



City of Huntington Beach

2000 Main Street ♦ Huntington Beach, CA 92648

(714) 536-5227 ♦ www.huntingtonbeachca.gov

Office of the City Clerk

Joan L. Flynn, City Clerk

NOTICE OF ACTION PIERSIDE PAVILION EXPANSION

September 24, 2012

Michael Adams
Michael C. Adams Associates
P.O. Box 382
Huntington Beach CA 92648

APPLICANT: Michael Adams, Michael C. Adams Associates, P.O. Box 382,
Huntington Beach, CA 92648

PROPERTY OWNER: Joe Daichendt, Theory R Properties LLC, 1 Hammond Road,
Ladera Ranch, CA 92694

REQUEST: Approve Mitigated Negative Declaration No. 11-007, Coastal
Development Permit No. 11-012, Conditional Use Permit No.
11-021, Entitlement Plan Amendment No. 11-007 and Variance
No. 11-005 (Appeal of Planning Commission's Denial - Pierside
Pavilion Expansion)

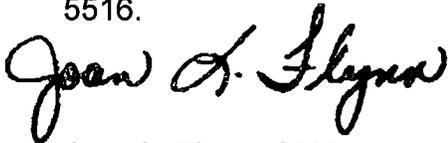
LOCATION: 300 Pacific Coast Highway, 92648 (northeast corner of Pacific
Coast Highway and Main Street)

PROJECT PLANNER: Ethan Edwards, Associate Planner

On Monday, September 17, 2012 a public hearing was held to consider an appeal filed by Councilmember Joe Carchio of the Planning Commission's denial of Mitigated Negative Declaration No. 11-007, Coastal Development Permit No. 11-012, Conditional Use Permit No. 11-021, Entitlement Plan Amendment No. 11-007 and Variance No. 11-005. By a vote of 5-2 (Shaw, Boardman-No), the Huntington Beach City Council approved Mitigated Negative Declaration No. 11-007 with findings and mitigation measures, and approved Coastal Development Permit No. 11-012, Conditional Use Permit No. 11-021, Entitlement Plan Amendment No. 11-007 and Variance No. 11-005 with findings and conditions of approval.

NOA MND 11-007 CDP 11-012 CUP 11-021 EPA 11-007 VAR 11-005
September 24, 2012
Page Two

If you have any questions, please contact Ethan Edwards, Associate Planner at (714) 536-5516.



Joan L. Flynn, CMC
City Clerk

JF:rl

c: Scott Hess, Director of Planning and Building
Ethan Edwards, Associate Planner
Joe Daichendt, Property Owner

Attachments: MND 11-007 Findings and Mitigation Measures; CDP 11-012,
CUP 11-021, EPA 11-007 and VAR 11-005 Findings for Approval;
CDP 11-012, CUP 11-021, EPA 11-007 and VAR 11-005 Conditions
of Approval
Pages 7-8, September 17, 2012 City Council Action Agenda

FINDINGS AND CONDITIONS OF APPROVAL

**MITIGATED NEGATIVE DECLARATION NO. 11-007/
COASTAL DEVELOPMENT PERMIT NO. 11-012/
CONDITIONAL USE PERMIT NO. 11-021/
ENTITLEMENT PLAN AMENDMENT NO. 11-007/
VARIANCE NO. 11-005**

FINDINGS FOR APPROVAL - MITIGATED NEGATIVE DECLARATION NO. 11-007:

1. The Mitigated Negative Declaration No. 11-007 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and made available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the City Council prior to action on the Mitigated Negative Declaration.
2. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur.
3. There is no substantial evidence in light of the whole record before the City Council that the project, as mitigated through the attached mitigation measures, will have a significant effect on the environment.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 11-012:

1. Coastal Development Permit No. 11-012 to demolish approximately 400 sq. ft. of the existing structure including an elevator shaft and two stairwells; and construct a connecting four-story, 68 feet high, approximately 27,772 square foot mixed-use, visitor serving/office building and 9,401 sq. ft. infill expansion by extending existing storefronts, as modified by conditions of approval and revised plans, conforms with the General Plan, including the Local Coastal Program. The proposed project would expand a mixed-use development on a parcel contiguous to similar uses in an established, urban, downtown core area. 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 modified by the conditions of approval and the approved variance to allow a building height of 68 feet provides a development that is 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 as modified by the conditions of approval and with the implementation of all mitigation measures and code requirements will provide all necessary infrastructures to adequately

service the site and not impact adjacent development. 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 maintains all existing and proposed 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.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 11-021:

1. Conditional Use Permit No. 11-021 to demolish approximately 400 sq. ft. of the existing structure including an elevator shaft and two stairwells; and construct a connecting four-story, 68 feet high, approximately 27,772 square foot mixed-use, visitor serving/office building and 9,401 sq. ft. infill expansion by extending existing storefronts, as modified by the conditions of approval, 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 has been evaluated for compatibility with the surrounding neighborhood and with the modifications and conditions of approval imposed, the project will be designed to address the transition and scale of adjacent properties, 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.
2. The conditional use permit as modified by the conditions of approval and revised plans 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 by the revised plans, 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.
3. The proposed mixed use development, as modified by the conditions of approval and revised plans, 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 proposed project as modified by conditions of approval and revised plans, and with the variance to permit a building height of 68 feet provides a development that is consistent with the design guidelines, is compatible with the scale and transition of surrounding development, and provides consistent public improvements.
4. The granting of the conditional use permit will not adversely affect the General Plan. The General Plan Land Use Map designation on the subject property is M->30-d-sp-pd (Mixed-Use -30 du/ac - design overlay - specific plan overlay - pedestrian overlay). The proposed project as modified by the conditions of approval and revised plans is consistent with this designation and the goals, policies, objectives, and implementation program of the City's General Plan as follows:

A. Land Use Element

Goal - LU 4: 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 for commercial, employment, entertainment, and recreation needs of existing and future residents, and provides employment opportunities for residents of the City and the surrounding region 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.

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 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

Policy – 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures 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.

Policy 11.1.7: Require that mixed-use development projects be designed to achieve a consistent and high quality character, including the consideration of architectural treatment of building elevations to convey the visual character of multiple building volumes and individual storefronts.

The design of the project as modified by conditions of approval and the revised plans promotes the development of a mixed-use building that conveys a unified, high-quality visual image and character that is intended to expand the existing development pattern of Downtown Huntington Beach. The City's Design Review Board has reviewed the proposed architecture, colors and materials and has indicated that it would recommend approval of the design concept, however requested that the sheer massing of the project be modified to further ensure compatibility with the surrounding area. The proposed project as modified utilizes mixed-vertical uses in accordance with the patterns and distribution of use within the Land Use Map of the City of Huntington Beach General Plan. Commercial uses such as retail establishments will be located within the first story as required by the Visitor-Serving Commercial Overlay, restaurant uses on the second floor and rooftop, and office uses on the third and fourth floors. The project's public areas and open space incorporate enhanced hardscape and landscape materials consistent with the DTSP Design Guidelines. 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.

B. Urban Design Element

Policies UD 1.1.2: Reinforce Downtown as the City's historic center and as a pedestrian-oriented commercial and entertainment/recreation district by requiring new development be designed to reflect the Downtowns historical structures and adopted Mediterranean theme.

Policies - UD 2.1.1: Require that new development be designed to consider coastal views in its massing, height, and site orientation.

The project is located on Pacific Coast Highway, a scenic corridor in the City of Huntington Beach General Plan Circulation Element. The setting along PCH is characterized by beach facilities, shoreline, the Municipal Pier, and recreational amenities on the south side and a mix of development on the north side. The architecture of the proposed building consists of a contemporary design theme, which includes materials such as light colored smooth stucco finish, tower elements, flat roof and glass railing systems. The applicant submitted a public view analysis consisting of renderings of the completed project at varying angles. The renderings illustrate that existing public views, such as views looking north and south along PCH, will not be impacted by the proposed project. The proposed project will be located across PCH, away from nearby scenic vistas (i.e., pier and beach), and will not have a substantial adverse effect to these scenic resources.

C. 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-serving commercial uses for a range of cost and market preferences

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.

Policy C 3.4.2: Enhance the Municipal Pier and surrounding area to function as the "hubs" of tourist and community activity.

The development as modified by the conditions of approval and revised plans consists of the expansion of a mixed-use project, which includes visitor-serving commercial located on the ground floor for retail establishments. The proposed project would develop a mix of visitor-serving commercial and office uses on a parcel including and contiguous to similar uses in an established, urban, downtown core area. 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 project site is also 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 – ENTITLEMENT PLAN AMENDMENT NO. 11-007:

1. Entitlement Plan Amendment No. 11-007 for the relocation of 18 commercial carts and kiosks within the Pierside Pavilion development as modified by the conditions of approval 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. As conditioned, the parallel orientation of carts and kiosks with Main Street and Pacific Coast Highway will not impede pedestrian access and will maintain public views. The location of the carts and kiosks are designed to complement existing businesses and activate pedestrian corridors while remaining cognizant of adjacent residences by minimizing placement in close proximity to adjacent residential uses (i.e., Pier Colony). Based upon the conditions imposed, including compliance with the requirements of CUP No. 10-17, the operation will not impact pedestrian circulation, nor will the operation impact the surrounding businesses and residential uses.
2. The entitlement plan amendment as modified by the conditions of approval will be compatible with surrounding uses because the ancillary operation of commercial carts and kiosks is consistent with the zoning designation and does not represent a significant change from the existing commercial use. The site currently includes carts and kiosks and the conditional use permit will allow for the modified continuation of this ancillary use as modified by the conditions of approval.
3. The proposed entitlement plan amendment 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. As conditioned, the project complies with all aspects of the Downtown Specific Plan including parking, onsite circulation, and setbacks. Carts and kiosks are permitted within the Downtown Specific Plan with the approval of a conditional use permit.
4. The granting of the entitlement plan amendment as modified by the conditions of approval will not adversely affect the General Plan. It is consistent with the Land Use Element designation of M->30-d-sp-pd (Mixed-Use –30 du/ac – design overlay – specific plan overlay – pedestrian overlay) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

Land Use Element

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

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

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 and stimulate pedestrian activity along the sidewalks. Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.

The proposed carts and kiosks as modified by the conditions of approval increases the economic viability of the downtown by providing additional shopping opportunities, additional employment opportunities and captures visitor and tourist activity within the downtown. The project site is located in a mixed-use district of the downtown area and within walking distance of several downtown parking facilities as well as residential uses thus reducing the need for automobile use and increasing the need for pedestrian amenities. The carts and kiosks will further stimulate pedestrian activity along Main Street and Pacific Coast Highway. As conditioned, the carts will comply with the approved conditions of approval that relate to customer queuing, 10-foot wide clear passage area adjacent to any customer queuing areas, and other restrictions limiting the placement of carts to ensure that the area is physically accessible to pedestrians which is consistent with other cart and kiosk locations in the downtown.

FINDINGS FOR APPROVAL – VARIANCE NO. 11-005:

1. The granting of Variance No. 11-005 to allow a height of 68 feet for the new, expanded portion of the building in lieu of the maximum of 45 feet will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. This variance would allow for the proposed design to match floor plates and provide efficient internal circulation. The proposal to deviate from the maximum height will not result in the development being disproportionate to the size and scale of surrounding developments due to the existing height of surrounding buildings. Therefore, granting of the variance request will not result in a grant of special privilege because it allows the expansion project to remain consistent with the existing and surrounding structures. Thus, approval of the request will not constitute a grant of special privilege as the variance will allow further improvement to the site consistent with the surrounding area.
2. Because of special circumstances applicable to the subject property, including size, shape, and location, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The expansion project is constrained by special circumstances which include the existing building height. The existing building is approximately 68' high and the 4-story expansion building would match existing height of 68 feet. This would allow for the proposed design to match floor plates and provide efficient internal circulation. The inability to match floor plates is found to deprive the property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The variance is necessary in order to allow floor plates to match and ensure construction feasibility and adequate internal circulation. The DTSP requires a maximum height of 45 feet. In this case, the project cannot provide efficient circulation and construction feasibility without the granting of a variance. Consequently the strict application of the DTSP would deprive the property owner of the right to improve the property and meet the objectives for community character and compatibility.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification and is consistent with the General Plan. The development of a connecting four-story, 68 feet high, approximately 27,772 square foot mixed-use, visitor serving/office building and 9,401 sq. ft. infill expansion by extending

existing storefronts will not be materially detrimental to area due to existing height existing onsite buildings and of surrounding buildings. The granting of the variance would allow for the proposed design to match floor plates and provide efficient internal circulation. The proposal to deviate from the maximum height will not result in the development being disproportionate to the size and scale of surrounding developments due to the existing height of the existing building as well as surrounding buildings. The variance to maximum height will not result in detrimental impacts, but rather improve construction feasibility and internal circulation. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of M->30-d-sp-pd (Mixed-Use –30 du/ac – design overlay – specific plan overlay – pedestrian overlay) on the subject property.

CONDITIONS OF APPROVAL – COASTAL DEVELOPMENT PERMIT NO. 11-012/CONDITIONAL USE PERMIT NO. 11-021/ENTITLEMENT PLAN AMENDMENT NO. 11-007/VARIANCE NO. 11-005:

1. The site plan, floor plans, elevations, and section elevations dated May 4, 2012 and revised building footprint and elevations submitted September 17, 2012 shall be the conceptually approved design with the following modifications:
 - a. The roof element of the eastern stairwell shall contrast with the existing building roof design **(DRB)**.
 - b. The height of the 4-story building expansion shall be a maximum of 68 feet to the top of the roof deck.
 - c. Full height (floor to ceiling) glass window shall be provided at the eastern elevation of the outdoor dining area of located on the 2nd floor.
 - d. Rooftop deck walls shall not be less than or exceed 42 inches in height.
 - e. Revise existing property lines (locations, dimensions and geometry) to accurately portray the subject property and to be consistent with recorded Final Tract Map No. 13722. **(PW)**
 - f. Accurately dimension all existing and proposed public improvements (i.e. sidewalk widths, curb return radii, bus turnout geometry, curb-to-building face dimensions, driveway width, etc.). **(PW)**
 - g. Reference to new office area on the 1st floor plan shall be removed. Only visitor-serving commercial uses shall be allowed anywhere on the ground floor.
 - h. Revise the cart locations to comply with all applicable conditions of approval and code requirements for Conditional Use Permit No. 10-017 (Pierside Pavilion Carts) except for compliance with condition of approval number 1.c.
2. Prior to the issuance of grading permits, the following shall be completed:
 - a. 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 Planning and Building Department.
3. Prior to submittal for building permits, the following shall be completed:

- a. One set of project plans, revised pursuant to Condition of Approval No. 1 shall be submitted for review and approval by the Director. A revised set of plans shall be submitted for inclusion in the entitlement file.
 - b. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Planning and Building, 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.
4. During demolition, grading, site development, and/or construction, the following shall be adhered to:
- a. Construction equipment shall be maintained in peak operating condition to reduce emissions.
 - b. Use low sulfur (0.5%) fuel by weight for construction equipment.
 - c. Truck idling shall be prohibited for periods longer than 5 minutes.
 - d. Attempt to phase and schedule activities to avoid high ozone days first stage smog alerts.
 - e. Discontinue operation during second stage smog alerts.
 - f. Ensure clearly visible signs are posted on the perimeter of the site identifying the name and phone number of a field supervisor to contact for information regarding the development and any construction/ grading activity.
5. The structure cannot be occupied, the final building permit(s) cannot be approved, and a Certificate of Occupancy cannot be issued until the following have been completed:
- a. All improvements must be completed in accordance with approved plans, except as provided for by conditions of approval.
 - b. The applicant shall obtain the necessary permits from the South Coast Air Quality Management District and submit a copy to the Planning Division.
 - c. Compliance with all conditions of approval specified herein shall be verified by the Planning and Building Department.
 - d. 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.
 - e. A shared parking agreement shall be executed via an amended Owner Participation Agreement (OPA) providing a minimum of 234 parking spaces off-site. A copy of the agreement shall be submitted for inclusion in the entitlement file.
6. Prior to the sale of alcoholic beverages, a license shall be obtained from the Alcoholic Beverage control (ABC). All conditions contained in the ABC license shall be adhered to. **(PD)**
7. Use of the rooftop deck shall be prohibited until a revised noise study is submitted that demonstrates compliance with the City's noise ordinance and the design of the deck is

compatible with the surrounding uses. The noise study shall be submitted to the Planning Division for review and approval prior to occupancy and use of the roof top deck.

8. Restaurant uses within the new 4-story expansion building shall comply with the following:
 - a. Restaurant hours of operation shall be limited to between 7:00 a.m. and 12:00 a.m. (midnight), Sunday through Thursday; and between 7:00 a.m. and 1:00 a.m., Friday and Saturday.
 - b. Outdoor dining with alcohol service hours of operation within the 2nd floor patio area and rooftop deck area shall be limited to between 7:00 a.m. and 11 p.m., Sunday through Thursday; and between 7:00 a.m. and 12:00 a.m. (midnight), Friday and Saturday.
 - c. A minimum of 70 percent of the net floor area 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 to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - d. 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 to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - e. Alcoholic drinks shall not be included in the price of admission to any establishment to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - f. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - g. All alcohol shall remain on the establishment's premises, including outdoor dining areas to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - h. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - i. 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 to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - j. 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 to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.

- k. Games or contest requiring or involving consumption of alcoholic beverages shall be prohibited to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales.
 - l. 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 to comply with City Council Resolution No. 2011-06 – Standard Conditions of Approval for Eating and Drinking Establishments with Alcoholic Beverage Sales..
 - m. There shall be no public or private restaurant use of the proposed rooftop by anyone other than in conjunction with an approved 2-story restaurant and maintenance personnel for the purpose of maintaining or repairing the building. **(PD)**
 - n. Any existing restaurant shall separately amend their current CUP before expanding their business. CUP amendments shall include security plans, locations where alcohol is permitted, and types and permitted areas of allowed entertainment. **(PD)**
 - o. Restaurants shall employ a video surveillance security system with a 1-month video library. The minimum requirements for the cameras shall be: color, digital recording to DVR and able to record in low light. All entrances, exits and perimeter areas shall be under video surveillance. Electronic copies of video shall be made available to the Huntington Beach Police Department within 24 hours of a request. Digital recordings shall be made available for viewing on-scene upon request by police officers conducting investigations. **(PD)**
 - p. Additional security for the building and parking areas shall be provided. The number of required security officers shall be determined by the Police Department upon completion of the project. The number of required security officers shall be modified at the discretion of the Police Department based on crime rates, number of patrons visiting the Pierside Pavilion, types of businesses, hours of operation, and during special events such as 4th of July and US Open of Surfing. **(PD)**
 - q. A review of the use shall be conducted by City Council within 12 months of issuance of a certificate of occupancy for the 1st restaurant occupant to verify compliance with the HBZSO, DTSP, and conditions of approval. At that time the City Council may consider modifications to the conditions of approval.
9. The square footage of uses within Pierside Pavilion shall be limited to as follows: 25,433 of retail, 74,501 of office, and 26,654 of restaurant (and 9,550 sq. ft. of outdoor dining); for a total building area of 126,588 sq. ft. (136,138 with outdoor dining).
10. The existing fire lane on the east side of the project shall be limited to access for emergency vehicles only. No other service or commercial vehicles shall be permitted.
11. Tree replacement of any existing mature trees on-site shall be done in accordance with the requirements of Chapter 232—Landscape Improvements. For the trees to be relocated, an arborist report shall be submitted and include the following:

- a. Trees shall be transplanted by a qualified tree service to be approved by the City of Huntington Beach Public Works Department.
 - b. Detailed specifications and procedures for the translocation of the identified trees.
 - c. The relocated trees shall be maintained and guaranteed to be alive and thriving after four years by a qualified tree service or arborist to be approved by the City of Huntington Beach Public Works Department. The trees shall be surveyed every six months for a period of four years as to their viability. The survey shall be submitted to the Public Works Department for review. In the event that any tree is not surviving, it shall be replaced with the same type and size of tree.
 - d. A letter from the developer stating that the recommendations of the Consulting Arborist will be followed.
12. The development services departments (Planning & Building, Fire, 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.
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/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.

County Grand Jury report on "The Dissolution of Redevelopment: Where have we been? What Lies Ahead?"

Approved 7-0

PUBLIC HEARING

13. Public Hearing to consider adopting Resolution No. 2012-65 to adopt a Budget for the City for Fiscal Year 2012/2013

Recommended Action:

A) Open the Public Hearing on the Proposed Fiscal Year 2012/2013 City Budget appropriation of \$294,654,838 as outlined in the Proposed Budget document and all revisions contained in the Exhibits of the Budget Resolution; and,

B) Adopt Resolution Number 2012-65, "A Resolution of the City Council of the City of Huntington Beach Adopting a Budget for the City for Fiscal Year 2012/2013;" and,

C) Authorize the Professional Services included in the Fiscal Year 2012/2013 budget to be representative of the services projected to be utilized by departments in Fiscal Year 2012/2013; and,

D) Accept revisions to the Proposed Budget Document received by City Council on July 16, 2012, as described in the Staff Report.

Public Hearing Opened, Continued Open to Special Meeting on September 24, 2012

1 Speaker

2 Supplemental Communications

Approved 5-2 (Shaw, Boardman no)

14. Approve Mitigated Negative Declaration No. 11-007, Coastal Development Permit No. 11-012, Conditional Use Permit No. 11-021, Entitlement Plan Amendment No. 11-007 and Variance No. 11-005 (Appeal of Planning Commission's Denial - Pierside Pavilion Expansion)

Staff Recommended Action:

A) Approve Mitigated Negative Declaration No. 11-007 with findings and mitigation measures; and,

B) Approve **as amended** Coastal Development Permit No. 11-012, Conditional Use Permit No. 11-021, Entitlement Plan Amendment No. 11-007 and Variance No. 11-005 with **revised** findings and conditions of approval.

1. Remove suggested modification on any setback of rooftop mechanical equipment (and all associated screening)

2. Allow mechanical screening up to 10' in height per DTSB

~~3. Amend suggested modification regarding another DRB review and replace with Director's review.~~

4. **Amend new restaurant hours of operations Sunday through Thursday: 10:00 PM patio closure, 12:00 AM restaurant closure; Friday-Saturday: 12:00 AM patio, and restaurant 1:00 AM closure with a one-year review (conditional) - alcohol only with food service**
5. **Variance No. 11-005 to follow the applicant's request per the drawings, which are as follows: Top of roof deck = 68' - 0" at edge; Top of Parapet = 71' - 6"; Top of Mechanical Screen Wall = 76' - 0"**
6. **EPA 11-007 revise and approve cart locations per the applicant's submitted plan. Remove conditions regarding spacing between trees and carts.**
7. **Modify building elevations and footprint per plans submitted 9/17/12 by the applicant at the public hearing.**

Planning Commission Recommended Action:

~~Deny Mitigated Negative Declaration No. 11-007, Coastal Development Permit No. 11-012, Conditional Use Permit No. 11-021, Entitlement Plan Amendment No. 11-007 and Variance No. 11-005 with findings for denial.~~

23 Speakers

12 Supplemental Communications

Approved as amended 5-2 (Shaw, Boardman no)

15. **Public Hearing to consider adoption of Resolution No. 2012-61 revising the City's Emergency Medical Services Fee Schedule**

Recommended Action:

Adopt Resolution No. 2012-61, "A Resolution of the City Council of the City of Huntington Beach Setting Advanced Life Support, Basic Life Support, Emergency Ambulance Transportation, Medications and Specialized Supply Fees to be Charged by the Fire Department of the City of Huntington Beach."
Approved 4-2-1 (Harper, Dwyer no, Bohr out of room)

16. **Public Hearing to consider adoption of Resolution No. 2012-62 approving an Annual Assessment within the Huntington Beach Hotel/Motel Business Improvement District (BID) for Fiscal Year 2012-13**

Recommended Action:

A) Conduct the Public Hearing; and,

B) Adopt City Council Resolution No. 2012- 62, "A Resolution of the City Council of the City of Huntington Beach Approving an Annual Assessment Within the Huntington Beach Hotel/Motel Business Improvement District for Fiscal Year 2012-13."

1 Speaker

Approved 7-0