



Huntington Beach Planning Commission

2000 MAIN STREET

CALIFORNIA 92648

NOTICE OF ACTION

September 25, 2024

Toby Nguyen
16651 Gothard Street, Unit A-1
Huntington Beach, CA 92647

SUBJECT: **CONDITIONAL USE PERMIT NO. 23-007 (MIDWAY CONCEPTS MIXED USE PROJECT) - CONTINUED FROM THE SEPTEMBER 10, 2024 MEETING**

APPLICANT: Toby Nguyen, 16651 Gothard Street, Unit A-1, Huntington Beach CA 92647

PROPERTY OWNER: AA Investment LLC, 16293 Hemlock Street, Fountain Valley CA 92708

REQUEST: CUP: To permit the construction of a four-story mixed-use project consisting of ground floor podium parking and 1,000 sq. ft. of commercial space, and 15 residential units on the 2nd, 3rd, and 4th floors in the Neighborhood Boulevard Segment of the Beach and Edinger Corridors Specific Plan (SP14), with reduced front yard setbacks along the Beach Blvd. and Speer Drive frontages

LOCATION: 7942 Speer Drive, 92647 (Southwest corner of Beach Boulevard at Speer Drive)

DATE OF ACTION: September 24, 2024

On Tuesday, September 24, 2024, the Huntington Beach Planning Commission acted on your application, and your application was **conditionally approved**. Attached to this letter are the findings and conditions of approval.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of Two Thousand, Three Hundred and Fifty-Three Dollars (\$2,353.00) if the appeal is filed by a single-family dwelling property owner appealing the decision on his own property and Three Thousand, Seven Hundred and Seventy-Eight Dollars (\$3,778.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **October 4, 2024 at 5:00 PM.**

Please be advised that the Planning Commission reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to

commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, or at an alternative time specified as a condition of approval, unless actual construction has started.

"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Hayden Beckman, the project planner, at hayden.beckman@surfcity-hb.org or (714) 536-5561 or the Community Development Department Zoning Counter at (714) 536-5271.

Sincerely,

Jennifer Villaseñor, Secretary
Planning Commission

By:



Ricky Ramos, Planning Manager

JV:JB:RR:HB:kdc

Attachment: Finding and Conditions of Approval – CUP No. 23-007

c: Honorable Mayor and City Council
Chair and Planning Commission
Chief Eric Parra, Interim City Manager
Jennifer Villaseñor, Director of Community Development
Martin Ortiz, Fire Deputy Chief
Connor Hyland, Senior Deputy City Attorney
Bob Milani, Principal Civil Engineer
Jasmine Daley, Building Official
Hayden Beckman, Senior Planner
Property Owner
Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 23-007

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 CEQA pursuant to section 15182 of the CEQA Guidelines and Government Code 65457, because the project is a mixed use development that conforms to the BECSP for which Program EIR No. 08-008 was adopted, and implementation of the project would not result in any new or more severe potentially adverse environmental impacts that were not considered in the Final EIR for the BECSP. The project is required to comply with all applicable mitigation measures adopted for BECSP. The applicant prepared a Consistency Evaluation for the project in comparison with the analysis of EIR No. 08-008 that concludes that in light of the whole record, none of the circumstances described under Section 15162 of the CEQA Guidelines are present and, therefore, no EIR or MND is required.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 23-007:

1. Conditional Use Permit No. 23-007 to permit the construction of a four-story mixed-use project consisting of ground floor covered parking and 1,000 sq. ft. of commercial space, and 15 residential units on the 2nd, 3rd, and 4th floors 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 mixed-use project incorporates architectural and design principles to help ensure maximum compatibility of design within the existing Beach and Edinger Corridors Specific Plan area, promotes pedestrian-friendly entries and uses, and promotes the use of high-quality exterior building materials and finishes. The structure has been designed to provide varied articulation to provide sufficient reductions in overall building massing. Development standards and design guidelines in the Specific Plan ensure that form, height, and development convey an overall high level of quality, including reduced front yard setbacks that activate pedestrian access on the corner parcel. Landscaping and hardscape patterns will be compatible with the surrounding residential neighborhood and commercial corridor along Beach Boulevard. The project enhances the pedestrian circulation and pedestrian-oriented streetscapes throughout the Plan area.
2. Conditional Use Permit No. 23-007 will not adversely affect the Circulation Plan in that the project will enable modern improvements to an existing vacant site that will provide new pedestrian access and vehicle parking that will mitigate vehicle congestion with adjacent land uses. The proposed circulation pattern centralizes passenger vehicle access on and off the site and provides adequate parking for the proposed development designed to be contained under, behind, and adjacent to a new building with a high level of quality architecture and site design to screen a majority of the parking area from public view. The proposed mixed-use project incorporates improved access and circulation for future residents, their visitors, and commercial visitors.
3. The proposed project will comply with the provisions of the Neighborhood Boulevard Segment development standards contained within the Beach and Edinger Corridors Specific Plan and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision

Ordinance. The proposed project meets statutory and code requirements in terms of building massing, architectural design, landscaping, private open space and parking. Reduced front yard setbacks are permitted subject to the review and approval of the Planning Commission.

4. Conditional Use Permit No. 23-007 for the construction of a four-story mixed-use project consisting of ground floor podium parking and 1,000 sq. ft. of commercial space with reduced front yard setbacks, and 15 residential units on the 2nd, 3rd, and 4th floors will be consistent with the proposed General Plan Land Use designation of M-sp (Mixed Use – Specific Plan Overlay) and would be consistent with the following goals and policies of the General Plan:

A. Land Use Element

Goal LU-1 - New commercial, industrial, and residential development is coordinated to ensure that the land use pattern is consistent with the overall goals and needs of the community.

Policy LU-1A – Ensure that development is consistent with the land use designations presented in the Land Use Map, including density, intensity, and use standards applicable to each land use designation.

Policy LU-1C - Support infill development, consolidation of parcels, and adaptive reuse of existing buildings.

Policy LU-1D - Ensure that new development projects are of compatible proportion, scale and character to complement adjoining uses.

Policy LU-2E - Intensify the use and strengthen the role of public art, architecture, landscaping, site design, and development patterns to enhance the visual image of Huntington Beach.

Goal LU-4 - A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

Policy LU-4A – Encourage a mix of residential types to accommodate people with diverse housing needs.

Policy LU-4B – Improve options for people to live near work and public transit.

Policy LU-4E – Encourage housing options located in proximity to employment to reduce vehicle miles traveled.

Goal LU-7 - Neighborhoods, corridors, and community subareas are well designed, and buildings, enhanced streets, and public spaces contribute to a strong sense of place.

The project will redevelop an infill site with a mixed-use development to address the diverse residential and commercial needs of the community. It will be compatible with the character of the neighborhood which consists of a mix of medium density residential and commercial uses along the Beach Boulevard corridor. It will provide additional opportunities for housing near employment and public transit. The architectural design of the proposed 4-story project includes an upper story setback on all sides that will reduce the overall massing and bulk of

the development, increasing compatibility with and enhancing the character of adjoining uses. It is consistent with the development standards in BECSP and Huntington Beach Zoning and Subdivision Ordinance (HBZSO) except for reduced front yard setbacks, and a concession to special height limits adjacent to existing housing permitted under the California Density Bonus Law.

B. Housing Element

Goal 2 - Provide adequate housing sites through appropriate land use, zoning and specific plan designations to accommodate Huntington Beach's share of regional housing needs.

Policy 2.1 - Provide site opportunities for development of housing that responds to diverse community needs in terms of housing types, cost and location, emphasizing locations near services and transit that promote walkability.

Policy 2.3 – Encourage and facilitate the provision of housing affordable to lower income households within the Beach and Edinger Corridors Specific Plan.

Goal 3 - Enhance housing affordability so that modest income households can remain an integral part of the Huntington Beach community.

Policy 3.1 - Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

Policy 3.2 - Utilize the City's Inclusionary Housing Ordinance as a tool to integrate affordable units within market rate developments. Continue to prioritize the construction of affordable units on-site, with provision of units off-site or payment of an in-lieu housing fee as a less preferred alternative.

Policy 3.3 - Facilitate the development of affordable housing through regulatory incentives and concessions, and/or financial assistance, with funding priority to projects that include extremely low income units. Proactively seek out new models and approaches in the provision of affordable housing.

Policy 3.4 - Explore collaborative partnerships with non-profit organizations, developers, the business community and governmental agencies in the provision of affordable housing.

Policy 4.1 - Support the use of density bonuses and other incentives, such as fee deferrals/waivers and parking reductions, to offset or reduce the costs of developing affordable housing while ensuring that potential impacts are addressed.

Policy 6.4 – Incorporate transit and other transportation alternatives including walking and bicycling into the design of new development, particularly in areas within a half mile of designated transit stops.

The project will redevelop a vacant commercial property with a project that will provide additional residential opportunities in a mixed-use configuration along Beach Boulevard to address the diverse housing needs of the community. The project will comply with the City's affordable housing requirement to provide 10 percent of the proposed dwelling units as

affordable units. Due to the provision of affordable housing, the applicant is entitled to reduced parking and any concessions and waivers as permitted by the California Density Bonus Law. The project is located near transit, employment, and services which can facilitate alternative forms of transportation.

C. Circulation Element

Goal CIRC-3A – Convenient and efficient connections between regional transit and areas of employment, shopping, recreation, and housing will increase ridership and active mobility, with a focus on first/last mile solutions.

Policy CIRC-6C – Require new commercial and residential projects to integrate with pedestrian and bicycle networks, and that necessary land area is provided for the infrastructure.

The project site is located near public transportation, employment, and shopping. The project will be installing Palm Tree Boulevard frontage improvements including a 6 ft. wide sidewalk and 4 ft. planter along Beach Boulevard, and Neighborhood Streets frontage improvements including up to a 12 ft. wide sidewalk along Speer Drive, as required by BECSP. Combined with the bike racks that will be provided onsite, these improvements will facilitate active mobility and could increase transit ridership.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 23-007:

1. The site plan, floor plans, and elevations received and dated May 16, 2024 shall be the conceptually approved layout with the following modifications:
 - a. Private balconies for Units 1, 2, 7 & 8 shall be minimum 60 sq. ft in size.
 - b. Exposed surface parking areas shall include moderate screening and provide minimum 2 ft. wide planted landscape areas along the property line.
 - c. The site plan shall indicate the loading and unloading areas for resident move-in/out.
2. Prior to issuance of building permits, an Affordable Housing Agreement in accordance with the Affordable Housing Program shall be submitted to the Community Development for review and approval by the City Attorney and accepted by the City Council. Said agreement shall be recorded with the Orange County Recorder's Office prior to issuance of the first building permit for the project. The Agreement shall comply with HBZSO Section 230.14 and include, but not be limited to, the following items:
 - a. That the affordable units shall be at minimum offered as low income units;
 - b. The duration of the affordability and the number of the affordable units;
 - c. The method in which the developer and the City are to monitor the affordability of the subject affordable units and the eligibility of the tenants or owners of those units over the period of the agreement;
 - d. The method in which vacancies will be marketed and filled;

- e. A description of the location and unit type (bedrooms, floor area, etc.) of the affordable units within the project. Affordable units shall be located throughout the project and shall include a mixture of unit types in the same ratio as provided throughout the project; and
 - f. Standards for maximum qualifying household incomes and standards for maximum rents or sales prices.
3. Prior to issuance of building permits, the following shall be completed:
- a. Block wall/fencing plans (including a site plan, section drawings, and elevations depicting the height and material of all retaining walls, walls, and fences) consistent with the grading plan shall be submitted to and approved by the Community Development Department. Double walls shall be avoided to the greatest extent feasible. Prior to the construction of any new walls, a plan must be submitted identifying the removal of any existing walls located on the subject property. The plans shall identify materials, seep holes and drainage.
 - b. Contact the United States Postal Service for approval of mailbox location(s).
 - c. An interim parking and building materials storage plan shall be submitted to the Community Development Department to assure adequate parking and restroom facilities are available for employees, customers, and contractors during the project's construction phase and that adjacent properties will not be impacted by their location. The plan shall also be reviewed and approved by the Fire Department and Public Works Department. The applicant shall obtain any necessary encroachment permits from the Department of Public Works.
4. The Developer shall provide a Landscape Maintenance Agreement for the continuing maintenance and liability of all landscaping, irrigation, street lighting, furniture, and hardscape that is located along the project frontage within the public right of way and pedestrian access easements. The agreement shall describe all aspects of maintenance such as enhanced sidewalk cleaning, weed and pest control, trash cans, disposal of trash, signs, tree or palm replacement, and any other aspect of maintenance that is warranted by the improvements proposed. The agreement shall state that the property ownership shall be responsible for all costs associated with maintenance (including any fees for water and electrical use), repair, replacement, liability, and fees imposed by the City. **(PW)**
5. During demolition, grading, site development, and/or construction, the following shall be adhered to:
- a. Construction equipment shall be maintained in peak operating condition to reduce emissions.
 - b. Use low sulfur (0.5%) fuel by weight for construction equipment.
 - c. Truck idling shall be prohibited for periods longer than 10 minutes.
 - d. Attempt to phase and schedule activities to avoid high ozone days first stage smog alerts.
 - e. Discontinue operation during second stage smog alerts.
 - f. Ensure clearly visible signs are posted on the perimeter of the site identifying the name

and phone number of a field supervisor to contact for information regarding the development and any construction/grading activity.

- g. All Huntington Beach Zoning and Subdivision Ordinance and Municipal Code requirements including the Noise Ordinance. All activities including truck deliveries associated with construction, grading, remodeling, or repair shall be limited to Monday-Saturday 7:00 AM to 7:00 PM. Such activities are prohibited Sundays and Federal holidays (**HBMC 8.40.090**).
6. The structure cannot be occupied, the final building permit cannot be approved, and utilities cannot be released for the first residential unit until the following have been completed:
 - a. Comply with all applicable mitigation measures adopted in conjunction with Final EIR No. 08-008 (Beach and Edinger Corridors Specific Plan).
 - b. The applicant shall obtain the necessary permits from the South Coast Air Quality Management District and submit a copy to Community Development Department (**AQMD Rule 1403**).
 - c. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Community Development Department.
 - d. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.
 - e. All Development Impact Fees shall be paid to the Community Development Department (*City of Huntington Beach Community Development Department Fee Schedule*). (**HBZSO Section 254.16**).
7. Signage shall be reviewed under separate permits and applicable processing pursuant to Section 233 of the HBZSO.
8. 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.
9. The development services departments (Community Development Department, Fire Department, and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Community Development 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.
10. Conditional Use Permit No. 23-007 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 Community Development Department a minimum 30 days prior to the expiration date.

11. The Planning Commission reserves the right to revoke Conditional Use Permit No. 23-007 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance, or Municipal Code occurs.

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.