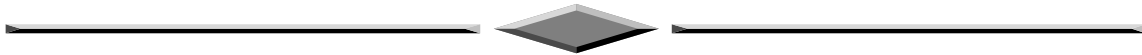


**HUNTINGTON BEACH
OFFICE OF THE ZONING ADMINISTRATOR
EXECUTIVE SUMMARY**

TO: Zoning Administrator
FROM: Ethan Edwards, Associate Planner
DATE: May 18, 2011

SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 10-006 (SUDS LIVE ENTERTAINMENT)

LOCATION: 5932 Warner Avenue, 92649 (southwest corner of Warner Avenue and Springdale Street)



Applicant: Bill Cheves, 5932 Warner Avenue, Huntington Beach, CA 92649

Property Owner: Warner Springdale, LLC, c/o Dave Peckenpaugh, 16101 Goldenwest Street, Huntington Beach, CA 92647

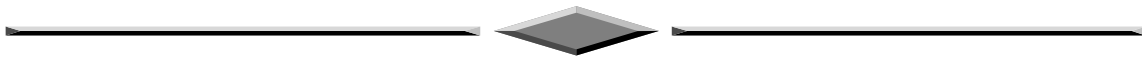
Request: To amend Condition of Approval No. 2 of Conditional Use Permit No. 06-011 to permit live entertainment within an existing restaurant. The live entertainment request will include amplified and non amplified music, disc jockey and recorded music, karaoke, comedy shows, and live bands.

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

Zone: CG (Commercial General)

General Plan: CG – F1 (Commercial General – 0.35 Maximum Floor Area Ratio)

Existing Use: Restaurant / bar



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

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator 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 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.

SUGGESTED FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 10-006:

1. Entitlement Plan Amendment No. 10-006 for the establishment, maintenance and operation of live entertainment within an existing approximately 3,600 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 subject tenant space is located approximately 50 ft. from the nearest residential property to the south. Residential uses are buffered from the restaurant by a minimum 6 ft. high perimeter block wall and landscaping. The restaurant's entrance doors are located along the north side of the building facing the parking lot and Warner Avenue, which are oriented away from nearby residences. Live entertainment will be limited to the interior of the business, and based upon the conditions imposed, is not anticipated to generate additional noise, traffic, and safety impacts beyond which already exists in the surrounding area. The proposed use will operate in conjunction with an eating and drinking establishment. The request amends Condition of Approval No. 2 of Conditional Use Permit No. 06-011 to permit live entertainment within an existing restaurant. Furthermore, no additional parking is required for the establishment of live entertainment.
2. The Entitlement Plan Amendment will be compatible with surrounding uses because live entertainment will be ancillary to an existing restaurant use and occur within the interior of the restaurant during business hours similar to other commercial uses within the vicinity. The restaurant is located within an existing multi-tenant commercial shopping center and consistent with adjacent uses, which serve nearby residents and visitors.
3. The Entitlement Plan Amendment will comply with the provisions of the base zoning district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The restaurant with live entertainment is located within an existing commercial center and complies with minimum on-site parking requirements. Live entertainment is permitted within the CG (Commercial General) zoning district subject to approval of a Conditional Use Permit. Entitlement Plan Amendment No. 10-006 represents an amendment to a previously approved Conditional Use Permit.
4. The granting of the Entitlement Plan Amendment will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Commercial General (CG) on the subject property. In addition, it is consistent with the following objective and policies of the General Plan:

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, 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.

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 area.

The proposed use will market its services to local residents and residents in the surrounding region thereby expanding the service-based commercial opportunities in the City. It will be located within an existing commercial center, which includes service and retail uses. The use will be conditioned to implement noise attenuation measures to help prevent potential noise impacts. Additionally, the live entertainment use will be conditioned to obtain approval of an Entertainment Permit issued by the Police Department pursuant to Huntington Beach Municipal Code Chapter 5.44, in part, to ensure the use provides adequate safety measures to help prevent negative impacts to the surrounding neighborhood. Based upon the operational conditions imposed, the restaurant with live entertainment is not anticipated to result in negative impacts on adjacent properties.

SUGGESTED CONDITIONS OF APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 10-006:

1. The site plan received and dated December 12, 2010, and floor plan received and dated January 10, 2011, shall be the conceptually approved design with the modification that the floor plan be revised to exclude the depicted 14 ft. by 14 ft. dance floor.
2. Prior to issuance of a Certificate of Occupancy, a copy of the revised floor plan modified in accordance with Condition of Approval No. 1, shall be submitted to the Planning and Building Department for review and inclusion in the entitlement file.
3. The live entertainment use shall not commence until an Entertainment Permit has been approved by the Police Department pursuant to Huntington Beach Municipal Code Chapter 5.44 (Restaurants – Amusement and Entertainment Permits).
4. The live entertainment use shall comply with the following:
 - a. All conditions of the Entertainment Permit issued by the Police Department shall be observed.
 - b. Dancing shall not be permitted unless a conditional use permit for this use approved.
 - c. The rear (southern) doors shall have weather-sealing strips installed and maintained per manufacturer specifications to prevent acoustical leakage.

- d. The rear (southern) doors shall remain closed at all times during periods of live entertainment.
 - e. Excessive low-frequency (bass) sounds shall be avoided
 - f. The permit holder shall monitor live entertainment sound levels using a Type 2 sound level meter set to A-weighting and Slow Response. The measured interior level shall not instantaneously exceed 90 dBA within six feet of the rear (southern) interior wall of the building.
 - g. The use conditions listed herein and the Entertainment Permit conditions shall be clearly posted on the premises at all times.
5. All conditions of Conditional Use Permit No. 06-011 shall remain valid with the exception of Condition of Approval No. 2 (prohibiting live entertainment).
6. EPA No. 10-006 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.

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.