

AGENDA
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, NOVEMBER 13, 2007

HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET
HUNTINGTON BEACH, CALIFORNIA 92648



CHAIR JOHN SCANDURA

VICE-CHAIR TOM LIVENGOOD
COMMISSIONER BLAIR FARLEY
COMMISSIONER FRED SPEAKER

COMMISSIONER JOE SHAW
COMMISSIONER DEVIN DWYER
COMMISSIONER ELIZABETH SHIER-BURNETT

DIRECTOR OF PLANNING, SCOTT HESS, AICP
LEGAL COUNSEL, LEONIE MULVIHILL
PRINCIPAL PLANNER, HERB FAULAND

THE 7:00 PM PORTION OF THE MEETING IS TELEVISED LIVE ON CABLE TV CHANNEL 3. VIDEO TAPES OF MEETINGS ARE AVAILABLE FOR PUBLIC CHECKOUT AT THE CENTRAL LIBRARY. COPIES OF STAFF REPORTS AND/OR WRITTEN MATERIALS ON EACH AGENDA ITEM ARE ON FILE IN THE PLANNING DEPARTMENT, THE CENTRAL LIBRARY AND ON THE CITY'S WEBSITE (WWW.SURFCITY-HB.ORG) FOR PUBLIC INSPECTION. ANY PERSON HAVING QUESTIONS ON ANY AGENDA ITEM MAY CALL THE PLANNING DEPARTMENT TO MAKE AN INQUIRY CONCERNING THE NATURE OF THE AGENDA ITEM AT (714) 536-5271.

Planning Commission Agenda Information Sheet

The following is a brief explanation of the Planning Commission Agenda Structure:

AGENDA APPROVAL The Planning Commission will announce if any closed public hearing items will be re-opened and may wish to change the order of the items on the agenda.

ORAL COMMUNICATION (FILL OUT REQUEST TO SPEAK FORM) Anyone wishing to address the Planning Commission, only on items not on tonight's agenda, must fill out and mark the appropriate box and submit a form to speak prior to Oral Communication. Please be advised that testimony provided on Public Hearing items during Oral Communications are not part of the permanent entitlement record. The speaking forms are available at the lower entrance to the Council Chambers. Give the form to the Secretary. Staff will call all speakers by name. There is a four-minute time limit per speaker. Time may not be donated to another. All proceedings are recorded. No action can be taken by the Planning Commission on these communications on this date, unless agendized.

PUBLIC HEARING ITEMS (FILL OUT REQUEST TO SPEAK FORM) Public hearings allow citizens the opportunity to speak in favor or against specific items. More detailed information on public hearings may be found on the page attached to the back of this agenda. Complete the form by marking the appropriate box and indicating the hearing item you wish to provide testimony on. Please note if the public hearing items have been closed or are still open for testimony. The agenda and staff report will indicate if the public hearing is open or closed. The Planning Commission at their discretion may re-open a closed public hearing and the Commission will make the announcement during Agenda Approval. The speaking forms are available at the lower entrance to the Council Chambers. Give the form to the Secretary. Staff will call all speakers by name. There is a four-minute time limit per speaker. Individuals may choose to donate their 4 minutes of time to another speaker, and the maximum time donation limit is 8 minutes (2 individuals), for a total of 12 minutes per speaker. Individuals who donate time must be present when the item is being discussed. All proceedings are recorded. If you have documents to distribute, there should be enough copies for all Planning Commissioners, staff, and the public. The documents become part of the public record and will not be returned.

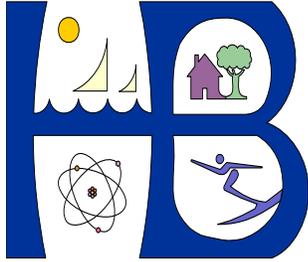
CONSENT CALENDAR Consent Calendar items are considered routine items that normally do not require separate consideration. The Planning Commission may make one motion for approval of all items listed under the CONSENT CALENDAR.

NON-PUBLIC HEARING ITEMS These items are considered by the Planning Commission separately and require separate motions. These transactions are considered administrative and public testimony is not heard.

PLANNING COMMISSION ITEMS / INQUIRIES Items of business or concern are presented by Planning Commissioners and discussed with staff. Informational updates and reports are made by Commissioners who serve as liaisons to various committees.

PLANNING ITEMS Updates and reports from the Planning Director for the information of the Planning Commission and the public.

Adjournment



AGENDA

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, NOVEMBER 13, 2007
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: *Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley*

AGENDA APPROVAL

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

A-1. **CONDITIONAL USE PERMIT NO. 07-039/ENVIRONMENTAL IMPACT REPORT NO. 07-002 (HUNTINGTON BEACH SENIOR CENTER) - Jennifer Villasenor, Associate Planner**

B. STUDY SESSION ITEMS - NONE

C. CONSENT CALENDAR

C-1. **PLANNING COMMISSION MINUTES DATED AUGUST 14, 2007**

C-2. **PLANNING COMMISSION MINUTES DATED AUGUST 28, 2007**

C-3. **PLANNING COMMISSION MINUTES DATED SEPTEMBER 11, 2007**

C-4. **PLANNING COMMISSION MINUTES DATED SEPTEMBER 25, 2007**

D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland

E. PLANNING COMMISSION COMMITTEE REPORTS

F. PUBLIC COMMENTS – Regarding Project Review and Study Session portions of Meeting

Anyone wishing to speak on Project Review or Study Session items during PUBLIC COMMENTS may do so by filling out a Request To Speak form and giving it to the Secretary. (4 MINUTES PER PERSON, NO DONATING OF TIME TO OTHERS)

G. PLANNING COMMISSION COMMENTS

ADJOURNMENT:

Adjourn to the next regularly scheduled meeting of November 27, 2007.

7:00 P.M. – COUNCIL CHAMBERS

CANCELLED: NO PUBLIC HEARINGS



City of Huntington Beach Planning Department
STUDY SESSION REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning
BY: Jennifer Villasenor, Associate Planner *JV*
DATE: November 13, 2007
SUBJECT: **CONDITIONAL USE PERMIT NO. 07-039 (HUNTINGTON BEACH SENIOR CENTER PROJECT)**

PROJECT REQUEST AND SPECIAL CONSIDERATIONS

Conditional Use Permit No. 07-039 represents a request to construct and operate a 45,000 square foot one-story senior recreation facility on a site with a grade difference greater than 3 feet. The 5-acre project site is located within the 356-acre Huntington Central Park and generally located southwest of the intersection of Goldenwest Street and Talbert Avenue, between the disc golf course, which is at a higher elevation, and the Shipley Nature Center.

The 5-acre project site will comprise the senior center building, parking lot and open space area. The approximately 45,000 square foot building consists of a community hall/dining room, group exercise, fitness and dance rooms, multi-use classrooms, a kitchen, a social lounge and administrative offices. The outdoor open area includes a patio with a decorative trellis, an expansive lawn, a garden, a fountain, a barbecue area, benches and a natural meadow. The parking area includes a total of 233 parking spaces, including 14 disabled parking spaces and 6 oversize stalls for shuttle buses. Landscaping is provided throughout the site and consists of a mix of California native and non-native drought tolerant vegetation.

Ingress and egress to and from the site is proposed via a new access driveway at the existing Goldenwest Street/ Talbert Avenue intersection. An existing traffic signal at this location will be modified for traffic to enter and exit the project site.

CURRENT LAND USE, HISTORY OF SITE, GENERAL PLAN DESIGNATION

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Site:	OS-P (Open Space – Parks)	OS-PR (Open Space – Parks & Recreation)	Undeveloped, vacant
North of Subject Site (across earthen berm)	OS-P	OS-PR	Undeveloped area; Shipley Nature center
East of Subject Site: (across Goldenwest St.)	OS-P	OS-PR	Sports Complex; Central Library
South of Subject Site:	OS-P	OS-PR	Disc golf course; equestrian center
West of Subject Site:	OS-P	OS-PR	Passive parkland

The project site was developed with a farm house as early as the 1930s. Sometime in the 1960s, the house was demolished and the land was excavated so that dirt from the site could be used for construction of the

405 freeway. In 1974, the City acquired the land for Central Park and it has remained in its current undeveloped state. Although there are no developed structures or programmed uses of the site, area schools occasionally use the site as part of a larger cross country route through Central Park. In addition, one temporary disc golf hole is located on the project site. Community Services staff has indicated that they have already made provisions with the disc golf operator to relocate the hole.

Measure T

The construction of the proposed senior center requires compliance with the conditions of city Charter Section 612. Charter Section 612 requires all new developments within a city-owned park over 3,000 square feet or costing more than \$100,000 be approved by an affirmative vote of the majority of city council members and the majority of electors voting at a general or special election. On July 3, 2006 the City Council approved placing the senior center project on the November 7, 2006 general election ballot (listed as Measure T). The ballot measure was to approve construction of up to a 47,000 square foot senior center on five acres in Huntington Central Park, following approval of all entitlements and environmental review. The measure was approved on November 7, 2006 by the voters.

APPLICATION PROCESS AND TIMELINES

DATE OF COMPLETE APPLICATION:

Draft EIR: April 5, 2007

Conditional Use Permit: November 5, 2007

MANDATORY PROCESSING DATE(S):

Within 1 year of complete project application (April 5, 2008)

Within 180 days of certification of EIR (October 2, 2009)

Funding for the proposed project will be provided by park in-lieu fees from the Pacific City development project through an Owner-Participation Agreement (OPA) between the City of Huntington Beach and the Pacific City developer. The OPA specifies a timeline for the construction of the senior center including the timing for approval of the project. Per the OPA, approval of entitlements and project plans must occur by April 1, 2008.

A second Planning Commission study session on the draft EIR is scheduled for November 27, 2007, and the Planning Commission will consider certification of the final EIR, and action of the project, at a public hearing scheduled for December 11, 2007.

CEQA ANALYSIS/REVIEW

EIR No. 07-002 analyzes the potential environmental impacts associated with implementation of the proposed project and identifies appropriate mitigation measures. The Draft EIR was distributed to the Planning Commission for review at the start of the 45-day public comment period on September 17, 2007. EIR No. 07-002 will be introduced to the Planning Commission at the November 27, 2007 Study Session.

COMMENTS FROM CITY DEPARTMENTS AND OTHER PUBLIC AGENCIES

The Design Review Board conducted a preliminary review of the project design on August 9, 2007. The conditions of approval for the project will require that the final project design be approved by the Design Review Board. The City of Huntington Beach Environmental Board has provided comments on the draft EIR. In addition, the Community Services Commission will consider the proposed senior center project at

their meeting on November 14, 2007. As the project applicant, the Community Services Department has worked closely with Planning staff in coordinating with the Council on Aging (COA) as the voice for senior residents in providing input on the site plan and interior layout of the proposed senior center.

Comments from other City Departments have been collected by staff, and in addition, will be compiled into a draft code requirements letter. The analysis and conclusions included in Draft EIR No. 07-002 reflect and are based in part on consultation with the Departments of Building and Safety, Community Services, Fire, Police and Public Works. There are no other responsible public agencies. The final list of recommended conditions of approval is currently being compiled.

PUBLIC MEETINGS, COMMENTS AND CONCERNS

Since Measure T was passed by voters last November, several public meetings associated with the proposed senior center have been held. A public meeting was held on April 19, 2007 to take comments related to the scope of the environmental issues to be analyzed in the draft EIR. Another public meeting was held on October 11, 2007 to collect comments on the adequacy of the draft EIR. Both meetings, as well as the two Planning Commission Study Session meetings, were advertised in the Huntington Beach Independent, and notices were sent to interested parties and property owners and tenants within a 1000' radius of the project site.

The comment period for Draft EIR No. 07-002 ended on October 31, 2007. Comments from the public concerning the draft EIR will be described in detail at the November 27, 2007 Planning Commission Study Session.

PLANNING ISSUES

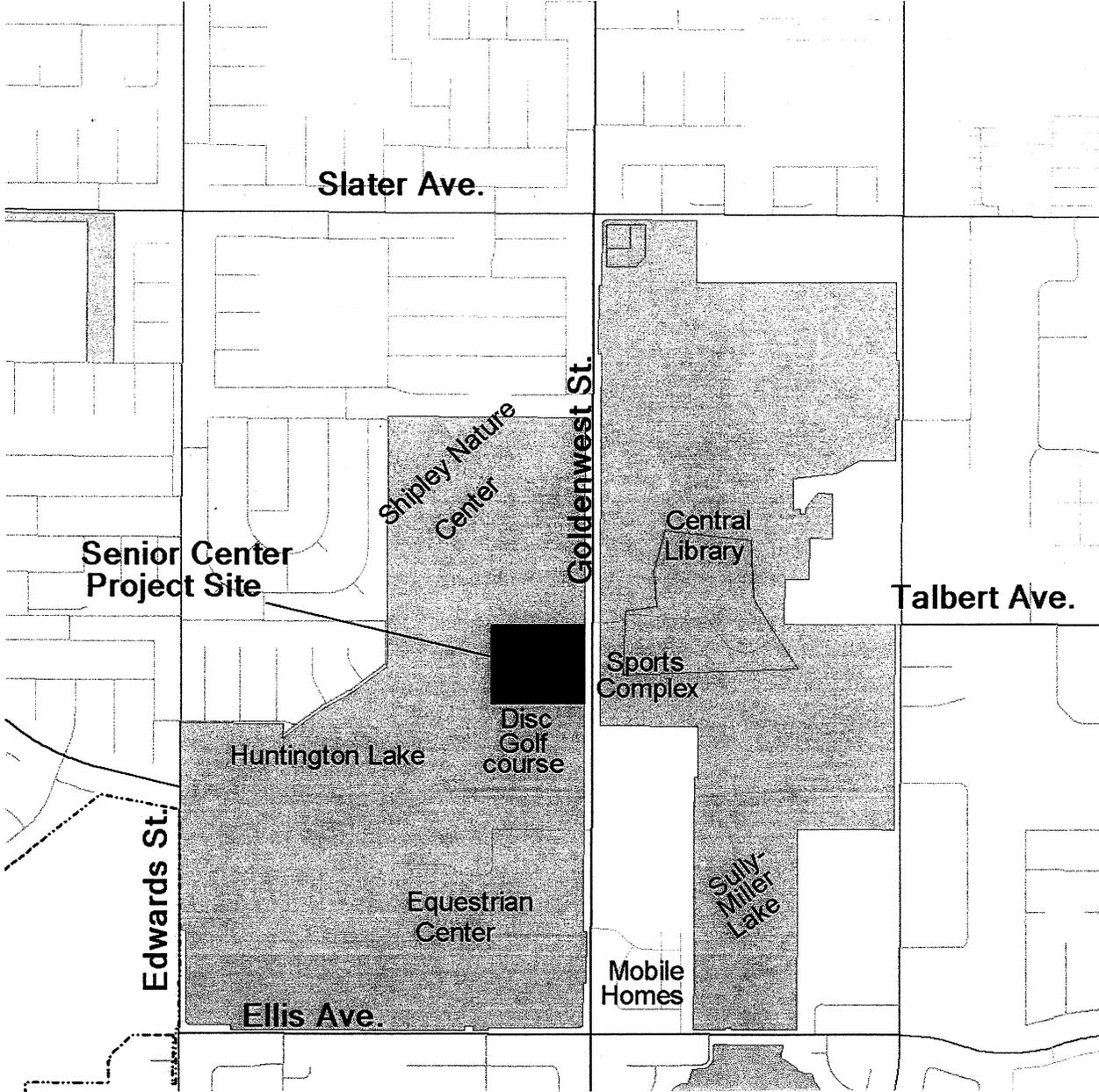
The project presents minimal planning issues with respect to code compliance with the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The primary issues to consider with the proposed senior center are the compatibility of the proposed project with surrounding land uses, the loss of open space in Central Park and the environmental impacts analyzed in the draft EIR.

ATTACHMENTS:

1. Vicinity Map
2. Project Plans – Received and Dated October 17, 2007

Huntington Central Park

Senior Center Project Site



ATTACHMENTS FOR SS A-1

ATTACHMENT NO. 1.1



NORTH

SENIOR CENTER

SENIOR CENTER
HUNTINGTON BEACH, CA

0713.1283.01

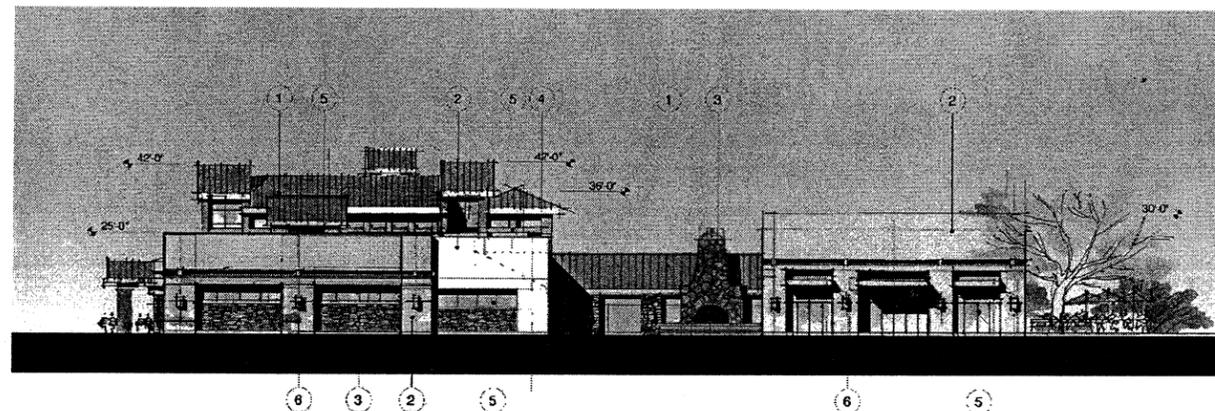
KKE architects, Inc. 525 E. Colorado Boulevard, 4th Floor, Pasadena, CA 91101 t: 626.796.8230 f: 626.796.8735

PROJECT FOR:

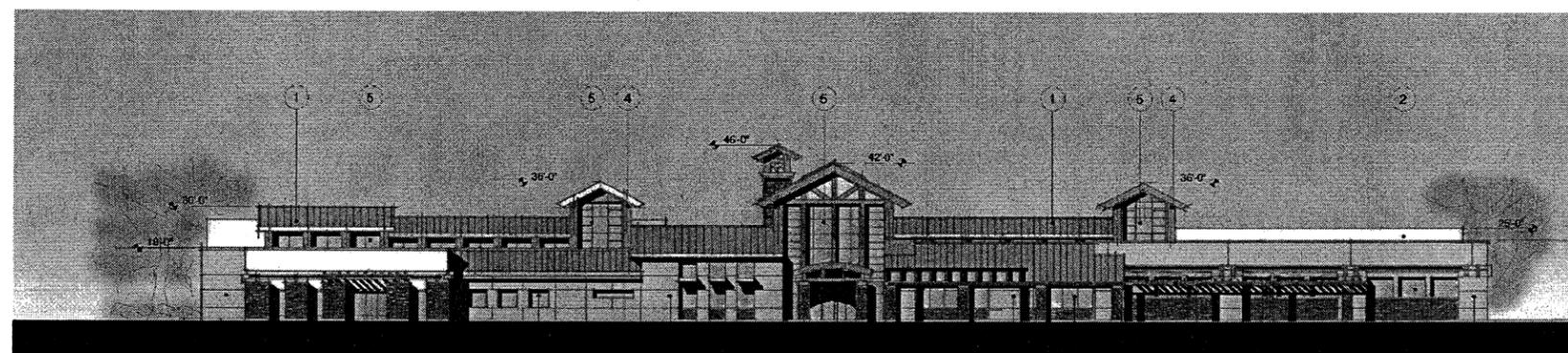
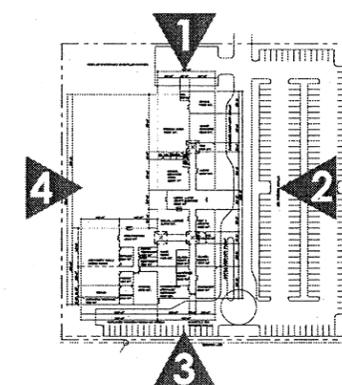


4100 MACARTHUR BLVD.
SUITE 200
NEWPORT BEACH,
CA 92660

T: 949.255.1100
F: 949.255.1128



1. NORTH ELEVATION



2. EAST ELEVATION

MATERIALS

- 1. STANDING METAL SEAM ROOF
- 2. STUCCO
- 3. DRY STACK STONE
- 4. WOOD/METAL RAFTERS
- 5. GLAZING
- 6. LIGHT FIXTURE
- 7. WOOD TRELLIS

ELEVATIONS

JULY 9, 2007



NOTE: THIS INFORMATION IS CONCEPTUAL IN NATURE AND IS SUBJECT TO ADJUSTMENTS PENDING FURTHER VERIFICATION AND CLIENT, TENANT, AND GOVERNMENTAL AGENCY APPROVALS. NO WARRANTIES OR GUARANTIES OF ANY KIND ARE GIVEN OR IMPLIED BY THE ARCHITECT.

ATTACHMENT NO. 2.1



SENIOR CENTER

SENIOR CENTER
HUNTINGTON BEACH, CA

0713.1283.01

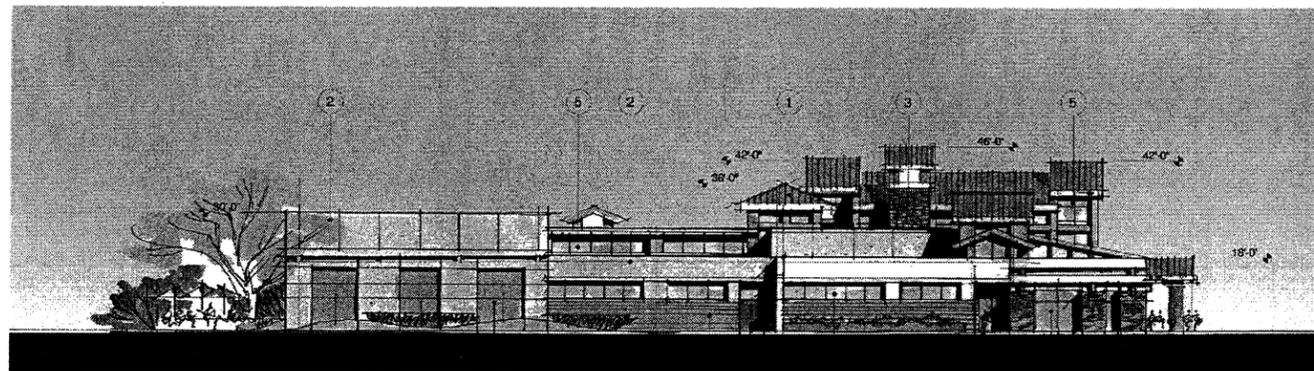
KKE architects, Inc. 525 E. Colorado Boulevard, 4th Floor, Pasadena, CA 91101 T: 626.796.8230 F: 626.796.8735

PROJECT FOR:

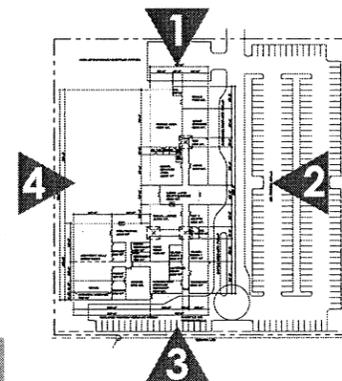


4100 MACARTHUR BLVD.
SUITE 200
NEWPORT BEACH,
CA 92660

T: 949.255.1100
F: 949.255.1128



3. SOUTH ELEVATION



4. WEST ELEVATION

MATERIALS

- 1. STANDING METAL SEAM ROOF
- 2. STUCCO
- 3. DRY STACK STONE
- 4. WOOD/METAL RAFTERS
- 5. GLAZING
- 6. LIGHT FIXTURE
- 7. WOOD TRELLIS

ELEVATIONS

JULY 9, 2007



NOTE: THIS INFORMATION IS CONCEPTUAL IN NATURE AND IS SUBJECT TO ADJUSTMENTS PENDING FURTHER VERIFICATION AND CLIENT, TENANT, AND GOVERNMENTAL AGENCY APPROVALS. NO WARRANTIES OR GUARANTIES OF ANY KIND ARE GIVEN OR IMPLIED BY THE ARCHITECT.

ATTACHMENT NO. 22



SENIOR CENTER

SENIOR CENTER
HUNTINGTON BEACH, CA

0713.1283.01

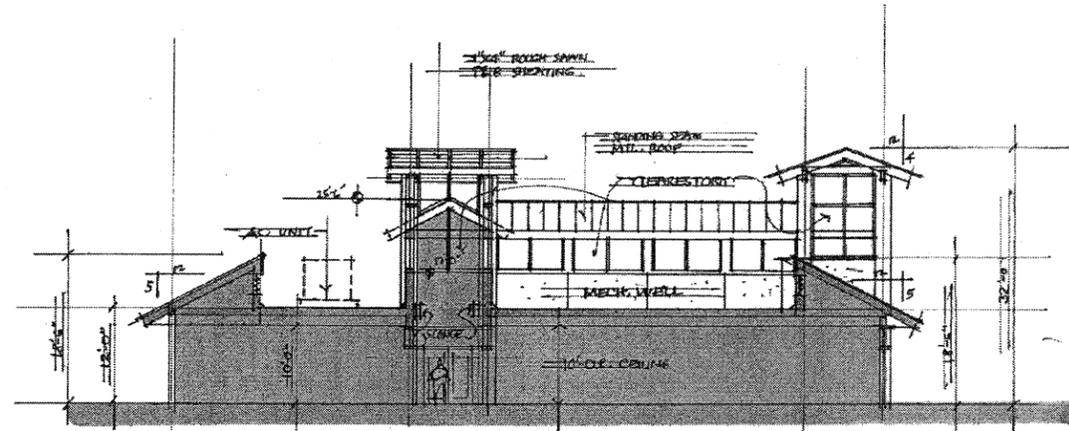
KKE architects, Inc. 525 E. Colorado Boulevard, 4th Floor, Pasadena, CA 91101 T: 626.796.8230 F: 626.796.8735

PROJECT FOR:

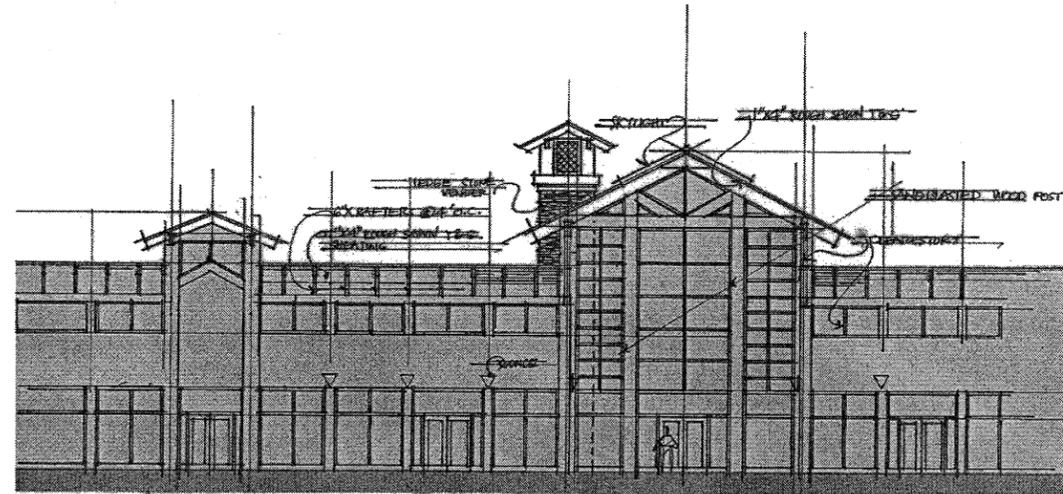


4100 MACARTHUR BLVD.
SUITE 200
NEWPORT BEACH,
CA 92660

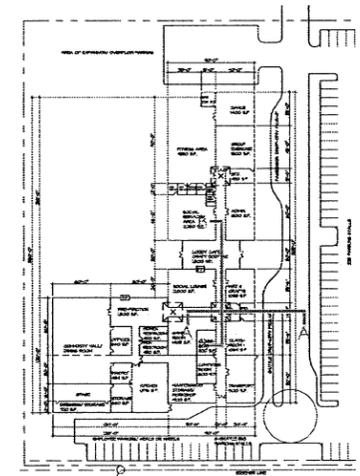
T: 949.255.1100
F: 949.255.1128



SECTION A



SECTION B



SECTIONS

JULY 9, 2007



NOTE: THIS INFORMATION IS CONCEPTUAL IN NATURE AND IS SUBJECT TO ADJUSTMENTS PENDING FURTHER VERIFICATION AND CLIENT, TENANT, AND GOVERNMENTAL AGENCY APPROVALS. NO WARRANTIES OR GUARANTIES OF ANY KIND ARE GIVEN OR IMPLIED BY THE ARCHITECT.

ATTACHMENT NO. 2.3



SENIOR CENTER

SENIOR CENTER
HUNTINGTON BEACH, CA

0713.1283.01

KKE architects, Inc. 525 E. Colorado Boulevard, 4th Floor, Pasadena, CA 91101 f: 626.796.8230 f: 626.796.8735

PROJECT FOR:



4100 MACARTHUR BLVD.
SUITE 200
NEWPORT BEACH,
CA 92660

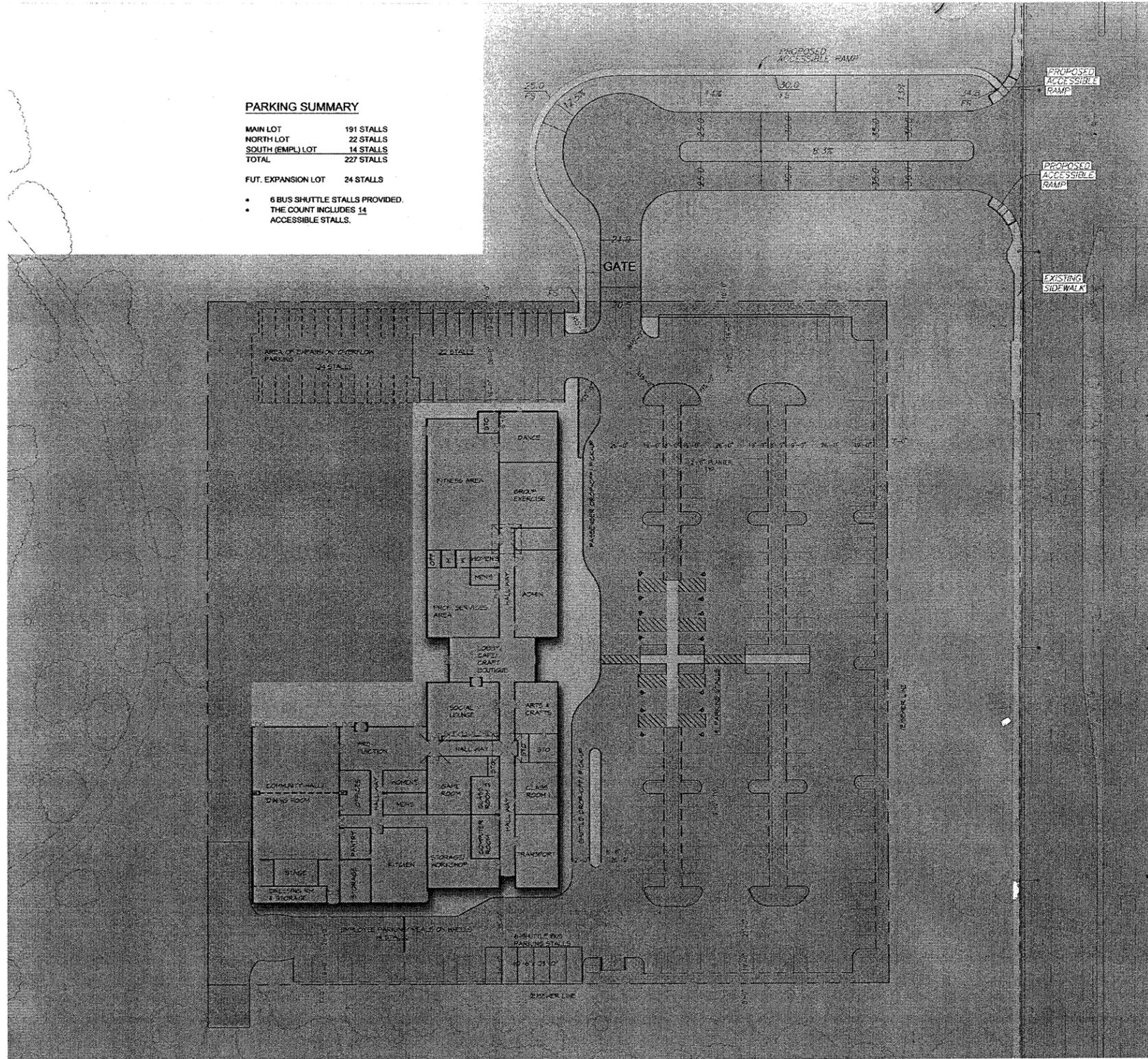
T: 949.255.1100
F: 949.255.1128

PARKING SUMMARY

MAIN LOT	191 STALLS
NORTH LOT	22 STALLS
SOUTH (EMPL) LOT	14 STALLS
TOTAL	227 STALLS

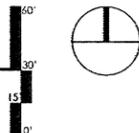
FUT. EXPANSION LOT 24 STALLS

- 6 BUS SHUTTLE STALLS PROVIDED.
- THE COUNT INCLUDES 11 ACCESSIBLE STALLS.



SITE PLAN

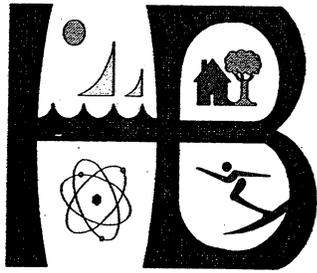
JULY 9, 2007



NOTE: THIS INFORMATION IS CONCEPTUAL IN NATURE AND IS SUBJECT TO ADJUSTMENTS PENDING FURTHER VERIFICATION AND CLIENT, TENANT, AND GOVERNMENTAL AGENCY APPROVALS. NO WARRANTIES OR GUARANTIES OF ANY KIND ARE GIVEN OR IMPLIED BY THE ARCHITECT.

ATTACHMENT NO. 24





MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, AUGUST 14, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: P P P P P P P
Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY SHAW, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF AUGUST 14, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

A-1. MITIGATED NEGATIVE DECLARATION NO. 06-008/CONDITIONAL USE PERMIT NO. 06-035/VARIANCE NO. 07-001 (FIRST CHRISTIAN CHURCH REMODEL/EXPANSION) 1207 Main Street, 92648 – Ron Santos

Commissioner Farley left the room.

Ron Santos, Associate Planner, gave an overview of the proposed project.

Discussion ensued regarding the size of the building and parking structure.

Several questions were raised regarding intent of outdoor events, seating capacity clarification, parking requirements, parking structure, aesthetics & colors, and intent of café services. Santos stated additional information will be provided, adding the Environmental Assessment Report addressed all the items adequately. Scott Hess, Director of Planning, added staff will address these issues in the staff report, including applicant's reply to questions raised.

**A-2. VARIANCE NO. 07-007 (APPEAL - TINKER CARPORT ADDITION)
6465 Marigayle Circle, 92648 – Andrew Gonzales**

Ricky Ramos, Associate Planner, gave an overview of the project, on behalf of Andrew Gonzales, Assistant Planner.

Questions were raised regarding the intention of a late communication on this item and the Commission requested timely email notification of late communications.

B. STUDY SESSION ITEMS - NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS):

Herb Fauland, Principal Planner, reviewed the agenda items for the 7:00 p.m. portion of the meeting. He advised of 15 late communication items received regarding public hearing Item B-2. He also requested the Planning Commission consider a change in the order to the agenda and possibly moving Items D-1 & D-2 after Item B-1.

D. PLANNING COMMISSION COMMITTEE REPORTS

**D-1. GREEN BUILDINGS PLANNING COMMISSION COMMITTEE –
Commissioner Shier- Burnett**

Commissioner Shier-Burnett provided an overview of the Green Buildings Committee report.

Chair Scandura made some suggestions on the presentation.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY DWYER, TO APPROVE THE COMMITTEE REPORT PRESENTATION FOR CITY COUNCIL REVIEW ON AUGUST 20, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

Commissioner Speaker reported on the last Design Review Board meeting and commented on the preliminary design of the proposed Senior Center.

E. PUBLIC COMMENTS -Regarding Study Session Portion of Meeting

David Treiman, resident, voiced his opposition to the project and urged Commissioners to review public comments concerning the negative declaration. He stated his concern regarding the new Conditional Use Permit superseding all existing Conditional Use Permits, as well as the harmful effects of diesel fuel and noise from the increased traffic.

Lee Treiman, resident, spoke in opposition of the project due to the additional noise the outdoor dining and amphitheater will create.

Kim Le, resident, voiced her opposition to the project due to potential crime in the proposed parking structure and that the cafeteria will be open to the public.

Karen Gray, resident, voiced her opposition to the project due to the impact of additional traffic, noise and smells on her quiet neighborhood.

Pete Peterson, resident, spoke in opposition to the project, stating concern with a parking structure in a residential neighborhood and a commercial café.

Howard Ross, resident, spoke in opposition to the project stating the project requires an Environmental Impact Report. He questioned how the City would enforce seat capacity. He objects to the proposed parking structure, bookstore and café due to the increase in traffic, noise and odors.

Ron Austin, resident, indicated he objects to a commercial café and to a parking structure. He states the project is too large for the neighborhood.

Stephen Kluewer, resident, objects to the project because it is too large and the parking structure will attract skateboarders and child predators.

Steve Stafford, resident, voiced his concerns regarding use of Estate Circle for access to the high school parking lot. He believes permissions have not been granted to use the roadway.

F. PLANNING COMMISSION COMMENTS:

Commissioner Scandura reported on the status of the H Item regarding downtown outdoor sales. Scandura stated this was a minute action item on a temporary use permit and will be on the next City Council meeting agenda.

6:45 P.M. – RECESS FOR DINNER

7:15 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Shier-Burnett

ROLL CALL: *P* *P* *P* *P* *P* *P* *P*
Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY SPEAKER, SECONDED BY SHAW, TO MOVE ITEMS D-1 AND D-2 AHEAD OF B-2 AND TO APPROVE THE PLANNING COMMISSION AGENDA OF AUGUST 14, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER.

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS:

B-1. CONDITIONAL USE PERMIT NO. 07-021 (RA SUSHI – CONTINUED FROM JULY 24, 2007 WITH PUBLIC HEARING TO BE OPENED): Applicant: Valentina Allen, Kerr Project Services **Request: To permit the establishment, maintenance and operation of a restaurant with on-site sale and consumption of alcoholic beverages. **Location:** 155 5th Street, Unit 183, 92648 (north side of Pacific Coast Highway, between 5th St. and 6th St. – The Strand) **Project Planner:** Rami Talleh**

STAFF RECOMMENDATION: Motion to: “Approve Conditional Use Permit No. 07-021 with findings and conditions of approval (Attachment No. 1).”

The Commission made the following disclosures:

- Commissioner Shier-Burnett has visited the site.
- Commissioner Livengood has visited the site.
- Commissioner Speaker recused himself.
- Commissioner Dwyer has visited the site.
- Chair Scandura has discussed the project with staff.
- Commissioner Farley has visited the site.

Herb Fauland, Principal Planner, gave a presentation of the project.

THE PUBLIC HEARING WAS OPENED.

Debra Kerr, Agent for RA Sushi, spoke on behalf of the applicant and stated she is available to answer questions. Ms. Kerr noted they have reviewed all conditions of approval and take no exceptions.

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

Commissioner Shier-Burnett commented the project will be an asset to the City.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHIER-BURNETT, TO APPROVE CONDITIONAL USE PERMIT NO. 07-021 WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

- AYES:** Shier-Burnett, Livengood, Scandura, Shaw, Dwyer, Farley
- NOES:** None
- ABSENT:** None
- ABSTAIN:** Speaker

MOTION APPROVED

Herb Fauland, Principal Planner, read the appeal language and appeal fee on the subject entitlement.

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 07-021

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. 07-021:

1. Conditional Use Permit No. 07-021 for the establishment of a 5,313 sq. ft. restaurant with on-site alcohol sales 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 uses will not create adverse noise or parking impacts to the surrounding businesses and residents based on the availability of parking within the existing parking structure and limitations on hours of operation.
2. The proposed restaurant with alcohol sales will be compatible with surrounding uses. The use will be required to comply with conditions of approval pertaining to hours of operation to assure that any potential impacts to the surrounding properties are minimized. The use is subject to noise regulations to ensure compatibility with surrounding businesses and residents. In addition, the proposed use is consistent with the mixed-use character of commercial developments in the downtown.
3. The proposed restaurant 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 use will comply with parking in the Downtown Parking Master Plan and will be accommodated by the parking supply within the subterranean parking structure under construction. 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. It 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 subregion, (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.

The proposed use will provide a new visitor-serving commercial venue within the Downtown that is consistent with the Land Use Density Schedules for the Downtown and is compatible with surrounding mixed-use development.

B. Coastal Element

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 the commercial viability of The Strand and will expand the available visitor-serving commercial uses within the Coastal Zone.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 07-021:

1. The site plan, floor plans, and elevations received and dated May 22, 2007 shall be the conceptually approved design except the storefront windows shall remain fixed.
2. The hours of operation for the restaurant shall be between 11:00 a.m. and 1:00 a.m. Sunday through Thursday and between 11:00 a.m. and 2:00 a.m. Friday and Saturday. Food service shall be provided to within one hour before closing. **(PD/ED)**
3. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.

4. 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. ZONING TEXT AMENDMENT NO. 07-003 (MEDICAL MARIJUANA DISPENSARIES): **Applicant:** City of Huntington Beach **Request:** To amend Chapters 204 and 212 of the Huntington Beach Zoning and Subdivision Ordinance to delete all references to medical marijuana dispensaries. **Location:** Industrial Districts Citywide **Project Planner:** Ricky Ramos

STAFF RECOMMENDATION: Motion to: "Approve Zoning Text Amendment No. 07-003 with findings (Attachment No. 1) and forward to the City Council for adoption."

The Commission made the following disclosures:

- Commissioner Shier-Burnett has never visited a dispensary and has spoken with the City Attorney.
- Commissioner Livengood had discussed the item in a study session.
- Commissioner Speaker – none.
- Chair Scandura spoke with staff, Mayor, and Commissioner Dwyer.
- Commissioner Farley has visited the location.
- Commissioner Shaw discussed with Commissioner Dwyer, Congressmen Rohrabacher's office and has researched the item through Google.
- Commissioner Dwyer discussed with Congressmen Rohrabacher, Councilman Hansen, Mayor Coerper, Senior Deputy City Attorney Leonie Mulvihill, City Attorney Jennifer McGrath, Police Chief Kenneth Small, Captain Chuck Thomas, Chair Scandura, Commissioner Shaw, Violet Wilmut with the Drug Enforcement Agency (DEA), Sandy Walsh with the Food and Drug Administration (FDA), Police Officer Bob VanGoerder, Costa Mesa Planning Commissioner Jim Righheimer, Irvine Planning Commissioner Adam Probolski, and Chairman of Republic Party of Orange County Scott Baugh.

Ricky Ramos, Associate Planner, presented a PowerPoint presentation outlining the proposed text amendment. Ramos reported 15 late communication emails regarding this item.

Commissioner Livengood asked for clarification that the proposed amendment was deleting medical marijuana dispensaries from the zoning code, if approved.

Scott Hess, Director of Planning clarified that the role of the Commissioners was to make a recommendation and forward to city council to approve or deny the zoning text amendment.

Discussion ensued regarding language in the City Charter on business permits and prosecution of marijuana possession. Staff was asked to provide additional information on Supreme Court cases and Proposition 215.

THE PUBLIC HEARING WAS OPENED.

Rob Wayman, representative of Compassionate Caregivers, spoke in opposition to the amendment. Mr. Wayman reported that when State and Federal Law conflict, State officials must follow State Law regardless of Federal Law.

Scott Mile donated time to Anthony Curiale.

Anthony Curiale, Attorney, spoke in opposition to the amendment. Curiale stated no court case has ruled that Proposition 215 is subservient to Federal Law. Curiale warns the City may be subject to lawsuits stating discrimination under the Unruh Act. Curiale stated Senate Bill 420 expanded Proposition 215 to allow for the dispensation, growth, transportation and administration of marijuana by primary care givers.

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

Commission Dwyer asked for clarification from staff on issues that were raised by Mr. Curiale.

Chair Scandura took issue with the reasoning of the speakers that local government can choose which law to follow when there is a conflict between State and Federal law.

Commissioner Dwyer mentioned in the point of order the Planning Commission does not have to make a recommendation to the City Council. Dwyer cites other cities' dispensaries have been raided by the DEA, who can seize the property. Dwyer clarified his discussions are based purely on evidence on marijuana and not on political ambition.

Commissioner Shaw does not want to see the Federal Government strong arm State Law and would rather honor the will of the people of Huntington Beach and Orange County.

Commissioner Shier-Burnett feels that this item is a travesty and yet another case of the Federal government not listening to its constituents.

Commissioner Livengood is concerned that the law is not clear and did not have information on Senate Bill 420 in the report.

Commissioner Farley stated this is a tough issue with many grey areas. Farley was concerned about the lack of knowledge about ID cards and other bills that were passed.

Chair Scandura clarified this is a policy question for the City. Scandura stated the question is whether to permit a business that is illegal under Federal Law and should we continue to have this ordinance on our books.

A MOTION WAS MADE BY COMMISSIONER DWYER TO CHANGE THE LANGUAGE OF THE CURRENT CODE, AS PER STAFF'S RECOMMENDATION, WITH THE FOLLOWING FINDINGS: THAT THE ISSUE BE REVISITED UPON THE COMPLETION OF THE CURRENT STUDIES BEING DONE BY CONSENT OF THE FDA AND DEA AND/OR THE RE-CLASSIFICATION OF MARIJUANA, SUCH AS CHANGING THE CLASSIFICATION FROM A C-1 TO A C-5 DRUG OR CHANGING THE CLASSIFICATION TO STATE CONTROLLED (MEANING THERE IS NO CHANCE FOR ADDICTION).

WITH NO SECOND, THE MOTION FAILED.

Commissioner Livengood would like to continue to a date certain and requested additional information. Livengood suggested information on Senate Bill 420 and on Supreme Court action before making a recommendation to City Council.

Commissioner Farley also requested additional information on Senate Bill 420 and Proposition 215.

Staff will provide the following items before the September 11th meeting:

1. Senate Bill 420
2. Proposition 215
3. Relevant Court Cases
4. Citation from the state constitution regarding conflicts with Federal Law

Chair Scandura requested additional information on the Unruh act.

SUBSTITUTE MOTION:

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHAW, TO CONTINUE ZONING TEXT AMENDMENT NO. 07-003 TO SEPTEMBER 11, 2007, WITH THE ITEMS LISTED TO BE PROVIDED PRIOR TO THE MEETING, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Speaker, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED APRIL 24, 2007

RECOMMENDED ACTION: Motion to: "Approve the April 24, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY SPEAKER, SECONDED BY DWYER, TO APPROVE THE APRIL 24, 2007 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Speaker, Scandura, Dwyer, Farley
NOES: None
ABSENT: None

ABSTAIN: Shaw

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED MAY 22, 2007

RECOMMENDED ACTION: Motion to: "Approve the May 22, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY DWYER, SECONDED BY SHIER-BURNETT, TO APPROVE THE MAY 22, 2007 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Scandura, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: Speaker, Shaw

MOTION APPROVED

C-3. PLANNING COMMISSION MINUTES DATED JUNE 26, 2007

RECOMMENDED ACTION: Motion to: "Approve the June 26, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY FARLEY, SECONDED LIVENGOOD, TO APPROVE THE JUNE 26, 2007 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Speaker, Scandura, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: Shaw

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS

D-1. GENERAL PLAN CONFORMANCE NO. 07-002 (CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2007/08): Applicant: City of Huntington Beach Request: Evaluate Capital Improvement Program for Fiscal Year 2007/08 for compliance with the General Plan. Location: Citywide Project Planner: Rosemary Medel

STAFF RECOMMENDATION: Motion to: "Adopt Resolution No. 1616, approving General Plan Conformance No. 07-002."

Rosemary Medel, Associate Planner, provided a staff report on the General Plan Conformance.

Chair Scandura commended the staff for including detail on specific projects which helped them in their evaluation and will be a benefit to City Council when they review this program.

A MOTION WAS MADE BY SPEAKER, SECONDED BY FARLEY, TO ADOPT RESOLUTION NO. 1616, APPROVING GENERAL PLAN CONFORMANCE NO. 07-002 AND FORWARD TO CITY COUNCIL, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Speaker, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

D-2. 2006-2007 FLOOD MANAGEMENT PLAN ANNUAL REVIEW:

Applicant: City of Huntington Beach **Request:** Annual review of Flood Management Plan to demonstrate that the City is actively pursuing its implementation. **Location:** Citywide **Project Planner:** Ricky Ramos

STAFF RECOMMENDATION: Motion to: "Accept the Flood Management Plan annual review as adequate and complete and forward to the City Council for their review."

Ricky Ramos, Associate Planner, presented a Powerpoint and an outline of the proposed plan.

Commissioner Livengood requested to be informed when a county channel near Good Shepherd Cemetery is scheduled for upgrades.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO ACCEPT THE FLOOD MANAGEMENT PLAN ANNUAL REVIEW AND FORWARD TO CITY COUNCIL, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Speaker, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Director of Planning - reported on the items from the previous City Council meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Director of Planning - reported on the items scheduled for the next City Council meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner - reported on the items scheduled for the next Planning Commission meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS - NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Shier-Burnett – None

Commissioner Speaker – Praised staff for doing a fine job.

Vice-Chairperson Livengood – Praised staff for doing a fine job.

Chairperson Scandura – Praised staff and fellow Commissioners for doing a fine job.

Commissioner Shaw – Thanked Leonie Mulvihill, Senior Deputy City Attorney, for doing a fine job.

Commissioner Dwyer – Praised staff for doing a fine job.

Commissioner Farley – Praised staff for doing a fine job.

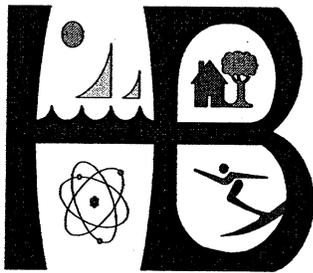
ADJOURNMENT:

Adjourned at 9:00 p.m. to the next regularly scheduled meeting of August 28, 2007.

APPROVED BY:

Scott Hess, Secretary

John Scandura, Chair



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, AUGUST 28, 2007
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: P P P P P P P
Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY DWYER, SECONDED BY LIVENGOOD, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF AUGUST 28, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

- A-1. **NEGATIVE DECLARATION NO. 06-002/ANNEXATION NO. 06-001/ZONING TEXT AMENDMENT NO. 06-001/ZONING MAP AMENDMENT NO. 06-001 (BRIGHTWATER SPECIFIC PLAN) – Sandra Campbell**

Sandra Campbell, Contract Senior Planner, gave an overview of the project.

Discussion ensued regarding the end date for the public review period, if any homes would close escrow before the annexation, why county codes were being followed rather than city codes, the vegetation list in the proposed plan and the issue of homeowners' association responsibilities.

- A-2. **ZONING TEXT AMENDMENT NO. 07-003 (MEDICAL MARIJUANA DISPENSARIES - INFORMATION AND STATUS UPDATE) – Ricky Ramos**

Acting Senior Planner Ricky Ramos reviewed the additional information that was requested by the Planning Commission.

Commissioner Shier-Burnett asked if our constitution states that state law will trump federal law. City Attorney Jennifer McGrath replied that marijuana is considered an illegal substance from the federal law standpoint.

Chair Scandura clarified that land use is the policy matter at hand. The best land use recommendation is what the Planning Commission should strive for.

B. STUDY SESSION ITEMS – NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland

Herb Fauland, Principal Planner, recommended continuance of Item B-1, citing the minimum requirements for public notification were not met. He advised of one late communication for Item C-1. He initiated discussion on the agenda items scheduled for September 11, 2007.

Chair Scandura recused himself from further discussion and will abstain from voting on Item B-1 (First Christian Church) citing conflict of interest.

Discussion ensued regarding the September 11, 2007, agenda items, which would include Medical Marijuana, Brightwater and First Christian Church.

D. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Dwyer stated that he attended the Beach/Edinger Corridor Committee Meeting.

Commissioner Livengood stated that he attended the Beach/Edinger Corridor Committee Meeting.

Commissioner Shier-Burnett reported on the Green Building Report presentation to City Council.

E. PUBLIC COMMENTS - NONE

F. PLANNING COMMISSION COMMENTS

Commissioner Dwyer complimented Commissioner Shier-Burnett on the Green Building Report presentation to City Council.

Chair Scandura thanked Commissioner Shier-Burnett on her efforts regarding the Green Building Report presentation to City Council.

6:15 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Dwyer

ROLL CALL: *P* *P* *P* *P* *P* *P* *P*

Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHAW, TO APPROVE THE PLANNING COMMISSION AGENDA OF AUGUST 28, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS:

B-1. MITIGATED NEGATIVE DECLARATION NO. 06-008/CONDITIONAL USE PERMIT NO. 06-035/VARIANCE NO. 07-001 (FIRST CHRISTIAN CHURCH REMODEL/EXPANSION) Applicant: Art Cueto. Request: . MND: To analyze the potential environmental impacts associated with implementation of the proposed project. CUP: To permit the expansion and remodel of an existing church complex, including construction of a three-level parking structure; VAR: To permit joint use parking (298 spaces) located at a distance in excess of 250 feet from the project site (at Huntington Beach High School) during the construction phase Location: 1207 Main Street, 92648 (southeast corner of Adams Avenue and 17th Street). Project Planner: Ron Santos

STAFF RECOMMENDATION: Motion to: "Continue Mitigated Negative Declaration No. 06-008/ Conditional Use Permit No.06-035/ Variance No. 07-001 to the September 11, 2007 meeting."

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO CONTINUE TO SEPTEMBER 11, 2007 WITH NEW PUBLIC NOTIFICATION, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Shaw, Dwyer
NOES: None
ABSENT: None
ABSTAIN: Scandura, Farley

MOTION APPROVED

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED JULY 24, 2007

RECOMMENDED ACTION: Motion to: "Approve the July 24, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY DWYER, SECONDED BY SPEAKER, TO APPROVE THE JULY 24, 2007 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Speaker, Scandura, Dwyer, Farley, Shaw
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Director of Planning - reported on the items from the previous City Council meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Director of Planning – reported on the items scheduled for the next City Council meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner – reported on the items scheduled for the next Planning Commission meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Shier-Burnett – None

Commissioner Speaker – None

Vice Chairperson Livengood – None

Chairperson Scandura noted how the citizens of Huntington Beach are active and involved in the Public Hearing Process.

Commissioner Shaw – None

Commissioner Dwyer mentioned ZTA No. 07-003 (Medical Marijuana) may be continued from September 11 to the September 25th meeting.

Commissioner Farley - None

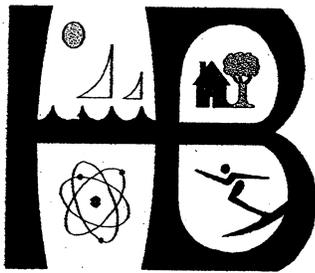
ADJOURNMENT:

Adjourned at 7:07 p.m. to the next regularly scheduled meeting of September 11, 2007.

APPROVED BY:

Scott Hess, Secretary

John Scandura, Chair



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, SEPTEMBER 11, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

6:00 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

P P P P P P P
ROLL CALL: *Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley*
(Commissioner Livengood arrived at 6:16 PM)

AGENDA APPROVAL

A MOTION WAS MADE BY SCANDURA, SECONDED BY DWYER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF SEPTEMBER 11, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: Livengood
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

- A-1. MITIGATED NEGATIVE DECLARATION NO. 06-008/CONDITIONAL USE PERMIT NO. 06-035/VARIANCE NO. 07-001 (FIRST CHRISTIAN CHURCH REMODEL/EXPANSION – STAFF UPDATE) 1207 Main Street, 92648 – Ron Santos

Chair Scandura and Commissioner Farley left the room.

Ron Santos, Associate Planner, gave an overview of the project and recommended alternative actions, which may include deleting the parking structure from the project. Director of Planning Scott Hess noted that First Christian Church (Item No. A-1) was continued from the Planning Commission Meeting of August 28, 2007, because the requirements for public notification were not met. Commissioner Dwyer inquired if the Applicant was notified of the Alternative Action recommendation and staff responded yes. Commissioner Livengood asked about the

agreement for First Christian Church to have joint use parking with Huntington Beach High School and staff responded that it would be only during construction. Santos spoke regarding Church seating vs. square feet and how that would impact the parking requirements. He noted that the 49 parking spaces at Smith School would be part of First Christian Church's permanent parking.

Chair Scandura and Commissioner Farley returned.

B. STUDY SESSION ITEMS – NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland

Herb Fauland, Principal Planner, recommended continuance on Item No. B-1. He noted that there were two late communications for Item No. B-2 and one late communication for Item No. B-3. He advised that the minutes for the May 8th, 2007 and July 10th, 2007, Planning Commission meetings were submitted for approval.

D. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Farley reported the Environmental Board discussed the Energy Fair at their previous meeting.

E. PUBLIC COMMENTS

Resident David Treiman asked for clarification on procedures for Study Session and Planning Commission Meetings. Treiman also discussed what he deemed to be substantial changes to First Christian Church's Conditional Use Permit request and suggested 'starting over' with a new Planning Commission evaluation, stating that if an item is not in the Negative Declaration, then it shouldn't be in the proposal.

First Christian Church Pastor Bruce Templeton advised that he would be in attendance at both Study Session and Public Hearing portions of the meeting and would be available to answer questions.

F. PLANNING COMMISSION COMMENTS

Commissioner Livengood stated that he would clarify and help keep the public informed regarding First Christian Church during the Public Hearing portion of the meeting.

Chair Scandura thanked Sandy Henderson and welcomed Linda Wine. He gave a special "Chairman's Presentation" award plaque to Commissioner Shier-Burnett, and thanked her for her successful "Green Buildings" presentation to the City Council. Scandura also requested that the Planning Commission change the order of the agenda by moving Items C-1 and C-2 ahead of Item B-3.

Commissioner Shaw welcomed Linda Wine.

6:20 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Jacques Pelletier, Fire Division Chief

ROLL CALL: *P* *P* *P* *P* *P* *P* *P*
Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY SCANDURA, SECONDED BY SPEAKER, TO MOVE ITEMS C-1 AND C-2 AHEAD OF B-3, AND TO APPROVE THE PLANNING COMMISSION AGENDA OF SEPTEMBER 11, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER.

Chair Scandura asked that we all remember the heroes of September 11, 2001.

A. ORAL COMMUNICATIONS

Rob Wayman, representative for Compassionate Care Dispensaries, handed out cards and donated his remaining time to Anthony Curiale, Attorney, who discussed the August 14, 2007, hearing on Item No. B-1 (Medical Marijuana).

Steve Stafford, resident, requested that First Christian Church (Item No. B-3) be heard first.

Sander Gelfan, resident, stated that he has concerns over the proposed First Christian Church outdoor sound system, café and three-story parking structure. Gelfan said that he has a good relationship with the Church, but feels First Christian Church's plans are overambitious.

B. PUBLIC HEARING ITEMS:

- B-1. ZONING TEXT AMENDMENT NO. 07-003 (MEDICAL MARIJUANA DISPENSARIES - CONTINUED FROM AUGUST 14, 2007 WITH PUBLIC HEARING CLOSED) Applicant: City of Huntington Beach Request: To amend Chapters 204 and 212 of the Huntington Beach Zoning and Subdivision Ordinance to delete all references to medical marijuana dispensaries. Location: Industrial Districts Citywide Project Planner: Ricky Ramos**

STAFF RECOMMENDATION: Motion to: "Continue Zoning Text Amendment No. 07-003 to the September 25, 2007 Planning Commission meeting."

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO CONTINUE TO THE SEPTEMBER 25, 2007 PLANNING COMMISSION MEETING WITH THE PUBLIC HEARING TO BE OPENED, BY THE FOLLOWING VOTE.

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Farley
NOES: Dwyer
ABSENT: None
ABSTAIN: None

MOTION APPROVED

B-2. NEGATIVE DECLARATION NO. 06-002/ANNEXATION NO. 06-001/ZONING TEXT AMENDMENT NO. 06-001/ZONING MAP AMENDMENT NO. 06-001

(BRIGHTWATER SPECIFIC PLAN) Applicant: Hearthside Homes (Ed Mountford)
Request: **ND:** To analyze the potential environmental impacts associated with the implementation of the proposed project. **ANX:** To annex approximately 105.3 acre Brightwater Development Project (BDP) into the City of Huntington Beach; **ZTA:** To create the Brightwater Specific Plan (SP 15); **ZMA:** To amend the City of Huntington Beach Zoning Map to: 1) prezone with the Brightwater Specific Plan a 105.235 acre portion of the BDP site presently located within an unincorporated portion of Orange County; 2) prezone a 0.065 acre portion of the unincorporated area with Residential Low Density (RL) zoning for inclusion in the Sandover project; and 3) rezone 0.365 acres of the subject property currently located within the City of Huntington Beach from RL to Brightwater Specific Plan. **Location:** Northeast corner of the Bolsa Chica Mesa and generally bounded by Los Patos Avenue to the north, Warner Avenue to the northwest and the terminus of Bolsa Chica Street to the east. **Project Planner:** Sandra Campbell

STAFF RECOMMENDATION: Motion to:

- A. "Approve Negative Declaration No. 06-02 with findings (No. 1)."
- B. "Recommend approval of Zoning Text Amendment No. 06-01 with findings for approval (Attachment No. 1) and forward the Draft Resolution (Attachment No. 3) to the City Council for adoption."
- C. "Recommend approval of Zoning Map Amendment No. 06-01 with findings for approval (Attachment No. 1) and forward Draft Ordinance (Attachment No. 2) to the City Council for adoption."
- D. "Approve Annexation No. 06-01 as a minute action and forward recommendation to the City Council."

The Commission made the following disclosures:

- Commissioner Shaw has met the principals and visited the site.
- Commissioner Farley has met the principals and visited the site.
- Chair Scandura has met the principals and visited the site.
- Commissioner Livengood has toured the site and questioned whether there would be available space to park on both sides of the street.
- Commissioner Dwyer has visited the site, noted that the streets are smaller and asked about Fire Truck radius turnaround.

Associate Planner Jason Kelley gave a PowerPoint Presentation on the project and responded to Commissioner Livengood's query regarding parking (there will be parking on both sides of the street). Fire Division Chief Jacques Pelletier stated that he would investigate Commissioner Dwyer's concern regarding Fire Truck radius turnaround. Chair Scandura inquired whether the property will be annexed to the City of Huntington Beach before or after development. Staff replied that it would be after development. Chair Scandura stated that development revenues would be approximately \$8 million, but it would be more money if the property was annexed prior to development. Principal Planner Mary Beth Broeren stated that the city would have made more money if that were the case; however, the developer has to pay the \$8 million and the city benefits from the parks and trails. Commissioner Farley questioned whether the homes would be occupied prior to the annexation and Project Planner/Consultant Sandra Campbell replied no.

THE PUBLIC HEARING WAS OPENED.

Ed Mountford, Applicant, Hearthside Homes, said that the streets would be large enough for Fire Truck turnarounds and that the homes themselves would be annexed into the City of Huntington Beach, but prior to occupancy.

Flossie Horgan, President of Bolsa Chica Land Trust, stated that the Planning Commission should include the Lower Bench in the project and ensure that the project remains an open community, with parking open to the public. She also discussed the 9' Los Patos pad (and included two pictures as a handout), stating that the pad is too high, blocks the sun and is out of character with the rest of the development. The six additional houses (ref: Lot #7) should be consistent in design with the rest of the neighborhood.

WITH NO OTHER SPEAKERS – THE PUBLIC HEARING ON BRIGHTWATER WAS CLOSED.

Commissioner Shier-Burnett inquired what would happen if the community was gated – what would prevent the neighbors from making changes to prevent public access later on and what would be the subsequent action. Principal Planner Mary Beth Broeren stated in that instance, the project would have to go back to the Coastal Commission, as the gates would be illegal and it would be doubtful that gating would ever be approved.

Commissioner Shier-Burnett asked about parking on both sides of Brightwater Drive and confirmed that any development on Lot #7 would require additional approvals. Staff replied yes,

there will be a bike lane on one side, with parking on both sides. Commissioner Speaker stated that both the County and the Coastal Commission have approved the project – and asked if Huntington Beach would be approving what they approved. Staff replied yes. Commissioner Livengood asked about the wording (see sections 2.10, 2.27) on two-sided street parking; as worded now, it's for residents and their guests – can it be reworded to say that the public can park on both sides of the street – Principal Planner Mary Beth Broeren replied to Livengood and referred him to sections 2.25 and 2.26 as well as 2.27, which refers to parking in each and all areas. For consistency, public parking verbiage should be added to all sections. Commissioner Livengood inquired if more parking (at the beginning of the trailhead) can be added at a later date, or is it locked in. Principal Planner Mary Beth Broeren stated that there is no more projected parking at this time.

Commissioner Shaw is concerned about parking and public access during construction. Since we are annexing in phases, this will take time and we will not have any enforcement during that time, so Commissioner Shaw is requesting a City of Huntington Beach liaison. Applicant Ed Mountford spoke, indicating that he would serve as the liaison for the 'most regulated community in California' and that the Coastal Commission is a third party beneficiary to the CC&Rs.

Commissioner Shaw also asked if zoning can be set aside for Lot #7, due to concerns about pad elevation. Principal Planner Mary Beth Broeren replied that by including the lot in the pre-zoning, the City would ultimately have more control over its development.

Commissioner Dwyer asked if the Brightwater streets are dedicated to the City of Huntington Beach, and Principal Civil Engineer Terri Elliot replied that they are dedicated to the County, and when the property is annexed, it switches to the City.

Commissioner Farley spoke about the Lower Bench area and inquired when it will be annexed. Principal Planner Mary Beth Broeren stated that this issue was brought to the City Council in early 2007, and the City Council decided to study this issue in the new budget year. Staff will work on the Fiscal Analysis for that annexation in 2008 – the overall process can take 12-18 months. Chair Scandura also said that the City is looking at annexing the entire wetlands/lowlands areas in Bolsa Chica and stated the need to point out the changes in the specific plan to include verbiage regarding public areas and public parking.

Chair Scandura asked who will be responsible for the storm drains. Staff replied that the city will be enforcing storm drain maintenance.

Chair Scandura led a general discussion regarding maintenance of the habitat areas and reporting of violations. Principal Planner Broeren responded that questions or complaints should go to City Hall (Administration – Planning – Public Works) and that we then would direct these to the Coastal Commission or take action. Chair Scandura requested a single point of contact for these questions and complaints, and Principal Planner Broeren responded that it would depend on where the issue was occurring and the specific nature of the issue.

Applicant Ed Mountford said that Hearthside Homes is responsible for carrying out the specific plan – they are meeting with the Huntington Beach Police Dept to develop signs to post

regarding code violations. He also stated that they have a Management company to ensure that all conditions are complied with.

Chair Scandura indicated that the revenue from the annexation would be close to \$19 million over seven years.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE NEGATIVE DECLARATION NO. 06-02 WITH FINDINGS (ATTACHMENT NO. 1), BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura , Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE ZONING TEXT AMENDMENT NO. 06-01 WITH FINDINGS FOR APPROVAL (ATTACHMENT NO. 1), WITH THE ADDITION OF LANGUAGE REFERENCING PUBLIC PARKING ON PAGES 2.24-2.27, AND FORWARD THE DRAFT RESOLUTION (ATTACHMENT NO. 3) TO THE CITY COUNCIL FOR ADOPTION; TO APPROVE ZONING MAP AMENDMENT NO. 06-01 WITH FINDINGS FOR APPROVAL (ATTACHMENT NO. 1) AND FORWARD THE DRAFT (ATTACHMENT NO. 2) TO THE CITY COUNCIL FOR ADOPTION; AND TO APPROVE ANNEXATION NO. 06-02 AS A MINUTE ACTION AND FORWARD RECOMMENDATION TO THE CITY COUNCIL, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura , Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

Principal Planner Herb Fauland noted that this Item will be forwarded automatically to the City Council for final action.

SUGGESTED FINDINGS FOR APPROVAL - NEGATIVE DECLARATION NO. 06-02:

1. The Negative Declaration No. 06-02 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 No. 06-02, Annexation No. 06-01, Zoning Text Amendment No. 06-01 and Zoning Map Amendment No. 06-01.

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. The Annexation, Zoning Text Amendment and Zoning Map Amendment will not create any additional density or intensity of land use on the project site over that which was analyzed in Subsequent EIR No. 551 and Addendum. Subsequent EIR No. 551 and Addendum also found that the change in services from Orange County providers to City providers that take place after annexation will not create undue burden on the City.

SUGGESTED FINDINGS FOR APPROVAL – ANNEXATION NO. 06-001/ZONING TEXT AMENDMENT NO. 06-001 AND ZONING MAP AMENDMENT NO. 06-001:

1. Zoning Map Amendment No. 06-01 amending District Map No. 34 to prezone a 105.3 acres as Brightwater Specific Plan (Specific Plan-15) with a Coastal Zone Overlay, prezone approximately 0.065 acres as Residential Low Density with a Coastal Zone Overlay (RL-CZ), and rezone approximately 0.365 acres within the City from RL-CZ to SP-15-CZ and Zoning Text Amendment No. 06-01 for the adoption of the Specific Plan are consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan because the Specific Plan provides for a cohesive development of residential and habitat areas that are compatible with adjacent single-family development on the north and east and with the environmentally sensitive Bolsa Chica area to the south. The Specific Plan provides community design standards for the future development of the remaining six homes and future additions, alterations, and replacements due to fire and the like that will ensure compatibility with surrounding development.
2. In the case of a general land use provision, the zoning map amendment and Specific Plan are compatible with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed. The Brightwater Specific Plan provides single-family residential development that is consistent with existing single-family residential development adjacent to the north and east. The rezoning and pre zoning of the areas to be included with the Sandover project are consistent with the zoning of that area.
3. A community need is demonstrated for the change proposed. The Brightwater Specific Plan will provide standards that will be consistent with the BDP approved by Orange County and the California Coastal Commission thereby allowing the project site to be annexed into the City. The development standards and community design guidelines contained in the Specific Plan will ensure that future development within the site will be compatible with surrounding existing development and maintain a high standard of design on the site.
1. Its adoption will be in conformity with public convenience, general welfare and good zoning practice. The Specific Plan will provide standards for future development of the site that will maintain the existing character of the site and surrounding residential development. The Specific Plan also provides for the continued management and maintenance of important habitat areas so that they will not become a financial burden to the City. The Specific Plan also provides for a public trail along the northern portion of the large habitat area that will provide additional recreational opportunities to the City and surrounding communities.

SUGGESTED FINDINGS FOR APPROVAL - SPECIFIC PLAN NO. 15:

1. The Specific Plan is consistent with the adopted Land Use Element of the General Plan and, if in the coastal zone, with the certified Local Coastal Program Land Use Plan, and other applicable policies and is compatible with surrounding development. The Specific Plan is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan because the Specific Plan provides for a cohesive development of residential and habitat areas that is compatible with adjacent single-family development on the north and east and with the environmentally sensitive Bolsa Chica area to the south. The Specific Plan provides community design standards for the future development of the remaining six homes and future additions, alterations, and replacements due to fire and the like that will ensure compatibility with surrounding development. The Specific Plan area is located within unincorporated Orange County and, therefore, is currently outside of the City's Local Coastal Program. However, a Coastal Development Permit No. 5-05-020 was issued by the California Coastal Commission for the Brightwater Development Project.
2. The Specific Plan will enhance the potential for superior urban design in comparison with the development under the base district provisions that would apply if the Plan were not approved. The Specific Plan contains development standards and architectural and landscape design guidelines that will apply to the development of the six additional residential lots within the Specific Plan and to future additions, alterations and replacements due to the fire and the like that will ensure consistency with the high quality architectural and landscape design of the existing development and compatibility with surrounding development.
3. Deviations from the base district provisions that otherwise would apply are justified by compensating benefits of the Specific Plan. The Specific Plan provides for a cohesive development of residential and habitat areas that are compatible with adjacent single-family development on the north and east and with the environmentally sensitive Bolsa Chica area to the south. The Specific Plan provides for conservation of large habitat areas on the southern edge of the residential development that will preserve open space and provide views of Bolsa Chica area and the Pacific Ocean from the public trail area located at the northern portion of the habitat area. The Specific Plan also provides for preservation of environmentally sensitive habitat that will provide a public benefit to the City of Huntington Beach and surrounding communities.
4. The Specific Plan includes adequate provisions for utilities, services, and emergency vehicle access; and public service demands will not exceed the capacity of existing and planned systems. The Specific Plan provides plans for all infrastructure including roadways and circulation, grading and drainage plans and utilities that will serve the Specific Plan site as consistent with the Brightwater Development Project approved by Orange County and the California Coastal Commission. The Specific Plan site is currently being developed with all necessary infrastructures that will be completed before annexation takes place. As analyzed in Subsequent EIR No. 551, the public service demands for the Specific Plan will not exceed the capacity of existing and planned systems, including the transfer of services from Orange County to the City of Huntington Beach after annexation. All public services, both before and after annexation, will be adequately met by existing resources including fire, police and emergency services. Emergency access will be adequate for the Specific Plan area in that

all streets within the site will be public to allow emergency vehicles access to the site. In addition, the Specific Plan area will not be gated.

- B-3. MITIGATED NEGATIVE DECLARATION NO. 06-008/CONDITIONAL USE PERMIT NO. 06-035/VARIANCE NO. 07-001 (FIRST CHRISTIAN CHURCH REMODEL/EXPANSION - CONTINUED FROM AUGUST 28, 2007 WITH PUBLIC HEARING TO BE OPENED) Applicant: Art Cueto. Request: MND: To analyze the potential environmental impacts associated with implementation of the proposed project. CUP: To permit the expansion and remodel of an existing Church complex, including construction of a three-level parking structure; VAR: To permit joint use parking (298 spaces) located at a distance in excess of 250 feet from the project site (at Huntington Beach High School) during the construction phase Location: 1207 Main Street, 92648 (southeast corner of Adams Avenue and 17th Street). Project Planner: Ron Santos**

STAFF RECOMMENDATION: Motion to:

- A. "Approve Mitigated Negative Declaration No. 06-008 with findings and suggested mitigation measures (Attachment No. 1 to Planning Commission Staff Report dated August 28, 2007);"
- B. "Approve Conditional Use Permit No. 06-035/ Variance No. 07-001 with findings and suggested conditions of approval (Attachment No. 1 to Planning Commission Staff Report dated August 28, 2007)."

Chairman Scandura and Commissioner Farley recused themselves. There are 31 Public Speakers.

The Commission made the following disclosures:

- Commissioner Shier-Burnett said that she has met with resident David Treiman and she attended First Christian Church for three months.
- Commissioner Speaker has talked to the neighbors and to Pastor Bruce Templeton.
- Commissioner Shaw has talked to staff, neighbors and Pastor Bruce Templeton.
- Commissioner Dwyer has talked to staff and Pastor Bruce Templeton.
- Commissioner Livengood has talked to staff and Pastor Bruce Templeton.

Ron Santos, Associate Planner, gave a PowerPoint presentation of the project and of the Alternative Action recommended and noted that staff prepared revised findings. The Alternative Action provides for the elimination of the 3-story parking structure and reducing the seating/assembly capacity to 1,350.

Principal Planner Herb Fauland noted several late communications: three late communications from David Treiman dated August 8th, August 27th, and September 11th, one from Bruce Templeton dated August 27th, and one from Mary Pat Kettler dated September 5th.

Commissioner Dwyer asked why we are changing the occupancy to 1,350 (down from 1,655). Santos said that the reduced capacity corresponds to the reduction in parking resulting from the elimination of the parking structure. Santos also stated that both the High School and Smith School are agreeable to joint use parking and that a joint use agreement would to be submitted upon approval.

Commissioner Dwyer asked about the Shipley resident parking and Bob Stachleski, Transportation Manager, noted that Shipley parking is in accordance with current code. Commissioner Dwyer also had questions about a pending lawsuit regarding street access. Senior Deputy City Attorney Leonie Mulvihill responded that litigation is ongoing between the High School and the adjacent homeowners' association regarding who has the rights to this road and can contract those rights; however, the road in question would not have any impact on the project, and it would not be used, as the shuttle buses for First Christian Church would be using Main Street.

Commission discussion turned to outdoor events. Commissioner Dwyer asked about other churches' outdoor assemblies and Santos replied that for church festivals (example: St. Simon and Jude), there's no threshold in the code regarding the number of attendees. Santos also stated that if an outdoor event is inconsistent with normal operations, then a Temporary Use Permit or Temporary Activity Permit may be required.

Noise and traffic issues and the outdoor portion of the café were discussed. Santos stated that the noise study considered the use of the outdoor areas. First Christian Church revised their original proposal by eliminating an outdoor amphitheater.

Commissioner Speaker asked if a sign would be posted stating construction hours (per Municipal Code) and contact information. Santos replied that contact information would be posted.

Commissioner Shier-Burnett asked when/where the applicant would be required to obtain a Temporary Use Permit and Santos replied that it would be evaluated based on the event in question.

THE PUBLIC HEARING WAS OPENED.

Pastor Bruce Templeton spoke on the Church's history, established in 1895, current building built in the 1950s, and it no longer serves his congregation's needs. (Architect Bob Bergmann, Visioneering Design Studios, was also present).

Templeton agreed to reduce proposed seating and do away with parking structure, reduce café seating on Monday through Fridays (with café capacity at 88 during the weekends), and said that he's not planning to operate it as a 'cook-to-order' restaurant. He also agreed to reduce the hours of operation of the bookstore.

Templeton's requests were to remove suggested condition 5(d) and modify 5(e), so as not to preclude the use of temporary outdoor sound systems.

Bob Bergmann from Visioneering then gave a PowerPoint presentation showing plans and photo simulations of the project.

PUBLIC COMMENTS

- Matthew Hunt, resident – opposed the project, especially café being open to the public.
- James Ferguson, resident – in favor, talked of family values and progress.
- Jerry Griffin, resident - in favor, First Christian Church member, hasn't heard any church noise.
- Karen Lewis, resident – in favor, spoke of freedom of worship, Church as a haven, First Christian Church's charitable acts.
- Jeanne Zenk, resident – in favor, 20 year resident, spoke of First Christian Church's philanthropy.
- Stephen Kluener, resident – in favor, if First Christian Church were not a church, would they be undergoing such scrutiny by the Planning Commission?
- Jordan Tenace, resident – in favor, spoke of Church home for youth and technical programs offered, which helped him with training and a career choice.
- Lee Treiman, resident – donated four minutes to next speaker.
- David Treiman, resident – opposed, spoke regarding the noise experienced at his home located across Adams Avenue, and said that he doesn't object to the Church's expansion, he's just asking that First Christian Church obey the same laws as everyone else. He gave a PowerPoint presentation and included a video of current trash pickup at the church. He requests reasonable limits, such as sound walls. He has concerns with trash pick up, which is currently at four days per week at 7:00 AM. The trash trucks are noisy and the refuse bins face the street. Also, the gardeners with noisy leaf blowers are at First Christian Church daily and 5-6 hours on Friday. The buses for transporting members sit idling noisily, spilling fumes.
- Lou Austin, resident – donated his time to Ron Austin.
- Ron Austin, resident - opposed, has concerns regarding noise levels at bookstore and café and trash collection, is happy that the parking structure is no longer in the plan. Complained of First Christian Church's outdoor music, which went on for hours and disturbed his sleep. Said that same group dispersed very late, with much yelling and honking of horns. Is concerned about deterioration of his quality of life.
- Todd Gan, resident – opposed, concerns about seating capacity in restaurant, believes commercial restaurant should not be allowed in residential district.
- Kim Le, resident – opposed, noise concerns and doesn't want café open to the public.
- Shelly Siracura – signed up to speak, but didn't approach podium when called.
- Steve Stafford, resident – opposed, worried about parking (especially at weekend car shows held at First Christian Church) – notes that per the CC&Rs, the Homeowners' Association maintains the surrounding streets, but the Church uses streets and the high school parking.
- Karen Gray, resident – opposed, stated that the neighbors (not those making decisions) are the ones affected; construction would be an ongoing annoyance, wants café hours and customer base clearly defined.

- Larry Ross, resident – opposed, has concerns about traffic increase at 17th Street and Adams Avenue in a residential neighborhood.
- Rita McCurdy Kempton, resident – opposed, lives very close to First Christian Church, concerned about traffic and parking.
- Darwin West – signed up to speak but didn't come to podium when called.
- Bill Morehouse, resident – in favor, it's time for modernization.
- Garland Roberson - signed up to speak but didn't come to podium when called.
- Barry Yaffee - signed up to speak but didn't come to podium when called.
- Chris Carlson, resident – in favor, member of Boy Scout Troop #1, 90 year anniversary for troop, First Christian Church is their sponsor.
- Emma Tiebens, resident – in favor, part of Church family, praise for Pastor Templeton.
- Tiffany Nelson, resident – in favor, lives by golf course, wants compromise between Church and neighbors.
- Kimberly Hudson, resident – in favor, said Mariner's went through much larger overhaul without problems. Said First Christian Church needs air conditioning and classrooms are overcrowded.
- Wendy Baugh, resident – in favor, member of First Christian Church and Mothers of Preschoolers, Church needs new, safer buildings.
- Tom Mays, resident – in favor, Church needs to be modern, safe, secure and new facilities for First Christian Church will add to local property values.

Pastor Bruce Templeton noted in his closing comments that First Christian Church has contracts in place for shared parking with Huntington Beach High and Smith Schools. He addressed the zoning change from four years ago, which did not apply to First Christian Church since it is less than two acres. The current capacity of First Christian Church is 1,405, and the projected capacity under new plan is 1,350, and he would like 1,450 capacity after remodel at least.

WITH NO ONE ELSE TO SPEAK, THE PUBLIC HEARING ON FIRST CHRISTIAN CHURCH WAS CLOSED.

Commissioner Speaker asked about new trash enclosures; staff replied that the existing enclosure will remain. Commissioner Speaker asked that Rainbow Disposal be contacted regarding no trash pickups prior to 9:00 AM, and that a noise ordinance be enforced on gardeners with leaf blowers.

Commissioner Shaw asked if trash enclosure location complies with code, and staff answered yes. Shaw verified café seating, 88 inside and 20 outside.

Commissioner Dwyer asked if any further environmental analyses were needed for the Alternative Action and staff replied no.

Commissioner Dwyer asked if buses could be staged on First Christian Church's other side and Templeton agreed.

Commissioner Dwyer brought up the removal of the parking structure from project. Templeton said that's acceptable if he can keep his seating capacity at 1,450 instead of 1,350 and agreed to deal with leaf-blowing gardeners.

Commissioner Livengood proposed a sound wall between the nursery and café. Bob Bergman said that's already planned for and showed a PowerPoint slide of the proposed wall.

General discussion ensued regarding conditions for approval.

Commissioner Shier-Burnett raised issues regarding trash compliance, Temporary Use Permits for "bounce houses" (if not required for other events that members of the public stage at parks, then should First Christian Church be required to have a Temporary Use Permit?). She also said that idling buses should shut down after five minutes maximum and that area homeowners should expect a certain amount of noise.

Commissioner Dwyer addressed restriction on general outdoor activities, signage in the bus areas (regarding time limits on idling) and asked Templeton to mandate his contractors regarding excessive noise and to subject them to fines if they are in violation. Commissioner Dwyer supports Alternative Action.

Commissioner Shaw addressed the potential for noise in the courtyard, is in support of noise wall, trash pickup time restrictions and bookstore & café hour restrictions.

Commissioner Speaker requested a change in First Christian Church's service hours during construction, to give ample time to load and unload parking lots, asked for limited café hours, food service limitations after 3:00 PM and capacity lowered to 60 inside. He also asked that First Christian Church's trash enclosure be moved away from the neighbors.

Templeton responded that changing First Christian Church's service hours would be unreasonable, due to changing websites, signage, and is not necessary since parking for two services currently not a problem (25 minutes allowed between current service times). He also said that changing the trash location would be a problem.

Commissioner Livengood recommended deleting condition 5-D and rewriting 5-E so that permanent outdoor sound systems are not allowed and portable sound systems can be used with a Temporary Use Permit, and add to condition 5-F, and neighbors within 500' radius to be notified of upcoming First Christian Church events. New conditions recommended: limit construction hours to Monday-Friday, 7:00 AM – 6:00 PM, Saturday 8:00 – 5:00 PM, limit trash pickup hours to 10:00 AM to 2:00 PM, designate bus loading and unloading areas. He also thinks that First Christian Church should not be required to obtain a Temporary Use Permit for ongoing events.

Senior Deputy City Attorney Leonie Mulvihill said that the Alternative Action handout suggested findings which need to be supported by substantial evidence.

Director of Planning Scott Hess said that some First Christian Church activities that are not typical may need clarification as to the need for further review. He also noted that typical

activities may not need a Temporary Activity Permit, a Temporary Use Permit or a Conditional Use Permit.

Commissioner Dwyer asked Santos about clarifying criteria for a Temporary Use Permit and Santos replied that it would be decided on a case by case basis. Director of Planning Hess noted that the Planning Department's Policy Memo addresses such temporary uses.

Commissioner Livengood summed up the issues on the table as follows:

- Need for a designated bus area.
- Clarification of outdoor activities.
- Determination of seating capacity – accept 1,450 per Templeton's request.
- The deletion of condition 5-D, adding "permanent" to condition 5-E (outdoor sound systems) and deletion of condition 5-F (use permit required for temporary outdoor events).
- Trash enclosure location.
- Color scheme of new buildings.
- Additional sound wall to be erected.
- Post signage.
- Café hours restricted to 9:00 AM to 6:00 PM for outdoor seating.
- Deliveries to go to the Adams Avenue side of the Church.
- Bookstore restrictions.

STRAW VOTE

Straw Vote #1: To impose no designated trash pickup hours

AYES: Shier-Burnett, Speaker, Dwyer
NOES: Livengood, Shaw
ABSENT: None
ABSTAIN: Scandura, Farley

MOTION APPROVED

Straw Vote #2: To limit construction hours to 7:00 AM to 6:00 PM, six days per week (Monday through Saturday)

AYES: Livengood, Shaw
NOES: Shier-Burnett, Speaker, Dwyer
ABSENT: None
ABSTAIN: Scandura, Farley

MOTION FAILED

Straw Vote #3: To limit café hours to 7:00 AM to 9:00 PM on a daily basis, and limit outdoor dining hours to 9:00 AM to 6:00 PM every day.

AYES: Shier-Burnett, Speaker, Livengood, Shaw, Dwyer
NOES: None
ABSENT: None
ABSTAIN: Scandura, Farley

MOTION APPROVED

Straw Vote #4: To place no restrictions on bookstore hours.

AYES: Shier-Burnett, Speaker, Livengood, Shaw, Dwyer
NOES: None
ABSENT: None
ABSTAIN: Scandura, Farley

MOTION APPROVED

A MOTION WAS MADE BY SPEAKER, SECONDED BY DWYER, TO APPROVE MITIGATED NEGATIVE DECLARATION NO. 06-008 WITH FINDINGS AND SUGGESTED MITIGATION MEASURES AND APPROVE CONDITIONAL USE PERMIT NO. 06-035/VARIANCE NO. 07-001 WITH AMENDED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Shaw, Dwyer
NOES: None
ABSENT: None
ABSTAIN: Scandura, Farley

MOTION APPROVED

Principal Planner Herb Fauland read the appeal language and appeal fee on the subject entitlements.

MITIGATED NEGATIVE DECLARATION NO. 06-008/ CONDITIONAL USE PERMIT NO. 06-035/ VARIANCE NO. 07-001

FINDINGS FOR APPROVAL - MITIGATED NEGATIVE DECLARATION NO. 06-008:

1. Mitigated Negative Declaration No. 06-008 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 over twenty (20) days. Comments received during the comment period were considered by the Planning Commission prior to action on the Mitigated Negative Declaration and Conditional Use Permit No. 06-035/ Variance No. 07-001.
2. Mitigation measures, incorporated into the conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur.

3. There is no substantial evidence in light of the whole record before the Planning Commission that the project as modified by elimination of the proposed parking structure, the addition of a sound wall along the northerly side of the Tidal Court, the limiting of hours for outdoor dining, restricting seating capacity to not exceed 1,450 persons, designating bus pick-up and drop-off areas, prohibiting permanent outdoor sound systems of any kind, and further as mitigated through the conditions of approval of Conditional Use Permit No. 06-035/ Variance No. 07-001, will have a significant effect on the environment.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-035:

1. Conditional Use Permit No. 06-035 to permit the expansion and remodel of an existing church complex, 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. A mitigated negative declaration was prepared which analyzed the project's potential to generate detrimental impacts on surrounding properties. The study concluded that mitigation measures, incorporated into the conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. The Mitigated Negative Declaration is supported by a Phase 1 environmental site assessment, traffic, noise, geotechnical and air quality studies. The project will provide adequate parking, in accordance with applicable code requirements, on-site and via the use of joint use parking off-site.
2. Conditional Use Permit No. 06-035 will be compatible with surrounding uses because it provides for the continuation, modernization and expansion of an existing, long-standing (the site was developed for use as a church in the mid-1950s) community serving use which is consistent with the applicable General Plan Land Use and Zoning designations. Proposed buildings feature a contemporary design and architectural features which minimize the visual bulk and mass of the buildings and provides for compatibility with surrounding land uses. All of the proposed buildings comply with the applicable height limit in the zone and provide adequate setbacks from adjacent residential properties. The project was recommended for approval by the Design Review Board.
3. Conditional Use Permit No. 06-035 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, including the Public-Semipublic zone permitted uses, minimum parking requirements, with the exception of the requested variance to the Joint Use Parking requirements, maximum building height, maximum floor area ratio and minimum building setbacks.
4. The granting of Conditional Use Permit No. 06-035 will not adversely affect the General Plan. It is consistent with the Land Use Element designation of P(RL) (Public – Residential Low Density Underlying Designation) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

Land Use Element

Objective LU 9.4: Provide for the inclusion of recreational, institutional, religious, educational and services uses that support resident needs within residential neighborhoods.

Objective LU 13.1: Provide for the continuation of existing and development of new uses, such as governmental administrative, public safety, human service, cultural, educational, infrastructure, religious, and other uses that support the needs of existing and future residents and businesses.

Policy LU 13.1.1: Allow for the continuation of existing public and private institutional, cultural, educational and health uses at their present locations and development of new uses in areas designated on the Land Use Plan Map in accordance with Policy LU 7.1.1.

Policy LU13.1.2: Allow for the continuation of existing and development of new religious facilities in any land use zone where they are compatible with adjacent uses and subject to City review and approval.

Public Facilities and Public Services Element

Policy PF 4.3.2: Investigate the feasibility of permitting and/or providing child or elderly day care services at public and private institutional facilities, such as churches, temples, other religious buildings, hospitals and schools.

Conditional Use Permit No. 06-035 provides for the continuation and expansion of existing religious, educational and pre-school services which support the needs of the surrounding community. The proposed joint use parking and associated variance ensure that adequate parking is provided to serve the proposed use.

FINDINGS FOR APPROVAL - VARIANCE NO. 07-001:

1. The granting of Variance No. 07-001 to allow joint use parking (298 spaces) located at a distance in excess of 250 ft. from the project site will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. Properties which are being redeveloped in the City of Huntington Beach are typically allowed to continue to operate with reduced parking availability during construction with approval of a parking management plan or other mechanism to ensure adequate parking is provided and adverse impacts to surrounding properties are minimized. The applicant is proposing shuttle service between the joint use parking lot and the subject property as its mechanism to ensure no detrimental impacts will result from the distance between the two properties. Other examples of similar privileges enjoyed by other properties include commercial centers which are permitted to operate with reduced parking for limited periods of time while a portion of the available parking is displaced by Christmas tree displays or parking lot sales, and other churches which are permitted to operate with reduced parking on site during festivals which encumber parking areas.
2. Because of special circumstances applicable to the subject property, including its location and surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The special circumstances applicable to the subject property includes its location in proximity to a use (Huntington Beach High School) which underutilizes its on-site parking coincident with the peak parking demands of the subject property. Without the granting of the variance, the subject property would be required to provide parking on-site which generally (excepting a single day each week) exceeds its parking demand, and would

thereby be deprived of the privilege to provide parking at a rate which corresponds to its typical parking demand and the privilege to continue to operate until such time as construction of required on-site parking can be completed.

3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The requested variance is necessary to allow the church to meet its parking requirements and continue to operate during its construction phase.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The church will provide shuttle service between the joint use parking lot and the project site in order to mitigate the distance between the two properties and support the use of the joint use parking.
5. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of P(RL) (Public – Residential Low Density Underlying Designation) on the subject property, including the following objectives and policies:

Land Use Element

Objective LU 8.1: Maintain the pattern of existing land uses while providing opportunities for the evolution, including intensification and re-use, of selected sub areas in order to improve their character and identity.

Policy LU 9.4.3: Encourage the development and public use of City/School District joint use facilities where City parks and school facilities adjoin on another in order to maximize the use of property, minimize the cost of development and enhance the recreational and educational opportunities for the community.

Circulation Element

Goal CE 5: Provide sufficient, well designed and convenient on and off street parking facilities throughout the City.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. The project shall provide: (1) on-site attenuation of increased storm water flow and/or (2) construction of upsized storm drain facilities in Main Street per the City adopted 2005 Drainage Master Plan.
2. A 7-ft. tall noise barrier (masonry wall) shall be constructed along the southerly side of the children's play areas.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT 06-035/ VARIANCE NO. 07-001:

1. The project plans received and dated June 28, 2007 shall be the conceptually approved design with the following modifications.
 - a. The driveway entrances shall have textured and colored pavement (behind sidewalk on private property) for a minimum depth of 20 feet.
 - b. All freestanding low walls, planter walls, handrails, benches and other similar improvements within the hardscape and courtyard areas shall be designed to deter skateboarding.

- c. The outdoor dining area shall not exceed 400 sq. ft. and shall be depicted on the site plan.
 - d. The proposed parking structure shall be eliminated and replaced with surface-level parking designed in accordance with HBZSO standards.
 - e. The project shall provide approximately 450 surface-level parking spaces (including 49 off-site parking spaces at Smith Elementary School).
 - f. The combined seating capacity and/or assembly area for the three assembly buildings (Worship Center, Chapel, Multi-Purpose Building) shall be limited based on available on-site surface level parking and the 49 off-site (Smith Elementary School) parking spaces (to approximately 1,450 seats or equivalent assembly area), pursuant to HBZSO parking requirements.
 - g. A seven foot tall masonry wall shall be constructed along the northerly side of the Tidal Plaza.
2. 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>).
 3. At least 14 days prior to any grading activity, the applicant/developer shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Planning Department.
 4. New structure(s) cannot be occupied and the final building permit(s) cannot be approved until an "as-built" photometric study has been submitted to the Planning Department demonstrating that all on-site lighting has been designed, installed and shielded so as to not produce glare or adverse impacts on adjacent properties, consistent with conceptual photometric study referenced in Mitigated Negative Declaration No. 06-008.
 5. The use shall comply with the following:
 - a. Only the uses described in the project narrative received and dated July 10, 2007 shall be permitted.
 - b. Hours of operation for the various uses shall be consistent with the project narrative received and dated July 10, 2007, except that outdoor dining shall be permitted only between the hours of 9:00 a.m. and 6:00 p.m. daily.
 - c. Concurrent attendance/ seating capacity for church services shall not exceed 1,450 persons at any time. The church shall submit floor plans to the Planning Department which depicts the proposed/modified seating configuration during concurrent use of the three assembly buildings and demonstrates how the 1,450 capacity limit will be achieved.
 - d. Permanent outdoor sound system(s) of any kind shall be prohibited at all times.

- e. Use of parking areas for uses other than parking shall be prohibited at all times unless otherwise approved via a Temporary Activity Permit or Temporary Use Permit.
- f. Joint Use Parking at Huntington Beach High School (HBHS) shall terminate within 30 months of commencement of construction. Church services shall be suspended and/or restricted based upon the availability of parking on-site and at Smith School, pursuant to applicable HBZSO parking standards. Upon (or prior to) termination of Joint Use Parking at HBHS, the church shall submit to the Planning Department for review and approval a parking area plan and an amended schedule for church services that demonstrates compliance with applicable parking requirements. Following termination of Joint Use Parking at HBHS, all church services shall be suspended until such time as the Planning Department has approved a plan and schedule demonstrating compliance with applicable parking requirements. At any time, the church may also file an Entitlement Plan Amendment application to the Planning Commission to request approval for Joint Use Parking at HBHS beyond the initial 30 month period.
- g. The church shall provide shuttle service between the joint use parking lot at Huntington Beach High School and the church property before and after church services on Sundays. The frequency of the shuttles shall be adjusted as necessary to accommodate the demand.
- h. The church shall regularly encourage church members and parents of children attending pre-school to utilize on-site and authorized joint use parking lots and shall discourage on-street parking.
- i. Bus drop-off and pick-up shall occur only in the designated area of the parking lot, southwesterly of the Worship Center.

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED MAY 8, 2007

RECOMMENDED ACTION: Motion to "Approve the May 8, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY SPEAKER, SECONDED BY LIVENGOOD, TO APPROVE THE MAY 8TH, 2007 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED JULY 10, 2007

RECOMMENDED ACTION: Motion to "Approve the July 10, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE JULY 10TH, 2007 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Director of Planning - reported on the items from the previous City Council meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Director of Planning - reported on the items scheduled for the next City Council meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner - reported on the items scheduled for the next Planning Commission meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS - NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Shier-Burnett - None

Commissioner Speaker - None

Vice Chairperson Livengood - thanked the Church, the neighbors, Ron Santos and the entire Planning Staff.

Chairperson Scandura - None

Commissioner Shaw - None

Commissioner Dwyer - None

Commissioner Farley - None

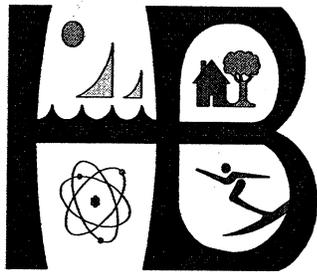
ADJOURNMENT:

Adjourned at 12:02 AM to the next regularly scheduled meeting of September 25, 2007.

APPROVED BY:

Scott Hess, Secretary

John Scandura, Chair



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

SEPTEMBER 25, 2007
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:45 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

P P A P P A P
ROLL CALL: *Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley*
(Commissioner Livengood and Commissioner Dwyer arrived at 5:50 PM)

AGENDA APPROVAL

A MOTION WAS MADE BY SHIER-BURNETT, SECONDED BY FARLEY, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF SEPTEMBER 25, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Scandura, Shaw, Farley
NOES: None
ABSENT: Livengood, Dwyer
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS) - NONE

B. STUDY SESSION ITEMS

B-1. OCTA Measure "M" Presentation – Mary Beth Broeren

Kelly Hart of the Orange County Transportation Authority (OCTA) gave a PowerPoint presentation on Measure "M" and its future financial and transportation ramifications for the City of Huntington Beach. Ellen Burton, also of the OCTA, was available for questions.

B-2. Future Study Session Items – Chairman Scandura

Chair Scandura announced the planned cancellation of the October 9, 2007, Planning Commission meeting. Scandura mentioned "Green Buildings" and "Downtown Parking Master Plan" (dates undetermined as yet) for future review at Study Sessions. For the Senior Center, he mentioned a possible December 4th date for the first Planning Commission Public Hearing Meeting, with December 11th as a secondary choice and December 18th as an alternate.

Principal Planner Herb Fauland mentioned that he would check with staff on the tentative schedule, and report back to the chair. He also stated that the Senior Center would probably require two Study Sessions – one for the Environmental Impact report and one for the project, which are currently targeted for November 13th and November 27th.

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland

Principal Planner Herb Fauland reviewed the agenda items for the Public Hearing portion of the meeting (Item #B-1, Medical Marijuana) and noted that two late communications had been received. Fauland announced that Police Chief Ken Small will be in attendance for Public Hearing Item # B-1.

D. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Dwyer stated that he attended the Beach/Edinger Corridor Meeting and that the majority of the citizenry in attendance (homeowners) seemed pleased with the project and its progress.

E. PUBLIC COMMENTS – NONE

F. PLANNING COMMISSION COMMENTS

Commissioner Dwyer – None.

Commissioner Farley said that he appreciated the inclusion of the Building Safety & Department Process Improvement Memo in the mail.

Outgoing Fire Division Chief Jacques Pelletier announced his pending retirement, talked about his post-retirement career and asked everyone to welcome incoming Chief Bill Reardon.

Chair Scandura announced his designees (as requested by the Mayor) for two new City Council sub-committees: for the downtown news rack project, Commissioner Livengood as primary and Commissioner Farley as an alternate, and for the Green Committee, Commissioners Dwyer and Shier-Burnett as primaries and Commissioner Farley as an alternate. He thanked the Commission for their excellent work on First Christian Church.

Commissioner Shaw – None.

Commissioner Shier-Burnett – None.

Commissioner Livengood – None.

Commissioner Speaker noted that Rainbow Disposal was now waiting until after 8:30 AM for trash pickup at First Christian Church.

6:35 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Shier-Burnett.

ROLL CALL: *P* *P* *P* *P* *P* *P* *P*

Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION AGENDA OF SEPTEMBER 25, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Shaw, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS – NONE

B. PUBLIC HEARING ITEMS:

B-1. ZONING TEXT AMENDMENT NO. 07-003 (MEDICAL MARIJUANA DISPENSARIES - CONTINUED FROM SEPTEMBER 11, 2007 WITH PUBLIC HEARING CLOSED) Applicant: City of Huntington Beach Request: To amend Chapters 204 and 212 of the Huntington Beach Zoning and Subdivision Ordinance to delete all references to medical marijuana dispensaries. Location: Industrial Districts Citywide Project Planner: Ricky Ramos

STAFF RECOMMENDATION: Motion to: “Approve Zoning Text Amendment No. 07-003 with findings and forward to the City Council for adoption.”

The Commission made the following disclosures:

- Commissioner Speaker has spoken to staff.
- Commissioner Livengood – none.
- Commissioner Shaw has spoken to the mayor, staff, and the Director of Americans with Disabilities.
- Commissioner Dwyer has spoken to Cindy (last name unavailable) at the Orange County Register and other Commissioners.
- Commissioner Shier-Burnett recused herself and left the room.
- Commissioner Farley – none.
- Chairman Scandura – none.

Ricky Ramos, Associate Planner, gave a brief presentation and advised of two late communications on Item No. B-1.

Police Chief Ken Small stated that he was not at the hearing to discuss legal ramifications. He stated that while seriously ill patients do require medical marijuana, Proposition 215 is poorly written and has been abused. Clinics have been opened and misused and a recent undercover sting televised by Channel 2 disclosed that it's easy to obtain marijuana. He also stated that this was not the intent of Proposition 215.

Chief Small further described the adverse impacts of medical marijuana dispensing facilities on the community:

- The smell of marijuana smoke makes some people ill.
- Nearby businesses can lose customers due to their proximity to a medical marijuana facility and this may prevent these businesses from flourishing.
- There's likely to be loitering, vandalism, drug use and drug transactions in the immediate vicinity.
- Medical marijuana clinic customers may engage in verbal abuse and the sale of drugs to minors.
- Medical marijuana clinic ads now abound at local schools.
- Most of the medical marijuana clinic customers are young, with no medical problems.
- Despite heightened security, increased crime has become an issue at clinics.
- With "cash only" policies, the clinics may have thousands of dollars on hand along with pounds of marijuana, making them a target for robbery and vehicle theft.
- During a recent 911 cell phone call, a citizen reported three young adults smoking marijuana in the car next to the caller's – when questioned by police, all three adults carried a doctor's recommendation for marijuana.
- In Orange County, only three cities currently do not have a medical marijuana prohibition in progress.
- In Chief Small's personal and professional view, he has no objection to marijuana being prescribed to those truly in physical need. He recommends a cautious course and supports Item No. B-1, which will delete all references to medical marijuana dispensaries.

THE PUBLIC HEARING WAS OPENED.

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

Commissioner Livengood expressed concerns regarding Finding #4 and asked that the last sentence be deleted.

Commissioner Shaw asked Chief Small if the ordinance can be crafted to deal with abuses and Small replied no, that the city probably can't fulfill the intent of Proposition 215. Shaw also questioned if the zoning code is permissive and Senior Deputy City Attorney Leonie Mulvihill stated that the code lists all permitted uses and those uses which are not listed as prohibited.

Principal Planner Herb Fauland stated that if ZTA #07-003 is denied, the proceedings on the ZTA are terminated unless appealed.

Mulvihill stated that the city of Anaheim has banned all dispensaries under a temporary injunction dated September 4th, 2007.

Dwyer noted that he would be opposed to the item if there were a different way of dispensing marijuana (like a pharmacy).

Shaw said that he would be opposed to the item, as he wants to craft the code to not only prevent abuses, but to ensure those with a valid medical need for marijuana are not denied.

Commissioner Speaker referred to the television program "60 Minutes" and their exposé on Proposition 215, stating that 215 is a poorly written/bad law and the City of Huntington Beach should not follow a bad example.

Commissioner Livengood said that while he does not want to prohibit medical marijuana use, he does want to table the item for now, until a new law can be initiated that addresses potential abuses.

Commissioner Farley stated that he would be in support of the item and added that the Commission was not there to change Proposition 215.

Chairman Scandura stated that he would support the item, but would not support illegal activities.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE ZONING TEXT AMENDMENT NO. 07-003 WITH REVISED FINDINGS AND FORWARD TO THE CITY COUNCIL FOR ADOPTION, BY THE FOLLOWING VOTE:

AYES: Scandura, Speaker, Livengood, Dwyer, Farley
NOES: Shaw
ABSENT: None
ABSTAIN: Shier-Burnett

MOTION APPROVED

Herb Fauland, Principal Planner, noted that this item will be forwarded automatically to the City Council for final action.

PLANNING COMMISSION APPROVED SUGGESTED FINDINGS

SUGGESTED 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 City Council Resolution No. 4501, Class 20 which states that minor amendments to zoning ordinances that do not change the development standards, intensity, or density of such districts are exempt from further environmental review.

SUGGESTED FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 07-003:

1. Zoning Text Amendment No. 07-003 to delete all references to medical marijuana dispensaries from the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed zoning text amendment affects properties with a General Plan Land Use Map designation of Industrial. The proposal is consistent with the Industrial designation and the goals and objectives of the City's General Plan by deleting all references to medical marijuana dispensaries while continuing to allow typical industrial uses such as manufacturing and warehousing.
2. In the case of a general land use provision, Zoning Text Amendment No. 07-003 is compatible with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed because it involves only the deletion of all references to medical marijuana dispensaries from the HBZSO. The other land uses and development standards identified in the IG and IL zoning districts will remain unchanged.
3. A community need is demonstrated for the change proposed. Zoning Text Amendment No. 07-003 will delete all references to medical marijuana dispensaries from the HBZSO consistent with case law and federal law.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice.

Commissioner Shier-Burnett returned.

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 - reported on the items from the previous City Council meeting.

E-2. **CITY COUNCIL ITEMS FOR NEXT MEETING**

Scott Hess, Director of Planning – reported on the items scheduled for the next City Council meeting.

E-3. **PLANNING COMMISSION ITEMS FOR NEXT MEETING**

Herb Fauland, Principal Planner – reported on the items scheduled for the next Planning Commission meeting

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Shier-Burnett spoke about her recent visit to the Surf Museum in downtown Huntington Beach and noted what a great job the volunteers have done.

Commissioner Speaker – None

Vice Chairperson Livengood – None

Chairperson Scandura thanked the Planning Commission again for the great job done on First Christian Church.

Commissioner Shaw - None

Commissioner Dwyer would like the Planning Commission to adjourn the meeting in memory of his uncle, Ralph Rios.

Commissioner Farley - None

ADJOURNMENT: Adjourned at 7:35 PM to the next regularly scheduled meeting of October 9, 2007.

APPROVED BY:

Scott Hess, Secretary

John Scandura, Chair