



# City of Huntington Beach

File #: 19-910

MEETING DATE: 9/3/2019

## REQUEST FOR CITY COUNCIL ACTION

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

**SUBMITTED BY:** Dave Kiff, Interim City Manager

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

**Subject:**

**Public Hearing continued Open from August 19, 2019 to consider the Appeal of Planning Commission Denial of Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042 (Ellis Avenue Condos)**

**Statement of Issue:**

Transmitted for your consideration is Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042, a request to permit a one-lot subdivision and development of a four-story mixed-use building including 48 new condominium residences with 891 square feet of commercial space and three levels of subterranean parking located at 8041 Ellis Avenue. Staff recommended approval of the project with suggested findings and conditions of approval to the Planning Commission. On June 11, 2019, the Planning Commission voted to deny the project. The property owner, Tahir Salim, filed a timely appeal, per Section 248.20 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), of the Planning Commission's decision on June 20, 2019. Per Section 248.20(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." At the August 19, 2019, City Council meeting, the Council opened the public hearing and continued the appeal to the September 3, 2019, meeting at the property owner's request.

**Financial Impact:**

No fiscal impact.

**Action:**

The City Council may take one of the following action(s):

A) Uphold the Planning Commission's Action and Deny Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042 (Attachment No. 1); OR

B) Find the proposed project exempt from the California Environmental Quality Act pursuant to section 15182 of the CEQA Guidelines and Government Code 65457 and approve Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042 with findings and conditions of approval (Attachment No. 2).

**Alternative Action:**

A) Continue Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042 and direct staff accordingly.

**Analysis:**

**A. PROJECT PROPOSAL:**

Applicant: Jeff Herbst, MCG Architecture, 111 Pacifica, Suite 280, Irvine, CA 92618

Appellant/Property Owner: Tahir Salim, THDT Investment, Inc., 4740 Green River Road, Suite 304, Corona, CA 92880

Location: 8041 Ellis Avenue (North side of Ellis Ave., between Beach Blvd. and Patterson Ln.)

A comprehensive description of the proposed project as well as a General Plan and Zoning conformance analysis can be found in the May 28, 2019, Planning Commission staff report (Attachment No. 3). The staff report and attachments include the proposed site plan, floor plans, elevations, subdivision map, technical studies related to air quality, traffic, hydrology/water quality, and geological/soils, and written communications regarding the project.

**B. BACKGROUND**

On May 28, 2019, the Planning Commission held a public hearing to consider the proposed project. Staff had recommended approval with reasons noted in Attachment No. 2. The property owner spoke in support of the project describing the benefits of redeveloping the underutilized and dilapidated site. Two members of the public spoke in opposition due to site access issues, small lot size for the proposed density, parking, traffic, and the existing supply of apartments within the City.

The Planning Commission then deliberated and expressed concerns; issues were raised regarding the proposed project's impact on Ellis Avenue traffic, shadows on adjacent properties, unsafe ingress/egress to the project site, increased U-turns at Patterson Lane, the area of the project devoted to commercial use being too small, and marginal public open space. Ultimately, the Planning Commission continued the public hearing and directed staff to return with suggested findings for denial at the next regularly scheduled meeting of June 11, 2019. A full analysis of the required findings for both the proposed subdivision map and the proposed CUP is contained in the June 11, 2019, Planning Commission staff report (Attachment No. 5).

At the June 11 meeting, only one speaker, representing the applicant/property owner, spoke in favor of the project. After deliberations, the Planning Commission denied the project, finding that the

subdivision design is not consistent with the General Plan or the Beach and Edinger Corridors Specific Plan (BECSP) in that the project design fails to further a number of goals and policies contained within the General Plan and BECSP (Attachment No. 6).

The Planning Commission also found that development of the proposed project would result in a site that is not physically suitable for the type of development in that the site will not function as an integrated development compatible with the vision of the BECSP by merging three existing lots into a single long and narrow 0.95 acre parcel. The long and narrow parcel is not physically suitable for the proposed mass, bulk, and intensity of the proposed four story mixed use project and does not complement the scale and proportion of surrounding one and two-story developments. The project will generate conflicts with vehicular circulation on Ellis Avenue and there will be no connectivity for bicyclists to continue onto Beach Boulevard.

Additionally, the Planning Commission found that approval of the project would result in a site that is not physically suitable for the proposed density of development in that the proposed project results in a density of approximately 50 dwelling units per acre while the adjacent residential property is built at an aggregate density of 13 dwelling units per acre.

The Planning Commission was unable to make all of the required findings for a CUP, contained in Section 241.10(A) of the HBZSO, and denied the project. The Planning Commission found the project did not comply with the provisions of the base district and other applicable provisions in Titles 20 through 25 in that the project does not further the vision of the Town Center Neighborhood Segment of the BECSP, which envisions a vibrant commercial corridor within the Five Points District of the BECSP. The proposed project site is located within the Five Points District and the Planning Commission found that the project does not further a vibrant commercial corridor because:

- (1) Only one and a half percent (1.5%) of the total square footage of the project is allocated to commercial use,
- (2) There is insufficient vehicular ingress and egress to the site, and
- (3) The project proposes marginal public open space that does not contribute to the BECSP's vision of walkability and pedestrian connections between public and private property.

**Planning Commission Action on June 11, 2019**

A motion was made by Grant, seconded by Kalmick, to deny Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042 with findings carried by the following vote:

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

**MOTION PASSED**

**C. APPEAL:**

On June 20, 2019, the property owner, Tahir Salim, appealed the Planning Commission's denial of Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042 (Attachment No. 7). The appeal letter included the following reasons:

1. The Planning Commission's concerns about the project may instead become conditions of approval.
2. The Planning Commission denied the project for subjective reasons even though the project complied with the applicable development standards of SP14.
3. The project complies with the land use goals and policies including density, consolidation of parcels, and provides a range of housing to meet the needs of the City.

The applicant's appeal also includes additional information for City Council consideration to address the Planning Commission's concerns related to project design and access. The applicant provided traffic control measures for right turn exit only, additional shadow analysis, and letters of support.

The applicant requests the City Council consider the project and the supplemental information in order to achieve a project design that complies with the applicable General Plan policies and required findings. However, the revised traffic control measures do not meet Fire Department access standards and would result in the project failing to comply with all applicable code requirements. More importantly, the raised median design would impede Fire Department access to the site resulting in an additional adverse health and safety impact caused by the project.

**D. CONTINUANCE:**

At the August 19, 2019, City Council meeting, the public hearing was opened. Nine members of the public spoke during public comments. Seven people spoke in opposition of the project, citing concerns related to traffic safety and congestion, parking, conflicts with the Elan project, the intensity of development on the site, insignificant commercial area, the existing supply of apartments in the City, and trucks and noise on Ellis Ave. Two members of the public, one being the property owner, spoke in favor of the project. The property owner discussed the proposed improvements to the project site and the need for additional housing within the City. The other public speaker referenced the Housing Accountability Act and the need for the City Council to make objective and specific findings for denial related to health and safety.

**City Council Action on August 19, 2019**

A motion, made by Posey, seconded by Hardy, to continue Tentative Tract Map No. 18157 and Conditional Use Permit No. 17-042 to the September 3, 2019, meeting with the public hearing open, carried by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Hardy  
NOES: None  
ABSTAIN: None  
ABSENT: Delgleize

**Environmental Status:**

Pursuant to Section 15182 of the CEQA Guidelines and Government Code 65457, the proposed

project is covered under the Beach and Edinger Corridors Specific Plan adopted Program EIR No. 08-008. Implementation of the project would not result in any new or more severe potentially adverse environmental impacts that were not considered in the Final EIR for the BECSP.

**Strategic Plan Goal:**

Enhance and maintain high quality City services

**Attachment(s):**

1. Findings for Denial of TTM No. 18157/ CUP No. 17-042
2. Findings and Conditions of Approval for Approval of TTM No. 18157/ CUP No. 17-042 (as presented to PC on 5/28/19)
3. Project Plans (see Attachment No. 5 of Attachment No. 4 - May 28, 2019 PC Staff Report)
4. May 28, 2019 Planning Commission Staff Report with Suggested Findings for Approval and Attachments
5. June 11, 2019 Planning Commission Staff Report with Suggested Findings for Denial and Attachments
6. Notice of Action for TTM No. 18157/CUP No. 17-042 with Findings for Denial dated June 12, 2019
7. Appeal of Planning Commission Project Denial received June 20, 2019
8. Public Comments Regarding Appeal of Planning Commission Denial
9. Appellant's Request for Continuance received and dated August 6, 2019