MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, MARCH 8, 2011
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

CANCELLED – NO STUDY SESSION

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE– Led by Commissioner Farley

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

AGENDA APPROVAL

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE THE PLANNING COMMISSION AGENDA OF MARCH 8, 2011, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS

B-1. APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF DRAFT MITIGATED NEGATIVE DECLARATION NO. 10-007/ COASTAL DEVELOPMENT PERMIT NO. 10-011 (MAGNOLIA OIL STORAGE TANKS DEMOLITION AND TRANSFER PIPING REMOVAL) **Applicant/Property Owner:** Thomas McClane, Plains All American Pipeline **Appellant:** Mark Bixby, Planning Commissioner **Request: MND:** To analyze the potential environmental impacts associated with the proposed project. **CDP:** To permit the demolition and removal of three empty above-ground oil storage tanks, approximately 2,342 linear feet of above-ground transfer piping and ancillary site improvements at a former oil storage and transfer facility located within the Coastal Zone.

Location: 21845 Magnolia Street, 92646 (northwest of Banning Avenue and Magnolia Street intersection) **Project Planner:** Hayden Beckman

STAFF RECOMMENDATION: Motion to: "Approve Mitigated Negative Declaration No 2010-007 and Coastal Development Permit No. 2010-011 with suggested findings and mitigation measures (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Shier Burnett has visited the site and listened to the study session audio recording.
- Commissioner Peterson has spoken with Gordon Smith.
- Vice Chair Mantini has visited the site, attended the study session, and spoken to staff.
- Chair Delgleize has attended the study session, spoken to staff, and visited the site.
- Commissioner Farley has attended the study session and visited the site.
- Commissioner Bixby has spoken to Councilmember Boardman, attended the study session, spoken to Gordon Smith, and visited the site.
- Commissioner Ryan has attended the study session and visited the site.

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

Commissioner Bixby asked staff how the project would impact maintenance of the pipelines on the adjacent properties. Mr. Beckman indicated that it would have no effect. Commissioner Bixby asked staff what the chances are for the pipeline system to be brought back into service. Mr. Beckman reviewed the classification system for the pipelines and indicated it would be dependent upon the property owner to determine if/when the pipelines are returned to active status. He noted that once a pipeline is placed in abandoned status it cannot be returned to service.

There was a brief review of the procedure for determining the pipeline status and monitoring the pipelines. Fire Division Chief William Reardon stated that it is the pipeline owner's responsibility to ensure that the line's integrity is maintained in its inactive status.

THE PUBLIC HEARING WAS OPENED.

Gordon Smith, Huntington Beach Wetlands Conservancy, spoke in opposition to the project, citing the potential degradation of the pipelines and the potential impacts to adjacent properties that the pipelines cross.

Wes Miliband, Huntington Beach Wetlands Conservancy, spoke in opposition to the project, stating that he feels the scope of the MND is too narrow because it does not include an analysis of the pipelines on adjacent properties.

Jack Kirkorn, resident, spoke in opposition to the project, citing that the adjacent property is not included in the analysis. Mr. Kirkhorn read a letter from the

Coastal Conservancy in opposition to the project, citing the easement on the adjacent properties that are not included in the analysis.

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

There was a brief discussion regarding the scope of the project. Commissioner Farley asked staff to explain why the pipelines on the adjacent properties are not included in the CEQA analysis. Mr. Beckman indicated that the analysis was performed based on the scope of the submitted project and the on site improvements, which does not include the pipelines on adjacent properties.

Commissioner Bixby presented a slideshow of the pipelines on the adjacent lots.

Commissioner Mantini confirmed with staff that the pipeline easement was known when the adjacent property was purchased by the Huntington Beach Wetlands Conservancy. There was a brief discussion regarding who has jurisdiction to enforce maintenance on the pipelines. Fire Division Chief Reardon indicated that the pipelines are regulated through the state. Mike Vigliotta, Deputy City Attorney, confirmed that the pipelines are not in the city's purview.

There was a brief discussion on the different processes for determining inactive status and abandoned status for the pipelines.

Commissioner Mantini confirmed that the request does not dissolve the easement. There was a brief discussion regarding the potential impacts in requiring the pipeline removal.

Commissioner Farley indicated that he considers both the off-site and on-site pipelines and tanks to be a part of a complete system. Commissioners Shier Burnett and Bixby expressed agreement with this.

A MOTION WAS MADE BY MANTINI, SECONDED BY PETERSON, TO APPROVE MITIGATED NEGATIVE DECLARATION NO 2010-007 AND COASTAL DEVELOPMENT PERMIT NO. 2010-011 WITH SUGGESTED FINDINGS AND MITIGATION MEASURES, BY THE FOLLOWING VOTE:

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

MOTION FAILED

Commissioner Farley asked staff what the process would be should the Planning Commission find for denial. Scott Hess, Director of Planning and Building, indicated that the pipeline easement is not included in the scope of the project and would not be included in any additional analysis. He noted that the city does not enforce private easements.

Chair Farley indicated that he felt the transfer system, as a whole, should be included in the analysis and that the current analysis is incomplete.

THE PUBLIC HEARING WAS REOPENED BY ACCLAMATION.

Ngiabi Gicuhi, Plains All American Pipeline, noted that the proposed future use of the site has not been determined and the transfer pipeline may be used at a future date.

Mr. Smith noted that the current easement is limited to petroleum projects.

Mr. Vigliotta indicated that future land use is speculative and thus not included in the analysis. Mr. Hess noted that the easement is between two private property owners and beyond the scope of the project before the Planning Commission.

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

Commissioner Shier Burnett asked staff what would change if the analysis were to include the off-site pipelines. Mr. Vigliotta indicated that the pipelines are not in the scope of the project and would not be included in the analysis.

A MOTION WAS MADE BY FARLEY, SECONDED BY BIXBY, TO DENY MITIGATED NEGATIVE DECLARATION NO 2010-007 AND COASTAL DEVELOPMENT PERMIT NO. 2010-011 WITH FINDINGS, BY THE FOLLOWING VOTE:

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

MOTION FAILED

A MOTION WAS MADE BY MANTINI, SECONDED BY RYAN, TO APPROVE MITIGATED NEGATIVE DECLARATION NO 2010-007 AND COASTAL DEVELOPMENT PERMIT NO. 2010-011 WITH SUGGESTED FINDINGS AND MITIGATION MEASURES, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

FINDINGS FOR APPROVAL – MITIGATED NEGATIVE DECLARATION NO. 10-007:

1. The Mitigated Negative Declaration No. 10-007 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Planning Commission prior to action on the Mitigated Negative Declaration and Coastal Development Permit No. 10-011.

2. Mitigation measures avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. Mitigation measures address potential impacts associated with the release of hazardous materials due to on-site soil contamination.

3. There is no substantial evidence in light of the whole record before the Planning Commission that the project, as mitigated through the attached mitigation measure, will have a significant effect on the environment. The proposed project involves the demolition and removal of three empty above-ground crude oil storage tanks, approximately 2,342 linear feet of above-ground transfer piping, and ancillary site improvements at a former oil storage and pumping facility. The facility previously operated as an oil storage and transfer station. It is currently a functioning facility, but used infrequently for oil storage. The project proponent does not propose any new uses or redevelopment of the site, and upon completion of the project, the site would remain vacant. The site has been identified as containing potentially hazardous materials in the form of asbestos, hydrocarbon soils contamination, and lead-based paints on the painted components of the exterior girders from two of the three existing above ground oil storage tanks, and other minor accessory structures. The potential upset of or accidental release of hazardous materials would be a potentially significant impact. However, with compliance with City specifications and Occupational Safety and Health Administration (OSHA) and South Coast Air Quality Management District (SCAQMD) regulatory requirements, impacts from the release of hazardous materials (lead-based paints and asbestos), would be reduced to a less than significant level. All potential impacts resulting from activities associated with the project can be adequately mitigated.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 10-011:

1. Coastal Development Permit No. 2010-011 for the demolition and removal of three above ground oil storage tanks and ancillary transfer piping conforms with the General Plan, including the Local Coastal Program land use designation of Public as well as Coastal Element Objective C. 4.7: Improve the appearance of visually degraded areas within the Coastal Zone. The project is consistent with Coastal Element Objective C 8.4.1 to promote aesthetic and environmental compatibility between oil activities and other uses through measures such as fencing, planting, and landscaping, screening and buffering. The proposed demolition will occur on a developed utility fuel storage site that is visible from Pacific Coast Highway and across the street from existing residential development. Implementation of the proposed project would eliminate the oil storage tanks' intrusion into the Pacific Coast Highway view corridor and prevent visual incompatibility with surrounding uses.

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 project would not conflict with applicable planning documents and policies. New construction is not proposed as a part of the project request, and the project would not affect the development standards of the base zoning district.

3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project would result in the removal of three existing above ground oil storage tanks and ancillary transfer piping on a developed site previously operating as an oil storage and transfer facility. The

project would not result in a need for new infrastructure and would not be inconsistent with the Local Coastal Program.

4. The proposed project complies with the public access and public recreation policies of Chapter 3 of the California Coastal Act, and will not impede public access, recreation, or views to coastal resources. All demolition activity and staging of equipment and vehicles will occur on-site and not encroach into the public right-of-way.

MITIGATION MEASURE FOR ENVIRONMENTAL CONCERNS:

1. Prior to the onset of ground disturbing activities, the applicant shall comply with the following mitigation measure, which entails soils testing plans and remediation reports required to reduce the potentially significant impacts from the release of hazardous materials due to on-site soil contamination to a less than significant level:

   a. A soil testing plan conforming to *City Specification No. 431-92, Soil Cleanup Standards* shall be submitted to the Fire Department for review and approval. The testing results shall be jointly reviewed and approved by the Fire and Public Works Departments.

   b. A Remediation Action Plan (RAP) shall be submitted to the Fire Department based on requirements found in Huntington Beach *City Specification No. 431-92, Soil Cleanup Standards*. The plan shall include methods to minimize remediation-related impacts on the surrounding properties. Qualified and licensed professionals shall perform the remediation activities and all work shall be performed under supervision of the City of Huntington Beach.

   c. Closure reports or other reports acceptable to the Fire Department that document the successful completion of required remediation activities for the contaminated soils, in accordance with City Specification No. 431-92, shall be submitted to and approved by the Fire Department prior to issuance of grading permits.

   d. The applicant shall submit the RAP to other County or State agencies as necessary. The applicant shall coordinate other applicable agency permit and oversight requirements with the Fire Department.

CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 10-011:

1. The site plans received and dated June 29, 2010, shall be the conceptually approved demolition plans.

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

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

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

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

d. All asbestos shall be removed from all structures prior to the demolition or removal of any portion of any structure.

e. Any truck haul route plan as required by the project Code Requirements shall also depict locations designated for truck staging and queuing. **(PW)**

3. At least 14 days prior to any demolition and grading activity, the applicant shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Planning & Building Department.

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

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

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

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

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

   e. Discontinue operation during second stage smog alerts.

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

   g. All Huntington Beach Zoning and Subdivision Ordinance and Municipal Code requirements including the Noise Ordinance. All activities including truck deliveries associated with construction, grading, remodeling, or repair shall be limited to Monday - Saturday 7:00 AM to 8:00 PM. Such activities are prohibited Sundays and Federal holidays.

   h. Fire/Emergency Access and Site Safety shall be maintained during project construction phases in compliance with HBFC Chapter 14, Fire Safety During Construction and Demolition and City Specification No. 426, Fire Safety Requirements for Construction Sites. **(FD)**

   i. Discovery of additional soil contamination or underground pipelines, etc., must be reported to the Fire Department immediately and the approved work plan modified accordingly in compliance with City Specification No. 431-92 Soil Clean-Up Standards. **(FD)**

5. The Fire Department review of this project and subsequent plans may require the use of City consultants. The Huntington Beach City Council approved fee schedule allows the Fire Department to recover consultant fees from the applicant, developer or other responsible party. **(FD)**

6. Prior to final inspection or closeout of the project, any damage to existing public improvements (curb, gutter and sidewalk) adjacent to the subject site's existing driveway approach to Magnolia Street shall be removed and replaced per City Public Works Standard Plans. **(PW)**

7. Coastal Development Permit No. 10-011 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.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED SEPTEMBER 14, 2010

RECOMMENDED ACTION: Motion to "Approve the September 14, 2010, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY RYAN, SECONDED BY SHIER BURNETT, TO APPROVE THE SEPTEMBER 14, 2010, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

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
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

Vice-Chair Mantini reported that she would not be at the March 22, 2011 meeting.

Commissioner Bixby recommended visiting the Wetlands Conservancy to see the restoration of a wetland.

ADJOURNMENT: Adjourned at 8:09 PM to the Planning Commission Workshop at the Central Library on Thursday, March 17, 2011 at 8:00 AM and then adjourn to the next regularly scheduled meeting of Tuesday, March 22, 2011.

APPROVED BY:

Scott Hess, Secretary

Barbara Delgleize, Chairperson