



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, SEPTEMBER 22, 2015
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

CANCELLED – NO STUDY SESSION

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Vice Chair Pinchiff

P P P P P P P

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

AGENDA APPROVAL

A MOTION WAS MADE BY BRENDEN, SECONDED BY SEMETA, TO APPROVE THE PLANNING COMMISSION AGENDA OF SEPTEMBER 22, 2015, BY THE FOLLOWING VOTE:

AYES: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson

NOES: None

ABSENT: None

ABSTAIN: None

MOTION APPROVED

A. PUBLIC COMMENTS – NONE

B. PUBLIC HEARING ITEMS

COMMISSIONER SEMETA RECUSED HERSELF FROM ITEM NO. B-1 DUE TO A POTENTIAL FINANCIAL CONFLICT AND LEFT THE ROOM.

- B-1. CONDITIONAL USE PERMIT NO. 15-025 (OLD CROW SMOKEHOUSE LIVE ENTERTAINMENT) Applicant: Michael Gonzalez, Old Crow Smokehouse HB, LLC Property Owner: PC Group Retail, LLC Request: To permit the establishment of live entertainment within a 4,763 sq. ft. restaurant suite. Location: 21022 Pacific Coast Highway, #230, 92648 (north side of Pacific Coast Highway, between 1st Street and Huntington Street – Pacific City) City Contact: Jill Arabe, Associate Planner

STAFF RECOMMENDATION: Motion to: “Approve Conditional Use Permit No. 15-025 with suggested findings and conditions of approval (Attachment No. 1).”

The Commission made the following disclosures:

- Commissioner Crowe had no disclosures.
- Vice-Chair Pinchiff has visited the site and spoke with staff from the Police Department.
- Chair Kalmick had no disclosures.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden has visited the site.
- Commissioner Hoskinson spoke with the representative from DJM Capital.

Jill Arabe, Associate Planner, gave the staff presentation and an overview of the project.

Vice-Chair Pinchiff asked if the developers for Pacific City Residential and the Pasea Hotel were noticed regarding this project. Ms. Arabe confirmed that they were noticed and that staff had not received any public comments regarding the proposed project.

Commissioner Hoskinson asked staff if additional soundproofing would be required for the proposed project. Ms. Arabe stated that a noise study would be required to ensure compliance with the noise ordinance.

Commissioner Brenden confirmed with staff that dancing is not included in the request and would require an Entitlement Plan Amendment.

THE PUBLIC HEARING WAS OPENED.

Jennifer Oden, representative for the applicant, spoke in support of Item No. B-1. She stated that she is in agreement with all of the conditions except for Condition No. 2(l) requiring the patio to close at 10:00 PM. They are in agreement that the doors and windows should remain closed after 10:00 PM to mitigate noise impacts from the live entertainment but they would like to extend meal and beverage service on the outdoor patio consistent with the Entertainment Permit. Ms. Oden stated that they would be willing to limit the outdoor patio hours to close at 1:00 AM.

Michael Gonzales, applicant and business owner, spoke in support of Item No. B-1. He requested that the hours of operation for the outdoor patio extended after the 10:00 PM limit in Condition No. 2(l).

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

There was a brief discussion regarding the wording of Condition No. 2(j) and hours of available food service. Staff indicated that the wording is consistent with previous similar permits. Commissioner Brenden indicated that he would like the wording to reflect the wording in the Entertainment Permit.

There was a brief discussion regarding the potential for a smoking area. Mr. Gonzales indicated that he would work with the property owner on that issue.

At Vice-Chair Pinchiff's request Captain Bill Stuart, Police Department, reviewed the revocation process for an entertainment permit, the yearly review by the Police Department, and the process for appeal.

Mr. Gonzales gave a lengthy overview of the proposed restaurant, addressing Vice-Chair Pinchiff's concerns and confirming that there would be no dancing. He indicated that the proposed cover charge is meant to offset costs and the proposed business will not be a club.

There was a brief discussion regarding the conditioned hours of operation for the patio. Ms. Arabe indicated that staff is amenable to the patio hours of operation being extended per the applicant's request.

There was a brief discussion regarding prohibiting the moving of furniture to prevent the establishment of a bar atmosphere. Chair Kalmick expressed his concern that a cover charge leads to a club atmosphere.

STRAW VOTE #1

A motion was made by Kalmick to prohibit the moving of furniture unless it is for a special event.

MOTION WAS NOT SECONDED

STRAW VOTE #2

A motion was made by Kalmick, seconded by Brenden, to remove Condition No. 2(l) regarding outdoor patio operating hours.

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

MOTION APPROVED

STRAW VOTE #3

A motion was made by Brenden, seconded by Mandic, to amend Condition No.2(j) to replace, "at least" with, "not less than."

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

MOTION APPROVED

Staff reviewed the changes to Condition No. 2(j) and recommended that the language be modified to match Entertain Permit Condition No. 2(m).

A MOTION WAS MADE BY KALMICK, SECONDED BY BRENDEN, TO APPROVE CONDITIONAL USE PERMIT NO. 15-025 WITH SUGGESTED FINDINGS AND AMENDED CONDITIONS OF APPROVAL MODIFYING 2(j) TO MIRROR THE ENTERTAINMENT PERMIT, MODIFY 2(m), AND REMOVING 2(i), BY THE FOLLOWING VOTE:

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

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. 15-025:

1. Conditional Use Permit No. 15-025 to permit the establishment of live entertainment within an approximately 4,763 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 restaurant is located within the new Pacific City development that will consist 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 country style atmosphere and proposed live entertainment. The Pacific City commercial parcel is approximately 7.18 acres in size and new residences will be constructed north of the site. The closest residential building will be more than 250 ft. away from the location of the restaurant and separated by landscaping, a street, and parking lot. Live entertainment is proposed within the interior of the restaurant only and on a stage within the dining area. As depicted on the floor plan, the stage is centrally located in the suite and oriented south towards the beach so that noise emanating from the live entertainment will travel away from the residential uses to the north. The back storage rooms, restrooms, and kitchen area within the restaurant provide an additional noise attenuating buffer between the live entertainment stage and the northerly exterior of the restaurant. Furthermore, the live entertainment is ancillary to the restaurant and will not generate significant negative impacts related to noise, safety, and traffic. Because the restaurant 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 restaurant use.
2. The establishment of live entertainment within an approximately 4,763 sq. ft. restaurant will be compatible with surrounding uses. The project is centrally located within a new 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 within the interior of the restaurant and based upon the floor plan layout, interior improvements within the suite will function as noise attenuating buffers between the live entertainment stage and northerly exterior of the restaurant. Due to the combination of late night operating hours, alcohol, and live entertainment, additional conditions are imposed with limitations on the outdoor dining area, service of alcohol, and entertainment permit. Conditions include requiring food service up to

one hour prior to closing, and an employee maintaining continuous supervision of the outdoor dining area.

3. The establishment of live entertainment within an approximately 4,763 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 restaurant uses was previously approved with the conditional use permit for Pacific City. However, restaurant tenants requesting ancillary live entertainment 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 4,763 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 use and it will enhance the restaurant atmosphere and dining experience. Based upon the placement of the stage on the floor plan, the associated music and noise generated by the live bands, karaoke, or disc jockey are anticipated to travel south towards the beach, and away from the residences to the north. Residential uses are located more than 250 ft. from the restaurant and are separated by a parking lot, Pacific View Avenue, and landscaping. The back storage rooms, restrooms, and kitchen area of the restaurant provide an additional buffer between the stage/live entertainment and noise-sensitive uses to the north of the site. In accordance with the lease, sound attenuation will be incorporated into the project as identified by the applicant.

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 will expand the downtown area as a destination hub of tourist and pedestrian activity. The proposed project will support the development and the surrounding community by providing a family style restaurant unique to the area. It will attract visitors and residents looking for high quality barbeque food and country music entertainment.

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 restaurant is centrally located within the commercial center and adequate buffers are provided to minimize noise impacts including distance from residential uses, orientation and location of the stage and speakers in the restaurant suite, and sound proofing. Additionally, conditions are imposed that will limit the entertainment use indoors and minimize alcohol related concerns.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 15-025:

1. The site plan, floor plan, and elevations received and dated July 1, 2015, shall be the conceptually approved design.
2. The restaurant use shall comply with the following:
 - a. Prior to commencing with live entertainment, an Entertainment Permit shall be obtained from the Police Department. All conditions contained in the Entertainment Permit shall be adhered to.
 - b. Dancing shall not be allowed unless approved by a subsequent entitlement in the future.
 - c. Prior to the sales, service, or consumption of alcoholic beverages, the business shall obtain an ABC license authorizing alcohol use in the restaurant and outdoor patio dining area. **(PD)**
 - d. 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)**

- e. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
- f. No reduced price alcoholic beverage promotion shall be allowed after 7:00 PM, including no promotional drink specials or reduced drink specials. **(PD)**
- g. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
- h. 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)**
- i. 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)**
- j. 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. **(PC)**
- k. 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)**
- l. 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. **(PC)**
- 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, Planning and Building, and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.
4. Conditional Use Permit No. 15-025 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning and Building Department a minimum 30 days prior to the expiration date.
5. The Planning Commission reserves the right to revoke Conditional Use Permit No. 15-025 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.

COMMISSIONER SEMETA RETURNED TO THE ROOM.

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 Planning and Building - reported on the items from the previous City Council Meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Director of Planning and Building - 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

Vice-Chair Pinchiff reminded his fellow commissioners that study session items can be requested by the commissioners and he encouraged them to consider what items they may wish to review at a study session.

Commissioner Brenden welcomed Dylan Mitchell, a boy scout who attended this meeting as part of obtaining his communications merit badge.

ADJOURNMENT: Adjourned at 8:12 PM to the next regularly scheduled meeting of Tuesday, October 13, 2015.

APPROVED BY:



Scott Hess, Secretary



Edward Pinchiff, Chair