



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, AUGUST 23, 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

A P P P P P P

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

Commissioner Crowe was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY SEMETA, SECONDED BY BRENDEN, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF AUGUST 23, 2016, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

- A-1. ZONING TEXT AMENDMENT NO. 2016-002 (ELLIS GOLDENWEST SPECIFIC PLAN AMENDMENT – EQUESTRIAN TRAIL REALIGNMENT) **Request:** To amend the alignment of the equestrian trails in the Ellis-Goldenwest Specific Plan (SP7). ZTA No. 16-002 would amend Exhibit 8 and Appendix B (Attachment No. 2) of the specific plan to show realigned equestrian trails within an approximately 4.5-acre mostly undeveloped area off Ellis Avenue, across from Central Park, consisting primarily of assembled encyclopedia lots. **Location:** 6741 Shire Circle, 92648 (terminus of Shire Circle, between Ellis Avenue and Shire Circle – encyclopedia lots/Open Space Corridor) **City Contact:** Nicolle Bourgeois, Planning Aide

Nicolle Bourgeois, Planning Aide, gave a brief overview of the proposed project.

There was a brief discussion regarding the proposed land swap. Mike Vigliotta, Chief Assistant City Attorney, indicated that the Office of Business Development had determined the value of the land swap but noted that the issue of the land swap is not included in the request currently before the Planning Commission.

There was a brief discussion regarding the equestrian trails being relocated on the map. Ms. Bourgeois noted that the trails being realigned are not currently in use.

B. STUDY SESSION ITEMS - NONE

C. PUBLIC COMMENTS

Ann Anderson, volunteer for the HB Tree Society, spoke in opposition to Item No. A-1. She expressed concern with the potential land swap and stated that the city should maintain all possible open space.

Jean Nagy, HB Tree Society, spoke in opposition to Item No. A-1. She expressed concern that the lots being offered for a potential land swap are not comparable in value to the ones being requested.

Juana Mueller, resident, spoke in opposition to Item No. A-1. She noted that the Huntington Beach Womens' Club had made significant donations to enable purchasing of the encyclopedia lots to increase the city's open space. She stated that the two sets of lots being considered for a land swap are not comparable and asked the city to consider purchasing the encyclopedia lots in question.

D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Jane James, Planning Manager, reported on late communications for the public hearing items.

E. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Kalmick reported on recent meetings of the Environmental Board.

F. PLANNING COMMISSION COMMENTS - NONE

5:58 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Hoskinson

A P P P P P P

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

Commissioner Crowe was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY BRENDEN, SECONDED BY MANDIC, TO APPROVE THE PLANNING COMMISSION AGENDA OF AUGUST 23, 2016, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A. PUBLIC COMMENTS

Susan Welfringer, Huntington Beach Downtown Business Improvement District, spoke in support of the public hearing items in the Downtown area. She encouraged the Planning Commission to vote to approve those requests on the agenda.

B. PUBLIC HEARING ITEMS

B-1. CONDITIONAL USE PERMIT NO. 16-018 (UMI RAMEN BEER AND WINE)

Applicant: Vu Nguyen Phan **Property Owner:** Philip Carmody **Request:** To permit the on-site sale, service, and consumption of beer and wine (ABC Type 41 License) within an approved approximately 1,350 sq. ft. eating and drinking establishment. **Location:** 7451 Edinger Avenue #104, 92647 (northeast corner of Gothard and Edinger) **Environmental Status:** The project is categorically exempt pursuant to Section 15301, Class 1 of the California Environmental Quality Act. **City Contact:** Jessica Bui

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 16-018 with suggested findings and conditions of approval (Attachment No. 1)"

The Commission made the following disclosures:

- Commissioner Kalmick had no disclosures.
- Vice-Chair Semeta had no disclosures.
- Chair Pinchiff had no disclosures.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden had no disclosures.
- Commissioner Hoskinson had no disclosures.

Jessica Bui, Assistant Planner, gave the staff presentation and an overview of the project.

THE PUBLIC HEARING WAS OPENED.

Vu Pham, representative for the applicant, spoke in support of Item No. B-1, reviewing the restaurant menu and noting that the restaurant planned on selling beer, wine and champagne to accompany the food menu items.

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

A MOTION WAS MADE BY BRENDEN, SECONDED BY KALMICK, TO APPROVE CONDITIONAL USE PERMIT NO. 16-018 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES: Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson
NOES: None
ABSENT: Crowe
ABSTAIN: 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. 16-018:

1. Conditional Use Permit No. 16-018 to permit the on-site sale, service, and consumption of beer and wine (ABC Type 41 License) within a proposed approximately 1,350 sq. ft. restaurant in the BECSP zoning 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 mixed use center with other similar commercial uses. The additional service of beer and wine 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. Furthermore, the consumption of alcoholic beverages will be contained within the building's interior and will not generate detrimental impacts onto surrounding properties.
2. The request to permit the on-site sale, service, and consumption of beer and wine (ABC Type 41 License) within a proposed approximately 1,350 sq. ft. restaurant 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 on-site sale, service, and consumption of beer and wine (ABC Type 41 License) within a proposed approximately 1,350 sq. ft. restaurant will comply with the Town Center – Core 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 proposed project 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 mixed use development such as retail stores, restaurants, and offices. It provides for the on-site sales, service, and consumption of beer and wine within the interior of the restaurant. The site is located within the Town Center – Core of the BECSP and the use is consistent with applicable Building Use Regulations and is compatible with the surrounding uses. The proposed conditional use permit will provide for the business needs of a successful restaurant establishment by permitting the sale of alcoholic beverages 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, retail, and entertainment uses. The proposed use serves to expand the range of goods and services provided in the area and facilitate continued viability of the commercial component of the mixed use site.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 16-018:

1. The site plan and floor plan received and dated July 12, 2016 shall be the conceptually approved layout.
2. The use shall comply with the following:
 - a. Restaurant business hours shall be limited to between 7:00 AM to 12:00 AM daily.
 - b. Prior to sales, service or consumption of alcoholic beverages the business shall obtain an ABC license authorizing alcohol use in the restaurant. The business shall be limited to a Type 41 (On Sale Beer and Wine for Bona Fide Public Eating Place) ABC License. **(PD)**

- c. There shall be no entertainment allowed without approval of a conditional use permit and a valid Entertainment Permit issued by the Huntington Beach Police Department. **(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, per §9.44.010 of the Huntington Beach Municipal Code (HBMC). **(PD)**
- l. Consumption of alcoholic beverages by on-duty employees, including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
- m. A sign shall be posted in a conspicuous space at the entrance/exit of the restaurant which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- n. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
- o. All employees engaged in the sale of 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)**
- p. 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)**

- q. 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)**
 - r. 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)**
 - s. 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)**
3. Signage shall be reviewed under separate permits and applicable processing.
 4. The Development Services Departments (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. 16-018 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. 16-018 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.
 8. 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.

B-2. CONDITIONAL USE PERMIT NO. 16-028 (OLA LIVE ENTERTAINMENT)

Applicant: Toby Reece **Property Owner:** PC Group Retail LLC **Request:** To permit the establishment of live entertainment consisting of a disc jockey and a live band (max. 4 members) within an approved approximately 1,200 sq. ft. suite and 1,000 sq. ft. outdoor patio area. **Location:** 21040 Pacific Coast Highway #200, 92648 (east side of First Street, between Pacific View Avenue and Pacific Coast Highway – Pacific City Retail) **Environmental Status:** The project is categorically exempt pursuant to Section 15301, Class 1 of the California Environmental Quality Act. **City Contact:** Joanna Cortez

STAFF RECOMMENDATION: Motion to: “Approve Conditional Use Permit No. 16-028 with suggested findings and conditions of approval (Attachment No. 1)”

The Commission made the following disclosures:

- Commissioner Kalmick has eaten at the restaurant.
- Vice-Chair Semeta had no disclosures.
- Chair Pinchiff had no disclosures.
- Commissioner Mandic visited the site.
- Commissioner Brenden visited the site on multiple occasions.
- Commissioner Hoskinson visited the site, knows the owner personally, and has spoken with the owner regarding this project.

Joanna Cortez, Assistant Planner, gave the staff presentation and an overview of the project.

At Commissioner Mandic’s request, Police Lieutenant O’Brien gave an overview of the conceptual entertainment permit.

There was a brief discussion regarding live entertainment at Pacific City. Lt. O’Brien indicated that Pacific City is working on site security and after hours issues but that he was unaware of any noise complaints.

THE PUBLIC HEARING WAS OPENED.

Anthony Andrews, applicant, spoke in support of Item No. B-2. He stated the proposed music would be acoustic flamenco and that no furniture would be moved to accommodate live performers.

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

There was a brief discussion regarding the number of musicians allowed and Lt. O’Brien confirmed that the more restrictive number in either the Entertainment Permit or the Conditional Use Permit would be the allowed number.

There was a brief discussion regarding the security requirements by the Police Department.

STRAW VOTE #1

A motion was made by Kalmick, seconded by Pinchiff, to add a Condition to prohibit the moving of tables and chairs in the establishment outside of the identified live entertainment area to create a dance floor.

MOTION WITHDRAWN

STRAW VOTE #2

A motion was made by Kalmick, seconded by Pinchiff, to amend Condition No. 1 to state that the site plan, floor plan with designated Entertainment Location, and narrative received and dated July 1, 2016 shall be the conceptually approved design.

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

MOTION APPROVED

A MOTION WAS MADE BY KALMICK, SECONDED BY SEMETA, TO APPROVE CONDITIONAL USE PERMIT NO. 16-028 WITH SUGGESTED FINDINGS AND MODIFIED CONDITIONS OF APPROVAL INCLUDING THE STRAW VOTE MOTION, BY THE FOLLOWING VOTE:

**AYES: Kalmick, Semeta, Pinchiff, Mandic, Brenden, Hoskinson
NOES: None
ABSENT: Crowe
ABSTAIN: 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 Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project involves the operation and permitting of an existing development involving negligible expansion of the use.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 16-028:

1. Conditional Use Permit No. 16-028 to permit the establishment of live entertainment consisting of a disc jockey and live band within an approximately 6,956 sq. ft. restaurant 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 establishment is located within the Pacific City development that consists of a diverse range of commercial uses including a health club, high quality retail shops and restaurants, animated outdoor plaza areas, and a lively indoor marketplace. It will attract residents and visitors to the site with its relaxing and social atmosphere. The Pacific City commercial

parcel is approximately 7.18 acres in size and new residences are being constructed north of the site. The closest residential building will be more than 500 ft. away from the location of the lounge and separated by buildings, landscaping, a street, and parking lot. Live entertainment is proposed within the interior of the building only. The tenant space is located in the middle of Pacific City commercial center. Associated noise and entertainment is oriented south towards the beach so that noise emanating from the live entertainment and dancing activities will travel away from the residential uses to the north. Furthermore, the live entertainment is ancillary to the restaurant and will not generate significant negative impacts related to noise, safety, and traffic. Because the establishment is also allowed to serve alcohol under the previous conditional use permit issued for the site, conditions have been added to minimize potential impacts associated to the overall use.

2. The establishment of live entertainment within an approximately 6,956 sq. ft. restaurant will be compatible with surrounding uses. The project is located at the southeast corner of the commercial center on a 7.18 acre site that will consist of other high quality restaurant uses open until 2:00 a.m. Live entertainment will only occur indoors. The building has a significant buffer to residential uses to the north. Due to the combination of late night operating hours, alcohol, and live entertainment, additional conditions are imposed on the CUP and the entertainment permit. Conditions include ceasing promotional drink specials after 7:00 p.m., signs posting areas for alcohol consumption, and providing adequate video surveillance system.
3. The establishment of live entertainment within an approximately 6,956 sq. ft. restaurant will comply with the Downtown Specific Plan (DTSP), Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), and any specific condition required for the proposed use. The DTSP allows eating and drinking establishments with live entertainment subject to review and approval by the Planning Commission. Ancillary alcohol service in conjunction with eating and drinking establishments was previously approved with the conditional use permit for Pacific City. However, tenants requesting ancillary live entertainment and dancing were conditioned to obtain a new CUP and Entertainment Permit.
4. The granting of the conditional use permit to permit the establishment of live entertainment within an approximately 6, 956 sq. ft. restaurant is consistent with the General Plan. The General Plan Land Use Map designation on the subject property is CV-F7-sp (Commercial Visitor – 3.0 Max. Floor Area – Specific Plan Overlay). The proposed project is consistent with this designation and the policies, objectives, and goal of the City's General Plan as follows:

A. Land Use Element

Goal LU 7 Achieve a diversity of land uses that sustain the City's economic viability, while maintaining the City's environmental resources and scale and character.

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

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The restaurant is a visitor-serving use that contributes to the assorted range of land uses in the Pacific City shopping center. The proposed live entertainment is ancillary to the restaurant and will enhance the atmosphere and experience. The location of the restaurant is near the center of the seven acre site and is sufficiently buffered from nearby residential uses. Residential uses are located more than 500 ft. from the restaurant and are separated by buildings, a parking lot, Pacific View Avenue, and landscaping.

B. Economic Development Element

Objective ED 2.6 Expand and enhance the existing visitor serving uses.

Policy ED 2.6.2 Encourage visitor supported commercial development to concentrate in selected areas of the city, thereby creating identifiable visitor-oriented centers.

Policy ED 3.2.3 Attract visitor-serving uses near the beach in order to create better linkages between the beach and visitor supporting retail uses.

The Pacific City development expands the downtown area as a destination hub of tourist and pedestrian activity. The proposed live entertainment will support the development and the surrounding community by providing a relaxing eating and drinking establishment unique to the area. It will attract visitors and residents looking for a scenic restaurant gathering place.

C. Noise Element

Objective N 1.8 Minimize the generation of excessive noise level impacts from entertainment and restaurant/bar establishments into adjacent residential or "noise sensitive" land uses.

Policy N 1.8.1 Require that entertainment and restaurant/bar uses take appropriate steps to control the activities of their patrons on-site, as well as within a reasonable and legally justified distance or proximity, to minimize potential noise-related impacts on adjacent residential neighborhoods.

The proposed live entertainment will not significantly impact residential uses as it relates to noise. The establishment is located in the middle of the commercial center and closer to Pacific Coast Highway. Adequate buffers are provided to minimize noise impacts including distance from residential uses and building separation. Additionally, conditions are imposed that will minimize potential significant impacts.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 16-001:

1. The site plan, floor plan with designated Entertainment Location, and narrative received and dated July 1, 2016 shall be the conceptually approved design.
2. The use shall comply with the following:
 - a. Prior to being issued an Entertainment Permit the applicant shall submit a sound survey prepared by a licensed engineer showing that the proposed entertainment will not create undue noise or violate the decibel limits for the zoning district. This survey shall state the maximum allowable interior decibel limits. **(PD)**
 - b. All alcoholic beverages shall remain within the interior of the restaurant and outdoor patio dining area per §9.44.010 of the Huntington Beach Municipal Code (HBMC). A sign shall be posted stating alcoholic beverages are not allowed outside of the restaurant. **(PD)**
 - c. Dancing shall not be allowed unless approved by a subsequent entitlement in the future. **(PD)**
 - d. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
 - e. No reduced price alcoholic beverage promotion shall be allowed after 7:00 PM, including no promotional drink specials or reduced drink specials. **(PD)**
 - f. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
 - g. Signs shall be posted in a conspicuous space at the entrance/exit points of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT". **(PD)**
 - h. An employee shall maintain continuous supervision at all times of the patio area when the patio area is being utilized for the sales, service or consumption of alcoholic beverages. **(PD)**
 - i. To ensure the location maintains a restaurant atmosphere, food service from the regular menu or the late night menu, which consists of a substantial number of items from the regular menu, must be available to patrons up to sixty (60) minutes before the scheduled closing time. **(PD)**
 - j. There shall be no entertainment allowed without a valid Entertainment Permit issued by the Huntington Beach Police Department. Entertainment is not allowed on the patio. **(PD)**
 - k. The business shall employ a video surveillance system and a one-month video library. The minimum requirements for the cameras will 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. **(PD)**
 - m. All areas where the sales, service, and consumption of alcoholic beverages will be permitted must be sufficiently illuminated to permit the identification of patrons. **(PD)**
 - n. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
 - o. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**

- p. 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)**
 - q. 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)**
 - r. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired and for existing employees every 12 months. Training shall be provided by an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(PD)**
 - s. 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)**
3. The Development Services Departments and divisions (Fire, Community Development, 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.
4. Conditional Use Permit No 16-028 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 Community Development Department a minimum 30 days prior to the expiration date.
5. The Planning Commission reserves the right to revoke Conditional Use Permit No. 16-028 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.

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.

- B-3. CONDITIONAL USE PERMIT NO. 16-021 (PIZZA PRESS) Applicant: Jacobs Clemans Property Owner: Capref Strand Request: To permit a 700 sq. ft. interior restaurant expansion, a new 200 sq. ft. outdoor dining area fronting 5th**

Street, and the on-site sale, service, and consumption of beer and wine (ABC Type-41 License) within the expanded restaurant area. **Location:** 150 5th Street, Suite 110, 92648 (east side of 5th Street, between Pacific Coast Highway and Walnut Avenue – The Strand) **Environmental Status:** The project is categorically exempt pursuant to Section 15301, Class 1 of the California Environmental Quality Act. **City Contact:** Joanna Cortez

STAFF RECOMMENDATION: Motion to: “Approve Conditional Use Permit No. 16-021 with findings and suggested conditions of approval (Attachment No. 1).”

The Commission made the following disclosures:

- Commissioner Kalmick was on the Planning Commission for approval of the previous Conditional Use Permit for this site.
- Vice-Chair Semeta attended the Design Review Board meeting on this request.
- Chair Pinchiff visited the site.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden had no disclosures.
- Commissioner Hoskinson had no disclosures.

Joanna Cortez, Assisat Planner, gave the staff presentation and an overview of the project. Ms. Cortez noted that staff recommends an additional condition to prohibit dining and consumption of alcoholic beverages on the outdoor patio area between the hours of 10:00 PM and 7:00 AM.

There was a brief discussion regarding the additional recommended condition and the noise ordinance in the municipal code. At Commissioner Hoskinson’s request, staff briefly reviewed the required onsite parking.

THE PUBLIC HEARING WAS OPENED.

Dara Malesi, applicant, spoke in support of Item No. B-3, stating that he was available for any questions.

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

A MOTION WAS MADE BY MANDIC, SECONDED BY SEMETA, TO APPROVE CONDITIONAL USE PERMIT NO. 16-021 WITH FINDINGS AND MODIFIED CONDITIONS OF APPROVAL INCLUDING STAFF’S RECOMMENDED ADDITIONAL CONDITION, BY THE FOLLOWING VOTE:

AYES: Semeta, Pinchiff, Mandic, Brenden, Hoskinson
NOES: Kalmick
ABSENT: Crowe
ABSTAIN: 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. 16-021:

5. Conditional Use Permit No. 16-021 to allow the sale and service of alcohol (beer and wine) in conjunction with the expansion of 700 sq. ft. to an existing 1,550 sq. ft. restaurant and an expansion of 200 sq. ft. to an existing 400 sq. ft. outdoor dining area located within The Strand development 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 downtown area. The proposed sales and service of alcohol, as conditioned, will not generate noise, traffic, demand for parking or other impacts above that which currently exists or be inconsistent with the subject property's zoning. In addition, the project will comply with City Council Resolution No. 2013-24, standard conditions for approval designed for eating and drinking establishments with alcoholic beverage sales.
2. The proposed sales and service of alcohol (beer and wine) in conjunction with the expansion of 700 sq. ft. to an existing 1,550 sq. ft. restaurant and an expansion of 200 sq. ft. to an existing 400 sq. ft. outdoor dining area will be compatible with surrounding uses because it is proposed in a Specific Plan area designated for mixed-use pedestrian-oriented development. 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 hours of operation, including the outdoor dining area, to assure that any potential impacts to the surrounding properties are minimized. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties.
3. The proposed sales and service of alcohol (beer and wine) in conjunction with the expansion of 700 sq. ft. to an existing 1,550 sq. ft. restaurant and an expansion of 200 sq. ft. to an existing 400 sq. ft. outdoor dining area 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 will be located. The proposed project as conditioned complies with the base district and other applicable provisions. There is no physical expansion of the approved development proposed as part of the request and the use will comply with all building occupancy/exiting requirements.
4. The granting of the conditional use permit will not adversely affect the General Plan. They are consistent with the Land Use Element designation of Mixed Use Vertical on the subject property including the following policies and objectives identified in the General Plan:

A. Land Use Element

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

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 subregion, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Policy LU 15.2.2 Require that uses in the Pedestrian Overlay District be sited and designed to enhance pedestrian activity along the sidewalks. Create visual differentiation of upper and lower floors and distinct treatment of building entrances and use of pedestrian oriented signage.

The proposed use will establish a new restaurant within the Downtown Core District that is consistent with the Land Use Density Schedules for The Strand development and is compatible with surrounding mixed-use development. The expansion of the outdoor dining area will assist in the activation of 5th Street and further the pedestrian experience in the Downtown. The economic viability of the restaurant is increased by offering the sales and service of alcoholic beverages to accommodate the entertainment and recreation needs of residents and visitors. The expansion of services captures and enhances visitor and tourist activity within the downtown and is within walking distance of several downtown-parking facilities as well as residential uses, thus reducing the need for vehicular travel.

B. Coastal Element

Policy C 1 Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Policy C 3.2.3 Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed use will promote the visitor-serving commercial viability of The Strand and will expand a restaurant use with outdoor dining.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 16-021:

6. The site plan, floor plans and elevations received and date July 28, 2016 shall be the conceptually approved design.
7. The use shall comply with the following:
 - a. Restaurant business hours shall be limited to between 7:00 AM to 12:00 AM midnight (**Resolution No. 2013-24**) To further reduce the likelihood of noise disturbances from patrons during late night and early morning hours, no dining or consumption of alcoholic beverages will be permitted on the outdoor patio area between the hours of 10:00 P.M. and 7:00 A.M. (**PD**)
 - b. A minimum of 70 percent of the net floor areas of the establishment shall be designated as dining area excluding back of house areas (such as areas used for

- cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas. **(Resolution No. 2013-24)**
- c. Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times. **(Resolution No. 2013-24)**
 - d. Alcoholic drinks shall not be included in the price of admission to any establishment. **(Resolution No. 2013-24)**
 - e. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(Resolution No. 2013-24)**
 - f. All alcohol shall remain on the establishment's premises, including within outdoor dining areas. **(Resolution No. 2013-24)**
 - g. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served. **(Resolution No. 2013-24)**
 - h. 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. **(Resolution No. 2013-24)**
 - i. Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City. **(Resolution No. 2013-24)**
 - j. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(Resolution No. 2013-24)**
 - k. The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code. **(Resolution No. 2013-24)** Additionally, 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)**
 - l. No new customers shall be permitted after 30 minutes before closing. **(Resolution No. 2013-24)**
 - m. Last call for drinks shall be no later than 15 minutes before closing. **(Resolution No. 2013-24)**
 - n. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(Resolution No. 2013-24)**
 - o. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired and for existing employees every 12 months. Training shall be provided by an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(Resolution No. 2013-24)**

- p. Establishments shall install and maintain a video surveillance system to monitor public area of premises and shall make the video available to the police department for any criminal or civil investigation. **(Resolution No. 2013-24)** Additionally, the business shall employ a one-month video library. The minimum requirements for the cameras will be: color, digital recording to DVR and able to record in low light. The business shall ensure all doors, eating areas, and parking 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. **(PD)**
 - q. Prior to sales, service or consumption of alcoholic beverages the business shall obtain an ABC license authorizing alcohol use in the restaurant. The business shall be limited to a Type 41 (On Sale Beer and Wine for Bona Fide Public Eating Place) ABC License. **(PD)**
 - r. The patio entry/exit point to the sidewalk shall be designated as an emergency exit only. A sign shall be posted in a conspicuous space at the entrance/exit point of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT". **(PD)**
 - s. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
 - t. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00PM. **(PD)**
 - u. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
 - v. The front patio 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. **(PD)**
 - w. The applicant shall not make or allow to be made any noise which continues for more than a five minute period between the hours of 10:00 PM and 7:00 AM if such noise is audible for fifty feet or more from the source of the noise. **(PD)**
 - x. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
8. 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.

9. Conditional Use Permit No. 16-021 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 Community Development Department a minimum 30 days prior to the expiration date.

10. 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/index.cfm?fuseaction=guidelines>).

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.

- B-4. TENTATIVE PARCEL MAP NO. 15-032/ CONDITIONAL USE PERMIT NO. 15-031/ COASTAL DEVELOPMENT PERMIT NO. 15-016 (MAIN STREET COMMERCIAL BUILDING) Applicant: Jeff Bergsma, Team Design **Property Owner:** Robert Koury Properties **Request:** TPM: To merge five lots into one 14,132 sq. ft. parcel and two lots into one 8,714 sq. ft. parcel. CUP/CDP: To demolish an existing approximately 8,800 sq. ft. one-story commercial building and construct an approximately 12,600 sq. ft. two story commercial building. **Location:** 401 Main Street, 92648 (northwest corner of Main Street and Orange Avenue) **Environmental Status:** The project is categorically exempt pursuant to Section 15332, Class 32 of the California Environmental Quality Act. **City Contact:** Tess Nguyen**

STAFF RECOMMENDATION: Motion to:

- A. "Approve Tentative Parcel Map No. 15-032 with findings and suggested conditions of approval (Attachment No. 1)"
- B. "Approve Conditional Use Permit No. 15-031 and Coastal Development Permit No. 15-016 with findings and suggested conditions of approval (Attachment No. 1)"

The Commission made the following disclosures:

- Commissioner Kalmick had no disclosures.
- Vice-Chair Semeta attended the Design Review Board meeting on this item.
- Chair Pinchiff had no disclosures.
- Commissioner Mandic visited the site and spoke with one of the proponents of the site.
- Commissioner Brenden attended the Design Review Board meeting on this item.
- Commissioner Hoskinson had no disclosures.

Tess Nguyen, Associate Planner, gave the staff presentation and an overview of the project.

There was a brief discussion regarding the parking requirements for take out restaurants and restaurants. Staff gave an overview of the parking ratio for the site.

There was a brief discussion regarding the process for amending the site plan to accommodate different uses. Ms. Nguyen gave an overview of the potential avenues for amendments.

THE PUBLIC HEARING WAS OPENED.

Jeff Bergsma applicant, spoke in support of Item No. B-4, noting that the parking meets code.

Fazle Quadri, resident, spoke in opposition to Item No. B-4, citing concerns with inadequate information for the types of uses being proposed and the lack of adequate CEQA analysis.

Robert McMahon, resident, spoke in opposition to Item No. B-4, citing concerns with the design of the building and the lack of streetscape scene and more open space.

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

At Chair Pinchiff's request, Ms. Nguyen reviewed the allowable uses on the site. Ms. Nguyen did clarify that the site is included in the Downtown Specific Plan (DTSP) Environmental Impact Report and that the design of the building and open space area is consistent with the DTSP.

There was a brief discussion regarding the required undergrounding of any utilities.

Commissioner Mandic stated that she would prefer the architecture be more cohesive with the existing adjacent buildings but that she would vote in favor of the project despite those concerns.

A MOTION WAS MADE BY PINCHIFF, SECONDED BY KALMICK, TO APPROVE TENTATIVE PARCEL MAP NO. 15-032, CONDITIONAL USE PERMIT NO. 15-031, AND COASTAL DEVELOPMENT PERMIT NO. 15-016 WITH FINDINGS AND SUGGESTED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES: Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson
NOES: None
ABSENT: Crowe
ABSTAIN: 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 15332, Class 32 of the California Environmental Quality Act, which exempts from environmental review projects characterized as in-fill development that are: a) consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) the project site has no value as habitat for endangered, rare or threatened species; d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and; e) the site can be adequately served by all required utilities and public services.

FINDINGS FOR APPROVAL – TENTATIVE PARCEL MAP NO. 15-032:

1. Tentative Parcel Map No. 15-032 for the merging of five lots into one 14,312 sq. ft. parcel and two lots into one 8,714 sq. ft. parcel is consistent with the General Plan Land Use Element designation of Mixed Use on the subject property. The proposed consolidation complies with other applicable provisions of the Subdivision Map Act and the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The proposed consolidation of the five lots will facilitate the construction of a two-story 12,600 sq. ft. commercial building within the Downtown Specific Plan. The proposed consolidation of the two lots will facilitate the maintenance of an existing 2,800 sq. ft. commercial building with associated parking.
2. The site is physically suitable for the type and density of development. The five-lot consolidation will provide the necessary area for the commercial building development consistent with the intensity and density of the Downtown Specific Plan. The two-lot consolidation will provide the necessary area for the maintenance of the existing commercial building and associated parking consistent with the intensity and density of the Downtown Specific Plan.
3. The design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The lot consolidation is proposed on a property previously developed with a commercial building and located in an urbanized area. The site does not serve as habitat for fish or wildlife.

4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 15-031:

5. Conditional Use Permit No. 15-031 for the demolition of an existing approximately 8,800 sq. ft. one-story commercial building and construct an approximately 12,600 sq. ft. two-story building 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 project is located in the downtown core area (District 1), which promotes visitor-serving commercial developments. The project has been evaluated for compatibility with the surrounding neighborhood and will be designed on a pedestrian scale and character, will provide the required parking to serve the uses on site, and will meet the goals and policies of the General Plan.
6. The conditional use permit as modified will be compatible with surrounding uses because the project as modified is designed to be compatible with the Downtown Design Guidelines and will provide architectural elements and features to enhance the pedestrian character and scale of the street scene surrounding the project. In addition, the project, as modified, incorporates the proper massing and scale, the design features of the contemporary architectural style and the colors and materials recommended by the Design Guidelines for the Downtown.
7. The proposed commercial project 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. The project, as conditioned, complies with the development standards in terms of minimum onsite parking, building height, and setbacks. The proposed project is compatible with the scale and transition of surrounding development.
8. The granting of the conditional use permit will not adversely affect the General Plan. The proposed project is consistent with the General Plan land use designation of Mixed Use and the goals, objectives, and policies of the City's General Plan as follows:

A. Land Use Element

Goal LU 7: Achieve a diversity of land uses that sustain the City's economic viability, while maintaining the City's environmental resources and scale and character.

Objective LU 7.1: Accommodate the development of a balance of land uses that provides employment opportunities for residents of the City and surrounding areas and captures visitor and tourist activity.

Goal LU 8: Achieve a pattern of land uses that preserves, enhances, and establishes a distinct identity for the City's neighborhoods, corridors, and centers.

Goal LU 10: Achieve the development of a range of commercial uses.
Policy LU 10.1.4: Require that commercial buildings and sites access be sited and designed to achieve a high level of architectural and site layout quality.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The proposed project will provide a wide arrange and diversity of commercial uses and cater to the needs of local residents and residents in the surrounding region. The project will provide additional commercial uses that will encourage tourism to the site and the surrounding area. The project will facilitate employment opportunities and will not impact the subject site and surrounding area. The design of the project as amended by the Design Review Board's recommendations promotes the development of a commercial building that conveys a high-quality visual image and character that is intended to expand the existing development pattern of Downtown Huntington Beach. The project's open space incorporate enhanced hardscape and landscape materials consistent with the DTSP Design Guidelines.

B. Urban Design Element

Goal UD 1: Enhance the visual image of the City of Huntington Beach.

Objective UD 1.1: Identify and reinforce a distinctive architectural and environmental image for each district in Huntington Beach.

The architecture of the proposed building consists of a contemporary design theme, which includes materials such as smooth stucco, stone, and tiles, tower elements, and flat roof. The Design Review Board reviewed the proposed building to ensure architectural compatibility with the adjacent buildings and overall Design Guidelines conformance.

A. Coastal Element

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Goal C 3: Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences.

Policy C 3.2.4: Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed project would incorporate visitor-serving commercial uses on the ground floor and office uses on the upper floor. The mix of uses complements the urban downtown environment by integrating commercial services for nearby residential uses. The project site is located near established points of attraction, including the Huntington Beach Municipal Pier, and is intended to reinforce the vicinity as a major visitor-serving district.

FINDINGS FOR APPROVAL – COASTAL DEVELOPMENT PERMIT NO. 15-016:

1. Coastal Development Permit No. 15-016 for the demolition of an existing approximately 8,800 sq. ft. one-story commercial building and construct an approximately 12,600 sq. ft. two-story building conforms with the General Plan, including the Local Coastal Program.

The proposed project would continue to provide commercial uses in an established, urban, downtown core area and will serve residential uses in the vicinity. Public services are currently available to the project site, as well as the surrounding parcels, and the project includes improvements to existing infrastructure to ensure adequate service after project implementation. The proposed project would develop visitor-serving commercial uses in the City's downtown core area near other established points of attraction, including the Huntington Beach Municipal Pier; and is intended to reinforce the vicinity as a major visitor-serving district.

2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The proposed project, as conditioned, complies with all applicable development regulations, including minimum onsite parking, maximum building height, and minimum setbacks. It is also consistent with the design guidelines, and is compatible with the scale and transition of surrounding development.
3. At the time of occupancy, the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project will be constructed on a previously development site in an urbanized area with all necessary services and infrastructure available, including water, sewer, and roadways. In addition, the project provides the necessary public improvements such as dedications, curb, gutters, and sidewalks.
4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed project will not impede public access and does not conflict with any public recreation policies by the provision of a development consistent with the City's General Plan, Coastal Element, and Downtown Specific Plan.

CONDITIONS OF APPROVAL – TENTATIVE PARCEL MAP NO. 15-032/ CONDITIONAL USE PERMIT NO. 15-031/ COASTAL DEVELOPMENT PERMIT NO. 15-016:

1. The site plans, floor plans, and elevations received and dated August 4, 2016, shall be the conceptually approved design with the following modifications:
 - a. The parking lot design (parking space dimensions, aisle widths, ramp slopes, etc.) shall comply with applicable regulations in the Downtown Specific Plan, Huntington Beach Zoning and Subdivision Ordinance, and Title 24, California Administrative Code.
 - b. The trash enclosure shall be designed to provide sufficient refuse area for the project site as approved by Rainbow Environmental. In addition, the trash enclosure shall incorporate the same building materials as the building.
2. The Tentative Parcel Map received and dated August 4, 2016 shall be the approved layout.
3. The project shall comply with all applicable mitigation measures as identified in the Mitigation Monitoring Checklist dated January 11, 2016 in conjunction with Downtown Specific Plan Environmental Impact Report No. 08-001.
4. At least 14 days prior to any grading activity, the applicant/developer shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading

permit, a copy of the notice and list of recipients shall be submitted to the Community Development Department.

5. Prior to issuance of a precise grading permit, an interim parking and building materials storage plan shall be submitted to the Planning Division to assure adequate parking and restroom facilities are available for employees, customers and contractors during the project's construction phase and that adjacent properties will not be impacted by their location. The plan shall also be reviewed and approved by the Fire Department and Public Works Department. The applicant shall obtain any necessary encroachment permits from the Department of Public Works.
6. Prior to submittal for building permits, the following shall be completed:
 - a. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Fire and Public Works shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
 - b. Submit three (3) copies of the approved site plan and floor plans and the processing fee to the Community Development Department for addressing purposes. The address assignment shall be reviewed and approved prior to submittal for building permits.
 - c. The property owner/developer shall include a list on the plans to identify which sustainable or "green" building practices will be incorporated into the project from the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification or Building It Green's Green Building Guidelines and Rating Systems.
7. Prior to issuance of building permits, the following shall be completed:
 - a. The Developer shall provide a Landscape Maintenance License Agreement to address the continuing maintenance and liability for all landscaping, irrigation, furniture and hardscape within the public right-of-way along the project's Main Street and Orange Avenue frontages. The agreement shall describe all aspects of maintenance such as enhanced sidewalk cleaning, trash cans, disposal of trash, signs, tree or palm replacement and any other aspect of maintenance that is warranted by the development plan improvements proposed. The agreement shall state that the property ownership shall be responsible for all costs associated with maintenance, repair, replacement, liability and fees. **(PW)**
 - b. A public art element, approved by the Design Review Board, Community Development Director, and the Cultural Services Supervisor, shall be depicted on the plans. Public art shall be innovative, original, and of artistic excellence; appropriate to the design of the project; and reflective of the community's cultural identity (ecology, history, or society).
8. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released, and issuance of Certificate of Occupancy until the following has been completed:
 - a. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Community Development Department.

- b. All improvements must be completed in accordance with approved plans, except as provided for by conditions of approval.
 - c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
 - d. A Certificate of Occupancy must be approved by the Planning Division and issued by the Building and Safety Division.
9. Signage shall be reviewed under separate permits and applicable processing.
10. The Development Services Departments (Community Development, Fire, 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.
11. 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.
12. Tentative Parcel Map No. 15-032, Conditional Use Permit No. 15-031, and Coastal Development Permit No. 15-016 shall become null and void unless exercised within two years of the date of final approval by the Planning Commission, or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Division a minimum 30 days prior to the expiration date.
13. 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.

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

Jane James, 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 thanked his fellow commissioners for their condolences on the recent passing of his mother.

Vice-Chair Semeta invited the public to attend the upcoming meeting of the Finance Commission and the upcoming Labor of Love music festival.

Chair Pinchiff congratulated Administrative Assistant Kimberly De Coite for her recent Mayor's Award.

ADJOURNMENT: Adjourned at 8:17 PM to the next regularly scheduled meeting on Tuesday, September 13, 2016, at 5:15 PM.

APPROVED BY:



Scott Hess, Secretary



Edward Pinchiff, Chair