MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, OCTOBER 13, 2009
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

	P	A	A	P	P	P	A
ROLL CALL:	*Speaker,*	*Mantini,*	*Farley,*	*Shier Burnett,*	*Scandura,*	*Livengood,*	*Delgleize*

Commissioner Delgleize arrived at 5:20 PM; Vice Chair Farley arrived at 5:30 PM

AGENDA APPROVAL

A MOTION WAS MADE BY SCANDURA, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF OCTOBER 13, 2009, BY THE FOLLOWING VOTE:

AYES: **Speaker, Shier Burnett, Scandura, Livengood**
NOES: **None**
ABSTAIN: **None**
ABSENT: **Mantini, Farley, Delgleize**

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

A-1. ENVIRONMENTAL IMPACT REPORT NO. 08-008/GENERAL PLAN AMENDMENT NO. 08-002/ZONING MAP AMENDMENT NO. 08-002/ZONING TEXT AMENDMENT NO. 08-002 (BEACH AND EDINGER CORRIDORS SPECIFIC PLAN – REVIEW OF PUBLIC COMMENTS AND SUMMARY OVERVIEW OF DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT) – Rosemary Medel, Associate Planner

Rosemary Medel, Associate Planner, gave a brief overview of the proposed project. Mary Beth Broeren, Planning Manager, gave an overview of the Environmental Impact Report (EIR).

Commissioner Scandura confirmed with his fellow commissioners they had not finished reviewing the entire EIR. He asked staff to consider rescheduling the public hearing to January to allow for further review. He expressed concern about the water and traffic impacts. Commissioner Livengood stated that he felt the Beach and Edinger Corridors Specific Plan (BECSP) would require two meetings

and, due to the proximity to the winter holidays, agreed with Scandura's suggestion to postpone until January. Ms. Broeren stated that the Commission had until January 20, 2010 to certify the EIR. She noted that the project is slightly behind schedule and that staff has scheduled the EIR for December in order to adhere to the directive from City Council. She noted that staff may be able to focus on the EIR and address the Specific Plan at a later meeting. Ms. Broeren stated that staff is working on a comprehensive update to the circulation element and noted that the mitigation measures included in the EIR will be required whether or not the Specific Plan is adopted. She indicated that adoption of the Specific Plan would reduce the traffic impacts because there are fewer trips associated with the Specific Plan than the General Plan due to the mixed use designations, the decrease of commercial development, and other elements.

Scott Hess, Director of Planning, stated that the proposed public hearing is two months away and that staff is willing to meet with Commissioners outside of study sessions to review the EIR and Specific Plan. He stated that staff would prefer to stay on schedule and suggested that the December meeting be reserved for public comments which would allow staff to address any comments prior to January.

Commissioner Livengood asked if a tour of the Specific Plan area could be arranged. Mr. Hess confirmed that all of the commissioners were interested in attending a tour.

Vice-Chair Farley asked what the probable lead time would be to review the revisions to the BECSP. Ms. Broeren stated that staff is hoping to have a rough draft of Book III by mid-November. Vice-Chair Farley stated that he would like a Final Draft for review by the commission and the public at least three weeks prior to the public hearing. Ms. Broeren stated that staff would try to meet that request and noted that the final draft of the EIR is scheduled for release by November 9, 2009. She noted that a public comment meeting was held on September 30, 2009, and the majority of comments pertained to the McFadden/Sugar Exit.

Commissioner Livengood asked staff to let the commissioners know exactly what portion of the Specific Plan to study prior to each meeting, as he had understood that this study session would be dedicated primarily to the public comment matrix. Ms. Broeren stated that staff's intention is to primarily focus on the public comment matrix but that the discussion of the EIR had gone longer than expected. Commissioner Scandura thanked staff for the in depth review of the EIR. Ms. Broeren stated that the public comment matrix would be reviewed at the next study session.

A-2. ENVIRONMENTAL ASSESSMENT NO. 08-016 (APPEAL OF THE ENVIRONMENTAL ASSESSMENT COMMITTEE'S ENVIRONMENTAL DETERMINATION FOR "THE RIDGE") – Jennifer Villasenor, Associate Planner

Jennifer Villasenor, Associate Planner, gave a brief overview of the proposed project.

Commissioner Livengood asked staff what the impact was of Recirculated EIR No. 551. Ms. Villasenor stated that the Goodell Property, not the Ridge property,

was analyzed under that EIR. Commissioner Livengood asked if there had ever been an EIR for the Ridge property and Ms. Villasenor indicated that there had not.

Chair Shier-Burnett asked for clarification on how many dwelling units per acre the zoning allowed. Ms. Villasenor stated that the site was zoned for one dwelling unit per acre.

Commissioner Scandura noted that the current General Plan designation is Open Space- Parks and that this request would change the designation to residential and change the zoning to seven units per acre. He asked staff how the site had become designated open space and if there had been a previous agreement with the property owner. Ms. Villasenor stated that the site was first incorporated into the city in the 1970s as Residential 1 which is equivalent to the current Residential Low Density designation. She stated that the when the city adopted its Coastal Land Use Plan in 1982 the city incorporated this site and 3 acres of the adjacent Shea property as open space. Commissioner Scandura asked if the city had originally intended to construct a park on this site. Ms. Villasenor stated that the Bolsa Chica area was slated for residential development which likely led to the open space designation. The residential development plans have been scaled down substantially, lessening the open space requirement, and the site is not listed in the General Plan as a future park. Commissioner Scandura asked if that the original open space designation was based on the proposed high density residential development and Ms. Villasenor confirmed this. He asked if the Community Services Department had identified any potential impacts from the change in designation and Ms. Villasenor stated that they had not. Commissioner Scandura asked if any of the eight acres of the Shea property that the county designated as park space was included on this site. Ms. Broeren stated that those eight acres are only on the Shea property and are not a part of this site.

Chair Shier-Burnett asked if the original residential designation for the surrounding area included the Goodell property. Ms. Villasenor stated that the Goodell property was redesignated in the 1990s when the EIR for that site was completed. Commissioner Scandura noted that the Goodell property was not annexed into the city with the Ridge property.

B. STUDY SESSION ITEMS – NONE

C. PUBLIC COMMENTS

Bob Clayton, 19490 Beach Boulevard, spoke in opposition to Item No. A-1, citing concerns with the sewer and drainage system on Beach Boulevard. Mr. Clayton stated that the sewer and drainage system along Beach Boulevard, south of Garfield Avenue, is at capacity and inadequate.

Edith Gonzales, McFadden Sugar Safe Exit, spoke in opposition to Item No. A-1, citing concerns with the traffic analysis and the need for a traffic signal at the intersection of McFadden Avenue and Sugar Street. Ms. Gonzales stated that the analysis was completed in the summer while the neighboring schools, including Golden West College, were not in session and that the traffic from those schools increases the traffic along

McFadden by 1500 cars. She asked the commission to reevaluate the recommendation and consider a traffic light at the McFadden and Sugar intersection.

Julie Bixby, resident, spoke in opposition to Item No. A-2, citing concerns with the Mitigated Negative Declaration and the need for an Environmental Impact Report. Ms. Bixby stated an EIR is needed to decide if development on the site would be problematic for the ESHA. She expressed concern that a Mitigated Negative Declaration would violate the General Plan and noted that development on this site would add to the deficit of parklands in the city.

D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Planning Manager, Herb Fauland, reported on the agenda items for tonight's meeting. He noted one late communication, an email from John Parrish regarding Item No. B-1.

E. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Speaker reported on the recent Design Review Board meeting. He noted the conversion of the former Armstrong nursery on Gothard Street (north of Edinger Avenue) into a vegetable and fruit market.

F. PLANNING COMMISSION COMMENTS

Commissioner Livengood asked staff to report back on the drainage issue that Mr. Clayton spoke regarding.

Commissioner Scandura noted that it was the last Planning Commission meeting for Rami Talleh, Senior Planner.

6:25 PM – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Scandura

	P	P	P	P	P	P	P
ROLL CALL:	***Speaker,***	***Mantini,***	***Farley,***	***Shier Burnett,***	***Scandura,***	***Livengood,***	***Delgleize***

AGENDA APPROVAL

A MOTION WAS MADE BY SPEAKER, SECONDED BY DELGLEIZE, TO APPROVE THE PLANNING COMMISSION AGENDA OF OCTOBER 13, 2009, BY THE FOLLOWING VOTE:

AYES: Speaker, Mantini, Farley, Shier Burnett, Scandura, Livengood, Delgleize
NOES: None
ABSTAIN: None
ABSENT: None

MOTION APPROVED

PRESENTATION OF PLANNING COMMISSION RESOLUTION NO. 1636 IN APPRECIATION TO OUTGOING SENIOR PLANNER RAMI TALLEH.

Chair Shier Burnett presented Resolution No. 1636 to outgoing Senior Planner Rami Talleh. She expressed appreciation for his work ethic and professionalism and wished him well in his future endeavors.

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS

B-1. ENTITLEMENT PLAN AMENDMENT NO. 07-001 (PIERSIDE PAVILION MODIFICATION TO MIX OF USES – AMENDMENT TO CONDITIONAL USE PERMIT NO. 90-37/COASTAL DEVELOPMENT PERMIT NO. 90-21) **Applicant:** Michael C. Adams **Request:** To amend Conditional Use Permit No. 90-37 and Coastal Development Permit No. 90-21 by modifying the established mix of uses within Pierside Pavilion, an existing mixed use (office/retail/restaurant/theater) building. The proposal includes a request to eliminate the theater use and increase retail, office, and restaurant square footage within the building. No exterior modifications or expansion by adding square footage to the existing building are proposed. **Location:** 300 Pacific Coast Highway (southeast corner of Main Street and Pacific Coast highway – Pierside Pavilion) **Project Planner**: Rami Talleh

STAFF RECOMMENDATION: Motion to: "Approve Entitlement Plan Amendment No. 07-001 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Speaker has met with staff and visited the site.
- Commissioner Mantini has attended the study session and visited the site.
- Vice Chair Farley has attended the study session and visited the site.
- Chair Shier Burnett has attended the recent study session, a study session in the past, visited the site, and met with staff.
- Commissioner Scandura has attended the recent study session and a study session in the past and has attended meetings regarding the entitlement process
- Commissioner Livengood has attended the study session and met with the property owner.
- Commissioner Delgleize has attended the study session and attended events at the site.

Rami Talleh, Senior Planner, gave the staff presentation and an overview of the proposed project.

Commissioner Livengood asked staff if a certificate of occupancy would be required for each office any time there is a new occupant. Mr. Talleh confirmed this and noted that it is a standard requirement throughout the city.

Commissioner Speaker noted that the building is 90,000 sq. ft. but that the caps for the individual uses add up to over 99,000 sq. ft. He asked staff to explain that discrepancy. Mr. Talleh stated that the table provided shows the individual land use caps for each use. He noted that if one use meets the cap then the other uses will be adjusted accordingly. This will allow for some flexibility for the different land uses proposed in the future. He stated that this would be monitored through the Certificate of Occupancy review and process. Commissioner Speaker asked if that meant the entire building could be used as office space and Mr. Talleh stated that it could not as the cap for office space is well below the total square footage of the building.

Vice-Chair Farley asked staff why the theater use should be deleted instead of keeping it as an allowable use. Mr. Talleh stated that it would be possible to keep that use but that the applicant is not proposing a theater. Vice-Chair Farley asked why the proposed office space is considered visitor serving commercial. Mr. Talleh stated that the office space is not considered a visitor serving commericial use and that the Downtown Specific Plan places limits on the building area which only allows for a third of the building to be used for non-visitor serving commercial.

Commissioner Delgleize wanted clarification that the site cannot be developed beyond the existing square footage. Mr. Talleh stated that proposed future additions to the building are not allowed in this Entitlement Plan Amendment. Commissioner Delgleize asked if the uses would be allowed to exceed their individual caps and Mr. Talleh stated that the site must comply with the individual use caps.

Chair Shier Burnett asked if the profit margin of the owner was considered when the deed restriction was put in place. Kellee Fritzal, Deputy Director of Economic Development, stated that the site was originally slated as a hotel and that the theater use was decided upon later. She noted that the theater was profitable during the 1980s but failed to be profitable with time.

THE PUBLIC HEARING WAS OPENED.

Mike Adams, Adams & Associates representing the applicant, spoke in support of item #B-1. He noted that the property owner did explore several options for the site, including keeping the theater, but that the theater use would not be a financial benefit. Commissioner Delgleize asked if Mr. Adams had customers interested in leasing the proposed office space and Mr. Adams stated that he did have clients interested in leasing the space.

Richard Plummer (with 4 minutes donated by Celeste Plummer) spoke in opposition to item #B-1, citing concerns with the potential parking impacts. He stated that the parking study is problematic because the current building occupancy was not taken into account. He requested a new parking study and expressed concern that the removal of the theater would cause the removal of the parking covenant on the Main Promenade Parking Structure and severely impact parking in the downtown area. Mr. Plummer also expressed concern about the potential for additional restaurants serving liquor at the site.

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

Vice-Chair Farley asked staff to address the parking covenant on the site. Leonie Mulvihill, Deputy City Attorney, stated that the parking arrangement is between the property owner and the redevelopment agency and that if the theatre use is removed the Redevelopment Agency would no longer be obligated to reserve those spaces.

Vice-Chair Farley asked staff how many spaces within the Main Promenade Parking Structure are restricted for the theater use. Ms. Fritzal stated that the first phase of the development is allocated 150 spaces and if the second phase is developed then the site can be allocated up to 300 spaces. Mr. Talleh stated that the removal of the theater would allow the parking spaces to be absorbed back into the shared parking pool for the downtown area. He stated that the parking study does not analyze any future developments on the site. He noted that staff analyzed the thresholds allotted to the Pierside Pavillion in the Downtown Parking Master Plan and that the site does not exceed the maximum buildable area for this block in the Downtown Parking Master Plan. He stated that the shift in uses would reduce the impact at the peak parking times. Commissioner Speaker stated that the change in use would allow for more parking spaces to be utilized in the shared parking pool.

Commissioner Scandura asked staff if any in-lieu fees are associated with the owner participation agreement or entitlement. Mr. Talleh stated that in-lieu fees are not a part of this request. Commissioner Scandura asked if removing the parking covenant would impact the in-lieu fees on future developments. Mr. Talleh stated that any development that exceeds its allotted land use or cannot provide the required parking identified in the shared parking plan would be required to pay an in-lieu fee or obtain a variance.

Commissioner Scandura stated that the Downtown Specific Plan requires any new liquor licenses to obtain a conditional use permit from the Planning Commission and asked if this EPA would negate that requirement. Mr. Talleh stated that the site is still subject to the Downtown Specific Plan. He noted that an existing restaurant is expected to expand into the theater area, not for a new restaurant to utilize the space.

Commissioner Livengood noted the significant difference in required parking spaces for the theater use and office use. He asked staff to confirm that the proposed additional restaurant space is intended for an expansion to an existing restaurant. Mr. Talleh stated that this is the intention of the applicant but noted that a proposal for the expansion of the existing restaurant has not been submitted to the Planning Department.

Commissioner Delgleize asked staff for the number of parking spaces in the parking structure underneath the site. Mr. Talleh stated that there are approximately 297 parking spaces in that structure. Commissioner Delgleize asked if there were sufficient spaces for the proposed uses. Mr. Talleh stated that the parking requirements would be met by on-site parking as well as additional spaces in the city owned Main Promenade parking structure.

Vice-Chair Farley expressed regret that the theater is no longer economical viable at that location.

Commissioner Speaker stated that he would support the project but that he felt the office space was not consistent with the visitor serving commercial use.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SCANDURA, TO APPROVE ENTITLEMENT PLAN AMENDMENT NO. 07-001 WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Speaker, Mantini, Farley, Shier Burnett, Scandura, Livengood, Delgleize**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 07-001

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, because minor alterations to existing structures are exempt from further environmental review.

FINDINGS FOR APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 07-001 (AMENDMENT TO CONDITIONAL USE PERMIT NO. 90-037):

1. Entitlement Plan Amendment No. 07-001 for the modification to the mix of existing uses 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.

2. The propose modification to the mix of uses will be compatible with surrounding uses. The proposed modification to the mix of uses is consistent with the mixed-use character of commercial developments in the downtown. The uses are subject to noise regulations identified in the City's Municipal Code.

3. The proposed modification to the mix of uses 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 existing parking supply in the existing parking structure. There is no physical expansion 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. In addition, it is consistent with the following goals and policies of 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 modification to the mix of uses will provide for the replacement of a failing theater use with a mix of new visitor-serving commercial uses and office space within the Downtown that is consistent with the Land Use Density Schedules for the Downtown, and is compatible with surrounding mixed-use development. The proposed mix of uses will provide for flexibility to meet current and future market demands and maintain the required amount of visitor serving commercial uses.

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 uses increase the commercial viability of Pierside Pavilion by eliminating a failing theater use. The proposed modification to the mix of uses will maintain existing visitor serving commercial uses with the exception of the theater use and will comply with the one-third total floor area of visitor serving commercial use requirement per the Downtown Specific Plan. The request will allow for flexibility in the mix of uses within Pierside Pavilion allowing for its continued success within the Downtown.

FINDINGS FOR APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 07-001 (AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 090-21):

1. Entitlement Plan Amendment No. 07-001 for the development project, as proposed, conforms with the General Plan, conforms with the General Plan, including the Local Coastal Program. The project is consistent with the following Coastal Element Land Use Policy:

   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 increases the commercial viability of Pierside Pavilion by eliminating a failing theater use. The proposed modification to the mix of uses will maintain existing visitor serving commercial uses with the exception of the theater use and comply with the one-third total floor area of visitor serving commercial use requirement per the Downtown Specific Plan. The request will allow for flexibility in the mix of uses within Pierside Pavilion allowing for its continued success within the Downtown.

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 modification to the mix of uses will maintain existing visitor serving commercial uses with the exception of the theater use and complies with the one-third total floor area of visitor serving commercial use requirement per the Downtown Specific Plan. The required parking for the proposed mix of uses will be satisfied by an on-site 296 space parking structure and the adjacent City owned parking structure.

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. All infrastructure exists for the proposed use that is consistent with the Huntington Beach Coastal Element. The proposed modification to the mix of uses will not result in an expansion of square footage to the existing building.

4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project will not impede public access or impact public views to coastal resources.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 07-001:

1. The floor plans received and dated July 21, 2009 shall be the conceptually approved design

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. The square footage of uses within the building shall be consistent with the mix of uses identified in the project narrative dated and received July 21, 2009.

4. The development services departments (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.

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. **RECIRCULATED MITIGATED NEGATIVE DECLARATION NO. 08-017/ZONING MAP AMENDMENT NO. 06-003/ANNEXATION NO. 06-002 (GOODELL PROPERTY PRE-ZONING AND ANNEXATION): Applicant:** City of Huntington Beach **Request: RECIRCULATED MND**: To analyze the potential environmental impacts associated with the pre-zoning and annexation of the subject site. **ZMA:** To amend the City of Huntington Beach Zoning Map to pre-zone the site with the following zoning designations: 3.2 acres of Residential Low Density (RL); 2.0 acres of Open Space – Parks and Recreation (OS-PR); and 1.0 acre of Coastal Conservation (CC). The entire 6.2-acre property would be designated with a Coastal Zone (CZ) Overlay. **ANX**: To annex the approximately 6.2-acre site, generally referred to as the Goodell property, into the City of Huntington Beach. The property is currently located within the jurisdiction of the County of Orange. **Location:** 6.2 acre site located at the terminus of Bolsa Chica Street, south of Los Patos Avenue, east of Bolsa Chica Street, on the Bolsa Chica Mesa (Unincorporated County of Orange, adjacent to the City of Huntington Beach) (APN: 110-016-18) **Project Planner:** Jennifer Villasenor

STAFF RECOMMENDATION: Motion to:

A. "Approve Recirculated Mitigated Negative Declaration No. 08-017 with findings (Attachment No. 1)."

B. "Approve Zoning Map Amendment No. 06-003 with findings for approval (Attachment No. 2) and forward the Draft Ordinance (Attachment No. 3) to the City Council for adoption."

C. "Approve Annexation No. 06-002 as a minute action and forward recommendation to the City Council."

The Commission made the following disclosures:

- Commissioner Speaker has visited the site and attended the study session.
- Commissioner Mantini has visited the site with the Bolsa Chica Land Trust, met with the Bolsa Chica Land Trust, discussed with staff, spoke with Councilmember Dwyer, and met with the property owner's representative.
- Vice-Chair Farley has visited the site with the Bolsa Chica Land Trust and attended the study session.
- Chair Shier Burnett has visited the site with the Bolsa Chica Land Trust, met with the property owner and staff, and attended the study session.
- Commissioner Scandura has met with the applicant and visited the site with the Bolsa Chica Land Trust, voted with the Planning Commission to annex the Hearthside Homes property, and is a nearby resident .
- Commissioner Livengood has met with the applicant, visited the site with the Bolsa Chica Land Trust, and attended the study session.
- Commissioner Delgleize has met with the Bolsa Chica Land Trust, spoke with staff, visited the site with Mark Bixby, attended the study session, and met with the property owner's representative and Mr. Mountford.

Jennifer Villasenor, Associate Planner, gave the staff presentation and an overview of the proposed project.

Commissioner Scandura asked staff if the entire site is currently zoned by the county as residential and Ms. Villasenor confirmed this. Commissioner Scandura asked if there would be any open space restrictions should the applicant choose to have his entitlements reviewed by the county. Ms. Villasenor noted that the pre-zoning and annexation is city initiated. She stated that if the property owner chose to develop the property prior to annexation then the process would be through the county. Commissioner Scandura confirmed with staff that no development is currently proposed on the site and that the proposed mitigation measures would need to be adhered to should development occur. He asked if an environmental review would be required prior to satisfying the mitigation measures and Ms. Villasenor stated that some of the mitigation measures would be included in an environmental review and noted that the mitigation measure requiring archaeological testing would need to be satisfied prior to any development proposals. Commissioner Scandura asked if that would be required prior to CEQA action and Ms. Villasenor confirmed this.

Vice-Chair Farley noted that Attachment No. 4.18-20 refers to the 2007 SWCA report and asked if a copy of that report was provided. Ms. Villasenor stated that it was not provided except upon request. Vice-Chair Farley asked if this report was referenced in the original draft MND. Ms. Villasenor stated that it was and that, based on comments received on that MND, staff had additional biological surveys completed in June 2009.

Vice-Chair Farley asked for clarification on how the MND addresses the cumulative impacts from the surrounding projects which are undergoing development. Ms. Villasenor stated that, as this project is pre-zoning and

annexation, there are no cumulative impacts from surrounding developments and the impacts of future developments are not known at this time. Vice-Chair Farley asked staff why the measures in Attachment No. 5.26-27, sections 7 and 8 were changed from potentially significant to not significant. Ms. Villasenor stated that those mitigation measures are matters of disclosure and were identified by staff as mitigation measures for future developments and are not required for the pre-zoning and annexation. Vice-Chair Farley asked why this request is not for a Negative Declaration if the mitigation measures are solely for potential developments and not for this project. Ms. Villasenor stated that a Mitigated Negative Declaration was pursued as a matter of public disclosure. Vice-Chair Farley asked if this MND is stating that there would be no impacts by a future development. Ms. Villasenor stated that there are no direct or physical impacts from annexation and that there are no current plans to develop the sight so that any mitigation measures addressing an unknown future development would be premature. She noted that the existing zoning is residential and this annexation and pre-zoning application would convert a portion of the site to open space.

Vice-Chair Farley noted that the Environmental Board concluded in April 2009 that they could not properly evaluate the proposal because they did not have useful mapping of the area. He asked staff if the Recirculated MND was presented to the Environmental Board. Ms. Villasenor stated that the Environmental Board did review the Recirculated MND and felt that it addressed their concerns.

Commissioner Livengood asked staff if this site is included in the Environmental Impact Report No. 551 and Ms. Villasenor stated that it is. He confirmed with staff that the Local Coastal Plan Amendment would have to be approved by the California Coastal Commissioner (CCC) and Ms. Villasenor noted that any Coastal Development Permits for the site would also go before the CCC. Commissioner Livengood asked for clarification on what additional environmental analysis the CCC is requiring. Ms. Villasenor stated that the level of environmental review would be determined by the proposed development. Commissioner Livengood noted that archeological trenching has been removed from the measures and Ms. Villasenor stated that any specific type of archaeological testing was removed to allow for potential advances in technology and approach.

Chair Shier Burnett asked if the required 100 ft buffer zone between the ESHA and development would prevent the site from being developed. Ms. Villasenor stated that the ESHA is located on the adjacent site and that there is at least 100 ft. between the ESHA and the portion of the site to be zoned residential.

Chair Shier Burnett noted that there is an overlap between this site and the Hearthside site in regards to the archaeological findings and asked if there had been any archaeological findings on this particular site. Ms. Villasenor stated that this site has not undergone archaeological testing but that the findings on the adjacent sites make it likely that there are archaeological deposits. She noted that while the site is largely undeveloped there have been past uses, such as the storage of telephone poles and the World War II bunker, which may have disturbed archaeological deposits. She stated that there is a measure recommending archaeological testing along the entire site. Chair Shier Burnett asked at what depth the archaeological deposits on the Hearthside site were discovered and Ms. Villasenor stated that she was unsure. Chair Shier Burnett

asked what site the cog stones were discovered on and Ms. Villasenor stated that those were located on the Hearthside site. Chair Shier Burnett asked on which site the human remains were discovered and Ms. Villasenor indicated that the remains were recovered from the Brightwater site.

Chair Shier Burnett asked for the reasoning behind pre-zoning prior to annexation. Ms. Villasenor stated it is the standard process and that staff's review of the site and the uses for the adjacent sites concluded that the zoning recommendations were the most appropriate for the site.

Chair Shier Burnett asked for clarification on the tree removal noted in the letter from the CCC. Ms. Villasenor stated that there was removal of trees on the site in 2007 and the CCC required replanting as a mitigation measure. She stated that the CCC was requesting that the site be analyzed as if the removal had not occurred but that staff could not analyze the impacts of trees no longer on the site.

Chair Shier Burnett noted that the Historic Resources Board noted that the site is eligible to be included in the archaeologically significant sites registry and asked what the process is for registering the site. Ms. Villasenor stated that a nomination would need to be submitted for the National Register of Historic Places. Chair Shier Burnett asked if that could happen only after a development is proposed and if archaeological findings are confirmed. Ms. Villasenor stated that CA ORA-83 is considered eligible for listing on the registry and that information was included in the Recirculated MND.

Commissioner Scandura noted that while portions of the site may seem unbuildable the terrain could be altered to accommodate development and that the county would allow for development on a larger portion of the site than what the proposed zoning designation would allow for. He asked staff if the annexation process would prohibit the property owner from submitting a development proposal to the county. Ms. Villasenor stated that there are no current development proposals for the site and that if the site if annexed then it would no longer be under the county's jurisdiction. Commissioner Scandura noted that the annexation process could take some time to complete and asked staff if the property owner could pursue development through the county up until the annexation process is completed. Ms. Villasenor confirmed this.

THE PUBLIC HEARING WAS OPENED.

Margaret Carlberg, Amigos de Bolsa Chica, stated that she was in favor of the annexation process but that, due to the site's proximity to both the ESHA and archaeologically significant sites, the MND is not appropriate and requested that a complete Environmental Impact Report (EIR) be completed.

Flossie Horgan, Bolsa Chica Land Trust, questioned the veracity of the archaeological findings and reviewed the history of the archaeological findings at the adjacent sites. She noted that the site has been recognized as a National Historic Site. She asked the commission not to approve the MND with the biological and cultural resources impacts listed as less than significant. Ms. Horgan noted that the Bolsa Chica Land Trust is interested in purchasing the site and has been in contact with the property owners.

Chair Shier Burnett asked Ms. Horgan if the Bolsa Chica Land Trust is currently in negotiations with the property owner to purchase the site. Ms. Horgan stated that the Trust is currently involved in securing funding to acquire the site.

Commissioner Delgleize asked if the site would still be eligible for the National Registry of Historic Sites if the annexation is approved. Ms. Horgan stated that the annexation would not impact the eligibility. Chair Shier Burnett asked Ms. Horgan to explain the process for listing on the National Registry of Historic Sites. Ms. Horgan stated that the property owner must give approval before the site can be placed on the registry. Chair Shier Burnett asked if being listed on the Registry would preclude future developments on the site and Ms. Horgan stated that she did not know.

Paul R. Moreno, Coalition to Preserve Sacred Sites, stated this site was the last part of the archaeological site left undeveloped and asked the commission to help preserve the site and direct staff to complete an EIR.

Susana Salas, Coalition to Preserve Sacred Sites, spoke for the preservation of open space on the site and noted the historical and archaeological significance of the site to the Native American community. She spoke against the potential development of the site.

Angel Eyes, resident, spoke against the MND and asked the Planning Commission to help preserve the open space at the site for habitat and archaeological reasons.

Joe Shaw, resident, expressed concern for staff's zoning recommendations. He asked that an EIR be completed for the site prior to zoning and asked the commission to consider the environmental and archaeological impacts prior to approving the zoning.

Sandra Genis, Bolsa Chica Land Trust, asked that an EIR be completed. She stated that 100 ft. is not an adequate buffer for the ESHA and the raptor population and expressed concern that the potential impacts have not been properly analyzed.

Connie Boardman, resident, asked that an EIR be completed, noting the proximity and potential impacts to the Bolsa Chica Ecological Reserve and the potential impacts to the archaeological resources on the site. She stated that an EIR would benefit all the parties by providing thorough review of the site and the potential impacts.

Ed Mountford, representative for the property owner, spoke in support of the request. He noted that the proposed zoning allows for less development than the current zoning. He stated that the Bolsa Chica Mesa has undergone significant analysis and briefly reviewed the legal history of the adjacent sites. He noted that the courts have upheld the city, county, and California Coastal Commission approvals of development on the mesa.

Chair Shier Burnett clarified that rulings Mr. Mountford referenced were for the Bolsa Chica Mesa as a whole and Mr. Mountford stated that the majority of documents included this particular site.

Chair Shier Burnett asked if listing on the National Register of Historic Sites would prevent development of the site. Mr. Mountford stated that it was unclear since the Registry is primarily geared towards the preservation of historical structures.

Chair Shier Burnett noted that the archaeological findings on the Hearthside site are adjacent to the Goodell Property. Mr. Mountford confirmed this and briefly reviewed the process of archaeological investigation on the site. He stated that the previous uses on the site limit the potential of archaeological findings but noted that archaeological deposits on site are likely.

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

Vice-Chair Farley stated that he was not in favor of the proposed mitigation measures as he felt that the measures are predisposed towards development of the site. He stated that he felt an EIR is needed to determine the proper mitigation measures for the site and is in favor of denying the MND.

Commissioner Livengood asked staff if the EIR for the site had specific regulations for archaeological sites. Ms. Villasenor stated that there are recommended mitigation measures based on the environmental and cultural resources analyses for the Bolsa Chica area. Commissioner Livengood asked staff why the commission was not provided the EIRs for the mesa, noting that without viewing those documents he is unable to determine if the recommendations are adequate. Ms. Villasenor stated that the EIR was upheld through the legal system.

Commissioner Livengood expressed concern that the MND is in conflict with the EIR. Leonie Mulvihill, Senior Deputy City Attorney, stated that the request before the Planning Commission is for annexation and rezoning, not development of the site. Mary Beth Broeren, Planning Manager, stated that the project is pre-zoning to facilitate annexation. She noted that this site is currently zoned for residential and was studied through a previous EIR that did consider development of this site. She stated that an annexation application does require CEQA analysis be completed in conjunction. She noted that staff has acknowledged that there are potential archaeological resources on the site. Ms. Broeren stated a cultural resources consultant and a biological resources consultant were hired to review the site for this project. She stated that this request does not preclude the later requirement of an EIR and that the MND was compiled chiefly as a public service to alert the public to the potential mitigation measures that may be required should development take place.

Commissioner Livengood asked staff if approval of the MND is required for the annexation process or if another option can be taken. Ms. Broeren stated that annexations often occur in conjunction with a Negative Declaration and that the commission can find that the mitigation measures are not appropriate for the annexation and zoning process and approve the request without the mitigation measures.

Commissioner Livengood expressed concern that if the Planning Commission does not approve the request then the county would be able to approve development of the site without any further environmental analysis. He noted that

the Planning Commission can address the need for an EIR if and when a development is proposed on the site.

Scott Hess, Director of Planning, noted that Finding No. 3 on Attachment No. 1.1 clarifies that the MND is for the pre-zoning and annexation only.

Commissioner Scandura stated that he feels the MND is very adequate and that addressing potential development is speculative. He expressed concern that the scope of this particular application has been forgotten and noted that prior to any development the property owner would be required to complete a number of environmental analyses. He stated that an EIR for the pre-zoning and annexation would be excessive. He noted that the property owner had the option of development through the county but has instead chose to cooperate with the annexation process and allow for rezoning which limits the development potential of the site.

Vice-Chair Farley expressed concern that the proposed zoning is inappropriate and referenced a letter from the California Coastal Commission which notes that that the site to the north is being considered as having a residential development in place when it is actually designated open space and that the MND should reflect the correct zoning. Vice-Chair Farley stated that, due to a concern for the zoning, he felt this property, as well as the The Ridge property which will be addressed at the next meeting, should require an EIR. He indicated that he would make a motion to deny with findings as amended to delete the first sentence in Finding No. 2.

A MOTION WAS MADE BY FARLEY TO DENY RECIRCULATED MITIGATED NEGATIVE DECLARATION NO. 08-017 WITH MODIFIED FINDINGS, BUT HE RECEIVED NO SECOND.

Commissioner Livengood proposed amending the MND findings to note that additional environmental review will be required prior to any development on the site and to delete the first sentence of Finding No. 2.

Ms. Broeren stated that staff is in agreement with the deletion of the first sentence in Finding No. 2 since the project in question is zoning and annexation. Commissioner Livengood asked if the word "project" could be replaced with "zoning and annexation". Mr. Hess suggested that Finding No. 2 be amended to note that the project is zoning and annexation. Commissioner Livengood asked if "may require additional environment review" be modified to "will require" and Ms. Mulvihill stated that the change would be problematic. Ms. Mulvhill proposed amending the finding to "additional project-specific environmental analysis will be required and additional mitigation measures may be required". Ms. Broeren stated that staff was in agreement with that proposal.

Commissioner Livengood proposed that Finding No. 3 also be modified to include "zoning and annexation" after the word "project" and Commissioner Scandura noted that the second sentence already provides a definition of the project and the modification is unnecessary.

Chair Shier Burnett asked staff if the zoning could be modified to further reduce the residential portion and Ms. Villasenor indicated that the proposed zoning is already a reduction and that the property owner may object to additional

redutions. Chair Shier Burnett expressed some concern regarding the zoning designation and stated that she was interested in providing as much protection for the property as possible.

Commissioner Speaker stated that any development specific concerns should be addressed when and if a development is proposed on the site.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHIER BURNETT, TO APPROVE RECIRCULATED MITIGATED NEGATIVE DECLARATION NO. 08-017 WITH MODIFIED FINDINGS, BY THE FOLLOWING VOTE:

AYES:	**Speaker, Mantini, Shier Burnett, Scandura, Livengood**
NOES:	**Farley, Delgleize**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

A MOTION WAS MADE BY SCANDURA, SECONDED BY SPEAKER, TO APPROVE ZONING MAP AMENDMENT NO. 06-003 WITH FINDINGS FOR APPROVAL AND FORWARD THE DRAFT ORDINANCE TO THE CITY COUNCIL FOR ADOPTION, BY THE FOLLOWING VOTE:

AYES:	**Speaker, Mantini, Shier Burnett, Scandura, Livengood, Delgleize**
NOES:	**Farley**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SCANDURA, TO APPROVE ANNEXATION NO. 06-002 AS A MINUTE ACTION AND FORWARD RECOMMENDATION TO THE CITY COUNCIL, BY THE FOLLOWING VOTE:

AYES:	**Speaker, Mantini, Farley, Shier Burnett, Scandura, Livengood, Delgleize**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

FINDINGS FOR APPROVAL

RECIRCULATED MITIGATED NEGATIVE DECLARATION NO. 08-017

FINDINGS FOR APPROVAL – RECIRCULATED MITIGATED NEGATIVE DECLARATION NO. 08-017:

1. Recirculated Mitigated Negative Declaration No. 08-017 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 Recirculated Mitigated Negative Declaration No. 08-017, Annexation No. 06-002 and Zoning Map Amendment No. 06-003.

2. Although the project (pre-zoning and annexation) itself would not result in environmental impacts, mitigation measures address impacts to biological and cultural resources in the event that development on the site is proposed in the future. However, if development is proposed in the future, additional project-specific environmental analysis will be required and additional mitigation measures may be required to address impacts of a particular development proposal.

3. There is no substantial evidence in light of the whole record before the Planning Commission that the project, as mitigated, will have a significant effect on the environment. The project consists of establishing pre-zoning designations that are consistent with surrounding designations and cognizant of existing resources on and surrounding the site, for the annexation of the site into the City of Huntington Beach. The pre-zoning and annexation will not create significant environmental impacts. The analysis in Recirculated draft MND No. 08-017 identifies mitigation measures related to biological and cultural resources if development is proposed on the site in the future.

FINDINGS FOR APPROVAL

ZONING MAP AMENDMENT NO. 06-003

FINDINGS FOR APPROVAL - ZONING MAP AMENDMENT NO. 06-003:

1. Zoning Map Amendment consists of amending District Map 33 (Sectional Map 28-5-11) to pre-zone an approximately 6.2 acre site with 3.2 acres of Residential Low Density (RL); 2.0 acres of Open Space – Parks and Recreation (OS-PR); and 1.0 acre of Coastal Conservation (CC). The entire 6.2-acre property would be designated with a Coastal Zone (CZ) Overlay. Zoning Map Amendment No. 06-003 is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan because the pre-zoning designations provide for land uses that are compatible with adjacent existing or approved single-family residential uses to the northwest, west and east as well as open space/conservation areas that are adjacent to the south, southwest and east. The proposed pre-zoning designations would protect existing biological resources within and surrounding the site. The proposed open space/conservation designations would provide a buffer for the environmentally sensitive habitat area south of the site. Finally, the pre-zoning designations

would provide for future coastal access opportunities as well as maintenance of existing views to the site.

2. In the case of a general land use provision, the zoning map amendment is compatible with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed. The pre-zoning designations are compatible with existing zoning designations for the surrounding area and would be consistent with the current existing residential zoning and land use designations of the County of Orange.

3. A community need is demonstrated for the change proposed. The pre-zoning of the site will allow the City to move forward with the annexation of the site, which would result in a fiscal benefit for the City. The pre-zoning designations will ensure that future uses would be compatible with surrounding existing and approved uses and include open space/conservation areas that would allow for enhanced coastal access and recreation opportunities in the future.

Its adoption will be in conformity with public convenience, general welfare and good zoning practice. The pre-zoning of the site would allow the City to move forward with annexation of the subject site so that an "island" of unincorporated County land will be eliminated and the City may realize the fiscal benefit of annexation of the site. The pre-zoning designations will be consistent with existing zoning and land use designations surrounding the property and provide for the protection of biological and coastal resources.

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED JULY 28, 2009

RECOMMENDED ACTION: Motion to: "Approve the July 28, 2009, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY FARLEY, SECONDED BY MANTINI, TO APPROVE THE JULY 28, 2009 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES:	**Speaker, Mantini, Farley, Shier Burnett, Scandura, Livengood, Delgleize**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED AUGUST 25, 2009

RECOMMENDED ACTION: Motion to: "Approve the August 25, 2009, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY FARLEY, SECONDED BY SPEAKER, TO APPROVE THE AUGUST 25, 2009 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES:	**Speaker, Farley, Shier Burnett, Livengood, Delgleize**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**Mantini, Scandura**

MOTION APPROVED

C-3. PLANNING COMMISSION SPECIAL MEETING MINUTES DATED SEPTEMBER 1, 2009

RECOMMENDED ACTION: Motion to: "Approve the September 1, 2009, Planning Commission Special Meeting Minutes as submitted."

A MOTION WAS MADE BY FARLEY, SECONDED BY MANTINI, TO APPROVE THE SEPTEMBER 1, 2009 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Farley, Shier Burnett, Scandura, Livengood, Delgleize**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**Speaker**

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 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 Delgleize stated that she attended the Environmental Board meeting and she was very interested in the presentation on impervious cement and looked forward to its use in the city.

Vice-Chair Farley asked staff what the procedure for a Commissioner to request an agenda item. Mr. Fauland indicated that he would provide Vice-Chair Farley with that information. Vice-Chair Farley stated that he intended to propose that Triangle Park and the Main Street Library be added to the park inventory.

Chair Shier Burnett thanked her fellow commissioners and Vice-Chair Farley for their work on the Downtown Specific Plan project.

ADJOURNMENT: Adjourned at 9:35 PM to the next regularly scheduled meeting of Tuesday, October 27, 2009.

APPROVED BY:

Scott Hess, Secretary

Elizabeth Shier Burnett, Chairperson