



City of Huntington Beach Planning and Building Department  
**STAFF REPORT**

**TO:** Planning Commission  
**FROM:** Scott Hess, AICP, Director of Planning and Building  
**BY:** Ethan Edwards, AICP, Associate Planner   
**DATE:** June 10, 2014

**SUBJECT:** ENVIRONMENTAL IMPACT REPORT NO. 13-003/ CONDITIONAL USE PERMIT NO. 12-026/ COASTAL DEVELOPMENT PERMIT NO. 12-001/ NOISE DEVIATION PERMIT NO. 13-009 (SURF CITY NIGHTS)

**CO-APPLICANTS:** City of Huntington Beach, Office of Business Development, Kellee Fritzal, 2000 Main Street, Huntington Beach, CA 92648  
Downtown Business Improvement District, Susan Welfinger, 315 3rd Street, Suite E, Huntington Beach, CA 92648

**PROPERTY**

**OWNER:** City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

**LOCATION:** Public streets and their adjoining public and private sidewalks including Main Street, between Pacific Coast Highway and Orange Avenue and extending onto the adjoining half blocks of Walnut Avenue and Olive Avenue, continuing onto the first block of 5th Street, bounded by Pacific Coast Highway and Walnut Avenue.

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**STATEMENT OF ISSUE:**

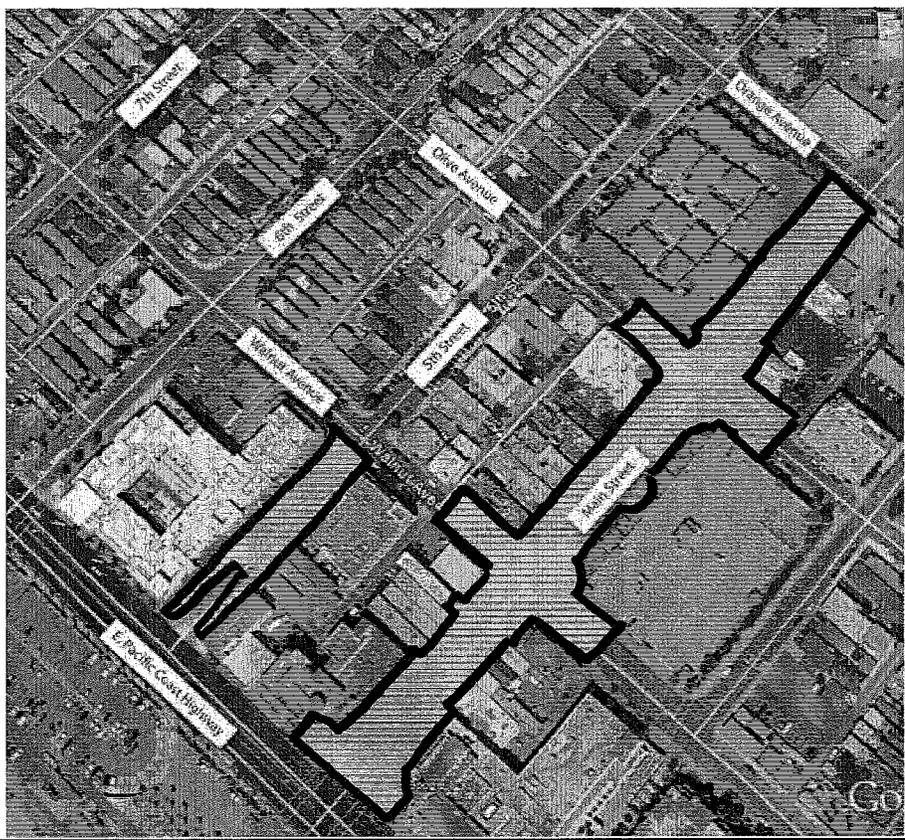
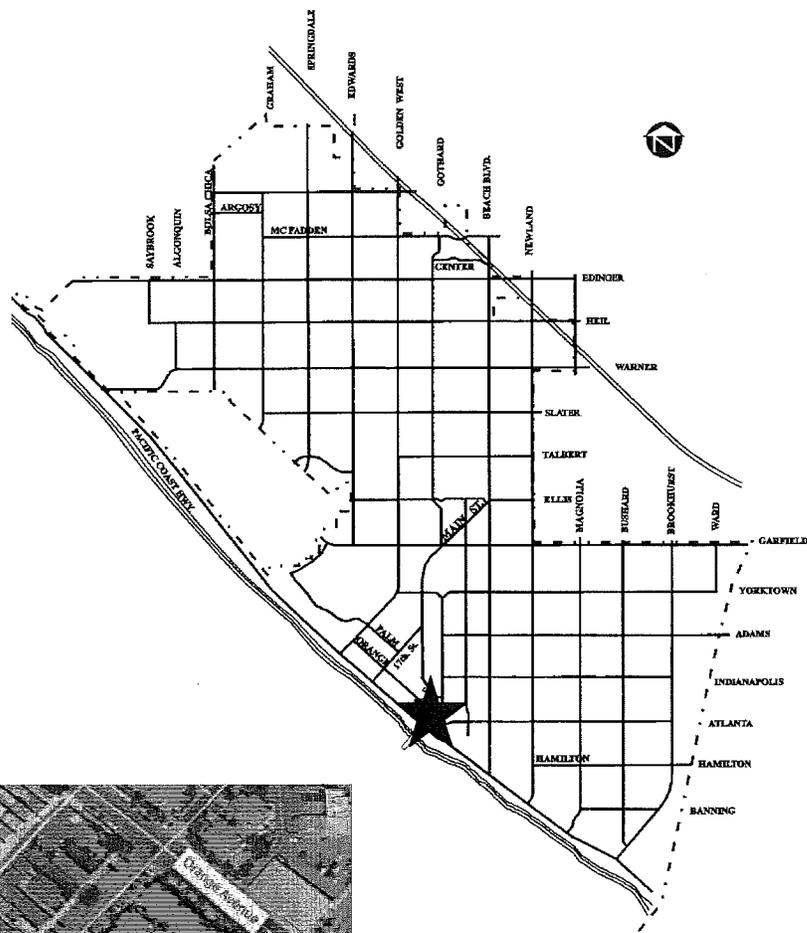
- ◆ Environmental Impact Report (EIR) No. 13-003:
  - Analyzes the potential environmental impacts associated with Surf City Nights, a weekly Street Fair and Certified Farmers' Market.
  - Documents potential impacts to Greenhouse Gas Emissions, Land Use and Planning, Transportation and Traffic, and Noise.
  - Evaluates four alternatives to the proposed project.
  - Concludes that all potential impacts can be mitigated to a less than significant level with the exception of impacts to Noise, which remain significant and unavoidable.
- ◆ Conditional Use Permit No. 12-026/ Coastal Development Permit No. 12-001 represents a request to permit the temporary closure of Main Street and 5th Street every Tuesday night between 2:00 PM and 10:00 PM to accommodate a Street Fair and Certified Farmers' Market consisting of:
  - live entertainment including
    - amplified music
    - street performances
    - children's games and activities
    - local merchant displays
  - sidewalk sales
  - a food-court
  - sale of prepackaged food and handcrafted items

- ◆ Noise Deviation Permit No. 13-009 represents a request to permit temporary and periodic noise increases to ambient noise levels already in excess of City standards.
- ◆ Staff's Recommendation: Certify Environmental Impact Report No. 13-003 based upon the following:
  - Prepared in accordance with the California Environmental Quality Act (CEQA).
  - Adequately analyzes the potential environmental impacts associated with the proposed project.
  - Evaluates project alternatives.
  - Identifies standard conditions and requirements to lessen the project's impacts consistent with General Plan policies.
- ◆ Staff Recommendation: Approve Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-001 and Noise Deviation Permit No. 13-009 based upon the following:
  - Facilitates the operation of a Street Festival and Certified Farmers' Market to provide additional recreational opportunities for the community.
  - Improves the City's fiscal viability by stimulating tourism and increasing tax revenues in conjunction with the event.
  - Consistent with the goals, objectives, and policies of the General Plan.
  - Consistent with the goals of the City's Local Coastal Program by enhancing coastal resources, promoting coastal access, and providing a recreational and visitor-serving use.
  - Compatible with the Downtown Specific Plan by providing an economically vibrant, pedestrian-oriented destination for residents and visitors.

**RECOMMENDATION:**

Motion to:

- A. "Certify Environmental Impact Report No. 13-003 as adequate and complete in accordance with CEQA requirements by approving Resolution No. 1679 (Attachment No. 1);"
- B. "Approve Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-001 and Noise Deviation Permit No. 13-009 with suggested findings and conditions for approval (Attachment No. 2)."
- C. "Approve CEQA Findings of Fact with a Statement of Overriding Considerations – EIR No. 13-003 (Attachment No. 3)"



**VICINITY MAP**  
**Environmental Impact Report No. 13-003/ Conditional Use Permit No. 12-026/ Coastal Development**  
**Permit No. 12-001/ Noise Deviation Permit No. 13-009**  
**(Surf City Nights)**

### **ALTERNATIVE ACTION(S):**

The Planning Commission may take alternative actions such as:

- A. "Continue Environmental Impact Report No. 13-003, Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-001 and Noise Deviation Permit No. 13-009 and direct staff accordingly."
- B. "Deny Environmental Impact Report No. 13-003, Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-001 and Noise Deviation Permit No. 13-009 with findings for denial."

### **PROJECT PROPOSAL:**

Environmental Impact Report No. 13-003 represents a request to analyze the potential environmental impacts associated with Surf City Nights, a weekly Street Fair and Certified Farmers' Market.

Conditional Use Permit No. 12-026/ Coastal Development Permit No. 12-001 represents a request to permit the temporary closure of Main Street and 5th Street every Tuesday night between 2:00 PM and 10:00 PM to accommodate a Street Fair and Certified Farmers' Market consisting of: live entertainment including amplified music, street performances, children's games and activities, local merchant displays, sidewalk sales, a food-court, and the sale of prepackaged food and handcrafted items. Any business sidewalk sales participating in the Street Fair would be in addition to the maximum of 50-day per year as allowed by a Temporary Use Permit for outdoor sales.

The Office of Business Development and the Downtown Business Improvement District (DTBID) are co-applicants for the proposed project, which includes renewed discretionary permits for both 1) the current operation; and 2) the expansion of Surf City Nights from its current location on Main Street, onto 5th Street, between Pacific Coast Highway and Walnut Avenue. The project requires the temporary closure of downtown streets, including Main Street and 5th Street (see project Vicinity Map) every Tuesday from 2:00 PM until 10:00 PM. The street closures are facilitated by the use of metal bollards and other similar barricades, placed to divert traffic and promote pedestrian safety. All blockades are removable and the site is fully accessible to emergency vehicles at all times. The event requires that parking meters within the festival area of Main Street and 5th Street be bagged and labeled with No Parking signs, indicating that vehicles must be moved by 2:00 PM. Parking for the event is available on surrounding streets and within an 850 stall parking structure located on Main Street. In addition, the existing project is conditions such that during peak visitor periods from Memorial Day to October 1, a free shuttle service shall be provided to encourage visitor parking at the Civic Center, and a shuttle service shall operate when the Main Promenade parking structure reaches capacity for a period of two hours, as determined by an electronic monitoring system. The street festival includes amplified music on Main Street. No live entertainment or amplified music is proposed for 5<sup>th</sup> Street.

Noise Deviation Permit No. 13-009 represents a request to permit temporary and periodic noise increases above ambient noise levels by up to 9 dBA. The existing ambient noise levels are already in excess of City standards and any increase of more than 3 dBA is considered significant. This request is to deviate from exterior noise standards in Huntington Beach Municipal Code Section 8.40.050 during the Surf City Nights event between the hours of 2:00 PM and 10:00 PM every Tuesday. The Director may act on the

Noise Deviation Permit; however it is being referred to the Planning Commission pursuant to Huntington Beach Zoning and Subdivision Ordinance section 202.10.C for review along with the Environmental Impact Report, Conditional Use Permit and Coastal Development Permit.

**Study Session:**

The request was presented to the Planning Commission at a study session on May 27, 2014. Several questions were raised related to the operations of the project and staff responded accordingly. One question was raised regarding the cumulative impacts list and required a follow-up response. Commissioner Kalmick asked for clarification on why two projects were not included within the Cumulative Impacts analysis and whether there would be any cumulative impacts related to parking, traffic and noise. Specifically, the two projects are the Ascon Landfill site and the AES power generating station, both of which are currently under review.

The Ascon landfill project involves the clean-up of the hazardous waste landfill that operated from 1938 to 1984. An EIR is being drafted by California Department of Toxic Substances Control for this project prior to initiation of the clean-up efforts. This project may involve short-term clean-up related parking, traffic and noise. Precise details related to the timing and project specific impacts from the clean-up will be analyzed in the project-specific EIR. The site is approximately 2.5 miles from the Surf City Nights location and could be anticipated to generate short-term parking, traffic and noise during regular business hours in the immediate vicinity of the project site during the clean-up effort. No long-term increase in parking, traffic or noise levels would be anticipated after clean-up of the site. Given the distance, and the disparity in hours of operation (daytime for the clean-up versus evening for the Surf City Nights event), and the short-term nature of the project, no cumulative impacts are anticipated.

The proposed AES project involves the replacement of an existing power generating station with a more efficient, modern facility and is currently under review by the California Energy Commission (CEC). The project may result in short-term construction impacts related to greenhouse gas emissions, but would not be anticipated to result in long-term cumulative impacts because of anticipated efficiencies with a modernized facility, which also typically require fewer employees for operation. The CEC will study potential cumulative impacts due to increases in parking, traffic or noise levels related to the long-term operations of the project. Given the distance of approximately 1.6 miles from the Surf City Nights site, construction activities during the daytime are not anticipated to conflict with evening operational hours for Surf City Nights in terms of traffic and noise.

For purposes of CEQA, cumulative impacts are associated with long term operational impacts which, when combined with other projects, are cumulatively considerable. As indicated, the potential impacts related to the Ascon and AES sites are short-term impacts due to construction activities. There will be no incremental impacts in the areas of parking, traffic and noise which when combined with the Surf City Nights project, would create a cumulatively considerable increase for the reasons stated above. Therefore, it was determined that the two projects did not need to be included within the cumulative impact analysis in the Focused DEIR. The conclusions regarding cumulative impacts from the Surf City Nights project remain adequate and complete.

**Background:**

Surf City Nights is an existing downtown street festival and Certified Farmers' Market which occurs every Tuesday night on Main Street and the adjoining half blocks on Walnut and Olive Avenues from

5:00 PM until 9:00 PM. The street festival is cancelled in the event of heavy rain/wind or showers. This event was established in 2007 and run by the City for the first two years. The festival is now run by the Downtown Business Improvement District (DTBID), which took over management and operations in 2009. The DTBID was formed in 2004 with the vision to strengthen and improve the experience of the downtown business district of Huntington Beach. Surf City Nights has been operating since 2007 with a Coastal Development Permit and a Temporary Use Permit. The project seeks to expand from its original location to include the first block of 5th Street, between Pacific Coast Highway and Walnut Avenue on a permanent basis, rather than the existing temporary approval. A new coastal development permit and a conditional use permit for permanent project approval have been applied for concurrently with environmental documentation.

In 2007 the Zoning Administrator made a finding to exempt the project from provisions of CEQA, which provides a categorical exemption for minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, and the sale of Christmas trees. In a 2012 staff report before the Zoning Administrator, a similar exemption finding was suggested, but no action was taken. In May 2013, the City prepared an Initial Study and circulated a draft Mitigated Negative Declaration (MND). Following receipt of comment letters on the MND, the City determined that a Focused EIR was necessary.

**ISSUES:**

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

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Area:	ROW (Right-of-Way)/ MV- >30-d-sp-pd (Mixed Use Vertical – Greater than 30 Units to the Acre -Design Overlay - Specific Plan Overlay – Pedestrian Overlay	ROW/ Downtown Specific Plan District 1/Coastal Zone	Public Streets & Sidewalks/ Mix of uses
North, East, and West of Subject Area:	MV- > 30 – d- sp- pd ( Mixed Use Vertical – Greater than 30 units to the Acre -Design Overlay - Specific Plan Overlay – Pedestrian Overlay)	Downtown Specific Plan District 1/Coastal Zone	Mix of uses
South (across PCH) of Subject Area:	OS-S (Open Space – Shore)	Downtown Specific Plan District 7/Coastal Zone	Beach

**General Plan Conformance:**

The General Plan Land Use Map designation on the subject project area is public Right-of-Way and Mixed Use Vertical. The proposed project is consistent with this designation and the policies, goals and objectives of the City’s General Plan as follows:

A. Land Use Element

Goal LU 7: Achieve a diversity of land uses that sustain the City’s economic viability, while maintaining the City’s environmental resources and scale and character.

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

B. Recreation and Community Services Element

Goal RCS 1: Enrich the quality of life for all citizens of Huntington Beach by providing constructive and creative leisure opportunities.

Objective RCS1.1: Encourage recreational opportunities unique to Huntington Beach which will enhance visitation and economic development.

C. Coastal Element

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.6: Temporary and seasonal activities within the coastal zone which do not qualify as exempt activities pursuant to the Coastal Commission’s guidelines adopted by the Commission pursuant to Section 30610(i) of the Coastal Act shall be monitored and regulated through the coastal development permit process to protect coastal resources from adverse impacts associated with the seasonal or temporary activities.

Policy C 2.4.2: Ensure that adequate parking is maintained and provided in all new development in the Coastal Zone utilizing one or a combination of the following:

- Monitor parking programs to make the most effective use of parking resources, and
- Replace any on-street parking lost in the coastal zone on a 1:1 basis within the coastal zone prior to or concurrent with the loss of any parking spaces.

Policy C 2.4.4: Develop parking areas out-side the Coastal Zone for passenger cars and the development of alternative transportation modes for beach users including incentives for parking in those locations.

Policy C 3.2.1: Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.

Policy C 3.4.2: Enhance the Municipal Pier and surrounding area to function as the “hubs” of tourist and community activity.

The General Plan identifies the project area as mixed-use. The proposed project is consistent with this designation, as the project offers services and entertainment that are allowable under the mixed-use General Plan designation. The project enhances the coastal experience of the community and tourists by establishing a family friendly event, provides several types of entertainment, offers a multitude of food options, services, and goods at a variety of market points, and remains free of charge for all attendees. The project would not include any development or permanent structures or inconsistent land uses. The project includes the temporary restriction of 58 parking stalls on Main Street and 5<sup>th</sup> Street every Tuesday from 2:00 PM to 11:00 PM. During the hours that parking is restricted, parking will be available on the

surrounding streets and within the downtown's four parking structures. Additionally, when the Main Promenade structure is at capacity for two hours, a free shuttle service would be operating from City Hall to the festival site during the hours of 5:30 PM and 10:00 PM. The shuttle would serve as an incentive for festival attendees to park at City Hall and be shuttled into the festival area free of charge. The proposed project will serve to promote and enhance public and community use of the City's Downtown area.

**Zoning Compliance:**

The project is located within the Downtown Specific Plan (DTSP) – District 1 (Downtown Core Mixed-Use) and does not conflict with any applicable requirements. The weekly street festival and certified farmers' market on public streets, and public and private sidewalks, would not include any additional permanent development or modification to existing development. The proposed project is consistent with the standards and guidelines set forth in the DTSP.

**Urban Design Guidelines Conformance:** Not applicable

**Environmental Status:**

In accordance with CEQA, EIR No. 13-003 was prepared by CAA Planning, Inc., to analyze the potential impacts of the project as well as identify appropriate mitigation measures, if any. The required CEQA procedure that was followed is outlined below:

- |                                |  |
|--------------------------------|--|
| May 2013                       | Staff conducted an Initial Study/Mitigated Negative Declaration and determined that a focused EIR would be necessary for the project.                                    |
| Dec. 19, 2013 to Jan. 24, 2014 | A Notice of Preparation was filed with the State Clearinghouse to notify public of intent to prepare a focused EIR and made available for a 30-day public review period. |
| Mar. 20, 2014 to May 5, 2014   | Notice of Completion and Draft EIR filed with the State Clearinghouse and made available for a 45-day public review period.  |

Prior to any action on CUP No. 12-026, CDP No. 12-001, and NDP No. 13-009, it is necessary for the Planning Commission to review and act on EIR No. 13-003.

**EIR Overview**

The focused EIR provides a detailed analysis of potential impacts associated with the proposed project. The issues discussed in the EIR are those that have been identified in the course of extensive review of all potentially significant environmental impacts associated with the project. In the Initial Study, the project was determined to have less than significant or no impacts in the following areas and that no further analysis is required in the EIR: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Material, Hydrology and Water Quality, Mineral Resources, Population and Housing, Public Services, Recreation, and Utilities.

The focused EIR discusses potential adverse impacts in the four issue areas outlined below:

◆ Greenhouse Gas Emissions

The EIR analyzed the level of greenhouse gas emissions (GHG) due to the operation of the project. There is an existing level of greenhouse gas emissions that is present in the project area caused by operation of existing businesses and residents. The project results in a less than significant impact, as GHG emissions are anticipated to be approximately 474.138 metric tons carbon dioxide equivalents (MTCO<sub>2</sub>e) which is well below the 3,000 MTCO<sub>2</sub>e threshold. A minor incremental increase in cumulative GHG emissions will result from project implementation. However, the project will not generate GHG emissions, directly or indirectly, that may have a significant impact on the environment. The project does not conflict with any applicable plan, policy or regulation adopted to reduce GHG emissions. Therefore, impacts would be less than significant with respect to climate change.

◆ Land Use and Planning

The EIR analyzed and concluded that the project is consistent with the City's General Plan, the DTSP, the Local Coastal Program, and the Zoning Code. The project does not divide an established community or conflict with any applicable land use plan or habitat/natural community conservation plan. The project requires approval of a Conditional Use Permit, Coastal Development Permit and Noise Deviation Permit to comply with adopted policies and regulations. However, a weekly street festival and certified farmers' market on existing public streets is consistent with land uses set forth by the General Plan, the Specific Plan, the Local Coastal Program, and the Zoning Code, and would not exacerbate the impacts to any surrounding land uses. There would be no cumulative land use impacts. No mitigation is proposed in the area of Land Use and Planning, and no mitigation is necessary. Surf City Nights will not result in significant adverse unavoidable land use impacts.

◆ Transportation and Traffic

The EIR analyzed and concluded that no significant impacts to study area intersections, streets, or Caltrans-controlled facilities (PCH) are anticipated with project implementation. The Traffic Analysis concludes that the project, including the closure of the first block of 5th Street during Surf City Nights, would not result in traffic impacts. All analyzed intersections would continue to operate at acceptable levels with the additional closure of 5th Street. The project will not conflict with an applicable plan, ordinance, or policy regarding performance of the circulation system. The temporary closure of streets and the additional traffic due to the Surf City Nights event does not exceed the City's threshold (Level of Service D) for the operation of either signalized or unsignalized intersections in the project study area. The level of service will remain within acceptable levels on State highway facilities (PCH). Adequate alternative travel routes are available to reduce impacts on visitors and residents during the eight-hour period the streets will be restricted each Tuesday. Provision for emergency access has been included in the project implementation. To ensure adequate emergency access, street closure barriers are removable and are strategically located to allow emergency vehicle access and a fire lane area has been provided throughout the closure area. Adequate parking and shuttle service are provided and no impacts in this regard will occur. Therefore, no mitigation measures are required in the area of Traffic and Transportation. However, to

ensure adequate parking availability, the requirement to monitor parking as approved in 2008 will be carried forward and is identified as Condition of Approval No. 2 (Attachment No. 2). See further discussion below under Analysis - Parking. There will be no unavoidable adverse impacts in the area of Transportation and Traffic with implementation of the project.

◆ Noise

A noise study was prepared for the project by Mestre Greve Associates in May 2013. Data from the project noise study was used for the noise impact analysis in the EIR. Noise measurements were taken at five locations near sensitive receptors adjacent to the project site to measure existing ambient noise levels as well as noise levels generated during the street fair. The noise study determined that existing ambient noise levels range between 73.9 dBA and 86.1 dBA and are generated primarily by vehicle traffic and existing commercial uses. Because the existing ambient noise levels exceed the Noise Ordinance limits in most cases, the ambient noise levels become the new noise limit. Generally, an increase of 3 dBA or greater over ambient noise levels is considered a significant impact.

Noise measurements taken during the Surf City Night's event varied at each of the five noise monitoring sites. The measured noise level exceeded the existing ambient condition by a range of 3 dBA to 9 dBA (maximum noise level recorded was 88 dBA). Although this increase would occur on a temporary but recurring basis, noise impacts as a result of the event would be considered significant. Because no feasible mitigation measures were identified to reduce noise impacts to a less than significant level, project noise impacts are considered significant and unavoidable. It should be noted that a reduction in significant project noise impacts would require changes to the project. These changes are included in the project alternatives analysis rather than identified as mitigation measures.

While infrequent, to the extent that Surf City Nights coincides with other special events in the City, the combined noise increase may result in a cumulatively significant impact. The proposed project will result in an increase in the existing ambient noise levels, and may incrementally increase noise levels when combined with other projects. Therefore, the project will also result in a cumulative impact.

#### Alternatives to the Proposed Project

CEQA guidelines require that an EIR evaluate a reasonable range of alternatives to the project that would meet the project objectives while potentially avoiding or reducing any of the significant impacts caused by the project. The four alternatives below were evaluated in the EIR:

- Alternative 1: No Project – This alternative assumes that Surf City Nights would cease operation.
- Alternative 2: Alternate Site Location – This alternative involves relocating the existing street festival to the north side of the Pier, across PCH from the existing project site. This alternative would necessitate the use of the adjacent pier parking lot resulting in the loss of parking spaces to accommodate vendors, performers, activities, and the farmers' market.

- Alternative 3: No 5<sup>th</sup> Street Expansion/Reduced Traffic Alternative – This alternative would require that the project remain as status quo, and only utilize Main Street and the adjoining half blocks of Walnut Avenue and Olive Avenue.
- Alternative 4: No Amplified Sound – This alternative would retain the proposed project footprint and uses, but would require live entertainment to be placed only at mid-block locations and would prohibit the use of amplified sound.

Alternatives to the project were considered and analyzed as described in the EIR. The Alternatives considered constitute a reasonable range of alternatives necessary to permit a reasoned choice. The EIR concluded that, of the Alternatives evaluated, the No Project Alternative would be the environmentally superior alternative. As required by CEQA Guidelines, if the No Project Alternative is the environmentally superior alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. The No Amplified Sound Alternative (Alternative 4) would reduce significant impacts associated with the project, but would result in the reduction in the festival atmosphere and energy of the event, making Surf City Nights a less popular event. The project goals would not be met to their full potential if there is a reduction in festival attendees and interest in the festival generally.

#### Public Comments

During the EIR public review period, the City received a total of two comment letters (Attachment No. 6). No changes to the data and analysis contained in the Draft EIR have been required as a result of the comments received during this response process. The responses provided clarify, amplify, and elaborate upon the analysis in the Draft EIR. The Responses to Comments document has been prepared and is incorporated as part of the Final EIR.

#### Statement of Overriding Considerations

Although the existing street festival and certified farmers' market results in a significant and unavoidable impact to Noise, it may still be allowed if a Statement of Overriding Considerations is adopted (Attachment No. 3). CEQA allows decision makers to balance the benefits of the proposed project against its unavoidable environmental impacts in determining whether to approve the project. If the economic and social benefits of a proposed project outweigh the significant and unavoidable impacts, the City may consider the impacts acceptable. Project benefits were based on the following considerations:

- All feasible Conditions of Approval have been imposed to lessen project impacts to less than significant levels as described in the Findings of Fact.
- The Project would provide a community gathering place where locals and visitors can come together, and the Project creates an awareness of the Downtown Huntington Beach businesses.
- The Project would provide a safe family entertainment atmosphere for all ages and serve local businesses, residents, neighboring city residents and tourists.
- The Project would increase sales tax revenue to the City.

In this particular case, staff believes the benefits of the proposed project outweigh the significant and unavoidable impact to Noise as outlined in the Findings of Fact and Statement of Overriding Considerations (Attachment No. 3).

**Environmental Board:**

The Environmental Board was notified of the project and submitted a letter in support. The letter recommends: issuance of a Noise Deviation Permit to allow both acoustic and amplified music, Planning Commission approval of the expansion onto 5<sup>th</sup> Street and approval of the EIR, and continuation of the operations of Surf City Nights. The letter is included and responded to in the Final EIR - Response to Comments (Attachment No. 6).

**Coastal Status:**

The project area is located in the non-appealable area of the Coastal Zone. The project is consistent with the goals and policies of the City's certified Local Coastal Program and would provide for a visitor-serving and community based activity which enhances the coastal experience. In addition, the project does not result in impacts to coastal resources or public coastal access and views.

**Design Review Board:** Not applicable.

**Subdivision Committee:** Not applicable.

**Other Departments Concerns and Requirements:**

The Departments of Planning and Building, Community Services, Economic Development, Fire, and Public Works have reviewed the proposed project and provided comments and recommendations. Any recommended conditions of approval are incorporated into the suggested conditions provided in Attachment No. 2.

**Public Notification:**

Legal notice was published in the Huntington Beach/Fountain Valley Independent on May 29, 2014 and notices were sent to property owners of record and tenants within a 500 foot radius of the subject property, individuals/organizations requesting notification (Planning Division's Notification Matrix), applicant, persons who commented on the EIR, and interested parties. As of June 3, 2014, staff has not received any comments other than written comments received during the draft EIR public comment period.

**Application Processing Dates:**

**DATE OF COMPLETE APPLICATION:**

May 15, 2014

**MANDATORY PROCESSING DATE(S):**

May 15, 2015

**ANALYSIS:**

The primary issues identified below include land use compatibility of the street festival, parking and noise.

### ***Land Use Compatibility***

In the immediate vicinity of the project area, there is an existing and anticipated mix of land uses such as commercial, entertainment, office, residential, and other visitor-serving uses. Surf City Nights will compliment a diverse range of land uses, particularly along Main Street and 5<sup>th</sup> Street, and will serve as a recreational focal point for the surrounding community. The purpose of the DTSP is to create a unique and identifiable downtown for Huntington Beach that capitalizes on the unique location and features of the City's beachside downtown and is an economically vibrant, pedestrian-oriented destination for residents and visitors alike. The project serves to promote a downtown atmosphere with musical entertainment, a children's area and bounce house, a variety of food carts and restaurants, a Certified Farmers' Market, and a multitude of vendors and permanent retail businesses each Tuesday night. The spirit of the weekly street festival is to encourage the utilization of Downtown Huntington Beach by providing a family-friendly environment with eclectic services, goods and dining for all to enjoy. The project is consistent with the surrounding land uses, as it is located in the DTSP area, which is designated as a hub for urban activities and mixed-uses. Due to its proximity to PCH and the oceanfront, the event provides an opportunity for the public to visit Surf City Nights and have access to the various other coastal amenities within the City such as the beach, the pier, and various restaurant and commercial uses along PCH and within the project boundaries. Staff finds that the proposed project is compatible with surrounding uses.

### ***Parking***

Surf City Nights is located within the downtown area and is surrounded by on-street parking, as well as flanked by four parking structures, totaling over 1,700 stalls. The project would require the temporary loss of 58 on-street metered parking stalls from 2:00 PM to 10:00 PM every Tuesday.

Approval of the event in 2007 included a requirement to monitor the Main Promenade parking structure to ensure that demand does not exceed the supply. At that time, the City was required to implement a shuttle service from the Civic Center when the Main Promenade reached capacity for two hours. The City has also partnered with a merchant on 5th Street and Olive Avenue who provides a secure, no-cost parking area for bicyclists on Tuesdays to accommodate the Surf City Nights event, as well as on the weekends. To ensure adequate parking availability, the requirement to monitor parking as approved in 2008 will be carried forward and is identified as Condition of Approval No. 2 (Attachment No. 2).

### ***Noise Deviation***

The project results in the temporary exposure to residents, commercial businesses, and event attendees of noise levels in excess of the standards established in the City's Noise Ordinance. The Huntington Beach Municipal Code Section 8.40.130 (Permit Process) provides that a permit may be granted to deviate from the provisions of the noise ordinance. The applicant must demonstrate that the need to deviate produces a greater benefit to the community which outweighs the temporary increase in noise levels. A Noise Deviation Permit is required for project implementation, because the Surf City Nights event exceeds the ambient noise levels (ranging between 73.9 dBA and 86.1 dBA) by up to 9 dBA during the weekly festival. An increase of 3 dBA or more is considered a significant impact.

Section 8.40.130 of the Municipal Code states that the applicant must provide information in the application regarding actions taken to comply with the Noise Ordinance, reasons why compliance cannot

be achieved, and a proposed method of achieving compliance, if such method exists. Due to the nature of the project, compliance with the Noise Ordinance thresholds is not possible while still maintaining the activities the project has included since 2007. The project provides Huntington Beach residents and visitors with an opportunity to enjoy a family event that is geared towards all ages. Activities, food, farmers' market products, and local retail products are available at the festival, enhanced by live entertainment. Traffic and crowd noise are natural consequences of this type of event and strict compliance with Noise Ordinance requirements are not feasible while maintaining the established activities and project objectives. The benefits to the community and visitors are evident from the success of the weekly festival, which provides an opportunity for local merchants to offer their services and wares to a larger audience. Therefore, the deviation produces a greater benefit to the community that outweighs the temporary, once-a-week noise exceedance. Therefore, staff recommends approval of the Noise Deviation Permit.

### SUMMARY:

- ◆ Staff's Recommendation: Certify Environmental Impact Report No. 13-003 based upon the following:
  - Prepared in accordance with the California Environmental Quality Act (CEQA).
  - Adequately analyzes the potential environmental impacts associated with the proposed project.
  - Evaluates project alternatives.
  - Identifies standard conditions and requirements to lessen the project's impacts consistent with General Plan policies.
  
- ◆ Staff recommends the Planning Commission approve Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-001, and Noise Deviation Permit No. 13-009 based upon the following:
  - Facilitates the operation of a Street Festival and Certified Farmers' Market to provide additional recreational opportunities for the community.
  - Improves the City's fiscal viability by stimulating tourism and increasing tax revenues in conjunction with the event.
  - Consistent with the goals, objectives, and policies of the General Plan.
  - Consistent with the goals the City's Local Coastal Program by enhancing coastal resources, promoting coastal access, and providing a recreational and visitor-serving use.
  - Compatible with the Downtown Specific Plan by providing an economically vibrant, pedestrian-oriented destination for residents and visitors.

### ATTACHMENTS:

1. Draft Planning Commission Resolution (Certifying EIR No. 13-003)
2. Suggested Findings and Conditions of Approval for Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-026, and Noise Deviation Permit No. 13-009
3. CEQA Findings of Fact and Statement of Overriding Considerations – EIR No. 13-003
4. Project Area Map dated December 19, 2013
5. Project Narrative dated November 25, 2013
6. Final EIR No. 13-003, includes Draft EIR, EIR Appendices, and Response To Comments (**not attached – available for review at City Hall and City's website**)

SH:JJ:EE:kd

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF HUNTINGTON BEACH CERTIFYING THE FINAL  
ENVIRONMENTAL IMPACT REPORT (SCH#2013051088)  
FOR THE SURF CITY NIGHTS PROJECT**

**WHEREAS**, Environmental Impact Report No. 13-003, State Clearinghouse # 2013051088 (“EIR”) was prepared by the City of Huntington Beach (“City”) to address the environmental implications of the proposed Surf City Nights Project (the “Project”); and

On December 19, 2013, a Notice of Preparation/Initial Study for the Project was distributed to the State Clearinghouse, other responsible agencies, trustee agencies and interested parties; and

After obtaining comments received in response to the Notice of Preparation, the City completed preparation of the Draft EIR and filed a Notice of Completion with the State Clearinghouse on March 20, 2014; and

The Draft EIR was circulated for public review and comment from March 20, 2014 to May 5, 2014, and was available for review at several locations including City Hall Planning and Building Department, City Clerk’s Office, Central Library, Main Street Library and the City’s website; and

Public comments have been received on the Draft EIR, and responses to those comments have been prepared and provided to the Planning Commission; and

Public Resources Code 21092.5(a) requires that the City of Huntington Beach provide a written proposed response to any public agency that commented on the Environmental Impact Report, and the Response to Comments included in the Final Environmental Impact Report satisfies this provision; and

The Planning Commission held a public meeting on the EIR on June 10, 2014 and received and considered public testimony,

**NOW, THEREFORE**, the Planning Commission of the City of Huntington Beach does hereby resolve as follows:

**SECTION 1.** Consistent with CEQA Guidelines Section 15132, the Final EIR for the Project is comprised of the Draft EIR and Appendices, the comments received on the Draft EIR, the Responses to Comments (including a list of persons, organizations, and public agencies commenting on the Draft EIR), the Text Changes to the Draft EIR (bound together with the Responses to Comments) and all Planning and Building Department Staff Reports to the Planning Commission, including all minutes, transcripts, attachments and references. All of the above information has been and will be on file with the City of Huntington Beach Department of Planning and Building, 2000 Main Street, Huntington Beach, California 92648.

**SECTION 2.** The Planning Commission finds and certifies that the Final EIR is complete and adequate in that it has identified all significant environmental effects of the Project and that there are no known potential environmental impacts not addressed in the Final EIR.

**SECTION 3.** The Planning Commission finds that all significant effects of the Project are set forth in the Final EIR.

**SECTION 4.** The Planning Commission finds that although the Final EIR identifies certain significant environmental effects that will result if the Project is approved, all significant effects which can feasibly be mitigated or avoided have been mitigated or avoided by the incorporation of Project design features and standard conditions and requirements.

**SECTION 5.** The Planning Commission finds that the Final EIR has described reasonable alternatives to the Project that could feasibly obtain the basic objectives of the Project (including the “No Project” Alternative), even when these alternatives might impede the attainment of Project objectives. Further, the Planning Commission finds that a good faith effort was made to incorporate alternatives in the preparation of the Draft EIR and that a reasonable range of alternatives was considered in the review process of the Final EIR and ultimate decisions on the Project.

**SECTION 6.** The Planning Commission finds that no “substantial evidence” (as that term is defined pursuant to CEQA Guidelines Section 15384) has been presented that would call into question the facts and conclusions in the EIR.

**SECTION 7.** The Planning Commission finds that no “significant new information” (as that term is defined pursuant to CEQA Guidelines Section 15088.5) has been added to the Final EIR after circulation of the Draft EIR. The Planning Commission finds that the minor refinements that have been made in the Project as a result of clarifications in the mitigation measures and EIR text do not amount to significant new information concerning the Project, nor has any significant new information concerning the Project become known to the Planning Commission through the public hearings held on the Project, or through the comments on the Draft EIR and Responses to Comments.

**SECTION 8.** The Planning Commission finds that the Final EIR reflects the independent review and judgment of the City of Huntington Beach Planning Commission, that the Final EIR was presented to the Planning Commission, and that the Planning Commission reviewed and considered the information contained in the Final EIR prior to approving Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-001, and Noise Deviation Permit No. 13-009.

**SECTION 9.** The Planning Commission finds that the Final EIR serves as adequate and appropriate environmental documentation for the Project. The Planning Commission certifies that the Final EIR prepared for the Project is complete, and that it has been prepared in compliance with the requirements of the California Environmental Quality Act and CEQA Guidelines.

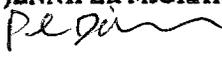
**PASSED AND ADOPTED** by the Planning Commission of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

\_\_\_\_\_  
Scott Hess, Secretary

\_\_\_\_\_  
Chairperson, Planning Commission

APPROVED AS TO FORM  
JENNIFER McGRATH, City Attorney  
 5/29/2014  
By Paul D'Alessandro  
Assistant City Attorney

## ATTACHMENT NO. 2

### SUGGESTED FINDINGS AND CONDITIONS FOR APPROVAL

#### CONDITIONAL USE PERMIT NO. 12-026/ COASTAL DEVELOPMENT PERMIT NO. 12-001/ NOISE DEVIATION PERMIT NO. 13-009

#### SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 12-026:

1. Conditional Use Permit No. 12-026 to permit the temporary closure of Main Street and 5th Street (public and private property including sidewalks) every Tuesday night between 2:00 PM and 10:00 PM to accommodate a Street Fair and Certified Farmers' Market consisting of: live entertainment including amplified music, street performances, children's games and activities, local merchant displays, sidewalk sales, a food-court, and the sale of prepackaged food and handcrafted items 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 street festival will attract tourists and Huntington Beach residents to Main Street, 5th Street, and the Municipal Pier reinforcing Downtown Huntington Beach as a "hub" of community activity. The weekly event increases and enhances recreational opportunities by providing public recreational and community activities with adequate parking and parking facilities within the downtown and nearby parking at City Hall. Parking facilities will be monitored to ensure adequate parking is provided and a shuttle service will be provided. The project is not anticipated to generate significant impacts related to noise, traffic, or safety within the surrounding areas.
2. The conditional use permit will be compatible with surrounding uses because the project area consists of a mix of land uses such as commercial, entertainment, office, residential, and other visitor-serving uses. Surf City Nights will compliment a diverse range of land uses, particularly along Main Street and 5<sup>th</sup> Street, and will serve as a recreational focal point for the surrounding community. The project promotes a downtown atmosphere with musical entertainment, a children's area and bounce house, a variety of food carts and restaurants, a Certified Farmers' Market, and a multitude of vendors and permanent retail businesses each Tuesday night. The spirit of the weekly street festival is to encourage the utilization of Downtown Huntington Beach by providing a family-friendly environment with eclectic services, goods and dining.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The project requires approval of a conditional use permit and coastal development permit for a weekly street festival and certified farmers' market, and a noise deviation permit to allow temporary and periodic noise increases to ambient noise levels already in excess of City standards. The weekly street fair and certified farmers' market on public streets, and public and private sidewalks, would not include any additional development or modification to existing development. The proposed project is consistent with the intent of the Downtown Specific Plan because the use provides visitor-serving opportunities and promotes a unique and identifiable downtown for Huntington Beach that

capitalizes on the distinctive location by providing an economically vibrant, pedestrian-oriented destination for residents and visitors alike.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of M>30-d-sp-pd (Mixed Use 30 du/acre – Design Overlay – Specific Plan Overlay – Pedestrian Overlay) on the subject project area. In addition, it is consistent with the following goals and objectives of the General Plan:

A. Land Use Element

Goal LU 7: Achieve a diversity of land uses that sustain the City’s economic viability, while maintaining the City’s environmental resources and scale and character.

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

B. Recreation and Community Services Element

Goal RCS 1: Enrich the quality of life for all citizens of Huntington Beach by providing constructive and creative leisure opportunities.

Objective RCS1.1: Encourage recreational opportunities unique to Huntington Beach which will enhance visitation and economic development.

The General Plan identifies the project area as mixed-use. The proposed project is consistent with this designation, as the project offers services and entertainment that are allowable under the mixed-use General Plan designation. The proposed project would not include any development or permanent structures or inconsistent land uses. The project is located in an existing built-out area of the City, and does not involve changes in the existing Land Use for the project site or the surrounding area. The proposed project will serve to promote and enhance public and community use of the City’s Downtown area.

**SUGGESTED FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 12-001:**

1. Coastal Development Permit No. 12-001 to permit the temporary closure of Main Street and 5th Street (public and private property including sidewalks) every Tuesday night between 2:00 PM and 10:00 PM to accommodate a Street Fair and Certified Farmers’ Market consisting of: live entertainment including amplified music, street performances, children’s games and activities, local merchant displays, sidewalk sales, a food-court, and the sale of prepackaged food and handcrafted items, conforms with the General Plan, including the Local Coastal Program. The project is consistent with the following Coastal Element Land Use Policies:

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.6: Temporary and seasonal activities within the coastal zone which do not qualify as exempt activities pursuant to the Coastal Commission's guidelines adopted by the Commission pursuant to Section 30610(i) of the Coastal Act shall be monitored and regulated through the coastal development permit process to protect coastal resources from adverse impacts associated with the seasonal or temporary activities.

Policy C 2.4.2: Ensure that adequate parking is maintained and provided in all new development in the Coastal Zone utilizing one or a combination of the following:

- Monitor parking programs to make the most effective use of parking resources, and
- Replace any on-street parking lost in the coastal zone on a 1:1 basis within the coastal zone prior to or concurrent with the loss of any parking spaces.

Policy C 2.4.4: Develop parking areas out-side the Coastal Zone for passenger cars and the development of alternative transportation modes for beach users including incentives for parking in those locations.

Policy C 3.2.1: Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.

Policy C 3.4.2: Enhance the Municipal Pier and surrounding area to function as the "hubs" of tourist and community activity.

The weekly street festival and certified farmers' market will attract tourists and Huntington Beach residents to Main Street, 5th Street, and the Municipal Pier reinforcing Downtown Huntington Beach as a "hub" of community activity. The weekly event increases and enhances recreational opportunities by providing public recreational and community activities with adequate parking and parking facilities within the downtown and nearby parking at City Hall. Parking facilities will be monitored to ensure adequate parking is provided and a shuttle service will be provided.

2. The weekly street festival and certified farmers' market is consistent with the requirements of the Coastal Zone Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The project does not involve the construction of permanent structures. The street closures are facilitated by the use of metal bollards and other similar barricades, placed to divert traffic and promote pedestrian safety. All blockades are removable and the site is fully accessible to emergency vehicles at all times.
3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. All infrastructure exists for the proposed use consistent with the Huntington Beach Coastal Element.
4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. All public access will remain to the beach and pier area.

**SUGGESTED FINDINGS FOR APPROVAL – NOISE DEVIATION PERMIT NO. 13-009:**

1. Noise Deviation Permit No. 13-009 to deviate from the exterior noise standards in Huntington Beach Municipal Code Section 8.40.050 for the Surf City Nights, a weekly street festival and certified farmers' market between the hours of 2:00 PM and 10:00 PM every Tuesday, is necessary because the event will be outside on public and private right-of-ways where methods for noise containment are limited. The increase in noise levels exceeds the ambient noise levels (ranging between 73.9 dBA and 86.1 dBA) by 3 dBA or more during the weekly festival. Exceedence of the Noise Ordinance limit range between from 3 dBA and 9 dBA. Due to the nature of the project, compliance with the Noise Ordinance thresholds is not possible while maintaining project activities including live entertainment.
2. The Surf City Nights street festival and certified farmers' market is a weekly event that is open to the public and free of charge. Due to the nature of the project, compliance with the Noise Ordinance thresholds is not possible while still maintaining the activities the project has included since 2007. The project provides Huntington Beach residents and visitors with an opportunity to enjoy a family event that is geared towards all ages. Activities, food, farmers' market products, and local retail products are available at the festival, enhanced by live entertainment. Traffic and crowd noise are natural consequences of this type of event and strict compliance with Noise Ordinance requirements are not feasible while maintaining the established activities and project objectives. The benefits to the community and visitors are evident from the success of the weekly festival, which provides an opportunity for local merchants to offer their services and wares to a larger audience. Therefore, the deviation produces a greater benefit to the community that outweighs the temporary, once-a-week noise exceedance. Surf City Nights, as a community and recreational amenity, will benefit the surrounding neighborhoods and the City at-large. The noise during the event will be temporary and periodic and occur on a weekly basis between the hours of 2:00 PM and 10:00 PM.
3. The applicant has taken the following actions to minimize the noise impacts:
  - a. Live entertainment including amplified music will be limited to Main Street only.
  - b. Live entertainment including amplified music will be limited to the hours of 5:00 PM to 9:00 PM on Tuesdays.

**SUGGESTED CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 12-026/ COASTAL DEVELOPMENT PERMIT NO. 12-001/ NOISE DEVIATION PERMIT NO. 13-009:**

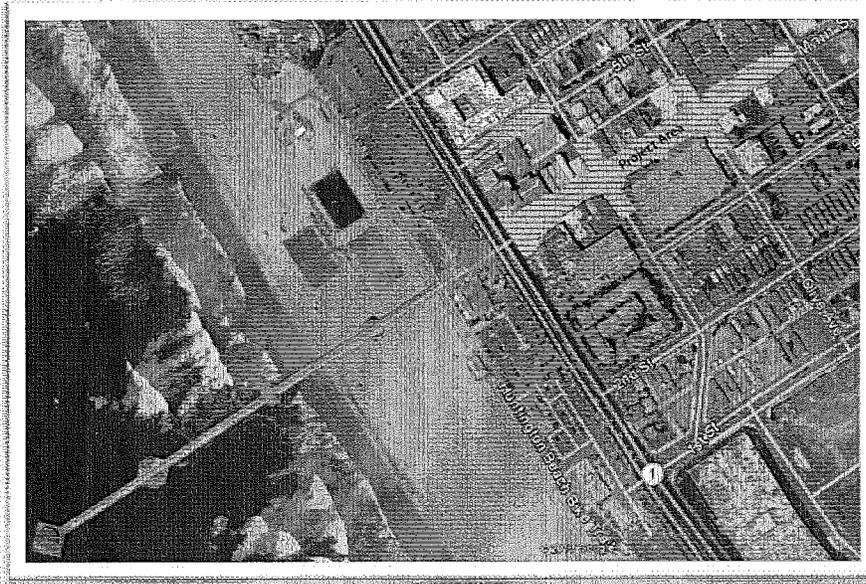
1. The project area plan received and dated December 19, 2013, shall be the conceptually approved layout.
2. During peak visitor periods from Memorial Day to October 1, a free shuttle service shall be provided to encourage visitor parking at the Civic Center. The shuttle service shall operate when the Main Promenade parking structure reaches capacity for a period of two hours, as determined by an electronic monitoring system.

3. Live entertainment, including amplified music, shall be limited to Main Street only and between the hours of 5:00 PM and 9:00 PM every Tuesday.
4. Prior to implementation of the street closure on 5<sup>th</sup> Street:
  - a. An Encroachment Permit from Caltrans is required for placement of traffic control devices on Pacific Coast Highway. **(PW)**
  - b. A traffic control plan showing the street closure on 5<sup>th</sup> Street shall be prepared and referenced on the Public Works Encroachment Permit. The plan shall show the location of the signage of Pacific Coast Highway and Walnut Avenue in advance of 5<sup>th</sup> Street and indicate what type of barriers/traffic control devices will be used on 5<sup>th</sup> Street to restrict vehicular traffic movements. An additional left turn only symbol sign (California Sign R3-5,LT) shall be installed at the alley existing onto 5<sup>th</sup> Street. **(PW)**
  - c. The applicant shall reimburse the Public Works staff for the installation and removal of the 5<sup>th</sup> Street closure on event days. **(PW)**
5. Traffic Control for the event shall be provided in accordance with all Public Works, Police and Fire Department requirements for access, circulation and protection of the public. If outside contractors are used in lieu of City forces to install traffic control, encroachment permits shall be obtained from Public Works Department and CALTRANS (if required). **(PW)**
6. The Development Services Departments (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.
7. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
8. Conditional Use Permit No. 12-026, Coastal Development Permit No. 12-001, and Noise Deviation Permit No. 13-009 shall become null and void unless exercised within two years of the date of final approval by the Planning Commission, 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.

**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.

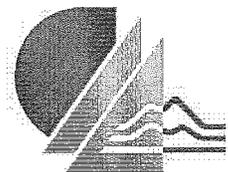


**Findings of Fact/  
Statement of Overriding Considerations  
Regarding  
Final Focused Environmental Impact Report No. 13-003  
SCN: 2013051088**

**Surf City Nights Project**

Prepared for:

Lead Agency  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648  
Contact Person: Ethan Edwards  
(714) 536-5561



Prepared by:

CAA Planning, Inc.  
65 Enterprise, Suite 130  
Aliso Viejo, CA 92656  
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June 2014

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## 1. Introduction

This document presents the Findings of Fact and Statement of Overriding Considerations that must be adopted by the City of Huntington Beach (City) pursuant to the requirements of §15091 and §15093 of the California Environmental Quality Act Guidelines (CEQA Guidelines) prior to the approval of the Surf City Nights Project.

The following discretionary approvals by the City of Huntington Beach are required to implement the proposed project:

1. Certification of the Surf City Nights Final Environmental Impact Report, State Clearinghouse Number 2013051088, which consists of the Draft Focused Environmental Impact Report (Draft FEIR) dated March 20, 2014, and the Final Focused Environmental Impact Report (Final FEIR), including Responses to Comments, dated May, 2014, collectively referred to as the "Final EIR" and finding that the FEIR has been completed in compliance with the California Environmental Quality Act (Public Resources Code §§ 21000, et seq.) ("CEQA")
2. Approval of a Coastal Development Permit No. 12-001
3. Approval of a Conditional Use Permit No. 12-026
4. Approval of a Noise Deviation Permit No. 13-009

## 2. Background – FEIR Process and Content

Surf City Nights is an existing downtown street festival that occurs every Tuesday night. Surf City Nights includes a Certified Farmer's Market, live entertainment consisting of amplified music, street performances, children's games and activities, local merchant displays, sidewalk sales, a food court, and the sale of prepackaged food and handcrafted items. The festival runs weekly on Tuesday nights from 5:00 p.m. until 9:00 p.m., but is cancelled in the event of heavy rain or showers. This event was established in 2007 and run by the City of Huntington Beach (City) for the first two years, and is now run by the Downtown Business Improvement District (DTBID), which took over management and operations of the festival in 2009.

The City's Office of Business Development and the DTBID are co-applicants for the Proposed Project, which includes renewed discretionary permits for 1) the current operation; and 2) the expansion of Surf City Nights from its current location on Main Street between Pacific Coast Highway and Orange Avenue, onto 5<sup>th</sup> Street between Pacific Coast Highway and Walnut Avenue. The Project requires the temporary closure of downtown streets, including Main Street and 5<sup>th</sup> Street, every Tuesday from 2:00 p.m. until 10:00 p.m. The street closures are facilitated by the use of metal bollards and other similar barricades placed to divert traffic and promote pedestrian safety; however, all blockades are removable, and the site is fully accessible to emergency vehicles at all times. The event requires that parking meters within the festival area of Main Street and 5<sup>th</sup> Street be bagged and labeled with No Parking signs, indicating that vehicles must be moved by 2:00 p.m. Parking for the event is available on surrounding streets and within an 850-stall parking structure located on Main Street in addition to other available publicly accessible parking areas. Peak attendance is observed during the summer months when the City accommodates additional off-site parking with a free shuttle to and from the event site. The shuttle has operating hours of 5:30 p.m. to 10:00 p.m., and is initiated once the Main Street parking structure is full. The Project includes amplified music on Main Street. No amplified music is proposed for 5<sup>th</sup> Street.

The City completed and circulated an Initial Study/Mitigated Negative Declaration (IS/MND) for the Surf City Nights Project in May 2013 and found that there was substantial evidence that the Project may have a significant impact on the environment and that a Focused Environmental Impact Report (Draft FEIR) would be required. The Notice of Preparation was sent out December 19, 2013 and the Draft FEIR was circulated for public review from March 20, 2014 to May 5, 2014. Potentially significant environmental impacts addressed in the Draft FEIR include Greenhouse Gas Emissions, Land Use and Planning, Noise, and Transportation and Traffic. The Draft FEIR analyzed Project impacts and cumulative impacts of the Project, together with related projects and growth-inducing impacts of the Project. The Draft FEIR identified measures to minimize, reduce, avoid, or compensate for the potential adverse effects of the Project.

The Draft FEIR also analyzed a number of potential alternatives to the Proposed Project, including:

- Project Alternative 1 – No Project
- Project Alternative 2 – Alternate Site Location
- Project Alternative 3 – No 5<sup>th</sup> Street Expansion
- Project Alternative 4 – No Amplified Sound

The Draft FEIR describes each alternative and discusses the environmental impacts of each alternative as compared to the Project. The No Project Alternative was determined to be the Environmentally Superior Alternative, most successful at reducing the level of significant impacts associated with the Project, which include noise and traffic. The range of alternatives considered in the Draft FEIR is reasonable. The City has reviewed each of the alternatives and recommends approval of the Project, as proposed.

The City circulated the Draft FEIR to all affected city, state, and local agencies and interested parties. The Draft FEIR was made available for a 45-day public review and comment period commencing March 20, 2014 and ending May 5, 2014. CEQA Guidelines state that a Lead Agency shall provide a public review period of not less than 45 days for a proposed Environmental Impact Report when review by state agencies is required. Distribution of the Draft FEIR and Notice of Availability for review and comment was sent to the State Clearinghouse, state, local, and other public agencies, interested parties and all property owners and tenants within a 500-foot radius. The Notice of Completion and Availability of a Draft Focused Environmental Impact Report was posted at the County Clerk Recorder and on the City's website. Copies of the Draft FEIR were made available for public review at the City Planning and Building Department, the City Clerk's office and the Main Street Branch Library, the Huntington Beach Central Library and on the City's website. All comments received were responded to in the Responses to Comments and incorporated into the Final FEIR.

A public hearing on the Project and the Draft EIR was held before the Planning Commission. On June 10, 2014, the City approved a Coastal Development Permit, a Conditional Use Permit, and a Noise Deviation Permit. The City also made the following findings to certify the Draft FEIR.

- The Draft FEIR has been prepared in accordance with CEQA and State and County Guidelines for implementation of CEQA. Specifically, the City has relied on §15084(d)(3) of the CEQA Guidelines, which allows for the draft to be prepared by a consultant retained by the applicant. The Planning Department, acting for the City, has reviewed and revised as necessary the submitted drafts to ensure the FEIR reflects its own independent judgment, including reliance on City technical personnel from other departments.
- The Planning Commission finds and certifies that the Final Focused EIR is complete and adequate in that it has identified all significant environmental effects of the Project and that there are no known potential environmental impacts not addressed in the Final Focused EIR.
- The Planning Commission finds that although the Final Focused EIR identifies a significant noise impact that will result if the Project is approved, all significant effects

that can feasibly be mitigated or avoided have been mitigated or avoided by the incorporation of standard requirements and conditions of approval.

- The Planning Commission finds that the Final Focused EIR has described reasonable alternatives to the Project that could reasonably obtain the basic objectives of the Project, even when these alternatives might impede the attainment of Project objectives. Further, the Planning Commission finds that a good faith effort was made to incorporate alternatives in the preparation of the Draft FEIR and that a reasonable range of alternatives was considered in the review process of the Final Focused EIR and ultimate decisions on the Project.
- The Planning Commission finds that no “substantial evidence” (as that term is defined pursuant to CEQA Guidelines §15384) has been presented that would call into question the facts and conclusions in the FEIR.
- The Planning Commission finds that no “significant new information” (as that term is defined pursuant to CEQA Guidelines §15088.5) has been added to the Final FEIR after circulation of the Draft FEIR. The Planning Commission finds that the minor refinements that have been made to the Project as a result of clarifications in the FEIR text do not amount to significant new information concerning the Project, nor has any significant new information concerning the Project become known to the Planning Commission through the public hearings held on the Project, or through the comments on the Draft FEIR and Responses to Comments.
- The Planning Commission finds that the Final Focused EIR reflects the independent review and judgment of the City of Huntington Beach Planning Commission, that the Final Focused EIR was presented to the Planning Commission, and that the Planning Commission reviewed and considered the information contained in the Final Focused EIR prior to approving it.
- The Planning Commission finds that the Final Focused EIR serves as adequate and appropriate environmental documentation for the Project and that it has been prepared in compliance with the requirements of the California Environmental Quality Act and CEQA Guidelines.

### 3. CEQA Findings

Having received, reviewed, and considered the foregoing information, as well as any and all other information in the record, the City hereby makes findings pursuant to and in accordance with §21081 of the *California Public Resources Code* and §15091 of the CEQA Guidelines as follows:

1. Changes or alterations have been required in, or incorporated into, the Project that would avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

CEQA requires that the Lead Agency adopt mitigation measures or alternatives, where feasible, to avoid or substantially reduce significant environmental impacts that would otherwise occur as a result of a project. However, project modification or alternatives are not required where they are infeasible or where the responsibility for modifying the project lies with some other agency (CEQA Guidelines §15091, subdivision (a), [3]). *California Public Resources Code* §21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors."

Only after fully complying with the findings requirement can an agency adopt a Statement of Overriding Considerations (*Citizens for Quality Growth v. City of Mount Shasta* [1988] 198 Cal.App.3d 433, 442, 445 [243 Cal. Rptr. 727]). CEQA requires the Lead Agency to state in writing the specific rationale to support its actions based on the Final EIR and/or information in the record. This written statement is known as the Statement of Overriding Considerations. The Statement of Overriding Considerations provides the information that demonstrates the decision-making body of the Lead Agency has weighed the benefits of the project against its unavoidable adverse effects in determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable."

This document presents the City of Huntington Beach findings as required by CEQA, cites substantial evidence in the record in support of each of the findings, and presents an explanation to supply the logical step between the finding and the facts in the record (CEQA Guidelines §15091). Additional facts that support the findings are set forth in the Draft FEIR, the Final FEIR, staff reports, and the record of proceedings.

## 4. Findings Regarding Focused Environmental Impact Report

The objectives of the Proposed Project identified by the City are presented as follows:

1. Create an awareness of the Downtown Huntington Beach businesses
2. Provide a community gathering place where local and visitors can come together to enjoy food, music, and fresh certified organic fruits and vegetables
3. Serve local businesses and their families, Huntington Beach residents, neighboring cities' residents, and tourists
4. Provide a safe family entertainment atmosphere for all ages
5. Expose residents and visitors to restaurants, stores, and businesses that are often overlooked
5. Eliminate traffic on Main Street and 5<sup>th</sup> Street to create a large gathering area for festival attendees
6. Increase sales tax revenue to the City

The following findings related to Greenhouse Gas Emissions, Land Use and Planning, Noise, and Transportation and Traffic as analyzed in the Draft FEIR.

### A. Environmental Effects Determined Significant in the Initial Study/NOP

The Initial Study/NOP for the Proposed Project identified a significant environmental impact related to Noise. The Noise Impact Analysis showed that the City's noise ordinance limits were exceeded at each noise measurement site with the Surf City Nights event in progress for at least one of the noise metrics utilized in the Analysis. Recommended mitigation in the IS/NOP has been incorporated in the Draft Focused EIR as a condition of approval or as a Project alternative.

### B. Potential Environmental Effects Identified in the Draft FEIR That Have Been Reduced to a Less Than Significant Level

The City has determined, based on the Draft FEIR, that Project conditions of approval will reduce Project-specific impacts to less than significant levels for the following potential impacts.

1. **Greenhouse Gas Emissions** – Using the recommended Tier 3 approach for mixed use/other land use projects results in levels below the established threshold.
2. **Land Use and Planning** – The Project is consistent with land uses designated in the General Plan, the Specific Plan, the Local Coastal Program, and City Zoning Code with approval of a Noise Deviation Permit.

3. **Transportation and Traffic** – No parking or circulation impacts will occur, and all intersections will operate at an acceptable level of service with incorporation of Condition of Approval COA-1 related to parking.

The City has further determined, based on the Draft FEIR, that the conditions of approval reduce impacts to less than cumulatively considerable levels for the following potential cumulative impact.

1. **Transportation and Traffic** – The Proposed Project will result in the temporary closure of streets, thereby reducing available metered parking while also increasing traffic volumes in the Project vicinity. A shuttle service will ensure that patrons have access to adequate parking and no cumulative impacts will occur.

The condition of approval related to a shuttle system for parking has been incorporated by reference into the Conditions of Approval for the Project Coastal Development Permit, the Conditional Use Permit and the Noise Deviation Permit.

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## C. Project Impacts That Are Less Than Significant

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### 1. Greenhouse Gas Emissions

#### Impact Statement

The Tier 3 approach for analysis of Project GHG emissions results in a less than significant impact. The SCAQMD proposed threshold for emissions under Tier 3 is 3,000 MTCO<sub>2</sub>e per year, and the Project emissions would total 474.138 MT CO<sub>2</sub>e; therefore, impacts would be less than significant with respect to climate change.

#### Findings

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Draft FEIR. Use of the SCAQMD Tier 3 approach to GHG emissions results in a presumption of less than significant impacts.

#### Mitigation Measures Added

None

#### Effects Not Mitigated to a Level of Insignificance

None

## **2. Land Use**

### **Impact Statement**

The Project is consistent with the City's General Plan, the Specific Plan, the Local Coastal Program, and the Zoning Code. A Noise Deviation Permit will eliminate the conflict between the Noise Ordinance requirements and noise generated by the Proposed Project. The Project will not result in significant adverse unavoidable land use impacts, and no mitigation is required.

### **Findings**

Changes or alterations have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental effect as identified in the Draft FEIR.

### **Mitigation Measures Added**

None

### **Effects Not Mitigated to a Level of Insignificance**

None

## **3. Transportation and Traffic**

### **Impact Statement**

The Traffic Analysis concludes that the Proposed Project, including the closure of the first block of 5<sup>th</sup> Street during Surf City Nights, would not result in significant traffic impacts. The level of service at each study intersection meets the City criteria for acceptable service levels. No cumulative impacts were identified related to traffic and parking availability.

### **Findings**

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Draft FEIR.

### **Mitigation Measures Added**

None

### **Effects Not Mitigated to a Level of Insignificance**

None

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## **D. Significant Unavoidable Environmental Effects That Cannot Be Mitigated to a Less Than Significant Level**

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The City has determined that, while Project Conditions of Approval will reduce the effects of the impacts identified in the Draft FEIR, some effects cannot be feasibly or effectively mitigated to less than significant levels for Noise. Implementation of the Proposed Project will result in the exposure of persons to noise levels in excess of the standards established in the City's Noise Ordinance, resulting in a temporary and periodic increase in noise levels as compared to existing ambient noise levels. Cumulative impacts that cannot be feasibly or effectively mitigated to less than considerable levels also include noise, resulting in a temporary and periodic increase in ambient noise levels. However, the Project will not result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. Existing noise is due to traffic and commercial uses in the Project vicinity. Consequently, in accordance with §15093 of the CEQA Guidelines, a Statement of Overriding Considerations has been prepared (see Section 6 – Statement of Overriding Consideration (page 17)).

### **1. Noise**

#### **Impact Analysis**

The increase in noise levels due to the Project is greater than 3 dB, which is a perceptible increase in noise levels and is considered a significant, unavoidable impact for the purposes of CEQA analysis. The Project includes approval of a Noise Deviation Permit. The Permit would not eliminate the impacts identified related to noise; however, it would permit the deviation to occur, thereby removing the conflict that currently exists between the Noise Ordinance thresholds and requirements and the noise generated by the Project. The impact would remain significant during the weekly Surf City Nights event.

#### **Findings**

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen of the significant environmental effect as identified in the Draft FEIR. The proposed Project does not include amplified sound on 5<sup>th</sup> Street, lessening the impact of adding 5<sup>th</sup> Street between PCH and Walnut to the existing Project footprint. Therefore, existing noise levels would remain substantially the same.

#### **Mitigation Measures Added**

None. There is no feasible mitigation measure that can attenuate the sound from amplified music associated with the Project.

#### **Effects Not Mitigated to a Level of Insignificance**

A temporary and periodic increase in noise levels that currently exceed the City's Noise Ordinance standard during the weekly Surf City Nights event.

## 5. Findings Regarding Project Alternatives

This section describes the project objectives used to evaluate project alternatives presented in the Draft FEIR and recommend the Proposed Project. A description of the alternatives compared to the Proposed Project and the findings regarding the feasibility of adopting the described alternatives is presented for use by the City in the decision-making process.

Alternatives to the Project were considered and analyzed as described in Chapter 6 of the Draft FEIR. The Alternatives considered constitute a reasonable range of alternatives necessary to permit a reasoned choice. The Draft FEIR concluded that, of the Alternatives evaluated, the No Project Alternative would be the environmentally superior alternative. As required by CEQA Guidelines §15126.6(e)(2), if the No Project Alternative is the environmentally superior alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. The No Amplified Sound Alternative (Alternative 4 discussed below) would reduce significant impacts associated with the Project, but would result in the reduction in the festival atmosphere and energy of the event, making Surf City Nights a less popular event. The Project goals would not be met to their full potential if there is a reduction in festival attendees and interest in the festival generally.

### A. Alternative Considered but Not Advanced

Per CEQA Guidelines §15126.6(c), an EIR should identify any alternatives that were considered by the Lead Agency but were rejected as infeasible during the scoping process. Factors that may be used to eliminate alternatives from detailed consideration include: 1) failure to meet most of the basic project objectives, 2) infeasibility, or 3) inability to avoid significant impacts.

The Draft FEIR considered, but did not analyze, an alternative that would extend the festival farther up Main Street. Further closure of Main Street is not preferred, as Orange Avenue serves as a thoroughfare for the rest of the City and surrounding areas. Reconfiguring the festival could create a greater impact on area residents, and traffic, safety and circulation. Additionally, an alternative to extend up Main Street would not lessen noise impacts, or any other impacts, but rather would shift the impacts.

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## **B. Alternatives**

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### **1. Project Alternative 1 – No Project**

#### **Description of Alternative**

Under the No Project Alternative, the Surf City Nights festival would cease operation. Existing uses including commercial, retail, office, and residential uses would remain the same.

#### **Comparison of Effects**

The No Project Alternative would not result in significant impacts related to greenhouse gas emissions, land use and planning, noise, or transportation and traffic. The No Project Alternative would discontinue the festival and any live entertainment associated with Surf City Nights, alleviating any noise effects from live entertainment. The area's ambient noise level would be maintained, and a Noise Deviation Permit would not be required.

#### **Finding**

The City hereby finds that the No Project Alternative is infeasible for the following environmental, economic, social, and other considerations.

1. The No Project Alternative is the environmentally superior alternative, but does not achieve any of the Project objectives outlined in the Draft FEIR.
2. The No Project Alternative would maintain the current retail, office, commercial, and residential uses, but would not enhance business, resident, or tourist opportunities through the weekly Surf City Nights event.

### **2. Project Alternative 2 – Alternate Site Location**

#### **Description of Alternative**

This Alternative was considered in response to a comment letter suggesting the festival be relocated to the north side of the Municipal Pier, across Pacific Coast Highway from the existing site. The Surf City Nights event is greater in size than the weekly art fair that occurs at the alternate location and would necessitate use of the pier parking lot for festival booths and activities. This would result in the loss of a considerable amount of parking.

#### **Comparison of Effects**

1. **Greenhouse Gas Emissions** – Relocation to the Pier could result in the need for additional generators to provide electrical access. Additional generators could create additional greenhouse gas emissions and result in a greater impact.
2. **Land Use and Planning** and **Noise** impacts would be substantially the same.

3. **Transportation and Traffic** – The displacement of pier-side parking would be greater than the temporary loss of 58 on-street spaces resulting from the Proposed Project. Impacts would be greater with Alternative 2.

### Findings

The City hereby finds that the Alternate Site Location Alternative is infeasible for the following environmental, economic, social, and other considerations:

1. The Alternate site Location would fail to meet the Project's main goal of drawing attention to businesses located in the Downtown area.
2. The Alternate site Location would not create the cohesive environment the festival seeks as the retail businesses would be segmented from the festival.
3. The festival could not be accommodated within the existing staging area.
4. The Alternate site Location would result in greater impacts due to greenhouse gas emissions and the loss of parking at the pier.

### 3. Project Alternative 3 – No 5<sup>th</sup> Street Expansion

#### Description of Alternative

Surf City Nights has been in operation on Main Street and the adjoining half blocks of Walnut Avenue and Olive Avenue since 2007. As proposed, the street festival would be expanded to include the first block of 5<sup>th</sup> Street from PCH to Walnut Avenue. This alternative would eliminate the expansion of the festival to 5<sup>th</sup> Street between PCH and Walnut Avenue.

#### Comparison of Effects

Impacts related to greenhouse gas emissions and land use and planning would be substantially the same with this Alternative as with the Proposed Project.

1. **Noise** – A Noise Deviation Permit would still be required for Project implementation, because the Surf City Nights event exceeds the City's 65 dBA threshold during the weekly festival. This alternative would not be expected to reduce the identified noise impacts from amplified sound and crowd noise. However, there is no live entertainment or amplified sound proposed for the 5<sup>th</sup> Street segment of the Project as proposed.
2. **Transportation and Traffic** – The Proposed Project would restrict access on 5<sup>th</sup> Street between PCH and Walnut Avenue, requiring area access via other adjacent streets and through the existing alley. Closure of 5<sup>th</sup> Street would result in the level of service at 6<sup>th</sup> Street to decrease from LOS B to LOS C. However, this is not considered a significant impact, and LOS C is considered acceptable to the City. This Alternative would allow 5<sup>th</sup> Street to remain open to traffic and no impact to 6<sup>th</sup> Street would occur. No significant impacts to traffic circulation or on-street parking will occur with either the Proposed Project or this Alternative, as there is no metered parking on this

segment of 5<sup>th</sup> Street. Impacts for the Proposed Project and this Alternative would be substantially the same.

## Findings

The City hereby finds that the No 5<sup>th</sup> Street Expansion Alternative is infeasible for the following environmental, economic, social, and other considerations:

1. The No 5<sup>th</sup> Street Expansion Alternative would not fulfill the goal of bringing awareness to the downtown businesses and exposing residents and visitors to restaurants, stores, and businesses that are often overlooked.
2. The No 5<sup>th</sup> Street Expansion Alternative would not provide a larger festival area for attendees and merchant vendors.

## 4. Project Alternative 4 – No Amplified Sound

### Description of Alternative

This Alternative would retain the Proposed Project footprint and uses but would require live entertainment to be placed only at mid-block locations and would prohibit the use of amplified sound.

### Comparison of Effects

Impacts related to greenhouse gas emissions, land use and transportation and traffic would be substantially the same with the proposed Project and this Alternative.

- **Noise** – This Alternative would reduce the significant impacts of a temporary and periodic increase in noise with the elimination of amplified sound and the relocation of live performances to mid-block locations. This would provide additional sound attenuation through distance and existing structures acting as buffers for residential uses in the area, resulting in a less significant impact compared to the Proposed Project.

### Finding

While this Alternative would meet the majority of the project goals, the City hereby finds that the No Amplified Sound Alternative is infeasible for the following environmental, economic, social, and other considerations:

1. The No Amplified Sound Alternative would reduce the atmosphere and energy of the festival, making Surf City Nights a less popular event.
2. Music would promote the event and its goals by drawing people from the beach or area residents.
3. The No Amplified Sound Alternative could cause a reduction in festival interest and a decrease the number of attendees, resulting in Project goals not being met to their full potential.

## 6. Statement of Overriding Consideration

Section 15093 of the CEQA guidelines states:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its actions based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The City of Huntington Beach (City) proposes to adopt a Statement of Overriding Considerations regarding the significant project-specific noise impacts of the proposed project. Although all other project-level impacts are less-than-significant, this section describes the anticipated economic, social, and other benefits or other considerations of the proposed project to support the decision to proceed with the project even though an identified project-specific impact is not mitigated to a less-than-significant level.

### A. Significant Adverse Impacts

Although all potential project impacts have been substantially avoided or conditioned as described in the preceding findings, there is no complete mitigation for the following project impact:

- **Noise** – Temporary and periodic exceedance of the City's Noise Ordinance standards is unavoidable because it has been determined that no feasible mitigation is available.

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## **B. Overriding Considerations**

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With approval of the Noise Deviation Permit and incorporation of the Conditions of Approval identified in the Draft FEIR into Project and in consideration of balancing the benefits of the Project against anticipated, unavoidable, significant, adverse impacts, the Planning Commission hereby determines that the benefits of the Project outweigh the significant and unavoidable impacts and that such impacts are nonetheless acceptable, based on the following overriding considerations:

1. The City finds that all feasible Conditions of Approval have been imposed to lessen project impacts to less than significant levels as described in the Findings of Fact.
2. The Project would provide a community gathering place where locals and visitors can come together, and the Project creates an awareness of the Downtown Huntington Beach businesses.
3. The Project would provide a safe family entertainment atmosphere for all ages and serve local businesses, residents, neighboring city residents and tourists.
4. The Project would increase sales tax revenue to the City.

### **1. Section 15091 and Section 15092 Findings**

Based on the foregoing findings and the information contained in the record, the Planning Commission has made one or more of the following findings with respect to each of the significant adverse effects of the Project:

1. Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid most of the potentially significant environmental effects identified in the FEIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.

Based on the foregoing findings and the information contained in the record, and per the Conditions of Approval discussed in the foregoing findings:

1. All significant effects on the environment due to the Project have been eliminated or substantially lessened where feasible.
2. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the overriding considerations set forth in the foregoing Statement of Overriding Considerations.

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## **2. Section 21082.1(c)(3) Findings**

Pursuant to *California Public Resources Code* §21082.1(c)(3), the City hereby finds that the Draft FEIR reflects the independent judgment of the lead agency.

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### **C. No Recirculation**

The Planning Commission has determined, consistent with CEQA Guidelines §15088.5, that no significant, new information requiring recirculation of the Draft EIR has arisen. Specifically, the City has determined, based on substantial evidence in the record, that 1) no new significant environmental impacts from the Project have been found, and no new mitigation measures have been proposed to be implemented that would result in a significant impact; 2) no substantial increase in the severity of any environmental impacts have been identified that would require mitigation to reduce the impact to a level of insignificance; (3) no other project alternatives or mitigation measures have been identified that are considerably different from other alternatives previously analyzed or mitigation measure proposed that would clearly lessen environmental impacts of the project; and 4) the Draft FEIR was fundamentally adequate and meaningful public review and comment were taken and considered in the Final FEIR.

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### **D. Custodian of Records**

The custodian of the documents or other material which constitute the record of proceedings upon which the City's decision is based is the Planning and Building Department located at 2000 Main Street, Huntington Beach, CA 92648.

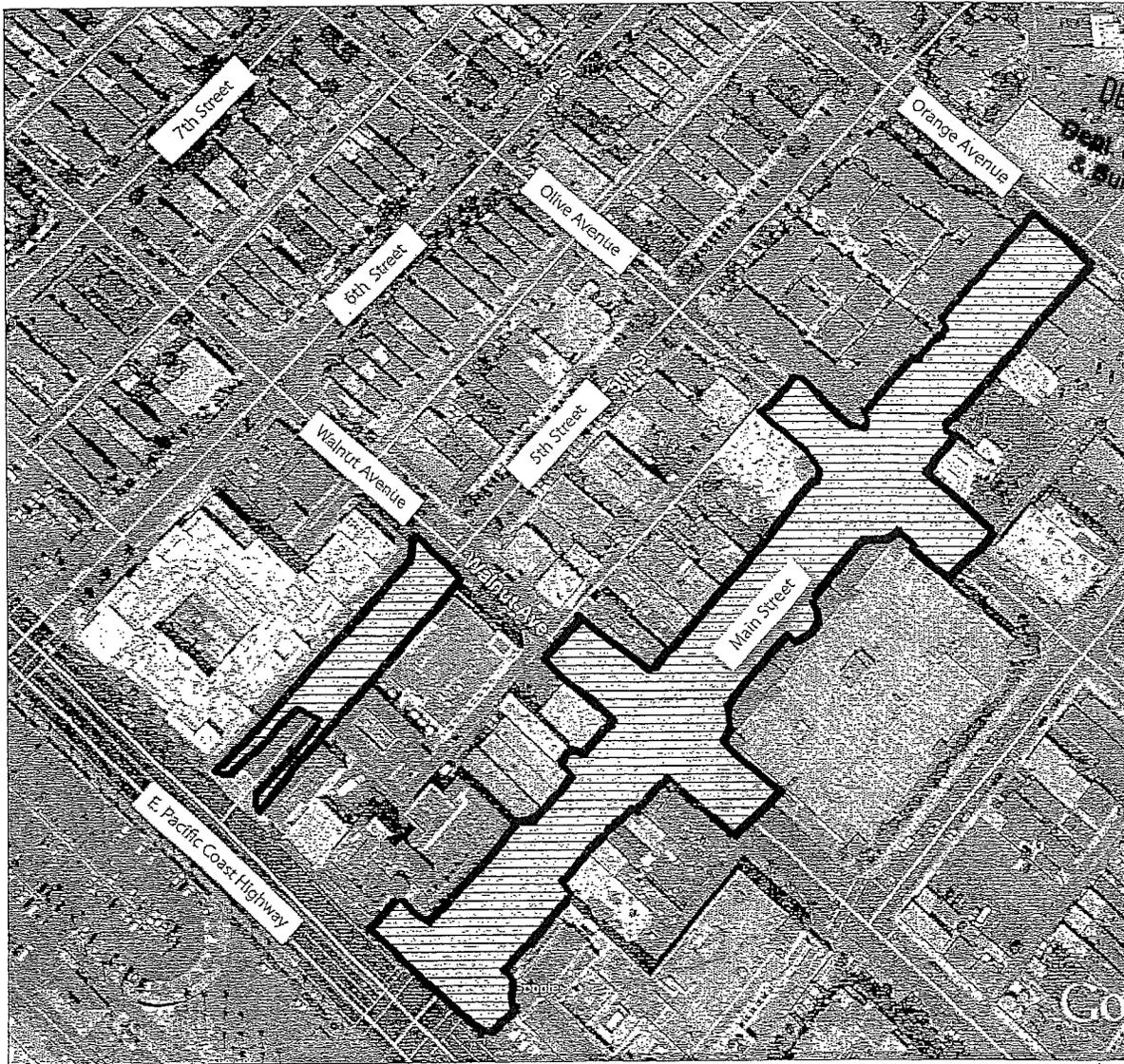
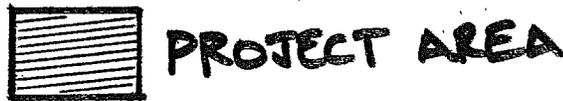


Exhibit 1 – Project Area Map



**SURF CITY NIGHT NARRATIVE  
CONDITIONAL USE APPLICATION NARRATIVE**

RECEIVED  
NOV 25 2013  
Dept. of Planning  
& Building

The applicant requests to permit the temporary closure of Main Street every Tuesday Night, between Pacific Coast Highway and Orange Avenue, including a half block of Olive Avenue and Walnut Avenue on either side of Main Street and the temporary closure of 5<sup>th</sup> Street between Pacific Coast Highway and Walnut.

The application includes a request for a permit to deviate from the provisions of the Huntington Beach Municipal Code, Chapter 8.40, Noise Control during the proposed Surf City Nights Street Fair. The application shall be included as part of the CUP 12-26, ~~DGP~~ <sup>CDP</sup> 12-01 and EA 13-03 application package.

**APPLICANT/OWNER**

This application is submitted to by the Huntington Beach Downtown Business Improvement District and the Huntington Beach Office of Business Development.

**PROJECT LOCATION**

The street fair location shall include Main Street including private and public sidewalks, from Pacific Coast Highway to Orange Avenue, the adjoining half blocks of Walnut Avenue and Olive Avenue and the first block of 5<sup>th</sup> Street, including public and private sidewalks from Pacific Coast Highway to Walnut Avenue.

**POPULATION SERVED**

The street fair shall serve local businesses, their employees and Huntington Beach residents, neighboring cities' residents and tourist.

**PROJECT DESCRIPTION**

Surf City Nights is a downtown street festival and Certified Farmers' Market that occurs on Main Street every Tuesday night and will expand to 5<sup>th</sup> Street through this application. Street Fair services include a Certified Farmers' Market, hand crafted items, prepackaged foods, food-court, local merchant displays, live entertainment and a designated children's area including games and activities.

**DATES OF OPERATION**

The street fair occurs weekly, on Tuesdays nights from 5 PM to 9 PM. In the event of showers and heavy rain the event will be cancelled by 11 AM. The street closure will begin at 2 PM. Metal bollards and other such barricades shall be placed to divert traffic and enhance pedestrian safety. The parking meters are marked with a sign of No Parking and then bagged to remind vehicles they need to move by 2

PM. Emergency vehicle access will be maintained. The closure shall lifted and fully accessible to traffic no later than 11 PM.

## **PARKING REQUIREMENTS**

Parking for the street fair shall be provided at private and public parking facilities within the downtown area. This includes the Main Street Promenade Parking Structure, The Strand Parking Structure, Pierside Pavilion Parking Structure and Plaza Almeria Parking Structure.

## **DEVIATION REQUEST**

Per Chapter 8.40 of the Huntington Beach Municipal Code, a noise deviation permit may be granted if the applicant can demonstrate the need to deviate from the noise level produces a greater benefit to the community which outweighs the temporary increase in noise level.

## **CONCLUSIONS OF NOISE STUDY**

In 2012, the DTBID commissioned Mestre Greve Associates to conduct a noise study to evaluate the potential noise effects which may be caused by the proposed event. The noise study concludes that the proposed event will increase noise levels at residential areas that border the activity area. Noise levels measured during an event day (August 29, 2012) exceeded those permitted by the City. Mestre Greve Associates concluded that the primary cause of the exceedance was the live entertainment and audience applause.

Live entertainment is a crucial component to the success of the street fair. The street fair allows live acts such as musicians, jugglers, face-painters, magicians, sketch artist, and dancers perform at designated locations. The live acts add to the event's charm, character and family friendly environment. The live acts are an event drawl and provide event goers an opportunity to enjoy free entertainment. In fact, the May 2013 edition of Orange County's Auto Club Magazine, Westways, rated Surf City Nights the top free event in Orange County.

## **NOISE MITIGATION MEASURES**

The HBDBID proposes to implement the following noise mitigation measures.

- End the event by 9 PM, including live entertainment
- Direct amplified sound away from residences
- Locate louder acts at least 100 feet away from away from any residential units

## **COMMUNITY BENEFIT**

Surf City Nights is a community gathering place where locals and visitors can come together to enjoy food, music and fresh certified fruits and vegetables. It is a community gathering event where families come to shop, stroll and dine and share Downtown with extended family members and friends. Surf City Nights will provide for a safe family entertainment atmosphere for all ages. Surf City Nights is structured to bring residents and visitors to the downtown area to see how great the downtown district has developed and expose those residents and visitors to restaurants, stores and their business they are often overlooked. It creates and awareness to the Downtown District of Huntington Beach and is part of the City's overall Economic Development strategy. By eliminating vehicle traffic on Main Street and 5<sup>th</sup> Street, families can walk down the street, listen to live entertainment, shop for produce, purchase arts and crafts, and be invited into the local retail stores.

Established in 2007, Surf City Nights is a vibrant, weekly street fair that was the creation of multiple downtown Huntington Beach stakeholders in collaboration with the City. The event was created to enhance the level of residential and visitor foot traffic on a year-round basis and to provide a family-friendly environment for downtown visitors. One of the stated goals was to bring the businesses out of the buildings, either on the sidewalk or to the street to introduce residents and visitors to our stores on Main Street. The City operated the event, through contracts for the first two years. The event is currently managed and operated by the DTBID.

The event is a success for the downtown area and the City as a whole. Since the commencement of Surf City Nights, the event has continually drawn increased pedestrian traffic to the downtown area on Tuesday nights, historically the slowest evening of the week. In May 2008, California Association of Local Economic Development (CALED) awarded the event the Grand Prize award for Economic Development Partnerships.

Surf City Nights is a local community event. The event staff regularly hosts themed events geared toward the family fun. Recent events include:

- June 18th, 2013- Annual Princess Party – 5<sup>th</sup> Street only
- May 21st, 2013- Local Community Fashion Show
- May 14th 2013- Police Appreciation Night
- March 26th 2013- Free Easter Bunny Promotion and Free Petting Zoo
- February 2013- Western Themed Month- Free Line dancing every Tuesday, Watermelon Seed Spitting Contest, Pepper Eating Contest
- December 2012- Free Pictures with Santa every Tuesday night

Additionally, the HBDBID sponsors event booths for various community organizations, such as:

- Sands Magazine and HB Community Sports Programs

- Huntington Beach Library Services with " What Do You Geek"
- Huntington Beach Historic Resource Board
- American Legion
- Duck A Thon
- Various local school booster clubs

## **ATTACHMENT NO. 6**

FINAL EIR NO. 13-003, DRAFT EIR, EIR APPENDICIES,  
AND RESPONSE TO COMMENTS  
NOT ATTACHED

### **AVAILABLE FOR REVIEW AT:**

PLANNING AND ZONING COUNTER – CITY HALL, 3<sup>RD</sup> FLOOR  
AND  
CITY WEBSITE

[http://www.surfcity-  
hb.org/Government/Departments/Planning/Environmentalreports.  
cfm](http://www.surfcity-hb.org/Government/Departments/Planning/Environmentalreports.cfm)