

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

WEDNESDAY, JUNE 20, 2012 - 1:30 P.M.

ZONING ADMINISTRATOR: Ricky Ramos

STAFF MEMBER: Jill Arabe, Andrew Gonzales, Judy Demers (recording secretary)

MINUTES: August 17, 2011
APPROVED AS SUBMITTED

ORAL COMMUNICATION: **NONE**

ITEM 1: COASTAL DEVELOPMENT PERMIT NO. 12-01/ TEMPORARY USE PERMIT NO. 12-01
(SURF CITY NIGHTS - CONTINUED FROM THE JUNE 6, 2012 MEETING)

APPLICANT: Huntington Beach Downtown Improvement District, Mary Snese & City of Huntington Beach, Economic Development

PROPERTY OWNER: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

REQUEST: To permit the closure of Main and 5th Street every Tuesday night to allow for an outdoor festival for a period of five years (2013-2017). The festival will consist of various activities including sidewalk sales, farmer's market, live entertainment, food preparation and tasting, and kid's activities (bounce house and train). The closure will be between Pacific Coast Highway and Orange Avenue on Main Street including portions of (half-block) of Walnut Avenue and Olive Avenue (between 3rd Street and 5th Street) and between Pacific Coast Highway and Walnut on 5th Street. Parking will be provided via a remote parking lot located at 2000 Main Street with shuttle service to/from the festival to accommodate overflow parking year round..

LOCATION: Main Street and 5th Street, 92648 (between Pacific Coast Highway & Orange Avenue – Main Street & between Pacific Coast Highway and Walnut Avenue – 5th Street)

PROJECT PLANNER: Andrew Gonzales

Andrew Gonzales, Associate Planner, stated that staff retracted the CEQA exemption cited in the project and have required that an environmental assessment be submitted. Therefore, staff is recommending a continuance to a date uncertain to allow time to complete an environmental assessment.

Mr. Ramos stated that he would continue the item as requested by the staff to a date uncertain.

COASTAL DEVELOPMENT PERMIT NO. 12-01/ TEMPORARY USE PERMIT NO. 12-01 WERE CONTINUED TO A DATE UNCERTAIN.

ITEM 2: ENTITLEMENT PLAN AMENDMENT NO. 12-06 (GREEN STREET CAFÉ – AMENDMENT TO CONDITIONAL USE PERMIT NO. 08-39)

APPLICANT: Peter Kourkoulis, Business Owner
PROPERTY OWNER: Art Jan, 4911 Warner Avenue, Suite No. 109, Huntington Beach, CA 92649
REQUEST: To amend Conditional Use Permit No. 08-39 to permit the service and consumption of alcoholic beverages within a proposed 500 sq. ft. outdoor dining area of an existing 1,200 sq. ft. restaurant.
LOCATION: 4911 Warner Avenue, Suite No. 102, 92649 (northwest corner of Green Street and Warner Avenue)
PROJECT PLANNER: 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 stated that she had not received any public comments.

THE PUBLIC HEARING WAS OPENED.

Ricky Ramos, Zoning Administrator, verified with staff the location of the proposed walkway.

Art Jan, representing the applicant, stated he had no comments or concerns with staff recommendations.

Thomas Ward, resident, inquired of the location of the proposed walkway. A brief discussion took place regarding the proposed walkway.

Kevin Shopshire, resident, spoke in opposition of the project. He cited concerns with potential noise impacts, trash accumulation and increase of criminal activity.

Denise Curry, spoke in opposition of the project. She cited concerns with potential noise impacts.

Perry Chapman, Walgreens manager, stated that he has no issues with the proposed project.

A brief discussion took place regarding the proposed alcohol sales at the restaurant.

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 as recommended by staff. He noted that would modify the hours requested limiting the hours for alcohol sales in the outdoor dining area.

ENTITLEMENT PLAN AMENDMENT USE PERMIT NO. 12-06 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING 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 15301 of the CEQA Guidelines, because the project involves minor alterations to a commercial suite involving negligible expansion of an existing use.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 12-06:

1. Entitlement Plan Amendment No. 12-06 to amend Conditional Use Permit No. 08-39 to permit the service and consumption of alcoholic beverages within a outdoor dining area 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 alcohol sales and service and outdoor dining area will not generate noise, traffic, demand for parking, or other impacts above that which currently exists and inconsistent with the subject property's zoning. The restaurant will continue to serve food and beverages in conjunction with the proposed use. The outdoor dining area, which is limited to exceed 400 sq. ft., will be located in front of the restaurant suite, surrounded by the building. Nearby residential uses to the west, north, and south of the subject property are buffered from potential noise impacts by the building, landscaping, parking lot, and existing streets. The outdoor dining area will not block entrances to adjacent businesses. As conditioned, a four-foot wide walkway will be provided around the fenced outdoor dining area to accommodate adequate pedestrian access.
2. The entitlement plan amendment will be compatible with surrounding uses because the proposed use is located within an existing commercial development containing similar and complementary uses. The sales and service of alcohol within the outdoor dining area will be ancillary to an existing restaurant use which is approved for alcohol service within the interior of the building. The proposed business hours are similar to other commercial uses within the vicinity. The restaurant is consistent with adjacent uses, which serve nearby residents and visitors.
3. The proposed Entitlement Plan Amendment No. 12-06 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 outdoor dining area, not to exceed 400 sq. ft., will not require additional parking beyond what already exists onsite. The restaurant has an existing conditional use permit with a restriction limiting the sales and service of alcohol within the interior of the building. The Entitlement Plan Amendment will amend the condition to permit alcohol service within a new outdoor dining area.
4. The granting of the entitlement plan amendment will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CG-F1 (Commercial General – Max. 0.35 Floor Area Ratio). In addition, it is consistent with the following goals 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, and capitalize on Huntington Beach's recreational resources.

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.

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 area.

The proposed use will market its services to local residents and visitors in the surrounding region. It will be located within an existing commercial development, which includes restaurant and retail uses. The restaurant with alcohol sales and service within the outdoor dining area is not anticipated to result in negative impacts on surrounding uses. The outdoor dining area is sufficiently buffered from residential uses by the building, landscaping, parking lot, and streets. The ancillary use is not anticipated to impact surrounding noise-sensitive land uses.

CONDITIONS OF APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 12-06:

1. The site plan received and dated April 17, 2012, shall be the conceptually approved design with the following modifications:
 - a. The outdoor dining area shall be reduced to 400 square feet on the site plan.
 - b. The site plan shall depict a four-foot wide walkway around the perimeter of the outdoor dining area, which includes the removal of landscaping.
2. Prior to installing the railing and walkway improvements for the outdoor dining area a plan revised in accordance with Condition No. 1 and including the railing design shall be submitted to the Planning Division Staff for approval and inclusion in the entitlement file.
3. 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 & Building Department for the entitlement file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
4. The use shall comply with the following:
 - a. All conditions of approval per Conditional Use Permit No. 08-39 shall remain in effect with the exception of Condition No. 2b.
 - b. All alcoholic beverages shall be limited to within the interior of the restaurant and the fenced outdoor dining area. **(PD)**

- c. The outdoor dining area shall not exceed 400 square feet.
 - d. A protective barrier along the perimeter of the outdoor dining area shall be maintained at all times. **(PD)**
 - e. The outdoor dining area shall be closed between the hours of 10:00 PM and 7:00 AM daily. **(PD)**
 - f. A sign shall be clearly posted prohibiting alcoholic beverages outside of the outdoor dining area. **(PD)**
 - g. Service of alcoholic beverages for off-site consumption shall be prohibited. **(PD)**
 - h. Dancing and entertainment shall be prohibited unless approved by a conditional use permit.
 - i. The use conditions listed herein shall be clearly posted on the premises at all times.
5. EPA No. 12-06 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 & Building Department a minimum 30 days prior to the expiration date.
6. The Director of Planning & Building ensures that all conditions of approval herein are complied with. The Director of Planning & Building shall be notified in writing of any changes to the conceptually approved plans. 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 Huntington Beach Zoning and Subdivision Ordinance.
7. 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.

ITEM 3: CONDITIONAL USE PERMIT NO. 12-08 (BUON GUSTO ALCOHOL SALES)

APPLICANT: Peter Kourkoulis, Business Owner
PROPERTY OWNER: Art Jan, 4911 Warner Avenue, Suite No. 109, Huntington Beach, CA 92649
REQUEST: To permit the onsite sales, service, and consumption of alcoholic beverages within an existing 3,000 sq. ft. restaurant and outdoor dining area.
LOCATION: 4911 Warner Avenue, Suite No. 109, 92649 (northwest corner of Green Street and Warner Avenue
PROJECT PLANNER: Ethan Edwards

Ethan Edwards, 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.

Art Jan, representing the applicant, stated he had no comments or concerns with staff recommendations.

THE PUBLIC HEARING WAS OPENED.

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 as recommended by staff. He noted that would modify the hours requested limiting the hours for alcohol sales in the outdoor dining area.

CONDITIONAL USE PERMIT NO. 12-08 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING 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 15301 of the CEQA Guidelines, because the project involves no expansion of the existing restaurant use.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 12-08:

1. Conditional Use Permit No. 12-08 to permit the sales, service and consumption of alcoholic beverages within an existing approximately 3,000 sq. ft. restaurant and 700 sq. ft. outdoor dining area 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 alcohol sales and service, as conditioned, will not generate noise, traffic, demand for parking, or other impacts above that which currently exists and inconsistent with the subject property's zoning. The restaurant will continue to serve food and beverages in conjunction with the proposed use. The 700 sq. ft. outdoor dining area is

already approved and located in front of the restaurant suite; and residential uses to the west, north, and south of the subject property are buffered from potential negative noise impacts by the building, landscaping, parking lot, and existing streets.

2. The conditional use permit will be compatible with surrounding uses because the proposed use is located within an existing commercial development containing similar and complementary uses. The sales, service, and consumption of alcohol within the restaurant and outdoor dining area will be ancillary to the existing restaurant use. The proposed business hours are similar to other commercial uses within the vicinity. The restaurant is consistent with adjacent uses, which serve nearby residents and visitors.
3. Conditional Use Permit No. 12-08 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. Alcohol sales, service and consumption is permitted within the CG (Commercial General) zoning district subject to the review and approval of a conditional use permit.
4. The granting of the entitlement plan amendment will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CG-F1 (Commercial General – Max 0.35 Floor Area Ratio). In addition, it is consistent with the following goals 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, and capitalize on Huntington Beach's recreational resources.

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.

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 area.

The proposed use will market its services to local residents and visitors in the surrounding region. It will be located within an existing commercial development, which includes restaurant and retail uses. The alcohol sales, service and consumption within the existing restaurant and outdoor dining area, as conditioned, are not anticipated to result in negative impacts on surrounding uses. The existing outdoor dining area is sufficiently buffered from residential uses by the building, landscaping, parking lot, and streets. The ancillary use is not anticipated to impact surrounding noise-sensitive land uses.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 12-08:

1. The site plan received and dated May 7, 2012 shall be the conceptually approved design.
2. 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 & Building Department for the entitlement file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
3. The use shall comply with the following:
 - a. All alcoholic beverages shall remain within the interior of the restaurant or within the confines of the outdoor dining area. **(PD)**
 - b. A sign shall be clearly posted prohibiting alcoholic beverages outside of the outdoor dining area. **(PD)**
 - c. Service of alcoholic beverages for off-site consumption shall be prohibited. **(PD)**
 - d. The hours of operation of the restaurant shall be limited to between 10:00 A.M and 12:00 A.M. daily.
 - e. The hours of operation of the outdoor dining area shall be limited to between 10:00 A.M and 10:00 P.M. daily.
 - f. The establishment shall provide full meal services until one hour prior to closing. **(PD)**
 - g. Live entertainment and dancing shall be prohibited unless approved by a conditional use permit. **(PD)**
 - h. The use conditions listed herein shall be clearly posted on the premises at all times.
4. CUP No. 12-08 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 & Building Department a minimum 30 days prior to the expiration date.
5. The Director of Planning & Building ensures that all conditions of approval herein are complied with. The Director of Planning & Building shall be notified in writing of any changes to the conceptually approved plans. 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 Huntington Beach Zoning and Subdivision Ordinance.
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/green-building-guidelines-rating>).

7.

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 2:09 PM TO THE NEXT REGULARLY SCHEDULED MEETING ON WEDNESDAY, JULY 11, 2012, AT 1:30 P. M.

Ricky Ramos
Zoning Administrator

RR:jd