# MINUTES
## HUNTINGTON BEACH PLANNING COMMISSION

**TUESDAY, APRIL 13, 2010**
**HUNTINGTON BEACH CIVIC CENTER**
**2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648**

**5:15 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

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

Commissioner Mantini was absent.

**AGENDA APPROVAL**

**A MOTION WAS MADE BY SCANDURA, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF APRIL 13, 2010, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

Commissioner Mantini arrived at 5:19 PM.

**A. PROJECT REVIEW (FUTURE AGENDA ITEMS)**

**A-1. MITIGATED NEGATIVE DECLARATION NO. 08-016/GENERAL PLAN AMENDMENT NO. 08-011/ZONING MAP AMENDMENT NO. 08-007/LOCAL COASTAL PROGRAM AMENDMENT NO. 09-002/ZONING TEXT AMENDMENT NO. 09-008/TENTATIVE TRACT MAP NO. 17294/COASTAL DEVELOPMENT PERMIT NO. 08-022/CONDITIONAL USE PERMIT NO. 08-046 ("THE RIDGE" – 22-UNIT PLANNED UNIT DEVELOPMENT) – Jennifer Villasenor, Acting Senior Planner**

Jennifer Villasenor, Acting Senior Planner, gave a brief overview of the proposed project. She noted that staff has received one Late Communication from the Bolsa Chica Land Trust and briefly described each entitlement request. She noted that the Planning Commission last reviewed this project on November 10, 2009 and since that time, the project has been reviewed by the Design Review

Board at their meeting of January 14, 2010. She noted that a Subdivision Committee meeting was held to review the project on January 28, 2010.

Commissioner Livengood questioned the biological assessment. Ms. Villasenor noted that the Biological Resources report has been provided to the Planning Commission in the staff report (attachment No. 9, pages 29-34). Ms. Villasenor noted that the Mitigated Negative Declaration was recirculated due to changes in the Biological Resources report.

Commissioner Shier Burnett noted that in the Hearthside Homes project, "The Ridge" project area was shown as open space. Ms. Villasenor noted that there is no link between "The Ridge" and the Parkside/Shea Homes project. She noted that confusion may have resulted since both projects contain a 5 acre parcel. She said that the 5 acre open space parcel Ms. Shier Burnett is referring to may be Shea Homes' property, not Hearthside Homes' property.

Commissioner Speaker asked about the Zoning Text Amendment (ZTA) as it relates to parking. Ms. Villasenor noted that the ZTA would be citywide, and as it relates to the project's design, would be applicable only to Planned Unit Developments (PUDs).

Commissioner Scandura asked if the Biological Assessment Report recommended a change to the project site's buffer zone. Ms. Villasenor said that the Biological Assessment found that the distance between the project area and the Environmentally Sensitive Habitat Area (ESHA) to be acceptable.

Mr. Scandura noted that the proposed project site and the nearby Goodell property have been heavily disturbed, due in part to archeological digs. Ms. Villasenor noted that excavation has occurred on "The Ridge" site and the results did not trigger a need for an Environmental Impact Report.

Commissioner Mantini noted that the Planning Commission voted to continue processing the Mitigated Negative Declaration (MND) on November 10, 2009 and that the Planning Commission reviewed the Environmental Assessment at that time. She also noted that the Environmental Assessment triggered rewrites to the Negative Declaration. Ms. Villasenor noted that the Mitigation Measures proposed were due to the impact on native species. She also said that the impacts will still be less than significant with mitigation.

Chair Farley directed the Planning Commission's attention to staff report attachment 9.33, which addresses the impact on the ESHA and raptor foraging. He asked staff to provide more information when this item comes before the Planning Commission at the public hearing on April 27, 2010.

## B. STUDY SESSION ITEMS

### B-1. PLANNER'S INSTITUTE REVIEW – Commissioner Scandura

Planning Commissioner John Scandura reported on his attendance at the League of California Cities Planner's Institute, held March 24-26, 2010 in Monterey, California. He discussed the various presentations that he attended, including the CEQA Update, Creating The Culture of Sustainability, Ensuring

Mobility in A Changing Era, the tour of Fort Ord and Climate Proofing Your Community.

Mr. Scandura also gave an overview of his observations and recommendations. He recommended a General Plan update, rethinking transportation/circulation, continuing CEQA education for Planning Commissioners, and focusing on energy efficiency. He also discussed the need to reduce the city's Greenhouse Gas (GHG) emissions.

Commissioner Mantini concurred with Mr. Scandura and said that the city needs a better mass transit system.

## C. PUBLIC COMMENTS

Bill Holman, applicant, spoke regarding Item No. B-2 (Black Bull Chophouse). He directed the Planning Commission's attention to the Late Communication received from Cesar Pena, the business owner.

## D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Herb Fauland, Planning Manager, reviewed the items for tonight's meeting. He noted that there are three Late Communications for Item No. B-2 (a PowerPoint presentation from staff, a youtube.com presentation and a letter from Cesar Pena).

## E. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Livengood reported that he will not be in attendance at the Planning Commission meeting scheduled for Tuesday, May 25, 2010.

Commissioner Scandura noted that there will be a Subdivision Committee meeting for the Harmony Cove project at 4:00 PM on April 21, 2010.

## F. PLANNING COMMISSION COMMENTS - NONE

**6:00 PM – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE – Led by Commissioner Shier Burnett**

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

**AGENDA APPROVAL**

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION AGENDA OF APRIL 13, 2010, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

## A. ORAL COMMUNICATIONS

Alicia Waterhouse, resident, spoke regarding Brethren Christian High School and possible violations of their Conditional Use Permit.

## B. PUBLIC HEARING ITEMS

### B-1. APPEAL OF THE DESIGN REVIEW BOARD'S DENIAL OF DESIGN REVIEW NO. 09-031 (WELLS FARGO ATM – CONTINUED FROM THE FEBRUARY 23, 2010 MEETING AT THE APPLICANT'S REQUEST WITH THE PUBLIC HEARING OPEN)

**Applicant/Appellant:** Hamilton Pacific **Request:** To review the design, colors and materials of a new Wells Fargo automated teller machine (ATM) located west of Main Street at the building exterior between Jamba Juice and Jack's Girls. The Design Review Board denied the request at their meeting of November 12, 2009. **Location:** 101 Main Street, 92648 (northwest corner of Main Street and Pacific Coast Highway – downtown) **Project Planner:** Jill Arabe

**STAFF RECOMMENDATION:** Motion to "Approve Design Review No. 09-031 with suggested findings and conditions of approval."

Jill Arabe, Assistant Planner, gave the staff presentation and an overview of the project.

**THE PUBLIC HEARING WAS OPENED.**

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

**A MOTION WAS MADE BY SHIER BURNETT, SECONDED BY SCANDURA, TO APPROVE DESIGN REVIEW NO. 09-031 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The proposed project is Categorically Exempt pursuant to Section 15301, Class 1, of the California Environmental Quality Act, because the project consists of a minor alteration of an existing building with no expansion of existing use. The minor alteration involves the installation of an ATM at the exterior of the existing building.

**FINDINGS FOR APPROVAL – DESIGN REVIEW NO. 2010-031:**

1. The design of the proposed facility integrates harmoniously into the character of the immediate neighborhood. The immediate neighborhood is designated as a Pedestrian Zone Overlay district in the City of Huntington Beach General Plan. General Policies for the Pedestrian Zone Overlay district (LU 15.2.2) call for areas between building storefronts and public sidewalks to be visually and physically accessible to pedestrians. More than 25 feet of public right-of-way is available for pedestrian access because the ATM projects two feet from the existing column. The proposed automated teller machine (ATM) is designed such that users of the ATM will stand on private property. Based on information provided by the applicant, potential queuing will not negatively interfere with pedestrian access. Peak usage of the ATM and potential queuing will occur during times when pedestrian activity is reduced (Saturday nights) or concentrated in the street (Surf City Nights).

2. The design of the proposed facility enhances the desirability and/or enjoyment of the immediate neighborhood. The facility is pedestrian oriented and provides banking convenience for downtown residents and visitors. It does not encroach into the public right-of-way and provides adequate area on private property for customers.

3. The design of the proposed facility stabilizes and protects civic facilities or civic district areas and promotes aesthetic environmental qualities. The proposed facility will have a positive visual impact on the public right-of-way, since the design is harmoniously integrated into the architecture of the building column. The design incorporates materials and colors to match the building without being a distraction.

4. The design of the proposed facility results in a betterment of conditions affecting the public health, safety, comfort, morals and welfare. The proposed facility incorporates an adequate buffer between the public right-of-way and the machine to insure discreet use of the automated teller machine and discourage over the shoulder surveillance and theft of personal identification numbers. The design utilizes security cameras and adequate lighting for the facility.

**CONDITIONS OF APPROVAL – DESIGN REVIEW NO. 2010-031:**

1. The site plan and renderings dated March 24, 2010 and elevations dated April 5, 2010, shall be the conceptually approved layout.

**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.** **SIX-MONTH REVIEW OF CONDITIONAL USE PERMIT NO. 06-020/ENTITLEMENT PLAN AMENDMENT NO. 06-008 (BLACK BULL CHOPHOUSE)** **Applicant:** Michael C. Adams Associates **Request:** Six-month review of Conditional Use Permit (CUP) No. 06-020 and Entitlement Plan Amendment (EPA) No. 06-008 for compliance with the Huntington Beach Noise Ordinance, pursuant to Condition of Approval No. 8. The Planning Commission may schedule a public hearing to revoke the CUP, pursuant to Condition of Approval No. 5 of CUP No. 06-020, or amend the Conditions of Approval. **Location:** 300 Pacific Coast Highway, # 112 (south side of Walnut Avenue, between Main St. and Third St. – Pierside Pavilion, Downtown) **Project Planner:** Ethan Edwards

**STAFF RECOMMENDATION:** Motion to "Receive and file as adequate and complete the six-month review of Conditional Use Permit No. 06-020/Entitlement Plan Amendment No. 06-008."

The Commission made the following disclosures:

- Commissioner Mantini has visited the site.
- Commissioner Scandura has visited the site and attended the study session.
- Vice Chair Speaker has visited the site, attended the study session and watched the youtube.com video.
- Chair Farley has attended the study session.
- Commissioner Shier Burnett has visited the site, attended the study session, spoken to staff and watched the youtube.com video.
- Commissioner Delgleize has visited the site, attended the study session and watched the youtube.com video.
- Commissioner Livengood has visited the site and attended the study session.

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project. He noted that the Conditional Use Permit (CUP) and Entitlement Plan Amendment (EPA) were approved on September 12, 2006 and last modified by the Planning Commission on February 24, 2009. At that time, the Planning Commission required a review of the use within six months of the final inspection to verify compliance with the Huntington Beach Noise Ordinance.

Commissioner Scandura asked if this is the final six-month review on this project and Mr. Edwards confirmed this.

Commissioner Scandura asked if the applicant would agree to post signage to notify patrons when the outdoor patio was closed. Business owner Cesar Pena noted that this signage is posted.

Commissioner Livengood asked if signage was posted reflecting the outdoor patio hours and seating. Mr. Edwards noted that the patio hours are posted and the outdoor seating consists of (10) 2-seat tables.

Commissioner Speaker asked the Police Department for their comments. Police Chief Ken Small noted that the city's Municipal Code limits the Police Department's ability to revoke entertainment permits. Chief Small said that the

Police Department would like to see increased lighting at the entrance door and additional signage noting when the outdoor patio is closed.

**THE PUBLIC HEARING WAS OPENED.**

Bill Holman, applicant from Mike Adams and Associates, spoke regarding Item No B-2. He noted that business owner Cesar Pena has worked hard to comply with city and Police Department codes. He also said that the Black Bull Chophouse's entertainment permit was recently reissued with no modifications. He noted that the issue before the Planning Commission tonight is the review of compliance with the Huntington Beach Noise Ordinance. He also said that the two conditions requested by the Police Department are increased lighting at the front entrance and increased signage on the outside patio.

Commissioner Scandura asked Mr. Pena about the Police Department's two conditions. Mr. Pena said that the patio signage has been posted and that temporary, increased lighting has been installed at the front entrance.

Mr. Scandura asked if the Planning Commission can impose a condition requiring increased lighting at the entrance. Planning Manager Herb Fauland said no, not without the property owner's concurrence.

Commissioner Livengood addressed Mr. Pena and asked if he had a clear understanding of the maximum capacity of the outdoor patio, which is no more than 20 persons. Mr. Pena confirmed this.

A Late Communication was received from Jeff Smith, resident at Pierside Colony, which consisted of five videos posted on youtube.com, demonstrating Mr. Smith's concerns with noise. Mr. Edwards played the videos for the Planning Commission.

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

Commissioner Scandura recommended making Black Bull's entertainment permit available to the residents of the Pierside Colony. He also noted that Black Bull has a right to operate at that location, and that the Pierside Pavilion was designed for such use.

Commissioner Shier Burnett concurred with Mr. Scandura. However, she says that she has concerns with noise, specifically on the Black Bull's outdoor patio. She recommended providing options to neighboring residents. She suggested providing them with the phone numbers for Code Enforcement and the Police Department, so that they can place a complaint if needed. She also said that the noise level demonstrated on the youtube.com videos seems excessive. She recommended an additional six-month review of this project by the Planning Commission.

Commissioner Speaker asked staff how the residents would be notified if the intent is to provide them with Code Enforcement and Police Department contact numbers. Mr. Fauland notes that staff only notices the residents for public hearings. He said that if the Planning Commission makes this a condition, then the applicant must provide the notice.

Deputy City Attorney III Mike Vigliotta said that based on the evidence provided, the Planning Commission should not impose a condition of resident notification on the applicant. He also said that he has concerns with requiring an additional six-month review.

Mr. Pena said that he has complied with city and Police Department codes for two years. He also said that the five videos were all based on one single incident that took place on a holiday.

Mr. Speaker asked if the Planning Commission could schedule an additional six-month hearing if there are more violations of the Conditional Use Permit. Mr. Vigliotta confirmed this.

Mr. Scandura noted that the Planning Commission would be voting on staff's recommendation, which is to receive and file as adequate the six-month review. He also noted that the Planning Commission is not recommending an additional six-month review at this time. Chair Farley confirmed this.

Chair Farley said that he will be voting no on this project.

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY MANTINI, TO RECEIVE AND FILE AS ADEQUATE AND COMPLETE THE SIX-MONTH REVIEW OF CONDITIONAL USE PERMIT NO. 06-020/ENTITLEMENT PLAN AMENDMENT NO. 06-008, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

## C. CONSENT CALENDAR

### C-1. PLANNING COMMISSION MINUTES DATED NOVEMBER 10, 2009

**RECOMMENDED ACTION:** Motion to: "Approve the November 10, 2009, Planning Commission Minutes as submitted."

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE NOVEMBER 10, 2009, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**C-2. PLANNING COMMISSION MINUTES DATED JANUARY 12, 2010**

**RECOMMENDED ACTION:** Motion to: "Approve the January 12, 2010, Planning Commission Minutes as submitted."

**A MOTION WAS MADE BY SPEAKER, SECONDED BY SCANDURA, TO APPROVE THE JANUARY 12, 2010, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**D. NON-PUBLIC HEARING ITEMS - NONE**

**E. PLANNING ITEMS**

**E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING**
Herb Fauland, Planning Manager - reported on the items from the previous City Council Meeting.

**E-2. CITY COUNCIL ITEMS FOR NEXT MEETING**
Herb Fauland, Planning Manager – 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 Scandura asked staff to provide an update regarding Brethren Christian High School at a future study session.

Commissioner Delgleize noted that she will be attending the League of California Cities/OC Division cell tower workshop on Friday, April 23, 2010, to be held in Fountain Valley.

Commission Livengood noted that the Huntington Beach Wetland and Wildlife Care Center will be celebrating Earth Day and their Grand Opening on April 17, 2010. He also noted that the Shipley Nature Center will be holding a Spring Festival on May 1, 2010.

**ADJOURNMENT: Adjourned at 7:52 PM to the next regularly scheduled meeting of Tuesday, April 27, 2010.**

APPROVED BY:

Scott Hess, Secretary

Blair Farley, Chairperson