



Legislation Details (With Text)

File #: 21-078
Type: Public Hearing **Status:** Passed
File created: 1/20/2021 **In control:** City Council/Public Financing Authority
On agenda: 2/16/2021 **Final action:** 2/16/2021
Title: Appeal of Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001 (714 Pacific Coast Highway Mixed Use)
Attachments: 1. Att#1 Suggested Findings & Conditions of Approval, 2. Att#2 Vicinity Map, 3. Att#3 Site Plan, Floor Plans, & Elevations Received 10.23.2020, 4. Att#4 Planning Commission Staff Report 01.12.2021, 5. Att#5 PC Notice of Action 01.12.2021, 6. Att#6 Appeal of Planning Commission Action 01.13.2021, 7. 2/12/21 Sup Com - Hanna Email, 8. 2/16/21 Sup Com - Luna-Reynosa PPT, 9. 2/16/21 Sup Com - 714 PCH - Revised Plans

Date	Ver.	Action By	Action	Result
2/16/2021	1	City Council/Public Financing Authority	approved as amended	Pass

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:

Appeal of Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001 (714 Pacific Coast Highway Mixed Use)

Statement of Issue:

Transmitted for your consideration is an appeal by Councilmember Kalmick of the Planning Commission's denial of Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001. This application is a request to construct a new three-story 12,713 sq. ft. mixed use building at an overall height of 35 feet, which includes a 766 sq. ft. ground floor retail space; three two-bedroom residential units on the second and third floor; a 300 sq. ft. rooftop deck; an enclosed parking garage for seven parking spaces (four grade level, three subterranean); and two open commercial parking spaces for a total of nine on-site parking spaces. The project includes a request to permit an 18 ft. wide garage access driveway in lieu of a minimum required 20 ft. wide driveway. The Planning Commission held a public hearing on January 12, 2021, and denied the request. On January 13, 2021, Councilmember Kalmick appealed the Planning Commission's decision citing that the proposed project meets the legal framework set forth by the City's applicable development standards.

Financial Impact:

Not applicable.

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 Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001 with findings and conditions of approval (Attachment No. 1).

Alternative Action(s):

- A) Do not make the suggested findings for Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001, which will result in mandatory denial pursuant to Section 241.10(C) of the Huntington Beach Zoning and Subdivision Ordinance Code.
- B) Continue Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001 and direct staff accordingly.

Analysis:

A. PROJECT PROPOSAL:

Applicant/

Property Owner: Thanh Dong, Phat Huong Haanh Holdings, LLC, 18961 Flagstaff Lane, Huntington Beach CA 92646

Location: 714 Pacific Coast Highway, 92648 (North side of PCH, between 7th and 8th Street)

The project site is a vacant 0.13-acre site located in District 1 of the Downtown Specific Plan (SP5). The proposed building will consist of a 766 sq. ft. ground floor retail tenant space, three two-bedroom residential units on the second and third floors, and a 300 sq. ft. rooftop deck.

A comprehensive description of the proposed project as well as the General Plan and Zoning analysis can be found in the January 12, 2021 Planning Commission staff report (Attachment No. 4).

B. PLANNING COMMISSION MEETING AND RECOMMENDATION

The project was originally acted on at the November 4, 2020, Zoning Administrator public hearing. Sam Hanna, the property owner of the adjacent site (716 Pacific Coast Highway), identified multiple concerns with the design of the project. Following discussion between staff, the applicant, and neighboring property owner, the Zoning Administrator approved the project with suggested findings and conditions of approval.

On November 16, 2020, the Zoning Administrator's approval was appealed by Sam Hanna, who identified concerns with potential impacts to the safety, privacy, and visibility of his property. Mr. Hanna also requested revisions to the proposed project's setbacks to preserve private views of the ocean from his property, and moving the location of the common open space provided on the rooftop

deck to preserve privacy between structures.

On January 12, 2021, the Planning Commission held a public hearing to consider the appeal of the Zoning Administrator's approval of the proposed project. There were no public comments received and testimony in support of the request was received from the applicant's representatives and the architect of the project. Testimony in opposition of the request was received from Sam Hanna, citing the same concerns as those received during the Zoning Administrator hearing.

Commissioners had questions regarding vehicular access to and from the parking garage adjacent to the alley, applicable side yard setback requirements, the definition of a bedroom, operation of the subterranean parking mechanical lifts, and the location of the proposed rooftop deck. Additionally, staff advised Commissioners that the use history and development requirements for the existing live/work building on the appellant's property (716 PCH) were different from those applicable to the proposed project. Staff affirmed that with the exception of the Special Permit request, the proposed project is consistent with the development standards of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and the Downtown Specific Plan. The Planning Commission further clarified that no previous development project in Huntington Beach had included parking for residential uses in a vertical tandem configuration.

Planning Commission Action on January 12, 2021

A motion was made by Perkins, seconded by Rodriguez to approve Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001 with findings and conditions of approval by the following vote:

AYES: Perkins, Rodriguez, Acosta-Galvan
NOES: Scandura, Mandic, Van Der Mark, Ray
ABSTAIN: None
ABSENT: None

MOTION FAILED

The Planning Commission failed to make all of the required findings for approval contained in Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 241.10(A) for Conditional Use Permit No. 20-012. This resulted in a denial of Conditional Use Permit No. 20-012, Coastal Development Permit No. 20-013, and Special Permit No. 20-001 pursuant to HBZSO Section 241.10(C).

C. APPEAL

On January 13, 2021, Councilmember Kalmick appealed the Planning Commission's denial of the project (Attachment No. 6), citing that the proposed project meets the legal framework set forth by the City's applicable development standards. HBZSO Section 248.20 outlines the process for appeals as follows:

A. Notice of Appeal. *A person desiring to appeal a decision shall file a written notice of appeal with the director within the time required by Section 248.16 except an appeal to the Planning*

Commission's decision shall be filed with the City Clerk. This section shall not apply to any action which must be heard by the City Council whether or not an appeal from the Planning Commission is filed.

B. Form of Notice on Appeal. *The notice of appeal shall contain the name and address of the person appealing the action, the decision appealed from and the grounds for the appeal. The director may provide the form of the notice of appeal. A defect in the form of the notice does not affect the validity or right to an appeal.*

C. Action on Appeal. *The director or City Clerk shall set the matter for hearing before the reviewing body and shall give notice of the hearing on the appeal in the time and manner set forth in Sections 248.02 and 248.04.*

D. De Novo Hearing. *The reviewing body shall hear the appeal as a new matter. The original applicant has the burden of proof. The reviewing body may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise grounds or scope of the appeal. In addition to considering the testimony and evidence presented at the hearing on the appeal, the reviewing body shall consider all pertinent information from the file as a result of the previous hearings from which the appeal is taken.*

E. Decision on Appeal. *The reviewing body may reverse or affirm in whole or in part, or may modify the order, requirement, decision, or determination that is being appealed.*

Staff has evaluated the project for consistency with development standards of the HBZSO and Downtown Specific Plan, and determined that the project furthers the intended development pattern as envisioned by the Specific Plan. The three-story 12,713 sq. ft. mixed-use building complies with all development requirements of District 1 of the Downtown Specific Plan, with the exception of the Special Permit for a two ft. reduction in drive aisle width. The project complies with front, side, rear, and residential buffer setback requirements, maximum height, minimum parking requirements, and open space development standards. To date, there has not been necessary evidence provided to staff that would require a recommendation other than approval of the requests.

Therefore, staff is recommending approval of the proposed project based on the following:

- Consistency with the M - SP (Mixed Use - Specific Plan Overlay) Land Use Designation of the General Plan and the SP 5 - CZ (Downtown Specific Plan - Coastal Zone Overlay) zoning designation;
- Project proposal satisfies all the findings required for approving a Conditional Use Permit, Coastal Development Permit, and Special Permit;
- Compatibility with the surrounding uses; and
- Provides expanded services and housing to meet local and regional community needs.

Environmental Status:

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 15332 of the CEQA

Guidelines, because the project is characterized as in-fill development that meets the following criteria:

- a. The project is consistent with the applicable General Plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public services.

Strategic Plan Goal:

Economic Development & Housing

Attachment(s):

1. Suggested Findings and Conditions of Approval for CUP 20-012, CDP 20-013, and SP 20-001
2. Vicinity Map
3. Site Plan, Floor Plans, and Elevations Received October 23, 2020
4. Planning Commission Staff Report dated January 12, 2021
5. PC Notice of Action Dated January 12, 2021
6. Appeal of Planning Commission Action Dated January 13, 2021