



City of Huntington Beach Planning Department
STAFF REPORT

TO: Planning Commission
FROM: Howard Zelefsky, Director of Planning
BY: Paul Da Veiga, Associate Planner
DATE: February 24, 2004
SUBJECT: ENTITLEMENT PLAN AMENDMENT NO. 03-05 (Amendment to CUP No. 01-15, Inka Grill – Dancing)

APPLICANT: Kevin Ives, 301 Main Street Ste. 101, Huntington Beach, CA 92648
PROPERTY
OWNER: J.T. Development, 15272 Bolsa Chica Street, Huntington Beach, CA 92649
LOCATION: 301 Main Street Ste. 101, Huntington Beach, CA 92648 (Plaza Almeria, west side of Main Street, between Olive Avenue and Orange Avenue)

STATEMENT OF ISSUE:

- ◆ Entitlement Plan Amendment No. 03-05 request:
 - To amend a previously approved conditional use permit to permit dancing on a 123 square foot dance floor in conjunction with existing live entertainment located within a 4,910 square foot restaurant.
 - To extend the hours of entertainment.
- ◆ Staff's Recommendation: Deny Entitlement Plan Amendment No. 03-05 based upon the following:
 - Dancing in conjunction with existing live entertainment will negatively impact surrounding properties because noise generated by the business will not be adequately regulated.
 - The restaurant use with entertainment and dancing is not consistent with the Mixed Use General Plan Land Use designation that provides for the compatibility of uses within a mixed-use district.
 - Lack of resources to monitor the collective number of entertainment venues in Downtown with dancing.

RECOMMENDATION:

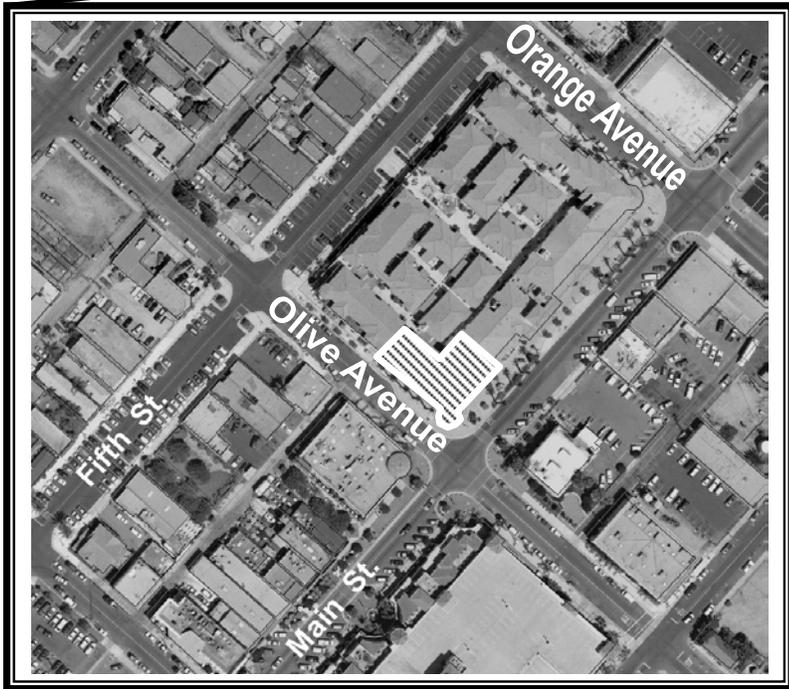
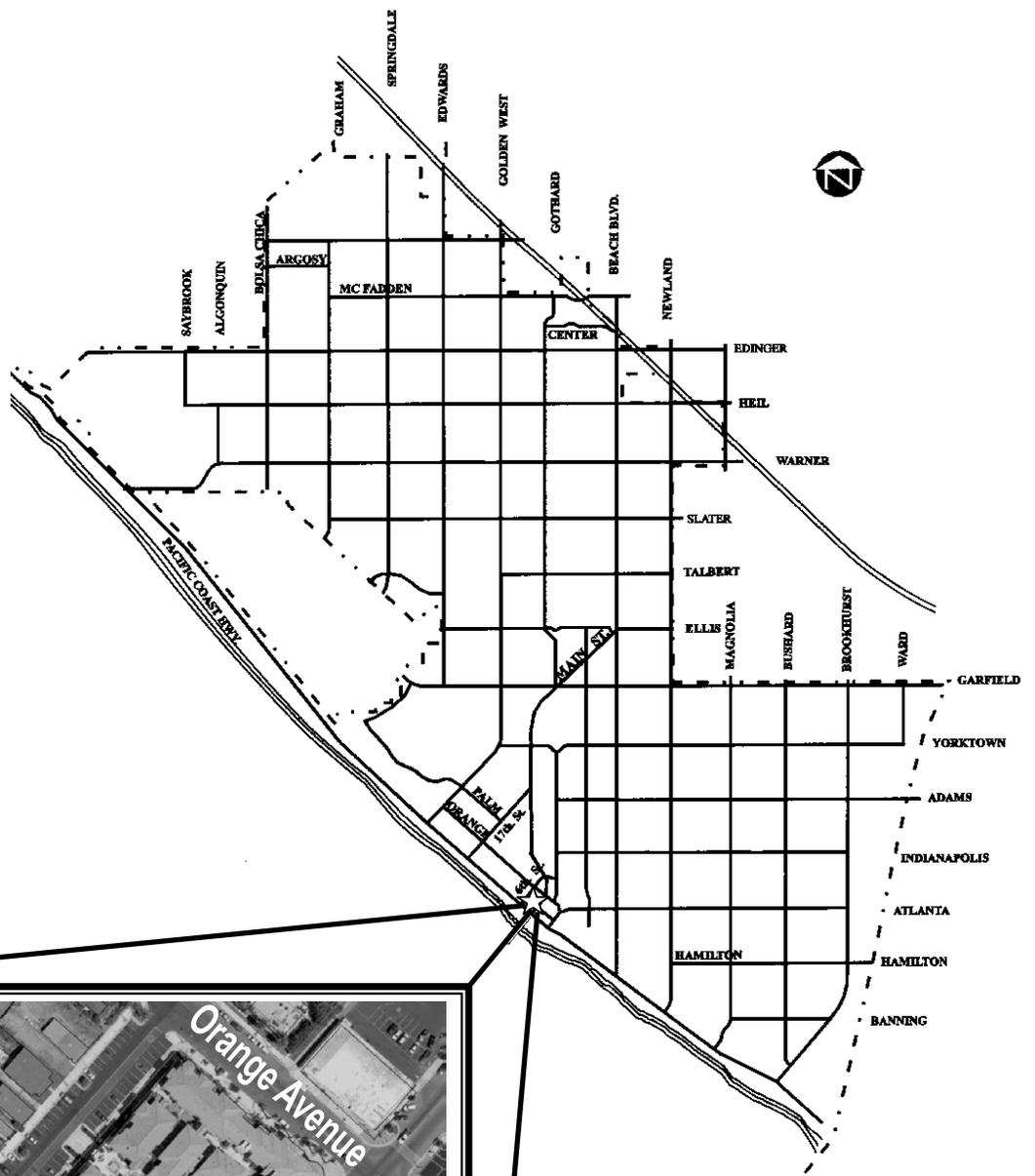
Motion to:

“Deny Entitlement Plan Amendment No. 03-05 with findings (Attachment No. 1).”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Approve Entitlement Plan Amendment No. 03-05 with findings and conditions of approval.”
- B. “Continue Entitlement Plan Amendment No. 03-05 and direct staff accordingly.”



VICINITY MAP
Entitlement Plan Amendment No. 03-05
301 Main Street, Suite 101
THE CITY OF HUNTINGTON BEACH

PROJECT PROPOSAL:

Entitlement Plan Amendment No. 03-05 represents a request for the following:

- A. To amend a previously approved conditional use permit to permit dancing on a 123 square foot dance floor in conjunction with existing live entertainment pursuant to Section 4.7.01 Permitted Uses of the Downtown Specific Plan (SP-5).
- B. To extend the daily hours of operation for entertainment.

The applicant proposes to establish dancing, in association with existing live entertainment at the Inka Grill restaurant, pursuant to Section 4.7.01 of the Downtown Specific Plan. The restaurant has been operating with an Entertainment Permit since May 22, 2001. The applicant is proposing to accommodate the dance floor at the rear of the restaurant, adjacent to the back bar. The proposed dance floor is approximately 123 square feet in total area. The existing live entertainment was approved under Conditional Use Permit No. 01-15 and consists of salsa, jazz, reggae, and live disc jockey music. The current hours of operation are Sunday through Thursday from 6 p.m. to 11 p.m. and Friday and Saturday from 6 p.m. to 12 a.m. The applicant is requesting to extend the hours of operation for entertainment, as identified in the following table:

DAYS OPEN	EXISTING LIVE ENTERTAINMENT HOURS	PROPOSED LIVE ENTERTAINMENT HOURS	STAFF RECOMMENDED LIVE ENTERTAINMENT HOURS
Mon.-Thurs.	6 p.m. to 11 p.m.	6 p.m. to 12 a.m.	Same as existing
Fri. & Sat.	6 p.m. to 12 a.m.	6 p.m. to 1 a.m.	Same as existing
Sunday	6 p.m. to 11 p.m.	12 noon to 11 p.m.	Same as existing

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property	MV-F6-sp-pd (Mixed Use Vertical)	Specific Plan No. 5 (Downtown Specific Plan – District 5)	Mixed Use Retail, Restaurant, Office, and Residential
North of Subject Property (across Orange Ave.)	MV-F6-sp-pd (Mixed Use Vertical)	Specific Plan No. 5 (Downtown Specific Plan – District 6)	Mixed Use Retail, Restaurant, Office, and Residential
South of Subject Property (across Olive Ave.)	MV-F6-sp-pd (Mixed Use Vertical)	Specific Plan No. 5 (Downtown Specific Plan – District 5)	Retail
East of Subject Property (across Main St.)	MV-F6-sp-pd (Mixed Use Vertical)	Specific Plan No. 5 (Downtown Specific Plan – District 5)	Retail and Restaurants
West of Subject Property (across 5 th St.)	MV-F6-sp-pd (Mixed Use Vertical)	Specific Plan No. 5 (Downtown Specific Plan – District 5)	Retail and Residential

General Plan Conformance:

The General Plan Land Use Map designation on the subject property is Mixed Use – Vertical. The proposed project is not consistent with this designation and the goals and objectives of the City’s General Plan as follows:

A. Land Use Element

Objective LU 11.1 Provide for the development of structures that integrate housing with commercial uses, and ensure the compatibility of these uses.

Policy LU 11.1.2 Limit commercial uses in mixed-use development projects to those uses that are compatible with the residences.

Policy LU 11.1.5 Require that mixed-use developments be designed to mitigate potential conflicts between the commercial and residential uses, considering such issues as noise, lighting, security, and truck and automobile access.

The proposed dancing in conjunction with existing live entertainment cannot be adequately monitored and conditions of approval cannot be regulated based on the lack of resources available. The proposed dancing use will not be compatible with the aforementioned objectives and policies of the General Plan.

B. Noise Element

Objective N.1.1 Adopt and enforce appropriate noise ordinances, regulations, and guidelines to effectively control both ambient and stationary noise conditions and impacts.

Objective N.1.5 Minimize the potentially adverse noise impacts associated with the development of mixed-use structures where residential units are located above or adjacent to commercial uses.

Policy N.1.8.2 Discourage the development of new nightclubs, discotheques, and other high noise-generating entertainment uses that may impact residential neighborhoods, schools, health care facilities, or other “noise sensitive” land uses, unless it can be demonstrated that adequate noise measures can be installed and employed to adequately mitigate the potential impacts of on-site operations and/or off-site customer access and establishments upon these areas.

The Police Department is the primary resource responsible for enforcing noise limitations identified on the entertainment permit. They have indicated that based on the number of entertainment venues in the Downtown with dancing and the resources available to the Downtown, adequate monitoring of the proposed entertainment use will not be possible.

C. Public Facilities and Services Element

Policy PF 1.3.1 Ensure that new development and land use proposals are analyzed to determine the impact their operators, occupants, visitors, or customers may have on the safety and welfare of the community.

The Police Department has indicated that they cannot support the request to permit dancing based on their limited resources available in monitoring and regulating entertainment activities in the Downtown. The proposed dancing in conjunction with existing entertainment will represent an intensification of use that will result in negative impacts to nearby residents.

Zoning Compliance:

This project is located in the Downtown Specific Plan, District No. 6 and complies with all of the requirements of that zone. There is no physical development proposed as part of this request. The proposed live entertainment with dancing requires three additional parking spaces based on a parking ratio of one space per 50 square feet of dance floor area (123 sq. ft.).

To determine whether adequate parking can be provided for the proposed dance floor, staff analyzed the parking demand identified in the Downtown Parking Master Plan (DPMP). Plaza Almeria is located within Block E of the DPMP. As part of the parking analysis, staff requested an updated tenant roster to identify the current mix of uses and required parking for the proposed dancing request. The current mix of uses within Block E has changed from projected buildout square footages identified for the year 2005 in the Downtown Parking Master Plan. This change in the mix of uses results in an increased availability of parking based on a shift of retail and restaurant uses, to office uses which have a much lower parking demand. The new mix of uses in Plaza Almeria will result in changes made during the annual review of the DPMP.

Based on the current mix of uses within Plaza Almeria, and the availability of 168 parking spaces within the parking garage, the requirement of three spaces for the proposed dancing will not exceed established thresholds for parking as identified in the DPMP. Based upon the analysis, the proposed use is adequately parked within the existing 168-space subterranean parking garage at Plaza Almeria.

Environmental Status:

The proposed project is Categorically Exempt pursuant to Class 1, Existing Facilities, Section 15301 of the California Environmental Quality Act which states that minor alterations and operation to existing structures are exempt from further environmental review.

Coastal Status:

The proposed project is within a non-appealable portion of the Coastal Zone and is exempt from a coastal development permit since entertainment requests are considered as minor development which may be excluded pursuant to Chapter 245.10.E.3 in the HBZSO.

Redevelopment Status:

The project is located in the Huntington Beach Redevelopment Project, Main-Pier subarea. The Economic Development Department has reviewed the proposal and supports the request for live entertainment with dancing.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements:

The Departments of Public Works, Fire, Police, and Building and Safety have reviewed the proposal and have identified the Code Requirements applicable to the request. The Police Department has indicated that they do not support the proposed addition of dancing to the existing restaurant based on limited resources available to regulate the use and ensure compliance with City ordinances.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on February 12, 2004, and notices were sent to property owners of record and tenants within a 300 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), the applicant, and interested parties. As of February 19, 2004 no communication supporting or opposing the request has been received.

Application Processing Dates:

<u>DATE OF COMPLETE APPLICATION:</u>	<u>MANDATORY PROCESSING DATE(S):</u>
November 14, 2004	April 14, 2004*

**Applicant requested a 90-day extension to the mandatory processing time.*

ANALYSIS:

The primary issue identified with the proposal for dancing in conjunction with existing live entertainment is compatibility with adjacent uses, potential noise impacts, and availability of services in regulating conditions of approval on the entertainment permit. The following is a discussion of these issues:

Compatibility with Adjacent Uses

In analyzing the proposed dancing use in conjunction with entertainment activities staff analyzed the compatibility of the proposal with adjacent uses, which consist of residential, retail, restaurant, and office uses. The subject restaurant is located within Plaza Almeria which is a mixed-use building consisting of retail and restaurant uses on the ground floor and offices and residential uses in above-ground units. Although there is no residential unit directly above Inka Grill, staff has received complaints in the past regarding loud music from the subject restaurant. The addition of dancing in conjunction with the entertainment uses results in an intensification of use that may have the potential to negatively impact surrounding uses if not properly monitored and regulated. The Police Department is largely responsible for the regulation of entertainment activities in the Downtown. They have indicated that based on the over-saturation of entertainment venues in the Downtown, they are unable to regulate the proposed use based on limitations in staffing and resources allotted to Downtown activities. Due to the inability of the City to adequately enforce the conditions of the entertainment permit and City Ordinances, the proposed dancing will be incompatible with surrounding commercial and residential uses.

Noise

When reviewing proposed entertainment uses such as dancing, one of the primary issues is the potential of noise impacts. Typically, restrictions are placed on proposed entertainment uses to reduce noise impacts to surrounding properties. The restrictions limit noise generated by entertainment activities to a maximum of 50 feet from the building in any direction and requires that all doors and windows be closed. In addition, the type of amplification of the entertainment is also monitored and regulated. It is the responsibility of the Police Department to ensure compliance with these requirements as well as with all City Ordinances pertaining to entertainment. If the Police Department cannot adequately regulate these conditions, the entertainment use has the potential to negatively impact adjacent and surrounding uses. Based on the limited resources available, staff does not support the proposed request to permit dancing because of the potential noise impacts generated by the proposed use.

Police Services

There are a total of 17 establishments in the Downtown that provide live entertainment. Seven of these establishments provide dancing in association with live entertainment. The Police Department is responsible for the enforcement of the entertainment restrictions including, but not limited to, hours of operation, noise, security, and type of entertainment.

The Police Department has indicated that the addition of dancing to the existing entertainment activities on the site will result in an intensification of the use, therefore placing an additional burden on Police services. The current resources available to the Police Department cannot support additional dancing requests in Downtown. The lack of these resources has the potential to result in negative impacts to surrounding residences and businesses that rely on these services for enforcement of the entertainment permits.

Staff recommends denial of the request for dancing in conjunction with existing live entertainment based on the potential negative impacts to surrounding properties, given the limitations in City resources to adequately regulate and monitor the proposed use.

ATTACHMENTS:

1. Suggested Findings for Denial – EPA No. 03-05
2. Site Plan and Floor Plan dated September 16, 2003
3. Narrative dated September 16, 2003

SH:HF:PD:rl

ATTACHMENT NO. 1

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 03-05

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that 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 15301 of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 02-63:

1. Entitlement Plan Amendment No. 03-05 to amend a previously approved conditional use permit to permit dancing on a 123 square foot dance floor in conjunction with existing live entertainment and extend the daily hours of operation for entertainment activities will 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 use cannot be adequately regulated based on a lack of Police resources available in enforcing the conditions of approval such as, but not limited to, noise, line formation, security, and type of entertainment.
2. The proposed dancing, in conjunction with existing live entertainment, will not be compatible with surrounding uses. The proposed live entertainment would result in noise impacts based on the proximity of residential uses in conjunction with the lack of adequate police services in regulating noise activities. Typical conditions of approval such as requiring that all doors and windows remain closed during live entertainment, and regulating the hours of operation, cannot be adequately monitored or regulated due to the lack of City resources and therefore the proposed dancing will be incompatible with surrounding businesses and residents.
3. The proposed restaurant will not comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it will be located based on the inability of the Police Department to adequately monitor and enforce the conditions of approval for the proposed use.
4. The granting of the conditional use permit will adversely affect the General Plan. It is not consistent with the Land Use Element designation of Mixed Use on the subject property including the following policies and objectives identified in the General Plan:

A. Land Use Element

Objective LU 11.1 Provide for the development of structures that integrate housing with commercial uses, and ensure the compatibility of these uses.

Policy LU 11.1.2 Limit commercial uses in mixed-use development projects to those uses that are compatible with the residences.

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Objective N.1.5 Minimize the potentially adverse noise impacts associated with the development of mixed-use structures where residential units are located above or adjacent to commercial uses.

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C. Public Facilities and Services Element

Policy PF 1.3.1 Ensure that new development and land use proposals are analyzed to determine the impact their operators, occupants, visitors, or customers may have on the safety and welfare of the community.

The proposed dancing in conjunction with existing live entertainment can not be adequately monitored by the Police Department and conditions of approval can not be regulated based on the lack of resources available, therefore, the proposed dancing use will not be compatible with surrounding residential uses. The Police Department is the primary resource responsible for enforcing noise limitations identified on the entertainment permit. They have indicated that based on the number of entertainment venues in the Downtown with dancing and the resources available to the Downtown, adequate monitoring of the proposed entertainment use will not be possible.