



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

May 15, 2013

Ryan Nadon
2016 California Street
Huntington Beach, CA 92648

SUBJECT: **CONDITIONAL USE PERMIT NO. 13-001 (BEACH HUT DELI ON-SITE ALCOHOL SALES AND LIVE ENTERTAINMENT)**

APPLICANT: Ryan Nadon, 2016 California Street, Huntington Beach, CA 92648

PROPERTY OWNER: Sun Brewer Partners LP, Hirajasu Nakaro, 9888 Carmel Mountain Road, Suite I, San Diego, CA 92129

REQUEST: To permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within an existing approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands.

LOCATION: 19025 Beach Boulevard, 92648 (southwest corner of Beach Boulevard and Garfield Avenue)

DATE OF ACTION: May 14, 2013

On Tuesday, May 14, 2013, the Huntington Beach Planning Commission took action on your application, and your application was **conditionally approved**. 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. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. 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 One Thousand, Seven Hundred Sixty-Three Dollars (\$1,763.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Three Thousand, Three Eighty-Three Dollars (\$3,383.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **May 24, 2013 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 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, please contact Ethan Edwards, the project planner, at ethan.edwards@surfcity-hb.org or (714) 536-5561 or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Scott Hess, AICP, Secretary
Planning Commission

By:



Jane James, Acting Planning Manager

SH:JJ:EE:kdc

Attachment: Finding and Conditions of Approval – CUP No. 13-001

c: Honorable Mayor and City Council
Chair and Planning Commission
Fred A. Wilson, City Manager
Scott Hess, Director of Planning and Building
Bill Reardon, Division Chief/Fire Marshal
Paul D'Alessandro, Assistant City Attorney
Debbie DeBow, Principal Civil Engineer
Mark Carnahan, Inspection Manager
Ethan Edwards, Associate Planner
Property Owner
Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 13-001

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 a minor modification to the operation of the existing development involving negligible expansion of an existing use.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 13-001:

1. Conditional Use Permit No. 13-001 to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands at an existing commercial center site in the Beach and Edinger Corridors Specific Plan zoning designation will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed sales and service of alcoholic beverages is regulated by the provisions of Chapter 9.44 of the Huntington Beach Municipal Code. The proposed live entertainment is regulated by the provisions of Chapter 5.44 of the Huntington Beach Municipal Code and the required Entertainment Permit. As conditioned, the project is required to provide a noise study that shows compliance with the City's Noise Ordinance. The subject request will not result in noise, safety, or compatibility issues. The BECSP and General Plan land use designation anticipated restaurant uses with alcohol service, sale and consumption and live entertainment in this area. The request for alcohol and live entertainment is ancillary to the primary restaurant use and will serve to augment the overall dining experience. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building's interior and designated outdoor dining area and will not generate detrimental impacts onto surrounding properties.
2. The request to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands will be compatible with surrounding uses because the project is located within an existing commercial center. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible with its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol service and live entertainment to assure that any potential impacts to the surrounding properties are minimized.
3. The request to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands will comply with the Neighborhood Center segment of the Beach and Edinger Corridors Specific Plan (BECSP), and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The

BECSP allows eating and drinking establishments with alcohol service and live entertainment subject to approval of a conditional use permit. The BECSP and General Plan land use designation anticipated restaurant uses with alcohol service, sale and consumption, and live entertainment in this area. The request for alcohol and live entertainment is ancillary to the primary restaurant use and will serve to augment the overall dining experience. There is no physical expansion that includes additional floor area to the existing building as part of this request and the proposed use will comply with all building occupancy/exiting requirements.

4. The granting of the conditional use permit to permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands is consistent with the General Plan. The General Plan Land Use Map designation on the subject property is M – sp – d (Mixed Use – Specific Plan Overlay – Design Overlay). The proposed project is consistent with this designation and the policies, objective, and goal of the City's General Plan as follows:

A. Land Use Element

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding sub-region, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy – 10.1.8 Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures to prevent negative impacts on adjacent properties.

The proposed project will permit the on-site sale, service, and consumption of alcoholic beverages (beer and wine) within a vacant approximately 1,780 sq. ft. indoor and 400 sq. ft. outdoor eating and drinking establishment, and live entertainment consisting of a disc jockey, comedy acts, karaoke, and live bands within the Beach and Edinger Corridors Special Plan designation that is consistent with the Building Use Regulations and is compatible with the surrounding mix of uses. The proposed conditional use permit will provide for the business needs of a successful restaurant establishment by permitting the sale of alcoholic beverages in a safe manner for customers and residents of the surrounding area.

B. Economic Element

Policy– ED 2.4.3 Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

Policy – 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules

The project is located along a major corridor of the City that contains existing restaurants, retail, and entertainment uses. The project serves to strengthen the existing business and facilitate continued viability of the center.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 13-001:

1. The site plan, floor plan, and elevation plan received and dated April 17, 2013, shall be the conceptually approved design.
2. The restaurant use shall comply with the following:
 - a. Hours of operation for the interior restaurant shall be limited to between 10:00 AM and 10:00 PM Sunday through Thursday, and 10:00 AM and 12:00 AM (midnight) Friday and Saturday.
 - b. Use of the outdoor dining patio area shall be prohibited between 10:00 PM and 10:00 AM every day of the week. **(PD)**
 - c. A sign shall be posted stating that alcoholic beverages are not allowed outside of the restaurant/patio areas. **(PD)**
 - d. 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)**
 - e. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons. **(PD)**
 - f. No loitering shall be permitted within the vicinity of any entrance or exit at any time. **(PD)**
 - g. Dancing shall be prohibited. **(PD)**
 - h. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning and Building Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
 - i. Prior to commencing with live entertainment, an Entertainment Permit must be obtained from the Police Department. All conditions contained in the Entertainment Permit shall be adhered to. **(PD)**
 - j. Prior to commencing with live entertainment, a sound study shall be prepared by a licensed engineer pursuant to HBMC 5.44.070(c); showing that the proposed entertainment will not create undue noise or violate the City's Noise Control Ordinance (HBMC 8.40). The sound study shall be submitted to the Planning Division and be approved by the Police Department prior to approving an Entertainment Permit. Noise mitigation measures recommended by the sound study shall be incorporated as conditions of the Entertainment Permit. **(PD)**
 - k. All perimeter doors (e.g. outdoor dining patio door and main entrance door, etc.) shall be self-closing and not be held open or ajar during live entertainment.
 - l. All live entertainment shall be enclosed within the interior of the building only and shall be prohibited within the outdoor patio area.
 - m. All owners, employees, representatives, and agents shall 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 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 Planning and Building 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. 13-001 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 Planning and Building Department a minimum 30 days prior to the expiration date.
5. The Planning Commission reserves the right to revoke Conditional Use Permit No. 13-001 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.
6. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>).

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.