

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

**TO:** Zoning Administrator  
**FROM:** Jill Arabe, Associate Planner  
**DATE:** July 16, 2014

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

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

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**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.

**Environmental Status:** This request is covered by Categorical Exemption, Section 15303, Class 3, California Environmental Quality Act.

**Zone:** CG (Commercial General)

**General Plan:** CG-F1 (Commercial General – Max. 0.35 FAR)

**Existing Use:** Vacant

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

**SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 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.

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

1. Conditional Use Permit No. 13-036 for 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 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 3,500 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 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 3,500 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 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.

Objective UD 1.3: Strengthen the visual character of the City's street hierarchy (i.e., major, primary, etc.) in order to clarify the City's structure and to improve Citywide identity.

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.

**SUGGESTED 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.
        - ii. The metal storefront shall be painted black or a darker color.
        - iii. The wainscot shall incorporate more gray hues.
      - e. The floor plans and elevations shall be revised to be consistent with the layout change per the revised site plan.
2. 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 immediately adjacent to and across the street 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 Division.
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 and Code Requirements, shall be submitted for review, approval, and inclusion in the entitlement file, to the Planning Division.
  - b. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Fire, Public Works, and Building 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.
  - c. A reduced copy of the approved site plan and processing fee shall be submitted to the Planning Division for addressing of the new suites.
4. Prior to issuance of building permits, the following shall be completed:
  - a. Detailed landscaping plans complying with HBZSO Chapter 233 shall be submitted to the Planning Division for review and approval.
  - b. The subject property shall provide an irrevocable reciprocal driveway access easement between the subject site and adjacent westerly property as depicted on the approved plans. The subject property shall be responsible for making necessary improvements to implement the reciprocal access. The legal instrument shall be submitted to the Planning Division prior to building permit issuance. The document shall be approved by the Planning Division and City Attorney as to form and content and, when approved, shall be recorded with 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. The recorded agreement shall remain in effect in perpetuity, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach.

- c. If the adjacent westerly property owner does not agree to the terms and provisions of joint and reciprocal access, Condition No. 1b shall not apply and driveway access from Edinger Avenue may continue with appropriate improvements subject to approval by the Planning Division and Public Works Department. The subject property shall enter into an irrevocable offer for future reciprocal access and shared entry between the subject site and adjacent westerly property. 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: Open 24 hours

- 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. 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.
- e. All alcoholic beverages shall be limited to within the interior of the eating and drinking establishment and the fenced outdoor dining area. **(PD)**
- f. Service of alcoholic beverages for consumption off-site shall be prohibited beyond the eating and drinking establishment and outdoor dining area. **(PD)**
- g. 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)**
- h. Dancing and entertainment shall be prohibited unless approved by a conditional use permit.
- i. 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)**
- j. No loitering shall be permitted within the vicinity of any entrances and exits and in the parking lot at any time. **(PD)**
- k. 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)**
- l. 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)**
- m. 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)**
- n. The patio area shall be sufficiently illuminated to permit the identification of patrons. **(PD)**
- o. The eating and drinking establishment's use conditions listed herein shall be clearly posted on the premises at all times.
- p. 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)**
- q. 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)**

- r. “No Loitering” and “No Open Container” signs shall be affixed and clearly visible on the north and west sides of the building. **(PD)**
  - s. 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)**
  - t. 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)**
  - u. 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.