MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JUNE 11, 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 Commissioner Mandic

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

Commissioner Franklin was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY BIXBY, SECONDED BY PETERSON, TO APPROVE THE PLANNING COMMISSION AGENDA OF JUNE 11, 2013, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A. PUBLIC COMMENTS – NONE

B. PUBLIC HEARING ITEMS

B-1. CONDITIONAL USE PERMIT NO. 13-013 (ELEPHANT BAR RESTAURANT ON-SITE ALCOHOL SALES) Applicant: Rona Griego **Property Owner:** Huntington Beach No. 1, LP **Request:** To permit the on-site sale, service, and consumption of alcoholic beverages within an existing vacant approximately 5,384 sq. ft. eating and drinking establishment (formerly Denny's) and a new approximately 398 sq. ft. outdoor dining area. **Location:** 7490 Edinger Avenue, 92647 (south side of Edinger Avenue, west of Sher Lane) **City Contact:** Tess Nguyen

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 13-013 with suggested findings and conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Dingwall has visited the site and previously had a business in the area.
- Commissioner Mandic has visited the site.
- Vice-Chair Peterson has driven by the site.
- Chair Bixby has driven by the site.
- Commissioner Kalmick has visited the site and eaten at an Elephant Bar Restaurant in Santa Barbara.
- Commissioner Pinchiff has visited the site.

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

There was a brief discussion regarding the roof element above the front entrance.

THE PUBLIC HEARING WAS OPENED.

Andy Mai, Elephant Bar Restaurants, spoke in support of Item No. B-1 and asked the Planning Commission to approve a late night happy hour, which staff does not support.

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

There was a lengthy discussion regarding the applicant's request for late night happy hour. Police Captain Bill Stuart indicated that the Police Department was not in support of the late night happy hour request.

There was a brief discussion regarding the current alcohol serving facilities in the surrounding area.

A MOTION WAS MADE BY PETERSON, TO APPROVE CONDITIONAL USE PERMIT NO. 13-013 WITH FINDINGS AND AMENDED CONDITIONS OF APPROVAL TO ALLOW HAPPY HOUR UNTIL TWO HOURS PRIOR TO CLOSING.

MOTION WAS NOT SECONDED

A MOTION WAS MADE BY KALMICK, SECONDED BY BIXBY, TO APPROVE CONDITIONAL USE PERMIT NO. 13-013 WITH FINDINGS AND SUGGESTED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

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

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.

SUGGESTED FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 13-013:

1. Conditional Use Permit No. 13-013 to permit the on-site sale, service, and consumption of alcoholic beverages (beer, wine, and distilled spirits) within a vacant approximately 5,384 sq. ft. eating and drinking establishment and a new approximately 398 sq. ft. outdoor dining area at an existing mixed-use 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 subject request will not result in noise, safety, or compatibility issues. Residential properties to the south will be adequately buffered from the subject building by an approximately 500-foot separation, including a 250-foot wide parking lot, a 225-foot deep and 32-foot high commercial building, a 25-foot wide driveway, and a 6 ft. high block wall separating the properties. Residential properties to the north are adequately buffered from the subject building by an approximately 370-foot separation, including a 25-foot wide planter area, a 100-foot wide Edinger Avenue right-of-way, a 215-foot wide parking lot, and a 30-foot wide planter area. The residential uses are located in a highly urbanized area where there is a mix of residential and commercial uses and where no impacts are expected to occur. In addition, 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 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 an existing restaurant to add alcohol sales and consumption will be compatible with surrounding uses because the project is located within an existing mixed-use commercial center. The restaurant is surrounded by commercial 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 an existing restaurant to add alcohol sales, service and consumption will comply with the Town Center Boulevard 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 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. 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, wine, and distilled spirits) within an existing eating and drinking establishment and proposed outdoor dining area 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*

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

      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 project will permit the sale, service and consumption of alcoholic beverages within an existing restaurant suite and proposed outdoor dining area at the Edinger Plaza commercial center. The site is located within the Beach and Edinger Corridors Specific Plan designation and the use is consistent with the Building Use Regulations and compatible with the surrounding mix of uses. The proposed conditional use permit will provide for the business needs for 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 major corridor of the City that contains existing restaurants, retail, and entertainment uses. The project serves to expand the range of goods and services provided in the area and facilitate continued viability of the commercial center.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 13-013:

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

2. The use shall comply with the following:

   a. Hours of operation shall be limited to between 11:00 AM and 12:00 AM Sunday through Thursday and between 11:00 AM to 1:00 AM Friday and Saturday.

b. 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)**

c. All alcoholic beverages shall remain within the interior of the restaurant or within the confines of the enclosed patio dining area. Service of alcoholic beverages for off-site consumption shall be prohibited. **(PD)**

d. A sign shall be posted stating alcoholic beverages are not allowed outside the restaurant/patio areas. **(PD)**

e. No Happy Hour alcoholic beverage specials shall be offered after 7:00 PM. **(PD)**

f. Dancing and entertainment shall be prohibited. **(PD)**

g. All owners, employees, representatives, and agents shall obey all state, local, and municipal laws, 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)**

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.

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. 13-013 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. 13-013 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

C-1. PLANNING COMMISSION MINUTES DATED MARCH 26, 2013

RECOMMENDED ACTION: Motion to: "Approve the March 26, 2013, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY KALMICK, SECONDED BY DINGWALL, TO APPROVE THE MARCH 26, 2013 PLANNING COMMISSION MINUTES AS SUMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED APRIL 9, 2013

RECOMMENDED ACTION: Motion to: "Approve the April 9, 2013, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY KALMICK, SECONDED BY BIXBY, TO APPROVE THE APRIL 9, 2013 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-3. PLANNING COMMISSION MINUTES DATED APRIL 11, 2013

RECOMMENDED ACTION: Motion to: "Approve the April 11, 2013, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY BIXBY, SECONDED BY KALMICK, TO APPROVE THE APRIL 11, 2013 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

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 congratulated Tyler Rall, from Troop 88, for completing his Eagle Scout.

Commissioner Kalmick asked staff to provide a list of restaurants with alcohol use and their hours of operation in future staff reports for applications in the Beach and Edinger Corridors Specific Plan area.

Commissioner Pinchiff thanked Quiksilver for hosting the Bolsa Chica Conservancy Gala. He noted that he had attended the most recent City Council study session where alcohol sales in the downtown area were discussed. He encouraged his fellow commissioners to communicate with their respective council members regarding alcohol use permits.

Commissioner Dingwall encouraged his fellow commissioners to speak to their council members regarding potential ways to restrict alcohol sales permits in the Beach and Edinger Corridors Specific Plan area.

ADJOURNMENT: Adjourned at 7:35 PM to the next regularly scheduled meeting of Tuesday, June 25, 2013.

APPROVED BY:

Scott Hess, Secretary

Mark Bixby, Chairperson