

MINUTES
HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR
Room B-8 - Civic Center
2000 Main Street
Huntington Beach California

WEDNESDAY, APRIL 20, 2005 - 1:30 P.M.

ZONING ADMINISTRATOR: Mary Beth Broeren

STAFF MEMBER: Paul Da Veiga, Rami Talleh, Ron Santos,
Ramona Kohlmann (recording secretary)

MINUTES: April 6, 2005
APPROVED AS SUBMITTED

ORAL COMMUNICATION: **NONE**

ITEM 1: CONDITIONAL USE PERMIT NO. 05-03 (DOO RETAINING WALL)

APPLICANT/
PROPERTY OWNER: Shirley Doo, PO Box 115, Sunset Beach, CA 90742
REQUEST: To permit the construction of a combination retaining wall/wood fence within the rear-yard setback of a through lot. The proposed retaining wall measures five feet in height and will be topped with a wood fence measuring six feet in height for a maximum height of 11 feet. The combination retaining wall/wood fence is proposed with a meandering setback ranging from 3 feet to 5 feet 8 inches from the rear property line
LOCATION: 17041 Westport Drive (south side of Westport Drive, west of Blair Lane)
PROJECT PLANNER: Paul Da Veiga

Paul Da Veiga, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the requested project. Staff presented a review of the proposed project and the suggested findings and conditions of approval as outlined in the executive summary. Staff stated that the proposed project is consistent with the Urban Design Guidelines.

Staff recommended approval of the request based upon the suggested findings and subject to the suggested conditions as outlined in the executive summary.

Mary Beth Broeren, Zoning Administrator, and staff discussed communication received from the public. Staff stated that a letter in opposition has been received from the homeowner's association, which has been forwarded to the Zoning Administrator. Ms. Broeren stated that she received and reviewed a letter of opposition received from Carole Garrett, 17163 Roundhill Drive, neighboring property owner, and a letter in support from Mike Palikin.

THE PUBLIC HEARING WAS OPENED.

Richard Batistelli, 16899-C Algonquin Street, president, Huntington Harbour Homeowner's Association (HOA), referenced the opposing letter from the HOA, stated that the proposed project is in violation of the CC&Rs, would be a negative impact, and urged denial by the Zoning Administrator.

Carole Garrett, 17163 Roundhill Drive, neighboring property owner and member of the HOA board, spoke in opposition to the proposed project stating that it is in violation of the CC&Rs, and urged the Zoning Administrator's denial of the request.

Adrienne Parks, 17085 Westport Drive, neighboring property owner, spoke in support of the proposed project, stated that the CC&Rs are not an issue here and the CC&Rs should grow with the neighborhood. Ms. Parks complimented the architect on the beautification that the proposed wall would add to the harbor.

Shirley Doo, 17041 Westport Drive, applicant, presented reasons in support of the request and urged the Zoning Administrator's approval.

Norma Gibbs Brandel, 17087 Westport Drive, neighboring property owner, spoke in support of the proposed project stating that it will beautify the neighborhood. Ms. Brandel urged the Zoning Administrator's approval.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Ms. Broeren and staff engaged in discussions concerning vegetation and landscaping. Ms. Broeren confirmed with staff that fencing to the rear of the property, at a height of 42-inches and within the 15-ft. setback, could be installed without a conditional use permit.

Ms. Broeren stated that she has taken a number of trips to the subject portion of the harbor at various times. She stated that the City has approved a variety of walls, some with slopes, in various setbacks with landscaping. Ms. Broeren stated that the proposed project is attempting to maximize the use of the subject property and improve the slope. She stated that the subject property currently is not aesthetically appealing.

Ms. Broeren stated her appreciation concerning the CC&Rs. She stated that the City Council determined that the City is not responsible for the enforcement of CC&Rs and that it would not be appropriate to change the code consistent with what the CC&Rs dictate.

Ms. Broeren stated that she concurs with staff's assessment that the project complies with the Urban Design Guidelines in terms of providing a variety of material, heights, and landscaping, and creates a variety of interest on the street as well as an improvement relative to the property directly adjacent to the subject property.

CONDITIONAL USE PERMIT NO. 05-03 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the establishment and maintenance of a combination retaining wall/wood fence involves negligible or no expansion of use beyond that previously existing, therefore no further environmental review is necessary.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 05-03:

1. Conditional Use Permit No. 05-03 for the establishment and maintenance of a combination retaining wall/wood fence 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 wall is proposed with quality materials including split face concrete block and a decorative wood fence design which will be aesthetically appealing when viewed from the street. Several of the through lots along Westport Drive have been developed with similar walls.
2. The conditional use permit will be compatible with surrounding uses that consist of properties developed with similar walls within the rear yard setback. The adjacent property to the west consists of a 10-foot high combination retaining/block wall at the rear property line. The subject wall will have setbacks that vary between 3 feet to five feet eight inches based on the staggered wall design. Landscaping is proposed within the setback, which will soften the appearance of the wall when viewed from Roundhill Drive.
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 (HBZSO). The HBZSO allows for a deviation to the maximum height requirements within required setbacks with the approval of a conditional use permit.
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 Residential Low Density on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
 - a. Avoid building materials, colors, and construction elements that visually dominate their setting and contrast significantly with the character of the neighborhood (LU 9.1.2.b).
 - b. Include an adequate landscape setback along the street frontage that is integrated with abutting sidewalks and provides continuity throughout the neighborhood. (LU 9.2.1.e)

The project will be developed with a landscape setback ranging from three feet to five feet eight inches, which will improve the aesthetics along the frontage of the property and soften the appearance of the proposed wall.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 05-03:

1. The site plan, floor plans, and elevations received and dated January 25, 2005 shall be the conceptually approved design.

2. Prior to issuance of block wall permits a planting and irrigation plan shall be reviewed and approved by the departments of Planning and Public Works.
3. Existing trees that are to be removed must be replaced at a 2 for 1 ratio with a 36 inch box tree or palm equivalent (13' to 14' of trunk height for queen palms and 8 ' to 9' of brown trunk).

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.

ITEM 2: TEMPORARY USE PERMIT NO. 05-01 (HUNTINGTON SURF AND SPORT OUTDOOR SALES)

APPLICANT: Aaron Pai, 300 Pacific Coast Highway, Suite 408, Huntington Beach, CA 92648-9264

PROPERTY OWNER: Mohammed Zeidan, 200 Main Street Suite 103, Huntington Beach, CA 92648

REQUEST: To permit outdoor sales on approximately forty-nine (49) days per year for a period of five (5) years from 2005-2009.

LOCATION: 126 Main Street (southeast corner of Main Street and Walnut Avenue)

PROJECT PLANNER: Rami Talleh

Rami Talleh, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the requested project. Staff stated that the previously approved temporary use permit for the subject site allowing outdoor sales for up to 22 days per year and for a period of four years has expired. Staff presented a review of the proposed project and the suggested findings and conditions of approval as outlined in the executive summary.

Staff presented Exhibit A, which shows the proposed tables relocated and the number of racks reduced from five to three as a recommended alternative to the proposed plan. Staff also suggested that the permit be reduced from 49 days per year to 22 days and from five years to two years in order to address any concerns that may arise.

Staff stated that two telephone calls were received from neighboring residents opposing the proposed 49 days but supporting the 22 days. Staff stated that concern was expressed with respect to the overall appearance of the outdoor sales.

Staff stated that the suggested conditions of approval and the exhibits have been discussed with the applicant.

THE PUBLIC HEARING WAS OPENED.

Aaron Pai, 300 Pacific Coast Highway, Suite 408, applicant spoke in support of the proposed project and stated agreement to any decision rendered by the Zoning Administrator.

Mary Beth Broeren, Zoning Administrator, asked the applicant the reason for requesting 49 days. The applicant responded that they wish to gear their sales to the seasons such as Easter, Fourth of July, back to school, Christmas, and the US Open. Ms. Broeren confirmed that the applicant was seeking maximum exposure for sales.

Joe Batte, 18642 Libra #1, stated that the subject business is a good business that helps our schools by donating goods.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Ms. Broeren engaged in discussions with staff concerning reasons for recommending a reduction in the number of sales days to 22 days. Staff confirmed that other businesses were approved for approximately 40 days of sales. Ms. Broeren asked if there was a history of code enforcement activity.

Ms. Broeren stated that she was going to approve the request for 49 days per year, as requested, and for two-years as a demonstration period. Ms. Broeren stated that the applicant could return in two years and adjustments could be made if there are any problems.

Ms. Broeren asked staff to modify the findings and conditions as follows:

Suggested Findings for Approval No. 2:

2. Approval of the application for the proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare. Proposed sales events will occur adjacent to the applicant's storefront and will be sited to prevent interference with use of the surrounding area. The temporary use permit is conditioned ~~to reduce the number of sales days to 22 days per year~~ for a total of two years (2005 to 2006). In addition the temporary use permit is conditioned to ensure that adequate public, disabled, and emergency access will be maintained.

Suggested Conditions of Approval No. 3:

3. Prior (10 days minimum) to commencement of the use each year, a schedule (dates) for temporary sidewalk sales events to occur in that year (not to exceed ~~2249~~ days), shall be submitted to the Planning Department.

TEMPORARY USE PERMIT NO. 05-01 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING MODIFIED FINDINGS AND CONDITIONS. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator 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 15304 of the CEQA Guidelines, because the project consists of a minor temporary use of land having negligible or no permanent effects on the environment.

FINDINGS FOR APPROVAL - TEMPORARY USE PERMIT NO. 05-01:

1. The proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan (Pedestrian Overlay District), Local Coastal Program and Downtown Specific Plan; and provisions of Chapter 241 of the Huntington Beach Zoning and Subdivision Ordinance, including the following policies:
 - LU 15.2.2: Require that uses in the Pedestrian overlay district be sited and designed to enhance and stimulate pedestrian activity along the sidewalks.
Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.
 - LCP/DTSP: Main Street should be a lively, active commercial district at the street level. The first floor of developments along Main Street should be commercial, with open-air establishments encouraged.
2. Approval of the application for the proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare. Proposed sales events will occur adjacent to the applicant's storefront and will be sited to prevent interference with use of the surrounding area. The temporary use permit is conditioned for a total of two years (2005 to 2006). In addition the temporary use permit is conditioned to ensure that adequate public, disabled, and emergency access will be maintained.

CONDITIONS OF APPROVAL - TEMPORARY USE PERMIT NO. 05-01:

1. The site plan received and dated February 22, 2005, shall be modified to comply with Exhibit A, dated April 13, 2005.
2. Temporary Use Permit shall be valid for a maximum period of two years (2005-2006).

3. Prior (10 days minimum) to commencement of the use each year, a schedule (dates) for temporary sidewalk sales events to occur in that year (not to exceed 49 days), shall be submitted to the Planning Department.
4. The use shall comply with the following:
 - a. The temporary sales area shall be entirely confined to private property. Any encroachment into the public right-of-way shall be prohibited.
 - b. The sales area shall be cordoned off (i.e. roped off with a minimum 36" high barrier), nine feet from the building façade with intermittent openings every 10 to 15 feet for customer access.
 - c. Four-foot wide clearance shall be maintained along side the display racks within the "cordoned off" area between the sales racks and pedestrian pathway.
 - d. A ten-foot wide clear path of travel shall be maintained along the sidewalk. Required pathways for patron and disabled access shall be maintained clear of obstructions.
 - e. All required exits and access ways to the tenant space, as determined by the Building & Safety Department, shall be maintained clear and free of obstructions. The minimum required access width shall be 48 inches.
 - f. All overhead obstructions shall be a minimum of 80 inches above the walking surface.
 - g. All sales transactions shall occur inside the store.
 - h. Sales to patrons in vehicles or in the public right-of-way shall be prohibited.
 - i. Line formations within the public right-of-way shall be prohibited.
 - j. Sales events, including associated furniture, structures, patron lines, etc., shall not in any way interfere with access to any commercial establishment.
 - k. Furniture pieces shall weigh less than 35 pounds each.
 - l. All displays associated with sales events shall be maintained in an orderly condition.
 - m. Only the uses described in the narrative and the dates and times in the approved schedule(s), modified herein, shall be permitted. Any proposed change to the approved schedule and dates shall be submitted to the Planning Director for review and approval a minimum of ten days in advance of the planned event date.
5. After initial warnings, the Code Enforcement Division reserves the right to cease operation of the temporary outdoor sales in the event that the use is in violation of the conditions of approval of Temporary Use Permit 05-01.

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.

ITEM 3: CONDITIONAL USE PERMIT NO. 04-20 (MAJESTIC NIGHTCLUB)

APPLICANT: John Nguyen, 16081 Santa Barbara Lane, Huntington Beach, CA 92649
PROPERTY OWNER: JOTW Inc., Max Ferstein, P.O. Box 5697, Sherman Oaks, CA 91413
REQUEST: To permit a 397 sq. ft. outdoor dining/smoking patio with alcohol sales in conjunction with an existing restaurant/nightclub.
LOCATION: 18582 Beach Boulevard (east side of Beach Boulevard, south of Ellis Avenue)
PROJECT PLANNER: Rami Talleh

Rami Talleh, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the requested project. Staff presented a review of the proposed project and the suggested findings and conditions of approval as outlined in the executive summary.

Staff stated that the Police Department recommended the addition of a condition of approval requiring a six-month review.

Staff stated that the proposed project appeared before the Zoning Administrator in mid 2004 as an Entitlement Plan Amendment, which was withdrawn, corrected to a conditional use permit and is now before the Zoning Administrator. Staff stated that neighboring residents voiced concern at the previous hearing.

Staff stated that two telephone calls were received in opposition to the proposed patio based upon noise concerns. Staff stated that a Code Enforcement complaint was received in mid 2004 and the case was closed with no citations. Staff stated that a public nuisance task force meeting was conducted by Code Enforcement to involve the Police Department. No violations have occurred since 2004.

Mary Beth Broeren, Zoning Administrator, confirmed with staff that the two telephone calls received were a result of the public notification for today's meeting.

THE PUBLIC HEARING WAS OPENED.

Joe Batte, 18642 Libra #1, neighboring property owner, voiced opposition. Mr. Batte's major concerns were noise and trash. He challenged Suggested Finding No. 1 stating that the referenced 70-ft buffer from residential is occupied by a parking lot with noise leading directly to his bedroom window. He stated his reluctance to call 911 during the evening hours because the issue of noise is not an emergency. Mr. Batte further stated that some of the club's patrons park on the residential street, jump over the wall and leave trash behind.

Connie Nguyen, 16081 Santa Barbara Lane, owner, spoke in support of the proposed project and urged the Zoning Administrator's approval. Ms. Nguyen stated that the smoking patio is to accommodate requests by patrons and is a necessity to the club.

Mike Adams, P.O. Box 382, Huntington Beach, representing the owner, spoke in support of the proposed project and urged the Zoning Administrator's approval. Mr. Adams stated that the

patio would serve to deter noise in the parking lot because the smoking patrons would be confined in the smoking patio. He objected to the suggested conditions of approval limiting the hours that patrons may use the patio.

Robert Cronk, 18642 Libra #4, neighboring property owner, voiced opposition to the proposed project. Mr. Cronk's major concerns were noise, yelling, car doors slamming, boisterous intoxicated patrons up to the hour of 3:00 a.m., and parking on the residential street while leaving trash. Mr. Cronk stated that he has been unsuccessful in his attempts to file a complaint with the City. Mr. Cronk urged the Zoning Administrator's denial.

Terri Hunter, 18642 Libra Circle, stated that noise from the proposed patio would interfere with her ability to sleep.

Barbara Boskovich, 18741 Springtime Lane, stated that she does not live directly near the subject location. Ms. Boskovich supported the above-mentioned concerns, referenced the SRO at Ellis Avenue, and the potential for increased traffic and noise. She urged the Zoning Administrator's denial.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Ms. Broeren and staff engaged in discussions concerning the Police Department's prior attempted revocation of the entertainment permit, changes to suggested conditions of approval nos. 2.b and 2.c, and confirmed with staff that the proposed parking lot changes involve relocating parking spaces only.

Ms. Broeren expressed empathy for the residents on Libra Circle and in the vicinity. She stated that the operation of the existing nightclub is not what is before the Zoning Administrator today. Ms. Broeren advised the residents that it is incumbent upon them to notify the Police Department when violations, such as noise, occur.

Ms. Broeren stated that consumption of alcohol and/or food on the outdoor patio may exacerbate the existing problems at the subject facility. She discussed with staff the necessity for a conditional use permit if consumption of alcohol and/or food were prohibited on the outdoor patio. Ms. Broeren stated that she is not opposed to the request for the outdoor smoking patio, but doesn't want to allow alcohol on the patio given the history of noise complaints.

Discussion ensued concerning the requirements for limited notification for smoking only on an outdoor patio. Current code and use classifications were explored for outdoor dining/smoking notification requirements. Ms. Broeren confirmed with staff that the request would be classified as outdoor dining even if a limited notification for outdoor smoking only is done.

Mike Adams stated that they would agree to a six-month review.

Ms. Nguyen stated that to prohibit alcohol on the outdoor patio would create problems for the club.

Ms. Broeren stated that she was taking action on the conditional use permit in order to avoid another notification process. She stated that the action is essentially consistent with the request except for the consumption of alcohol on the patio.

Ms. Broeren asked staff to modify the findings and conditions as follows:

Suggested Finding No. 1:

1. Conditional Use Permit No. 04-20 to permit a 397 sq. ft. outdoor ~~dining/smoking~~ patio ~~with alcohol sales~~ in conjunction with an existing restaurant/nightclub 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 outdoor area will be operated in conjunction with an existing restaurant/nightclub within an established commercial shopping center. The surrounding tenants and uses will be buffered from any noise emanating from the proposed outdoor patio area by a double door entry/exit system. The patio will be surrounded by a 7'-2" tall combination block (3'-6") and glass (3'-8") wall. The outdoor dining area is located at the southeast corner of the shopping center and ~~surroundings surrounded~~ on two sides by a commercial building. The residential uses to the west are approximately 70 feet away and are buffered from the outdoor patio by a commercial building. The proposed outdoor dining area will provide space for patrons to congregate outdoors during business hours rather than loiter in the adjacent parking lot. Based upon the conditions imposed, the proposed outdoor patio will not create adverse noise or parking impacts to the surrounding businesses and residents.

Suggested Finding No. 4 (last paragraph):

The proposed outdoor ~~dining/smoking~~ patio ~~with alcohol sales~~ will allow the Majestic Night club and restaurant to compete with other restaurants and bars that offer an outdoor patio area and related activities. Approval of the request will add to the range and diversity of uses and services offered to Huntington Beach citizens and will also serve to draw visitors to the establishment. Furthermore the outdoor ~~dining/smoking~~ patio will provide space for patrons to congregate outdoors during business hours rather than loiter in the adjacent parking lot.

Suggested Condition No. 2:

- a. Music shall be prohibited within the outdoor ~~dinning/smoking~~ patio.
- b. The sale/consumption of alcohol and/or food within the outdoor ~~dining/smoking~~ patio shall be prohibited ~~after 12:30 am.~~

- c. Use of the outdoor ~~dining/smoking~~ patio shall be prohibited after ~~4:00~~1:30 am.
- e. The wrought iron gate serving the patio area shall have a glass ~~backing to prevent the passage of alcoholic beverages.~~
backing
- g. Only the uses described in the narrative received and dated November 10, 2003, shall be ~~permitted.~~
permitted except as conditioned herein.

Ms. Broeren asked staff to add the following new condition:

- 2.h A review of the use shall be conducted by the Staff within six (6) months of final building permit approval to verify compliance with all conditions of approval and applicable Chapters of the Huntington Beach Zoning and Subdivision Ordinance. A Public Hearing will be scheduled if determined necessary. At that time the Zoning Administrator may consider modifications to the conditions of approval.

CONDITIONAL USE PERMIT NO. 04-20 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING MODIFIED FINDINGS AND CONDITIONS. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

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

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 04-20:

1. Conditional Use Permit No. 04-20 to permit a 397 sq. ft. outdoor patio in conjunction with an existing restaurant/nightclub 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 outdoor area will be operated in conjunction with an existing restaurant/nightclub within an established commercial shopping center. The surrounding tenants and uses will be buffered from any noise emanating from the proposed outdoor patio area by a double door entry/exit system. The patio will be surrounded by a 7'-2" tall combination block (3'-6") and glass (3'-8") wall. The outdoor dining area is located at the southeast corner of the shopping center and surrounded on two sides by a commercial building. The residential uses to the west are approximately 70 feet away and are buffered from the outdoor patio by a commercial building. The proposed outdoor dining area will provide space for patrons to congregate outdoors during business hours rather than loiter in the adjacent parking lot. Based upon the conditions imposed, the proposed outdoor patio will not create adverse noise or parking impacts to the surrounding businesses and residents.

2. The conditional use permit will be compatible with surrounding uses because the outdoor dining/smoking patio is consistent with the character of the existing commercial shopping center. The project is conditioned to prohibit music within the patio area. Furthermore the patio area is designed with a double door entry system to reduce the leakage of noise from the nightclub.
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 outdoor dining area is less than 400 sq. ft. and will not require any additional parking spaces.
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 Commercial General on the subject property. In addition it complies with the following objectives and goals of the General Plan:

Objective LU 1.1 Provide for the timing of residential, commercial, and industrial development coincident with the availability of adequate market demand to ensure economic vitality.

Goal LU 10 Achieve the development of a range of commercial uses.

Objective LU 10.1 Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

The proposed outdoor patio will allow the Majestic Night club and restaurant to compete with other restaurants and bars that offer an outdoor patio area and related activities. Approval of the request will add to the range and diversity of uses and services offered to Huntington Beach citizens and will also serve to draw visitors to the establishment. Furthermore the outdoor patio will provide space for patrons to congregate outdoors during business hours rather than loiter in the adjacent parking lot.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 04-20:

1. The site plan, floor plans, and elevations received and dated February 13, 2004, shall be the conceptually approved layout with the following modifications:
 - a. Elevations shall depict colors and building materials approved by the Design Review Board Secretary on March 25, 2004 and maintained in case file DR No. 03-51.
 - b. Wheel stops shall be provided for three parking stalls located adjacent to the outdoor dining area.
2. The use shall comply with the following:
 - a. Music shall be prohibited within the outdoor patio.
 - b. The sale/consumption of alcohol and/or food within the outdoor patio shall be prohibited.

- c. Use of the outdoor patio shall be prohibited after 1:30 am.
- d. All doors to the nightclub/restaurant shall remain closed during hours of live entertainment.
- e. The wrought iron gate serving the patio area shall have a glass backing.
- f. All conditions of the Entertainment Permit as approved by the Police Department.
- g. Only the uses described in the narrative received and dated November 10, 2003, shall be permitted except as conditioned herein.
- h. A review of the use shall be conducted by the Staff within six (6) months of final building permit approval to verify compliance with all conditions of approval and applicable Chapters of the Huntington Beach Zoning and Subdivision Ordinance. A Public Hearing will be scheduled if determined necessary. At that time the Zoning Administrator may consider modifications to the conditions of approval.

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.

THE MEETING WAS ADJOURNED AT 3:05 PM BY THE ZONING ADMINISTRATOR TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR ON WEDNESDAY, APRIL 27, 2005 AT 1:30 PM.

Mary Beth Broeren
Zoning Administrator

:rmk