



## Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

### NOTICE OF ACTION

November 13, 2019

Jeff Bergsma  
221 Main Street, Suite S  
Huntington Beach, CA 92648

**SUBJECT:** COASTAL DEVELOPMENT PERMIT NO. 19-001/CONDITIONAL USE  
PERMIT NO. 19-001 (3RD STREET COMMERCIAL BUILDING)  
(CONTINUED FROM THE OCTOBER 22, 2019 MEETING WITH THE  
PUBLIC HEARING OPEN)

**APPLICANT:** Jeff Bergsma, 221 Main Street, Suite S, Huntington Beach, CA 92648

**PROPERTY  
OWNER:** Justin Helwig, WBJH Properties, 1112 Park Street, Huntington Beach,  
CA 92648

**REQUEST:** To construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot. The project includes one level of parking at the ground floor with 34 percent of the required parking in a vertical tandem configuration (car lifts) and one level of subterranean parking accessed by a car elevator and a valet parking service.

**LOCATION:** 321 3rd Street, 92648 (north side of 3rd St. between Orange Ave. and Olive Ave.)

**COASTAL  
STATUS:** NON-APPEALABLE

**DATE OF  
ACTION:** November 12, 2019

On Tuesday, November 12, 2019 the Huntington Beach Planning Commission took action on your application, and your application was **approved with findings and modified conditions of approval**. Attached to this letter are the findings and conditions of approval.

Please be advised that the Planning Commission reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period unless an appeal is filed to the City Council. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of Two Thousand, Three Hundred Fifty-Three Dollars (\$2,353.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Three Thousand, Seven Hundred Seventy-Eight Dollars (\$3,778.00) if the appeal is filed by any other party. The appeal shall be submitted to the City Clerk within ten (10) working days of the date of the Planning Commission's action.

In your case, the last day for filing an appeal and paying the filing fee is **November 26, 2019, at 5:00 PM.**

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, or at an alternative time specified as a condition of approval, unless actual construction has started.

Excepting those actions commenced pursuant to the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to *Government Code* §66020.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact Jessica Bui, the project planner, at (714) 374-5317 or via email at [jessica.bui@surfcity-hb.org](mailto:jessica.bui@surfcity-hb.org), or the Community Development Department at (714) 536-5271.

Sincerely,

Ursula Luna-Reynosa, Secretary  
Planning Commission

By:

  
\_\_\_\_\_  
Jennifer Villaseñor, Deputy Director of Community Development

ULR:JV:JB:kdc

Attachment: Findings and Conditions of Approval – CDP No. 19-001 and CUP No. 19-001

c: Honorable Mayor and City Council  
Chair and Planning Commission  
Oliver Chi, City Manager  
Ursula Luna-Reynosa, Director of Community Development  
Tim Andre, Fire Division Chief  
Mike Vigliotta, Chief Assistant City Attorney  
Debbie DeBow, Principal Civil Engineer  
Eric Haghani, Building Manager

Jessica Bui, Associate Planner  
Property Owner  
Project File

## **ATTACHMENT NO. 1**

### **FINDINGS AND CONDITIONS OF APPROVAL** **COASTAL DEVELOPMENT PERMIT NO. 19-001** **CONDITIONAL USE PERMIT NO. 19-001**

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

The proposed project is covered by the Downtown Specific Plan Final Environmental Impact Report No. 08-1, which was adopted by the City of Huntington Beach on January 19, 2010. The request to construct approximately 19,660 sq. ft. building with 1,660 sq. ft. of retail on the ground floor, 18,000 sq. ft. of office above, and a roof top deck on a 8,475 sq. ft. vacant lot is subject to compliance with the adopted mitigation measures contained in the Final Environmental Impact Report No. 08-1. The project is exempt under the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15182 of the CEQA Guidelines, which states that when an Environmental Impact Report (EIR) has been prepared for a specific plan, there is no need to prepare an EIR or Mitigated Negative Declaration (MND) for projects in conformity with that specific plan. The project is consistent with the Downtown Specific Plan. Furthermore, implementation of the project would not result in any new or more severe potentially adverse environmental impacts that were not considered in the previously certified Program EIR for the Downtown Specific Plan project (EIR No. 08-1) and the project is conditioned to comply with all applicable EIR No. 08-1 mitigation measures. In light of the whole record, none of the circumstances described under Section 15162 of CEQA Guidelines are present; and therefore, no EIR or MND is required.

#### **FINDINGS FOR APPROVAL – COASTAL DEVELOPMENT PERMIT NO. 19-001:**

1. Coastal Development Permit No. 19-001 to construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot conforms with the General Plan, including the Local Coastal Program because it is consistent with Coastal Element C 1.1.1, which encourages development within, or contiguous to or in close proximity to existing developed areas able to accommodate it. The proposed construction of a new commercial building is located on a site that is contiguous to existing commercial buildings.
2. The request for Coastal Development Permit No. 19-001 to construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code because the project complies with the minimum onsite parking, upper story setbacks, setbacks, building height, and all other zoning requirements.
3. At the time of occupancy, the proposed request to Coastal Development Permit No. 19-001 to construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot can be provided with infrastructure in a manner that is consistent with Local Coastal Program in that the subdivided lot will allow for the construction of a commercial building on a site in an urbanized area with all necessary services and infrastructure available, including water, sewer, and roadways.

The proposed request to Coastal Development Permit No. 19-001 to construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act because the proposed development will not impede public access, recreation, or views to coastal resources.

**FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 19-001:**

1. Conditional Use Permit No. 19-001 for the development to construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot and includes one level of parking at the ground floor with 34 percent of the required parking in a vertical tandem configuration (car lifts) and one level of subterranean parking accessed by a car elevator and a valet parking service 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 project will improve the existing underutilized parcel of land with a development consistent with the General Plan land use and zoning designations. The project is located in the downtown core area (District 1), which promotes visitor-serving commercial developments. The project has been evaluated for compatibility with the surrounding neighborhood, will be designed on a pedestrian scale and character, and will meet the goals and policies of the General Plan. Additionally, the proposed retail and office use is similar to those existing uses in the vicinity. The project will not result in any adverse or significant environmental impacts including traffic, noise, lighting, aesthetics, and hazardous materials. Due to upper story setbacks on the third and fourth floors, the project will be consistent in massing and scale to adjacent commercial and residential uses. Proposed improvements include enhanced landscaping, decorative paving, and quality architectural design throughout the site. Furthermore, the layout of the site improves the visual surroundings by taking vehicular access from the rear public alley, hence minimizing the visibility of the parking garage entrance. The project complies with retail and office parking requirements and proposes a valet service to operate the proposed mechanical vehicle lifts and car elevator in order to make the required parking spaces accessible at all times.
2. The granting of Conditional Use Permit No. 19-001 for the development to construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot and includes one level of parking at the ground floor with 34 percent of the required parking in a vertical tandem configuration (car lifts) and one level of subterranean parking accessed by a car elevator and a valet parking service will not adversely affect the General Plan. It is consistent with the General Plan Land Use Map designation on the subject property is M-sp (30-50 du/ac) (Mixed-Use - Specific Plan Overlay – 30-50 dwelling units/acre) and the zoning designation is SP5-CZ-District 1 (Downtown Specific Plan – Coastal Zone Overlay – Downtown Core). The proposed project will implement both the General Plan and specific plan designations of the site. The proposed project is consistent with the intent of these designations, and the goals and policies of the City's General Plan as follows:

A. 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-1A: 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.

Policy LU-1B: Ensure new development supports the protection and maintenance of environmental and open spaces resources.

Policy LU-1C: Support infill development, consolidation of parcels, and adaptive reuse of existing buildings.

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

Policy LU-2B: Ensure that new renovated structures and building architecture and site design are context-sensitive, creative, complementary to the city's beach culture, and compatible with surrounding development and public spaces.

Policy LU-2E: Intensify the use and strengthen the role of public art, architecture, landscaping, site design, and development patterns to enhance the visual image of Huntington Beach.

Policy LU-7B: Use street trees, signage, landscaping, street furniture, public art, and other aesthetic elements to enhance the appearance and identify the subareas, neighborhoods, corridors, nodes, and public spaces.

Policy LU-8B: Encourage development of underused parcels with a mix of uses and unique architecture.

Policy LU-8D: Reinforce the unique Downtown character and visual distinctions, architecture, and streetscape.

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

Policy LU-11A: 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-11B: Encourage new businesses to locate on existing vacant or underutilized commercial properties where these properties have good locations and accessibility.

Goal LU-13: The city provides opportunities for new businesses and employees to ensure a high quality of life and thriving industry.

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

**B. Circulation Element**

Goal CIRC-2D: Allow for shared parking and other creative parking arrangements that optimize available parking areas, and support and collaborate with property owners to manage the available parking supply. Identify rideshare service opportunities that could reduce parking demand, where feasible.

The four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot is coordinated and ensures the land use pattern is consistent with the overall goals and needs of the community because the project is compatible with the surrounding area in terms of land use, building scale and character. The proposed project also enhances the visual image of Huntington Beach and the Downtown area because the project proposes a public art component within the public open space area and a contemporary architectural design aligns with the character of the neighborhood and the distinct Surf City identity. In addition, the proposed project will be constructed on a vacant lot, which will promote infill development and encourage a new business to locate within the Downtown area. Furthermore, the project will provide a variety of commercial uses, services, and provide job opportunities for residents and the regional area. Lastly, the project proposes a parking management plan that includes a valet service to manage the use of mechanical vehicle lifts and a car elevator that allows cars to be lowered into a subterranean parking area. The parking management plan and the use of mechanical vehicle lifts and a car elevator offers a creative parking arrangement while meeting the Downtown Specific Plan's required number of parking spaces.

3. Conditional Use Permit No. 19-001 for the development to construct a four-story building with approximately 1,660 sq. ft. of retail on the ground floor and 18,000 sq. ft. of office above with an accessible roof top deck on an 8,475 sq. ft. vacant lot and includes one level of parking at the ground floor with 34 percent of the required parking in a vertical tandem configuration (car lifts) and one level of subterranean parking accessed by a car elevator and a valet parking service complies with all provisions of the Downtown Specific Plan and applicable provisions in Titles 20 through 25 of the Huntington Beach Zoning and Subdivision Ordinance. The project complies with the development standards in terms of setbacks, upper story setbacks, building height, public open space, and parking. The project complies with retail and office parking requirements and proposes 34 percent of the required parking in a vertical tandem configuration (car lifts) which is allowed with the approval of a conditional use permit.

**CONDITIONS OF APPROVAL – COASTAL DEVELOPMENT PERMIT NO. 19-001/  
CONDITIONAL USE PERMIT NO. 19-001:**

1. The site plan, floor plans, and elevations received and dated October 14, 2019 shall be the conceptually approved design with the following modifications:
  - a. Ground floor public open space shall include landscaping, decorative lighting, and seating amenities.
  - b. Second floor public open space shall provide seating amenities and landscaping.

- c. Remove any proposed awnings or canopies that will project over the property line.
  - d. Identify the location and copy of ground floor signage directing the public to the available second floor public open space area.
  - e. Remove the steel channel across the elevator shaft. The entire elevator shaft shall be brick only.
  - f. Prior to the issuance of a building permit, the applicant shall provide the Community Development Department with an updated colors and material board for the smooth stucco, brick color, grout color, and railings as recommended by the Design Review Board. Revised materials and colors shall be reflected on plans.
2. Prior to the issuance of a building permit:
- a. An application for a Lot Line Adjustment to adjust the underlying lot lines to result in one lot must be approved by the City and recorded with the County Clerk Recorder's Office.
  - b. The proposed public art shall be submitted to the Community Development Department for review by the Design Review Board and approved by the Community Development Director.
3. The use shall comply with the following:
- a. The approved use is for ground floor visitor serving commercial uses and a corporate office headquarters on the upper levels. Any proposed change to the approved uses requires review and approval by the Community Development Department to ensure provision of code required parking spaces.
  - b. The corporate office headquarter use shall not include drug abuse or alcohol recovery or treatment centers in any form. Drug abuse centers, general residential alcohol recovery centers, or general residential care or treatment facilities, which may include drop-in or 24-hour residential and/or nonmedical services in a group setting to adults who are recovering from drug and alcohol misuse who need guidance, counseling, or other alcohol or drug recovery services are not permitted. Additionally, any drug abuse or alcohol recovery programs which include daytime stays for prolonged periods of time or meals provided during the course of the client's stay are not permitted.
  - c. All business operations for the office and retail use shall occur entirely indoors unless approval is obtained by the Community Development Department.
4. The parking management plan (PMP) dated August 2, 2019 shall be the conceptually approved plan with the following modifications:
- a. The PMP shall be updated to state the valet service shall be made available during all business hours of both the visitor serving commercial and the corporate office headquarters. The valet service shall permanently operate in accordance with the revised parking management plan.



- b. The floor plans in the PMP shall be replaced with the plans dated October 14, 2019.
  - c. A detailed plan (as described in Condition of Approval No. 5) approved by the Community Development Department that specifies staggered start time of employees shall be included.
- 5. A detailed plan that demonstrates the staggered start time of employees shall be submitted for the review and approval by the Community Development Department. The plan shall include but is not limited to the day and time for each staggered shift and the number of employees per shift.
  - 6. The valet service shall have two attendants on the ground floor and two attendants on the subterranean level during peak hours of operation for both the office and retail use.
  - 7. At least one valet attendant shall be onsite during all operating hours and until the last vehicle is retrieved.
  - 8. A wired communication system approved by the Fire Department shall be installed within both levels of parking and maintained at all times. Radios used for the valet service operations shall also include approved radio coverage for emergency responders within the building based upon existing coverage levels of the public safety communication systems.
  - 9. The business operator for the office use shall stagger the start time of employees so that multiple employees do not arrive at the same time to ensure queueing does not occur within the public alley.
  - 10. If there is a change in occupancy, a new parking management and valet attendant plan shall be submitted for review and approval by the Community Development Director prior to the issuance of a Certificate of Occupancy.
  - 11. Queueing within the public alley shall not occur at any time.
  - 12. Idling of delivery trucks, loading, and unloading shall occur within designated Downtown loading areas on public streets. Deliveries shall be scheduled to occur during non-peak hours of arrival or departure times to ensure traffic impacts are minimized. Delivery vehicles shall not block the public alley.
  - 13. Prior to the issuance of a building permit, a covenant regarding maintenance of the mechanical parking system to ensure both the vehicle lifts and the vehicle elevator are maintained in operable condition at all times shall be submitted to the Community Development Department and the City Attorney's Office for review and approval with the following information included:
    - a. The covenant shall reference the approved parking management plan dated August 2, 2019. The parking management plan shall be an addendum to the covenant.
    - b. An onsite generator with sufficient capacity to store and retrieve cars for a minimum of three days shall be provided.
    - c. The mechanical lifts and car elevator shall provide a manual override capability to access or remove cars in the event of a power outage.

- d. In the event the parking system is inoperable, the operator shall notify the Community Development Department within 24-hours and identify implementation of alternative parking strategies.
  - e. A plan shall be included that addresses the location (e.g., partial onsite, offsite, shared parking agreement, etc.) of where vehicles can park in the event the parking system is inoperable for more than three days. The plan shall be reviewed and approved by the Community Development Director prior to recordation of the covenant. If the parking system cannot be operable within five days, the operator shall submit evidence that the parking issues are actively being resolved on a more permanent basis and the operator shall continue to work with the Community Development Department until the parking system is operable.
  - f. If the building is sold, transferred, or leased, prior to issuance of a new certificate of occupancy, the new occupant or property owner shall submit an updated parking management plan for review and approval by the Community Development Director.
  - g. The covenant shall be recorded with the Orange County Recorder's Office prior to issuance of the first Certificate of Occupancy.
- 14. Roof access shall be controlled for the use of employees only during regular business hours (and no later than 10:00 PM). Posting of rules on the roof top area shall include acceptable activities, behaviors, and roof hours. **(PD)**
  - 15. Surveillance cameras must be installed throughout the building including inside and outside the elevator, both levels of parking, storage room, and roof top area. Cameras must record 24 hours per day and signs must be posted stating there is electronic surveillance. **(PD)**
  - 16. A Duel Knox Box shall be installed to allow the Fire Department and Police Department access into the parking garage. **(PD)**
  - 17. Lighting in the storage room within the subterranean level shall be motion-sensor only. **(PD)**
  - 18. A security window shall be installed on the storage room door for visibility into the room prior to entering. **(PD)**
  - 19. Storage room door shall open outward with emergency hardware installed for quick exit. **(PD)**
  - 20. Prior to submittal of building permits, the following shall be completed: zoning entitlement numbers, conditions of approval and code requirements 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.
  - 21. 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.

22. CDP 19-001 and CUP 19-001 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.
23. The Development Services Departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of 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. 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.
2. The final building permit(s) cannot be approved until the following have been completed:
  - a. All improvements must be completed in accordance with 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.
3. 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.