



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, NOVEMBER 13, 2018

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - COUNCIL CHAMBERS

CALL PLANNING COMMISSION STUDY SESSION TO ORDER

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

Chair Scandura was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY KALMICK, SECONDED BY MANDIC, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF NOVEMBER 13, 2018, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

PROJECT REVIEW (FUTURE AGENDA ITEMS)

18-426 ZONING TEXT AMENDMENT NO. 18-003 (HUNTINGTON BEACH ZONING AND SUBDIVISION ORDINANCE UPDATE): To introduce proposed clarifications, revisions, and amendments to the Huntington Beach Zoning and Subdivision Ordinance (HBZSO).

Nicole Aube, Associate Planner, gave an overview of the proposed project.

There was discussion on the following items: the Zoning Ordinance update process, the inclusionary housing ordinance, cosmetic uses being added to the personal services category, and the permit appeal process.

STUDY SESSION ITEMS - NONE

PUBLIC COMMENTS - NONE

AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Jane James, Planning Manager, reported on the Late Communication items for the public hearing portion of the meeting.

PLANNING COMMISSION COMMITTEE REPORTS - NONE

PLANNING COMMISSION COMMENTS - NONE

5:45 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Kalmick

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

Chair Scandura was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY GRANT, SECONDED BY RAY, TO APPROVE THE PLANNING COMMISSION AGENDA OF NOVEMBER 13, 2018, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

PUBLIC COMMENTS - NONE

PUBLIC HEARING ITEMS

18-508 **CONDITIONAL USE PERMIT NO. 18-011 (TAQUERIAS DON VICTOR BEER AND WINE/ LIVE ENTERTAINMENT):** To approve the sale, service, and consumption of beer and wine (ABC License Type 41) and the establishment of live entertainment consisting of a karaoke booth within an expanded portion of a 2,123 sq. ft. eating and drinking establishment located at 17552 Beach Boulevard, Ste. D-E, 92647 and find the project exempt from CEQA.

STAFF RECOMMENDATION: Motion to:

- A. Find the proposed project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1;
- B. Approve Conditional Use Permit No. 18-011 with suggested findings and conditions of approval (Attachment No. 1).

The Commission made the following disclosures:

- Commissioner Crowe had no disclosures.
- Commissioner Ray had no disclosures.
- Vice-Chair Garcia had no disclosures.
- Chair Scandura had no disclosures.
- Commissioner Kalmick had no disclosures.
- Commissioner Mandic had no disclosures.
- Commissioner Grant had no disclosures.

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

The following items were discussed: requiring a sound survey, drink sales hours, and the entertainment permit process.

THE PUBLIC HEARING WAS OPENED.

Nora Nieto, applicant, spoke in support of Item No. 18-508, noting that she is already coordinating with the Police Department on the noise study and entertainment permit.

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

A MOTION WAS MADE BY KALMICK, SECONDED BY GRANT, TO FIND THE PROPOSED PROJECT EXEMPT FROM CEQA PURSUANT TO SECTION 15301, CLASS 1, AND APPROVE CONDITIONAL USE PERMIT NO. 18-011 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	Crowe, Ray, Garcia, Kalmick, Mandic, Grant
NOES:	None
ABSENT:	Scandura
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 15301, Class 1 – *Existing Facilities* of the CEQA Guidelines because the project involves negligible or no expansion of the existing use and structure.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 18-011:

1. Conditional Use Permit No. 18-011 to approve the sale, service, and consumption of beer and wine (ABC License Type 41) and the establishment of live entertainment consisting of a karaoke booth within an expanded portion of a 2,123 sq. ft. eating and drinking

establishment 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 use is located within an existing commercial center with other similar uses. The sale of alcohol (beer and wine) in the expanded 923 sq. ft. portion of the restaurant, along with live entertainment, is ancillary to an existing restaurant business. Both beer and wine service and live entertainment is proposed to occur within the interior of the building. Live entertainment and the sale of (beer and wine) alcohol for onsite consumption within the dining area will contribute to the viability of the restaurant by attracting customers and generating lease revenue, thus improving the value of property in the neighborhood. The restaurant is located within an existing multi-tenant commercial center and consistent with adjacent commercial uses, which serve nearby residents and visitors. Residential uses are located adjacent to the east of the site. The closest residential dwelling is approximately 200 ft. from the subject building and is separated by an existing parking lot and local street. The restaurant's entrance doors are oriented to the parking lot and Beach Blvd., away from residential uses. As conditioned, entertainment hours will not occur past 11:00 p.m. (daily) consistent with restaurant hours (7 a.m. – 12 a.m., daily). The use will be subject to noise regulations to ensure compatibility with surrounding uses.

2. The General Plan Land Use Map designation on the subject property is M-sp (Mixed Use – Specific Plan Overlay). The request to approve the sale, service, and consumption of beer and wine (ABC License Type 41) and the establishment of live entertainment consisting of a karaoke booth within an expanded portion of a 2,123 sq. ft. eating and drinking establishment is consistent with this designation and the goals, policies, and objectives of the City's General Plan as follows:

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.

Policy LU-13 (A): Encourage expansion of the range of goods and services provided to accommodate the needs of all residents and the market area.

Noise Element

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

Policy N-1 (B): Incorporate design and construction features into residential, mixed-use, commercial, and industrial projects that shield noise-sensitive land uses from excessive noise.

The sale of alcohol (beer and wine) in the expanded 923 sq. ft. portion of the restaurant, along with live entertainment, is ancillary to an existing restaurant business. Both beer and wine service and live entertainment is proposed to occur within the interior of the building. Live entertainment and the sale of (beer and wine) alcohol for onsite consumption within the dining area will contribute to the viability of the restaurant by attracting customers and generating lease revenue, thus improving the value of property in the neighborhood. The restaurant is located within an existing multi-tenant commercial center and consistent with

adjacent commercial uses, which serve nearby residents and visitors. The proposed use will not generate significant impacts above existing conditions, based upon the conditions imposed on the conditional use permit and entertainment permit. Additionally, the proposed live entertainment will occur within the interior of the restaurant and the hours of operation for the proposed use (2 p.m. – 11 p.m., daily) will not exceed restaurant hours (7 a.m. – 12 a.m.), consistent with other commercial uses. Furthermore, all doors will remain closed during entertainment hours and the rear doors facing residential uses will only be used by employees to further mitigate potential noise impacts.

3. Conditional Use Permit No. 18-011 to approve the sale, service, and consumption of beer and wine (ABC License Type 41) and the establishment of live entertainment consisting of a karaoke booth within an expanded portion of a 2,123 sq. ft. eating and drinking establishment will comply with the Neighborhood Boulevard Segment of the BECSP, and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) because the BECSP allows eating and drinking establishments with alcohol service and live entertainment subject to approval of a conditional use permit. The General Plan land use designation and the BECSP anticipated restaurant uses with alcohol service, sale and consumption in this area. The restaurant with alcohol sales (beer and wine) and live entertainment will be located within an existing commercial center which conforms to land use and applicable development standards.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 18-011:

1. The site plan and floor plan received and dated May 29, 2018 shall be the conceptually approved layout.
2. The use shall comply with the following:
 - a. The hours of operation shall be limited to 7:00 a.m. to 12:00 a.m., daily.
 - b. Prior to sales, service or consumption of alcoholic beverages the business shall obtain an ABC license type 41 (On Sale Beer/Wine eating place). **(PD)**
 - c. Live entertainment is allowed with a valid Entertainment Permit issued by the Police Department. Types of entertainment are to be determined by the Police Department. **(PD)**
 - d. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
 - e. No “happy hour” type or reduced price alcoholic beverage promotion shall be allowed. **(PD)**
 - f. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
 - g. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available from the time the business opens to the public, until at least one hour prior to the scheduled closing time. **(PD)**
 - h. The business 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)**

- i. All areas where the sales, service, and consumption of alcoholic beverages will be permitted must be sufficiently illuminated to permit the identification of patrons. **(PD)**
 - j. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
 - k. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
 - l. 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. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition. **(PD)**
 - m. There shall be no window coverings or advertisements that reduce the visibility inside of the business. This will assist officers in observing crimes in progress. **(PD)**
 - n. 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)**
 - o. 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)**
3. 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 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.

OTHER REQUIREMENTS:

- 1. Signage shall be reviewed under separate permits and applicable processing.
- 2. Conditional Use Permit No. 18-011 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.

3. Conditional Use Permit No. 18-011 shall not become effective until the appeal period following the approval of the entitlement has elapsed.
4. The Planning Commission reserves the right to revoke Conditional Use Permit No. 18-011 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.
5. 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.

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

18-525 APPROVE PLANNING COMMISSION MINUTES DATED AUGUST 14, 2018

Recommended Action:

That the Planning Commission take the following action:

Approve the August 14, 2018 Planning Commission minutes as submitted.

A MOTION WAS MADE BY GRANT, SECONDED BY KALMICK, TO APPROVE THE AUGUST 14, 2018, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

18-526 APPROVE PLANNING COMMISSION MINUTES DATED AUGUST 28, 2018

Recommended Action:

That the Planning Commission take the following action:

Approve the August 28, 2018 Planning Commission Minutes as submitted.

A MOTION WAS MADE BY GRANT, SECONDED BY KALMICK, TO APPROVE THE AUGUST 28, 2018, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

NON-PUBLIC HEARING ITEMS - NONE

PLANNING ITEMS

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

PLANNING COMMISSION ITEMS

Commissioners Kalmick, Grant, and Mandic thanked Commissioner Crowe for his service on the Planning Commission.

ADJOURNMENT: Adjourned at 7:21 PM to the next regularly scheduled meeting of Tuesday, November 27, 2018.

APPROVED BY:

Ursula Luna-Reynosa, Secretary

Pat Garcia, Chairperson