on-site sale, service, and consumption of alcoholic beverages within an existing, vacant, approximately 1,620 sq. ft. eating and drinking establishment.

**Environmental Status:** This request is covered by Categorical Exemption, Section 15301, Class 1, California Environmental Quality Act.

**Zone:** CG (Commercial General)

**General Plan:** CG – F1 (Commercial General – 0.35 FAR Max.)

**Existing Use:** Vacant Commercial Suite

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**RECOMMENDATION:** Staff recommends approval of the proposed project based upon the following findings:

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator finds that the project will not have any significant effect on the environment and is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project involves no expansion in the overall floor area of an existing use.

**SUGGESTED FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 13-032:**

1. Conditional Use Permit No. 13-032 to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,620 sq. ft. eating and drinking establishment at an existing shopping center will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed alcohol sales and service,

as conditioned, will not generate noise, traffic, demand for parking, or other impacts above that which currently exists and inconsistent with the subject property's commercial zoning. The main entrance of the restaurant is oriented towards Adams Avenue, away from residential properties. Residential uses to the north, south, east and west of the subject property are adequately buffered from potential negative noise impacts by the building, landscaping, parking lot and existing streets. The request for alcohol is ancillary to the primary restaurant use and will serve to augment the overall dining experience. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building's interior and will not generate detrimental impacts onto surrounding properties.

2. The conditional use permit will be compatible with surrounding uses because the project is located within an existing commercial development containing similar and complementary uses. The sales, service, and consumption of alcohol within the restaurant will be ancillary to the restaurant use. The proposed business hours are similar to other commercial uses within the vicinity. The use will be required to comply with conditions of approval pertaining to alcohol service and operation to assure that any potential impacts to the surrounding properties are minimized.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it would be located. The restaurant with alcohol sales will be located within an existing commercial center, which conforms to land use and on-site parking requirements applicable to the Commercial General (CG) zoning designation.
4. The granting of the conditional use permit to allow the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within an existing eating and drinking establishment is consistent with the General Plan. The proposed project is consistent with the Land Use Element designation of Commercial General on the subject property. In addition, it is consistent with the following policies and objective of the City's General Plan:

A. Land Use Element

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding sub-region, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy LU 10.1 Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, and capitalize on Huntington Beach's recreational resources.

B. Economic Development Element

Policy ED 2.4.3 Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

The requested conditional use permit will accommodate existing development by allowing the establishment of a restaurant with alcohol sales. The proposed use will market its services to local residents and residents in the surrounding region thereby

expanding the service-based commercial opportunities in the City. It will be located in an existing shopping center, which includes service related uses.

**SUGGESTED CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 13-032:**

1. The site plan and floor plan received and dated November 14, 2013, shall be the conceptually approved design.
2. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning and Building Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
3. The use shall comply with the following:
  - a. Hours of operation shall be limited to between 11:00 AM and 9:00 PM Tuesday through Friday and between 9:00 AM to 9:00 PM Saturday and Sunday.
  - b. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available from the time the business opens to the public until at least one hour prior to the scheduled closing time. **(PD)**
  - c. All alcoholic beverages shall remain within the interior of the restaurant per Section 9.44.010 of the Huntington Beach Municipal Code (HBMC). A sign shall be posted stating alcohol beverages are not allowed outside of the restaurant. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
  - d. Signage, posters, and advertising with “Do Not Drink and Drive” shall be posted in the business. **(PD)**
  - e. No Happy Hour alcoholic beverage specials shall be offered after 7:00 PM. **(PD)**
  - f. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired. Training shall be provided by and ABC approved RBS trainer and records of the training shall be maintained on-site for review. **(PD)**
  - g. All owners, employees, representatives, and agents shall obey all state, local, and municipal laws, conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by a regulatory authority with jurisdiction over the premise at all times. **(PD)**
  - h. Entertainment shall not be permitted without a valid Entertainment Permit issued by the Huntington Beach Police Department. **(PD)**
  - i. Dancing shall be permitted by anyone. **(PD)**
4. The Development Services Departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning

Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.

5. Conditional Use Permit No. 13-032 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning and Building Department a minimum 30 days prior to the expiration date.
6. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/green-building-guidelines-rating>).

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.