



City of Huntington Beach Planning and Building Department
STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Jill Arabe, Assistant Planner 
DATE: February 28, 2012

SUBJECT: ZONING TEXT AMENDMENT NO. 11-003 (AMENDING CHAPTER 248 – PC APPEALS)

APPLICANT: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

LOCATION: Citywide

STATEMENT OF ISSUE:

- ♦ Zoning Text Amendment No. 11-003 request:
 - Amend Chapter 248 (Notices, Hearings, Findings, Decisions and Appeals) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) pursuant to direction from the City Council

RECOMMENDATION:

Motion to:

“Approve Zoning Text Amendment No. 11-003 with findings for approval (Attachment No. 1) and forward Draft Ordinance (Attachment No.2) to the City Council for adoption.”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Continue Zoning Text Amendment No. 11-003 and direct staff accordingly.”
- B. “Deny Zoning Text Amendment No. 11-003 with findings for denial.”

PROJECT PROPOSAL:

Zoning Text Amendment No. 11-003 represents a City initiated request to amend Chapters 248 (Notices, Hearings, Findings, Decisions and Appeals).

Pursuant to Chapter 247 of the HBZSO, the Planning Commission must make specific findings whether to approve, approve in modified form, or disapprove a proposed zoning text amendment prior to providing recommendation to the City Council.

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

The proposed zoning text amendment is Citywide.

General Plan Conformance:

The proposed Zoning Text Amendment No. 11-003 is consistent with the goals, policies, and objectives of the City's General Plan as follows:

Economic Development Element

Goal ED 1: Provide economic opportunities for present and future Huntington Beach residents and businesses through employment and local fiscal stability.

Policy ED 2.3.1: Strive to reduce all discretionary permit and licensing processing time.

The ZTA will encourage the growth of businesses within the City because it will streamline the entitlement processing time by reducing the number of appeals filed. It is also consistent with the City Council's Strategic Plan Goals for enhancing economic development.

Zoning Compliance: Not Applicable.

Urban Design Guidelines Conformance: Not Applicable.

Environmental Status: The proposed ZTA is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act because it is a minor zoning text amendment which does not change the development standards, intensity, or density of any zoning district.

Coastal Status: Not applicable.

Redevelopment Status: Not applicable.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements: The proposed amendment to the City’s existing ordinance was prepared with the input from the City Attorney’s Office. The amendment does not affect the operations or services of other city departments.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on February 16, 2012 and notices were sent to individuals/organizations requesting notification (Planning and Building Department’s Notification Matrix) as well as all interested parties.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

Not applicable

MANDATORY PROCESSING DATE(S):

Legislative Action - Not Applicable

ANALYSIS:

Currently, all Planning Commissioners and City Council members may appeal a project without an associated fee. The appeal adds about two months to the entitlement processing time. At the August 1, 2011, City Council meeting, staff was directed to remove appeal fee waivers for Planning Commissioners in order to streamline the process for existing or new businesses.

Below is a summary of the type of appeals filed since 2007. Table 1 identifies the number of appeals that have been filed in the City and Table 2 identifies the projects that were appealed.

| Table 1:Appeal History | | | |
|-------------------------------|--------------------------------|-------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Year | # of Appeals Considered | Decision Appealed | Appellant |
| 2007 | 5 | 2 ZA Decision 1 DRB Decision 2 PC Decision | 1 Planning Commissioner 4 City Councilmember 2 Applicant |
| 2008 | 12 | 8 ZA Decision 4 PC Decision | 4 Planning Commissioner 4 City Councilmember 2 Applicant 1 Property Owner 1 Neighbor |
| 2009 | 7 | 1 ZA Decision 1 EAC Decision 5 PC Decision | 1 Planning Commissioner 4 City Councilmember 1 Applicant 1 Property Owner |
| 2010 | 11 | 1 DRB Decision 4 ZA Decision 6 PC Decision | 3 City Councilmember 3 Applicant 2 Property Owner 3 Neighbor |
| 2011 | 5 | 1 ZA Decision 1 Director Decision 3 PC Decision | 1 Planning Commissioner 1 City Councilmember 2 Property Owner 1 Neighbor |

Table 2: Appealed Projects

| Year | Name of Project | Reviewing Body | Appellant | Further Action |
|-------------------------------------------------------------|---------------------------------------------------------|-----------------------|------------------|----------------------------------------------------|
| 2007 | Aouizerat Property – DR 07-010 | DRB | CC | |
| | HSS Outdoor Sales – TUP 07-01 | ZA | PC | |
| | Tinker Carport Addition – VAR 07-007 | ZA | CC | |
| | Park Avenue Marina – MND 00-07/CDP 00-13/CUP 00-43 | PC | Applicant | Appealed to CC by applicant (denied) |
| | First Christian Church – MND 06-08/CUP 06-35/VAR 07-01 | PC | CC | Appealed to CC by CC (approved) |
| 2008 | Taddeo Residence – CDP 07-13 | ZA | PC | Appealed to CC by CC (approved) |
| | Herman Residence – CDP 07-18/CUP 07-44 | ZA | PC | |
| | HB Motor Cars Readerboard Sign – CUP 08-06 | ZA | PC | |
| | Metro Q Restaurant – CUP 08-09 | ZA | PC | |
| | Ralph’s Recycling Center – CUP 07-47 | ZA | Applicant | |
| | Sawyer Residence – CDP 08-11/CUP 08-21 | ZA | CC | |
| | Springdale Commercial Center – CUP 08-28 | ZA | Applicant | |
| | Demesne Commercial Development – CUP 08-30 | ZA | Property Owner | |
| | Senior Center – EIR 07-02/CUP 07-39 | PC | CC | |
| | Bella Terra Towers – CUP 08-03 | PC | Neighbor | |
| Ripcurl – EIR 07-04/ZTA 07-04/GPA 07-03/ZMA 07-01/CUP 07-43 | PC | CC | | |
| 2009 | Beach Promenade Commercial Center – CUP 08-13/VAR 08-07 | ZA | Applicant | Appealed to CC by CC (approved) |
| | The Ridge – MND 08-16 | EAC | PC | Appealed to CC by CC (2010) (approved) |
| | Shorecliffs MHP – TTM 17296 | PC | Applicant | |
| | Brethren Christian Gym – ND 08-18/CUP 08-52 | PC | CC | |
| | Senior Center – Landscape Plans CUP 07-39 | PC | CC | |
| | DTSP Update – EIR 08-01 | PC | CC | |
| 2010 | Wells Fargo ATM – DR 09-31 | DRB | Applicant | |
| | Pierside Pavilion Carts – CUP 10-17 | ZA | Applicant | Appealed to CC by CC (approved) |
| | TMobile WCF – CUP 09-15 | ZA | Neighbor | Appealed to CC by applicant (denied) |
| | Ward/Garfield – CUP 09-24 | PC | CC | |
| | Shorecliffs MHP – TTM 17296 | PC | Property Owner | |
| | Atlanta Avenue Widening – MND 09-01 | ZA | Property Owner | Appealed to CC by property owner (2011) (approved) |
| | Newland Carwash – CUP 09-12 | ZA | Neighbor | Appealed to CC by neighbor (approved) |
| 2011 | Magnolia Tanks – CDP 10-11 | ZA | PC | |
| | First Christian Church Signs – SCE 10-01 | Director | CC | |
| | EIR Beach & Warner – EIR 10-03 | PC | Neighbor/CC | |
| | Pacific MHP – TTM 17397/CDP 10-17 | PC | Property Owner | |

The zoning text amendment complies with the required findings. It is consistent with the General Plan goals and policies of enhancing economic growth and is applicable to all projects that are appealable. Also, a community need is demonstrated for the amendment. The zoning code was previously changed to streamline the entitlement process, specifically reducing the application cost, processing time and reviewing body of minor projects such as Conditional Use Permits for building additions or Sign Code Exceptions for exceeding sign area to the Zoning Administrator or Director, respectively. This change was intended to provide the ZA and Director with more authority and discretion for minor projects. When a minor project is appealed by a Planning Commissioner member, staff time is then allocated to continue processing the application without the benefit of a fee to cover processing costs. This has the potential to affect other projects because staff resources will therefore be affected in order to process the appeal. As a result, projects that would normally take 2-3 months to process may take longer. By including appeal fees for Planning Commissioners, the number of appeals is anticipated to reduce, which would be consistent with the City Council's Strategic Planning Goals.

ATTACHMENTS:

1. Suggested Findings for Approval – ZTA No. 11-003
2. Planning Commission Appeals Survey dated November 2011
3. Draft Ordinance - ZTA No. 11-003
4. Legislative Draft HBZSO Chapter 248 (Notices, Hearings, Findings, Decisions and Appeals), Section 248.28 (Appeal by City Council Member or Planning Commissioner)

SH:HF:JA:kd

ATTACHMENT NO. 1

SUGGESTED FINDINGS OF APPROVAL

ZONING TEXT AMENDMENT NO. 11-003

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act because it is a minor zoning text amendment which does not change development standards, intensity, or density of any zoning district.

SUGGESTED FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 11-003:

1. Zoning Text Amendment No. 11-003 is to amend Chapter 248 of the Huntington Beach Zoning and Subdivision Ordinance. The amendment would streamline the entitlement process for new or existing businesses. The amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan by enhancing economic growth and stimulating business opportunities within the City.
2. The zoning text amendment does not pertain to a general land use provision and therefore will not affect any authorized uses or zoning district standards. The zoning text amendment is applicable to all projects that may be appealed.
3. A community need is demonstrated for the change proposed because the current economy is financially suffering. The zoning text amendment will encourage economic growth within the City by reducing entitlement processing time. Projects that are codified for streamlining take approximately ~~three months to process. Without the zoning text amendment during the current situation, projects are directly or indirectly delayed due to the reduction of staff and project appeals. When appeals are filed without appeal fees, staff time is allocated to process the appeal without the benefit of a fee to cover processing costs. The amendment would assist in continuing the streamline of projects because the number of appeals is anticipated to reduce and staff time would be allocated for other projects. The ability for elected officials to appeal is not completely eliminated because City Council members are still provided with the benefit of appealing with the fee waiver.~~
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice by limiting the appeal fee waivers to City Council members. The number of appeals filed is anticipated to reduce to encourage more business opportunities within the City.

**Planning Commission Appeals Survey
Zoning Text Amendment No. 11-003
November 2011**

| City | Appeals | PC fee required? | Fees (for reference) |
|------------------|---------------------------------------------------------------------|------------------|-------------------------------------------------------------------------------------------------------------------------|
| Costa Mesa | No fees for PC | | \$690 to PC by others |
| Fountain Valley | No fees for PC | | \$1,100 by applicant \$2,280 by others |
| Irvine | No fees for CC or applicant | X | \$128/hr; \$245 deposit |
| Newport Beach | No fees for PC | | \$4,333 to PC by others |
| Westminster | No fees for all parties | | |
| Seal Beach | No fees for PC | | \$750 for public hearing \$100 for non-public hearing |
| Anaheim | No fees for PC | | Filing of \$350 by others Applicant to pay minimum deposit \$2,500 |
| Huntington Beach | No fees for PC | | \$2,501 to PC by others \$1,917 to PC by decision on own property \$494 to PC public hearing; director's decision |
| Santa Monica | Fees for anyone, typical with applicants/neighbors (8 in past year) | X | \$394.90 |
| Glendale | Fees for appeals | X | \$1,000 |
| Pasadena | No fee for PC/CC | | 55% of application fee |

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 248 OF THE HUNTINGTON BEACH ZONING AND
SUBDIVISION ORDINANCE CODE RELATING TO APPEALS

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Section 248.28 of the Huntington Beach Zoning and Subdivision Ordinance is hereby amended to read as follows:

248.28 Appeal by City Council Member or Planning Commissioner

- A. A City Council member or a Planning Commissioner may appeal a decision of the Director, Design Review Board, Environmental Assessment Committee, Subdivision Committee, Planning Commission or Zoning Administrator. The appeal shall be processed in the same manner as an appeal by any other person but an appeal by a City Councilmember need not be accompanied by the fee prescribed for an appeal.
- B. The City Council member or Planning Commissioner appealing the decision is not disqualified by that action from participating in the appeal hearing and the deliberations nor from voting as a member of the reviewing body.

SECTION 2. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 20_____.

Mayor

ATTEST:

INITIATED AND APPROVED:

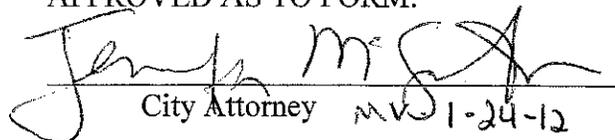
City Clerk

Director of Planning and Building

REVIEWED AND APPROVED:

APPROVED AS TO FORM:

City Manager


City Attorney M.V. 1-24-12

KEY
INSERTIONS: Double underline
DELETIONS ~~Strikethrough~~

ORDINANCE NO. _____

LEGISLATIVE DRAFT

248.28 Appeal by City Council Member or Planning Commissioner

- A. A City Council member or a Planning Commissioner may appeal a decision of the Director, Design Review Board, Environmental Assessment Committee, Subdivision Committee, Planning Commission or Zoning Administrator. The appeal shall be processed in the same manner as an appeal by any other person but an appeal by a City Council member need not be accompanied by the fee prescribed for an appeal.
- B. The City Council member or Planning Commissioner appealing the decision is not disqualified by that action from participating in the appeal hearing and the deliberations nor from voting as a member of the reviewing body.