



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, SEPTEMBER 25, 2018

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - COUNCIL CHAMBERS

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 P P

ROLL CALL: *Crowe, Ray, Garcia, Scandura, Kalmick, Mandic, Grant*

### AGENDA APPROVAL

A MOTION WAS MADE BY KALMICK, SECONDED BY GRANT, TO APPROVE THE SEPTEMBER 25, 2018, PLANNING COMMISSION MEETING AGENDA, BY THE FOLLOWING VOTE:

AYES: Crowe, Ray, Garcia, Scandura, Kalmick, Mandic, Grant

NOES: None

ABSENT: None

ABSTAIN: None

### MOTION APPROVED

### PUBLIC COMMENTS

Mona Hansen, resident, spoke regarding the construction at 209 Huntington Street, citing concerns regarding privacy impacts and property value impacts.

### PUBLIC HEARING ITEMS

18-208 **CONDITIONAL USE PERMIT NO. 17-026 (G & M OIL - CONTINUED FROM AUGUST 14, 2018):** To approve a request to construct a new service station, establish beer and wine sales, and allow reduced building setbacks at 16990 Beach Blvd; and find the project exempt from CEQA.

### RECOMMENDED ACTION:

That the Planning Commission take the following actions:

- A) Find the proposed project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3.
- B) Approve Conditional Use Permit No. 17-026 with suggested findings and conditions of approval (Attachment No. 1)

The Commission made the following disclosures:

- Commissioner Crowe had no disclosures.
- Commissioner Ray visited the site.
- Vice-Chair Garcia is familiar with the site.
- Chair Scandura spoke with staff and visited the site.
- Commissioner Kalmick visited the site and frequents the site as a customer regularly.
- Commissioner Mandic had no disclosures.
- Commissioner Grant visited the site.

Joanna Cortez, Associate Planner, gave the staff presentation and an overview of the project.

There was discussion on the following items: the current and proposed alcohol licenses, the proposed easement dedication, landscaping requirements, and setbacks.

**THE PUBLIC HEARING WAS OPENED.**

Karl Huy, applicant, spoke in support of Item No. 18-208, stating that he had reviewed and was in agreement with the proposed conditions of approval. He thanked staff for their work on this project.

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

There was discussion on the following items: occupancy calculations, drainage and sloping, and potential tree replacement.

**A MOTION WAS MADE BY KALMICK, SECONDED BY MANDIC, TO FIND THE PROPOSED PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15303, CLASS 3 AND APPROVE CONDITIONAL USE PERMIT NO. 17-026 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

**AYES: Crowe, Garcia, Scandura, Kalmick, Mandic, Grant**  
**NOES: Ray**  
**ABSENT: None**  
**ABSTAIN: 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 exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 – *New Construction or Conversion of Small Structures* of the CEQA Guidelines as the project involves the construction of one commercial building that is less than 10,000 sq. ft. in an urbanized area where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 17-026:**

1. Conditional Use Permit No. 17-026 to construct a new service station canopy, establish beer and wine sales, and allow reduced building setbacks will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood because the project will revitalize an existing deteriorating area with a development consistent with the General Plan land use and zoning designations. The proposed project will replace an existing service station and liquor store and is compatible in the proportion, scale, and character of the adjoining uses. The one-story commercial building is consistent with the height requirements and complements the adjacent commercial buildings. Additionally, the design of the building is attractive and will incorporate architectural elements such as cornices with articulating rooflines, metal awnings, and stone veneer base. The proposed building setbacks to the existing property line exceed the minimum setback of 15 ft. by approximately six to seven ft. After a required 14 ft. Warner Ave. street dedication and widening for a future right turn lane, the reduced building setback to the ultimate property line will measure approximately seven to eight ft. which will not create adverse impacts to the surrounding neighborhood as it is compatible with other surrounding single-story buildings that have been granted similar reduced setbacks. The site is surrounded by streets on three sides of the property, making it difficult to meet required building setbacks after street dedications and still maintain a viable service station with adequate on-site circulation. Additionally, the proposed retail building will replace two buildings (totaling approximately 3,500 sq. ft.) and replace them with a smaller commercial building. Redevelopment of the site will improve this segment of Beach Boulevard by reducing the width of existing driveway aisles, widening the sidewalks, and adding new landscaping along the right of way. The new layout of the service station will move the gas pumps further away from Beach Blvd. to allow for wider onsite landscape planters and improve circulation efficiency, improvements that may motivate other commercial properties to redevelop. The existing use will remain the same and the new license for alcohol (beer and wine) sales, as conditioned, will not generate new noise, traffic, demand for parking or other impacts. The sale of beer and wine is for off-site consumption only and the service station will continue to provide fuel and convenience goods.
2. The General Plan Land Use Map designation on the subject property is currently M-sp (Mixed Use – Specific Plan Overlay). Conditional Use Permit No. 17-026 for the construction of a new 4,412 sq. ft. service station canopy, 2,168 sq. ft. retail building and permit off-sale beer and wine sales (ABC License Type 20) within a proposed retail building is consistent with this designation and the goals, policies, and objectives of the City's General Plan as follows:

*Land Use Element*

Goal LU-1: New commercial, industrial, and residential development is coordinated to ensure that the land use pattern is consistent with the overall goals and needs of the community.

Policy LU-1(D): Ensure that new development projects are of compatible proportion, scale, and character to complement adjoining uses.

Goal LU-11: Commercial land uses provide goods and services to meet regional and local needs.

Policy LU-11 (B): Encourage renovation and revitalization of deteriorating and struggling nonresidential areas and corridors, particularly commercial locations.

The proposed development is consistent with the Beach and Edinger Corridors Specific Plan which encourages well-articulated building and wider walkways to enhance the pedestrian and public experience. The proposed development project is compatible in the proportion, scale, and character of the adjoining uses. The one-story commercial building is consistent with the height requirements and complements the adjacent commercial buildings. The proposed building setbacks to the existing property line exceed the minimum setback of 15 ft. by approximately six to seven ft. After a required 14 ft. Warner Ave. street dedication and widening for a future right turn lane, the reduced building setback to the ultimate property line will measure approximately seven to eight ft. which will not create adverse impacts to surrounding neighborhood as it is compatible with other surrounding single-story buildings in the area that have been granted similar reduced setbacks. The site is surrounded by streets on three sides of the property, making it difficult to meet required building setbacks after street dedications and still maintain a viable service station with adequate on-site circulation. Additionally, the proposed retail building will replace two buildings (totaling approximately 3,500 sq. ft.) and replace them with a smaller commercial building. The proposed architectural elements such as the cornices with articulating rooflines, metal awnings, and stone veneer base is compatible with and enhances the character of the adjoining uses. Furthermore, the proposed service station and retail building offers a service that meets the regional and local community needs and revitalizes an existing commercial property with an optimal location and accessibility along a major highway. Additionally, the sale of alcoholic beverages (beer and wine) increases the economic viability of the service station by offering the sales of alcoholic beverages in addition to other convenience goods. The expansion of services captures and enhances resident, visitor, and tourist activity within the surrounding areas. This commercial development is proposed within close proximity of compatible existing commercial uses and residential uses in the vicinity. By permitting a mix of land uses closer together, greater interaction will occur between developments and further the vision and viability of the specific plan.

#### Circulation Element

Goal CIRC 7: Designated scenic corridors protect and enhance visual quality and scenic views.

Goal CIRC 7 (D): Provide landscaped medians and sidewalk treatments in accordance with City standards within major and primary arterial streets designated as landscape corridors, and continue to require the construction of landscaped medians and sidewalk treatments in new developments.

The proposed streetscape will initiate the vision for the Town Center Boulevard Segment of the specific plan. The project will provide a parkway landscape buffer for pedestrians using the public sidewalk. Additionally, the proposed service station and retail building will revitalize an existing commercial property with an optimal location and accessibility along a major highway.

3. Conditional Use Permit No. 17-026 for the construction of a new 4,412 sq. ft. service station canopy, 2,168 sq. ft. retail building and permit off-sale beer and wine sales (ABC License Type 20) within a proposed retail building will comply with the Town Center Boulevard Segment of the Beach and Edinger Corridors Specific Plan, and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) with the exception of the reduced building setback along Warner Ave., in that the project complies with all other setback standards, building height, top and base architectural element requirements, and parking. The reduced building setback is appropriate as it will allow street dedication and widening for a future right turn lane in addition to revitalizing an existing commercial property with an optimal location and accessibility along a major highway. Additionally, the use will comply with all building occupancy and exiting requirements.

**CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 17-026:**

1. The site plan, floor plan, and elevations received and dated June 20, 2018 shall be the conceptually approved layout with the following modification: to further differentiate private property as recommended by the Police Department, driveway entrances along Beach Blvd., Warner Ave., and A St. shall add pavement treatment such as interlocking unit pavers or scored and colored concrete. **(BECSP 2.7.4.1)**
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 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 Community Development Department.
3. The use shall comply with the following:
  - a. Hours of operation may be up to 24 hours, daily.
  - b. Hours of alcohol sales shall be limited to between 6:00 AM and 2:00 AM. **(PD)**
  - c. Refrigerators and cabinets where alcohol is located must be locked to customers between 2:00 AM to 6:00 AM. **(PD)**
  - d. Prior to the sales of alcoholic beverages, the business shall obtain a California Department of Alcoholic Beverage Control (ABC) license authorizing off sale alcohol sales. The ABC license shall be limited to "Off-sale" Type 20 – Beer and Wine Off-sale. All conditions contained in the ABC license shall be adhered to. **(PD)**
  - e. At the acquirement of the off-sale beer and wine license (ABC Type 20), the property owner shall not utilize, transfer, nor sell the existing off-sale general alcohol license

(ABC Type 21) and shall surrender the license to the California Department of Alcoholic Beverage Control (ABC). **(PD)**

- f. All persons engaged in the sale of alcohol shall complete a mandatory Responsible Beverage Service (RBS) training and certification. This 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)**
  - g. The facility shall employ a video surveillance security 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. 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)**
  - h. Live entertainment is prohibited. **(PD)**
  - i. In an effort to reduce the likelihood of alcohol related crimes, the display or sale of the following items shall be prohibited **(PD)**:
    - Wine containers of less than 750 milliliters.
    - Wine with alcoholic content greater than 14 percent by volume unless corked bottles and aged at least two years.
    - Beer or malt liquor products sold individually in containers of less than 24 ounces, except for small production craft-type beer only available in 24 ounces or less containers.
    - Containers of beer or malt liquor not in their original factory packages of six-packs or greater.
    - Cooler products, either wine or malt liquor beverage based, in less than three-pack quantities.
4. Prior to submittal for building permits, the following shall be completed:
- a. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Fire and Public Works 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.
  - b. The property owner/developer shall include a list on the plans to identify which sustainable or "green" building practices will be incorporated into the project from the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification or Building It Green's Green Building Guidelines and Rating Systems.
5. Prior to the issuance of a building permit, a Lot Line Adjustment shall be submitted to the Community Development Department, approved by the Public Works Department, and recorded by the County for the consolidation of the two parcels to result in one (1) lot.

6. Prior to issuance of a precise grading permit, the following shall be completed: Caltrans encroachment permits for work within the Caltrans right-of-way (for construction of sidewalks, driveways, utility connections, drainage etc.) shall be obtained by the applicant prior to City issuance of a grading permit. A copy of each submittal, encroachment permit, traffic control plans and/or other permission granted by Caltrans shall be transmitted to the Public Works Department. **(PW)**
7. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released, and issuance of Certificate of Occupancy until the following has been completed:
  - a. The existing non-conforming "Liquor" pole sign shall be removed.
  - b. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Community Development Department.
  - c. All improvements must be completed in accordance with approved plans, except as provided for by conditions of approval.
  - d. 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.
  - e. A Certificate of Occupancy must be approved by the Planning Division and issued by the Building and Safety Division.
8. New signage shall be reviewed under separate permits and applicable processing.
9. The Development Services Departments (Community Development, Fire, and Police Department) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Community Development 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.
10. Conditional Use Permit No. 17-026 shall become null and void unless exercised within two (2) 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 Community Development Department a minimum 30 days prior to the expiration date.

**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.

**CHAIR SCANDURA RECUSED HIMSELF FROM ITEM NO. 18-327 DUE TO HIS EMPLOYMENT WITH THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL. CHAIR SCANDURA LEFT THE ROOM.**

**18-327 COASTAL DEVELOPMENT PERMIT NO. 16-016/CONDITIONAL USE PERMIT NO.16-034 (ASCON FINAL REMEDIATION) - To approve the final remedial action plan, aluminum fence along Hamilton Avenue and Magnolia Street, and gated access for Ascon.**

**RECOMMENDED ACTION:**

That the Planning Commission take the following actions:

- A) Finds and determines that no additional environmental review is necessitated in that the project is covered under the Environmental Impact Report for the Ascon Landfill Remedial Action Plan certified by the Department of Toxic Substances Control on June 18, 2015. Per Section 15162 of the CEQA Guidelines no further environmental review is required as no substantial changes are proposed with the project; therefore there are no new significant environmental effects nor a substantial increase in the severity of previously identified significant effects; and
- B) Approve Coastal Development Permit No. 16-016 and Conditional Use Permit No. 16-034 with findings and suggested conditions of approval (Attachment No. 1).

The Commission made the following disclosures:

- Commissioner Crowe had no disclosures.
- Commissioner Ray drove by the site.
- Vice-Chair Garcia had no disclosures.
- Commissioner Kalmick toured the site, attended various community meetings, wrote comments for the EIR, and spoke with staff.
- Commissioner Mandic toured the site and spoke with staff.
- Commissioner Grant attended community meetings and toured the site.

Ricky Ramos, Senior Planner, gave the staff presentation and an overview of the project.

There was a brief discussion regarding street repair and proposed landscaping.

**THE PUBLIC HEARING WAS OPENED.**

Tamara Zeier, applicant, spoke in support of Item No. 18-327. She reported that the Final Clean Up for the site has been approved by the oversight agencies and she reviewed the details of the remediation.

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

There was discussion on the following: degree of remediation, truck trips proposed, fence height, parking at the site, emergency services access to the site, landscaping, and onsite security.

Scarlett Chi, Department of Toxic Substances, was called upon by the Planning Commission and discussed the history of the remediation project on the site.

**A MOTION WAS MADE BY KALMICK, SECONDED BY GRANT, TO FIND AND DETERMINE THAT NO ADDITIONAL ENVIRONMENTAL REVIEW IS NECESSITATED AND APPROVE COASTAL DEVELOPMENT PERMIT NO. 16-016 AND CONDITIONAL USE PERMIT NO. 16-034 WITH FINDINGS AND CONDITIONS OF APPROVAL MODIFIED TO REQUIRE A 7 FT. HIGH FENCE AND TEMPORARILY PROHIBIT PARKING ON HAMILTON AND MAGNOLIA DURING WORK HOURS, BY THE FOLLOWING VOTE:**

**AYES: Crowe, Ray, Garcia, Kalmick, Mandic, Grant**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: Scandura**

**MOTION APPROVED**

**FINDINGS FOR CEQA:**

The Planning Commission finds and determines that no additional environmental review is necessitated in that the project is covered under the Environmental Impact Report for the Ascon Landfill Remedial Action Plan (State Clearinghouse No. 2013041010) certified by the Department of Toxic Substances Control on June 18, 2015. Per Section 15162 of the CEQA Guidelines no further environmental review is required as no substantial changes are proposed with the project; therefore there are no new significant environmental effects nor a substantial increase in the severity of previously identified significant effects.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 16-034:**

1. Conditional Use Permit No. 16-034 for the establishment, maintenance and operation of a 6 ft. tall aluminum fence with 6.5 ft. tall pilasters at a 3 inch front setback along Hamilton Avenue and Magnolia Street instead of a minimum 15 ft. setback and gated access to the site 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 because the proposed fence complies with the required visibility triangle at the corner of Magnolia Street and Hamilton Avenue. It is designed in substantial compliance with the Urban Design Guidelines by incorporating attractive materials, an open view design with pilasters, and ground cover which soften its appearance. The gated site access provides adequate vehicle stacking of over 40 feet and will comply with Fire and Police Department emergency access requirements.
2. The granting of the conditional use permit will not adversely affect the General Plan because it is consistent with the Land Use Element designation of Residential Medium Density – Specific Plan Overlay on the subject property. In addition, it is consistent with the following objectives and policies of the General Plan:
  - a. Objective C 4.7: Improve the appearance of visually degraded areas within the Coastal Zone.

- b. Policy C 4.7.10: Encourage the remediation and cleanup of the NESI (Ascon) site. Work with other responsible agencies and property owner to facilitate site clean-up.

The project will result in the remediation of the Ascon Landfill which will improve the environmental quality of life in the area as well as the visual appearance of the landfill. Upon completion of the remediation the landfill will be enclosed with a decorative fence and a vegetated cap further enhancing the appearance of the landfill. The fence is designed in substantial compliance with the Urban Design Guidelines by incorporating attractive materials, an open view design with pilasters, and ground cover which soften its appearance and is compatible with surrounding uses. The reduced fence setback is also compatible with the perimeter tract walls of the nearby residential areas which also do not have any setbacks along Magnolia Street and Hamilton Avenue.

3. The proposed 6 ft. tall aluminum fence with 6.5 ft. tall pilasters at a 3 inch front setback along Hamilton Avenue and Magnolia Street, instead of a minimum 15 ft. setback, and gated access to the site 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 (HBZSO) and any specific condition required for the proposed use in the district in which it would be located, except for the reduced front setback which is permitted with approval of a conditional use permit because the proposed fence complies with the required visibility triangle at the corner of Magnolia Street and Hamilton Avenue and no other deviations from the zoning code are proposed. As required by the HBZSO, the gated site access provides adequate stacking of over 40 feet which exceeds the required minimum of 20 feet and will comply with Fire and Police Department emergency access requirements.

#### **FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 16-016:**

1. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export as modified by conditions of approval, conforms with the General Plan, including the Local Coastal Program. The General Plan Land Use Map designation on the subject property is Residential Medium Density – Specific Plan Overlay. The proposed project is consistent with this designation because it only involves the final remediation of the property. It is also consistent with the goals, objectives, and policies of the City's General Plan as follows:

##### **A. Coastal Element**

Policy C 2.2.2: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 4.6.3: For new re-development, require the preservation of existing mature tree (as defined by the City's Landscape Ordinance). If preservation of existing mature trees is not feasible, require that removed trees be replaced at a minimum 2:1 ratio either on site, or elsewhere within the Coastal Zone, as prescribed by the City.

Objective C 4.7: Improve the appearance of visually degraded areas within the Coastal Zone.

Policy C 4.7.10: Encourage the remediation and cleanup of the NESI (Ascon) site. Work with other responsible agencies and property owner to facilitate site clean-up.

##### **B. Natural and Environmental Hazards**

Goal HAZ-5: Environmental cleanup and management of brownfield sites improves environmental quality of life, desirability of surrounding neighborhoods, economic development, and housing options in the community.

Policy HAZ-5(A): Continue to identify, map, and remediate existing hazardous waste sites and require remediation when a property is redeveloped.

The project will result in the remediation of the Ascon landfill which will improve the environmental quality of life in the area as well as the visual appearance of the landfill. Upon completion of the remediation the landfill will be enclosed with a decorative fence that is in substantial compliance with the Urban Design Guidelines further enhancing the appearance of the landfill. The remediation will result in the removal existing landscaping onsite including 14 mature trees. While 2:1 tree replacement onsite is not feasible due to the restrictions resulting from the remediation, a condition of approval is recommended to require the applicant to pay a fee to the City equivalent to the cost of planting 28 trees in the southeast area of the City. Coastal access through existing area roadways and sidewalks will remain throughout the remediation process.

2. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code, except for the reduced front yard setback for the fence along Magnolia Street and Hamilton Avenue which is allowed with the approval of a conditional use permit, and is being considered concurrently. The site is surrounded by previously developed properties. Public access and use signs are not required because the site is not adjacent to recreation areas, public access ways, public use areas, or the shoreline. The site does not have public views to and from the bluffs, to the shoreline/ocean, or to the wetlands
3. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export can be implemented and maintained using infrastructure such as roadways and utilities already provided in the area.
4. Coastal Development Permit No. 16-016 to implement the final remedial action plan for the Ascon landfill with grading involving more than 25,000 cubic yards of import/export conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act because no public access to the landfill site is required or desirable. No public recreation facilities exist at the site and no opportunities for providing public recreation facilities are present. The project will not impede public access, recreation, or views to coastal resources.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 16-034/ COASTAL DEVELOPMENT NO. 16-016:**

1. The site plan, elevations, concept imagery, grading plan, cross sections, and site staging plan received and dated June 18, 2018 shall be the conceptually approved design with a modification to increase the height of the perimeter fence to seven ft. if feasible. Otherwise, a six ft. tall fence as originally proposed is acceptable.
2. Prior to issuance of grading permits, the following shall be completed:

- a. The applicant shall submit to the Public Works Department a check payable to the City of Huntington Beach equivalent to the cost of planting 28 trees (36 inch box) based on the average of estimates from two landscape services. The funds shall be deposited in an account by the Public Works Department to be retained until the funds are applied to plant trees at location(s) in southeast Huntington Beach to be selected by staff. The City shall complete the tree planting within one year of receipt of the check.
  - b. 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 within a half mile 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 for use by the public to report any undesirable noise conditions or any concerns associated with the project. If the telephone is not staffed 24 hours a day, the project owner shall include an automatic answering feature, with date and time stamp recording, to answer calls when the phone is unattended. This, or a similarly effective telephone number, shall be posted at the project site during construction where it is visible to passersby. This telephone number shall be maintained until the project has been completed. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Community Development Department.
3. The final building permit(s) cannot be approved until the following have been completed:
- a. All improvements must be completed in accordance with the approved plans.
  - b. Compliance with all conditions of approval specified herein shall be verified by the Community Development Department.
  - c. 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.
  - d. The applicant shall submit a landscaping and property maintenance plan for review and approval by the Community Development Department a minimum of 30 days prior to final building permit approval.
4. The applicant shall obtain a Temporary No Parking Permit from the Public Works Department and install temporary no parking signs along Ascon's Hamilton Avenue and Magnolia Street frontages during the final remediation work.
5. The project shall comply with all Mitigation Measures and Project Design Features of the Ascon Landfill Environmental Impact Report certified by the Department of Toxic Substances Control on June 18, 2015.
6. Throughout the construction and operation of the project, the project owner shall document, investigate, evaluate, and attempt to resolve all legitimate project-related noise complaints, for noise generated by the project outside of the permitted hours, as defined by the City of Huntington Beach Municipal Code Chapter 8.40. The project owner or authorized agent shall:
- Use a Noise Complaint Resolution Form, or a functionally equivalent procedure acceptable to the City, to document and respond to each project-related noise complaint that exceeds the City's exterior noise limits outside of the permitted hours;
  - Attempt to contact the person(s) making the noise complaint within 24 hours;

- Conduct an investigation to determine the source of noise in the complaint; A legitimate complaint refers to a complaint about noise that is caused by the project as opposed to another source (as verified by the City). A legitimate complaint constitutes a violation by the project of Municipal Code Chapter 8.40 (Noise Control) (as confirmed by the City), which is documented by an individual or entity affected by such noise.
- If the noise is project related, take all feasible measures to reduce the source of the noise; and
- Submit a report documenting the complaint and actions taken. The report shall include a complaint summary, including the final results of noise reduction efforts.

7. Heavy equipment operation, noisy construction work, construction, and grading activities relating to any project features, including noisy construction work relating to construction staging and warm-up activities, shall be restricted to the times delineated below:

- Mondays through Saturdays: 7:00 a.m. to 6:00 p.m.
- Sundays and Federal Holidays: Construction and grading not allowed

Employee arrival, safety meetings, and quiet work day preparations (e.g. equipment inspections) can begin as early as 6:00 a.m. in accordance with the certified Final EIR for the RAP for the Ascon Landfill. Haul trucks and other engine-powered equipment shall be equipped with adequate mufflers and other state-required noise attenuation devices. Haul trucks shall be operated in accordance with posted speed limits. Truck engine exhaust brake use (jake braking) shall be limited to emergencies.

8. All truck/vehicular stacking, staging, and parking shall be onsite only.

9. Only the project described in the project narrative dated August 2018 shall be permitted.

10. Based on mutual review (by the applicant and the City of Huntington Beach Public Works Department) of pavement conditions along the approved haul route before and after the completion of work, the applicant shall repair damaged pavement or reimburse the City for proportionate share of pavement deterioration caused by vehicles associated with the project, as determined by the City Engineer. Repairs or Reimbursement shall be received by City prior to final grading permit inspection. **(PW)**

11. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.

12. The development services departments (Community Development, Fire, and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Community Development 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 grading and 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.

13. Conditional Use Permit No. 16-034 in conjunction with Coastal Development Permit No. 16-016 shall become null and void unless exercised within two years of the date of final approval by the Planning Commission or City Council, or within one year of the date of final

Coastal Development Permit approval by the Coastal Commission if the Coastal Development Permit is appealed, or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.

**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.

**CHAIR SCANDURA RETURNED TO THE MEETING.**

**CONSENT CALENDAR**

**18-371 APPROVE PLANNING COMMISSION MINUTES DATED JUNE 12, 2018**

**Recommended Action:**

That the Planning Commission take the following action:

Approve the June 12, 2018, Planning Commission Minutes as submitted.

**A MOTION WAS MADE BY KALMICK, SECONDED BY RAY, TO APPROVE THE JUNE 12, 2018, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:**

**AYES: Ray, Garcia, Kalmick, Grant**

**NOES: None**

**ABSENT: None**

**ABSTAIN: Crowe, Scandura, Mandic**

**MOTION APPROVED**

**18-221 APPROVE PLANNING COMMISSION MINUTES DATED JULY 10, 2018**

**Recommended Action:**

That the Planning Commission take the following action:

Approve the July 10, 2018 Planning Commission Minutes as submitted.

**A MOTION WAS MADE BY KALMICK, SECONDED BY GRANT, TO APPROVE THE JULY 10, 2018, PLANNING COMMISSION MINUTES AS AMENDED, BY THE FOLLOWING VOTE:**

**AYES: Crowe, Ray, Garcia, Scandura, Kalmick, Mandic, Grant**

**NOES: None**

**ABSENT: None**

**ABSTAIN: None**

**MOTION APPROVED**

**NON-PUBLIC HEARING ITEMS - NONE**

**PLANNING ITEMS**

Jane James, Planning Manager, reported on the items from the previous and upcoming City Council Meetings and items for the next Planning Commission Meeting.

**PLANNING COMMISSION ITEMS**

Commissioner Mandic spoke briefly regarding guests at tonight's meeting.

Chair Scandura reported on the recent Historic Resources Board meeting.

**ADJOURNMENT: Adjourned at 8:20 PM to the next regularly scheduled meeting of Tuesday, October 3, 2018.**

APPROVED BY:

  
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Ursula Luna-Reynosa, Secretary

  
\_\_\_\_\_  
Pat Garcia, Chairperson