



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JULY 25, 2023

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

6:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Rodriguez

P P P A P P P

ROLL CALL: Adam, Kennedy, Twining, Pellman, Wood, Rodriguez, Acosta-Galvan

Chair Pellman was absent.

PUBLIC COMMENTS – NONE

PUBLIC HEARING ITEMS

23-634 CONDITIONAL USE PERMIT NO. 23-015 (THE BRANT LIVE ENTERTAINMENT)

REQUEST:

To permit the establishment of live entertainment consisting of a disc jockey and a live band (up to five members max.) within the interior of an existing 3,000 sq. ft. restaurant.

LOCATION:

21058 Pacific Coast Highway #250, 92648 (east side of First Street, between Pacific View Avenue and Pacific Coast Highway – Pacific City Retail)

RECOMMENDED ACTION:

The Planning Commission shall take the following actions:

- A) Find the proposed project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1; and.
- B) Approve Conditional Use Permit No. 23-015 with suggested findings and conditions of approval (Attachment No. 1).

The Commission made the following disclosures:

- Commissioner Adam had no disclosures.
- Commissioner Kennedy had no disclosures.

- Vice-Chair Twining had no disclosures.
- Commissioner Wood had no disclosures.
- Commissioner Rodriguez had no disclosures.
- Commissioner Acosta-Galvan had no disclosures.

Joanna Cortez, Senior Planner, gave the staff presentation for the proposed project. Staff proposed a modification to Condition No. 2(a) to 'applicant will need to comply with all conditions of their entertainment permit', to allow the Police Department greater flexibility in alleviating any impacts.

There was brief discussion regarding the proposed hours and the entertainment permitting process.

THE PUBLIC HEARING WAS OPENED.

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

There was a brief discussion regarding the proposed number of musicians allowed.

A MOTION WAS MADE BY ADAM, SECONDED BY WOOD, TO FIND THE PROPOSED PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15301, CLASS 1; AND APPROVE CONDITIONAL USE PERMIT NO. 23-015 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL (ATTACHMENT NO. 1), BY THE FOLLOWING VOTE:

AYES:	Adam, Kennedy, Twining, Wood, Rodriguez, Acosta-Galvan
NOES:	None
ABSENT:	Pellman
ABSTAIN:	None

MOTION PASSED

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project involves the operation and permitting of an existing development involving negligible expansion of the use.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 23-015:

1. Conditional Use Permit No. 23-015 to permit the establishment of live entertainment consisting of a disc jockey and a live band (max. five members) within the interior of an existing 3,000 sq. ft. restaurant 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 establishment is located within the Pacific City development that consists of a diverse range of commercial uses including a health club, high quality retail shops and restaurants, animated outdoor plaza areas, and a lively indoor marketplace. It will attract residents and visitors to the site with its relaxing and social

atmosphere. The Pacific City commercial parcel is approximately 7.18 acres in size and new residences are being constructed north of the site. The closest residential building will be more than 500 ft. away from the location of the lounge and separated by buildings, landscaping, a street, and parking lot. Live entertainment is proposed within the interior of the building only. The tenant space is located in the middle of Pacific City commercial center. Associated noise and entertainment is oriented south towards the beach so that noise emanating from the live entertainment and dancing activities will travel away from the residential uses to the north. Furthermore, the live entertainment is ancillary to the restaurant and will not generate significant negative impacts related to noise, safety, and traffic. Because the establishment is also allowed to serve alcohol under the previous conditional use permit issued for the site, conditions have been added to minimize potential impacts associated to the overall use.

2. The granting of the conditional use permit to permit the establishment of live entertainment within an approximately 3,000 sq. ft. restaurant is consistent with the General Plan because the General Plan Land Use Map designation on the subject property is CV-F7-sp (Commercial Visitor – 3.0 Max. Floor Area – Specific Plan Overlay). The proposed project is consistent with this designation and the policies, objectives, and goal of the City's General Plan as follows:

A. Land Use Element

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

Policy LU-11(A): Encourage a variety of commercial uses that cater to local and regional demand to create an environment that meets resident needs and increases the capture of sales tax revenues.

The restaurant is a visitor-serving use that contributes to the assorted range of land uses in the Pacific City shopping center. The proposed live entertainment is ancillary to the restaurant and will enhance the atmosphere and experience. The Pacific City development expands the downtown area as a destination hub of tourist and pedestrian activity. The proposed live entertainment will support the development and the surrounding community by providing a relaxing eating and drinking establishment unique to the area. It will attract visitors and residents looking for a scenic restaurant gathering place. The location of the restaurant is near the center of the seven acre site and is sufficiently buffered from nearby residential uses. Residential uses are located more than 500 ft. from the restaurant and are separated by buildings, a parking lot, Pacific View Avenue, and landscaping.

B. Noise Element

Goal N-1: Noise-sensitive land uses are protected in areas with acceptable noise levels.

Policy N-1(A): Maintain acceptable stationary noise levels at existing noise-sensitive land uses such as schools, residential areas, and open spaces.

The proposed live entertainment will not significantly impact residential uses as it relates to noise. The establishment is located in the middle of the commercial center and closer to Pacific Coast Highway. Adequate buffers are provided to minimize noise impacts including distance from residential uses and building separation. Additionally, conditions are imposed that will minimize potential significant impacts.

3. The establishment of live entertainment consisting of a disc jockey and a live band (max. five members) within the interior of an existing 3,000 sq. ft. restaurant will comply with the Downtown Specific Plan (DTSP), Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), and any specific condition required for the proposed use because the DTSP allows eating and drinking establishments with live entertainment subject to review and approval by the Planning Commission. Ancillary alcohol service in conjunction with eating and drinking establishments was previously approved with the conditional use permit (CUP) for Pacific City. However, tenants requesting ancillary live entertainment and dancing were conditioned to obtain a new CUP and Entertainment Permit.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 16-001:

1. The site plan, floor plan with designated Entertainment Location, and narrative received and dated June 21, 2023 shall be the conceptually approved design.
2. The use shall comply with the following:
 - a. All conditions contained in the Entertainment Permit shall be adhered to.
 - b. The business shall obtain an Alcoholic Beverage Control (ABC) license authorizing alcohol use in the business. All ABC requirements shall be met prior to sales, service, or consumption of alcoholic beverages. **(PD)**
 - c. No new customers shall be permitted to enter the alcohol business 30 minutes before closing. **(PD)**
 - d. All areas of the alcohol business that are accessible to patrons shall be illuminated such that the appearance and conduct of all people in the alcohol business are visible from inside the alcohol business. **(PD)**
 - e. Food service from the regular menu must be available to patrons up to one hour before the scheduled closing time, including a cook and food servers shall be on duty. **(PD)**
 - f. An employee of the establishment must monitor all areas where alcohol is served. **(PD)**
 - g. Alcoholic drinks shall not be included in the price of admission to any alcohol business. **(PD)**
 - h. All alcohol shall remain within alcohol business premises, including outdoor dining areas. **(PD)**
 - i. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
 - j. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(PD)**
 - k. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(PD)**
 - l. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00 p.m. **(PD)**

- m. Last call for drinks shall be no later than 15 minutes before closing. **(PD)**
- n. Consumption of alcoholic beverages by on-duty employees and supervisory personnel is forbidden, except when training for knowledge of food pairing, if applicable. **(PD)**
- o. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 60 days of being hired and for existing employees every 12 months. Training shall be provided by ABC or an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(PD)**
- p. All owners, employees, representatives, and agents must obey all federal, state, and local laws. In addition, all conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by an agency with jurisdiction over the premise are required as part of the CUP to be followed. **(PD)**
- q. The establishment shall employ a video surveillance security system with a minimum of one-month video library recorded to a DVR or Cloud based system. The cameras minimum requirements will be: clear, color, digital and able to record in low light. The business shall ensure all public areas, entrances, exits, parking areas to the front and adjacent to the business 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 personnel conducting investigations. You are required to have someone able to operate the system on duty during all business hours. **(PD)**
- r. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. No interior displays of alcoholic beverages or signs which are clearly visible to the exterior. **(PD)**
- s. There shall be no window coverings or advertisements that reduce the visibility inside of the business. **(PD)**
- t. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
- u. Signs shall be posted in a conspicuous space at the entrance/exit of the restaurant which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- v. No carryout alcohol sales shall be permitted. All alcoholic beverages shall be consumed within the restaurant. **(PD)**
- w. There shall be no entertainment allowed without a valid Entertainment Permit issued by the Huntington Beach Police Department. **(PD)**
- x. Dancing and/or dance floor shall be prohibited. A new or amended Conditional Use Permit and Entertainment Permit issued by the City is required for dancing which must be specially identified as part of the Entertainment Permit and only in a pre-approved designated area. **(PD)**
- y. All amplified entertainment shall be confined to the indoors. **(PD)**

- z. All exterior doors and windows shall be closed during live entertainment. **(PD)**
- aa. No entertainment (amplified or otherwise) shall be audible beyond 50 feet of the business in any direction. **(PD)**
- 3. The Development Services Departments and divisions (Fire, Community Development, 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 building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.
- 4. Conditional Use Permit No 23-015 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 Community Development Department a minimum 30 days prior to the expiration date.
- 5. The Planning Commission reserves the right to revoke Conditional Use Permit No. 23-015 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance, or Municipal Code occurs.

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.

CONSENT CALENDAR

23-638 APPROVE PLANNING COMMISSION MINUTES DATED JULY 11, 2023

Recommended Action:

That the Planning Commission take the following action:

"Approve the July 11, 2023, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY ADAM, SECONDED BY RODRIGUEZ, TO APPROVE THE JULY 11, 2023, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Adam, Kennedy, Twining, Wood, Rodriguez
NOES: None
ABSENT: Pellman
ABSTAIN: Acosta-Galvan

MOTION APPROVED

NON-PUBLIC HEARING ITEMS

23-625 GENERAL PLAN CONFORMANCE NO. 23-002 (302 3RD STREET VACATION)

REQUEST:

To determine if the vacation of an approximately 46 square foot portion of public right-of-way along 3rd Street and Olive Avenue is in conformance with the goals and policies of the General Plan.

LOCATION:

302 3rd Street, 92648 (northeast corner of 3rd St. and Olive Ave.)

RECOMMENDED ACTION:

The Planning Commission shall take the following actions:

- A) Approve General Plan Conformance No. 23-002 with suggested findings of approval.

Joanna Cortez, Senior Planner, gave the staff presentation for the proposed project.

There was a brief discussion regarding the site and the property tax obligations.

A MOTION WAS MADE BY ADAM, SECONDED BY KENNEDY, TO APPROVE GENERAL PLAN CONFORMANCE NO. 23-002 WITH SUGGESTED FINDINGS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES: Adam, Kennedy, Twining, Wood, Rodriguez, Acosta-Galvan
NOES: None
ABSENT: Pellman
ABSTAIN: None

MOTION PASSED

WHEREAS, the Government Code of the State of California, Section 65402, provides that a local agency shall not acquire real property, nor dispose of any real property, nor construct a public building or structure in any county or city until the location, purpose, and extent of such activity has been reported upon as to conformity with the adopted General Plan; and

WHEREAS, staff has reviewed the subject request and submitted it to the Planning Commission for review on July 25, 2023; and

WHEREAS, staff has indicated the applicable CEQA exemption pursuant to City Council Resolution No. 4501, Class 5 and applicable General Plan goals and policies to establish conformance with the General Plan.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Commission of the City of Huntington Beach finds the proposed vacation of existing right-of-way upon subject property is exempt from CEQA and in conformance with the goals and policies of the General Plan as follows:

A. Land Use Element

Policy LU-1 (A): Ensure that development is consistent with the land use designations presented in the Land Use Map, including density, intensity, and use standards applicable to each land use designation.

The vacation of a 46 sq. ft. portion of existing right-of-way will not impair public use of the adjacent street, sidewalk and on-street parking spaces or the City's ability to maintain those facilities. In addition, vacating the 46 sq. ft. portion of existing right-of-way and reversion of the square footage to the adjacent property owner will not change the density of the subject property or surrounding properties as allowed by the General Plan Land Use Map.

B. Circulation Element

Goal CIRC-1 (A): The circulation system supports existing, approved, and planned land uses while maintaining a desired level of service and capacity on streets and at critical intersections.

Policy CIRC-1 (J): Investigate current jurisdictional control of roadways and determine where adjustments may be made in the future.

Goal CIRC-6: Connected, well-maintained, and well-designed sidewalks, bike lanes, equestrian paths, and waterways allow for both leisurely use and day-to-day required activities in a safe and efficient manner for all ages and abilities.

C. Coastal Element

Objective CE 2.1: Balance the circulation system with the circulation demands generated by the implementation of the Coastal Land Use Plan.

The subject area to be vacated is not essential for the provision of right-of-way infrastructure (i.e. – pedestrian and vehicular access) to meet the needs of the public in a safe manner consistent with City standards. The vacation of the 46 sq. ft. right-of-way area will not reduce capacity of the surrounding streets or remove existing on-street parking in the Coastal Zone.

PLANNING ITEMS

Matthew Schneider, Planning Manager, reported on recent and upcoming City Council meetings and reported on items scheduled for upcoming Planning Commission meetings.

PLANNING COMMISSION ITEMS

The commission congratulated Ms. Villasenor on her appointment to Acting Director of Community Development.

ADJOURNMENT: Adjourned at 6:23 PM to the next regularly scheduled meeting of Tuesday, August 8, 2023.

APPROVED BY:

Jennifer Villasenor, Acting Secretary

Tracy Pellman, Chairperson