MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JANUARY 23, 2013
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - 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 Chair Mantini

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

Commissioner Peterson was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY MANTINI, SECONDED BY RYAN, TO MOVE ITEM NOS. C-1 THROUGH C-10 BEFORE THE PRESENTATIONS, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER.

PRESENTATION OF PLANNING COMMISSION RESOLUTION NO. 1667 IN APPRECIATION TO OUTGOING COMMISSIONER BARBARA DELGLEIZE – Chair Mantini

Chair Mantini presented Resolution No. 1667 and a gift to outgoing Commissioner Delgleize, thanking her for her service.

PRESENTATION OF PLANNING COMMISSION RESOLUTION NO. 1666 IN APPRECIATION TO OUTGOING COMMISSIONER ELIZABETH SHIER BURNETT – Chair Mantini

Chair Mantini presented Resolution No. 1666 and a gift to outgoing Commissioner Shier Burnett, thanking her for her service.

PRESENTATION OF PLANNING COMMISSION RESOLUTION NO. 1668 IN APPRECIATION TO OUTGOING COMMISSIONER TIMOTHY RYAN – Chair Mantini

Chair Mantini presented Resolution No. 1668 and a gift to outgoing Commissioner Ryan, thanking him for his service.

PRESENTATION OF PLANNING COMMISSION RESOLUTION NO. 1665 AND PLAQUE IN APPRECIATION TO OUTGOING CHAIRPERSON JANIS MANTINI – Vice- Chair Bixby

Vice-Chair Bixby presented Resolution No. 1665 and a plaque to outgoing Chair Mantini, thanking her for her service.

RECESS TO ALLOW RE-SEATING ARRANGEMENTS FOR NEW CHAIRPERSON, VICE-CHAIRPERSON AND PLANNING COMMISSION

P P A P P P P
ROLL CALL: ***Dingwall, Mandic, Peterson, Bixby, Kalmick, Franklin, Pinchiff***

Commissioner Peterson was absent.

NOMINATION AND ELECTION OF CHAIRPERSON

A MOTION WAS MADE BY DINGWALL, SECONDED BY FRANKLIN, TO NOMINATE AND ELECT MARK BIXBY AS PLANNING COMMISSION CHAIR.

AYES: **Dingwall, Mandic, Bixby, Kalmick, Franklin, Pinchiff**
NOES: **None**
ABSENT: **Peterson**
ABSTAIN: **None**

MOTION APPROVED

NOMINATION AND ELECTION OF VICE-CHAIRPERSON

A MOTION WAS MADE BY PINCHIFF, SECONDED BY MANDIC, TO NOMINATE AND ELECT ERIK PETERSON AS PLANNING COMMISSION VICE-CHAIR.

AYES: **Dingwall, Mandic, Bixby,Kalmick, Franklin, Pinchiff**
NOES: **None**
ABSENT: **Peterson**
ABSTAIN: **None**

MOTION APPROVED

A. PUBLIC COMMENTS

Joe Carchio acknowledged the outgoing commissioners for their service to the city.

Richardson Gray, Huntington Beach Neighbors, asked the commissioners to send letters to the National Register for Historic Places to endorse the nomination of the Main Street Library and Park to be added to the registry.

B. PUBLIC HEARING ITEMS

B-1. APPEAL OF DESIGN REVIEW NO. 12-010 (9/11 MEMORIAL)

Applicant/Artist: Patrick Vogel **Appellant:** Council Members Joe Shaw and Devin Dwyer **Property Owner:** City of Huntington Beach **Request:** To permit the installation of a 9/11 Memorial at the Huntington Beach Civic Center, which measures 19 ft. in height, 19 ft. in circumference and is illuminated with a water feature. **Location:** 2000 Main Street, 92648 (Huntington Beach Civic Center) **Project Planner:** Rosemary Medel

STAFF RECOMMENDATION: Motion to: "Refer Design Review No. 12-010 to the City Council for discussion and action."

The Commission made the following disclosures:

- Commissioner Dingwall had no disclosures
- Commissioner Mandic had no disclosures.
- Chair Bixby has visited the site and spoken to staff.
- Commissioner Kalmick had no disclosures.
- Commissioner Franklin had no disclosures.
- Commissioner Pinchiff had no disclosures.

Rosemary Medel, Associate 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.

There was a brief discussion regarding potential action on the item.

A MOTION WAS MADE BY BIXBY SECONDED BY FRANKLIN, TO REFER DESIGN REVIEW NO. 12-010 TO THE CITY COUNCIL FOR DISCUSSION AND ACTION, BY THE FOLLOWING VOTE:

AYES:	**Dingwall, Mandic, Bixby, Kalmick, Franklin, Pinchiff**
NOES:	**None**
ABSENT:	**Peterson**
ABSTAIN:	**None**

MOTION APPROVED

B-2. **CONDITIONAL USE PERMIT NO. 12-025 (RITTER'S RESTAURANT AND ALCOHOL SALES) Applicant/Business Owner:** Linh Nguyen **Property Owner:** CIM Huntington Beach, LLC. **Request:** To permit the establishment of a 1,763 square foot restaurant with beer and wine sales within The Strand development. **Location:** 180 5th Street, Suite 130, 92648 (The Strand, southwest corner of 5th and Walnut Avenue **Project Planner:** Rosemary Medel

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 12-025 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Dingwall has visited the site and spoken to staff.
- Commissioner Mandic has visited the site and spoken to staff.
- Chair Bixby, has visited the site, spoken to staff, and spoken to Kim Kramer.
- Commissioner Kalmick has visited the site and spoken to staff.
- Commissioner Franklin has visited the site.
- Commissioner Pinchiff had no disclosures.

Rosemary Medel, Associate Planner, gave the staff presentation and an overview of the project.

There was a brief discussion regarding the take-out window and its notification system.

There was a brief discussion regarding the potential for offsite sales of alcohol.

THE PUBLIC HEARING WAS OPENED.

Richardson Gray, resident, spoke in opposition to Item No. B-2, citing potential concerns with the high concentration of alcohol sales in the Downtown area.

Michael Ritter, business owner, spoke in support of Item No. B-2, citing potential benefits to the area. He noted that there would be no offsite alcohol sales, no alcohol sales from the take-out window, and that the take-out window would not have an intercom system.

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

There was a brief discussion regarding the transfer of ABC licenses.

There was a brief discussion regarding restricting alcohol sales to onsite only and requiring alcohol sales to only accompany food sale. Commissioner Pinchiff expressed concern that limiting offsite sale would prohibit an onsite customer from taking leftover wine at the end of a meal. There was also discussion regarding prohibiting alcohol sales from the take-out window.

STRAW VOTE #1
A motion was made by Bixby, seconded by Dingwall, to prohibit offsite alcohol sales of unopened containers.

AYES:	**Dingwall, Mandic, Bixby, Kalmick, Franklin, Pinchiff**
NOES:	**None**
ABSTAIN:	**None**
ABSENT:	**Peterson**

MOTION APPROVED

STRAW VOTE #2
A motion was made by Bixby, seconded by Dingwall, to require alcohol be sold only in conjunction with food.

AYES:	**Dingwall, Bixby, Kalmick**
NOES:	**Mandic, Franklin, Pinchiff**
ABSTAIN:	**None**
ABSENT:	**Peterson**

MOTION FAILED

A MOTION WAS MADE BY FRANKLIN, SECONDED BY BIXBY, TO APPROVE CONDITIONAL USE PERMIT NO. 12-025 WITH AMENDED FINDINGS AND AMENDED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Dingwall, Mandic, Bixby, Kalmick, Franklin, Pinchiff**
NOES:	**None**
ABSTAIN:	**None**
ABSENT:	**Peterson**

MOTION APPROVED

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 12-025:

1. Conditional Use Permit No. 12-025 to permit the establishment, maintenance, and operation of the 1,750 sq. ft. Ritter's restaurant with alcohol sales, located within The Strand development, 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 downtown area. Additionally, the project is consistent with City Council Resolution No. 2011-16, standard conditions of approval for restaurants with only alcohol sales in the downtown area.

2. The proposed restaurant will be compatible with surrounding uses because the use will activate the Walnut Avenue section of The Strand development and the take-out only window will not interfere with the required pedestrian free and clear pathway. The proposed use is consistent with the mixed use development of The Strand and of the commercial uses of the Downtown.

3. The proposed restaurant will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed uses in the district in which they will be located. The proposed project as conditioned complies with the base district and other applicable provisions including parking. There is no physical expansion of the approved development proposed as part of the request and the use will comply with all building occupancy and exiting requirements.

4. The granting of the conditional use permit will not adversely affect the General Plan. The conditional use permit is consistent with the Land Use Element designation of Mixed Use Vertical on the subject property including the following policies and objectives identified in the General Plan:

A. *Land Use Element*

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

Objective LU 7.1 Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding sub-region, (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.

Policy LU 15.2.2 Require that uses in the Pedestrian Overlay District be sited and designed to enhance pedestrian activity along the sidewalks. Create visual differentiation of upper and lower floors and distinct treatment of building entrances and use of pedestrian oriented signage.

The proposed use will establish a new restaurant with alcohol sales within the Downtown Core District that is consistent with the Land Use Density Schedules for The Strand development and is compatible with surrounding mixed-use development. The extensive façade improvements creating a unique New Orleans theme will assist in the activation of Walnut Avenue drawing pedestrian interest from Main Street and furthering the pedestrian experience in the Downtown.

B. *Coastal Element*

Policy C 1 Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Policy C 3.2.3 Encourage the provision of a variety of visitor-serving commercial establishments within the Coastal Zone, including but not limited to, shops, restaurants, hotels and motels, and day spas.

The proposed use will promote the commercial viability of The Strand and will occupy a vacant lease space as a restaurant use and incorporate creative signage and distinctive façade improvements.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 12-025:

1. The site plan, floor plans and elevations received and dated December 4, 2012 shall be the conceptually approved layout.

2. Construction/tenant improvements shall not interfere with scheduled City events. Applicant should check with the Community Services Department and downtown BID to make sure that construction activity is not in conflict with scheduled Specific events or other downtown events. **(CS)**

3. Community Services should also be notified of any activity that will take parking meters off-line during construction activity. **(CS)**

4. Signage shall be designed and installed in compliance with Planned Sign Program No. 04-07 (R).

5. Restaurant business hours shall be limited to between 7:00 AM to 12:00 AM and alcohol sales shall be limited to between 11:00 A.M. to 11:00 PM Sunday through Thursday and 11:00 AM to 12:00 AM Friday and Saturday. **(Resolution No. 2011-16)**

6. A minimum of 70 percent of the net floor areas of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas. **(Resolution No. 2011-16)**

7. Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times. **(Resolution No. 2011-16)**

8. Alcoholic drinks shall not be included in the price of admission to any establishment. **(Resolution No. 2011-16)**

9. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks. **(Resolution No. 2011-16)**

10. All alcohol shall remain on the establishment's premises, including within outdoor dining areas. **(Resolution No. 2011-16)**

11. An employee of the establishment must be present at all times in areas within the establishment where alcohol is served. **(Resolution No. 2011-16)**

12. All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business. **(Resolution No. 2011-16)**

13. Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City. **(Resolution No. 2011-16)**

14. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited. **(Resolution No. 2011-16)**

15. The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code. **(Resolution No. 2011-16)**

16. There shall be no offsite sales of unopened containers of alcohol.

17. Alcohol sales are prohibited from the take-out window.

18. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (http://www.usgbc.org/DisplayPage.aspx?CategoryID=19) or Build It Green's Green Building Guidelines and Rating Systems (http://www.builditgreen.org/index.cfm?fuseaction=guidelines).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

B-3. **CONDITIONAL USE PERMIT NO. 12-030 (WAHOO'S RESTAURANT LIVE ENTERTAINMENT) Applicant/Business Owner:** Scott Fessenden **Property Owner:** Michael & Sandra Hughes Trust **Request:** To permit live entertainment consisting of live music, acoustic guitar, and comedy acts on an approximately 182 sq. ft. stage area within the existing restaurant. **Location:** 7891 Warner, 92647 (north side of Warner Avenue, west of Beach Boulevard) **Project Planner:** Ethan Edwards

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 12-030 with findings and suggested conditions of approval (Attachment No.1)."

The Commission made the following disclosures:

- Commissioner Dingwall has visited the site and drives by it regularly.
- Commissioner Mandic had no disclosures.
- Chair Bixby has visited the site and spoken to staff.
- Commissioner Kalmick has visited the site and eaten at the restaurant.
- Commissioner Franklin has visited the site.
- Commissioner Pinchiff had no disclosures.

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project. He noted that staff recommended minor modifications to the suggested findings and conditions of approval.

There was a brief discussion regarding the proximity of the site to residential.

There was a brief discussion regarding the noise cancelling measures being proposed.

Commissioner Kalmick asked the applicant to explain why the restaurant already has a stage and PA system. Scott Fessenden, applicant, stated that a stage and PA system were installed during the recent site renovations in preparation for this request.

THE PUBLIC HEARING WAS OPENED.

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

A MOTION WAS MADE BY FRANKLIN SECONDED BY BIXBY, TO APPROVE CONDITIONAL USE PERMIT NO. 12-030 WITH MODIFIED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Dingwall, Mandic, Bixby, Kalmick, Franklin, Pinchiff**
NOES:	**None**
ABSENT:	**Peterson**
ABSTAIN:	**None**

MOTION APPROVED

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 of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion of use are exempt from further environmental review.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 12-030:

1. Conditional Use Permit No. 12-030 to permit live entertainment consisting of live music, acoustic guitar, and comedy acts on an approximately 182 sq. ft. stage area within an existing restaurant building in the Beach and Edinger Corridors Specific Plan zoning designation 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 use is regulated by the provisions of Chapter 5.44 of the Huntington Beach Municipal Code and the required Entertainment Permit. As conditioned, the project is required to provide a noise study that shows compliance with the City's Noise Ordinance. The project will be adequately parked and will be wholly contained within the building's interior. The project will not generate significant noise, odors, or other detrimental impacts onto surrounding properties.

2. The live entertainment will be compatible with surrounding uses because it will be located within an existing restaurant and is primarily intended to enhance the experience for patrons. The use is subject to noise regulations to further ensure compatibility with surrounding properties. Other existing live entertainment uses have been established within commercial areas and maintain similar characteristics to existing commercial uses in the surrounding area.

3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in SP14 (Beach and Edinger Corridors Specific Plan-Town Center Boulevard Segment), 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 is located. Live entertainment uses are permitted within the zoning district with the approval of a conditional use permit.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of M-sp-d (Mixed Use-Specific Plan Overlay-Design Overlay) 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 sub-region, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic relief from urban development.

Policy – 10.1.8 Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures to prevent negative impacts on adjacent properties.

The proposed project will permit live entertainment within an existing restaurant. The site is located within the Beach and Edinger Corridors Specific Plan designation and the use is consistent with the Building Use Regulations and compatible with the surrounding mix of uses. The proposed conditional use permit will provide for the business needs for a successful restaurant establishment in a safe manner for customers and residents of the surrounding area.

B. *Economic Element*

Policy– ED 2.4.3 Encourage the expansion of the range of goods and services provided in Huntington Beach to accommodate the needs of all residents in Huntington Beach and the market place.

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

The project is located near a major corridor of the City that contains existing restaurants, retail, and entertainment uses. The project serves to expand the range of goods and services provided in the area and facilitate continued viability of the restaurant.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 12-030:

1. The site plan and floor plans received and dated October 19, 2012 shall be the conceptually approved layout with the following modification: The Entertainment Floor Plan shall be modified to depict tables and chairs in the Main Dining Room that are not reconfigured or removed to create an open "standing-room only" area.
2. The live entertainment use described in the project narrative dated received October 19, 2012, shall comply with the following:
   a. The hours of operation for live entertainment shall be limited to: 10:00 A.M. to 3:00 P.M. on Sunday, 5:00 P.M. to 10:00 P.M. Monday through Thursday, and 5:00 P.M. through 12:00 A.M. (midnight) Friday and Saturday. **(PD)**
   b. Prior to commencing with live entertainment, an Entertainment Permit must be obtained from the Police Department. All conditions contained in the Entertainment Permit shall be adhered to. **(PD)**
   c. Prior to commencing with live entertainment, a sound study shall be prepared by a licensed engineer pursuant to HBMC 5.44.070(c); showing that the proposed entertainment will not create undue noise or violate the City's Noise Control Ordinance (HBMC 8.40). The sound study shall be submitted to the Planning Division and be approved by the Police Department prior to approving an Entertainment Permit. Noise mitigation measures recommended by the sound study shall be incorporated as conditions of the Entertainment Permit. **(PD)**
   d. Dancing shall be prohibited. **(PD)**
   e. All alcoholic beverages shall remain within the interior of the restaurant and bar, or within the confines of the fenced-in patio dining area, per §9.44.010 of the Huntington Beach Municipal Code (HBMC). Service of alcoholic beverages for consumption off-site shall not be permitted. A sign shall be posted stating alcoholic beverages are not allowed outside of the restaurant/patio area. **(PD)**
   f. To further reduce the likelihood of noise disturbances from patrons during late night and early morning hours, no dining or consumption of alcoholic beverages will be permitted on the outdoor patio areas between the hours of 10:00 PM and 7:00 AM. **(PD)**

g. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available from the time the business opens to the public, until at least one hour prior to the scheduled closing time. **(PD)**

h. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**

i. The rear (north facing) doors shall be kept closed at all times during the operation of the premises except in cases of emergency. Said doors shall not consist solely of a ventilated or security screen door. **(PD)**

j. All perimeter doors except the rear north facing door (e.g. outdoor dining patio doors, main entrance door, etc.) shall be self-closing and not be held open or ajar during live entertainment.

k. All owners, employees, representatives, and agents shall obey all state, local, and municipal laws, and conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by a regulatory authority with jurisdiction over the premise; at all times. **(PD)**

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-4. **VARIANCE NO. 2012-005 (REISEN GARAGE – FORMER HOTEL EVANGELINE) Applicant/Consultant:** Brian Edwards **Property Owner:** Erich Reisen **Request:** To **(a)** construct an approximately 560 sq. ft. detached three car garage with a second floor storage area at a height of 23 ft., 8 in. in lieu of the maximum 15 ft. height for accessory structures and **(b)** allow two required open parking spaces to deviate from the parking design standards by permitting a tandem configuration on-site to provide a total six (6) on-site parking spaces (3 enclosed) as required by the Huntington Beach Zoning and Subdivision Ordinance. The subject request is in conjunction with the adaptive reuse of an existing legal non-conforming structure listed as a Historic Landmark in the City's General Plan. **Location:** 421 8th Street, 92648 (west side of 8th Street, between Orange Avenue and Pecan Avenue) **Project Planner:** Hayden Beckman

STAFF RECOMMENDATION: Motion to: "Approve Variance No. 12-005 with suggested findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Dingwall had no disclosures.
- Commissioner Mandic has visited the site.
- Chair Bixby has visited the site.
- Commissioner Kalmick has visited the site and spoken to staff.
- Commissioner Franklin had no disclosures.
- Commissioner Pinchiff had no disclosures.

Hayden Beckman, Planning Aide, gave the staff presentation and an overview of the project.

THE PUBLIC HEARING WAS OPENED.

Erich Reisen, applicant, spoke in support of Item No. B-4. He noted that the variances were being requested due to the restrictions from the historic nature of the building.

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

A MOTION WAS MADE BY FRANKLIN SECONDED BY BIXBY, TO APPROVE VARIANCE NO. 12-005 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Dingwall, Mandic, Bixby, Kalmick, Franklin, Pinchiff**
NOES:	**None**
ABSENT:	**Peterson**
ABSTAIN:	**None**

MOTION APPROVED

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 15303, Class 3, of the CEQA Guidelines, which states that construction of small accessory (appurtenant) structures including garages are exempt from further environmental review. The Planning Commission also finds that the construction activities performed on the existing historic building are Categorically Exempt from CEQA pursuant to Section 15331, Class 31 – *Historical Resource Restoration/Rehabilitation,* which states that projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995) are exempt from further review.

FINDINGS FOR APPROVAL – VARIANCE NO. 12-005:

1. The granting of Variance No. 12-005 to permit the construction of an approximately 560 sq. ft. detached three car garage with a second floor storage area at a height of 23 ft., 8 in. in lieu of the maximum 15 ft. for accessory structures and allow two required open parking spaces to deviate from the parking design standards by permitting a tandem configuration will not constitute a grant of special privilege inconsistent with limitation upon other properties in the vicinity and under an identical zoning classification. The subject site contains an existing three story structure listed in the General Plan as a Historic Landmark currently without the provision of on-site parking. The variance requests are in conjunction with and support the adaptive reuse of the historic structure into a two unit residential multifamily vacation home. The proposed detached garage will not exceed the maximum allowable building height of 25 feet otherwise permitted for attached residential structures within the Residential Medium High Density – Small Lot Sub-district (RMH-A) zone classification. Attaching a garage structure is impractical due to the sensitive physical condition of the property and guidelines for the treatment of historic properties recommends against additions to historic structures that may degrade the property's significance. The provision of on-site parking is required for the reuse of the property and the placement of a garage on the subject site is required to provide minimum enclosed parking. The allowance of a tandem on-site parking configuration will allow the project to provide the minimum required on-site parking for the proposed multifamily use and will not impact the surrounding neighborhood. The proposed garage in conjunction with tandem open parking spaces complies with minimum lot coverage, setbacks and building separation requirements. The proposed detached garage reflects a similar size and design of a detached accessory structure previously removed from the site and helps to maintain the historic significance of the main structure. No significant changes to the site are proposed that would increase the prior nonconformities of the existing historic building. Providing minimum required on-site parking in a tandem configuration would be screened from view and therefore compatible with the surrounding residential uses.

2. Because the structure is listed as a Historical Landmark in the General Plan, 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 zoning classification. The subject property could not be redeveloped with new construction as the City would not support the demolition and removal of a historically significant building. Attaching a garage to provide on-site parking for any new use on the subject site could result in the degradation of the structure's historic significance and would not be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. A previous detached accessory structure once provided the main building with storage and was of similar height, design and location. The property owner's design of a detached garage is the most feasible and historically compatible way to provide on-site parking. Further, the proposed detached garage with a second floor storage area would not exceed the maximum allowable building

height of 25 feet otherwise permitted for attached residential structures in the RMH-A zone and is compatible with the height and size of single family dwellings across the alley from the subject property. The parking design standards applicable in the RMH-A zone for multi-family uses are more restrictive because they do not allow tandem spaces and require guest parking in addition to minimums required based on the number of bedrooms per unit. As a result, the reuse of the property as a two unit multifamily vacation home requires a total of six (6) parking spaces, with two (2) minimum enclosed. The proposed three (3) car garage will exceed the minimum requirement for enclosed spaces, and the provision of tandem spaces on-site will allow the provision of a total of six (6) on-site parking spaces, complying with minimum parking requirements. The subject property contains a structure built in 1906, prior to the compliance of zoning regulations applicable to parking and height. The subject building is one of the oldest buildings still standing in the City and is widely considered a significant historic resource. The adaptive reuse of the site will allow continued rehabilitation and maintenance of the property, furthering the life of the building in a manner consistent with surrounding residential uses.

3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The historic structure on the subject site has existed for over 100 years and to require compliance with current development standards would deem the site infeasible for the adaptive reuse of a Historical Landmark. The subject property could not be redeveloped with new construction as the City would not support the demolition and removal of a historically significant building. The variances will allow the provision of minimum onsite parking in a manner consistent with current development standards and residential uses surrounding the property. The proposed garage's height is consistent with the massing of surrounding residential properties, represents a consistent design based on the size and location of a previous on-site accessory structure, and does not exceed the maximum building height otherwise allowed for attached single or multifamily dwellings.

4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The rehabilitation of the subject historic building complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and will replace historic features that have been lost or removed over time since the building's construction in 1906. The variances will not increase the nonconformities that were previously existing onsite, but allow for the reuse of the historically significant structure as a two unit multifamily vacation home. The project will provide minimum required on-site parking and will not result in negative parking impacts to the surrounding neighborhood. The granting of the subject variances will enrich the history of the community and allow for the continued rehabilitation, maintenance and occupancy of the building.

5. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RMH (Residential Medium High Density) on the subject property, including the following goals, policies and objectives:

   A. Land Use Element

   Policy – LU 7.1.3: Allow for the continued occupancy, operation, and maintenance of legal uses and structures that exist at the time of adoption of the General Plan and become non-conforming due to use, density, and/or development requirements.

   Policy – LU 4.2.2: Permit historically significant buildings to vary from standard City codes; providing that the variations do not endanger human life and buildings comply with the State Historical Code.

Objective – LU 15.5: Ensure that development achieves the visual and physical character intended for the district in which it is located.

B. *Historic and Cultural Resources Element*

Goal – HCR 1: To promote the preservation and restoration of the sites, structures and districts which have architectural, historical, and/or archaeological significance to the City of Huntington Beach.

Policy – HCR 1.2.1: Utilize the Secretary of the Interior Standards for Historic Rehabilitation and standards and guidelines as prescribed by the State Office of Historic Preservation as the architectural and landscape design standards for rehabilitation, alteration, or additions to sites containing historic resources in order to preserve these structures in a manner consistent with the site's architectural and historic integrity.

Policy – HCR 1.3.6: Encourage appropriate adaptive reuse of historic resources in order to prevent misuse, disrepair and demolition, taking care to protect surrounding neighborhoods from incompatible uses.

Policy HCR 1.3.7: Explore alternatives that enable a property owner to sensitively add to the existing structure, or develop an accompanying building on the site that allows property development rights to be realized. Deviation to setbacks, heights and parking requirements should be considered to make the preservation of a historic building feasible when no other reasonable alternative exists.

The project consists of construction of a detached three-car garage on the site of a Historical Landmark as listed in the General Plan (Table HCR-2), and placement of required open parking spaces on-site in a tandem configuration. The property owners are in the process of rehabilitating the exterior in a manner that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the State Historical Code. The provision of required on-site parking will facilitate the re-use of the property into a two unit multi-family residential use that is designed to comply with minimum on-site parking requirements. The scale and design of the proposed garage structure is consistent with the surrounding residential environment because it will comply with minimum setbacks and be complimentary to the architecture of the historic building it serves as well as the previous accessory building it has been designed to replace. The construction of the proposed garage and provision of tandem parking on-site would not change the character of the downtown residential neighborhood or endanger human life because the new structure will comply with the HBZSO and support the re-use of a vacant historic structure. The proposed project will allow for the re-use of the property in a manner that will restore its historic significance in the neighborhood and value to the community.

CONDITIONS OF APPROVAL - VARIANCE NO. 12-005:

1. The site plan, floor plans and elevations received and dated January 7, 2013, shall be the conceptually approved design with the following modification:

   a. The windows of the detached garage shall be fixed, non-operable, and noted on the plans.

   b. Access to the second floor storage space above the garage parking area shall only be via an interior pull-down ladder.

c. The second floor storage space shall be non-habitable and noted on the plans.

2. The use shall comply with the following:

   a. A maximum of two units shall be allowed on the subject property. The property owner shall record a Covenant agreement on the site affirming the existence of a maximum of two units at the property. The covenant agreement form shall be reviewed and approved by the City and subsequently recorded on the property through the County of Orange. A copy of the recorded Covenant shall be submitted to the Planning & Building Department for inclusion in the entitlement file prior to the issuance of building permits.

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

   a. A Lot Line Adjustment application or covenant "to hold as one" shall be submitted to the Planning Division to merge underlying Lots 21 and 23 on the subject property.

   b. Plans revised pursuant to Condition No. 1 shall be submitted for review and approval to the Planning Division and for inclusion in the entitlement file.

4. Prior to the final of building permits, the Lot Line Adjustment or covenant to "hold as one" shall be approved by the City and recorded with the County of Orange.

5. Variance No. 12-005 shall become null and void unless exercised within two 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 and Building Department a minimum 30 days prior to the expiration date.

6. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (http://www.usgbc.org/DisplayPage.aspx?CategoryID=19) or Build It Green's Green Building Guidelines and Rating Systems (http://www.builditgreen.org/index.cfm?fuseaction=guidelines).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

B-5. **CONDITIONAL USE PERMIT NO. 12-029 / VARIANCE NO. 13-001 (SURF CITY CHRISTIAN PRESCHOOL EXPANSION)** **Applicant/Architect:** Marcus Paris, DeRevere & Associates **Property Owner:** Surf City Christian Preschool **Request:** **CUP:** To permit the expansion of an existing 2,890 sq. ft. preschool by constructing a new 2,800 sq. ft. building, an 18-space parking lot, and site improvements. **VAR:** To permit a 7 ft., 2 in. street side yard setback in lieu of a minimum of 10 ft. street side yard setback for the new preschool building. **Location:** 5432 Heil Avenue, 92649 (southwest corner of Graham Street and Heil Avenue) **Project Planner:** Jill Arabe

STAFF RECOMMENDATION: Motion to: "Continue Conditional Use Permit No. 12-029 and Variance No. 13-001 to February 26, 2013 at the applicant's request."

Jane James, Acting Planning Manager, stated that the applicant was requesting a continuance to the February 26, 2013 Planning Commission meeting.

A MOTION WAS MADE BY FRANKLIN, SECONDED BY KALMICK, TO CONTINUE CONDITIONAL USE PERMIT NO. 12-029 AND VARIANCE NO. 13-001 TO THE FEBRUARY 26, 2013 PLANNING COMMISSION MEETING AT THE APPLICANT'S REQUEST, BY THE FOLLOWING VOTE:

AYES:	**Dingwall, Mandic, Bixby, Kalmick, Franklin, Pinchiff**
NOES:	**None**
ABSENT:	**Peterson**
ABSTAIN:	**None**

MOTION APPROVED

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED DECEMBER 13, 2011

RECOMMENDED ACTION: Motion to: "Approve the December 13, 2011, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY BIXBY, SECONDED BY RYAN, TO APPROVE THE DECEMBER 13, 2011 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED FEBRUARY 28, 2012

RECOMMENDED ACTION: Motion to: "Approve the February 28, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE THE FEBRUARY 28, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-3. PLANNING COMMISSION MINUTES DATED MAY 8, 2012

RECOMMENDED ACTION: Motion to: "Approve the May 8, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY DELGLEIZE, TO APPROVE THE MAY 8, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-4. PLANNING COMMISSION MINUTES DATED AUGUST 14, 2012

RECOMMENDED ACTION: Motion to: "Approve the August 14, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY DELGLEIZE, TO APPROVE THE AUGUST 14, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-5. PLANNING COMMISSION MINUTES DATED SEPTEMBER 11, 2012

RECOMMENDED ACTION: Motion to: "Approve the September 11, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY DELGLEIZE, TO APPROVE THE SEPTEMBER 11, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-6. PLANNING COMMISSION MINUTES DATED SEPTEMBER 25, 2012

RECOMMENDED ACTION: Motion to: "Approve the September 25, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE THE SEPTEMBER 25, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-7. PLANNING COMMISSION MINUTES DATED OCTOBER 9, 2012

RECOMMENDED ACTION: Motion to: "Approve the October 9, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY BIXBY, TO APPROVE THE OCTOBER 9, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-8. PLANNING COMMISSION MINUTES DATED OCTOBER 23, 2012

RECOMMENDED ACTION: Motion to: "Approve the October 23, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY FRANKLIN, TO APPROVE THE OCTOBER 23, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-9. PLANNING COMMISSION MINUTES DATED NOVEMBER 13, 2012

RECOMMENDED ACTION: Motion to: "Approve the November 13, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY FRANKLIN, TO APPROVE THE NOVEMBER 13, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-10. PLANNING COMMISSION MINUTES DATED NOVEMBER 27, 2012

RECOMMENDED ACTION: Motion to: "Approve the November 27, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE THE NOVEMBER 27, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

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
Jane James, Acting 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 Kalmick thanked staff and Chair Bixby for their assistance and thanked Councilmember Hardy for appointing him to the Commission.

Commissioner Dingwall stated that he looked forward to working with Chair Bixby and his fellow commissioners.

Chair Bixby welcomed the new members to the Planning Commission.

ADJOURNMENT: Adjourned at 9:10 PM to the next regularly scheduled meeting of Tuesday, February 26, 2013.

APPROVED BY:

Scott Hess, Secretary

Mark D. Bixby

Mark Bixby, Chairperson