

CITY OF HUNTINGTON BEACH
PLANNING COMMISSION STUDY SESSION

ZONING TEXT AMENDMENT NO. 13-001
(DTSP DISTRICT 1 OFF-SITE ALCOHOL SALES)
September 10, 2013

SUMMARY

- **Applicant:** City of Huntington Beach
- **City Contact:** Jennifer Villasenor, Senior Planner
- **Location:** Specific Plan No. 5 (Downtown Specific Plan) – District 1
- **Proposed Project:** The project involves an amendment to the Downtown Specific Plan (DTSP) to prohibit the sale of alcohol for off-site consumption in District 1. The amendment would apply to any permitted use in District 1.
- **Background:**
 - At the City Council's direction, the Chief of Police presented recommendations to reduce the impact of alcohol sales and consumption in the downtown area at the June 3, 2013 City Council study session. One recommendation was to prohibit any additional off-sale¹ alcohol licenses in the downtown area because the Police Department had determined that off-sale alcohol contributed to alcohol related crimes and problems in the downtown core area as well as the surrounding residential neighborhoods and on the beach. At the conclusion of the study session, the Chief of Police was directed by the City Manager to take action to prohibit any new off-sale Alcoholic Beverage Control (ABC) Licenses in the DTSP – District 1 area.
 - At the July 15, 2013 City Council meeting, the Council adopted a resolution directing the Chief of Police to file a formal protest with the Department of Alcoholic Beverage Control of any future application for an off-sale alcohol license within the DTSP – District 1 area. The Council was also informed at the July 15th meeting that the Planning and Building Department would begin processing an amendment to the DTSP that would prohibit the sale of alcohol for off-site consumption in the District 1 area.
- **CEQA Analysis/Review:**
 - ZTA No. 13-001 is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act.
- **Planning Issues:**
 - Consistency with City Council direction and Police Chief recommendations
 - Consistency with the General Plan, certified Local Coastal Program, and Chapter 247 of the Huntington Beach Zoning and Subdivision Ordinance

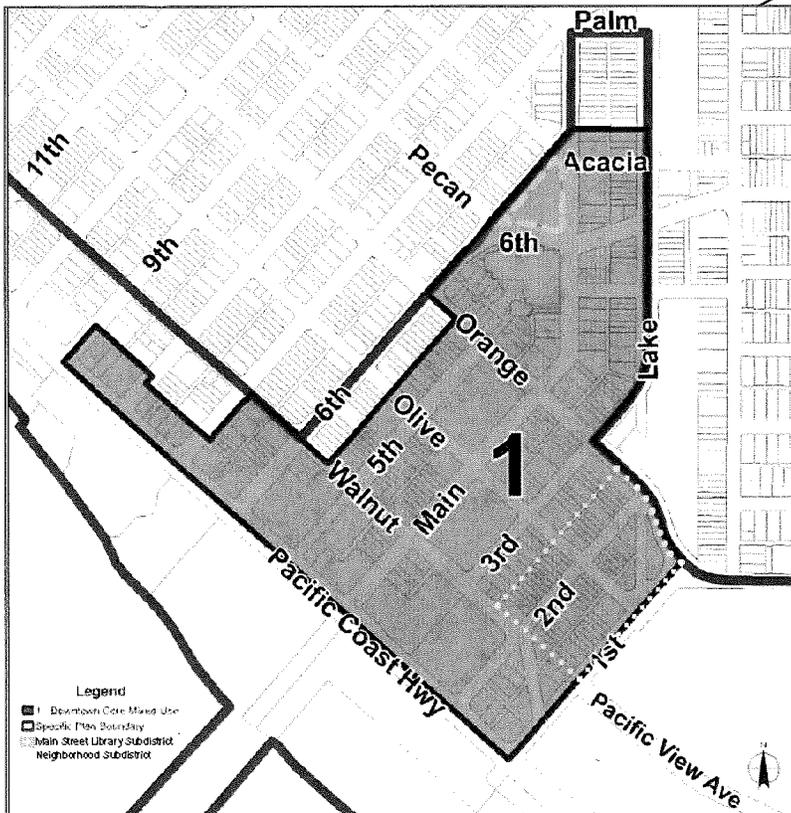
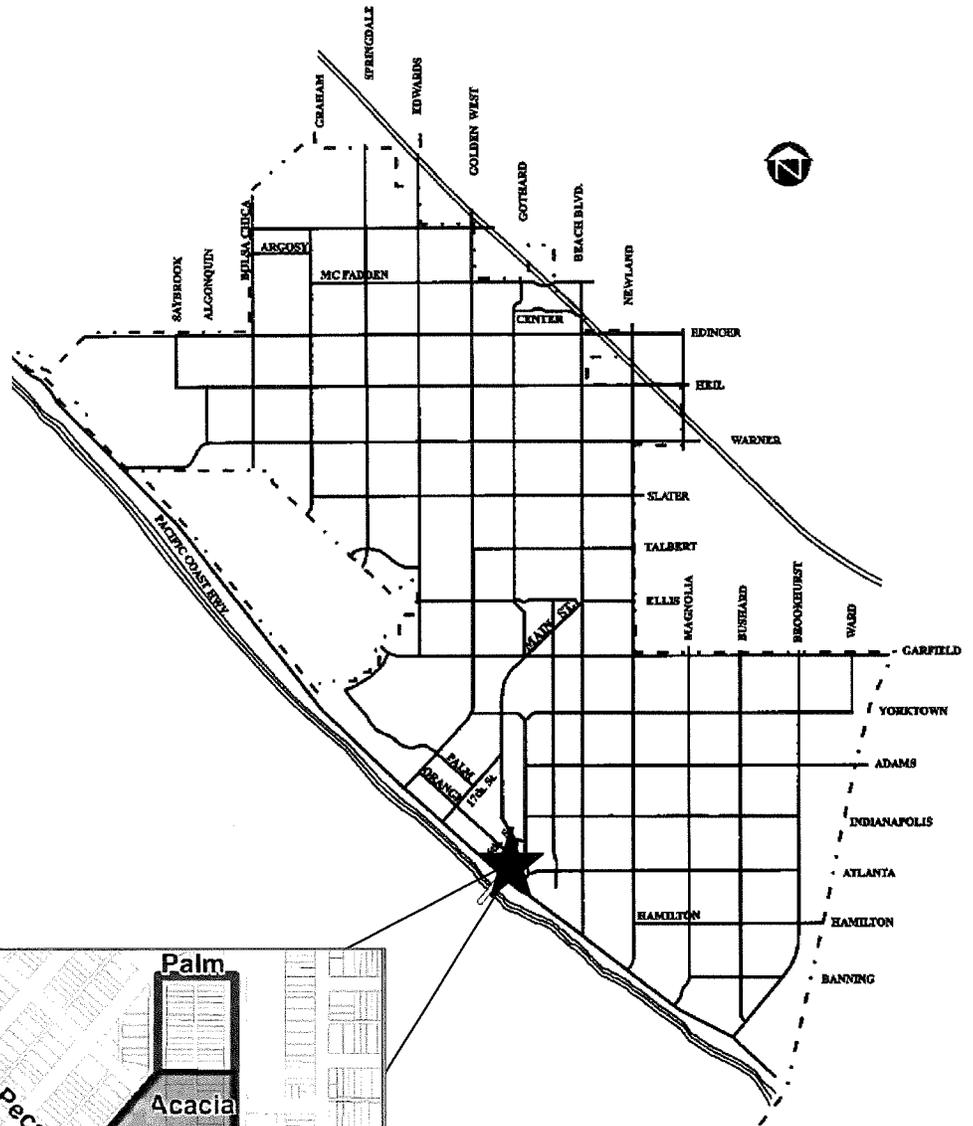
¹ While the DTSP and Huntington Beach Zoning and Subdivision Ordinance generally refer to uses requesting the sale of alcohol for *on- or off-site consumption*, the Department of Alcoholic Beverage Control would classify the type of license as *on- or off-sale*. For purposes of discussion on ZTA No. 13-001, these terms are interchangeable.

- **The Planning Commission public hearing is tentatively scheduled for September 24, 2013. The City Council public hearing is tentatively scheduled for October 21, 2013.**

- **Attachment:**
 1. DTSP District 1 Map
 2. Legislative Draft
 3. City Council Resolution No. 2013-30 and July 15, 2013 Request for Council Action (RCA)

SH:MBB:JV:kd

DTSP DISTRICT 1 MAP ZONING TEXT AMENDMENT NO. 13-001



LEGISLATIVE DRAFT

Demolition

The deliberate removal or destruction of the frame or foundation of any portion of a building or structure.

Director

The Director of the Department of Planning or his or her designee, unless otherwise specified.

Dwelling, multiple unit

A building or buildings designed with two or more dwelling units.

Dwelling, single unit

A detached building designed primarily for use as a single dwelling, no portion of which is rented as a separate unit, except as permitted by this document. Attached single family dwellings shall be considered as multi-family.

Eating and drinking establishments

Businesses serving prepared food or beverages for consumption on or off the premises. This use classification shall prohibit the sale of alcohol for off-site consumption in District 1.

Entertainment

A single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited to watch, listen, or participate, or is conducted for the purposes of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including, but not limited to:

- a. Any amusement or event such as live music or other performance which is knowingly permitted by any establishment subject to this chapter, including presentations by single or multiple performers, such as hypnotists, pantomimes, comedians, song or dance acts, plays, concerts, any type of contest; sporting events, exhibitions, carnival or circus acts, demonstrations of talent or items for gift or sale; shows, reviews, and any other such activity which may be attended by members of the public.
- b. Live or recorded music where public dancing is permitted.
- c. Any event controlled, conducted, sponsored, encouraged, or knowingly permitted, by an establishment subject to this chapter, which involves any of the activities described in the foregoing paragraphs which is presented by members of the public, whether or not the participants in said activities are compensated by the establishment.

LEGISLATIVE DRAFT

- d. Establishments which provide jukeboxes, televisions, video games, video programs, or recorded music and no other entertainment, as herein defined, are not required to comply with the provisions of this chapter, unless the recorded music is played on equipment which is operated by an agent or contractor of the establishment for a period exceeding ten minutes per hour.

The intent of this section is to require an Entertainment Permit of establishments which provide that which is commonly known as a “DJ” and to exempt establishments which provide incidental or ambient music.

Facade

The main face or front of a building.

Feasible

Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

Floor Area Ratio (FAR)

A number which indicates how many square feet of structure can be built on a site. FAR is determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Fly tower

The structure and rigging behind and above the stage in a performing arts theater. The purpose of a fly tower is a system to move set pieces, lights, microphones and other equipment on or off stage and to lift or “fly” the scenery above the stage.

Food and beverage sales

Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments. Food and beverage sales with alcoholic beverage sales shall mean establishments where more than ten percent of the floor area is devoted to sales, display and storage of alcoholic beverage (except in District 1 where the sale of alcohol for off-site consumption is prohibited).

Fractional ownership hotel

Facility providing overnight visitor accommodations where at least some of the guest rooms (units) within the facility are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners.

LEGISLATIVE DRAFT

3 - LAND USES & DEVELOPMENT STANDARDS

Permitted Uses District 1*					
Use*	Permitted	Admin Permit	CUP from ZA	CUP from PC	TUP from ZA
Accessory dwelling units		✓			
Artists' studios ¹	✓				
Banks and savings and loans branch offices ²	✓				
Carts and kiosks ³		✓			
Commercial parking ⁴			✓		
Cultural institutions				✓	
Eating and drinking establishments ⁵		✓			
Eating and drinking establishments, with less than 12 seats	✓				
Eating and drinking establishments, with alcohol (hours of operation up to 11 pm M-TH and 12 am Fri-Sun.)			✓		
Eating and drinking establishments, with alcohol (hours of operation past 11 pm M-TH and/or 12 am Fri-Sun.)				✓	
Eating and drinking establishments, with dancing				✓	
Eating and drinking establishments, with live entertainment				✓	
Food and beverage sales, without alcoholic beverage sales	✓				
Health and sports clubs				✓	
Home occupations ⁶		✓			
Hotels, motels, and bed and breakfasts				✓	
Live/work units ⁷		✓			
Offices, business and professional ⁸	✓				
Personal enrichment services ⁹		✓			
Personal services	✓				
Public facilities			✓		
Real estate businesses	✓				
Religious assembly			✓		
Multi-family housing, apartments, condominiums, and stock-cooperatives (up to 4 units)	✓				
Multi-family housing, apartments, condominiums, and stock-cooperatives (more than 4 units)			✓		
Single-family detached dwellings ¹⁰	✓				
Retail markets with alcohol sales ¹¹				✓	
Retail sales					

Chapter 3
District 1

Figure 3-23 Permitted Uses District 1 (1 of 2)

LEGISLATIVE DRAFT

3 - LAND USES & DEVELOPMENT STANDARDS

Permitted Uses District 1

Use	Permitted	Admin Permit	CUP from ZA	CUP from PC	TUP from ZA
Retail sales, outdoor ¹²					
Service stations ¹³				✓	✓
Theaters			✓		
Travel services	✓				

***The sale of alcohol for off-site consumption is prohibited for any use in District 1.**

¹ Must include retail sales

² With no drive through windows and not to exceed 5,000 square feet

³ Pursuant to Section 230.94 of the HBZSO

⁴ Not permitted on street level, street frontage for properties fronting Main Street and/or Pacific Coast Highway.

⁵ Pursuant to Section 3.2.24 Outdoor Dining

⁶ Pursuant to Section 230.12 of the HBZSO

⁷ Provided that:

- The live/work unit is permitted to be a maximum of 3,000 square feet.
- The non-residential area is permitted to be a maximum 50% of the area of each live/work unit.
- The non-residential area function shall be limited to the first or main floor only of the live-work unit.
- A maximum of 5 non-residential worker or employees are allowed to occupy the non-residential area at any one time.
- Dwelling units that include an office that is less than ten percent of the area of the dwelling unit shall not be classified as a live/work unit.

⁸ Pursuant to Section 3.3.1.3. Permitted Uses, items 1), and 2)

⁹ Not to exceed 5,000 square feet

¹⁰ That comply with the standards provided in Section 3.3.4. District 4 - Established Residential and the standards contained in the Residential Infill Lot Developments Ordinance in Section 230.22 of the HBZSO

~~¹¹ Exempting retail markets with no more than 10 percent of the floor area devoted to sales, display, and storage of alcoholic beverages (including florist shops offering the sale of a bottle of an alcoholic beverage together with a floral arrangement), provided the sale of alcoholic beverages is not in conjunction with the sale of gasoline or other motor vehicle fuel.~~

¹² Pursuant to Section 3.2.25. Outdoor Display Areas and Sales

¹³ With minimum 14,000 square feet of net lot area, subject to the development standards outlined in Section 230.32 of the HBZSO and located only on Pacific Coast Highway between 7th Street and 9th Street

Note:

Projects with less than 100' frontage and additions shall require a CUP from ZA.

Projects with 100' frontage or greater shall require a CUP from PC.

Figure 3-23 Permitted Uses District 1 (2 of 2)

RESOLUTION NO. 2013-30

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH DIRECTING
THE CHIEF OF POLICE REGARDING
OFF-SALE ALCOHOL ESTABLISHMENTS

WHEREAS, the City of Huntington Beach desires to maintain a vibrant and safe downtown commercial area to be enjoyed by visitors, residents and families; and

Toward that end, the City Council has established standardized Conditions of Approval for Conditional Use Permits in the Downtown Specific Plan, District 1 area with alcoholic beverage sales and/or an entertainment permit,

Further, the City Council has determined, based on information provided by the Police Department, that additional off sale alcoholic beverage establishments in the Downtown area may have an adverse impact on the City's desire to maintain a vibrant and safe downtown commercial area,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve that the Chief of Police protest any future license applications for off-sale alcohol establishments in the Downtown Specific Area, District 1.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 15th day of July, 2013.

REVIEWED AND APPROVED:

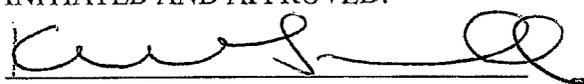


City Manager



Mayor

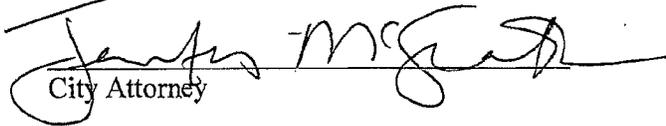
INITIATED AND APPROVED:



Police Chief

7-8-13.

APPROVED AS TO FORM:



City Attorney

Res. No. 2013-30

STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, JOAN L. FLYNN the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **Regular** meeting thereof held on **July 15, 2013** by the following vote:

AYES: Sullivan, Boardman, Carchio, Shaw, Katapodis
NOES: Harper
ABSENT: Hardy
ABSTAIN: None



City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California

ATTACHMENT NO. 3.2



CITY OF HUNTINGTON BEACH REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: 7/15/2013

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Fred A. Wilson, City Manager

PREPARED BY: Kenneth W. Small, Chief of Police

SUBJECT: Adopt Resolution No. 2013-30 directing the Police Department to formally protest with the Department of Alcoholic Beverage Control any future application for an "off-sale" Alcoholic Beverage License within the Downtown Specific Plan Area, District 1

Statement of Issue: Attached is a proposal to adopt Resolution No. 2013-30 directing the Police Department to formally protest with the Department of Alcoholic Beverage Control any future application for an "off-sale" Alcoholic Beverage License within the Downtown Specific Plan Area, District 1. The proposed action is intended to reduce the impact of alcohol related problems and crimes in the downtown area and on the beach.

Financial Impact: Not applicable

Recommended Action:

Adopt Resolution No. 2013-30, "A Resolution of the City Council of the City of Huntington Beach Directing the Chief of Police Regarding Off-Sale Alcohol Establishments" in the Downtown Specific Plan Area, District 1.

Alternative Action(s): Do not adopt Resolution No. 2013-30 and direct staff accordingly.

Analysis: In January, 2013, the City Council adopted a six-month strategic plan that included an objective directing the Chief of Police to present a report to them including recommendations for Council action regarding the impact of alcohol sales and consumption in downtown Huntington Beach. That report was subsequently presented to the City Council and the recommended actions were thoroughly discussed at a City Council Study Session on June 3, 2013. Included in the recommendations made by the police department was a recommendation to prohibit any additional off-sale alcohol licenses in the downtown area because the police department had determined that off-sale alcohol contributed to alcohol related crimes and problems downtown, in the surrounding residential areas, and on the beach. At the conclusion of the study session, the Chief of Police was directed by the City Manager to work with the City Attorney to draft a resolution incorporating the recommendation to take action to prohibit any new Off-Sale Alcoholic Beverage Control Licenses in the Downtown Specific Plan Area, District 1.

Currently, any retail establishment in the Downtown Specific Plan Area, District 1, is permitted to have off-sale alcoholic beverages if less than ten percent (10%) of the floor area is devoted to alcohol sales. Changing that condition will require a Zoning Text Amendment; the Planning staff will begin the process to make that change. However, any new request for off-sale alcohol also requires a license from the Department of Alcoholic Beverage Control. When the Department of

Alcoholic Beverage Control receives an application for a new, or a modification to an existing, Alcoholic Beverage Control License, the application is routinely forwarded to the police department for comment. The purpose of this resolution is to formally direct the police department to protest any future application for an Off-Sale Alcoholic Beverage Control License in the Downtown Specific Plan Area, District 1. The final decision regarding the issuance of the license will be made by the Department of Alcoholic Beverage Control. However, filing a formal protest to the license application will enable the City and Police Department to present information to the hearing officer regarding the impact of off-sale alcohol on downtown residents, businesses and visitors.

Environmental Status: Not applicable

Strategic Plan Goal: Enhance and maintain public safety

Attachments: Not Attached - See Attachment No. 3.1

- ~~1. Resolution No. 2013-30, "A Resolution of the City Council of the City of Huntington Beach Directing the Chief of Police Regarding Off-Sale Alcohol Establishments"~~