MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, FEBRUARY 24, 2015
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CANCELLED – NO STUDY SESSION

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Crowe

P P P P P P P

ROLL CALL: ***Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson***

AGENDA APPROVAL

A MOTION WAS MADE BY BRENDEN, SECONDED BY MANDIC, TO APPROVE THE PLANNING COMMISSION AGENDA OF FEBRUARY 24, 2015, BY THE FOLLOWING VOTE:

AYES: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PUBLIC COMMENTS – NONE

B. PUBLIC HEARING ITEMS

B-1. CONDITIONAL USE PERMIT NO. 14-032 (U.S. TACO ALCOHOL) Applicant: U.S. Taco Co., LLC **Property Owner:** Lori Eckman, CIM/Huntington, LLC **Request:** To permit alcohol (beer and wine) at an existing eating and drinking establishment with outdoor dining. The restaurant with outdoor dining (no alcohol request) was originally approved through CUP No. 14-002 on May 13, 2014 by the Planning Commission. **Location:** 150 5th Street, Suite 110, 92648 (east side of 5th Street, between Pacific Coast Highway and Walnut Avenue - The Strand) **City Contact:** Ethan Edwards, Associate Planner

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 14-032 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Crowe had no disclosures.
- Commissioner Semeta has visited the site.

- Vice-Chair Pinchiff has visited the site, spoken to staff, spoken to the applicant, and voted on the original conditional use permit for the project at a previous Planning Commission hearing.
- Chair Kalmick voted on the original conditional use permit for the project at a previous Planning Commission hearing and has eaten at the restaurant several times.
- Commissioner Mandic has visited the site and spoken to staff.
- Commissioner Brenden has visited the site.
- Commissioner Hoskinson had no disclosures.

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project.

THE PUBLIC HEARING WAS OPENED.

Susan Welfringer, Huntington Beach Downtown Business Improvement District, spoke in support of Item No. B-1, and thanked U. S. Taco for bringing their business to The Strand.

Dianne Thompson, Chamber of Commerce, spoke in support of Item No. B-1, citing the benefits of the restaurant to the community.

Jerry Wheeler, Chamber of Commerce, spoke in support of Item No. B-1, citing the benefit to The Strand and the community.

Jeff Jenkins, applicant, spoke in support of Item No. B-1, stating that U.S. Taco is very excited to be part of the community. He noted that the alcohol beverage training for staff would go above what was required and that there is no intention to change the restaurant into a bar.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

There was a discussion regarding the Police Department condition requiring alcoholic beverages only be served in conjunction with food.

There was a brief discussion regarding the retention of surveillance tapes. Police Captain Bill Stuart indicated that Entertainment Permits require a thirty day retention period.

There was a brief discussion regarding conditional use permits going with the land and not the business and Commissioner Brenden asked the City Attorney's office to look into how other cities regulate their alcohol serving businesses.

Chair Kalmick indicated that he would not be able to support this request due to the proximity to residential uses and because the conditional use permit runs with the land, he would have concerns with a future user at the site.

A MOTION WAS MADE BY PINCHIFF, SECONDED BY MANDIC, TO APPROVE CONDITIONAL USE PERMIT NO. 14-032 WITH FINDINGS AND MODIFIED CONDITIONS OF APPROVAL TO REQUIRE THAT SURVEILLANCE TAPES HAVE A THIRY DAY RETENTION PERIOD, BY THE FOLLOWING VOTE:

AYES:	**Crowe, Semeta, Pinchiff, Mandic, Brenden, Hoskinson**
NOES:	**Kalmick**
ABSTAIN:	**None**
ABSENT:	**None**

MOTION APPROVED

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 14-032:

1. Conditional Use Permit No. 14-032 to permit the sales and service of alcohol (beer and wine) in conjunction with an existing 1,604 sq. ft. restaurant and 400 sq. ft. outdoor dining area, located within The Strand development, 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 downtown area. The proposed sales and service of alcohol, as conditioned, will not generate noise, traffic, demand for parking or other impacts above that which currently exists or be inconsistent with the subject property's zoning. In addition, the project will comply with City Council Resolution No. 2013-24, standard conditions for approval designed for eating and drinking establishments with alcoholic beverage sales.

2. The proposed sales and service of alcohol (beer and wine) in conjunction with an existing 1,604 sq. ft. restaurant and 400 sq. ft. outdoor dining area will be compatible with surrounding uses because it is proposed in a Specific Plan area designated for mixed-use pedestrian-oriented development. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible to its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol service and hours of operation, including the outdoor dining area, to assure that any potential impacts to the surrounding properties are minimized. Additionally, the use is subject to noise regulations to further ensure compatibility with surrounding properties.

3. The proposed sales and service of alcohol (beer and wine) in conjunction with an existing 1,604 sq. ft. restaurant and 400 sq. ft. outdoor dining area 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 and any specific condition required for the proposed use in the district in which it will be located. The proposed project as conditioned complies with the base district and other applicable provisions. There is no physical expansion of the approved development proposed as part of the request and the use will comply with all building occupancy/exiting requirements.

4. The granting of the conditional use permit will not adversely affect the General Plan. The project is consistent with the Land Use Element designation of Mixed Use Vertical on the subject property including the following policies and objectives identified in the General Plan:

A. *Land Use Element*

Policy LU 7.1.1 Accommodate existing uses and new development in accordance with the Land Use and Density Schedules.

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

Goal LU 11 Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Policy LU 15.2.2 Require that uses in the Pedestrian Overlay District be sited and designed to enhance pedestrian activity along the sidewalks. Create visual differentiation of upper and lower floors and distinct treatment of building entrances and use of pedestrian oriented signage.

The proposed use will complement an existing restaurant within the Downtown Core District that is consistent with the Land Use Density Schedules for The Strand development and is compatible with surrounding mix of uses. The economic viability of the existing restaurant is increased by offering the sales and service of alcoholic beverages to accommodate the entertainment and recreation needs of residents and visitors. The expansion of services captures and enhances visitor and tourist activity within the downtown and is within walking distance of several downtown-parking facilities as well as residential uses, thus reducing the need for vehicular travel.

B. *Coastal Element*

Policy C 1 Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Policy C 3.2.3 Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed use will promote an existing commercial establishment in the Downtown and will expand the available visitor-serving commercial uses within the Coastal Zone.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 14-032:

1. The site plan, floor plans and elevations received and dated December 22, 2014 shall be the conceptually approved design.

2. The use shall comply with the following:

a. Restaurant business hours shall be limited to between 7:00 AM to 12:00 AM midnight **(Resolution No. 2013-24)**

b. A minimum of 70 percent of the net floor areas of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas. **(Resolution No. 2013-24)**

c. Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times. **(Resolution No. 2013-24)**

d. Alcoholic drinks shall not be included in the price of admission to any establishment. **(Resolution No. 2013-24)**

e. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(Resolution No. 2013-24)**

f. All alcohol shall remain on the establishment's premises, including within outdoor dining areas. **(Resolution No. 2013-24)**

g. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served. **(Resolution No. 2013-24)**

h. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business. **(Resolution No. 2013-24)**

i. Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City. **(Resolution No. 2013-24)**

j. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(Resolution No. 2013-24)**

k. The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code. **(Resolution No. 2013-24)**

l. No new customers shall be permitted after 30 minutes before closing. **(Resolution No. 2013-24)**

m. Last call for drinks shall be no later than 15 minutes before closing. **(Resolution No. 2013-24)**

n. Signage, posters, and advertizing with "Do Not Drink and Drive" shall be posted in the business. **(Resolution No. 2013-24)**

o. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired and for existing employees every 12 months. Training shall be provided by an ABC approved RBS trainer and records of the training must be maintained on-site for review. **(Resolution No. 2013-24)**

p. Establishments shall install and maintain a video surveillance system to monitor public area of premises and shall make the video available to the police department for any criminal or civil investigation. **(Resolution No. 2013-24)**

q. Prior to sales, service or consumption of alcoholic beverages the business shall obtain an ABC license authorizing alcohol use in the restaurant and outdoor patio dining area. The business shall be limited to a Type 41 (On Sale Beer and Wine for Bona Fide Public Eating Place) ABC License. **(PD)**

r. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**

s. The sale of alcoholic beverages shall be made only in conjunction with the sale of food to the person ordering the beverage. **(PD)**

t. To further reduce the likelihood of noise disturbances from patrons during late night and early morning hours, no dining or consumption of alcoholic beverages will be permitted on the outdoor patio area between the hours of 10:00 P.M. and 7:00 A.M. **(PD)**

u. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**

v. Signs shall be posted stating alcoholic beverages are not allowed outside of the restaurant. **(PD)**

w. Signs shall be posted in a conspicuous space at the entrance/exit points of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT". **(PD)**

x. There shall be a minimum 30 day retention period of all surveillance video. **(PC)**

3. The Development Services Departments and divisions (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.

4. Conditional Use Permit No. 14-032 shall become null and void unless exercised within two years of the date of final approval 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.

5. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (http://www.usgbc.org/DisplayPage.aspx?CategoryID=19) or Build It Green's

Green Building Guidelines and Rating Systems (http://www.builditgreen.org/index.cfm?fuseaction=guidelines).

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.

B-2. NEGATIVE DECLARATION NO. 14-005/GENERAL PLAN AMENDMENT NO. 08-009 (HISTORIC AND CULTURAL RESOURCES ELEMENT UPDATE) **Applicant:** City of Huntington Beach **Request:** **ND:** To analyze the potential environmental impacts associated with the adoption and implementation of the Historic and Cultural Resources Element update. **GPA:** To update the Historic and Cultural Resources Element. **Location:** Citywide **City Contact:** Ricky Ramos, Senior Planner

STAFF RECOMMENDATION: Motion to:

A. "Approve Negative Declaration No. 14-005 with findings (Attachment No. 1);"

B. "Approve General Plan Amendment No. 08-009 and forward draft City Council Resolution (Attachment No. 2) to the City Council for adoption."

The Commission made the following disclosures:

- Commissioner Crowe had no disclosures.
- Commissioner Semeta attended the study session and drove the two proposed historic districts.
- Vice-Chair Pinchiff spoke with staff and Mary Urashima, attended the study session, and was the previous liaison to the Historic Resources Board and attended many meetings on this item.
- Chair Kalmick attended the study session, and spoke with Mary Urashima and other residents.
- Commissioner Mandic spoke with staff and to two residents.
- Commissioner Brenden attended the study session.
- Commissioner Hoskinson attended the Historic Resources Board meeting, spoke with staff, Joe Santiago, and Chair Kalmick.

Ricky Ramos, Senior Planner, gave the staff presentation and an overview of the project. Andrea Galvin gave a detailed overview of the Historic Survey.

There was a brief discussion regarding the potential financial impacts to residents who own a historic property.

THE PUBLIC HEARING WAS OPENED.

Duane Wentworth, Historic Resources Board, spoke regarding Item No. B-2. He noted that the survey and General Plan Amendment would not affect private property rights. He asked the commission to continue this item to allow the Historic Resources Board to make corrections on the survey and asked that a process be created to maintain and update the survey on a more consistent basis.

Joseph Santiago, Historic Resources Board, spoke in opposition to Item No. B-2, citing concerns with the accuracy of the survey and the process for determining the recommended historic districts.

Jim Morrissey, realtor, spoke in opposition to Item No. B-1, citing concerns with potential financial impacts to property owners.

Mary Urashima, Chair of the Historic Wintersburg Task Force, spoke regarding Item No. B-2, and confirmed that the Wintersburg buildings are eligible for the National Register of Historic Places. She asked that a citywide ordinance be created for demolition processes and historic preservation.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

There was a lengthy discussion regarding proposed historic districts.

There was a brief discussion regarding the historical status of the housing tracts that are passing the fifty year old threshold.

There was some discussion regarding developing a process for updating the survey on a more consistent basis.

Staff gave an overview of the submittal process for the Mills Act.

There was a brief discussion regarding potentially continuing the request to allow for further review by the Historic Resources Board and for adding a policy to encourage crowd sourcing technology.

A MOTION WAS MADE BY KALMICK, SECONDED BY SEMETA, TO APPROVE NEGATIVE DECLARATION NO. 14-005 WITH FINDINGS.

A SUBSTITUTE MOTION WAS MADE BY BRENDEN, SECONDED BY PINCHIFF, TO CONTINUE NEGATIVE DECLARATION NO. 14-005 FOR SIXTY DAYS.

There was a lengthy discussion regarding the potential continuance.

THE SUBSTITUTE MOTION WAS WITHDRAWN

A MOTION WAS MADE BY KALMICK, SECONDED BY SEMETA, TO APPROVE NEGATIVE DECLARATION NO. 14-005 WITH FINDINGS, BY THE FOLLOWING VOTE:

AYES:	**Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson**
NOES:	**None**
ABSTAIN:	**None**
ABSENT:	**None**

MOTION APPROVED

A MOTION WAS MADE BY KALMICK, SECONDED BY HOSKINSON, TO APPROVE GENERAL PLAN AMENDMENT NO. 08-009 WITH A POLICY AMENDMENT FOR A CROWD SOURCING MECHANISM AND FORWARD TO THE CITY COUNCIL FOR ADOPTION, BY THE FOLLOWING VOTE:

AYES:	**Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson**
NOES:	**None**
ABSTAIN:	**None**
ABSENT:	**None**

MOTION APPROVED

A MOTION WAS MADE BY KALMICK, SECONDED BY MANDIC, TO APPROVE A MINUTE ACTION REQUESTING THE CITY COUNCIL TO DIRECT STAFF TO LOOK INTO AN INTERIM FIVE YEAR PLAN TO UPDATE THE GENERAL PLAN ELEMENT, BY THE FOLLOWING VOTE:

AYES:	**Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson**
NOES:	**None**
ABSTAIN:	**None**
ABSENT:	**None**

MOTION APPROVED

FINDINGS FOR APPROVAL - NEGATIVE DECLARATION NO. 14-005:

1. Negative Declaration No. 14-005 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Planning Commission prior to action on the Negative Declaration and General Plan Amendment No. 08-009.

2. There is no substantial evidence in light of the whole record before the Planning Commission that the project will have a significant effect on the environment.

B-3. **ZONING TEXT AMENDMENT NO. 15-001 (CHAPTER 233 SIGNS – SIGN CODE UPDATE) Applicant:** City of Huntington Beach **Request:** To amend Chapter 233 *Signs* of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) adding *Non-Commercial* temporary sign provisions including location, content, size and permitted zoning districts and deleting references to *Political Signs*. **Location:** Citywide **City Contact:** Rosemary Medel, Associate Planner

STAFF RECOMMENDATION: Motion to: "Approve Zoning Text Amendment No. 15-001 with findings (Attachment No. 1) and forward Draft Ordinance (Attachment No. 2) to the City Council for adoption."

The Commission made the following disclosures:

- Commissioner Crowe had no disclosures.
- Commissioner Semeta had no disclosures.
- Vice-Chair Pinchiff spoke with staff.
- Chair Kalmick has attended the study session.
- Commissioner Mandic spoke with the City Attorney and staff.
- Commissioner Brenden has attended the study session, owns a sign business, spoke with the City Attorney and determined that his business is not a conflict of interest.
- Commissioner Hoskinson had no disclosures.

Rosemary Medel, Associate Planner, gave the staff presentation and an overview of the project.

THE PUBLIC HEARING WAS OPENED.

WITH NO ONE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

There was a brief discussion regarding the placement of non-commercial signs and the section regarding removal of non-commercial signs from public property by third parties.

A MOTION WAS MADE BY MANDIC, SECONDED BY CROWE, TO APPROVE ZONING TEXT AMENDMENT NO. 15-001 WITH FINDINGS AND FORWARD DRAFT ORDINANCE TO THE CITY COUNCIL FOR ADOPTION, BY THE FOLLOWING VOTE:

AYES:	**Crowe, Semeta, Kalmick, Mandic, Brenden, Hoskinson**
NOES:	**Pinchiff**
ABSTAIN:	**None**
ABSENT:	**None**

MOTION APPROVED

FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 15-001:

1. Zoning Text Amendment No. 15-001 amends Chapter 233 Signs of the Huntington Beach Zoning and Subdivision Ordinance to define non-commercial signs, add provisions for permitting non-commercial signs on private property and within public rights-of-way, deletes references to political signs and ensures that the City's sign code conforms to recent State and federal court cases related to the posting of signs on private property. ZTA No. 15-001 is consistent with the goals, policies and objectives specified in the General Plan and would

ensure the consistent application of regulations for all types of non-commercial signs on private property as well as within public rights-of-way

2. In the case of the general land use provisions, the amendments proposed are compatible with the uses authorized in, and the standards prescribed for the Zoning districts for which they are proposed. The changes do not affect zoning of any property by altering allowed land use or the development standards thereof.

3. A community need is demonstrated for the proposed amendment to ensure that the City's sign code conforms to recent cases in the State and federal courts that focus on content neutrality and time restrictions for the posting of signs on private property.

Adoption of ZTA No. 15-001 will be in conformity with public convenience, general welfare and good zoning practice because the amendments will conform to the General Plan Urban Design Element, State and federal court cases and provide clear standards for implementing provisions for allowing non-commercial signs on private property and within public rights-of-way.

C. CONSENT CALENDAR - NONE

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING
Scott Hess, Director of Planning and Building - reported on the items from the previous City Council Meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING
Scott Hess, Director of Planning and Building – reported on the items for the next City Council Meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING
Jane James, Planning Manager– reported on the items for the next Planning Commission Meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS - NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Semeta reported on the recent Design Review Board meeting.

Vice-Chair Pinchiff noted that the annual Fun Run/Walk benefitting the 3rd Battalion 1st Marines would be held on March 7, 2015.

Commissioner Brenden reported on the recent events he attended.

Chair Kalmick thanked staff for their work on the Historic and Cultural Resources Element Update.

ADJOURNMENT: Adjourned at 9:15 PM to the Planning Commissioners' Academy in Newport Beach from March 4-6, 2015, and then to the next regularly scheduled meeting of Tuesday, March 10, 2015.

APPROVED BY:

Scott Hess, Secretary

Dan Kalmick, Chair