MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, MAY 14, 2013
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 Peterson

ROLL CALL: *P Dingwall, P Mandic, P Peterson, P Bixby, P Kamlick, P Franklin, P Pinchiff*

AGENDA APPROVAL

A MOTION WAS MADE BY BIXBY, SECONDED BY PETERSON, TO APPROVE THE PLANNING COMMISSION AGENDA OF MAY 14, 2013, BY THE FOLLOWING VOTE:

AYES: Dingwall, Mandic, Peterson, Bixby, Kalmick, Franklin, Pinchiff
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PUBLIC COMMENTS – NONE

B. PUBLIC HEARING ITEMS

B-1. CONDITIONAL USE PERMIT NO. 13-001 (BEACH HUT DELI ON-SITE ALCOHOL SALES AND LIVE ENTERTAINMENT) Applicant: Ryan Nadon **Property Owner:** Sun Brewer Partners LP, Hirajasu Nakaro **Request:** To permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands. **Location:** 19025 Beach Boulevard, 92648 (southwest corner of Beach Boulevard and Garfield Avenue) **City Contact:** Ethan Edwards

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 13-001 with suggested findings and conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Dingwall has visited the site, spoke with the onsite management, spoke with nearby business owners and residents, and previously owned property in the area.
- Commissioner Mandic has visited the site.
- Vice-Chair Peterson has visited the site.
- Chair Bixby has visited the site and has previously used the nearby ATM.
- Commissioner Kalmick has driven by the site.
- Commissioner Franklin has visited the site.
- Commissioner Pinchiff has driven by the site.

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project. He noted that staff recommends modifying suggested Condition No. 2b to prohibit use of the outdoor patio from 10 PM to 10 AM every day of the week.

THE PUBLIC HEARING WAS OPENED.

J. Ryan Nadon, applicant, spoke in support of Item No. B-1, briefly discussed the concept of the restaurant and stated that he was looking forward to operating a business in the city.

Bruce Rath, resident, spoke in opposition to Item No. B-1, citing potential noise impacts and asked that a sound study be conducted.

Wen Lee, resident, spoke in opposition to Item No. B-1, citing potential noise impacts to the surrounding businesses.

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

There was a lengthy discussion regarding the potential noise impacts of the live entertainment. Police Captain William Stuart indicated that a noise study must be submitted as a condition of the Entertainment Permit. Mr. Edwards reviewed the process for the sound study.

A MOTION WAS MADE BY FRANKLIN, SECONDED BY KALMICK, TO APPROVE CONDITIONAL USE PERMIT NO. NO. 13-001 WITH FINDINGS AND AMENDED CONDITIONS OF APPROVAL TO AMEND THE HOURS OF OUTDOOR PATIO OPERATION, BY THE FOLLOWING VOTE:

AYES:	**Mandic, Peterson, Bixby, Kalmick, Franklin, Pinchiff**
NOES:	**Dingwall**
ABSTAIN:	**None**
ABSENT:	**None**

MOTION APPROVED

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project

involves a minor modification to the operation of the existing development involving negligible expansion of an existing use.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 13-001:

1. Conditional Use Permit No. 13-001 to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands at an existing commercial center site in the Beach and Edinger Corridors Specific Plan zoning designation will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed sales and service of alcoholic beverages is regulated by the provisions of Chapter 9.44 of the Huntington Beach Municipal Code. The proposed live entertainment is regulated by the provisions of Chapter 5.44 of the Huntington Beach Municipal Code and the required Entertainment Permit. As conditioned, the project is required to provide a noise study that shows compliance with the City's Noise Ordinance. The subject request will not result in noise, safety, or compatibility issues. The BECSP and General Plan land use designation anticipated restaurant uses with alcohol service, sale and consumption and live entertainment in this area. The request for alcohol and live entertainment is ancillary to the primary restaurant use and will serve to augment the overall dining experience. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building's interior and designated outdoor dining area and will not generate detrimental impacts onto surrounding properties.

2. The request to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands will be compatible with surrounding uses because the project is located within an existing commercial center. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible with its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol service and live entertainment 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 alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands will comply with the Neighborhood Center segment of the Beach and Edinger Corridors Specific Plan (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 and live entertainment 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, and live entertainment in this area. The request for alcohol and live entertainment is ancillary to the primary restaurant use and will serve to augment the overall dining experience. There is no physical expansion that includes additional floor area to the existing building as part of this request and the proposed use will comply with all building occupancy/exiting requirements.

4. The granting of the conditional use permit to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands is

consistent with the General Plan. The General Plan Land Use Map designation on the subject property is M – sp – d (Mixed Use – Specific Plan Overlay – Design Overlay). The proposed project is consistent with this designation and the policies, objective, and goal of the City's General Plan as follows:

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

Policy – 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 project will permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands within the Beach and Edinger Corridors Special Plan designation that is consistent with the Building Use Regulations and is compatible with the surrounding mix of 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 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.

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

The project is located along a major corridor of the City that contains existing restaurants, retail, and entertainment uses. The project serves to strengthen the existing business and facilitate continued viability of the center.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 13-001:

1. The site plan, floor plan, and elevation plan received and dated April 17, 2013, shall be the conceptually approved design.

2. The restaurant use shall comply with the following:

    a. Hours of operation for the interior restaurant shall be limited to between 10:00 AM and 10:00 PM Sunday through Thursday, and 10:00 AM and 12:00 AM (midnight) Friday and Saturday.

b. Use of the outdoor dining patio area shall be prohibited between 10:00 PM and 10:00 AM every day of the week. **(PD)**

c. A sign shall be posted stating that alcoholic beverages are not allowed outside of the restaurant/patio areas. **(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. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons. **(PD)**

f. No loitering shall be permitted within the vicinity of any entrance or exit at any time. **(PD)**

g. Dancing shall be prohibited. **(PD)**

h. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning and Building Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.

i. Prior to commencing with live entertainment, an Entertainment Permit must be obtained from the Police Department. All conditions contained in the Entertainment Permit shall be adhered to. **(PD)**

j. Prior to commencing with live entertainment, a sound study shall be prepared by a licensed engineer pursuant to HBMC 5.44.070(c); showing that the proposed entertainment will not create undue noise or violate the City's Noise Control Ordinance (HBMC 8.40). The sound study shall be submitted to the Planning Division and be approved by the Police Department prior to approving an Entertainment Permit. Noise mitigation measures recommended by the sound study shall be incorporated as conditions of the Entertainment Permit. **(PD)**

k. All perimeter doors (e.g. outdoor dining patio door and main entrance door, etc.) shall be self-closing and not be held open or ajar during live entertainment.

l. All live entertainment shall be enclosed within the interior of the building only and shall be prohibited within the outdoor patio area.

m. All owners, employees, representatives, and agents shall 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 (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 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. 13-001 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. 13-001 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.

6. 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.

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, Acting 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 Peterson requested that staff provide large documents as an electronic file in lieu of paper.

Commissioner Pinchiff reported that he attended the California Peace Officers Memorial Ceremony and commended the Huntington Beach Honor Guard for their work at the event. He reported that he also attended a public meeting on the draft Environmental Impact Report for the cleanup of the Ascon Landfill site. Commissioner Pinchiff noted that there will be a public meeting regarding beach fire rings on Friday, May 17, 2013 at 5:00 PM.

Chair Bixby noted that large Planning documents and EIRs can generally be found on the city website. He also congratulated the Peter's Landing Farmer's Market on their second anniversary.

ADJOURNMENT: Adjourned at 7:50 PM to the next regularly scheduled meeting of Tuesday, May 28, 2013.

APPROVED BY:

Scott Hess, Secretary

Mark Bixby, Chairperson