

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, JULY 16, 2014 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Ricky Ramos

**STAFF MEMBER:** Jill Arabe, Ethan Edwards, Judy Demers (recording secretary)

**MINUTES:** **NONE**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: CONDITIONAL USE PERMIT NO. 13-036 (MACARTHUR GROUP COMMERCIAL BUILDING):**

APPLICANT: Jeff Bergsma, Team Design, 221 Main Street, Huntington Beach, CA 92648

PROPERTY OWNER: MacArthur Group LLC, Tristan Harris, 4040 MacArthur Boulevard, Suite # 250, Newport Beach, CA 92660

REQUEST: To permit the development of a vacant parcel with the construction of a 3,500 sq. ft. commercial building consisting of a 24-hour, 2,300 sq. ft. convenience store with alcohol sales for off-site consumption and a 1,400 sq. ft. eating and drinking establishment with outdoor dining in conjunction with the sale and consumption of alcoholic beverages.

LOCATION: 16001 Bolsa Chica Street, 92649 (southwest corner of Edinger Avenue and Bolsa Chica Street)

CITY CONTACT: Jill Arabe

Jill Arabe, Associate Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff provided an overview of the proposed project and the suggested findings and conditions for approval as presented in the executive summary. Ms. Arabe. noted that staff received two comments opposing the proposed project, one petition signed by the area business tenants and residents, and one letter opposing the proposed project citing concerns with the proposed hours of operation, potential increase to traffic, and the number of businesses in the area selling alcohol for off - site consumption. .

Ricky Ramos, Zoning Administrator, verified with staff the location of the entrance for the proposed outdoor dining establishment.

**THE PUBLIC HEARING WAS OPENED.**

Jeff Bergsma, applicant, verified with staff that the driveway entrance off of Edinger borders the proposed project's property and another property owner. The property owner is currently trying to obtain access to the Edinger entrance.

Mr. Ramos verified with Mr. Bergsma that the additional condition limiting single serve sales of alcoholic beverages is acceptable. Mr. Bergsma stated that he had no objections to the additional condition.

Tristan Harris, representing the property owner, stated that he had no comments or concerns with staffs' recommendations. He also noted that the proposed establishment would be limiting the alcohol sales to beer and wine only.

Mr.. Ramos inquired if there would be objections to limiting the hours of operation. Mr. Harris stated that the issue of modifying the hours would be a discussion that could be had.

Larry Amorse, resident, spoke in opposition of the proposed project. He noted that he is concerned with a 24 hour convenience store, citing the potential for an increase in noise and traffic in the alley. A brief discussion took place regarding the proposed hours of operation.

Jim Duncan, resident, spoke in opposition of the proposed project, citing concerns with potential loitering.

Justin Jajour, resident, spoke in opposition of the proposed project, citing concerns with the potential increases in criminal activity, noise, traffic, and the potential to attract undesirable people to the area.

Bill Jajour, resident, spoke in opposition to the proposed project, citing concerns with the negative impact a 24 hour operation could have to the area. He cited concerns with potential increases to noise and traffic in the area.

Aaron Sassounian, resident, stated that he is opposed to the proposed project. He inquired if staff could give a brief summary of the Shell gas station that has closed on the site. A discussion took place regarding the remediation of the site.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Mr. Ramos stated that, based on the information provided, he would approve the request and would incorporate a condition limiting delivery hours as well as a condition modifying the hours of operation.

**CONDITIONAL USE PERMIT NO. 13-036 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING MODIFIED FINDINGS AND CONDITIONS OF APPROVAL. STAFF STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

**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 15303 of the CEQA Guidelines, because the project involves the construction of a new commercial building not exceeding 10,000 square feet in floor area on a site zoned for such use.

## **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 13-036:**

1. Conditional Use Permit No. 13-036 for the construction of a 3,700 sq. ft. commercial building consisting of a 24-hour, 2,300 sq. ft. convenience store with alcohol sales for off-site consumption and a 1,400 sq. ft. eating and drinking establishment with outdoor dining in conjunction with the sale and consumption of alcoholic beverages 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 development will improve an existing vacant lot and provide additional commercial services in the vicinity. The proposed commercial uses are similar to surrounding existing uses. Potential noise generated by the uses will not exceed existing noise levels and will comply with the City's Noise Ordinance. The nearest residential uses in the vicinity are located more than 120 feet from the property to the southeast and are buffered by the arterial streets, flood control channel, and parking lots. Furthermore, the layout of the site provides adequate onsite circulation for pedestrians and vehicles and as conditioned, appropriate reciprocal access with the adjacent commercial center. The proposed alcohol use as conditioned will not generate noise, traffic, demand for parking, or other impacts above that which currently exists and will be consistent with the subject property's zoning.
2. The 3,700 sq. ft. commercial building consisting of a 24-hour, 2,300 sq. ft. convenience store with alcohol sales for off-site consumption and a 1,400 sq. ft. eating and drinking establishment with outdoor dining in conjunction with the sale and consumption of alcoholic beverages will be compatible with surrounding uses because the project consists of commercial uses similar to those found in the vicinity. Alcohol sales is ancillary to the retail use and eating and drinking establishment and will not generate significant impacts related to parking, traffic, or noise above existing conditions. The site is physically separated from noise sensitive uses by streets, flood control channel, and parking lots and located more than 120 feet away from residential uses with building entrances oriented to the streets. The proposed single-story building features an architectural tower element for the convenience store entrance and enhanced building features include a flat roof with parapet walls and cornice treatment, steel canopies and columns to break up the façade massing, variable façade offsets and material changes, and a stone base at the pedestrian scale.
3. The 3,700 sq. ft. commercial building consisting of a 24-hour, 2,300 sq. ft. convenience store with alcohol sales for off-site consumption and a 1,400 sq. ft. eating and drinking establishment with outdoor dining in conjunction with the sale and consumption of alcoholic beverages 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 project complies with the development standards in terms of minimum onsite parking, building height, setbacks, and landscaping. Adequate vehicular and pedestrian circulation is provided for convenient access throughout the project and as conditioned, provides reciprocal access with the adjacent commercial center.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Commercial General on the subject property. In addition, it is consistent with the following objectives 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, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy LU 10.1.15: Require that buildings, parking, and vehicular access be sited and designed to prevent adverse impacts on adjacent residential neighborhoods.

Policy LU 10.1.12: Require that Commercial General uses be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development.

The proposed project is a small commercial development located within close proximity of existing commercial and residential uses. The site layout provides adequate onsite circulation for vehicles and pedestrians and as conditioned, reciprocal access with the adjacent shopping center. It will visually improve the character of the area by constructing an architecturally compatible single-story commercial development with enhanced landscaping and upgraded sidewalk improvements. The proposed uses are neighborhood serving and conveniently accessible to local residents and visitors in the vicinity. The ancillary use of alcohol sales to a convenience store and eating and drinking establishment is appropriate when it is surrounded by similar commercial uses and when existing residential uses are adequately buffered from the proposed use.

B. Urban Design Element

Goal UD 1: Enhance the visual image of the City of Huntington Beach.

The proposed building incorporates architectural treatments consistent with the City's Design Guidelines including a tower element at the corner of the building, variable offsets to break up the building massing, steel canopies and columns to enhance the façades, and a combination of materials and colors. Decorative paving is proposed at the driveway entrance and pedestrian crossings with drive aisles to provide a traffic calming effect and improved site design. Landscape planters adjacent to the street frontages and distributed throughout the site help screen the parking lot and enhance the visual image of the environment.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 13-036:**

1. The site plan received and dated July 7, 2014, and floor plans, and elevations received and dated June 24, 2014, shall be the conceptually approved design with the following modifications:
  - a. A three feet wide landscape planter (including the two feet overhang for parking stalls) and minimum four feet wide walkway shall be provided to the north of the convenience store between the parking spaces (#1-5) and the building.
  - b. The driveway off Edinger Avenue shall be removed and the required landscape planter and appropriately dimensioned parking spaces shall be constructed between parking spaces #21 and #22.
  - c. The gate doors or fencing serving the temporary resource extraction enclosure along the west property line shall not encroach over the property line unless authorization from the adjacent property owner is provided.
  - d. The elevations shall incorporate a combination of the following modifications subject to review and approval by the Planning and Building Department:
    - i. The primary color of the building shall be a lighter shade of gray.



property shall enter into an irrevocable offer for future reciprocal access and shared entry between the subject site and adjacent westerly property. Language in the irrevocable offer agreement shall indicate that the subject property owner will close the subject site's driveway access from Edinger Avenue with appropriate improvements in the event that the adjacent westerly property owner accepts the offer. The legal instrument shall be submitted for review and approval by the Planning Division and the City Attorney as to form and content, and when approved, recorded in the Office of the County Recorder prior to final building permit approval. A copy of the recorded document shall be filed with the Planning Division for inclusion in the entitlement file prior to final building permit approval.

5. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released until the following has been completed:
  - a. All existing overhead 12kV electrical distribution and various communication lines along the Edinger Avenue and Bolsa Chica Street frontages shall be undergrounded. In lieu of compliance with this project condition, a fair-share fee, in the amount of \$55,000 shall be paid to the City of Huntington Beach Public Works Department. **(PW)**
  - b. All improvements are completed in accordance with approved plans, except as provided for by conditions of approval.
  - c. The applicant shall obtain the necessary permits from the South Coast Air Quality Management District and submit a copy to the Planning Division.
  - d. Compliance with all conditions of approval specified herein shall be verified by the Planning Division.
  - e. 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.
  - f. A Certificate of Occupancy must be approved and issued by the Planning and Building Department.
6. Signage shall be reviewed under separate permits and applicable processing.
7. The uses (eating and drinking establishment, outdoor dining, and convenience store) shall comply with the following:
  - a. Unless approved by a subsequent entitlement, the eating and drinking establishment shall be limited to a maximum of 12 seats within the interior of the suite; and the outdoor patio area shall not exceed a maximum of 20% of the indoor area or 400 sq. ft., whichever is less.
  - b. The convenience store shall be limited to a maximum of 10% of the floor area devoted to sales, display, and storage of alcoholic beverages (beer and wine).
  - c. The daily hours of operation shall be limited as follows:
    - i. Convenience store: 6:00 a.m. to 2:00 a.m.
    - ii. Eating and Drinking Establishment: 7:00 a.m. to 2:00 a.m.
      1. Outdoor dining: 7:00 a.m. to 10:00 p.m.

- d. Truck deliveries to all businesses shall be limited to between the hours of 7:00 a.m. to 10:00 p.m., Monday through Friday, and 9:00 a.m. to 10:00 p.m., Saturday and Sunday.
- e. Prior to the sales, service or consumption of alcoholic beverages for the eating and drinking establishment and outdoor dining area, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by ABC, shall be submitted to the Planning and Building Department for the entitlement file. The business shall be limited to a Type 41 (On Sale Beer and Wine for Bona Fide Public Eating Place) ABC License. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
- f. All alcoholic beverages shall be limited to within the interior of the eating and drinking establishment and the fenced outdoor dining area. **(PD)**
- g. Service of alcoholic beverages for consumption off-site shall be prohibited beyond the eating and drinking establishment and outdoor dining area. **(PD)**
- h. Within the eating and drinking establishment and outdoor dining area, the sale of alcoholic beverages shall be made only in conjunction with the sale of food to the person ordering the beverage. **(PD)**
- i. Dancing and entertainment shall be prohibited unless approved by a conditional use permit.
- j. Food service from the regular menu shall be available from the time the eating and drinking establishment opens to the public, until at least one hour prior to the scheduled closing time. **(PD)**
- k. No loitering shall be permitted within the vicinity of any entrances and exits and in the parking lot at any time. **(PD)**
- l. The patio area shall have only one entry/exit point. A sign shall be posted in a conspicuous space at the entrance/exit point of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- m. 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)**
- n. No dining or consumption of alcoholic beverages shall be permitted within the outdoor patio area between the hours of 10:00 p.m. and 7:00 a.m. **(PD)**
- o. The patio area shall be sufficiently illuminated to permit the identification of patrons. **(PD)**
- p. The eating and drinking establishment's use conditions listed herein shall be clearly posted on the premises at all times.
- q. Prior to the sales of alcoholic beverages, the convenience store shall obtain an ABC License authorizing off sale alcohol sales. The business shall be limited to a Type 20 (Off Sale Beer and Wine) ABC License. **(PD)**
- r. The display or sale of the following items shall be prohibited:
  - i. Wine or distilled spirits in containers of less than 750 milliliters.
  - ii. Malt beverage products with alcohol content greater than five and one-half percent by volume.

- iii. Wine with an alcoholic content greater than 14 percent by volume unless in corked bottles and aged at least two years.
  - iv. Beer or malt liquor sold individually in containers of 40 ounces or less.
  - v. Containers of beer or malt liquor not in their original factory packages of six-packs or greater.
  - vi. Distilled spirits in bottles or containers smaller than 375 milliliters.
  - vii. Cooler products, either wine or malt beverage based, in less than four-pack quantities. **(PD)**
- s. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and discern the appearance and conduct of all persons on or about the parking lot. **(PD)**
  - t. “No Loitering” and “No Open Container” signs shall be affixed and clearly visible on the north and west sides of the building. **(PD)**
  - u. 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)**
  - v. Both businesses 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 parking 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. **(PD)**
  - w. 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)**
8. The owner or owner’s representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
  9. CUP No. 13-036 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.
  10. 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 Zoning Administrator’s action. If the proposed changes are of a substantial nature, an amendment

to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18.

11. 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/green-building-guidelines-rating>).

**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.

**THE MEETING WAS ADJOURNED AT 2:12 PM TO THE NEXT REGULARLY SCHEDULED MEETING ON WEDNESDAY, AUGUST 6, 2014, AT 1:30 P. M.**

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Ricky Ramos  
Zoning Administrator

RR:EE:jd