

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, JANUARY 02, 2008 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Herb Fauland, Acting Zoning Administrator

**STAFF MEMBER:** Rami Talleh, Pamela Avila (recording secretary)

**MINUTES:** November 14 & 28, 2007  
December 5, 2007  
**APPROVED AS SUBMITTED**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: COASTAL DEVELOPMENT PERMIT NO. 2007-019; CONDITIONAL USE PERMIT NO. 2007-045 (NGO 3<sup>RD</sup> STORY CONVERSION)**

**APPLICANT/**  
**PROPERTY OWNER:** McVictory Ngo, 9022 Mediterranean Drive, Huntington Beach, CA 92646  
**REQUEST:** To permit the conversion of approximately 130 sq. ft. of attic space into a third story den within the confines of a second story roof of a single-family home under construction.  
**LOCATION:** 9161 Christine Dr., 92649 (north side of Christine Dr., east of Susan Ln.)  
**PROJECT PLANNER:** Rami Talleh

Rami Talleh, Associate Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary.

Mr. Talleh reported that one letter was received in opposition, citing concerns regarding an existing chimney which blocks the neighbor's solar panels, a water heater and pipes visible on the outside of the house, debris left from construction, and no visible portable restrooms on site for construction workers' use during work hours. Staff noted that the letter was forwarded to the Building and Safety Department for their review, and discussed the concerns with the building inspector. The building inspector indicated that there is a working restroom on the ground floor of the structure and the building code does permit a visible water heater and pipes. Staff announced that three late communication letters opposing the construction were received prior to the meeting.

Mr. Herb Fauland, Acting Zoning Administrator, made the following disclosures: he has had no conversations with the applicant/property owner or surrounding property owners, has had conversations with staff concerning the project, has driven the area to review the surrounding area, has read the letter from Susan Hansen, and has read two of the three late communication letters received at the hearing.

Mr. Fauland confirmed with staff that the conditional use permit is only for the third floor habitable area. Mr. Fauland asked if the intent was for this third story home to appear to be a two story home and staff responded yes. Staff stated that the proposed dormer is a little larger than the others which are used for ventilation only.

Mr. Fauland stated that issues that concern the building code will be directed to Building and Safety Department for review and resolution. He asked if the overall building height and chimney complies with the zoning code and staff stated that they do.

#### **THE PUBLIC HEARING WAS OPENED.**

McVictory Ngo, applicant, responded to the issues and commented that the water heater pipes will be covered with stucco at the end of the construction phase. He noted that he has worked with building inspectors to ensure that he is in compliance with the approved plans for the new home. He reported that debris is being removed from the site and the site has a restroom available for workers' use.

Cindy Buffa, neighbor, read a letter opposing the conditional use permit. She commented that she is opposed to the large size and architecture of the new home. She requested that the permit be denied.

Ms. Buffa read a letter for Randolph Papke. Mr. Papke opposes the structure and believes that the house is being built for more than one family. He questioned the placement of the water heater on the exterior wall of the house. He believes that many neighbors are suspicious that several people will be living in the home. He feels that the home is too large for the lot and that it is being built to exceed building codes.

Ms. Buffa read a letter from Michelle Chavez; Ms. Chavez believes that the home is being built for multi family use rather than as a single family home and that it is too large. She opposes its construction.

Jack Buffa, neighbor, spoke in opposition to this permit. Mr. Buffa mentioned the structural changes he had to make during his own remodel/addition and feels that the same standards are not being used for this structure.

Jim Thompson, neighbor, spoke in opposition to the proposed structure. Mr. Thompson asked if he could build his own residence with up to three storys. Mr. Fauland stated he would address these questions at the end of the public comments.

Marilyn Thompson, neighbor, spoke in opposition to the proposed project. She commented that a refrigerator was visible in the backyard and the washer and dryer were left on the front lawn for four months. She also said that all the windows of the new home face her home and will infringe on her privacy.

Milt Dardis, neighbor, spoke in opposition to the project. He questioned whether the house meets code and commented that when he added on to his residence there were more stringent rules.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Mr. Fauland addressed the comments by the public and reviewed three story requirements, the inspection process, design issues, and the use of the home for multi-family use. Mr. Fauland stated that if a home complies with the zoning code and goes through the entitlement process, and is found to be compatible with the surrounding neighborhood, then it might be approved. He noted that the City does not regulate a single family home's architectural design and noted how difficult it is to define a family.

Mr. Fauland requested staff contact Bill Grove, Inspection Manager, and advise him of the neighbors' concerns.

Mr. Fauland stated that he will impose a condition of approval that the house be restricted as a single family dwelling and not converted to a multi-family residence.

He stated that staff would follow-up with the Building Department to ensure that the construction debris be removed from the site and that a restroom be available for workers' use. Mr. Fauland asked the applicant if he was willing to abide by the code requirements and suggested conditions of approval. Mr. Ngo stated he would. He informed the applicant that a condition of approval will be added that requires a covenant be recorded on the property to ensure the use of the home as a single family residence. The applicant stated that he would comply.

Condition No. 2 was added to the Conditions of Approval.

**COASTAL DEVELOPMENT PERMIT NO. 2007-019; CONDITIONAL USE PERMIT NO. 2007-045 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND REVISED CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS OR TEN (10) WORKING DAYS FOR A COASTAL DEVELOPMENT PERMIT.**

**SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator 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, because the project consists of an addition less than 50 percent of an existing single-family home.

**SUGGESTED FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2007-019:**

1. Coastal Development Permit No. 2007-019 for the conversion of approximately 130 sq. ft. of attic space into a third story den within the confines of second story roof, as proposed, conforms with the General Plan, including the Local Coastal Program land use designation

of Residential Low-Density. The project is consistent with Coastal Element Land Use Policy C 1.1.1 to encourage development within, contiguous to or in close proximity to existing developed areas able to accommodate it. The proposed construction will occur on a previously developed site, contiguous to existing residential development.

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 including maximum site coverage, maximum building height, minimum yard setbacks, minimum on-site parking, and third story design criteria.
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 will be constructed on a previously developed site in an urbanized area with all necessary services and infrastructure available, including water, sewer and roads.
4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project will not impede public access or impact public views to coastal resources.

**SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2007-045:**

1. Conditional Use Permit No. 2007-045 for the for the conversion of approximately 130 sq. ft. of attic space into a third story den within the confines of second story roof 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 habitable area will be located within the confines of the existing second-story roof volume. The addition consists of interior modifications, which will not be visible from the surrounding neighborhood with the exception of dormer windows which will face the public right-of-way.
2. The conditional use permit will be compatible with surrounding uses because the proposed third story room will be confined within the existing volume of the second story roof. In addition, the existing dwelling is located in a single-family residential neighborhood, predominately developed with one and two story homes of comparable height and value.
3. The proposed conditional use permit 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 (HBZSO). The project complies with the maximum building height, maximum lot coverage, and minimum building setbacks. Habitable area above the second story is allowed in the base zoning district with 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 Residential Low Density on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
  - a. LU 9.2.1: Require that all new residential development within existing neighborhoods be compatible with existing structures including:

- b. LU 9.2.1b: Use of building heights, grade elevations, orientation, and bulk that are compatible with the surrounding development;
- c. LU 9.2.1d: Maintenance of privacy on abutting residences.

The third story room will be confined within the existing second story roof volume. The windows of the recreation room will not be oriented toward neighboring residential properties. The height of the house is 29 feet, which is comparable to surrounding homes.

**SUGGESTED CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2007-019/CONDITIONAL USE PERMIT NO. 2007-045:**

1. The site plan, floor plans, and elevations received and dated December 4, 2007, shall be the conceptually approved design.
2. Prior to final inspections, the property owner shall sign, notarize, and record with the County Recorder a covenant assuring that the single-family residence will be maintained as one (1) dwelling unit.
3. 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.

**ITEM 2: ENTITLEMENT PLAN AMENDMENT NO. 2007-006 (TRUONG DEVELOPMENT AFFORDABLE HOUSING MODIFICATION – AMENDMENT TO TENTATIVE PARCEL MAP NO. 2006-188)**

APPLICANT: Duc Nguyen, 1170 E. Warner Avenue, #216, Fountain Valley, CA 92708  
PROPERTY OWNER: Lannie Truong, 18692 Jockey Circle, Huntington Beach, CA 9264  
REQUEST: To amend a condition of approval to allow the payment of an Affordable Housing In-Lieu Fee to satisfy the affordable housing requirement instead of providing an affordable housing unit on-site.  
LOCATION: 7762-7772 Liberty Avenue, 92648 (south side of Liberty Ave., west of Beach Blvd.)  
PROJECT PLANNER: Rami Talleh

Rami Talleh, Associate Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary.

Mr. Herb Fauland, Acting Zoning Administrator, made the following disclosures: he has had no contact with the property owner or applicant, he has had conversations with staff, he has not driven by the site but he is aware of the project and staff's past actions.

Mr. Fauland stated that he would modify Condition No. 2 by requiring an Affordable Housing Agreement to be submitted and recorded with the County of Orange. He stated that the condition will be worded to allow the City to determine if the agreement is necessary

**THE PUBLIC HEARING WAS OPENED.**

Mr. Nguyen, the applicant, expressed confusion about the exact amount of the fee. Staff explained the fee requirement and amount to the applicant.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

A modification was made to Condition No. 2.

**ENTITLEMENT PLAN AMENDMENT NO. 2007-006 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND REVISED CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

**SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator 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 of the CEQA Guidelines, because multi-family residential structures consisting of six or fewer units in urbanized areas are exempt.

**SUGGESTED FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 2007-006:**

1. Entitlement Plan Amendment No. 2007-006 to amend a condition of approval to allow the payment of an Affordable Housing In-Lieu Fee to satisfy the affordable housing requirement instead of providing an affordable housing unit on-site is consistent with the General Plan Land Use Element designation of RM-15 (Residential Medium Density – 15 units/ acre) on the subject property and other applicable provisions of the Huntington Beach Zoning & Subdivision Ordinance (HBZSO). The HBZSO allows for the payment of an affordable housing fee for residential developments consisting of nine or fewer units in-lieu of providing an affordable housing unit on-site.
2. The site is physically suitable for the type and density of development. The project site is regular in shape, has no unique topographical or other constraints to development, can accommodate the proposed development in accordance with all applicable codes and development standards and is accessible from an existing public street. In addition, the project site is designated for residential development by the General Plan and Zoning maps, and is adjacent to existing residential development of comparable design and density.
3. The design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The project consists of residential development on a previously developed lot in an urbanized area. The project site does not serve as habitat for fish or wildlife and contains no known environmental hazards. The project will comply with all applicable Code requirements.
4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided. No easements acquired by the public at large exist within the proposed subdivision and all necessary dedications for public right-of-way will be provided as a prerequisite to final tract map approval.

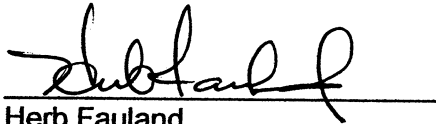
**SUGGESTED CONDITIONS OF APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 2007-006:**

1. The Tentative Parcel Map No. 2006-188 to permit an 11,880 sq. ft. one-lot subdivision for condominium purposes received and dated January 17, 2007, shall be the approved layout.
2. Prior to recordation of the Final Map the applicable Affordable Housing Fees shall be paid. If it is deemed necessary, the property owner shall submit an Affordable Housing Agreement to the Planning Department for the required fee. The agreement shall be reviewed and approved by the City Attorney as to form and content and, when approved, shall be recorded in the Office of the Orange County Recorder.

**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.

**THE MEETING WAS ADJOURNED AT 2:25 P.M. TO THE NEXT REGULARLY SCHEDULED MEETING ON WEDNESDAY, JANUARY 9, 2008 AT 1:30 PM.**

A handwritten signature in black ink, appearing to read "Herb Fauland", is written over a horizontal line.

Herb Fauland  
Acting Zoning Administrator

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