



# City of Huntington Beach

File #: 21-723

MEETING DATE: 10/19/2021

## REQUEST FOR CITY COUNCIL ACTION

**SUBMITTED TO:** Honorable Mayor and City Council Members

**SUBMITTED BY:** Oliver Chi, City Manager

**PREPARED BY:** Ursula Luna-Reynosa, Director of Community Development

**Subject:**

**Public Hearing to Consider Appeal by Councilmember Posey of the Planning Commission's approval of Entitlement Plan Amendment (EPA) No. 21-001 (Killarney's Rooftop Dining)**

**Statement of Issue:**

Transmitted for your consideration is an appeal by Councilmember Posey of the Planning Commission's approval of Entitlement Plan Amendment No. 21-001. This application is a request to amend Conditional Use Permit No. 99-021 to permit the conversion of an existing restaurant rooftop to a 1,936 sq. ft. dining area with alcohol sales and service. This request also includes participation in the Downtown Parking In-Lieu Fee Program for sixteen (16) parking spaces required for the new dining area, and deviation from the Exhibit B Standard Conditions of City Council Resolution No. 2017-42 regarding hours of operation (midnight for the rooftop dining area and 2 AM for the indoor dining area). The Planning Commission held a public hearing on September 14, 2021, and conditionally approved the request except for the requested rooftop dining hours, conditioning that the rooftop area close at 10 PM. On Thursday, September 23, 2021, Councilmember Posey appealed the Planning Commission's decision, citing review of Condition of Approval No. 2(a), which limits the hours of operation for the rooftop dining area to 10 PM in lieu of 12 Midnight, as requested by the applicant and recommended by staff.

**Financial Impact:**

The request includes participation in the Downtown Parking In-Lieu Fee Program for sixteen parking spaces. A parking in-lieu fee of \$229,368 will be required to be paid by the property owner for the 16 spaces. These fees would be placed in an account separate from the General Fund, to fund uses specified by Resolution that support existing and future programs of the shared parking concept in the Downtown area.

**Recommended Action:**

Staff recommends the City Council take the following actions:

A) Find the proposed project exempt from the California Environmental Quality Act pursuant to Section 15332 of the CEQA Guidelines; and,

B) Approve Entitlement Plan Amendment No. 21-001 with findings and conditions of approval (Attachment No. 1).

**Alternative Action(s):**

- A) Do not make the suggested findings for Entitlement Plan Amendment No. 21-001, which will result in mandatory denial pursuant to Section 241.10(C) of the Huntington Beach Zoning and Subdivision Ordinance.
  
- B) Continue Entitlement Plan Amendment No. 2021-001 and direct staff accordingly.

**Analysis:**

A. PROJECT PROPOSAL:

Applicant: Jeff Bergsma, TEAM Design, 221 Main Street, Suite S, Huntington Beach CA 92648

Property Owner: Gregory Newman, 703 Pier Avenue, Suite B-815, Hermosa Beach CA 90254

Location: 209 Main Street, 92648 (West side of Main Street, north of Walnut Avenue)

The project site is located at 209 Main Street, and is currently developed and operated as Killarney's Pub, a single-story restaurant building with outdoor dining within the Main Street public right-of-way, dancing, and live entertainment.

A comprehensive description of the proposed project as well as the General Plan and Zoning analysis can be found in the September 14, 2021 Planning Commission staff report (Attachment No. 3).

B. PLANNING COMMISSION MEETING AND RECOMMENDATION

During the September 14, 2021 Planning Commission public hearing, staff presented the proposed project and recommended multiple operational conditions of approval that would provide compatibility between the proposed rooftop dining area and adjacent uses in the immediate vicinity.

Commissioners had questions regarding the structural requirements of constructing an accessible rooftop dining area, hours of operation and conditions of approval for similar second floor outdoor dining businesses along Main Street, and the In-Lieu Parking Fee Program. Commission discussion also focused on the hours of operation for the proposed rooftop dining area, citing late-night downtown customers and impacts from noise emanating from outdoor dining areas. Further, the Commission requested an emphasis on developing additional resources for expanding parking service programs in the Downtown area to alleviate congestion and continue support for Downtown businesses. In its assessment of staff's recommendation for the proposed outdoor dining area to

cease operations by 12 Midnight daily, the Commission determined that since the location of the dining area is unenclosed and located on a future second floor, the hours should be limited to those of the existing restaurant's outdoor dining area which is 10 PM.

Planning Commission Action on September 14, 2021

A motion was made by Rodriguez, seconded by Scandura to approve Entitlement Plan Amendment No. 2021-001 with a modified condition of approval to limit the hours of the rooftop dining area to no later than 10 PM daily by the following vote:

AYES: Acosta-Galvan, Ray, Scandura, Rodriguez

NOES: Mandic

ABSTAIN: None

ABSENT: Perkins

**MOTION PASSED**

C. APPEAL

On September 23, 2021, Councilmember Posey appealed the Planning Commission's approval of the project (Attachment No. 5), citing that he would like to review the Commission's modification of Condition of Approval No. 2 (a), which limits the hour of operation of the proposed rooftop dining area to 10 PM in lieu of the 12 Midnight staff recommendation.

The staff recommendation was developed by working closely with the Police Department, and takes into consideration both the existing Killarney's indoor and outdoor operation as well as surrounding uses that include other restaurants with second floor outdoor dining areas. In an effort to reduce the likelihood of noise disturbances from patrons, staff is recommending that the City Council approve the request with operating hours for the proposed rooftop dining area ending at 12 Midnight, which is comparable to similar restaurants along Main Street. However, it should be noted that a majority of restaurants with second floor outdoor dining areas along Main Street are not currently subject to limited hours of operation, as the approvals pre-date the City Council's Resolutions for such uses.

**Environmental Status:**

The proposed project 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 minor alteration of an existing structure involving a negligible expansion of the existing use.

**Strategic Plan Goal:**

Economic Development & Housing

**Attachment(s):**

1. Suggested Findings and Conditions of Approval for EPA No. 21-001
2. Conceptual Site Plan and Floor Plans Received and Dated May 10, 2021

3. Planning Commission Staff Report Dated September 14, 2021
4. PC Notice of Action Dated September 15, 2021
5. Appeal of Planning Commission Action Dated September 23, 2021
6. City Council Resolution No. 2017-42