MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JULY 12, 2011
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 PM – ROOM B-8 (CITY HALL LOWER LEVEL)

CANCELLED – NO STUDY SESSION

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE– Led by Commissioner Farley

	P	P	P	P	P	P	P
ROLL CALL:	*Shier Burnett,*	*Peterson,*	*Mantini,*	*Delgleize,*	*Farley,*	*Bixby,*	*Ryan*

AGENDA APPROVAL

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE THE PLANNING COMMISSION AGENDA OF JULY 12, 2011, BY THE FOLLOWING VOTE:

AYES:	**Shier Burnett, Peterson, Mantini, Delgleize, Farley, Bixby, Ryan**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS

B-1. **MITIGATED NEGATIVE DECLARATION NO. 09-003/COASTAL DEVELOPMENT PERMIT NO. 09-005/CONDITIONAL USE PERMIT NO. 09-021/VARIANCE NO. 09-003/ SPECIAL PERMIT NO. 09-001/SPECIAL PERMIT NO. 09-002/TENTATIVE PARCEL MAP NO. 09-078 (GARGUIS MIXED-USE DEVELOPMENT) Applicant:** Karen Otis, Otis Architecture **Property Owner:** Garguis Twin Towers, Inc. **Request: MND:** To analyze the potential environmental impacts associated with the implementation of the proposed project. **CDP/CUP:** To permit the demolition of a vacant drive-thru restaurant and construction of a three-story, 35 ft. tall, approximately 8,972 sq. ft. mixed-use development consisting of visitor-serving commercial (retail) on the ground floor and a total of four residential units on the second and third floors. Parking for

the mixed-use development will be provided at grade and in a semi-subterranean parking garage and includes nine at grade spaces and 14 spaces in a semi-subterranean garage. **SPECIAL PERMITS:** To permit the following: (1) a 10 ft. street side yard setback in lieu of the minimum required 15 ft. average setback setback; (2) a 5 ft. interior side yard setback in lieu of the minimum required 7 ft. setback; (3) a 3 ft. 6 in. average third story setback in lieu of a minimum 10 ft. along Pacific Coast Highway; and (4) a slope of 9.91% in lieu of 5% for a parking garage transition ramp serving as back-up for parking stalls, and 18% in lieu of the maximum allowed slope of 10% for a parking garage transition ramp with no adjacent parking stalls. **VAR:** To permit development on a site with a minimum street frontage (Pacific Coast Highway) of 75 ft. in lieu of a minimum 100 ft. **TPM:** To permit the consolidation of three parcels totaling 11,528 sq. ft. of net lot area into one lot for condominium purposes. **Location:** 110 9th Street, 92648 (northeast corner of Pacific Coast Highway and 9th Street) **Project Planner:** Andrew Gonzales

STAFF RECOMMENDATION: Motion to:

A. "Approve Mitigated Negative Declaration No. 09-003 with findings and mitigation measures (Attachment No. 1);"

B. "Approve Coastal Development Permit No. 09-005; Conditional Use Permit No. 09-021; Variance No. 09-003; Special Permit No. 09-001; Special Permit No. 09-002 and Tentative Parcel Map 09-078 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Shier Burnett has visited the site and was on the Design Review Board when this project was reviewed.
- Commissioner Peterson has visited the site.
- Vice Chair Mantini has visited the site.
- Chair Delgleize has attended the study session, spoken to staff, and visited the site.
- Commissioner Farley has attended the study session and visited the site.
- Commissioner Bixby has attended the study session, spoken to staff, and visited the site.
- Commissioner Ryan has attended the study session and visited the site with the applicant.

Andrew Gonzales, Associate Planner, gave the staff presentation and an overview of the project.

Mr. Gonzales stated that he received a draft letter from the Environmental Board addressing the use of special permits, encouraging green building practices, and seeking an Environmental Impact Report addressing the short and long term consequences of reduced setbacks at the site and surrounding community.

Commissioner Farley asked staff to explain the recommended modifications mentioned in the suggested conditions of approval 1(a) through 1(g). Mr. Gonzales gave a brief overview of the modifications.

Commissioner Farley asked staff how deviating from a code standard is addressed when reviewing plans. Mr. Gonzales gave an overview of the process that addresses plans that deviate from code standards, noting that this process and staff's recommendations for conditions of approval to modify plans occurs when the changes are generally minor in detail.

Chair Delgleize inquired if the pickup of trash by a commercial truck at this site will be impacted due to the incline of the ramp. Mr. Gonzales explained that the dumpster would be manually relocated to allow a disposal truck to access and remove the trash.

Commissioner Bixby asked if pushing a fully loaded dumpster up an 18% transition ramp is possible. Mr. Gonzales explained that the dumpsters that will be used at his site are not the full size dumpsters that are used at many commercial sites and that the proposed use of the site is not likely to generate large amounts of trash.

Commissioner Bixby inquired if the graffiti that has been reported consistently has been addressed. Scott Hess, Director of Planning and Building, stated that the property owner was contacted by the Code Enforcement Division and the graffiti was removed. He stated that the site is continuously being monitored by Code Enforcement.

Herb Fauland, Planning Manager, gave a brief history of the process the staff uses to address inadequate plans and the conditioning of a project to gain compliance with code standards and requirements. He notes that this saves time and money for the applicant.

Commissioner Farley verified the setback location.

Commissioner Ryan clarified with staff that the process utilized by the Planning and Building Department that conditions code requirements is done in an effort to provide customer service to the applicants.

THE PUBLIC HEARING WAS OPENED.

Karen Otis, applicant, gave a brief overview of the history of the site. She spoke in favor of the project stating that an existing eyesore will be removed.

John Thompson, resident, stated he has concerns with the proposed project. He cited concerns with the size of the project for the lot, the economic viability of the project, potential noise increases due to the underground parking and delivery trucks, increase in alley traffic, and the ability to have the trash removed due to the incline of the ramp.

John Taylor, resident, inquired if the applicant had retailers currently committed to the proposed project. He spoke in opposition to the project, citing his concerns with the setbacks. He also stated he has concerns with the ability to have the trash removed from the site due to the incline of the ramp.

Karen Otis stated that the owner of the property has received several inquiries regarding the project.

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

Commissioner Farley stated that he was unable to vote in favor of this application due to his lack of support for the special permits.

Commissioner Bixby stated that he will not support the proposed project citing concerns with the process of conditioning code requirements that are not accurately reflected in the initial submittal of the plans.

A MOTION WAS MADE BY RYAN, SECONDED BY MANTINI, TO APPROVE MITIGATED NEGATIVE DECLARATION NO. 09-003/COASTAL DEVELOPMENT PERMIT NO. 09-005/CONDITIONAL USE PERMIT NO. 09-021/VARIANCE NO. 09-003/ SPECIAL PERMIT NO. 09-001/SPECIAL PERMIT NO. 09-002/TENTATIVE PARCEL MAP NO. 09-078 WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Shier Burnett, Peterson, Mantini, Delgleize, Ryan**
NOES:	**Farley, Bixby**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

FINDINGS FOR APPROVAL - MITIGATED NEGATIVE DECLARATION NO. 09-003:

1. The Mitigated Negative Declaration No. 09-003 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and made 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 Mitigated Negative Declaration.

2. Mitigation measures, incorporated into the attached 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 mitigated through the attached mitigation measures, will have a significant effect on the environment

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 09-005:

1. Coastal Development Permit No. 09-005 for the demolition of a vacant drive-thru restaurant and construction of a three story, approximately 8,972 sq. ft. mixed-use development consisting of visitor serving commercial (retail) on the ground floor, residential units on the second and third floor, and a an at-grade and subterranean parking garage which consists of nine at-grade spaces and 14 semi-subterranean space, as modified by conditions of approval, conforms with the General Plan, including the Local Coastal Program. The

proposed project would develop a mix of commercial uses on parcels contiguous to similar uses in an established, urban, downtown core area. Public services are currently available to the project site, as well as the surrounding parcels, and the project includes improvements to existing infrastructure to ensure adequate service after project implementation. Additionally, the proposed project would develop visitor-serving commercial uses in the City's downtown core area, which has been targeted for redevelopment as a destination location. Portions of the downtown core have already been established, and include uses generally similar to those proposed by the project. The project site is also located near other established points of attraction, including the Huntington Beach Municipal Pier, and is intended to reinforce the vicinity as a major visitor-serving district.

2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code The proposed project as conditioned and with the special permits provides a development that is consistent with the design guidelines, and is compatible with the scale and transition of surrounding development, and provides consistent public access.

3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project as conditioned and with the implementation of all mitigation measure will provide all necessary infrastructures to adequately service the site and not impact adjacent development. In addition, the project provides the necessary public improvements such as dedications, curb, gutters, sidewalks, and streets, alleys.

4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed project maintains all exiting and proposed public access and does not conflict with any public recreation policies by the provision of a development consistent with the City's General Plan, Coastal Element, and Downtown Specific Plan.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 09-021:

1. Conditional Use Permit No. 09-021 for the construction of a three story, approximately 8,972 sq. ft. mixed-use development consisting of visitor serving commercial (retail) on the ground floor, residential units on the second and third floor, and a an at-grade and subterranean parking garage which consists of nine at-grade spaces and 14 semi-subterranean spaces 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 project has been evaluated for compatibility with the surrounding neighborhood and with the conditions of approval imposed, the project will be designed to address the transition and scale of adjacent properties, be designed on a pedestrian scale and character, will provide the required parking to serve the uses on site, and will meet the goals and policies of the General Plan.

2. The conditional use permit will be compatible with surrounding uses because the project is designed with a Mediterranean architectural theme which is compatible with the Downtown Design Guidelines and will provide architectural elements and features to enhance the pedestrian character and scale of the street scene surrounding the project. In addition, the project incorporates the proper massing and scale, the design features of the Mediterranean

architectural style and the colors and materials recommended by the Design Guidelines for the Downtown.

3. The proposed mixed use development will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The proposed project as conditioned and with the special permits provides a development that is consistent with the design guidelines, is compatible with the scale and transition of surrounding development, and provides consistent public improvements.

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 MV-F8-d-sp (Mixed Use Vertical – 1.5 Max. Floor Area Ratio/ Max. 25 Dwelling Units per Acre – Design Overlay – Specific Plan Overlay) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

   A. *Land Use Element*

      Goal LU 4: Achieve and maintain high quality architecture, landscape, and public open spaces in the City.

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

      Goal LU 8: Achieve a pattern of land uses that preserves, enhances, and establishes a distinct identity for the City's neighborhoods, corridors, and centers.

      Goal LU9: Achieve the development of a range of housing units that provides for the diverse economic, physical, and social needs of existing and future residents of Huntington Beach.

      Policy LU 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

      Goal LU11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

      Policy 11.1.7: Require that mixed-use development projects be designed to achieve a consistent and high quality character, including the consideration of architectural treatment of building elevations to convey the visual character of multiple building volumes and individual storefronts.

      Policy LU 15.2.2: Require that structures located in the pedestrian overlay zone be sited and designed to enhance pedestrian activity along the sidewalks, in consideration of the following guidelines:

      1) Incorporation of uses that stimulate pedestrian activity in the first floor along the street frontage, encouraging professional offices, data computing, and other similar uses to be located in the rear or above the first floor unless economically infeasible;

2) Siting of the linear frontage of the building along the front yard property line to maintain a "building wall" character, except for areas contiguous with the structure use for outdoor dining or courtyards;
3) Assurance that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians, except as may be required for landscape and security;
4) Extensive articulation of the building façade and use of multiple building volumes and planes;
5) Incorporation of landscape and other elements such as planter beds, planters, and window boxes that visually distinguish the site and structure;
6) Incorporation of arcades, courtyards, and other recesses along the street elevation to provide visual relief and interest;
7) Use of roofline and height variation to break up the massing and provide visual interest;
8) Visual differentiation of upper and lower floors;
9) Distinct treatment of building entrances; and
10) Use of pedestrian-oriented signage.

The subject property is located within Community Subarea 1C (abutting the downtown "Core") and complies with the standards for maximum building height of three (3) stories within the subarea. Along the street frontages, the proposed design incorporates roofline variations and articulation and decorative architectural details/elements. The project also provides visual interest while enhancing the pedestrian experience in the downtown. The visitor serving commercial (retail) and residential uses proposed for the site represent development that would support the needs and reflect market demand of City residents and visitors. The proposed development improves the project site, which is on a blighted and underutilized site containing a vacant drive-thru restaurant, and provides additional destination uses that would attract and complement visitor commercial uses.

B. *Urban Design Element*

Policies UD 1.1.2: Reinforce Downtown as the City's historic center and as a pedestrian-oriented commercial and entertainment/recreation district by requiring new development be designed to reflect the Downtowns historical structures and adopted Mediterranean theme

Policies - UD 1.4.1: Enhance the connections, where feasible between the public sidewalk and private commercial interior open spaces/courtyard

The project complies with the Urban Design Guidelines. Along the street frontages the project provides an articulated facade and a pedestrian-oriented design through the use of design elements such as building siting along the sidewalk and decorative stone and a glass storefront used to distinguish the ground floor commercial from upper floor residential uses. The proposed mixed-use structure incorporates characteristics consistent with the historic structures in downtown such as pedestrian oriented storefronts, and distinction between lower and upper floors. The architecture adopts a Mediterranean theme by including a stone facade on the first floor, arched storefront mullions, decorative cornices, and window treatments above the second and third floor windows, and wrap around balconies. Furthermore, the proposed development will be

constructed at reduced setbacks that will place the storefront closer to the public sidewalk to encourage a pedestrian oriented design that provides window-shopping and an intimate downtown atmosphere. In addition, the building storefront extends around to the west elevation along Ninth Street to extend the pedestrian activities.

C. *Coastal Element*

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences

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.

Policy C 3.4.2: Enhance the Municipal Pier and surrounding area to function as the "hubs" of tourist and community activity.

The development consists of a mixed-use project, which provides for ground floor for visitor-serving commercial establishments. Public services and infrastructure are currently available to the project site, as well as the surrounding parcels. Additionally, the proposed project would develop visitor-serving commercial uses at the periphery of the City's downtown core area; which has been targeted for redevelopment as a destination location. Portions of the downtown core have already been established. The proposed project provides for a transition between the downtown core and surrounding residential areas which would help further establish the area. The project site is also located near other established points of attraction, including the Huntington Beach Municipal Pier, and is intended to reinforce the vicinity as a major visitor-serving district.

FINDINGS FOR APPROVAL – SPECIAL PERMITS NO. 09-001:

1. The granting of Special Permits pursuant to Section 4.1.02 of the Downtown Specific Plan in conjunction with Conditional Use Permit No. 09-001 for the following:
   a. A 10 ft. street side yard setback in lieu of the minimum required 15 ft. average setback.
   b. A 5 ft. interior side yard setback in lieu of the minimum required 7 ft. setback.
   c. A 3 ft. 6 in. average third story setback in lieu of a minimum 10 ft. along Pacific Coast Highway.

   These Special Permits result in a greater benefit from the project and will promote a better living environment because the design of the project provides a consistent development pattern along Pacific Coast Highway (PCH) and promotes the pedestrian scale envisioned by the "Village Concept" of the Downtown Specific Plan (DTSP). The reduced setbacks will compensate for the project's deficiency in the minimum PCH frontage requirement resulting from the inability to acquire an abutting easterly parcel. The cumulative building setback encroachment of 7 ft. allows for a more functional commercial and residential floor space. Additionally, the reduced setbacks minimize the visual gap created by the adjacent undeveloped easterly lot which aims to maintain an unbroken building rhythm along PCH. The reduction in the street side yard setback and first floor façade encourages a pedestrian oriented design. The project provides an architectural style the creates a distinctive break

between the lower floor and the two upper floors by the use of a reduced upper story setbacks, the provision of varied roofline treatments, the use of quality colors and materials and including building heights and a tower that is compatible with the surroundings and provides a focal element encouraged by the Design Guidelines. Finally, the project will not diminish any existing coastal views for the pedestrian at the street level. The incorporation of the special permits into the project benefits the overall design and therefore provides a better living environment for the resident, tenant, customer, and visitor to the downtown core.

2. The granting of Special Permits will provide better land planning techniques with maximum use of aesthetically pleasing types of architecture, site layout and design due to the use of appropriate site planning by placing buildings in a relationship to the street and pedestrian, the use of Mediterranean architecture, the incorporation of compatible upper story setbacks, the use of code compliant building heights, and the provision of a tower as a focal element.

3. The granting of Special Permits will not be detrimental to the general health, welfare, safety, and convenience of the neighborhood or City in general, nor detrimental or injurious to the value of property or improvements of the neighborhood or of the City in general. The project has been evaluated for compatibility with the surrounding neighborhood and with the conditions of approval imposed, the project will be designed to address the transition and scale of adjacent properties, will be designed on a pedestrian scale and character, will provide the required parking to serve the uses on site, and will meet the goals and policies of the General Plan.

4. The granting of Special Permits will be consistent with objectives of the Downtown Specific Plan in achieving a development adapted to the terrain and compatible with the surrounding environment. The proposed project is physically suitable for the site, it consolidates multiple parcels for an adequate mixed-use development site, is consistent with the type and intensities of proposed uses, complies with the Downtown Specific Plan, and is consistent with the Downtown Design Guidelines.

5. The granting of Special Permits will be consistent with the policies of the Coastal Element of the City's General Plan and the California Coastal Act. The project is consistent with the following Coastal Element goals, objectives, and policies:

   Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

   Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences.

   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.

   Policy C 3.4.2: Enhance the Municipal Pier and surrounding area to function as the "hubs" of tourist and community activity.

   The development consists of a mixed-use project, which includes retail ground floor units for visitor-serving commercial establishments. Public services and infrastructure are currently available to the project site, as well as the surrounding parcels. The proposed project

provides for a transition between the downtown core and surrounding residential areas which would help further establish the area. The project site is also located near other established points of attraction, including the Huntington Beach Municipal Pier, and is intended to reinforce the vicinity as a major visitor-serving district.

FINDINGS FOR APPROVAL – SPECIAL PERMITS NO. 09-002:

1. The granting of Special Permits pursuant to Section 4.1.02 of the Downtown Specific Plan in conjunction with Conditional Use Permit No. 09-002 a slope of 9.91% in lieu of 5% for a parking garage transition ramp serving as back-up for parking stalls, and 18% in lieu of the maximum allowed slope of 10% for a parking garage transition ramp with no adjacent parking stall will result in a greater benefit from the project and will promote a better living environment because the design allows the project to be a consistent with the pattern of development along Pacific Coast Highway (PCH), and promotes the pedestrian scale envisioned by the "Village Concept" of the Downtown Specific Plan (DTSP). The design allows all onsite required onsite parking to be provided behind and underneath the proposed building so that the streetscape is not dominated by vehicle parking and that the pedestrian oriented design of new developments along PCH is maintained. The depth of the subject site (155'-6") restricts the availability of space to comply with max slope of 5% for a parking garage transition ramp serving as back-up for parking stalls and 18% for transition ramps. The increased slope is necessary to provide adequate circulation throughout the parking structure. The proposed parking lot design is superior land planning technique as opposed to provision of a surface parking lot. The Public Works Traffic Division has evaluated the requested transition percentages and concludes that the deviations will not result in any unsafe traffic hazards. The incorporation of the special permits into the project benefits the overall design and therefore provides a better living environment for the resident, tenant, customer, and visitor to the downtown core.

2. The granting of Special Permits will provide better land planning techniques with maximum use of aesthetically pleasing types of architecture, site layout and design due to the use of appropriate site planning by placing buildings in a relationship to the street and pedestrians which, avoids an auto-oriented development design.

3. The granting of Special Permits will not be detrimental to the general health, welfare, safety, and convenience of the neighborhood or City in general, nor detrimental or injurious to the value of property or improvements of the neighborhood or of the City in general. The project has been evaluated for compatibility with the surrounding neighborhood and with the conditions of approval imposed, the project will be designed to address the transition and scale of adjacent properties, will be designed on a pedestrian scale and character, will provide the required parking to serve the uses on site, and will meet the goals and policies of the General Plan.

4. The granting of Special Permits will be consistent with objectives of the Downtown Specific Plan in achieving a development adapted to the terrain and compatible with the surrounding environment. The proposed project is physically suitable for the site, it consolidates multiple parcels for an adequate mixed-use development site, provides parking consistent with the Huntington Beach Zoning and Subdivision Ordinance, is consistent with the type and intensities of proposed uses, complies with the Downtown Specific Plan, and is consistent with the Downtown Design Guidelines.

5. The granting of Special Permits will be consistent with the policies of the Coastal Element of the City's General Plan and the California Coastal Act. The project is consistent with the following Coastal Element goals, objectives, and policies:

   Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

   Goal C 3: Provide a variety of recreational and visitor-serving commercial uses for a range of cost and market preferences

   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.

   Policy C 3.4.2: Enhance the Municipal Pier and surrounding area to function as the "hubs" of tourist and community activity.

   The development consists of a mixed-use project, which includes retail ground floor units for visitor-serving commercial establishments. Public services and infrastructure are currently available to the project site, as well as the surrounding parcels. Additionally, the proposed project would develop visitor-serving commercial uses at the periphery of the City's downtown core area, which has been targeted for redevelopment as a destination location. Portions of the downtown core have already been established. The proposed project provides for a transition between the downtown core and surrounding residential areas which would help further establish the area. The project site is also located near other established points of attraction, including the Huntington Beach Municipal Pier, and is intended to reinforce the vicinity as a major visitor-serving district.

FINDING FOR APPROVAL – VARIANCE NO. 09-003:

1. The granting of Variance No. 09-003 for development of a site with a minimum street frontage along Pacific Coast Highway of 75 ft. in lieu of a minimum 100 ft. will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The project site will require the acquisition of a 25 ft. wide portion of an adjacent easterly parcel to comply with the minimum street frontage requirements. Since the project proponents have unsuccessfully acquired the adjacent parcel, the site is thereby a sub-standard lot. The existing adjacent oil operations which are sited on the easterly property make acquiring the property impractical. Therefore, granting of the variance request will not result in a grant of special privilege because it allows the redevelopment of a site containing a blighted drive-thru restaurant with a new three story, approximately 8,972 sq. ft. mixed-use development consisting of visitor serving commercial (retail) on the ground floor, residential units and an at-grade and subterranean parking garage. Any other potential development of the site will require an approved variance. Therefore, approval of the request will not constitute a grant of special privilege as the variance will allow further improvement to the site and surrounding area.

2. Because of special circumstances applicable to the subject property, including size, shape, and location, 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 project site is constrained by special circumstances which include the project's inability to successfully acquire and utilize a 25 ft. wide portion of an adjacent

easterly lot. The previous development (Taco Bell) was authorized to utilize portions of the 50 ft. wide lot for parking, pedestrian/vehicular access, and landscaping. After the closure of the restaurant, the entire 50 ft. wide lot was walled off and presently restricts access to the site. The project site provides the minimum lot area required by code, but the inability to successfully acquire the additional lot to comply with code is found to deprive the property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The requested variance is necessary in order to allow for the removal of the existing commercial center. The City's SP5 and HBZSO require that a property meet certain minimum requirements for lot size as a determination to allow further development of a site. In this case, the project cannot meet the applicable lot requirements due to impracticable options to acquire a 25 ft. wide portion of the easterly lot. Consequently the strict application of the HBZSO would deprive the property owner of the right to improve the property to meet the objectives for community character.

4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification and is consistent with the General Plan . The development of the site with a proposed three-story, mixed-use building will not be materially detrimental to area as the project is required to provide a dedication for an safe and efficient turning radius along the corner of PCH and Ninth Street. Furthermore, the rear property line abutting the alley will be required to provide a 4 ft. 6 in. dedication which will assist in greater accessibility by residents and the City's emergency services. The reduction in lot width will not result in detrimental impacts, but rather improve any presently unsafe street conditions. The granting of the variance will not adversary affect the General Plan. It is consistent with the Land Uses Element designation of MV-F8-d-sp (Mixed Use Vertical – 1.5 Max. Floor Area Ratio/ Max. 25 Dwelling Units per Acre – Design Overlay – Specific Plan Overlay) on the subject property.

FINDINGS FOR APPROVAL - TENTATIVE PARCEL MAP NO. 09-078:

1. Tentative Parcel Map No. 09-078 for the consolidation of three parcels totaling 11,528 sq. ft. of net lot area into one lot for condominium purposes is consistent with the General Plan Land Use Element designation of MV-F8-d-sp (Mixed Use Vertical – 1.5 Max. Floor Area Ratio/ Max. 25 Dwelling Units per Acre – Design Overlay – Specific Plan Overlay) on the subject property and other applicable provisions of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) because the proposed subdivision will create a total of four residential condominium units.

2. The site is physically suitable for the type and density of development. The site consists of one parcel of land of approximately 11,528 sq. ft of net lot area, which is proposed for the construction of an approximately 8,972 sq. ft. mixed-use, visitor serving/residential development containing four residential units. The project involves the subdivision of these units for condominium purposes. The site will comply with minimum lot area and maximum density requirements of the HBZSO.

3. The design of the subdivision will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The subdivision is proposed on a property currently zoned for mixed-use development and located in an urbanized area. The site does not serve as habitat for fish or wildlife. The proposed condominium map will comply with the HBZSO.

4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided. No easement acquired by the public at large for access through or use of the property exists within the proposed subdivision.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. The grading plan prepared for the new proposed project shall contain the recommendations included in the Geotechnical Engineering Report for the site prepared by NorCal Engineering dated December 2009. These recommendations shall be implemented in the design of the project and include measures associated with site preparation, fill placement and compaction, seismic design features, excavation and shoring requirements, foundation design, concrete slabs and pavement, cement type, surface drainage, trench backfill, and geotechnical observation.

CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT 09-005/ CONDITIONAL USE PERMIT NO. 09-021/ VARIANCE NO. 09-003/ SPECIAL PERMIT NO. 09-001/ SPECIAL PERMIT NO. 09-002 WITH SPECIAL:

1. The site plan, floor plans, elevations, and section elevations dated June 29, 2010, shall be the conceptually approved design with the following modifications:
    a. Modify the project plans to accurately illustrate the minimum onsite open space required.
    b. On Sheet T-1, modify the development matrix to accurately reflect the development's required minimum onsite open space pursuant to Condition of Approval No. 1(a).
    c. On Sheet T-1, A-1.3, and A-1.4, modify the development matrix and floor plans to accurately reflect and illustrate a minimum 120 sq. ft. private open space for unit nos. 201 and 301.
    d. On Sheet A-1.1, modify parking space no. 22 outside of a pedestrian and vehicular visibility triangular area formed by measuring 10 ft. from the intersection of the Ninth Street side property line and the adjacent alleyway (post-dedication).
    e. On Sheet A-.1.1, modify parking spaces nos. 1, 2, 22, and 23 with a clear back-up space of a minimum 26 ft.
    f. On Sheet A-1.1, A-1.2, A-1.5, A-2.1, and A-2.2, modify depict the awning at a minimum setback of 21 ft. measured from the PCH front property line and 6 ft. measured from the Ninth Street side property line.
    g. Depict a separate refuse container and enclosure that will exclusively serve the onsite commercial use(s).
    h. The project design shall reduce the visual perception of upper-story massing by incorporating additional color variation to the second and third story façades. (DRB)
    i. The project design shall provide additional site improvements such as increased plaza area and enhanced landscaping. (DRB)
    j. The landscape planters shall incorporate stone to match building facade. (DRB)

k. The design shall provide public art (i.e. sculpture) within the front setback area. (DRB)

2. Prior to issuance of demolition permits, the following shall be completed:

   a. The applicant shall follow all procedural requirements and regulations of the South Coast Air Quality Management District (SCAQMD) and any other local, state, or federal law regarding the removal and disposal of any hazardous material including asbestos, lead, and PCB's. These requirements include but are not limited to: survey, identification of removal methods, containment measures, use and treatment of water, proper truck hauling, disposal procedures, and proper notification to any and all involved agencies.

   b. Pursuant to the requirements of the South Coast Air Quality Management District, an asbestos survey shall be completed.

   c. The applicant shall complete all Notification requirements of the South Coast Air Quality Management District.

   d. The City of Huntington Beach shall receive written verification from the South Coast Air Quality Management District that the Notification procedures have been completed.

   e. All asbestos shall be removed from all buildings prior to demolition of any portion of any building.

3. Prior to the issuance of grading permits, the following shall be completed:

   a. At least 14 days prior to any grading activity, 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 and Building Department.

   b. A precise grading plan shall be submitted which includes a notation that any damaged sidewalk along the project frontage shall be removed and replaced per Public Works Standard Plans Nos. 202 and 207. **(PW)**

4. Prior to submittal for building permits, the following shall be completed:

   a. One set of project plans, revised pursuant to Condition of Approval No. 1, shall be submitted for review, approval and inclusion in the entitlement file, to the Planning Division.

   b. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Planning and Building, Fire, and Public Works shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.

5. Prior to issuance of building permits:

    a. A public art element shall be integrated and be in a publicly accessible place within the proposed project. Public art shall include art of:

        - Artistic excellence and innovation,
        - Appropriate to the design of the project,
        - Reflective of the community's cultural identity, (ecology, history, society).

        The public art element shall be reviewed and approved by the Design Review Board, the Planning Department, and the Cultural Services Division Manager prior to issuance of a building permit for the project. The public art shall be in place at the subject site prior to final inspection.

    b. A planned sign program for all signage shall be submitted to the Planning Department. Said program shall be reviewed and approved by the Design Review Board prior to the issuance of the first sign permit.

6. During demolition, grading, site development, and/or construction, the following shall be adhered to:

    a. Construction equipment shall be maintained in peak operating condition to reduce emissions.

    b. Use low sulfur (0.5%) fuel by weight for construction equipment.

    c. Truck idling shall be prohibited for periods longer than 5 minutes.

    d. Attempt to phase and schedule activities to avoid high ozone days first stage smog alerts.

    e. Discontinue operation during second stage smog alerts.

    f. Ensure clearly visible signs are posted on the perimeter of the site identifying the name and phone number of a field supervisor to contact for information regarding the development and any construction/ grading activity.

7. The structure cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released and issuance of a Certificate of Occupancy until the following has been completed:

    a. All improvements must be completed in accordance with approved plans, except as provided for by conditions of approval.

    b. The applicant shall obtain the necessary permits from the South Coast Air Quality Management District and submit a copy to the Planning Division.

    c. Compliance with all conditions of approval specified herein shall be verified by the Planning and Building Department.

    d. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.

8. The development services departments (Planning & Building, Fire, and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may approve minor amendments to

plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Director of Planning and Building's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Director of Planning and Building may be required pursuant to the provisions of HBZSO Section 241.18.

9. Coastal Development Permit No. 09-005, Conditional Use Permit No. 08-021, Special Permit No. 09-001, Special Permit No. 09-002 shall become null and void unless exercised within two (2) years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Division a minimum 30 days prior to the expiration date.

10. 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).Prior to submittal for building permits, the following shall be completed:

CONDITIONS OF APPROVAL – TENTATIVE PARCEL MAP NO. 09-078:

1. The Tentative Parcel Map No. 09-078 for condominium purposes received and dated April 8, 2010, shall be the conceptually approved layout.

2. The following conditions shall be completed prior to recordation of the final map unless otherwise stated:

    a. At least 90 days before the recordation of the final parcel map, CC&Rs shall be submitted to the Planning and Building Department and approved by the City Attorney. The CC&Rs shall identify the common driveway access easements, and maintenance of all walls and common landscape areas by the Homeowners' Association, and other requirements listed in Public Works Code Requirements. The CC&Rs shall also address assignment of parking spaces in the residential parking garage and disclosure statements to the tenants/prospective buyers regarding the mixed use nature of the project pursuant to the Conditions of Approval of Coastal Development Permit No. 09-005, Conditional Use Permit No. 08-021, Special Permit No. 09-001, and Special Permit No. 09-002. The CC&Rs must be in recordable form prior to recordation of the map.

    b. Park Land In-Lieu Fees shall be paid pursuant to the requirements of HBZSO Section 254.08 – *Parkland Dedications* or as may be otherwise required in accordance with a separate Development Agreement that may be entered into between the City and developer. The fees shall be paid and calculated according to a schedule adopted by City Council resolution (*City of Huntington Beach Planning and Building Department Fee Schedule*). If no Final Parcel Map is proposed, the applicable Park Land In-Lieu Fees shall be paid prior to issuance of building permits.

c. All applicable Affordable Housing In-Lieu Fees shall be paid. If it is deemed necessary, the property owner shall submit an Affordable Housing Agreement to the Planning and Building Department for the required in-lieu fee. The agreement shall be reviewed and approved by the City Attorney as to form and content and, when approved, shall be recorded in the Office of the Orange County Recorder.

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.

C. CONSENT CALENDAR - NONE

D. NON-PUBLIC HEARING ITEMS – NONE

E. PLANNING ITEMS

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

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

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

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Bixby noted that the Gastrotruck Fest at Peter's Landing is taking place on Sunday, July 17, 2011 and encouraged his fellow commissioners to attend.

Vice-Chair Mantini reported that she would not be at the August 23, 2011 meeting

ADJOURNMENT: ADJOURNMENT: Adjourned at 7:58 PM to the next regularly scheduled meeting of Tuesday, July 26, 2011.

APPROVED BY:

Scott Hess, Secretary

Barbara Delgleize, Chairperson