



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, APRIL 26, 2016
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

P P P P P P P

ROLL CALL: *Crowe, Kalmick, Semeta, Pinchiff, Mandic, Brenden, Hoskinson*

AGENDA APPROVAL

A MOTION WAS MADE BY KALMICK, SECONDED BY SEMETA, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF APRIL 26, 2016, BY THE FOLLOWING VOTE:

AYES: Crowe, Kalmick, Semeta, Pinchiff, Mandic, Brenden, Hoskinson
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

- A-1. PLANNING APPLICATION NO. 2016-065 (APPEAL OF DIRECTOR'S DECISION REGARDING FOUNDATION TYPE FOR BEACHFRONT PROPERTIES IN SUNSET BEACH) Request: Planning Application No. 2016-065 is an appeal by Karen Otis of the Sunset Beach Specific Plan requirement for pilings or caissons for two proposed beachfront homes in Sunset Beach. The applicant is proposing to use a mat slab foundation in lieu of pilings or caissons. Location: 16471 and 16475 S. Pacific Ave., 90742 (south side at 23rd Street) City Contact: Ricky Ramos, Senior Planner

Ricky Ramos, Senior Planner, gave a brief overview of the proposed project.

Vice-Chair Semeta asked staff to review the foundations of the other beach front homes in Sunset Beach. Mr. Ramos indicated that of the fifteen beach front homes that had permits on file with the County of Orange seven had pilings, five had no plans on file with the county and the foundation type is unknown, and three had mat slabs.

There was a brief discussion regarding the different types of foundations.

At Commissioner Kalmick's request, Mr. Ramos reviewed the permit process this project had undergone.

Scott Hess, Director of Community Development, clarified that the request is to determine what the code requires. He stated that changing the code to allow mat slab foundations in that area would require a Zoning Text Amendment, which is a separate process from this request.

B. STUDY SESSION ITEMS - NONE

C. PUBLIC COMMENTS

Karen Otis, applicant, spoke in support of Study Session Item No. A- 1. Ms. Otis reviewed the proposed foundation type for the proposed project. Ms. Otis also briefly reviewed the process for approval through the county, prior to the annexation of Sunset Beach, for residential projects in the subject area.

Mike Adams, Adams and Associates, spoke in support of Study Session Item No. A- 1. Mr. Adams indicated that he felt the Sunset Beach Specific Plan regulations regarding foundation requirements for the subject area were being interpreted differently by city staff than by county staff.

There was a brief discussion regarding potential liability for the city should the requested foundation be approved, despite the prohibition in the Specific Plan. Mr. Adams indicated that the property owner would agree to indemnify the city against liability if the requested foundation is allowed.

D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Jennifer Villasenor, Planning Manager, reported that there was one Late Communication for Item No. B-2.

E. PLANNING COMMISSION COMMITTEE REPORTS - NONE

F. PLANNING COMMISSION COMMENTS - NONE

6:00 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Brenden

P P P P P P P

ROLL CALL: *Crowe, Kalmick, Semeta, Pinchiff, Mandic, Brenden, Hoskinson*

AGENDA APPROVAL

A MOTION WAS MADE BY BRENDEN, SECONDED BY KALMICK, TO APPROVE THE PLANNING COMMISSION AGENDA OF APRIL 26, 2016, BY THE FOLLOWING VOTE:

AYES: Crowe, Kalmick, Semeta, Pinchiff, Mandic, Brenden, Hoskinson
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PUBLIC COMMENTS - NONE

B. PUBLIC HEARING ITEMS

- B-1. CONDITIONAL USE PERMIT NO. 16-009/ VARIANCE NO. 16-001 (SUNSET BEACH MIXED USE) Applicant: Julio Gener, Studio Architects Property Owner: Jimmy Yanez Request: To construct a 1,795 sq. ft. retail/service business and a 1,793 sq. ft. residential unit above the first floor on an existing 2,700 sq. ft. lot with a reduction in required parking for the mixed use project, and a request for a corner visibility triangle of nine feet in lieu of the required 17-foot corner visibility triangle. The project includes a variance request for tandem residential and commercial parking, no onsite vehicular circulation, and 75% tandem parking spaces for the commercial parking in lieu of the allowed maximum of 40% tandem for commercial parking. The project is located in the non-certified portion of the City's Local Coastal Program within the Sunset Beach Specific Plan area and includes a review via an "Approval in Concept" process for referral to California Coastal Commission. Location: 16741 Pacific Coast Highway, 90742 (at the southwest corner of PCH and 16th St., Sunset Beach) Environmental Status: The project is categorically exempt pursuant to Section 15303, Class 3 of the California Environmental Quality Act. City Contact: John Ramirez, Contract Planner**

STAFF RECOMMENDATION: Motion to: "Continue Conditional Use Permit No. 16-009 and Variance No. 16-007 to the May 10, 2016 Planning Commission meeting."

The Commission made the following disclosures:

- Commissioner Crowe visited the site.
- Commissioner Kalmick visited the site.
- Vice-Chair Semeta visited the site.
- Chair Pinchiff visited the site.
- Commissioner Mandic visited the site.
- Commissioner Brenden visited the site.
- Commissioner Hoskinson visited the site

Jennifer Villasenor, Planning Manager, requested that this item be continued to the May 10, 2016, Planning Commission meeting.

A MOTION WAS MADE BY CROWE, SECONDED BY SEMETA, TO CONTINUE CONDITIONAL USE PERMIT NO. 16-009 AND VARIANCE NO. 16-007 TO THE MAY 10, 2016 PLANNING COMMISSION MEETING, BY THE FOLLOWING VOTE:

AYES: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson
NOES: None
ABSTAIN: None
ABSENT: None

MOTION APPROVED

- B-2. CONDITIONAL USE PERMIT NO. 16-013 (CAPONE'S RESTAURANT ALCOHOL) Applicant: Alberto Juarez Property Owner: Regency Centers, L.P. Request:** To permit the sale, service, and consumption of alcohol (ABC Type 47 License) within an approximately 1,134 sq. ft. expanded portion of an existing 1,811 sq. ft. restaurant with alcohol. **Location:** 19686 Beach Boulevard, 92648 (east side of Beach Blvd., between Yorktown Ave. and Adams Ave.) **Environmental Status:** The project is categorically exempt pursuant to Section 15301, Class 1 of the California Environmental Quality Act. **City Contact:** Ethan Edwards, Associate Planner

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 16-013 with suggested findings and conditions of approval (Attachment No. 1)"

The Commission made the following disclosures:

- Commissioner Crowe visited the site.
- Commissioner Kalmick had no disclosures.
- Vice-Chair Semeta visited the site.
- Chair Pinchiff visited the site.
- Commissioner Mandic visited the site and spoke with the applicant.
- Commissioner Brenden visited the site.
- Commissioner Hoskinson visited the site.

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project. He indicated that the outdoor patio dining area was added to the request prior to the public hearing.

Vice-Chair Semeta asked if staff was in support of the outdoor patio. Mr. Edwards stated that Community Development and Police Department staff did confer on the addition of outdoor dining and did support that request.

THE PUBLIC HEARING WAS OPENED.

WITH NO ONE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

Commissioner Kalmick asked if the addition of the outdoor patio was a significant change that would require re-noticing. Mike Vigliotta, Chief Assistant City Attorney, indicated that the addition was not significant enough to substantially change the request and require re-notification per the Brown Act.

Commissioner Mandic noted that the conditions of approval prohibit alcohol service on the outdoor patio and recommended that the findings and conditions be amended to reflect the addition of the outdoor patio.

There was a brief discussion regarding the standard condition for discontinuing new patrons a half hour before closing time.

A MOTION WAS MADE BY MANDIC, SECONDED BY SEMETA, TO APPROVE CONDITIONAL USE PERMIT NO. 16-013 WITH MODIFIED FINDINGS AND MODIFIED CONDITIONS OF APPROVAL TO ALLOW ALCOHOL SERVICE ON THE OUTDOOR PATIO, BY THE FOLLOWING VOTE:

AYES: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson
NOES: None
ABSTAIN: None
ABSENT: None

MOTION APPROVED

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 Section 15301, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 16-013:

1. Conditional Use Permit No. 16-013 to permit the sale, service, and consumption of alcohol (ABC Type 47 License) within a new up to 200 sq. ft. outdoor dining area and an approximately 1,134 sq. ft. expanded portion of an existing 1,811 sq. ft. restaurant with alcohol at an existing multi-tenant commercial center in the BECSP zoning designation 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 use is located within an existing multi-tenant commercial center with other similar commercial uses. The service of alcohol will benefit and serve the other uses in the center and residential uses in the vicinity. The restaurant is not anticipated to generate additional noise, traffic, or other impacts above existing conditions. The BECSP and General Plan land use designation anticipated restaurant uses with alcohol service, sale and consumption in this area. The request for alcohol is ancillary to the primary restaurant use and will serve to augment the overall dining experience.
2. The request to permit the sale, service, and consumption of alcohol (ABC Type 47 License) within a new up to 200 sq. ft. outdoor dining area and an approximately 1,134 sq. ft. expanded portion of an existing 1,811 sq. ft. restaurant with alcohol at an existing multi-tenant commercial center will be compatible with surrounding residential and commercial uses because the project is located within an existing mixed-use center. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible to its surroundings. 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 request to permit the sale, service, and consumption of alcohol (ABC Type 47 License) within a new up to 200 sq. ft. outdoor dining area and an approximately 1,134 sq. ft. expanded portion of an existing 1,811 sq. ft. restaurant with alcohol at an existing multi-tenant commercial center will comply with the Neighborhood Center segment of the BECSP,

and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The BECSP allows eating and drinking establishments with alcohol service subject to approval of a conditional use permit. The BECSP and General Plan land use designation anticipated restaurant uses with alcohol service, sale and consumption in this area. The request for alcohol is ancillary to the primary restaurant use and will serve to augment the overall dining experience. The proposed use will comply with all building occupancy/exiting requirements.

4. The General Plan Land Use Map designation on the subject property is currently M-sp-d (Mixed Use – Specific Plan Overlay – Design Overlay). The request to permit the sale, service, and consumption of alcohol (ABC Type 47 License) within a new up to 200 sq. ft. outdoor dining area and an approximately 1,134 sq. ft. expanded portion of an existing 1,811 sq. ft. restaurant with alcohol at an existing multi-tenant commercial center is consistent with the General Plan land use designation of Mixed Use and the objective and policies of the City's General Plan as follows:

A. Land Use Element

Objective 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, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy LU 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures to prevent negative impacts on adjacent properties.

The proposed use is compatible with the existing commercial uses in the shopping center such as retail, restaurants, and offices. The site is located within the BECSP designation and the use is consistent with applicable Building Use Regulations and compatible with the surrounding mix of uses. The proposed conditional use permit will provide for the business needs for a successful restaurant establishment by permitting the expansion of alcohol sales in a safe manner for customers and residents of the surrounding area.

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 project is located along a primary corridor of the City that contains existing restaurants and retail. The project serves to expand the range of goods and services provided in the area and facilitate continued viability of the commercial center.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 16-013:

1. The site plan and floor plan received and dated February 26, 2016 shall be the conceptually approved layout with the following modification:
 - a. Prior to final occupancy permit, provide a revised floor plan that depicts the new outdoor dining area that shall not exceed 200 sq. ft., complies with applicable Building and Fire Codes, and complies with Condition of Approval No. 2.t.

2. The use shall comply with the following:

- a. Restaurant business hours including the outdoor dining area shall be limited to between:
 - 11:30 AM and 10:00 PM Tuesday through Friday,
 - 4:00 PM and 10:00 PM Saturday, and
 - 4:00 PM and 9:00 PM Sunday.
- b. Prior to sales, service or consumption of alcoholic beverages within the expanded portion of the restaurant, the business shall obtain an ABC license authorizing alcohol use in the restaurant. The business shall be limited to a Type 47 (On Sale General - Eating Place) ABC License. **(PD)**
- c. There shall be no entertainment allowed without a valid Entertainment Permit issued by the Huntington Beach Police Department and approval of a Conditional Use Permit for live entertainment. **(PD)**
- d. 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)**
- e. An employee of the establishment must monitor all areas where alcohol is served. **(PD)**
- f. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business. **(PD)**
- g. No new customers shall be permitted after 30 minutes before closing. **(PD)**
- h. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(PD)**
- i. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00PM. **(PD)**
- j. Last call for drinks shall be no later than 15 minutes before closing. **(PD)**
- k. All alcoholic beverages shall remain within the interior of the restaurant and bar, or within the confines of the fenced-in patio dining area, per §9.44.010 of the Huntington Beach Municipal Code (HBMC). Service of alcoholic beverages for consumption off-site will not be permitted. A sign shall be posted stating alcoholic beverages are not allowed outside of the restaurant/patio area. **(PD)**
- l. Consumption of alcoholic beverages by on-duty employees, including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
- m. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
- n. All employees engaged in the sale or service of alcohol shall complete mandatory Responsible Beverage Service (RBS) training and certification. This shall be required for new employees within 90 days of being hired and for existing employees

- every 12 months. Training shall be provided by ABC or an ABC approved RBS trainer. Records of the training shall be maintained on-site for review. **(PD)**
- o. The establishment shall employ a video surveillance security system and a one-month video library. The minimum requirements for the cameras shall be: color, digital recording to DVR and able to record in low light. The business shall ensure all doors, eating areas, and entertainment areas are covered by video surveillance. Electronic copies of video must be made available to the Huntington Beach Police Department within 48 hours of request. Digital recordings shall be made available for viewing on-scene upon request by police officers conducting investigations. You are required to have someone able to operate the system on duty during all business hours. **(PD)**
 - p. There shall be no window coverings or advertisements that reduce the visibility inside of the business. This will assist officers in observing crimes in progress. **(PD)**
 - q. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition. **(PD)**
 - r. All owners, employees, representatives, and agents must obey all state, local, and municipal laws, and 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)**
 - s. Signs shall be posted in a conspicuous space at the entrance/exit of the restaurant and patio areas, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
 - t. The new patio area shall have a physical barrier 36 inches in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier.
3. Signage shall be reviewed under separate permits and applicable processing.
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 Community Development 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. 16-013 shall become null and void unless exercised within two (2) 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 Community Development Department a minimum 30 days prior to the expiration date.

6. The Planning Commission reserves the right to revoke Conditional Use Permit No. 16-013 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance, or Municipal Code occurs.
7. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.

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.

C. CONSENT CALENDAR - NONE

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Director of Community Development - reported on the items from the previous City Council Meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Director of Community Development - reported on the items for the next City Council Meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Jennifer Villasenor, Planning Manager - reported on the items for the next Planning Commission Meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS - NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Brenden reported on recent events he attended in the city and spoke briefly regarding his recent trip to Peru.

Vice-Chair Semeta reported on the recent meeting of the Design Review Board.

ADJOURNMENT: Adjourned at 7:26 PM to the next regularly scheduled meeting on Tuesday, May 10, 2016, at 5:15 PM.

APPROVED BY:



Scott Hess, Secretary



Edward Pinchiff, Chair