# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

**TUESDAY, SEPTEMBER 11, 2012**
**HUNTINGTON BEACH CIVIC CENTER**
**2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648**

**5:15 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)**

**CALL PLANNING COMMISSION MEETING TO ORDER**

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

Commissioner Shier Burnett and Chair Mantini were absent.

**AGENDA APPROVAL**

**A MOTION WAS MADE BY DELGLEIZE, SECONDED BY PETERSON, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF SEPTEMBER 11, 2012, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

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

Vice-Chair Bixby recused himself on Item No. A-1 due to a possible conflict of interest and left the room.

**A-1. ENTITLEMENT PLAN AMENDMENT NO. 12-007 (PACIFIC CITY RESIDENTIAL PLAN) - Jane James, Senior Planner**

Jane James, Senior Planner, gave a brief overview of the proposed project.

There was a brief discussion regarding the interior and exterior designs of the buildings of the project.

Vice-Chair Bixby returned to the meeting.

**A-2. DRAFT MITIGATED NEGATIVE DECLARATION NO. 08-012/ GENERAL PLAN AMENDMENT NO. 08-004/ ZONING MAP AMENDMENT NO. 08-004/ TENTATIVE TRACT MAP NO. 17239/ CONDITIONAL USE PERMIT NO. 08-025 (WARDLOW RESIDENTIAL SUBDIVISION) – Andrew Gonzales, Associate Planner**

**A-3. DRAFT MITIGATED NEGATIVE DECLARATION NO. 08-013/ GENERAL PLAN AMENDMENT NO. 08-005/ ZONING MAP AMENDMENT NO. 08-005/ TENTATIVE TRACT MAP NO. 17238/ CONDITIONAL USE PERMIT NO. 08-026 (LAMB RESIDENTIAL SUBDIVISION) – Andrew Gonzales, Associate Planner**

Andrew Gonzales, Associate Planner, gave a brief overview of the proposed project.

There was a brief discussion regarding the proposed detention basins and the assorted park improvements.

**B. STUDY SESSION ITEMS - NONE**

**C. PUBLIC COMMENTS**

Holly Derheim, Lamb School Neighborhood Save Our Fields Committee, spoke in opposition to study session Item No. A-3, citing potential loss of open space and school sports fields. She provided the commissioners with a packet reviewing her concerns with the project.

Edra Bonsall, Lamb School Neighborhood Save Our Fields Committee , spoke in opposition to study session Item No. A-3, citing potential loss of sports fields.

Thu Hang Tran, resident, spoke in opposition to study session Item No. A-3, citing potential impacts to adjacent residents and potential loss of sports fields.

Alan Gandall, resident, spoke in opposition to study session Item No. A-3, citing potential loss of sports fields.

Tom Grable, applicant, spoke in support of study session Item Nos. A-2 and A-3, citing potential public benefits. He briefly reviewed the Naylor Act process in regards to the open space at the sites.

Dave Bacon, civil engineer for the applicant, spoke in support of study session Item Nos. A-2 and A-3. He provided the commissioners with a letter addressing issues raised by Vice-Chair Bixby at the Subdivision Committee meeting.

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

Herb Fauland, Planning Manager, noted that there was one Late Communication each for Public Hearing Item Nos. B-1 and B-2.

**E. PLANNING COMMISSION COMMITTEE REPORTS**

Commissioner Delgleize reported on the items discussed at the Environmental Board meeting on September 6, 2012.

## F. PLANNING COMMISSION COMMENTS

Scott Hess, Director of Planning and Building, introduced new Commissioner Robert Franklin, who will join the Commission on the September 25, 2012 meeting.

**6:05 P.M. – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

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

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

**AGENDA APPROVAL**

**A MOTION WAS MADE BY PETERSON, SECONDED BY DELGLEIZE, TO APPROVE THE PLANNING COMMISSION AGENDA OF SEPTEMBER 11, 2012, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

## A. PUBLIC COMMENTS - NONE

## B. PUBLIC HEARING ITEMS

Commissioner Ryan recused himself on Item No. B-1 due to a possible conflict of interest and left the room.

**B-1. CONDITIONAL USE PERMIT NO. 12-012 (SCRAPS RESTAURANT WITH ON SITE ALCOHOL SALES)** **Applicant:** Vinh Nguyen **Property Owner:** Decron Properties, Inc., c/o J. Beeson **Request:** To permit an eating and drinking establishment with on-site sale of alcohol within an existing approximately 1,713 sq. ft. building suite. **Location:** 7862 Warner Avenue, Suite 110, 92647 (Southwest corner of Warner Avenue at Beach Boulevard) **Project Planner:** Ethan Edwards

**STAFF RECOMMENDATION:** Motion to: "Approve Conditional Use Permit No. 12-012 with suggested findings and conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commisioner Shier Burnett has visited the site.
- Commissioner Peterson has visited the site.
- Vice Chair Bixby has visited the site and eaten at the restaurant adjacent to the site.
- Chair Mantini has visited the site.
- Commissioner Delgleize has visited the site and spoken to staff.

Ethan Edwards, 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.**

**A MOTION WAS MADE BY DELGLEIZE SECONDED BY PETERSON, TO APPROVE CONDITIONAL USE PERMIT NO. 12-012 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

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

**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 Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project involves a minor modification to the operation of the existing development involving negligible expansion of an existing use.

**FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 12-012:**

1. Conditional Use Permit No. 12-012 to permit an approximately 1,713 sq. ft. eating and drinking establishment with alcohol sales and consumption within an existing building at an existing mixed-use center site 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 sales and service of alcoholic beverages is regulated by the provisions of Chapter 9.44 of the Huntington Beach Municipal Code. The subject request will not result in noise, safety, or compatibility issues. The BECSP and General Plan land use designation anticipated restaurant uses with alcohol service, sale and consumption in this area. The request for alcohol is ancillary to the primary restaurant use and will serve to augment the overall dining experience. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building's interior and will not generate detrimental impacts onto surrounding properties.

2. The request to establish a restaurant with alcohol sales and consumption will be compatible with surrounding uses because the project is located within an existing mixed-use center. The restaurant is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible to its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol service and operation to assure that any potential impacts to the surrounding properties are minimized.

3. The request to establish a restaurant with alcohol sales, service and consumption within an existing building will comply with the Neighborhood Center segment of the Beach and Edinger Corridors Specific Plan (BECSP), and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The BECSP allows

eating and drinking establishments with alcohol service subject to approval of a conditional use permit. The BECSP and General Plan land use designation anticipated restaurant uses with alcohol service, sale and consumption in this area. The request for alcohol is ancillary to the primary restaurant use and will serve to augment the overall dining experience. There is no physical expansion that includes additional floor area to the existing building as part of this request and the proposed use will comply with all building occupancy/exiting requirements.

4. The granting of the conditional use permit to establish a restaurant with alcohol sales, service and consumption is consistent with the General Plan. The General Plan Land Use Map designation on the subject property is M – sp – d (Mixed Use – Specific Plan Overlay – Design Overlay). The proposed project is consistent with this designation and the policies, objective, and goal of the City's General Plan as follows:

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 establish a restaurant with alcoholic beverages inside an existing building within the Beach and Edinger Corridors Special Plan designation that is consistent with the Building Use Regulations and is compatible with the surrounding mix of uses. The proposed conditional use permit will provide for the business needs of a successful restaurant establishment by permitting the sale of alcoholic beverages 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 along a focal corridor of the City that contains existing restaurants, retail, and entertainment uses. The project serves to strengthen the existing business and facilitate continued viability of the center.

**CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 12-012:**

1. The site plan, floor plan, and elevation plan received and dated May 18, 2012, shall be the conceptually approved design.

2. The use shall comply with the following:

   a. Hours of operation shall be limited to between 7:00 AM and 11:00 PM Tuesday through Thursday, and between 7:00 AM and 12:00 AM Friday through Sunday.

   b. 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 30 minutes prior to the scheduled closing time. **(PD)**

   c. All alcoholic beverages shall remain within the interior of the restaurant and bar. Service of alcoholic beverages for off-site consumption shall be prohibited. **(PD)**

   d. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons. **(PD)**

   e. Dancing and entertainment shall be prohibited. **(PD)**

   f. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning and Building Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.

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

4. Conditional Use Permit No. 12-012 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.

5. The Planning Commission reserves the right to revoke Conditional Use Permit No. 12-012 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance, or Municipal Code occurs.

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.

Commissioner Ryan returned to the meeting.

**B-2.** **CONDITIONAL USE PERMIT NO. 12-014 (CHEVRON STATION – OFF-SITE ALCOHOL SALES)** **Applicant:** Amlex – The American Liquor License Exchange, c/o Lorrie Hoel **Property Owner:** G&M Oil Company, LLC **Request:** To permit the sale of beer and wine for off-site consumption at an existing 1,439 sq. ft. gas station convenience store. **Location:** 17472 Beach Boulevard, 92647 (Northeast corner of Beach Boulevard and Slater Avenue) **Project Planner:** Ethan Edwards

**STAFF RECOMMENDATION:** Motion to: "Approve Conditional Use Permit No. 12-014 with suggested findings and conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Shier Burnett has visited the site.
- Commissioner Peterson has visited the site.
- Vice Chair Bixby has visited the site.
- Chair Mantini has visited the site.
- Commissioner Delgleize has visited the site and purchased gas at the site.
- Commissioner Ryan has visited the site and purchased gas at the site.

Ethan Edwards, 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.**

**A MOTION WAS MADE BY RYAN, SECONDED BY DELGLEIZE, TO APPROVE CONDITIONAL USE PERMIT NO. 12-014 WITH SUGGESTED FINDINGS AND FORWARD TO THE CITY COUNCIL, BY THE FOLLOWING VOTE:**

| | |
|---|---|
| **AYES:** | **Shier Burnett, Peterson Bixby, Mantini, Delgleize, Ryan** |
| **NOES:** | **None** |
| **ABSENT:** | **None** |

**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 Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, because the project involves a minor modification to the operation of the existing development involving negligible expansion of an existing use.

**FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 12-014:**

2. Conditional Use Permit No. 12-014 to permit the sale of beer and wine for off-site consumption at an existing 1,439 sq. ft. gas station convenience store 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 sales of alcoholic beverages is regulated by the provisions of Chapter 9.44 of the Huntington Beach Municipal Code. The subject request will not result in noise or safety issues. Furthermore, the consumption of alcoholic beverages will not be permitted on-site and will not generate detrimental impacts onto surrounding properties.

5. The request to permit alcohol sales for off-site consumption within an existing gas station convenience store will be compatible with the mix of surrounding uses. The convenience store is surrounded by commercial, office, and restaurant uses and therefore will be consistent with the existing land use pattern and compatible to its surroundings. The use will be required to comply with conditions of approval pertaining to alcohol sales to assure that any potential impacts to the surrounding properties are minimized.

6. The request to permit alcohol sales for off-site consumption within an existing gas station convenience store will comply with the Neighborhood Boulevard segment of the Beach and Edinger Corridors Specific Plan (BECSP), and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The BECSP allows gas stations with alcohol sales subject to approval of a conditional use permit. There is no physical expansion that includes additional floor area to the existing building as part of this request and the proposed use will comply with all building occupancy/exiting requirements.

7. The granting of the conditional use permit alcohol sales (beer and wine) is consistent with the General Plan. The General Plan Land Use Map designation on the subject property is M – sp – d (Mixed Use – Specific Plan Overlay – Design Overlay). The proposed project is consistent with this designation and the policies, objective, and goal of the City's General Plan as follows:

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 the sale of alcoholic beverages (beer and wine) for off-site consumption within an existing gas station convenience store. The site is located within the Beach and Edinger Corridors Specific Plan designation and the use is consistent with the Building Use Regulations and is compatible with the surrounding mix of uses. The proposed conditional use permit will provide for the business needs for a successful gas station with a convenience store 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 along a focal corridor of the City that contains a range of uses. The project serves to strengthen the existing business and facilitate continued viability of the gas station and convenience store.

**CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 12-014:**

7. The site plan and floor plan received and dated June 6, 2012, shall be the conceptually approved design.

8. The use shall comply with the following:

   a. Hours of alcohol sales is limited to between 6:00 AM and 2:00 AM, seven days a week.

   b. The facility shall employ a video surveillance security system and a one-month video library. The minimum requirements for the cameras shall be: color, digital recording to DVR and able to record in low light. Electronic copies of video shall be made available to the Huntington Beach Police Department within 48 hours of request. Digital recordings shall be made available for viewing on-scene upon request by police officers conducting investigations. **(PD)**

   c. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning and Building Department for the file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to. **(PD)**

9. The Development Services Departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning and Building may

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

10. Conditional Use Permit No. 12-014 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.

11. The Planning Commission reserves the right to revoke Conditional Use Permit No. 12-014 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance, or Municipal Code occurs.

12. 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.

**C. CONSENT CALENDAR – NONE**

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

**E. PLANNING ITEMS**

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

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

**E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING**

Herb Fauland, Planning Manager– reported on the items for the next Planning Commission Meeting.

## F. PLANNING COMMISSION ITEMS

**F-1. PLANNING COMMISSION REQUEST ITEMS - NONE**

**F-2. PLANNING COMMISSION COMMENTS**

Commissioner Shier Burnett wished a happy birthday to her dauther and to Commissioner Delgleize.

Commissioner Delgleize reported on her tour of the AES plant.

**ADJOURNMENT: Adjourned at 7:15 PM to the next regularly scheduled meeting of Tuesday, September 25, 2012.**

APPROVED BY:

Scott Hess, Secretary

Janis Mantini, Chairperson