

AGENDA HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JULY 11, 2006
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: *Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer*

AGENDA APPROVAL

A. PROJECT REVIEW (FUTURE AGENDA ITEMS):

A-1. **GENERAL PLAN AMENDMENT NO. 04-04/ZONING MAP AMENDMENT NO. 04-01/CONDITIONAL USE PERMIT NO 04-32/TENTATIVE TRACT MAP NO. 16733 (NEWLAND STREET RESIDENTIAL – 21471 NEWLAND) –**
Jane James

A-2. **FLOOD MANAGEMENT PLAN: ANNUAL REVIEW –** Ricky Ramos

B. STUDY SESSION ITEMS - NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland

D. PLANNING COMMISSION COMMITTEE REPORTS

E. PUBLIC COMMENTS – Regarding Study Session portion of Meeting

Anyone wishing to speak on Project Review or Study Session items during PUBLIC COMMENTS may do so by filling out a Request To Speak form and giving it to the Secretary. (4 MINUTES PER PERSON, NO DONATING OF TIME TO OTHERS)

F. PLANNING COMMISSION COMMENTS

6:30 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: *Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer*

AGENDA APPROVAL

A. ORAL COMMUNICATIONS

Anyone wishing to speak during ORAL COMMUNICATIONS must fill out and submit a form to speak. The Planning Commission can take no action on this date, unless the item is agendaized. Any one wishing to speak on items not on tonight's agenda, a closed public hearing item, or on non-public hearing items may do so during ORAL COMMUNICATIONS. Please note comments on closed public hearing items will not be part of the permanent entitlement record. Speakers on items scheduled for PUBLIC HEARING will be invited to speak during the public hearing. (4 MINUTES PER PERSON, NO DONATING OF TIME TO OTHERS)

B. PUBLIC HEARING ITEMS:

Anyone wishing to speak during an open PUBLIC HEARING must fill out and submit a form to speak. The public may address the Planning Commission only during the open PUBLIC HEARING items or during ORAL COMMUNICATIONS. Please review the agenda to determine whether the PUBLIC HEARING item is open or closed. If the PUBLIC HEARING on an item is closed, you will not be permitted to speak during that portion of the agenda and may wish to address your concerns during the ORAL COMMUNICATIONS portion of the agenda. Speakers on items scheduled for PUBLIC HEARING will be invited to speak during the public hearing. (4 MINUTES PER PERSON, WITH A MAXIMUM TIME DONATION OF 8 MINUTES, FOR A TOTAL OF 12 MINUTES PER SPEAKER)

PROCEDURE: Commission Disclosure Statement(s), Staff Report Presentation, Commission Questions, Public Hearing, Discussion/Action.

B-1. MITIGATED NEGATIVE DECLARATION NO. 04-10/ CONDITIONAL USE PERMIT NO. 04-56 (HOME DEPOT): **Applicant: Scott Mommer Consulting **Request:** **MND:****

To analyze the potential environmental impacts associated with the implementation of the proposed project. **CUP:** To permit construction of a 130,536 square-foot home improvement store, including a 25,000 sq. ft. garden center, on-site landscaping, paving, 585 parking spaces and associated infrastructure and site improvements. The approximate maximum height of the proposed building is 44 feet, 6-inches. The proposal includes an enclosed loading dock and a customer pick-up canopy. Access to the site is proposed via three driveways along Magnolia Street and two driveways along Garfield Avenue, at locations generally consistent with the location of existing driveways. The existing K-Mart/Savers building will be demolished. **Location:** 19101 Magnolia St. (southwest of the Magnolia Street/ Garfield Avenue intersection). **Project Planner:** **Ron Santos**

STAFF RECOMMENDATION: Motion to: "Approve Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56 with suggested findings, mitigation measures and conditions of approval."

B-2. CONDITIONAL USE PERMIT NO. 06-14 (TATTOO SHOP): **Applicant: Thomas Clark **Request:** To permit the establishment of a small tattoo shop (130 square feet) as an ancillary use to an existing 935 square retail clothing store. **Location:** 6488 Edinger Ave. (southwest corner of Edwards St. and Edinger Ave.). **Project Planner:** **Paul Da Veiga****

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 06-14 with suggested findings and conditions of approval."

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED NOVEMBER 8, 2005

RECOMMENDED ACTION: Motion to: "Approve the November 8, 2005, Planning Commission Minutes as submitted."

C-2. PLANNING COMMISSION MINUTES DATED DECEMBER 13, 2005

RECOMMENDED ACTION: Motion to: "Approve the December 13, 2005, Planning Commission Minutes as submitted."

C-3. PLANNING COMMISSION MINUTES DATED MAY 23, 2006

RECOMMENDED ACTION: Motion to: "Approve the May 23, 2006, Planning Commission Minutes as submitted."

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

- E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING
- E-2. CITY COUNCIL ITEMS FOR NEXT MEETING
- E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Burnett -

Commissioner Livengood -

Vice-Chairperson Scandura -

Chairperson Dingwall -

Commissioner Ray -

Commissioner Horgan –

Commissioner Dwyer -

ADJOURNMENT:

Adjourn to the next regularly scheduled meeting of July 25, 2006.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission is final unless an appeal is filed to the City Clerk by you or by an interested party. Said appeal must be in writing and must set forth in detail the action and grounds by which the applicant or interested party deems himself aggrieved. Said appeal must be accompanied by a filing fee of One Thousand Five Hundred Forty-One Dollars (\$1,541.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property or Two Thousand Three Hundred Seventy-Nine Dollars (\$2,379.00) if the appeal is filed by any other party. The appeal shall be submitted to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action.

Copies of staff reports and/or written materials on each agenda item are on file in the Planning Department, for inspection by the public. A copy of the agenda packet is also available at the Central Library (7111 Talbert Avenue).

VIDEO TAPES OF MEETINGS AVAILABLE FOR PUBLIC CHECK OUT AT THE CENTRAL LIBRARY, AND FOR DUPLICATION SERVICES IN THE CITY CLERK'S OFFICE.

HUNTINGTON BEACH PLANNING COMMISSION

Public Hearing Procedures

This statement has been prepared to provide a better understanding of the procedures for public hearings before the Planning Commission.

Regular meetings of the Planning Commission are held on the second and fourth Tuesdays of each month beginning at 5:15 p.m. in Room B-8 for a study session and then at 7:00 PM in the Council Chambers. Adjourned meetings, special meetings, and Study Sessions may be scheduled at other times.

Planning Commission proceedings are governed by the Planning Commission By-Laws, Robert's Rules of Order and the Brown Act. The following is the typical sequence of events on public hearing items:

- A. The Chairperson shall announce the item and if the public hearing is open or closed.
- B. The Planning Commission shall disclose any discussions, conversations, etc., with applicants, applicant's representatives or property owners.
- C. The staff report is presented.
- D. Questions by the Planning Commission concerning the staff report may be answered at this time.
- E. The public hearing is opened by the Chairperson.
- F. The applicant or appellant is given an opportunity to address the Commission. Time is not limited but left to the Chairperson's discretion.
- G. Public Comments: Staff will call all speakers by name. Please proceed to the podium. Individuals favoring and opposing the proposal are given an opportunity to address the Commission (up to four (4) minutes), or may choose to donate their time to another speaker if the "Request to Speak" form is filled out and given to the Secretary. A speaker who addresses the Commission on behalf of individuals who donate time are allowed a maximum of 12 minutes. Individuals who donate time must be present when the item is being discussed. Please state your name before addressing the Commission.
- H. The Commission may ask questions of speakers addressing the Commission.
- I. The public hearing is closed.
- J. The Commission will deliberate the matter at this time.
- K. The Commission then acts on the matter by continuing, approving, conditionally approving, or denying the petition.

The Planning Commission receives a staff report packet on the Tuesday preceding the meeting, allowing time to review each case and make further investigations in the field prior to the scheduled meeting.

Staff reports are available in the Planning Department, the Central Library and on the City's website (www.surfcity-hb.org) anytime on Wednesday preceding the Tuesday Planning Commission meeting.



City of Huntington Beach Planning Department
STUDY SESSION REPORT

TO: Planning Commission
FROM: Howard Zelefsky, Director of Planning
BY: Jane James, Senior Planner *JJ*
DATE: July 11, 2006
SUBJECT: **GENERAL PLAN AMENDMENT NO. 04-04/ZONING MAP AMENDMENT NO. 04-01/TENTATIVE TRACT MAP NO. 16733/CONDITIONAL USE PERMIT NO. 04-32 (NEWLAND STREET RESIDENTIAL – 21471 NEWLAND STREET)**

PROJECT REQUEST AND SPECIAL CONSIDERATIONS

General Plan Amendment No. 04-04 represents a request for the following:

- To amend the General Plan Land Use designation on 23.1 acres from the current I-F2-d (Industrial – 0.5 Floor Area Ratio – Design Overlay) to the proposed RM (Medium Density Residential) designation.

Zoning Map Amendment No. 04-01 represents a request for the following:

- To amend the Zoning designation from IL-O-FP2 (Limited Industrial – Oil District Overlay – Flood Plain) to RM-FP2 (Medium Density Residential – Flood Plain).

Tentative Tract Map No. 16733 represents a request for the following:

- To subdivide the property into 21 numbered lots for multi-family residential development and nine lettered lots for private streets, sidewalks, open space, and parkway landscaping.

Conditional Use Permit No. 04-32 represents a request to develop and construct a 204 unit residential development that:

- Abuts an arterial street,
- Includes a dwelling unit more than 150 feet from a public street,
- Includes buildings exceeding 25 feet in height,
- Includes retaining walls up to four feet, six inches in height in lieu of a maximum height of two feet on pads raised approximately three to five feet above existing grade to comply with FEMA floodplain requirements,
- Includes an eight foot high wall within 11 to 13 feet of the front property line in-lieu of the minimum 15 foot setback required

CURRENT LAND USE, HISTORY OF SITE, GENERAL PLAN DESIGNATION

| LOCATION | GENERAL PLAN | ZONING | LAND USE |
|--|--|--|---|
| Subject Property: | I-F2-d (Industrial – 0.5 FAR – Design Overlay) | IL-O-FP2 (Limited Industrial – Oil Overlay – Flood Plain) | Former oil tank farm, now vacant. RV and boat storage on approx. 4.5 acres. |
| North of Subject Property (adjacent and across Lomond Drive) | RL-7 (Low Density Residential) and RMH-25 (Medium High Density Residential – 25 units/acre max.) | RL (Low Density Residential) and RMH (Medium High Density Residential) | Single family and multiple family residential units |
| East of Subject Property: (across Newland St.) | RL-7 (Residential Low Density) | RL (Residential Low Density) | Single-family residential |
| South and West of Subject Property: | OS – C (Open Space Conservation) | CC - CZ (Coastal Conservation - Coastal Zone) | Open Space - Wetlands |

The majority of the project site is currently vacant, graded soil due to the historic industrial use on site. The project site was previously graded as part of a soil remediation program, which was officially completed in June 2004. The northeast corner of the site (approximately 4.5 acres) is currently used as a recreational vehicle and boat storage facility.

APPLICATION PROCESS AND TIMELINES

DATE OF COMPLETE APPLICATION:

Draft EIR: December 6, 2005

Tentative Tract Map: March 15, 2006

Conditional Use Permit: March 15, 2006

MANDATORY PROCESSING DATE(S):

Within 1 year of complete application or by March 15, 2007

Within 50 days from EIR Certification

Within 180 days from EIR Certification

Conditional Use Permit No. 04-32 was filed on September 24, 2004 and deemed complete March 15, 2006. Pursuant to the California Environmental Quality Act, the lead agency must adopt the project Environmental Impact Report (EIR) within 180 days of accepting the application as complete (i.e., by March 15, 2007). A second Planning Commission study session is scheduled for July 25, 2006 and a formal hearing is tentatively scheduled for August 8, 2006. The next regularly scheduled meeting of the Planning Commission is August 22, 2006.

Tentative Tract Map No. 16733 is scheduled for review by the Subdivision Committee on July 13, 2006.

CEQA ANALYSIS/REVIEW

EIR No. 05-01 analyzes the potential environmental impacts associated with implementation of the proposed project and identifies appropriate mitigation measures. The Draft EIR was distributed to the Planning Commission for review at the start of the 45-day public comment period on March 3, 2006. The Final Draft EIR, including the Response to Comments and all text changes as a result of the public comment period, was distributed to the Planning Commission for review on May 31, 2006. EIR No. 05-01 will be introduced to the Planning Commission at the July 25, 2006 Study Session.

COMMENTS FROM CITY DEPARTMENTS AND OTHER PUBLIC AGENCIES

Comments from other City Departments have been transmitted to the applicant separately, and in addition, will be compiled into a draft code requirements letter to be transmitted to the applicant. The analysis and conclusions included in Draft EIR No. 05-01 reflect and are based in part on consultation with the Departments of Building and Safety, Community Services, Fire, Police and Public Works. There are no other responsible public agencies. The final list of recommended conditions of approval is currently being compiled.

PUBLIC MEETINGS, COMMENTS AND CONCERNS

The applicant held a community meeting on June 8, 2005 at the Central Library, which was attended by approximately 70 people, most of which expressed a general interest in the project details. Several other public meetings associated with Draft EIR No. 05-01 were also held and will be described in detail at the July 25, 2006 Planning Commission Study Session.

PLANNING ISSUES

Staff has analyzed the project with regards to amendments to and compliance with proposed General Plan and Zoning designations, construction within the flood plain, zoning development standards, dedication of public park, and affordable housing. Compliance with recommended mitigation measures identified in EIR No. 05-01 will be described in the July 25, 2006 Study Session report.

ATTACHMENTS:

1. Vicinity Map
2. Project Plans – Received and Dated October 25, 2005

Attachments

1. Vicinity Map
2. Project Plans – Received and Dated October 25, 2005



City of Huntington Beach Planning Department
STUDY SESSION REPORT

TO: Planning Commission
FROM: Howard Zelefsky, Director of Planning
BY: Ricky Ramos, Associate Planner *RR*
DATE: July 11, 2006
SUBJECT: 2005-2006 FLOOD MANAGEMENT PLAN ANNUAL REVIEW

PROJECT REQUEST AND SPECIAL CONSIDERATIONS

The Flood Management Plan Annual Review represents a request to review the progress made over the past 12 months in implementing the recommended activities in the Flood Management Plan (FMP).

The FMP was approved by the City Council in September 2000 following a recommendation of approval by the Planning Commission. The purpose of the FMP is to identify potential flood hazards and activities to mitigate flood damage. Section 8 (Recommendation) of the FMP contains activities to reduce or mitigate flood damage. A matrix outlining the various activities, responsible departments, and status of each activity is included as Attachment No. 1.

CURRENT LAND USE, HISTORY OF SITE, GENERAL PLAN DESIGNATION

Not applicable.

APPLICATION PROCESS AND TIMELINES

| | |
|--------------------------------------|--------------------------------------|
| <u>DATE OF COMPLETE APPLICATION:</u> | <u>MANDATORY PROCESSING DATE(S):</u> |
| Not applicable | October 1, 2006 |

The request is tentatively scheduled for consideration by the Planning Commission on July 25, 2006 and by the City Council on September 5, 2006. Following city review the report must be submitted to FEMA (Federal Emergency Management Agency) by October 1 of each year as part of the annual re-certification. Failure to adhere to this deadline will jeopardize the city's participation in the flood insurance program.

This is the sixth annual review of the FMP. The Planning Commission, City Council, and FEMA have accepted each past annual review as adequate and complete. The annual review and associated activities maintain the city's good standing with FEMA.

CEQA ANALYSIS/REVIEW

The annual review is categorically exempt pursuant to Section 15306, Class 6 of the California Environmental Quality Act, which states that information collection which does not result in major disturbance to an environmental resource is exempt from any environmental review.

COMMENTS FROM CITY DEPARTMENTS AND OTHER PUBLIC AGENCIES

Updates received from all responsible departments have been noted in Attachment No. 1.

PUBLIC MEETINGS, COMMENTS AND CONCERNS

A floodplain brochure containing flood protection information is sent out annually to over 15,000 owners and occupants of property located in a flood zone. In addition, flood protection information is also published annually in the Sands. No other public meetings, comments or concerns are noted.

PLANNING ISSUES

The Flood Management Plan Annual Review provides an update on the progress made over the past 12 months in implementing the recommended activities in the FMP. Attachment No. 1 to this report is a matrix which outlines the various activities identified in the FMP, responsible departments, and current status of each activity. The Planning Commission's role is to review the request for adequacy and completeness and to forward a recommendation to the City Council. Staff believes that the annual review demonstrates that the City continues to actively pursue implementation of the FMP.

ATTACHMENTS: 2005-2006 Annual Review Matrix

Updates since the last annual review are shown as follows:
 Staff updates - bold and underlined
 (July 11, 2006)

ATTACHMENT NO. 1

July 1, 2005 – June 30, 2006 ANNUAL REVIEW

Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
|----------------|--|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|---------|---|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| EH4 - Flooding | 8.1.1 - Continue to enforce and update floodplain regulations when revised by the Federal government | X | | | | | | | | | Ongoing | Floodplain ordinance continues to be enforced including submittal of flood certificates for all new or substantially improved structures within the floodplain. No new or revised regulations. |
| | 8.1.2 - Protect public facilities from flooding | | X | | | | | | | | Ongoing | The Public Works Department has an ongoing commitment to protect public facilities with all their resources. |
| | 8.1.3 - Assist managers and owners of critical facilities as listed in Section 5.4.3 to develop flood protection plans | | | X | | | | | | | Ongoing | No assistance requested to date from critical facilities. In 2003-04 the City worked with the school districts and Fountain Valley in preparing a Hazard Mitigation Plan which includes a flood component. |
| | 8.1.4 - Encourage floodproofing and retrofitting property/structures to prevent substantial flood damage and provide technical information | X | | X | X | | | | | | Ongoing | Planning and Building staff continue to provide floodproofing and technical information to the public. |
| | 8.1.5 - Continue to update, distribute, and provide flood protection information and materials | X | | X | | X | | | | | Ongoing | Up-to-date flood protection materials received from FEMA and the State Office of Emergency Services are available at city hall and on the Internet. Emergency Operations Center (EOC) staff continues flood preparedness education throughout the year to neighborhoods, schools, and businesses and through the City's CERT program. |

July 1, 2005 – June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | | |
|------|--|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|--------|--|---|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services | |
| | | | | | | | | | | | | Floodplain brochure mailed to over 15,000 property owners fall of 2005. Flood protection information is also published annually in the Sands. Library maintains adequate inventory of flood related reference materials. | |
| | 8.1.6 - Maintain adequate flood insurance on public structures | | | | | | | X | | | | Ongoing | City maintains \$45,000,000 earthquake/flood insurance coverage. |
| | 8.1.7 - Provide floodplain information to property and business owners, realtors, and prospective buyers and encourage flood insurance | X | | | | | | | | | | Ongoing | Letter sent to lenders, realtors and insurance agents advising that flood zone information is available from Planning Dept. Planning Dept. responds annually to 5,000+ flood zone inquiries. |
| | 8.1.8 – Maintain close liaison with nearby cities and with County, State, and Federal agencies | X | X | | | | | | X | | | Ongoing | The City has an ongoing relationship with the cities of Westminster and Fountain Valley street/engineering divisions as well as County, State and Federal agencies. Administration and Public Works staff work through League of Cities City Managers and the Orange County Council of Governments in pursuing common goals in the area of flood control. |
| | 8.1.9 – Continue to participate in the National Flood Insurance Program and Community Rating System | X | | | | | | | X | | | Ongoing | Annual CRS verification due October 1, 2006; presently City is rated Class 7 which allows flood insurance to HB property owners and residents with a reduction up to 15% on the premium. City continues to implement all FEMA design regulations on new development and substantial improvements. |

July 1, 2005 – June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
|------|--|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|---------|---|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| | 8.1.10 – Continue to implement the City's emergency operation procedures as outlined in the City's Emergency Management Plan. In particular, the Flood Warning and Evacuation procedures | | | X | | | | | | | Ongoing | The EOC and Police Watch Commander constantly monitor the weather and any flood or storm threat. They are prepared to issue warnings whenever needed. The City has updated and the City Council has approved the new Emergency Operations Plan which describes alerting and warning and evacuation procedures. <u>In 2005 the City received the StormReady designation from the National Weather Service.</u> |
| | 8.1.11 - Continue to utilize citizen volunteers, e.g., CERT and RACES | | | X | | | | | | | Ongoing | The CERT program has 560 graduates and RACES has 75 trained and equipped communications volunteers ready to respond. <u>This includes a CERT Sandbag Team complete with dispatchers, sandbaggers and a hotline phone number.</u> |
| | 8.1.12 - Continue to provide a sandbag program | | X | | | | | | | | Ongoing | Sandbag filling machine is on a scheduled service program. Sand is stockpiled in the Corporation Yard year round and available to public during possible flooding events. <u>The Fire Department's CERT volunteers have a trained Sandbag Team ready to sandbag for elderly and disabled residents when called upon.</u> |
| | 8.1.13 – Encourage the State to modify the roadway profile of Pacific Coast Highway between Warner Avenue and Goldenwest Street to prevent street closure due to flooding | X | X | | | | | X | | | Ongoing | Elevating of PCH where it crosses the inlet as part of the Bolsa Chica restoration reduces the chances for PCH to flood near inlet. The other unmodified portions of PCH will |

July 1, 2005 – June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
|---------------------|--|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|--|---|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| U3 - Storm Drainage | 8.2.1 - Upgrade the City's flood control system (storm drains, catch basins, pump stations, and channels) to current FEMA standards (100-year flood) and concentrate on the repetitive flood areas first | | X | | | | | | | | October 2020 | <p>continue to be subject to flooding.</p> <p><u>Construction under way on phase one of the Michael Drive/Slater Avenue storm drain project.</u></p> <p><u>Construction under way on the Meredith storm drain upgrade project. Design to begin on storm drain projects in the consolidated redevelopment area in FY 06/07.</u></p> <p>The City continues to place funding for storm water infrastructure on its federal funding agenda. The City also continues to evaluate needed flood control improvements citywide.</p> |
| | 8.2.2 - Quarterly the City Council shall lobby the County to correct, upgrade, and maintain the County's flood control system to current FEMA standards (100-year flood) | | | | | | | | | X | By January 2001 and quarterly thereafter | <p>City Council adopted resolution supporting East Garden Grove-Wintersburg and Ocean View channel improvements. City Council works on this goal through direct contact with our County Supervisor. Improvements to the Huntington Beach and Talbert channels in southeast HB have been completed with the exception of the <u>Huntington Beach channel section from Indianapolis to Adams which is anticipated to be completed winter 2006. Upon completion of that last segment the County will finalize its application for a map amendment. FEMA determination anticipated to take at least one to two years.</u></p> |

July 1, 2005 – June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
|------|---|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|--------------|--|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| | 8.2.3 - Evaluate existing street conditions for replacement and/or installation of facilities to allow proper conveyance of storm flows to the city's flood control systems | X | | | | | | | | | January 2010 | Construction of Underhill Street improvements and storm drain completed in FY 05/06. Other streets will be considered as part of 8.2.5. |
| | 8.2.4 - Maintain the City's flood control system and continue biannual inspection and cleaning of City's flood control system | X | | | | | | | | | Ongoing | Public Works implements a regularly scheduled maintenance program for the City's drainage system. At a minimum, all City-owned flood control channels are inspected twice a year and cleaned if needed. At a minimum, all catch basins are inspected yearly and cleaned if needed. |
| | 8.2.5 - Update the City's Master Plan of Drainage to evaluate the effectiveness of the City's flood control system | X | | | | | | | | | 2005 | Master Plan of Drainage (MPD) Update was completed in FY 04/05. |
| | 8.2.6 - Lobby the federal, state and county governments to study, pursue and expand the wetlands from Beach Blvd. to Brookhurst St. for floodwater mitigation | X | X | | | | | | X | | Ongoing | In addition to direct City contact with our county, state, and federal legislators, the City utilizes lobbyists at the state and federal levels to help in securing funding for this purpose. The City also actively supports the successful efforts of the HB Wetlands Conservancy in soliciting state money to acquire and restore wetlands between Newland St. and the Santa Ana River. In addition to an 8 acre Caltrans property along PCH that has been previously acquired, the HB Wetlands Conservancy anticipates acquiring a 17-acre UC Riverside property near Brookhurst and PCH in about one year and a 46-acre Caltrans property near |

July 1, 2005 – June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
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| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| | 8.2.7 - Evaluate and upgrade open areas, e.g., Meadowlark Golf Course, Central Park, Good Shepherd Cemetery to eliminate offsite drainage and subsequent impact to private property. | | X | | | | | | | | Ongoing | Beach and PCH in about two years. Good Shepherd Cemetery has been conditioned to construct on-site detention and drainage facilities to replace the removal of the existing drainage swales. To date Good Shepherd has not submitted any plans for review. |
| | 8.2.8 - Continue to support reconstruction of deteriorating seawalls | X | | | | | | | | | Ongoing | Planning staff continues to prepare CEQA documentation for seawall repair as requested by applicants. |
| | 8.2.9 - Pursue funding from County, State and Federal agencies | | X | | | | | X | | | Ongoing | The City continues to seek Federal funding to improve flood control infrastructure. In 2003-04 the City in conjunction with Fountain Valley and the school districts prepared a Hazard Mitigation Plan to allow these jurisdictions to be eligible for pre-disaster mitigation grants. |
| | 8.2.10 - Develop and support new funding sources to help accomplish drainage goals | | X | | | | | X | | | Ongoing | In addition to the efforts of lobbyists, the city supports legislation that will achieve this goal. |
| | 8.2.11 - Continue to participate in County watershed studies and programs | | X | | | | | | | | Ongoing | See 8.1.8 |
| EH5 - Tsunami | 8.3.1 - Update the Tsunami Emergency Operation plan, Operations Plan 2, as needed | | | X | | | | | | | Ongoing | The City updated its Emergency Operations Plan and Council approved it March 20, 2004. It includes tsunami response procedures. The City will complete a Tsunami Incident Action |

July 1, 2005 – June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
|-----------------------------|---|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|--------|--|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| | | | | | | | | | | | | <u>Plan in July 2006. In addition, the City will apply for the Tsunami Ready designation from the National Weather Service.</u> |
| | 8.3.2 - Continue to provide tsunami warning to the community | | | X | | | | | | Ongoing | | The Police Watch Commander (alerting point for the city) and the EOC are prepared to issue tsunami warnings. <u>This capability has been expanded to include weather radios in the Watch Commander, Battalion Chief, Marine Safety and EOC Offices and to enhance our electronic email warning systems.</u> |
| | 8.3.3 - Educate the public regarding the potential threat of a tsunami | | | X | | | | | | Ongoing | | At outreach seminars the EOC provides the public with information on a tsunami threat and what residents should do if a tsunami warning is issued. In addition a Hazard Analysis was completed for schools identifying which should prepare for tsunamis. A Hazard Mitigation Plan was developed and one of the six hazards included is tsunami. The City Council, State OES, and FEMA have approved the plan. <u>Once the Tsunami Incident Action Plan is approved a citywide Tsunami Education Campaign will be conducted.</u> |
| ERC2 - Biological Resources | 8.4.1 - Implement best management practice plans and National Pollution Discharge Elimination Plans | X | X | | | | | | | Ongoing | | As applicable, zoning entitlements include a condition of approval requiring NPDES plans to be submitted to and approved by Public Works prior to issuance of building permits and/or grading permits. Staff is continuously |

July 1, 2005 – June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
|---------------|---|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|---------|--|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| | | | | | | | | | | | | developing and implementing Best Management Practices where appropriate for both new and existing development as well as city owned properties. |
| | 8.4.2 - Investigate and install in-line wetlands in drainage courses wherever feasible | | X | | | | | | | | Ongoing | Several potential areas have been identified in the City. Staff is working with County, Army Corps, OCWD and environmental non-profit organizations to evaluate feasibility and funding. Partial funding has been obtained from the State for Talbert Lake diversion project. <u>Consultant anticipated to be hired in a couple of months to start design.</u> |
| | 8.4.3 - Prohibit filling of wetlands except as allowed by the General Plan | X | | | | | | | | | Ongoing | Filling of the Waterfront residential wetland parcel at Beach and Pacific Coast Highway was prohibited as part of the development project. The wetland parcel is owned by the Redevelopment Agency and has a conservation easement in place. |
| | 8.4.4 - Encourage the State to maintain the coastal dunes adjacent to the Bolsa Chica wetlands and in the Huntington Beach wetlands to better protect the areas from storm surges | | | | | | | | | X | Ongoing | Letter sent to Congressman Rohrabacher encouraging continued beach replenishment funding by the federal government. |
| | 8.4.5 - Continue the Coastal Conservation District zoning on the wetlands | X | | | | | | | | | Ongoing | There was no change to Coastal Conservation District zoning on wetlands. |
| EH2 - Erosion | 8.5.1 - Establish building setbacks from all slopes including mesa and bluff edges | X | | | | | | | | | 2010 | Zoning Text Amendment to be pursued. |

July 1, 2005 -- June 30, 2006 ANNUAL REVIEW
Flood Management Plan Recommended Activities

| Goal | Activity | Responsible Department | | | | | | | | Schedule | Status | |
|-----------------------------|---|------------------------|--------------|------|----------|---------|-------------------------|----------------|--------------|----------|---------|--|
| | | Planning | Public Works | Fire | Building | Library | Administrative Services | Administration | City Council | | | Community Services |
| | 8.5.2 – Participate in the bluff (between Goldenwest and Seapoint Streets) erosion study and implement recommendations | | X | | | | | | | | Ongoing | Army Corps of Engineers completed feasibility study in December 2004 and concluded that they would not pursue the project. |
| LU14 - Open Space | 8.6.1 - Limit construction in existing open space areas only to necessary structures such as restrooms, picnic shelters | X | | | | | | | | X | Ongoing | Only beach activity support structures were constructed on south beach area between Huntington and First St. |
| | 8.6.2 – Evaluate the possibility of the City purchasing surplus school sites to allow playfields to remain as open areas and provide for floodwater retention areas | | | | | | | | | X | Ongoing | Quarterly meetings are held between the school districts and City to discuss use of school properties. <u>In 2005 the City purchased 6 acres at Wardlow School from the Fountain Valley School District.</u> |
| HCR1 - Historical Resources | 8.7.1 - Encourage property owners to floodproof historical structures | X | | | | | | | | | Ongoing | Letters sent June 2004. <u>Addition to St. Bonaventure received Letter of Map Revision Based on Fill removing the structure from the flood zone.</u> |
| | 8.7.2 - Encourage property owners of historical structures to maintain adequate flood insurance | X | | | | | | | | | Ongoing | Letters sent June 2004. |



City of Huntington Beach Planning Department
STAFF REPORT

TO: Planning Commission
FROM: Howard Zelefsky, Director of Planning
BY: Ron Santos, Associate Planner *RS*
DATE: July 11, 2006

SUBJECT: MITIGATED NEGATIVE DECLARATION NO. 04-10/ CONDITIONAL USE PERMIT NO. 04-56 (HOME DEPOT)

APPLICANT: Scott A. Mommer Consulting, 4630 W. Jacquelyn Ave., Suite 119, Fresno, CA 93722

PROPERTY

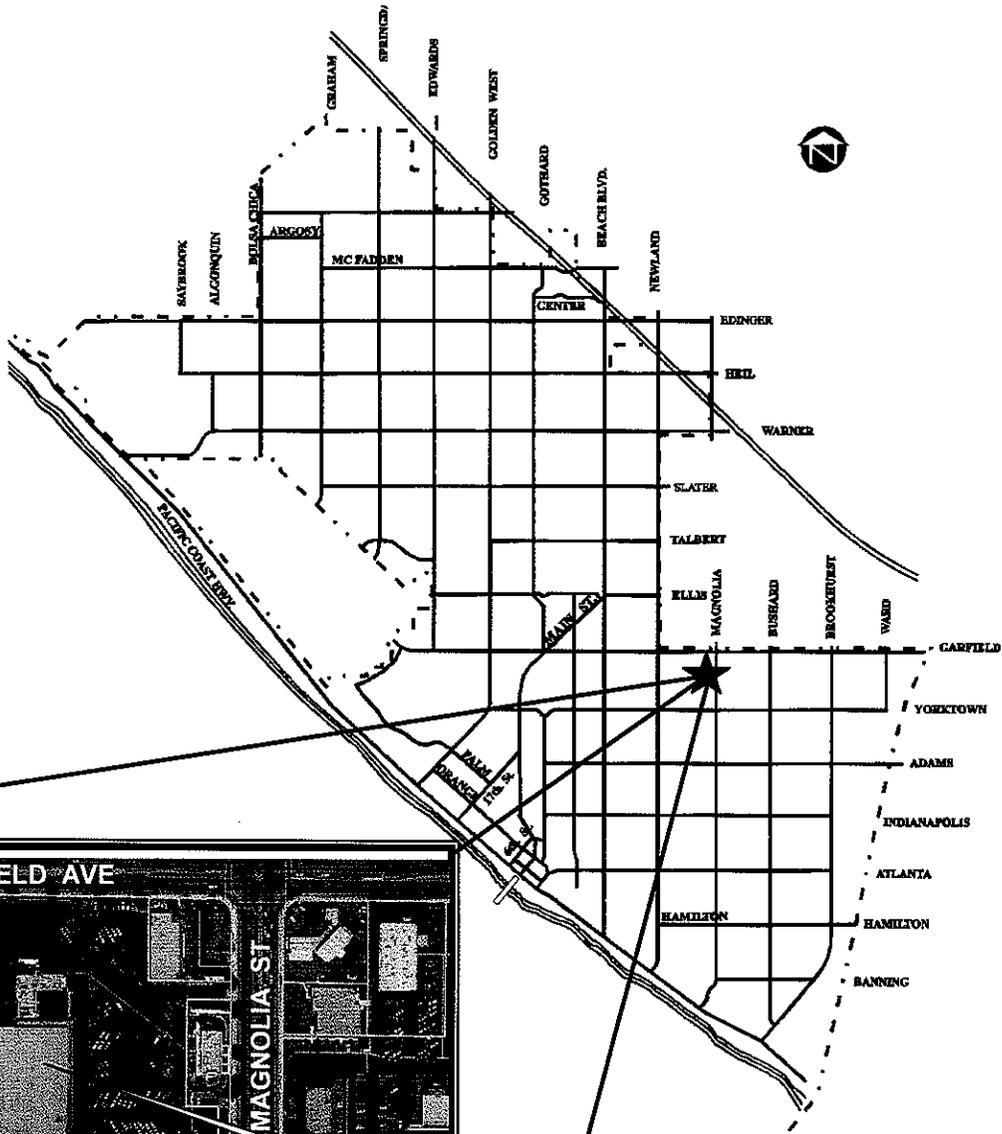
OWNER: Anthony Ka Wah Chin & Hin Tai Chen, 3256 White Cloud Drive, Hacienda Heights, CA 91745

LOCATION: 19101 Magnolia Street (southwest of the Magnolia Street/Garfield Avenue intersection)

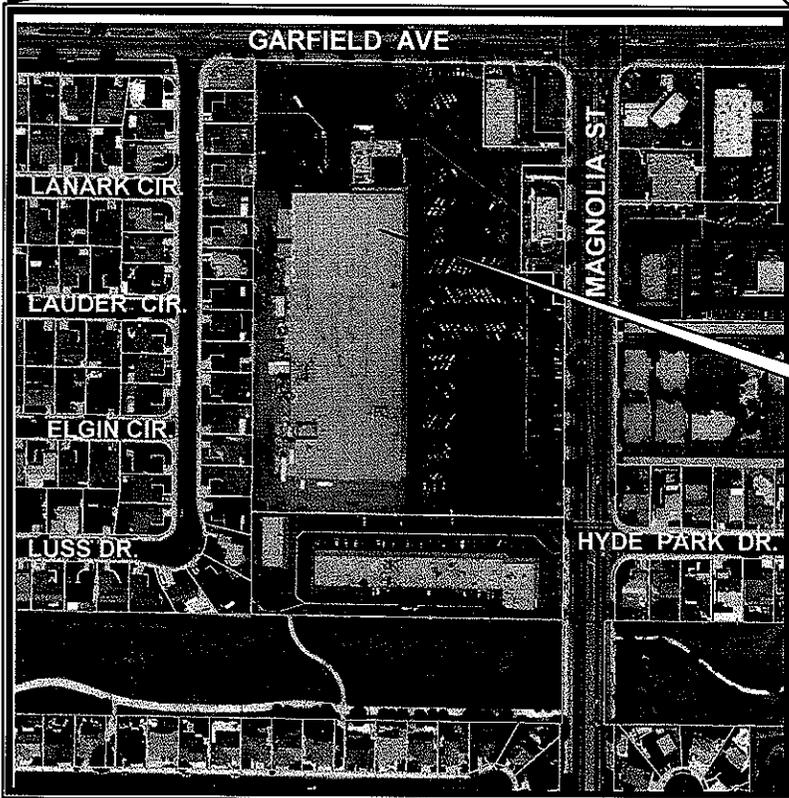
STATEMENT OF ISSUE:

- ◆ Mitigated Negative Declaration No. 04-10 analyzes the potential environmental impacts associated with implementation of the proposed project.
- ◆ Conditional Use Permit No. 04-56 request:
 - Construct a 130,536 sq. ft. commercial building (Home Depot), including an attached 25,000 sq. ft. garden center, 585 parking stalls, paving, landscaping and other associated site improvements.
- ◆ Staff's Recommendation: Approve Mitigated Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56 with modifications based upon the following:
 - Project (with mitigation) will have no significant adverse environmental impacts
 - Provides for modernization and expansion of an existing commercial property
 - Conditions of approval provide for compatibility with adjacent residential neighborhood
 - Complies with City of Huntington Beach Urban Design Guidelines and HBZSO
 - Provides for establishment of a land use encouraged by the General Plan ("big box" retail/ high sales tax producing business)
 - Includes public art

B-1



SUBJECT SITE



VICINITY MAP
Mitigated Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56
19101 Magnolia Avenue
THE CITY OF HUNTINGTON BEACH

◆ Staff's Suggested Modifications:

Conditional Use Permit No. 04-56

- Eliminate parking spaces proposed along the westerly property line (behind building)
- Increase width of landscape planter along westerly property line (behind building) to minimum of 28 feet
- Restrict and gate drive aisle behind (west of) building to emergency access only
- Relocate loading dock, will-call and building materials storage area to maintain 100 ft. minimum distance to residential property line
- Increase width of landscape planter along portions of Garfield Avenue street frontage to 10 ft. minimum
- Construct reciprocal access driveway between project site and property to the northeast
- Install a second public art element

RECOMMENDATION:

Motion to:

- A. "Approve Negative Declaration No. 04-10 with suggested findings and mitigation measures (Attachment No. 1);" and
- B. "Approve Conditional Use Permit No. 04-56 with suggested findings and conditions of approval (Attachment Nos. 1 and 2)."

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. "Approve Mitigated Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56 with findings and conditions of approval" (**Applicant's Request – plans dated September 9, 2005 – Attachment No. 3.**)
- B. "Continue Mitigated Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56 and direct staff accordingly."

PROJECT PROPOSAL:

Conditional Use Permit No. 04-56 represents a request for the following:

To construct a 130,536 sq. ft. commercial building (Home Depot), including an attached 25,000 sq. ft. garden center, 585 parking stalls, paving, landscaping and other associated site improvements, pursuant to Section 211.04: CO, CG, and CV Districts: *Land Use Controls, Commercial Uses, Building Materials and Services, Retail Sales*; and Section 211.04 (Q), *Additional Provisions - Development of Vacant Land/ Additions to Existing Buildings*, of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). Although Section 211.04 provides for review of the proposed project by the Zoning Administrator, HBZSO Section 202.10(C) authorizes the Director of Planning to refer projects to the Planning Commission. In this case, the project was referred to the Planning Commission on March 15, 2006.

The proposed development will replace the vacant 125,487 sq.-ft. K-Mart/Savers building and garden center constructed in 1970. The existing Taco Bell restaurant, built in 2000, will remain. The adjacent, former Blockbuster building, now occupied by Pacific Premier Bank, and the commercial center to the south, are on separate parcels and not part of this request. However, reciprocal driveway access between the project site and the adjacent properties is required pursuant to the HBZSO.

The proposed building features roof heights which vary between 24-feet and 44.5 feet. A fully enclosed loading dock, which also contains the building's trash receptacle/compactor, is proposed at the northwest corner of the building, at a 60 foot setback from the westerly property line. The opening to the proposed loading is oriented to the north (toward Magnolia Street). The applicant's truck tracking exhibit shows trucks accessing the loading dock via the southerly-most driveway along Magnolia Street and the drive aisles along the southerly and westerly sides of the building.

The applicant's project narrative (Attachment No. 5) indicates that the store's hours will vary during the week but will generally range from 5:30 a.m. to 11:00 p.m., and that deliveries will normally be scheduled between the hours of 7:00 a.m. to 10:00 p.m., with the exception of lumber off-loading activities. The applicant is proposing lumber deliveries at the front of the store, in front of the customer loading canopy, outside of the store's normal business hours.

A draft set of suggested conditions of approval to allow the applicant's request is attached for review by the Planning Commission (Attachment No. 3). The format shows a strike-thru of those suggested conditions of approval recommended by staff that alter the proposed site plan. This format is presented in order to indicate which conditions of approval would have to be deleted from the Staff's recommendation in order to allow the applicant's proposal to be approved as submitted.

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

| LOCATION | GENERAL PLAN | ZONING | LAND USE |
|--|--|--|---|
| Subject Property: | CG-F1 (Commercial General – 0.35 FAR) | CG (Commercial General) | vacant retail bldg (former K-Mart), fast-food restaurant; vacant future bank and coffee shop (separate parcel on corner). |
| North of Subject Property (across Garfield Ave., City of Fountain Valley): | commercial, residential | commercial, residential | commercial, single-family residential |
| East of Subject Property: (across Magnolia St.) | CG-F1 (Commercial General – 0.35 FAR); RMH-25 (Residential Medium High Density – 25 units/acre max.); RL-7 (Residential Low Density) | CG (Commercial General); RMH (Residential Medium High Density); RL (Residential Low Density) | commercial center, multi-family residential, single-family residential. |
| South of Subject Property: | CG-F1 (Commercial General – 0.35 FAR); P (Public) | CG (Commercial General); RL (Residential Low Density) | commercial center |
| West of Subject Property: | RL-7 (Residential Low Density) | RL (Residential Low Density) | single-family residential |

General Plan Conformance:

The General Plan Land Use Map designation on the subject property is CG-F1 (Commercial General – 0.35 maximum floor area ratio). The CG-F1 designation provides for retail commercial uses, including building materials and supply stores (*Table LU-2a – Land Use Schedule*) and at maximum building floor area to land area ratio of 0.35. The proposed project, as modified by Staff's/DRB suggested conditions of approval, is consistent with this designation and the following General Plan policies, goals and objectives:

A. Land Use Element

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Goal LU 4: Achieve and maintain high quality architecture, landscape, and public open spaces in the City.

Policy LU 7.1.6: Accommodate the development of additional jobs-generating land uses that improve the 1992 jobs-to-housing ratio of 0.82 to 1.0 or greater; to meet objectives of the Regional Compre-

hensive Plan (Southern California Association of Governments) and Air Quality Management Plan. These should capitalize upon existing industrial strengths emphasizing the clustering of similar or complementary industries.

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residences, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy LU 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

Policy LU 10.1.5: Require that buildings, parking, and vehicular access be sited and designed to prevent adverse impacts on adjacent residential neighborhoods.

Policy LU 10.1.6: Require that commercial projects abutting residential properties adequately protect the residential use from the excessive or incompatible impacts of noise, light, vehicular traffic, visual character and operational hazards.

The proposed project will generate significant tax revenues for the City and thereby improve the City's fiscal viability. The applicant's decision to establish the proposed home improvement store reflects current market demands. In addition, the availability of products and services offered by the store, as well as the replacement of a vacant, obsolete building and other non-conforming/ substandard site improvements with a modern, code compliant development, will improve the quality of life for the residents of Huntington Beach. The proposed project will generate job opportunities for local residents and thereby improve the jobs-housing balance in the City. The project is designed consistent with the City's Urban Design Guidelines and features high quality architecture. Conditions of approval recommended by Staff and the DRB provide for an adequate buffer to the adjacent residential neighborhood to prevent adverse impacts.

B. Economic Development Element

Goal ED 1: Provide economic opportunities for present and future Huntington Beach residents and businesses through employment and local fiscal stability.

Goal ED 2: Aggressively retain and enhance the existing commercial, industrial, and visitor-serving uses while attracting new uses to Huntington Beach

Objective ED 2.4: Revitalize, renovate and expand the existing Huntington Beach commercial facilities while attracting new commercial uses.

Policy ED 2.4.1: Encourage and assist existing and potential commercial owners to modernize and expand their commercial properties.

The proposed project provides for the renovation and expansion of an existing commercial property. The proposed use will generate employment opportunities and assist the City in maintaining fiscal stability by increasing both property and sales tax revenues.

C. Urban Design Element

Policy - UD 1.4.1: Facilitate the use of public art in the design of public and private development.

The applicant is proposing a single public art element which has been reviewed and recommended for approval by the Design Review Board. In addition, the DRB and Staff are recommending that a second public art element be installed, subject to DRB review and approval.

D. Circulation Element

Goal CE 2: Provide a circulation system which supports existing, approved, and planned land uses throughout the City while maintaining a desired level of service on all streets and at all intersections.

Policy CE 2.1.1: Maintain a city-wide level of service (LOS) not to exceed LOS “D” for intersections during the peak hours.

Policy CE 2.1.2: Maintain a city-wide level of service (LOS) not to exceed LOS “C” for daily traffic, with the exception of Pacific Coast Highway south of Brookhurst Street.

Goal CE 4: Encourage and develop a transportation demand management (TDM) system to assist in mitigating traffic impacts and in maintaining a desired level of service on the circulation system.

Goal CE 5: Provide sufficient, well-designed, and convenient on- and off-street parking facilities throughout the City.

A traffic impact analysis has been completed by a traffic engineering firm and reviewed by the Public Works Department to ensure a balanced transportation system that adequately mitigates the project’s potential traffic impacts, while still allowing for commercial development, to be achieved. The developer will be required to contribute a fair-share payment toward traffic system improvements to mitigate the project’s proportionate impacts to the City’s transportation infrastructure. Huntington Beach Zoning & Subdivision Ordinance provisions require the applicant to encourage alternative modes of transportation through implementation of a Transportation Demand Management Plan. Preferentially located carpool parking spaces are required, along with other amenities and incentives, such as employee lockers and showers, carpool information programs and bike racks included in the overall design of the home improvement store, in order to reduce vehicular trips to the site. The well-designed parking facilities will provide, pursuant to code requirements, access between both adjacent commercial parcels without reentering the public street system, substantial parking lot landscaping and perimeter landscaping to enhance the view of the parking area from surrounding properties and the public right-of-way.

Zoning Compliance:

This project is located in the CG (Commercial General) zoning district and complies with the requirements of that zone, with the exception of a substandard landscaped planter width (8.43 feet in lieu of 10 feet) along a portion of the Garfield Avenue street frontage. A condition of approval requiring that the planter width be increased to the code required minimum has been incorporated in the suggested conditions of approval, as requested by the applicant in lieu of a variance request. In addition, a list of City Code Requirements, Policies, and Standard Plans of the Huntington Beach Zoning & Subdivision Ordinance and Municipal Code has been provided to the applicant and is attached for informational purposes only (Attachment No. 7).

Urban Design Guidelines Conformance:

The project, as proposed, is in substantial conformance with Chapter 6: *Special Consideration Commercial Guidelines – Big Box Retail* of the *Huntington Beach Urban Design Guidelines* (Attachment No. 8). The project includes the following Design Guideline compliant features:

- Divided parking areas to reduce visual impact of large parking lots
- Major entry drive aisle aligned with building entry
- Multiple roof lines
- Significant building wall articulation
- Architecturally integrated outdoor garden area
- Intensified parking lot landscaping
- Cart storage integrated with the initial building and site design

Environmental Status:

Staff has reviewed the environmental assessment and determined that no significant impacts are anticipated as a result of the proposed project that could not be mitigated to a level of insignificance with proper design and engineering. Subsequently, Draft Mitigated Negative Declaration No. 04-10 (Attachment No. 6) was prepared with mitigation measures pursuant to Section 240.04 of the HBZSO and the provisions of the California Environment Quality Act (CEQA) with the following supplemental reports:

- 1) Geotechnical Engineering Investigation
- 2) Air Quality Impact Analysis
- 3) Traffic Analysis
- 4) Arborist Report
- 5) Noise Assessment
- 6) Phase I Environmental Site Assessment and Asbestos Sampling
- 7) Earthwork Report

The assessment concludes that no significant impacts are anticipated as a result of the proposed project and includes mitigation measures which address potentially significant impacts associated with Geology/Soils, Transportation/Traffic and Noise.

The Environmental Assessment Committee's (EAC) determination to process Mitigated Negative Declaration No. 04-10 was appealed to the Planning Commission by Planning Commissioner Steve Ray. The Planning Commission considered the appeal at a public hearing on March 14, 2006, and directed staff to continue processing Mitigated Negative Declaration No. 04-10.

Mitigated Negative Declaration No. 04-10 was advertised and made available for a thirty (30) day public review and comment period, commencing March 30, 2006 and ending on May 1, 2006. Thirty-six comment letters addressing a variety of issues were received during the review period. A response to comments and errata was prepared by staff and is included with the attached Mitigated Negative Declaration (Attachment No. 6).

Environmental Board Comments:

The Environmental Board reviewed Mitigated Negative Declaration No. 04-10 at their April 6, 2006 meeting and provided a comment letter on April 26, 2006. The Environmental Board's letter includes the following recommendations:

- That truck traffic be reevaluated to avoid trucks going around the back of the building to minimize noise impacts on nearby homes.
- That the planned sound wall along the westerly property line be completed before construction begins.
- That a traffic light be included in the plan.
- That the tables in the traffic analysis be presented in a readable format.

The Environmental Board's comment letter and the staff response is included with Attachment No. 6.

Prior to any action on Conditional Use Permit No. 04-56, the Planning Commission must review and act on Mitigated Negative Declaration No. 04-10. Based on the environmental assessment of the project, Staff is recommending that the Mitigated Negative Declaration be approved with suggested findings and mitigation measures.

Coastal Status: Not applicable.

Redevelopment Status: Not applicable.

Design Review Board:

The Design Review Board (DRB) conducted a preliminary review of the project on May 26, 2005 and made numerous recommendations concerning the building and site design. On November 17, 2005, the DRB held a special meeting to review revised project plans and render a final recommendation. The DRB recommended the following modifications to the project design:

1. The parking spaces proposed along the westerly property line shall be eliminated (**Condition No. 1-a**).
2. A second public art element shall be provided on-site (**Condition No. 1-j**).
3. A darker color shall be used for the horizontal bands at the tops of the columns at the primary entrance and the pick-up canopy, in lieu of "sisal" color. The height of the bands shall be increased (**Condition No. 1-k**).
4. The raised concrete walkway proposed along the south side of the building shall be extended easterly so as to intersect with the drive aisle (**Condition No. 1-l**).
5. The tool rental center shall be redesigned to allow a clear, paved passage way between the walkway proposed along the south side of the building and the walkway proposed along the east side of the building (**Condition No. 1-m**).
6. The downspouts proposed at the rear of the building shall be concealed or designed as a decorative architectural feature (**Condition No. 1-n**).
7. Lattice work proposed under the primary freestanding sign shall be eliminated (**Condition No. 1-o**).

Staff concurs with the DRB and has incorporated the recommendations listed above into the suggested conditions of approval for Conditional Use Permit No. 04-56 (Attachment No. 1).

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements:

The Public Works Department and Police Department have reviewed the proposed project and have recommended conditions of approval for consideration by the Planning Commission. Suggested Public Works Department conditions of approval are provided as Attachment No. 2. The Police Department's recommended conditions are incorporated into Attachment No. 1 – Suggested Findings and Conditions of Approval – Conditional Use Permit No. 04-56, and are listed below:

Prior to issuance of a Certificate of Occupancy, the following shall be completed:

- Signs shall be posted and maintained in their parking lot at all times, in accordance with the provisions of Huntington Beach Municipal Code Section 9.88.040 – *Solicitation Prohibited in Nonresidential Parking Areas*. A plan showing the design and location of signs shall be submitted for review and approval by the Departments of Police and Planning. **(Condition No. 5-b)**
- The applicant shall prepare a plan in consultation with the Departments of Economic Development and Police, which includes provisions for disseminating information regarding the City of Huntington Beach Luis Ochoa Job Center to store customers, contractors, and day laborers. In addition, the plan shall include methods to be implemented by the store to discourage the hiring of day laborers on or in the vicinity of the project site. The plan shall be reviewed and approved prior to issuance of a certificate of occupancy. **(Condition No. 5-c)**

In addition, the Departments of Building & Safety and Fire have reviewed the proposed project and identified applicable code requirements. These requirements have been incorporated into the code requirements list referenced above (Attachment No. 6), and previously provided to the applicant for the purpose of facilitating the plan check and implementation phases of the project.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on June 29, 2006, and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), the applicant and interested parties. To date, the City has received hundreds of letters, e-mails, telephone calls and in-person oral communications regarding the proposed project. Written correspondence received is provided as Attachment No. 9, excepting the comments letters received during the 30-day review period of Mitigated Negative Declaration No. 04-10, which is included as part of Attachment No. 6. Some of the written correspondence received and attached had previously been transmitted directly to the Planning Commission via the author, as attachments to the Planning Commission staff report for the appeal of the Environmental Assessment's Committee's (EAC) determination, at (or as an attachment to the staff reports) the Planning Commission Study Sessions on the appeal of the EAC's action and Conditional Use Permit request, and as attachments to Mitigated Negative Declaration No. 04-10 (Attachment No. 6). All written correspondence received is maintained on file with the Planning Department. The comments received both support and oppose the project as proposed. Generally, comments in support encourage the

timely approval of the project in order to improve the business climate in the project vicinity and eliminate the vacant former K-Mart building and associated problems. Comments in opposition generally cite concerns related to traffic, noise, air quality, pedestrian safety, day laborers and other potential adverse project impacts.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

Negative Declaration: March 2, 2006

Conditional Use Permit: March 2, 2006

MANDATORY PROCESSING DATE(S):

August 24, 2006 (180 days)

Within 60 days from Negative Declaration Approval

ANALYSIS:

As noted above, since the initial plan submittal and following the preliminary review of the project by the Design Review Board, the applicant has revised the project plans to achieve substantial compliance with the City's Urban Design Guidelines, as well as compliance with HBZSO standards, with the exception of the width of the landscape planter along portions of the Garfield Avenue street frontage. A condition of approval addressing this code deficiency is recommended by staff and the applicant concurs.

However, Staff and the Design Review Board believe that additional project revisions are necessary in order to achieve compliance with the General Plan policies listed above, which require that buildings, parking and vehicular access be sited and designed to prevent adverse impacts on adjacent residential neighborhoods. Specifically, Staff is recommending that the parking spaces proposed behind the building, adjacent to the residential zone boundary be eliminated/relocated, that use of the area behind the building be limited to emergency access only, and that the distance between the loading dock and the westerly property line be increased to a minimum of 100 feet. The design envisioned by Staff and the DRB increases the width of the planter adjacent to the westerly property line to a minimum of 28 feet, provides for a turf-block emergency access driveway, and includes gates at each end of the drive aisle behind the building.

Based on potentially significant noise impacts identified in conjunction the project's environmental assessment, mitigation measures prohibiting truck traffic behind the building between the hours of 10:00 p.m. and 7:00 a.m. are proposed. Operations at the semi-enclosed will-call and materials storage area, proposed at the southwest corner of the building, would also be prohibited between the hours of 10:00 p.m. and 7:00 a.m. based on suggested mitigation measures.

Although the Mitigated Negative Declaration indicates that strict compliance with the City's Noise Ordinance and air quality regulations may be achieved with incorporation of mitigation measures, those standards provide only the minimum level of protection and do not ensure compatibility with the existing residential neighborhood. With past "big box" commercial projects approved by the City, including Lowe's, Target and Wal-Mart, the City has required (or otherwise ensured) that an adequate buffer is maintained between adjacent residential properties and truck routes/loading areas to ensure compatibility. None of the aforementioned projects were approved for truck traffic behind the building when located adjacent to residential properties. The proposed Home Depot provides only a nine-foot wide landscape buffer along the residential (westerly) property line and proposes truck traffic as close as 28 ft. to the rear yard of the existing single-family homes. Staff believes that an adequate buffer may be achieved by reconfiguring the

site layout as described above and reducing the building floor area by approximately 5,000 to 7,000 square feet, and is recommending conditions of approval accordingly.

At the June 13, 2006 Planning Commission Study Session, Staff presented a conceptual alternative site plan (Attachment No. 11), for discussion purposes only. This alternative layout is not intended to represent precise planning and conformance to all applicable code requirements. Instead, the plan serves to illustrate, in an approximate manner, how the proposed development might be reconfigured to comply with Staff's recommended conditions of approval and provide greater compatibility with adjacent residential properties. Staff also acknowledges that other configurations and/or variations on the design may be conceived and developed which provide the desired results. Accordingly, Staff's suggested conditions of approval were written with the intent to preserve the flexibility to achieve the optimum design, while providing the necessary certainty with respect to the minimum design criteria.

Site Access

In order to achieve compliance with General Plan policies which call for the limiting of driveway access points (CE 2.3.2) and the use of shared driveway access (CE 2.3.3), staff requested that the applicant work with the owners of the parcels located contiguously to the northeast and south in order to explore the possibility of consolidating driveways along Magnolia Street. The applicant advised that negotiations with the owner of the Pacific Premier Bank property were unsuccessful and have been abandoned. Notwithstanding, the HBZSO requires reciprocal access between the two properties and the requirement to make an irrevocable offer to grant a reciprocal driveway easement was made a condition of approval of Conditional Exception No. 89-98 – which authorized the development of the former Blockbuster/Pacific Premier Bank property. Also, Use Permit No. 91-52, which permitted a remodel of the façade of the former K-Mart building, required a grant of easement for cross access purposes to the former Blockbuster/Pacific Premier Bank property. However, the reciprocal access driveway between the two parcels was never constructed. Staff is recommending a condition of approval requiring that the driveway improvements be completed in conjunction with the development of the proposed Home Depot (**Condition No. 1-h**).

Discussions with the owner of the property to the south are on-going. The traffic study prepared in conjunction with Mitigated Negative Declaration No. 04-10 concluded that a traffic signal along Magnolia Street would be warranted in the event that a consolidation of driveways serving the project site and the property to the south occurs. However, the traffic signal and driveway serving both sites would need to be located in alignment with Hyde Park Drive (on the east side of Magnolia Street) in order to achieve safe and efficient turning movements at the signalized intersection. This traffic signal/ driveway/ street alignment would require reconfiguration of the on-site drive aisles and parking areas on the southerly property and may ultimately prove to be infeasible. Nonetheless, discussions between the applicant, the owner of the property to the south and City staff with respect to possible driveway consolidation alternatives and traffic signal locations are on-going and a condition of approval is recommended which provides for the flexibility to consolidate driveways should an acceptable design solution be achieved.

Applicant's Alternative Plan

On June 28, 2006, the applicant met with staff and presented an alternative conceptual site plan for development of the proposed Home Depot (Attachment No. 10). On Monday, July 3, 2006, an amended alternative site plan was received. This alternative plan includes several revisions to the site layout intended to address the Staff and DRB recommendations, as well as the concerns of the adjacent residents. This report was prepared largely in advance of the aforementioned meeting and plan submittal. Consequently,

the analysis, findings and recommendations provided herein reflect review of the plans received and dated September 9, 2005 only. As of the date of transmittal of this report, staff has not had sufficient time to perform a complete plan check and analysis of the alternative site plan. However, a preliminary review indicates that the applicant's conceptual site plan addresses the Staff and DRB recommendations and provides the desired compatibility with the adjacent residential properties. Revisions to the plan include elimination of parking spaces behind the building, relocation of the loading dock to provide a hundred-foot buffer to the residential property line, elimination of the outdoor will-call and building materials storage area, closure of the westerly driveway along Garfield Avenue and the southerly driveway along Magnolia Street and a reduction in the building floor area by approximately 6,000 sq. ft.

SUMMARY:

The proposed project's potential environmental impacts have been analyzed in accordance with the provisions of the California Environmental Quality Act and appropriate mitigation measures have been identified which ensure no significant environmental impact will result from implementation of the project. The proposed project will provide for the development of a retail use which both serves the needs of local residences and the surrounding region. The project features quality architectural design and building materials and includes a public art component. Suggested conditions of approval providing for an adequate buffer between adjacent residential properties, required mitigation measures, and design features will provide protection against any potential impacts to adjacent residential properties. Approval of the project will provide for the modernization and expansion of a commercial property, including replacement of a commercial building and other site improvements constructed in 1970. The new commercial building will feature contemporary architecture in compliance with the City of Huntington Beach Urban Design Guidelines, current fire and building and safety codes, current landscape and water quality control requirements and other current City development standards. In addition, the project represents two of the "new growth" businesses ("big box" store and high sales tax producing businesses) encouraged by the General Plan. Accordingly, staff recommends approval of the project, subject to the suggested conditions of approval.

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval – Mitigated Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56
2. Suggested Conditions of Approval – Department of Public Works memo dated June 19, 2006.
3. Applicant's Request Plan dated September 9, 2005 w/ Strike-Thru Conditions
4. Site Plan, Floor Plans and Elevations received and dated September 9, 2005
5. Project Narrative received and dated September 9, 2005
6. Mitigated Negative Declaration No. 04-10 (Includes Environmental Checklist w/ supplemental reports, Mitigation Measures, Response to Comments, Errata to the MND, and Comment Letters)
7. Code Requirements Letter dated January 30, 2006 for informational purposes only
8. City of Huntington Beach Urban Design Guidelines, Chapter 6: Special Consideration Commercial Guidelines – Big Box Retail
9. Correspondence in Opposition and/or Support
10. Applicant's Alternative Conceptual Site Plan – Received and dated June 28, 2006
11. Staff's Alternative Conceptual Site Plan – dated July 3, 2006

SH:HF:RS:cs

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval – Mitigated Negative Declaration No. 04-10/ Conditional Use Permit No. 04-56
2. Suggested Conditions of Approval – Department of Public Works memo dated June 19, 2006.
3. Suggested Conditions of Approval – Applicant's Request
4. Site Plan, Floor Plans and Elevations received and dated September 9, 2005
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7. Code Requirements Letter dated for informational purposes only.
8. City of Huntington Beach Urban Design Guidelines, Chapter 6: Special Consideration Commercial Guidelines – Big Box Retail
9. Petitions in Opposition and/or Support
10. Applicant's Alternative Conceptual Site Plan – Received and dated June 28, 2006
11. Staff's Alternative Conceptual Site Plan – Dated July 3, 2006



City of Huntington Beach Planning Department
STAFF REPORT

TO: Planning Commission
FROM: Howard Zelefsky, Director of Planning
BY: Paul Da Veiga, Associate Planner
DATE: July 11, 2006

SUBJECT: **CONDITIONAL USE PERMIT NO. 06-14 (TATTOO SHOP)**

APPLICANT: Thomas J. Clark, 5712 Blackthorne Ave., Lakewood, CA 90712

PROPERTY

OWNER: Henry Han Chi Tat, P.O. Box 365, Rosemead, CA 91770

LOCATION: 6488 Warner Avenue (Southwest corner of Edwards St. and Edinger Ave.)

STATEMENT OF ISSUE:

- ◆ Conditional Use Permit No. 06-14 request:
 - Permit the establishment of a small tattoo shop (130 square feet) as an ancillary use to an existing 935 square foot retail-clothing store.
- ◆ Staff's Recommendation: Approve Conditional Use Permit No. 06-14 based upon the following:
 - Compliance with zoning code and General Plan Land Use and Economic Development Elements which encourage business expansion in commercial districts
 - Municipal Code regulations which require safe and sterile tattoo operations for the health and safety of both customers and operators
 - The business site is not expected to create undue noise or any other impacts to the surrounding area.

RECOMMENDATION:

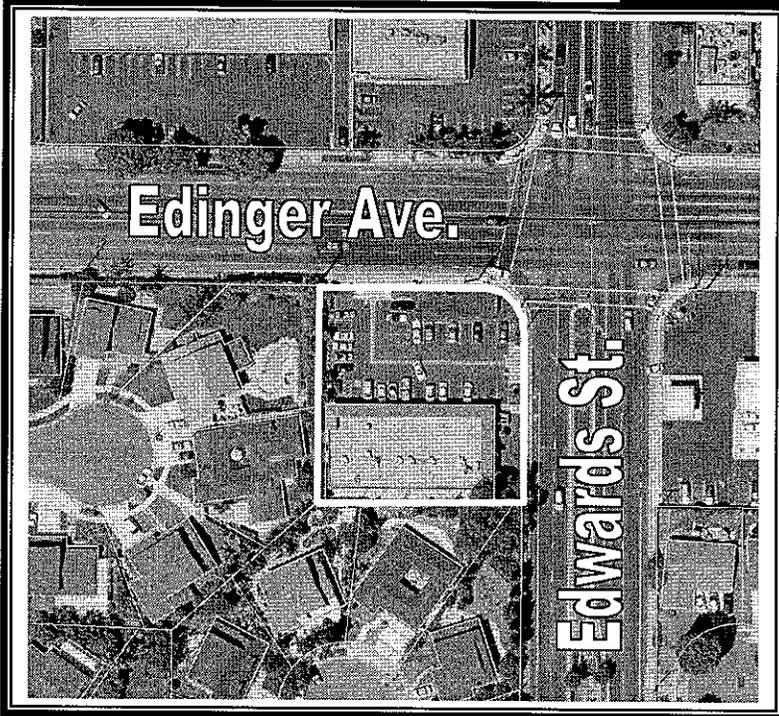
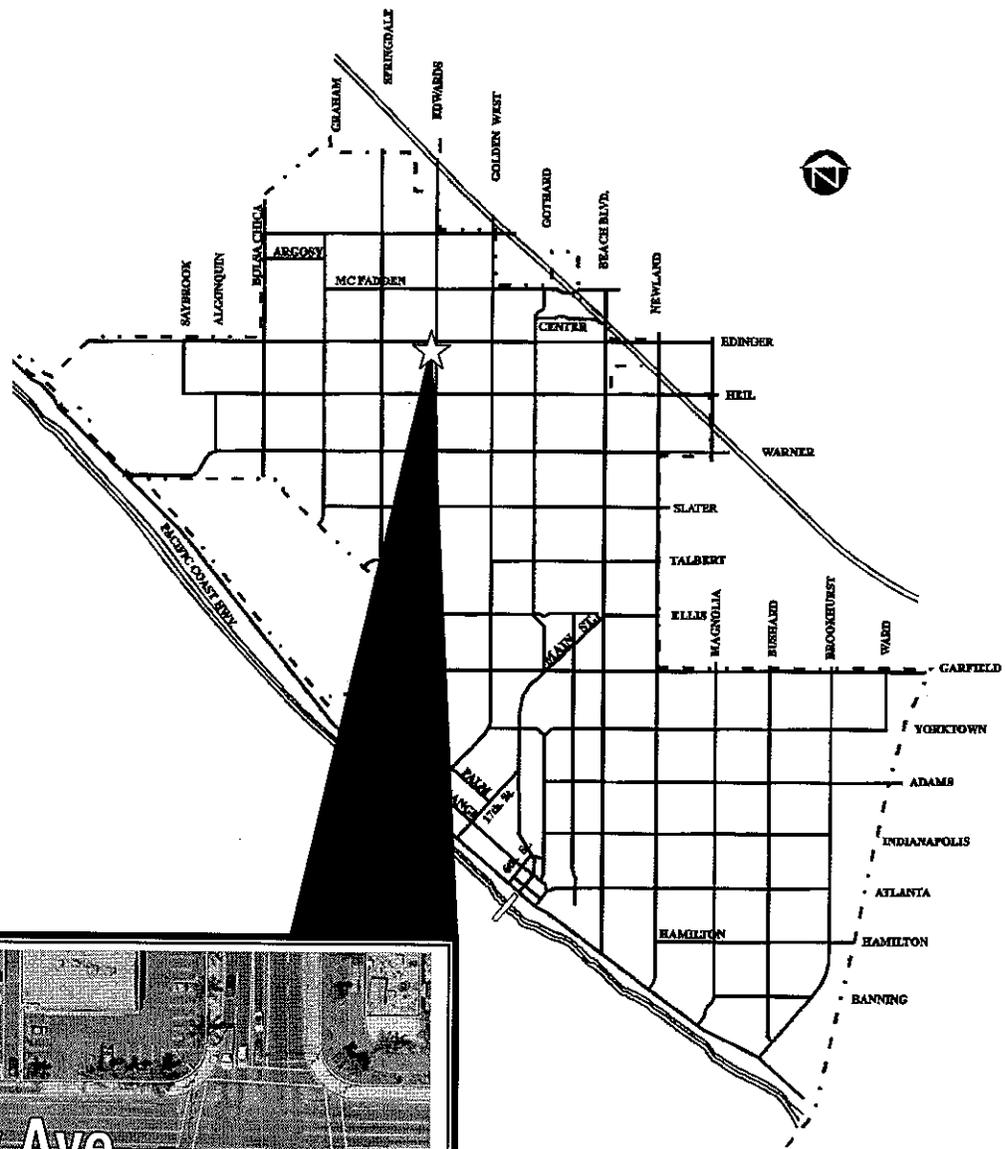
Motion to:

“Approve Conditional Use Permit No. 06-14 with suggested findings and conditions of approval (Attachment No.1).”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

“Continue Conditional Use Permit No. 06-14 and direct staff accordingly.”



VICINITY MAP
 Conditional Use Permit No. 06-14
 6488 Edinger Avenue
THE CITY OF HUNTINGTON BEACH

PROJECT PROPOSAL:

Conditional Use Permit No. 01-20 represents a request to permit the establishment of a small tattoo shop (130 square feet) as an ancillary use to an existing 935 square foot retail clothing store pursuant to HBZSO Section No. 211.04, CO, CG, and CV Districts: Land Use Controls - Tattoo Establishments.

The site is currently developed with an 8,742 sq. ft. strip commercial center constructed in 1986. There are six businesses operating within the shopping center including a donut shop, hair salon, sandwich shop, dry cleaners, nail salon, and retail clothing store. The ancillary tattoo shop will operate on Tuesday through Saturday between the hours of 11:00 a.m. to 9 p.m. Two employees will operate the shop with an additional apprentice added in the future.

The applicant's narrative includes a description of his background of 10 years in the field as a tattoo artist. He indicates that it is their intention to incorporate their spiritual beliefs into their artwork while providing a clean, safe, and professional service to the community. The narrative also states the goal of raising the standards of the profession and eliminating the negative stereotypes traditionally associated with tattoo establishments.

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

| LOCATION | GENERAL PLAN | ZONING | LAND USE |
|---|--|------------------------------|---------------------------|
| Subject Property: | CN-F1 (Commercial Neighborhood – 0.35 FAR) | CG (Commercial General) | Shopping Center |
| North of Subject Property (across Edinger Ave.) | CN-F1 (Commercial Neighborhood – 0.35 FAR) | CG (Commercial General) | Shopping Center |
| South and West of Subject Property: | RL-7 (Residential Low Density) | RL (Residential Low-Density) | Single-Family Residential |
| East of Subject Property: (across Edwards St.) | CN-F1 (Commercial Neighborhood – 0.35 FAR) | CG (Commercial General) | ARCO Gas Station |

General Plan Conformance:

The General Plan Land Use Map designation on the subject property is Neighborhood Commercial. The proposed project is consistent with this designation and the goals and objectives of the City's General Plan as follows:

A. Land Use Element

Objective 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy 10.1.11: Promote the introduction of a diversity of uses in commercial centers, particularly those containing anchor grocery stores that improve their relationship with surrounding residential neighborhoods and increasing their viability as places of community activity.

B. Economic Development Element

Policy 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 area.

The proposed tattoo shop meets all applicable zoning codes and development standards and improves the long-term viability of the property by expanding the current tenant base in the center. The proposed use introduces a unique service to residents in the surrounding area and visitors to Huntington Beach.

Zoning Compliance:

This project is located in the CG-General Commercial zoning district and complies with the requirements of that zone.

Environmental Status:

The proposed project is categorically exempt pursuant to Class 1, Section 15301 of the California Environmental Quality Act which states operation and minor alteration to existing structures are exempt from further review under the environmental quality act.

Coastal Status: Not applicable.

Redevelopment Status: Not applicable.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements:

The Departments of Fire and Public Works have reviewed the project plans and identified applicable Code Requirements, Policies, and Standard Plans of the Huntington Beach Zoning & Subdivision Ordinance and Municipal Code. Those requirements have been incorporated into a list transmitted to the applicant and provided (for informational purposes only) as Attachment No. 5. The Police Department also reviewed the request and stated that the business shall maintain compliance with all State, County, and Local laws and ordinances, including Huntington Beach Municipal Code, Chapter 8.70, *Tattooing Establishment and Operation Regulations* (Attachment No. 4), and any requirements of the County of Orange Health Care Agency, Environmental Health.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on June 29, 2006 and notices were sent to tenants and property owners of record within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), applicant, and interested parties. As of July 3, 2006, no communication supporting or opposing the request has been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION: **MANDATORY PROCESSING DATE(S):**

Conditional Use Permit: June 15, 2006 August 15, 2006

ANALYSIS:

The two primary issues for the Planning Commission to consider when analyzing this request are compatibility with surrounding land uses and the applicant's ability to comply with unique municipal and health care codes regarding business operations at a tattoo establishment.

Land Use Compatibility

The tattoo business is proposed within an existing retail shopping center. The business is compatible with the other retail and restaurant businesses in the center, which consist of typical retail and personal service uses. In addition, the tattoo shop is only 130 square feet in size and is proposed as an ancillary use to a 935 square foot retail clothing store. The small tattoo business, as an ancillary use, is not expected to create an undue amount of noise or traffic and is anticipated to be compatible with the surrounding area.

Municipal Code

Tattoo businesses are subject to unique municipal code requirements regarding maintenance of the premises and equipment, sterilization practices, cleanliness, health conditions of both customers and operators, and penalties (by misdemeanor) for failing to conform to the regulations established (Attachment No. 4). The business will be regulated and inspected for compliance with the municipal code by the staff of the County of Orange Health Care Agency, Environmental Health. A Registered Environmental Health Specialist (REHS) in the Housing and Institution Section coordinates registration of each tattoo artist with the County, performs yearly random inspections to verify compliance with regulations, and assists the City in responding to complaints regarding tattoo operations. During the yearly inspection, the REHS tests the equipment and inspects for general cleanliness and sanitary conditions. The applicant's submitted information clearly indicates his understanding, willingness, and ability to comply with the municipal code standards (Attachment No. 3).

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval – CUP No. 06-14
2. Project Plans dated April 7, 2006
3. Narrative dated received April 7, 2006
4. HBMC Chapter 8.70 - Tattooing Establishment and Operation Regulations
5. Code Requirements Letter dated June 28, 2006 (for informational purposes only)

ATTACHMENT NO. 1

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 06-14

SUGGESTED 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 15305 of the CEQA Guidelines, which states that minor alterations in land use limitations that do not result in any changes in land use or density are Categorically Exempt.

SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-14:

1. Conditional Use Permit No. 06-14 to permit the establishment of a small tattoo shop (130 square feet) as an ancillary use to an existing 935 square foot retail clothing store, 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 because the existing shopping center contains similar and complimentary uses to the proposed tattoo shop. In addition, based upon the conditions imposed, the tattoo establishment will comply with Huntington Beach Municipal Code Chapter 8.70, which establishes criteria, standards, and regulations to ensure safe and sterile tattoo operations for the health of both clients and operators of the tattoo business.
2. The conditional use permit will be compatible with surrounding land uses because the tattoo business is not anticipated to create undue noise and adequate on-site parking is provided.
3. The proposed tattoo establishment 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. In addition, the business will comply with all standards and regulations of any State, County, and local laws, in particular, Huntington Beach Municipal Code Chapter 8.70, *Tattooing Establishment and Operation Regulations*, and any applicable standards of County of Orange Health Care Agency, Environmental Health.
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 General Commercial on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Objective 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Policy 10.1.11: Promote the introduction of a diversity of uses in commercial centers, particularly those containing anchor grocery stores that improve their relationship with surrounding residential neighborhoods and increasing their viability as places of community activity.

B. Economic Development Element

Policy 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 area.

The proposed tattoo shop meets all applicable zoning codes and development standards and improves the long-term viability of the property by expanding the current tenant base in the center. The proposed use introduces a unique service to residents in the surrounding area and visitors to Huntington Beach.

SUGGESTED CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 06-14:

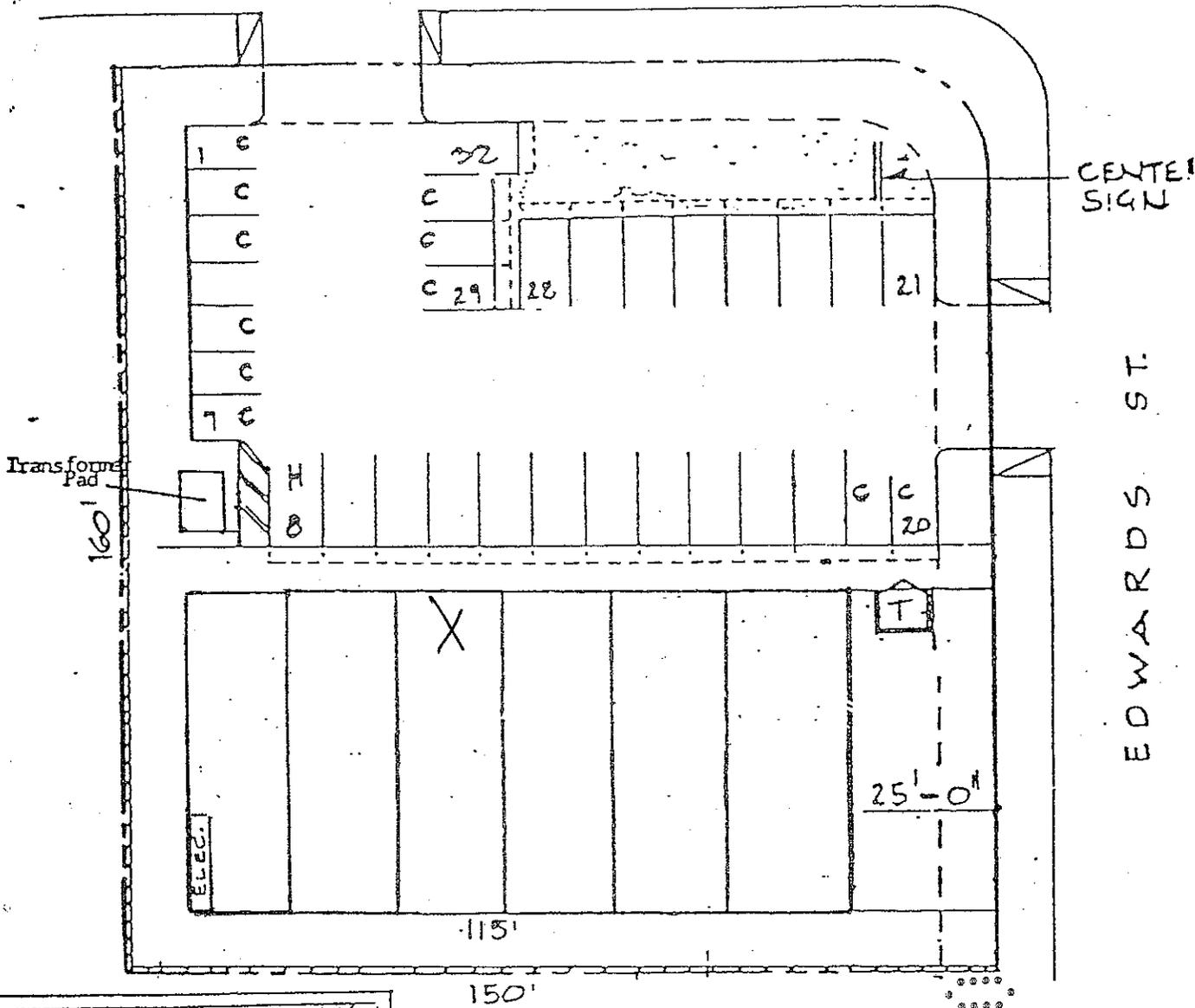
1. The site plan, floor plans, and elevations received and April 7, 2006 shall be the conceptually approved layout.
2. The business shall comply with all standards and regulations of any State, County, and local laws, in particular, Huntington Beach Municipal Code Chapter 8.70, *Tattooing Establishment and Operation Regulations*, and any applicable standards of County of Orange Health Care Agency, Environmental Health.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

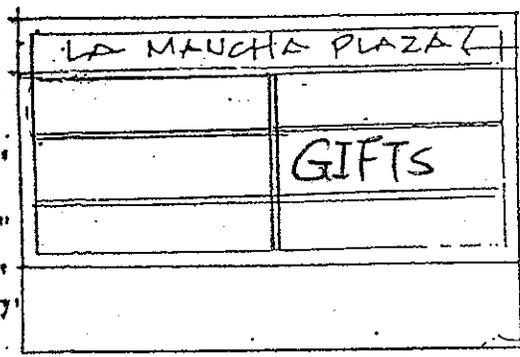
The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, 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.

SITE PLAN AND POLE SIGN RENDERING:

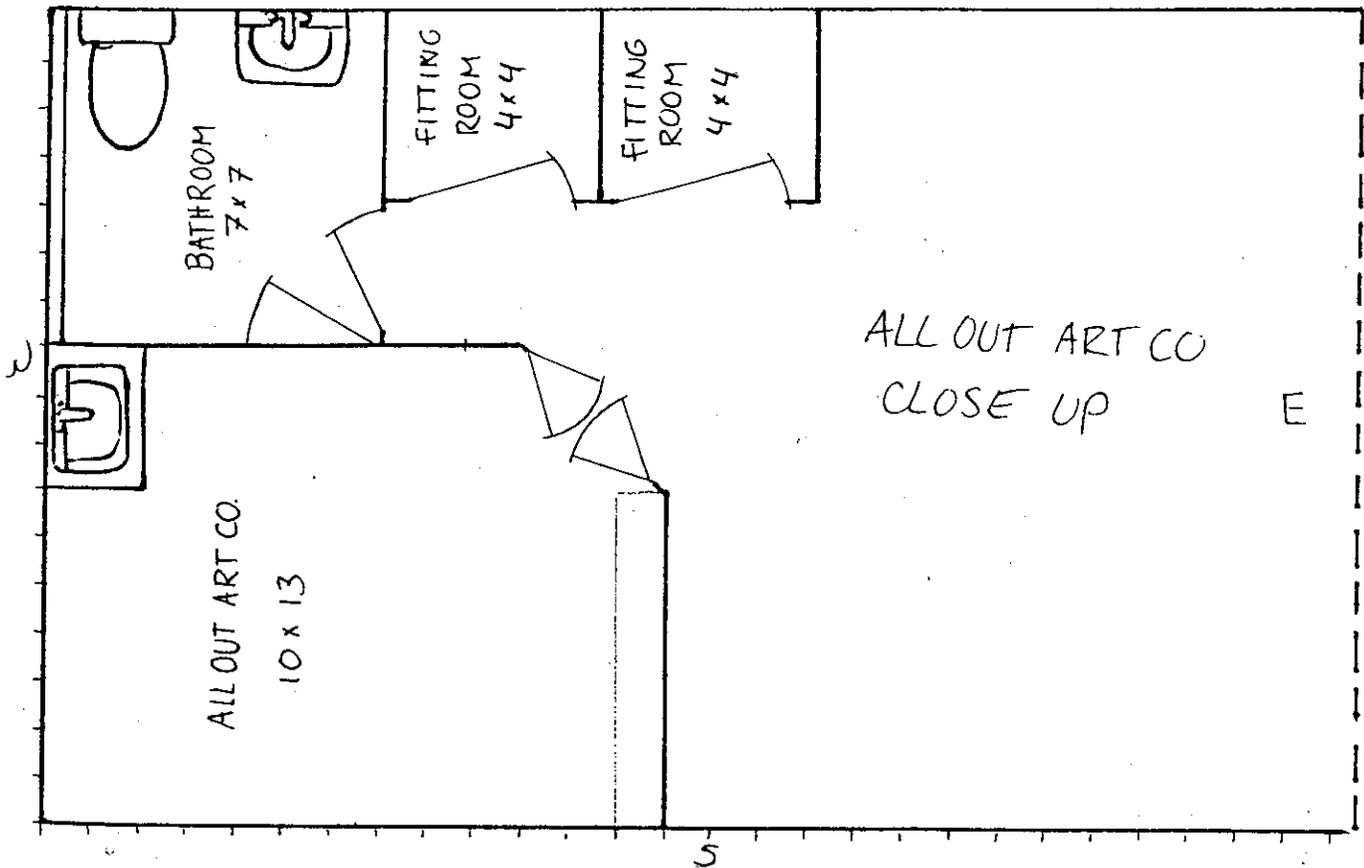
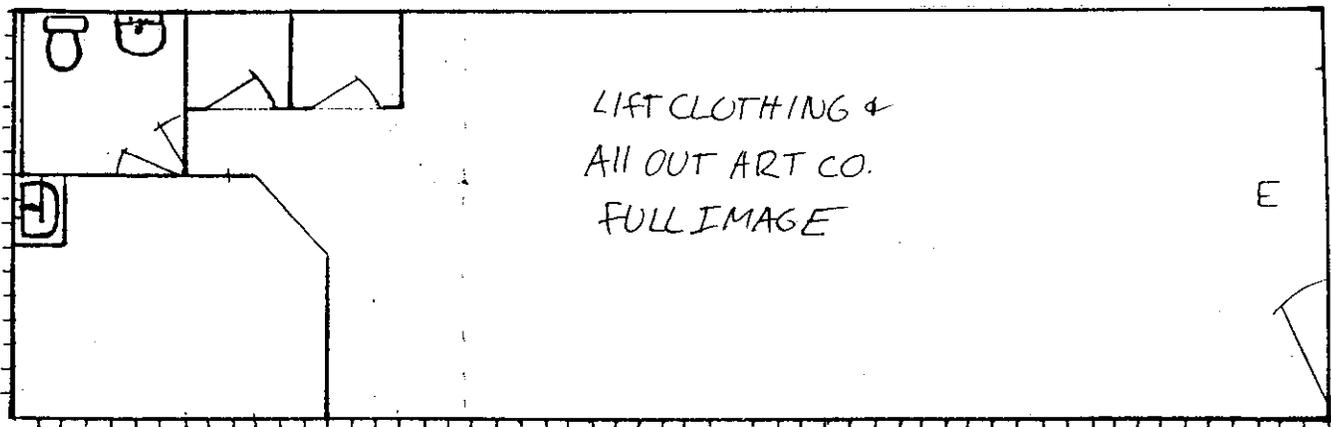
EPINGER AVE



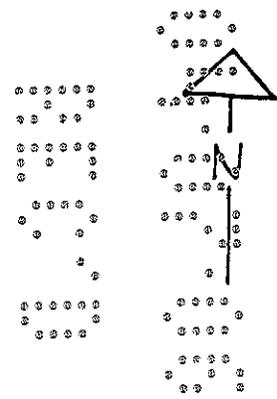
EDWARDS ST.



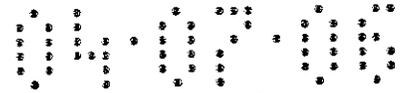
ALL INFORMATION OR DESIGN INDICATED HEREON IS PRELIMINARY ONLY. IT IS SUBJECT TO MODIFICATION BY SURVEY AND APPROVAL BY GOVERNING AGENCIES



"LIFT" CLOTHING TOTAL SQ. FT. 805
 ALL OUT ART CO. TOTAL SQ FT 130
 ALL TOGETHER TOTAL SQ FT 935



To Whom It May Concern:



It is the intention of Joe Kowalski and Thomas Clark to open and operate business at 6488 Edinger Avenue in the City of Huntington Beach, located on the South West corner of Edinger and Edwards. The proposed use of our business is the professional application of derma-graphics, painting, fine art, conceptual design and illustration. Our D.B.A. is 'All Out Art Company'. Sharing over ten years experience in these fields, we hope to incorporate our spiritual beliefs into our artwork and environment, while providing a clean, safe and professional service to our community and potential patrons.

The business in question, will be shared as joint tenants with 'Lift Clothing', a Christian retail clothing and accessory outlet owned by Deborah Kaiser, at the same address. 'Lift Clothing' provides a positive message to today's youth. 'All Out Art Company' shares this same vision. As artists, Thomas and Joe desire to operate in an environment that compliments our Christian spiritual beliefs.

Focusing on the artwork and our ministry to God, we plan to operate in a manner that would alleviate the pressures of a 'time is money' style of business. Financial security is a priority, however our emphasis will be put upon the creative output of our artwork. The normal hours of operation will be conducted between 11:00 a.m. and 9 p.m., Tuesday through Saturday. 'All Out Art Company' will operate within 130 sqft. of the total 935 sqft. that is shared with 'Lift Clothing'. The layout and operations of the studio will comply with Health and Safety codes as well as the current zoning laws of the City of Huntington Beach. We declare that the project is not located within a Hazardous Waste and Substance site pursuant to Section 65962.5 of the Government Code. Thomas and Joe will be the only employees and a possible apprentice added in the future.

All Out 'Art Company' and 'Lift Clothing' shares a complex with the following businesses: 'Dey's Donuts', 'Style Council Hair Salon', 'Subway Sandwiches and Salads', 'Admiralty Cleaners', and 'Paradise Nails'. Directly East of the complex lies 'Arco Gas', and North East lies Perry's Pizza. Directly North of the Complex lies a vacant building, a liquor store and bait shop. Directly West and South of the complex is all residential neighborhoods. For visual reference please see enclosed pictures.

Our goal is to raise the standard in our profession. Unfortunately, the negative stereotype of derma-graphic application studios denotes "adult entertainment"

including loud parties and obnoxious behavior. We assure you this is not the case with 'All Out Art Company'. We ask for your support by reading and understanding our intentions in this endeavor. We feel our business will be a valuable asset to the community, a place where customers can obtain quality artwork and a positive message.



If you have any further questions, or require additional information, please do not hesitate to contact us at the following numbers:

Joe Kowalski (562) 531-1209
Thomas Clark (714) 394 -4422
Deborah Kaiser (714) 728-0110

Respectfully Submitted,

Joe Kowalski
Thomas Clark

Chapter 8.72

TATTOOING, BODY PIERCING AND PERMANENT COSMETICS REGULATIONS

(Repealed Chapter 8.70 – Tattooing Establishment and Operation Regulations – 3237-7/94)
(Chapter 8.72 - 3625-1/04)

Sections:

- 8.72.010 Definitions
- 8.72.020 Locational Criteria
- 8.72.030 License Required
- 8.72.040 Record Retention
- 8.72.050 Health and Sanitary Requirements
- 8.72.060 Operator
- 8.72.070 Establishment
- 8.72.080 Equipment and Supplies-General
- 8.72.090 Patrons
- 8.72.100 Skin Preparation
- 8.72.110 Tattoo
- 8.72.120 Body Pierce
- 8.72.130 Interpretation
- 8.72.140 Severability
- 8.72.150 Enforcement
- 8.72.160 Violations
- 8.72.170 Penalties

8.72.010 Definitions

- (a) **Aftercare Instructions:** Written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the tattoo or body piercing and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- (b) **Antiseptic:** A chemical that kills or inhibits the growth of organisms on skin or living tissue.
- (c) **Autoclave:** An apparatus that is registered and listed with the federal food and drug administration for sterilizing articles by using superheated steam under pressure.
- (d) **Bloodborne Pathogens:** Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C (HCV), and HIV.
- (e) **Body Pierce:** To puncture, perforate, or penetrate any human body part or tissue with an object, appliance, or instrument for the purpose of placing a foreign object in the perforation to prevent the perforation from closing. The puncturing of the outer perimeter or lobe of the ear shall not be included in this definition.

- (f) **Contaminated:** The presence or reasonably anticipated presence of blood, body fluid, or other potentially infectious materials, as defined in 29 Code of Federal Regulations, Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens" in or on the surface of an item or person.
- (g) **Contaminated Waste:** Any contaminated material used in tattooing, body piercing, or permanent cosmetics that is to be disposed of.
- (h) **Department/Officer:** That person or office designated by order of the City Council of the City of Huntington Beach or by contract approved by the said Council as the person or office having responsibility for the enforcement of the provisions of this article. This also includes any Orange County Health Officer.
- (i) **Disinfectant:** A chemical that is capable of destroying disease-causing organisms on inanimate objects, with the exception of bacterial spores.
- (j) **Establishment:** Any place whether public or private, temporary or permanent, in nature or location, where tattooing, body piercing, or application of permanent cosmetics is performed.
- (k) **Equipment:** All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a tattoo, body piercing, or permanent cosmetic establishment.
- (l) **Minor:** Any person under the age of 18 years.
- (m) **Operator:** Any person, whether the proprietor or another person, administering a tattoo, body piercing, or permanent cosmetic to any customer of the establishment.
- (n) **Proprietor:** The person having general control and management over the conduct of the business at a tattoo, body piercing, or permanent cosmetic establishment, whether or not such person is the legal owner of the premises or the business.
- (o) **Practitioner/Operator:** A person registered with the Orange County Health Officer and approved by the Chief of Police who performs tattooing, body piercing, and/or permanent cosmetics on another person at that persons request.
- (p) **Premises:** An establishment, its contents, and the contiguous land or property and its facilities and contents that are under the control of the proprietor that may impact the establishment personnel, facilities, or operation.

- (q) **Tattoo:** Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing and permanent cosmetics or permanent makeup.
- (r) **Workstation:** Any area that is set up to perform tattooing, body piercing, or permanent cosmetics. A workstation can be a separate room or an area that can be screened to insure privacy when performing nipple, genital, or other discretionary area tattooing or body piercing. All workstations will comply with sanitation rules and guidelines set forth in this code.

8.72.020 Locational Criteria No person or practitioner may tattoo or body pierce another person unless such tattooing or body piercing is done at a licensed establishment that meets the requirements of this chapter. Such establishment must be located in an area approved for such purpose per the City of Huntington Beach Zoning and Subdivision Ordinance.

8.72.030 License Required All owners of a tattoo and/or body piercing establishment, or those establishments providing tattoo and/or body piercing, must obtain a business license from the City of Huntington Beach. All independent contractors, or any person providing any service relating to tattoo and/or body piercing who is not an employee must obtain a business license from the City of Huntington Beach.

8.72.040 Record Retention

- (a) Records shall be kept of all tattoos and body piercing. The records shall be kept on the premises of the establishment where administered. These records shall be available for inspection for a period of three (3) years after the date of the procedure. The records shall include;
- (1) The date and time of the procedure.
 - (2) Record of information from the patron's picture identification showing the name, date of birth, gender, address of patron, and Driver's License or Identification Card number. US Passports must be accompanied with a second valid form of identification.
 - (3) The location of any tattoo, permanent cosmetic, or body piercing.
 - (4) The name and registration number of the practitioner.
 - (5) A copy of the signed client information and consent form to perform the tattoo or body piercing.

8.72.050 Health and Sanitary Requirements**Practitioner Requirements**

- (a) The practitioner shall be free of communicable disease that may be transmitted by the practitioner of tattooing or body piercing. The practitioner shall submit to City on an annual basis a certificate from a medical doctor, stating that the applicant has, within 30 days immediately preceding the date of exam, been examined and found to be free of any contagious or communicable diseases, such as Hepatitis B, Hepatitis C, Tuberculosis, and Infectious Mononucleosis.
- (b) Practitioners with open sores, rashes, lesions, boils or skin infections shall not engage in the practice of tattooing or body piercing.
- (c) No practitioner shall work while under the influence of alcohol or any other mind-altering drug, prescription or non-prescription.
- (d) No practitioner shall smoke, eat, or drink at the workstation during or between procedures.
- (e) The practitioner shall wash his or her hands and forearms thoroughly with soap and hot water before any skin preparation or procedure. The hands shall be dried with single-service towels. Single-service disposable rubber gloves shall be worn throughout the entire procedure.

8.72.060 Operator

- (a) No Operator shall;
 - 1. Allow practitioners with open sores, rashes, lesions, boils or contagious skin infections to engage in the practice of tattooing or body piercing.
 - 2. Allow any practitioner to work while that practitioner is under the influence of alcohol or any mind-altering drug.
 - 3. Allow any practitioner to use tobacco products, eat or drink while performing an actual procedure.
- (b) The Operator shall;
 - 1. Allow access to the officer for the City of Huntington Beach or a designee of the Orange County Health Care Agency to enter the tattooing or body piercing establishment at any time during normal business hours in order to ensure that the provisions of this ordinance are being met. The officer may enter, inspect, issue notices of violations, copy records, impound, seize and secure any samples, photographs, or other evidence from any establishment.

2. Require each practitioner working at the establishment to be registered with the Orange County Health Care Agency.
3. Maintain a list of registered practitioners that work at or have worked at the establishment for a review by the officer during inspections. This includes all employees and independent contractors.

8.72.070 Establishment The Operator shall be responsible for and ensure the following;

- (a) The entire premises of the establishment and all facilities used in connection therewith shall be maintained in a clean and sanitary condition and in good repair.
- (b) The establishment shall be equipped with potable hot and cold running water under pressure as well as toilets and hand sinks that are connected to water and sewage disposal systems. Hand sinks shall be supplied with cleansing compound and single-service towels. At least one (1) additional hand sink shall be located within the immediate area of the workstation. In addition to adequate hand sinks, the establishment shall have a separate janitorial sink available for use by the establishment.
- (c) The establishment, including the immediate workstation area where tattooing and body piercing is performed, shall be adequately lighted and ventilated.
- (d) Floors, walls, and ceilings in the immediate workstation area shall have smooth, nonporous, nonabsorbent and washable surfaces, and shall be maintained in a clean condition. Concrete blocks or other masonry used in wall construction shall be covered or made smooth and sealed for a nonporous washable surface. Carpeting is prohibited.
- (e) Approved waste containers with nonabsorbent, durable plastic liners, shall be used for all tissues, towels, gauze pads and other similar items used on the patron. Bio-hazardous waste shall be disposed of in an acceptable manner. Needles and razors shall be disposed of in a SHARPS container.
- (f) Smoking or consumption of food shall not be allowed in the immediate workstation area where the procedure is being performed. No alcoholic beverages will be consumed in workstation area of the establishment at any time.
- (g) No animals, except guide dogs for visual or hearing-impaired persons, shall be permitted in the establishment.
- (h) The establishment shall be equipped with a telephone for use in case of need for emergency services.

- (i) No establishment shall be used as a sleeping room or dormitory.

8.72.080 Equipment and Supplies- General

- (a) All establishments shall be equipped with an autoclave, or similar device approved for use in sterilizing instruments to be used on humans, and which is in good working order and which is manufactured with temperature and pressure gauges marked and visible on the outside of the unit. Sterilization tape, or similar indicator, shall be used with each batch autoclave or dry sterilizer to monitor functioning of the sterilization unit.
- (b) All instruments used on any patron shall be sterilized.
- (c) All instruments shall be thoroughly cleaned before being sterilized. This may be done with an ultrasonic cleaner or with a probe, needle or brush able to enter the smallest opening of the instrument. The cleaning of the instruments shall be done with detergent and hot water.
- (d) Equipment or instruments requiring sterilization may be wrapped with an approved paper or plastic or placed in glass or plastic tubes. All such packages of containers shall be marked with temperature recording tape or labels and dated with the date of sterilization.
- (e) All surfaces and equipment, including, but not limited to, chairs, workstations, counters, recliners, dispensers, shall be made of smooth, nonabsorbent, nonporous material that can withstand repeated disinfection.
- (f) Engineering and work practice controls shall be utilized to eliminate or minimize exposure to blood and body fluids. Extraordinary care must be taken to avoid accidental wounds from sharp instruments contaminated with blood or body fluids and to avoid contact with open skin lesions. Needles shall not be broken, bent or recapped, unless the needle is equipped with a factory installed, medically approved, recapping device.
- (g) All establishments shall have clean or single-use disposable, laundered towels, washcloths and disposable paper towels in sufficient quantity.
- (h) A clean or single-use disposable towel and washcloth shall be used for each customer.
- (i) Clean towels and washcloths shall be stored in a closed, dust-proof container.
- (j) Soiled towels and washcloths shall be disposed of or stored in an approved covered container.
- (k) Any material or supply which has made contact with the blood or body fluids of any person, or by an instrument which has had such contact, shall be deemed contaminated and must be disposed of unless it may be sterilized and reused under the specific provisions of this ordinance.

- (l) A disinfectant shall be used after cleaning to disinfect any surface contaminated with blood or body fluids.
- (m) All facilities shall have a waiting area that is separated from the workstation area.
- (n) A public restroom shall be available to patrons during business hours.
- (o) The workstation area and patron chair/table shall be wiped down with a disinfectant using a single-use paper towel before and after serving each patron.
- (p) Wall mounted hand washing cleanser and wall mounted single-use towel dispensers shall be provided and filled at all hand washing sinks.

8.72.090 Patrons

- (a) Inquiry shall be made and no tattooing or body piercing shall be performed on an individual who is suspected of having jaundice or hepatitis or who recovered from jaundice or hepatitis within the preceding six (6) months.
- (b) Tattooing or body piercing shall not be performed on an individual in an area with an evident skin infection or other skin disease or condition, including, but not limited to, rashes, pimples, boils, infections, open lesions, or sunburn which shows any evidence of unhealthful conditions without medical clearance.
- (c) Tattooing or body piercing shall not be performed on any patron who appears to be impaired by or under the influence of alcohol or any mind-altering drug.

8.72.100 Skin Preparation The following aseptic techniques shall be utilized in the practice of tattooing and body piercing.

- (a) Practitioners shall wash their hands thoroughly with hot water and soap before gloving, prior to each patron. Hands shall be dried with individual paper towels. Practitioners shall wear single-use gloves during the procedure and shall discard the gloves at the end of the procedure.
- (b) If the patron's skin is to be shaved, the skin shall be washed with a cleansing, medicated soap before shaving. A safety razor shall be used. A new blade shall be used for each customer. The blade shall be discarded in a SHARPS container after each use. If reusable blade holders are used, they shall be autoclaved between uses on different patrons.

- (c) The skin area to be tattooed or pierced shall be prepared by thoroughly washing the area with seventy percent (70%) isopropyl alcohol. The solution shall be applied with cotton or gauze or sprayed on.
- (d) Single-use gauze pads, cloths and towels shall be used in the skin cleaning and preparation process. Such materials shall be discarded after use.
- (e) All patrons that have received a tattoo or body piercing, or portion of a tattoo or body piercing, shall be provided with printed aftercare instructions regarding care during the healing process of any tattoo or body piercing done at such establishment.

8.72.110 Tattoo

- (a) It shall be unlawful for any person to tattoo a person under the age of 18 years, regardless of parental consent.
- (b) Before administering a tattoo, the patron must be advised in writing of the consent form in regards to the following:
 - (1) That the tattoo should be considered permanent,
 - (2) That there is potential for adverse healing such as keloid formation, and hypertrophic scarring,
 - (3) That it can only be removed with a surgical procedure, and
 - (4) That any effective removal may leave scarring.
- (c) One copy of the consent form will be retained by the establishment for three (3) years and a copy of the consent form will be given to the patron.
- (d) Any dye or ink in which needles were dipped shall not be used on another person. Ink cups shall be for single patron use.
- (e) Needles shall be used on only one (1) patron and then properly discarded.
- (f) Needles may be reused during the same session on the same person by rinsing them under running tap water, followed by rinsing them in seventy percent (70%) isopropyl alcohol.
- (g) No stencil may be re-used unless it has been disinfected/sanitized.

- (h) Plastic stencils shall be thoroughly cleaned after each use and sanitized by immersion for ten (10) minutes in a chlorine disinfectant solution prepared by mixing one (1) tablespoon of household bleach containing five percent (5%) chlorine with one (1) pint of water. A fresh solution of chlorine must be prepared for each stencil. After sanitizing, the stencils shall be rinsed in running tap water and air-dried or blotted dry with a clean, single-use towel. Prior to use, each pre-cleaned stencil shall be rinsed in a seventy percent (70%) isopropyl alcohol solution.
- (i) Paper stencils shall only be used once. New paper stencils shall be used for every individual.
- (j) All inks, pigments, dyes and instruments used in the practice of tattooing shall be maintained in a condition to prevent contamination.
- (k) All inks, pigments, and dyes shall be obtained from sources recognized as safe. Information indicating the sources of all ink and pigments shall be available to the Officer or County Health Department upon request.
- (l) Only inks, pigments and dyes shall be used and shall be dispensed from bottles and containers.
- (m) Immediately before applying a tattoo, the dye to be used for the tattoo shall be squeezed from the dye bottles into disposable cups. Upon the completion of the tattoo, the cups and unused dye shall be discarded. Any dye in which the needles were dipped shall not be used on another person.
- (n) Petroleum jelly, or other applying agent, used for applying stencils shall be dispensed from a single-use disposable container or with a tongue blade or applicator stick, which shall be discarded after each use.
- (o) After completing work on any patron, the tattooed area shall be washed with seventy percent (70%) isopropyl alcohol. A dry, gauze or plastic wrap dressing shall be used to cover the tattooed area. Pierced areas shall be treated to ensure the prevention of infection.

8.72.120 Body Pierce

- (a) It shall be unlawful for any person to body pierce an individual under the age of 18 years unless such body piercing is performed in the presence of, or as directed by a notarized writing by, the minor's parent or legal guardian. The minor shall present valid identification and the parent or legal guardian shall present a valid photo identification to the practitioner prior to any body piercing.

- (b) Nipple and genital piercing is prohibited on minors regardless of parental consent.

8.72.130 Interpretation In their interpretation and application, the provisions of this ordinance shall be held to a minimum requirement and shall be liberally construed in favor of the City of Huntington Beach, and shall not be deemed a limitation or repeal of any other power granted by the City of Huntington Beach Municipal Code.

8.72.140 Severability If any section, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by a decision of any court, such decision shall not affect the validity of the remaining portions of this ordinance.

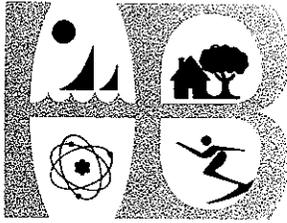
8.72.150 Enforcement

- (a) The Officer shall have the authority, under the Huntington Beach Municipal Code, to inspect any establishment under the provisions of this ordinance for the purpose of determining compliance with any of the terms of this ordinance.
- (b) Access. The Officer for the City of Huntington Beach or a designee of the Orange County Health Care Agency shall be permitted to enter the tattooing or body piercing establishment at any time, during normal business hours, in order to ensure that the provisions of this ordinance are being met. The Officer may enter, inspect, issue notices of violations, copy records, impound, seize and secure any samples, photographs, or other evidence from any licensed or unlicensed establishment.

8.72.160 Violations Violations of this ordinance are an immediate and present danger to the public health and welfare. Unlicensed or unsanitary operation of a tattoo or body piercing business shall be deemed to cause irreparable harm. Violations of this ordinance may be enjoined, without prejudice to seek forfeiture for the violations involved.

8.72.170 Penalties Each of the following acts or omissions of the ordinance shall constitute a misdemeanor.

- (a) Any performance of a tattooing or body piercing operation by an Operator in violation of any requirement of prohibition imposed in this article.
- (b) Any failure by a proprietor to maintain a tattooing or body piercing establishment in conformity with the requirements of this article. For purposes of this subparagraph (b), each day upon which such a failure to conform occurs shall constitute a separate violation.



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

Phone 536-5271
Fax 374-1540

June 28, 2006

Thomas J. Clark
5712 Blackthorne Ave.
Lakewood, CA 90712

SUBJECT: CONDITIONAL USE PERMIT NO. 06-14 (TATTOO SHOP) - DEVELOPMENT AND USE REQUIREMENTS

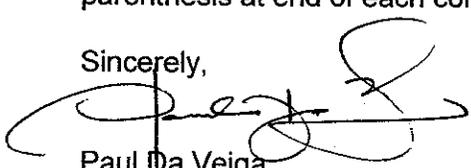
Dear Thomas:

In order to assist you with your development proposal, staff has reviewed the project and identified applicable city policies, standard plans, and development and use requirements, excerpted from the City of Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes. This preliminary list is intended to help you through the permitting process and various stages of project implementation.

It should be noted that this requirement list is in addition to any "conditions of approval" adopted by the Planning Commission. Please note that if the design of your project changes or if site conditions change, the list may also change based upon modifications to your project and the applicable city policies, standard plans, and development and use requirements.

If you would like a clarification of any of these requirements, an explanation of the Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes, or believe some of the items listed do not apply to your project, and/or you would like to discuss them in further detail, please contact me at 714-374-5394 and/or the respective source department (abbreviation in parenthesis at end of each condition – contact person below).

Sincerely,



Paul Da Veiga
Associate Planner

Enclosure

cc: Gerald Caraig, Building and Safety Department – 714-374-1575
Eric Engberg, Fire Department – 714-536-5564
Terri Elliott, Public Works – 714-536-5580
Herb Fauland, Principal Planner
Wayne Carvalho, Planning Department
Project File

(g:\forms\planning\Code Requirements Letter)

ATTACHMENT NO. 5.1

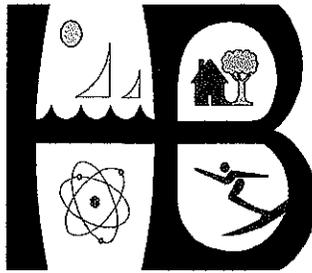
**CITY POLICIES, STANDARD PLANS, AND CODE REQUIREMENTS OF THE
HUNTINGTON BEACH ZONING & SUBDIVISION ORDINANCE AND
MUNICIPAL CODE**

CONDITIONAL USE PERMIT NO. 06-14 (TATTOO SHOP)

CONDITIONAL USE PERMIT NO. 05-30:

1. The site plan and floor plan approved by the Planning Commission shall be the conceptually approved layout.
2. Prior to submittal for building permits, the following shall be completed:
 - a. Zoning entitlement conditions of approval and this letter describing Huntington Beach Zoning and Subdivision Ordinance Code and Municipal Code requirements shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.
 - b. All Fire Department requirements shall be noted on the building plans. (FD)
3. The Planning Director ensures that all code requirements herein are complied with. The Planning Director shall be notified in writing if any changes to the site plan, elevations and floor plans are proposed as a result of the plan check process. Building permits shall not be issued until the Planning Director has reviewed and approved the proposed changes for conformance with the intent of the Zoning Administrator/Planning Commission's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator/Planning Commission may be required pursuant to the Huntington Beach Zoning and Subdivision Ordinance.
4. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
5. Conditional Use Permit No. 06-14 shall not become effective until the ten calendar day appeal period has elapsed.
6. Conditional Use Permit No. 06-14 shall become null and void unless exercised within one (1) year of the date of final approval. An extension of time may be granted by the Planning Director pursuant to a written request submitted to the Planning Department a minimum 60 days prior to the expiration date.
7. The Planning Commission reserves the right to revoke Conditional Use Permit No. 06-14, pursuant to a public hearing for revocation, if any violation of these conditions or the Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.

8. The development shall comply with all applicable provisions of the Municipal Code, Building Division, and Fire Department as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein.
9. Construction shall be limited to Monday – Saturday 7:00 AM to 8:00 PM. Construction shall be prohibited Sundays and Federal holidays.
10. The applicant shall submit a check in the amount of \$43 for the posting of the Notice of Determination at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the Planning Commission's action.
11. All permanent, temporary, or promotional signs shall conform to Chapter 233 of the HBZSO. Prior to installing any new signs, changing sign faces, or installing promotional signs, applicable permit(s) shall be obtained from the Planning Department. Violations of this ordinance requirement may result in permit revocation, recovery of code enforcement costs, and removal of installed signs.
12. A Certificate of Occupancy must be approved by the Planning Department and issued by the Building and Safety Department prior to occupying the building.



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, NOVEMBER 8, 2005

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: P P P A P A P
Dwyer, Scandura, Dingwall, Ray, Livengood, Burnett, Horgan
Commissioner Ray arrived at 5:20 p.m.

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY DWYER TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF NOVEMBER 8, 2005, BY THE FOLLOWING VOTE:

AYES: Livengood, Scandura, Dingwall, Horgan, Dwyer
NOES: None
ABSENT: Burnett, Ray
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS):

A-1. ZONING TEXT AMENDMENT NO. 05-02 (NEIGHBORHOOD NOTIFICATION/FENCE EXTENSIONS) – Rosemary Medel

Rosemary Medel, Associate Planner, reviewed the proposed amendment.

Commission discussions with staff ensued concerning the following: The location of fence, permit fee and change in ordinance.

A-2. ZONING TEXT AMENDMENT NO. 05-03 (APPEALS/SPECIFIC PLANS) – Jason Kelley

Jason Kelley, Assistant Planner, gave a presentation of the proposed amendments.

Discussion ensued regarding addition of language to specific plans, the appeal process and recommendation of notification of approvals and appeals to the Planning Commission.

A-3. ENTITLEMENT PLAN AMENDMENT NO. 05-06 (TSUNAMI – AMENDMENT TO OPERATING HOURS) – Paul Da Veiga

Paul Da Veiga, Associate Planner, presented an overview of the proposed amendment.

Commission discussions with staff ensued concerning the parking requirement and hours of operation.

B. STUDY SESSION ITEMS - NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland

Herb Fauland, Principal Planner, reported no new information had been received on Public Hearing Item No. B-1 (Gergen Mixed Use Development) and that staff had received only one call requesting information about the item.

D. PLANNING COMMISSION COMMITTEE REPORTS

Chair Ray advised that he intends to propose revisions to the Commission's Bylaws, Rules and Protocols at the December 13, 2005, study session. Chair Ray also announced that the Public Hearing Process would be scheduled for the same session. He confirmed with staff the upcoming Holiday Celebration.

Commissioner Livengood announced that the pending Home Depot project is scheduled for review by the Design Review Board on November 17, 2005.

Commissioner Dwyer inquired into the attendance at the previous Environmental Board meeting noting that he did not attend.

E. PUBLIC COMMENTS (Regarding Study Session portion of Meeting)

Mike Adams, representing business owners, provided comments on Study Session Item No. A-2 (Appeals/Specific Plans) and submitted a letter from the Chamber of Commerce.

Dick Harlow, business owner, provided comments on Study Session Items No. A-2 (Appeals/Specific Plans) and A-3 (Tsunami – Amendment To Operating Hours)

F. PLANNING COMMISSION COMMENTS

Commissioner Horgan asked staff the status of the Harriman project. Staff provided a brief update and noted that if there are additional questions to please call.

6:30 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Livengood

ROLL CALL: P P P P P A P
Dwyer, Scandura, Dingwall, Ray, Livengood, Burnett, Horgan

AGENDA APPROVAL

A MOTION WAS MADE BY DWYER, SECONDED BY DINGWALL, TO APPROVE THE PLANNING COMMISSION AGENDA OF NOVEMBER 8, 2005, BY THE FOLLOWING VOTE:

AYES: Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: Burnett
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS

Mr. Steve Stafford provided comments concerning existing problems with school children and traffic near the Crystal Island project.

B. PUBLIC HEARING ITEMS

PROCEDURE: Commission Disclosure Statement(s), Staff Report Presentation, Commission Questions, Public Hearing, Discussion/Action.

- B-1. COASTAL DEVELOPMENT PERMIT NO. 03-14/ CONDITIONAL USE PERMIT NO. 03-34/ SPECIAL PERMIT NO. 05-01 (GERGEN MIXED USE DEVELOPMENT): Applicant: Joe Gergen Request: To permit construction of an approximately 5,497 sq. ft., three-story mixed-use building on a 2,825 sq. ft. lot. The project proposes office space on the first and second floors, and a one-bedroom apartment on the third floor. The Special Permit provides for a portion of the roof to exceed the 35-foot height limit to the mid-point of the roof by 2-feet, 6-inches. Location: 307 Third Street (west side of Third St./north of Olive Ave.). Project Planner: Ron Santos

STAFF RECOMMENDATION: Motion to: "Approve Coastal Development Permit No. 03-14/ Conditional Use Permit No. 03-43/ Special Permit No. 05-01 with suggested findings and conditions of approval."

Ron Santos, Associate Planner, presented an overview of the proposed project.

The Commission made the following disclosures:

- Commissioner Dwyer drove by the subject site; no contact with applicant was made.
- Commissioner Scandura visited the subject site and attended the last study session which discussed the project.
- Commissioner Dingwall advised he made no contact with applicant and did not visit the subject site.
- Commissioner Livengood visited the site and met with staff.
- Commissioner Horgan visited the site as well as speaking with staff.
- Chair Ray visited the subject site on three occasions, spoke with staff and also attended the study session.

Mr. Livengood was concerned with the parking on the north side of the building and what type of improvements will be in place to prevent vehicles from entering or damaging the side of the structure.

Santos displayed an aerial photo that showed wheel stops in place in the adjacent lot to prevent vehicles from damaging the side of the project building. He also advised that the project building will be built at a zero lot line and there is no development proposed at this time for the adjacent lot.

Santos stated that the Downtown Parking Master Plan establishes development thresholds based on land use. This provides for the amount of space for retail, office and restaurants to be built without additional parking. The plan also allows for transfer between uses, such as retail to office. This is reflected in the annual review and update completed by the Planning Department.

Scandura asked if a building code issue was clarified in the revised plans regarding the corridor and rear exit.

Santos advised that the Building Department identified the corridor on the south side of the building as two-directional, which is required. The rear exit problem was remedied by the modification of a wall. The current design of the 2nd and 3rd floors will be reviewed for building code requirements.

Horgan and staff engaged in discussions concerning the partial glass floor, the height of the second and third floors and building code compliance.

Dingwall and staff engaged in discussions concerning the building's height and the project's uniqueness to the Downtown Specific Plan.

THE PUBLIC HEARING WAS OPENED:

Steve Stafford, spoke in opposition to the item, voicing concerns related to an existing parking problem near the post office and the possibility of a methane gas problem with abandoned oil wells.

Joe Gergen, Applicant, advised that the extension of the height limit was purely architectural in nature. His intention is to add interest to the roofline. Building an interior courtyard is to bring natural light into the structure on the 2nd and 3rd floors.

Dwyer requested that Fire Marshal Engberg point out the codes regarding the issue of methane gas on properties. Engberg referred to Attachment 4.4, which lists requirements and specifications for methane also Attachment 4.8(j), Code Requirements for a methane district.

Horgan confirmed with the applicant that there would be no glass floor.

Ray confirmed with the applicant that the off-site trash receptacle would remain where it is currently located.

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

Discussion ensued between the Commissioners and staff regarding the parking and safety factors, building height and how the actual height of the building is measured.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY DWYER, TO APPROVE COASTAL DEVELOPMENT PERMIT NO. 03-14/CONDITIONAL USE PERMIT NO. 03-34/SPECIAL PERMIT NO. 05-01 WITH FINDINGS AND MODIFIED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES: Dwyer, Scandura, Ray, Livengood
NOES: Dingwall, Horgan
ABSENT: Burnett
ABSTAIN: None

MOTION PASSED

FINDINGS AND CONDITIONS OF APPROVAL

**COASTAL DEVELOPMENT PERMIT NO. 03-14/ CONDITIONAL USE PERMIT NO. 03-34/
SPECIAL PERMIT NO. 05-01**

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 15332 of the CEQA Guidelines – *In-Fill Development Projects*, which states that development of an infill lot less than five (5) acres in size and consistent with the General Plan and zoning ordinance are exempt from further environmental review. The site can be adequately served by all required utilities and public services and will not have significant impacts to traffic, noise, air quality or water quality. In addition, the site does not have value as habitat for endangered or threatened species.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 03-14:

1. Coastal Development Permit No. 03-14 for the development project as proposed, conforms with the General Plan, including the Local Coastal Program Land Use Designation of MV-F6/25-sp-pd (Mixed Use Vertical – 2.0 max. FAR/ 25 units/acre – Specific Plan – Pedestrian Overlay) and the following Coastal Element policies:
Policy C 1.1.1: New development shall be encouraged within, contiguous or in close proximity to, existing developed areas able to accommodate it.
Policy C 1.1.5: Provide neighborhood commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads.
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, with the exception of the special permit request. The project complies with applicable maximum floor area ratio and building height requirements, and the applicable minimum setback and parking requirements.
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 in an urbanized area with direct access from an existing public street and with all necessary services and infrastructure available including water, sewer and electricity.
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. In addition, the project is subject to payment of required park fees; to be used for acquiring and maintaining public park land for recreational use.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 03-43:

1. Conditional Use Permit No. 03-43 to permit construction of an approximately 5,497 sq. ft., three-story mixed-use (office/ residential) building on a 2,825 sq. ft. lot, pursuant to Section 4.7.01(b) – *Permitted Uses* of the Downtown Specific Plan, 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 project provides required on-site parking, and will not generate significant traffic volumes, noise, odors or other adverse impacts. In addition, the project will replace an unsightly oil production facility which is incompatible and detrimental to the value of property and improvements in the neighborhood with a development that will help to support the residential and commercial land uses existing in the surrounding neighborhood.
2. The conditional use permit for the proposed mixed-use project building will be compatible with surrounding uses because the project is proposed in a Specific Plan area designated for mixed-use pedestrian-oriented development. The project consists of office and residential development designed to encourage pedestrian activity. In addition, the proposed building height, massing, architecture, colors, materials and orientation are consistent with the City's Urban Design Guidelines for Downtown development and the character of the existing neighborhood.
3. The proposed three-story mixed-use development will comply with the provisions of the Downtown Specific Plan – District 5 and applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance.
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 MV-F6/25-sp-pd (Mixed Use Vertical – 2.0 max. FAR/ 25 units/acre – Specific Plan – Pedestrian Overlay) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

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.

Objective LU 11.1.1: Provide for the development of structures that integrate housing with commercial uses, and ensure the compatibility of these uses.

Policy LU 11.1.1: Accommodate the development of structures and sites that integrate housing units with retail and office commercial uses in areas designated "mixed use" on the Land Use Plan Map.

Policy 11.1.7: Require that mixed-use development projects be designed to achieve a consistent and high quality character, including the consideration of the visual and physical integration among the commercial and residential uses.

Policy LU 15.2.2: Require that structures located in the pedestrian overlay zone be sited and designed to enhance pedestrian activity along the sidewalks, in consideration of the following guidelines:

- Siting of the linear frontage of the building along the front yard property line to maintain a "building wall" character, except for areas contiguous with the structure use for outdoor dining or courtyards;

- Assurance that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians, except as may be required for landscape and security;
- Extensive articulation of the building façade and use of multiple building volumes and planes;
- Incorporation of landscape and other elements such as planter beds, planters, and window boxes that visually distinguish the site and structure;
- Incorporation of arcades, courtyards, and other recesses along the street elevation to provide visual relief and interest;
- Use of roofline and height variation to break up the massing and provide visual interest;
- Visual differentiation of upper and lower floors;
- Distinct treatment of building entrances

B. Urban Design Element

Policies UD 1.1.2: Reinforce Downtown as the City's historic center and as a pedestrian-oriented commercial and entertainment/recreation district by requiring new development be designed to reflect the Downtowns historical structures and adopted Mediterranean theme

Policies - UD 2.2.2: Require the removal of non-productive oil production facilities and the restoration of the vacated site.

The proposed project reinforces Downtown as a pedestrian-oriented district by providing a mixed-use development which incorporates new residential space and office space in close proximity ("walking distance") to each other as well as to existing residential and commercial land uses. The project also incorporates design characteristics consistent with the historic structures in Downtown, such as similar scale and mass, pedestrian oriented storefronts, and distinction between upper and lower floors. The architecture incorporates a Mediterranean theme by including a stucco exterior finish, arched storefront and barrel tile roofing. In addition, the proposed development will be constructed at the minimum front setback of five feet from the public sidewalk, thereby encouraging pedestrian activity and an intimate downtown atmosphere. The project will also displace an existing, unsightly oil production facility that is inconsistent with the character of the Downtown.

FINDINGS FOR APPROVAL – SPECIAL PERMIT NO. 05-01:

1. The granting of Special Permit No. 05-01 (pursuant to Section 4.1.02 of the DTSP) in conjunction Coastal Development Permit No. 03-14/ Conditional Use Permit No. 03-43 to construct an approximately 5,497 sq. ft., three-story mixed-use building, is for the following:
 - To permit a portion of the proposed roof to exceed the 35-foot height limit to the mid-point of the roof by two-feet, six-inches.

This Special Permit will result in a greater benefit from the project and will promote a better living environment because the proposed design will improve the architectural design of the proposed building and provide for consistency with the City's Urban Design Guidelines for Downtown development projects.
2. The granting of Special Permit No. 05-01 will provide better land planning techniques with maximum use of aesthetically pleasing types of architecture, landscaping, site layout and design. The proposed increase in allowed roof height will allow for incorporation of a vertical

focal element, a change in roof line, a sloped roof feature and a massing break, thereby creating a more aesthetically pleasing design.

3. The granting of Special Permit No. 05-01 will not be detrimental to the general health, welfare, safety, and convenience of the neighborhood or City in general, nor detrimental or injurious to the value of property or improvements of the neighborhood or of the City in general. The proposed two-foot, six-inch increase in allowed height for a portion of the roof will not impact views to coastal resources. The project has been evaluated for compatibility with the surrounding neighborhood, which includes buildings of comparable and greater heights.
4. The granting of Special Permit No. 05-01 will be consistent with objectives of the Downtown Specific Plan in achieving a development adapted to the terrain and compatible with the surrounding environment. The Downtown Specific Plan provides for all projects to be in conformance with the adopted Design Guidelines for the area. The City's Urban Design Guidelines for the Downtown encourages vertical building focal elements, such as towers, spires or domes and variations in roof lines.
5. The granting of Special Permit No. 05-01 will be consistent with the policies of the Coastal Element of the City's General Plan and the California Coastal Act, and complies with State and Federal Law. The project is consistent with the Coastal Element goals, objectives, and policies as noted under the Coastal Development Permit Findings. The proposed project would develop a mix of office and residential uses in an established, urban, downtown area. Public services are currently available to the project site. Views of the beach/ocean will not be obstructed by the proposed project.

**CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 03-14/
CONDITIONAL USE PERMIT NO. 03-43/ SPECIAL PERMIT NO. 05-01:**

1. The site plan, floor plans, and elevations received and dated November 1, 2005, shall be the conceptually approved design, with the following modifications:
 - a. The elevations identified as Scheme No. 1, (plans received and dated August 8, 2005) shall be the conceptually approved design.
 - b. The project shall be redesigned as necessary for conformance with applicable building codes.
 - c. Architecturally compatible wall-mounted dusk to dawn exterior lighting fixtures shall be installed on the front and rear facade and within the corridor proposed along the south side of the building.
 - d. The design of any gate(s) installed at the entry to the corridor along the south side of the building shall be compatible with the proposed balcony railings.
 - e. A decorative paving treatment shall be applied to the walkway extending between the public sidewalk along Third Street and the easterly most entry to the ground floor office space.
 - f. A decorative wainscot treatment shall be applied to the building along the east (front) and north façades.
 - g. Stair and elevator access to third floor shall be restricted by means of keyed locks, electronic keypads, key cards or other similar means.
 - h. The reference of a glass floor shall be deleted.

2. Prior to submittal for building permits, one set of project plans, revised pursuant to Condition of Approval No. 1, shall be submitted for review, approval and inclusion in the entitlement file, to the Planning Department.

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 27, 2005

RECOMMENDED ACTION: Motion to: "Approve the September 27, 2005 Planning Commission Minutes as submitted."

A MOTION WAS MADE BY DINGWALL, SECONDED BY RAY, TO APPROVE THE SEPTEMBER 27, 2005, PLANNING COMMISSION MINUTES AS SUBMITTED.

AYES: Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: Burnett
ABSTAIN: None

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING COMMISSION ITEMS

E-1. PLANNING COMMISSION REQUEST ITEMS:

E-1A. PROPOSED CITY COUNCIL MINUTE ACTION (DELIVERY HOURS AND LOADING DOCK DESIGNS) – Commissioner Scandura

Scandura gave an overview of his report regarding codifying delivery hours at "Big Box" stores. He stated that issues such as loading dock placement and design, soundproofing, truck idling and Sunday deliveries were considered in evaluating this issue.

Discussion ensued regarding negative impacts on neighborhoods located near loading dock areas; competitive disadvantages for stores; and the grandfathering of delivery days and hours for already established stores.

Ray suggested a separate vote for the issues of delivery hours and loading dock designs.

A MOTION WAS MADE BY SCANDURA, SECONDED BY DWYER TO APPROVE THE PROPOSED CITY COUNCIL MINUTE ACTION FOR DELIVERY HOURS WITH MODIFICATIONS, BY THE FOLLOWING VOTE:

AYES: Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: Burnett
ABSTAIN: None

MOTION APPROVED

A MOTION WAS MADE BY SCANDURA, SECONDED BY HORGAN TO APPROVE THE PROPOSED CITY COUNCIL MINUTE ACTION FOR LOADING DOCK DESIGNS WITH MODIFICATIONS, BY THE FOLLOWING VOTE:

AYES: Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: Burnett
ABSTAIN: None

MOTION APPROVED

E-2. PLANNING COMMISSION COMMENTS

Commissioner Dwyer – announced that he met with homeowners of the Ellis/Edwards residential area concerning a proposed gated community. He extended happy birthday wishes to Chair Ray.

Commissioner Scandura – announced that he met with the homeowners behind the proposed Home Depot project.

Commissioner Dingwall – none

Commissioner Ray – stated that the next regularly scheduled PC meeting of November 22, 2005 is cancelled and that the next scheduled PC meeting will be December 13, 2005. He advised that the PC holiday celebration is scheduled for December 15, 2005 at 6:00 p.m. at Chimayo.

Commissioner Livengood – announced that he met with the homeowners behind the proposed Home Depot project. He questioned staff concerning the Minute Action concerning the auto dealership parking structure. Staff replied that the item was forwarded to the City Council and no action has occurred.

Commissioner Burnett – absent

Commissioner Horgan – thanked Associate Planner Ron Santos for his time in meeting with her concerning agenda item B-1. She also thanked the Public Works Department for their work on the 17th St. and Goldenwest St. ocean outfall pipe.

F. PLANNING ITEMS

F-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING – *None*

F-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Planning Manager - reported that the applicant for the Poseidon project has requested a continuance to the December meeting

F-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner – reported on special Design Review Board meeting on November 17, 2005 and the items scheduled for the Study Session and Public Hearing on December 13, 2005

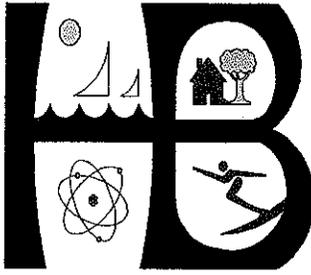
ADJOURNMENT:

Adjourned at 9:00 p.m. to the next regularly scheduled meeting of Tuesday, December 13, 2005.

APPROVED BY:

Howard Zelefsky, Secretary

Robert Dingwall, Chair



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, DECEMBER 13, 2005

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 P P A P P P
Dwyer, Scandura, Dingwall, Ray, Livengood, Burnett, Horgan
Commissioner Ray arrived at 5:22 p.m.
Commissioner Dwyer arrived at 5:27 p.m.

AGENDA APPROVAL

A MOTION WAS MADE BY HORGAN, SECONDED BY LIVENGOOD TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF DECEMBER 13, 2005, BY THE FOLLOWING VOTE:

AYES: Scandura, Dingwall, Livengood, Burnett, Horgan
NOES: None
ABSENT: Dwyer, Ray
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS) - NONE

B. STUDY SESSION ITEMS:

B-1. PLANNING COMMISSION BYLAWS, RULES AND PROTOCOL – Chair Ray

Chair Ray addressed the suggested revisions in the attachments to Study Session Item B-1. He advised that approval would take place at a later date. The Commission engaged in considerable discussions.

Deputy City Attorney Leonie Mulvihill provided legal guidance related to procedures and definitions as set forth in the Municipal Code. Commission Counsel provided advice concerning changes where potential penalties could exist. She further stated that the City Attorney recommends against adoption of Attachment 2.4 concerning sanctions against the Planning Commissioners and stated reasons thereof.

B-2. PUBLIC HEARING PROCESS – Chair Ray

Chair Ray stated reasons for changing the title to "Major Project Review Process," and recommended changes to Items 3.C), D), and G). Discussions ensued with the Commission and Commission Counsel concerning approval by City Council, discrepancy between the 72-hour notice and delivery of staff report, and discussion between the difference of minor vs. major project review.

Commission agreed to agendize the subject process for the next meeting.

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland and Chair Ray

Chair Ray stated reasons for reversing the order in which items E and F appear on the Planning Commission agenda.

Herb Fauland, Principal Planner, reported on:

- Public Hearing Item No. B-2 (Zoning Text Amendment No. 05-03 / Local Coastal Program Amendment No. 05-01 - Specific Plan Amendments). One late communication has been received from counsel to Bella Terra Associates.

Commissioner Dingwall asked for explanations concerning the appeal process for Non-Public Hearing Item D-1 Entitlement Plan Amendment No. 05-06 (amendment to Operating Hours – Tsunami Sushi). Staff advised the Commission and a general discussion ensued.

D. PLANNING COMMISSION COMMITTEE REPORTS - NONE

E. PUBLIC COMMENTS (Regarding Study Session portion of Meeting)

Dick Harlow, 211-B Main Street, asked the Commission for direction on when to speak on Non-Public Hearing item D-1.

F. PLANNING COMMISSION COMMENTS - NONE

6:45 P.M. – RECESS FOR DINNER

7:15 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Burnett

ROLL CALL: *P* *P* *P* *P* *P* *P* *P*
Dwyer, Scandura, Dingwall, Ray, Livengood, Burnett, Horgan

AGENDA APPROVAL

A MOTION WAS MADE BY DINGWALL, SECONDED BY HORGAN, TO APPROVE THE PLANNING COMMISSION AGENDA OF DECEMBER 13, 2005, BY THE FOLLOWING VOTE:

AYES: Dwyer, Scandura, Dingwall, Ray, Livengood, Burnett, Horgan
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS

Steve Stafford, Huntington Beach, provided comments concerning the continuing problems at the Crystal Island project.

Dick Harlow, Huntington Beach, applicant for Non-Public Hearing item D-1 (Tsunami), stated that the purpose of the item is to allow lunchtime service in compliance with the condition of approval.

B. PUBLIC HEARING ITEMS

PROCEDURE: Commission Disclosure Statement(s), Staff Report Presentation, Commission Questions, Public Hearing, Discussion/Action.

B-1. ZONING TEXT AMENDMENT NO. 05-02 (INTERIOR PROPERTY LINES AND LATTICE FENCE EXTENSIONS WITH NEIGHBORHOOD NOTIFICATION)

Applicant: City of Huntington Beach **Request:** To eliminate the need for an Administrative Permit and the 300-foot radius Neighborhood Notification for a two-foot lattice fence extension on an interior property line fence. **Location:** Citywide/Residential Zones. **Project Planner:** Rosemary Medel

STAFF RECOMMENDATION: Motion to: "Per City Council direction, approve Zoning Text Amendment No. 05-02 with findings (Attachment No.1) and forward Draft Ordinance (Attachment No. 2), including the legislative draft to the City Council for adoption."

Jason Kelley, Assistant Planner, sitting in for Rosemary Medel, gave a presentation of the proposed project.

The Commission made the following disclosures:

- Commissioner Dwyer drove by fences.
- Commissioner Scandura attended the last study session discussion concerning the project and conversed with staff.
- Commissioner Dingwall - none
- Commissioner Livengood - none.
- Commissioner Horgan - none.
- Commissioner Burnett – none.
- Chair Ray, spoke with staff and also attended the study session.

Commissioner Burnett addressed the courtesy notification process to adjacent homeowners and asked if the language in Attachment 2.1 No. A.2b could be changed.

Chair Ray and staff engaged in discussions concerning applicability of the lattice fence to interior walls only, the City Council's adoption of the existing ordinance, and any recourse available to adjacent property owners if not provided with notification.

THE PUBLIC HEARING WAS OPENED:

Allen Bayliss, Huntington Beach, voiced concerns related to common wall property owner rights.

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

Discussion ensued between the Commission and staff concerning common wall property owner rights as governed by City Ordinance versus a civil issue. Staff advised that the City is not involved when a wall is on a common property line.

A MOTION WAS MADE BY DINGWALL, SECONDED BY HORGAN, TO APPROVE ZONING TEXT AMENDMENT NO. 05-02 WITH FINDINGS FOR APPROVAL, BY THE FOLLOWING VOTE:

AYES: Dwyer, Scandura, Ray, Livengood, Burnett, Horgan
NOES: Dingwall
ABSENT: None
ABSTAIN: None

MOTION PASSED

Commissioner Dingwall stated that the foregoing vote is in error. He stated that he intended to vote yes in favor of the motion.

THE ABOVE VOTE WAS CORRECTED AS FOLLOWS:

AYES: Dwyer, Scandura, Dingwall, Ray, Livengood, Burnett, Horgan
NOES: None
ABSENT: None
ABSTAIN: None

MOTION PASSED

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 City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act. The project is exempt because it involves minor amendments to Huntington Beach Zoning and Subdivision Ordinance, Chapter 230.88, subsection A.

FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 05-02:

1. Zoning Text Amendment No. 05-02 to amend Section 230.88, subsection A., Permitted Fences and Walls of the Zoning and Subdivision Ordinance is consistent with the objectives, policies, general land uses and programs specified in the General Plan because the amendment streamlines entitlement process for an extension of height to an existing fence thereby furthering the City's development goals.
2. In the case of a general land use provision, the zoning text amendment is compatible with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed. The amendment revises processing of entitlement and clarifies a permitted use within the zoning classification.
3. A community need is demonstrated for the change proposed as directed by the City Council.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice by creating a zoning and subdivision ordinance more reflective of City priorities.

B-2. ZONING TEXT AMENDMENT NO. 05-03 / LOCAL COASTAL PROGRAM AMENDMENT NO. 05-01 (SPECIFIC PLAN AMENDMENTS) Applicant: City of Huntington Beach Request: To amend Specific Plan 4 (Huntington Harbour Bay Club, Specific Plan 11 (McDonnell Centre Business Park) and Specific Plan 13 (The Crossings) to include City Council notification and appeal language of the Planning Director's decision. The Local Coastal Program Amendment amends the City's Local Coastal Program implementing ordinances due to changes in Specific Plan 4, which is located in the Coastal Zone. Location: Specific Plans 4, 11 and 13's Project Area. Project Planner: Jason Kelley

STAFF RECOMMENDATION: Motion to: "Per City Council direction, approve Zoning Text Amendment No. 05-03 and Local Coastal Program Amendment No. 05-01 with findings for approval (Attachment Nos. 1 and 2) and forward Draft Ordinances and Resolutions (Attachment Nos. 3, 4, 6 & 8), including the legislative drafts to the City Council for adoption."

Jason Kelley, Assistant Planner, gave a presentation of the proposed project.

The Commission made the following disclosures:

- Commissioner Dwyer – none.
- Commissioner Scandura spoke with staff and Council Member Coerper.
- Commissioner Dingwall – none.
- Commissioner Livengood spoke with Council Members Hardy and Greene and conversed with Dick Harlow (project consultant) on the telephone.
- Commissioner Horgan – none.
- Commissioner Burnett – none.
- Chair Ray spoke with staff and attended the study session as did the Commissioners who were in attendance at the last study session.

Discussion ensued with staff concerning the degree of modifications to the Specific Plans and the approving authority in the case of an appeal.

Chair Ray questioned item no. (3) on page 2 of the late communication received from the law office of McKenna, Long & Aldridge concerning Specific Plan No. 13. Discussion ensued with staff. Commission Counsel explained the Specific Plan exception and stated that the Director of Planning determines minor vs. major modifications.

THE PUBLIC HEARING WAS OPENED:

James C. Hughes, Legal Representative for Bella Terra (McKenna, Long & Aldridge) deferred to speak until other public comments were concluded.

Mike Adams, consultant, representing the Huntington Beach Chamber of Commerce Board of Directors, spoke in opposition to the request, referencing the Chamber's letter (Attachment No. 11) emphasizing the need to streamline projects. Mr. Adams stated that approval of the request would slow down the process.

Mario Stavale, Boeing Realty Corporation, spoke in opposition to the request stating that it is not necessary to amend the McDonnell Center Business Park Specific Plan. Mr. Stavale stated that approval would yield additional bureaucracy. He stated that the existing Specific Plan brings clarity of expectations and requirements.

Steve Stafford, Huntington Beach, spoke in support of the request stating that the Planning Commission should be involved in order to maintain checks and balances.

Lindsay Parton, Bella Terra, spoke in opposition to the request stating that the amendment would create more bureaucracy and time. Ms. Parton stated that when they purchased the Bella Terra property, they relied on certain entitlement rights.

James C. Hughes, Legal Representative for Bella Terra, stated that they have relied on the Specific Plan "as is." Mr. Hughes spoke in opposition to the request stating that minor modifications would get caught in the appeal process. He stated that the appeal process impacts equity investment and capital expense. Mr. Hughes urged the Planning Commission not to change the Specific Plan.

Dick Harlow, Huntington Beach, spoke on behalf of Boeing. Mr. Harlow spoke in opposition to the request stating that the purpose of the McDonnell Center Business Park Specific Plan is to provide certainty and was approved in good faith. He stated that the request is a step back. Mr. Harlow urged the Planning Commission to deny the request.

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

Commission questions/comments included:

- The 60/70 days timeframe to prepare for a hearing including reports and notification.
- Minor modifications and the negative impact on streamlining a project if the request were approved.
- The appeal process and eligible appellants as applicable to the different Specific Plans.
- Lack of a compelling reason for minor modifications to go to City Council.
- Approval of the request would serve to dissuade other businesses.
- A council member's right to appeal if a decision is contrary to the public.
- Reluctance to disagree with the City Council's request to approve.
- The difference between the three subject Specific Plans and the 10 other Specific Plans.
- Whether or not the proposed request would impact development agreements.
- "Deviations" as set forth in Attachment 7.8.
- Require notification to Planning Commission, City Council and City Administrator.

A MOTION WAS MADE BY SCANDURA, SECONDED BY DWYER, TO DENY ZONING TEXT AMENDMENT NO. 05-03 WITH FINDINGS.

Commissioner Livengood moved to amend the motion to require notification as previously discussed to include the City Council, City Administrator, and Planning Commission.

Discussions ensued.

COMMISSIONER SCANDURA WITHDREW HIS PREVIOUS MOTION AND MADE A MOTION, SECONDED BY BURNETT, TO APPROVE ZONING TEXT AMENDMENT NO. 05-03 WITH CHANGES TO INCLUDE NOTIFICATION TO THE CITY COUNCIL, CITY ADMINISTRATOR AND PLANNING COMMISSION, BY THE FOLLOWING VOTE:

AYES: Scandura, Ray, Livengood, Burnett
NOES: Dwyer, Dingwall, Horgan
ABSENT: None
ABSTAIN: None

MOTION PASSED

Chair Ray stated that he intended to vote against the motion.

THE ABOVE RE-VOTE WAS AS FOLLOWS:

AYES: Scandura, Livengood, Burnett
NOES: Dwyer, Dingwall, Ray, Horgan
ABSENT: None
ABSTAIN: None

MOTION FAILED

A MOTION WAS MADE BY RAY, SECONDED BY DINGWALL, TO APPROVE ZONING TEXT AMENDMENT NO. 05-03 WITH THE NOTIFICATION REQUIREMENT TO INCLUDE THE CITY COUNCIL, CITY ADMINISTRATOR AND PLANNING COMMISSION, AND THE APPEAL PROCEDURE AS SPECIFIED BY THE FOLLOWING VOTE:

AYES: Dingwall, Ray, Horgan
NOES: Dwyer, Scandura, Livengood, Burnett
ABSENT: None
ABSTAIN: None

MOTION FAILED

A MOTION WAS MADE BY DWYER, SECONDED BY SCANDURA, TO DENY ZONING TEXT AMENDMENT NO. 05-03.

Staff advised the Commission that in order to deny the request, they are required to amend the motion and make findings for denial. Commission Counsel confirmed that the Commission would have to amend the foregoing motion to state findings for denial.

Discussion ensued.

Commissioner Dwyer called for the question.

ACTION WAS TAKEN ON THE PREVIOUS MOTION AS AMENDED WITH FINDINGS FOR DENIAL BY THE FOLLOWING VOTE:

AYES: Dwyer, Scandura, Livengood, Burnett
NOES: Dingwall, Ray, Horgan
ABSENT: None
ABSTAIN: None

MOTION PASSED

FINDINGS FOR DENIAL - ZONING TEXT AMENDMENT NO. 05-03

1. Zoning Text Amendment No. 05-03 to amend various sections of Specific Plan No. 4 (Huntington Harbour Bay Club), Specific Plan No. 11 (McDonnell Centre Business Park) and Specific Plan No. 13 (The Crossings) is not consistent with the goals, objectives and policies of the General Plan because the amendment does not achieve the goals of streamlining as reflected in the following General Plan policy:

Economic Development Element:

ED 2.3.1 - Strive to reduce all discretionary permit and processing time.

2. A community need is not demonstrated for the proposed zoning text amendment because there is insufficient evidence to prove that the existing review process is not adequate.
3. Its adoption will not be in conformity with public convenience, general welfare and good zoning practice because there is adequate control through the existing review process. Also, the proposed appeal language adds uncertainty to the review process and is inconsistent with past City actions relative to the Specific Plans

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED SEPTEMBER 13, 2005

RECOMMENDED ACTION: Motion to: "Approve the September 13, 2005 Planning Commission Minutes as submitted."

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY DWYER, TO APPROVE THE SEPTEMBER 13, 2005, PLANNING COMMISSION MINUTES AS MODIFIED.

AYES: Dwyer, Scandura, Dingwall, Ray, Livengood, Burnett
NOES: None
ABSENT: Horgan (out of room)
ABSTAIN: None

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS:

- D-1. ENTITLEMENT PLAN AMENDMENT NO. 05-06 (AMENDMENT TO OPERATING HOURS – TSUNAMI SUSHI): Applicant: Dick Harlow Request: To amend the hours of operation to permit lunch time food service in compliance with condition of approval No. 5 a. of Conditional Use Permit No. 98-29. Location: 17236 Pacific Coast Highway Project Planner: Paul Da Veiga**

STAFF RECOMMENDATION: Motion to: "Receive and file the report on Entitlement Plan Amendment No. 05-06".

Paul Da Veiga, Associate Planner, gave a presentation of the proposed project.

The Commission, Staff and Commission Counsel engaged in discussions concerning the process for an Entitlement Plan Amendment and the Commission's role in taking action on this request. Commissioner Dingwall questioned how it was possible to receive and file when action has not yet been taken.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY HORGAN, TO RECEIVE AND FILE ENTITLEMENT PLAN AMENDMENT NO. 05-06, BY THE FOLLOWING VOTE:

AYES: Dwyer, Scandura, Ray, Livengood, Burnett, Horgan
NOES: Dingwall
ABSENT: None
ABSTAIN: None

MOTION PASSED

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Planning Manager – reported on the items from the previous City Council meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner – reported on the items scheduled for the next City Council meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner – reported that the December 27, 2005 meeting has been canceled due to the Holiday. Mr. Fauland reported on the items scheduled for the January 10, 2006 Planning Commission meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Dwyer – Thanked Commissioner Horgan for the homemade jams. He also thanked outgoing Chair Ray for his leadership as Chair.

Commissioner Scandura – Welcomed Commissioner Burnett back from maternity leave. He also thanked outgoing Chair Ray for his leadership as Chair.

Commissioner Dingwall – Wished everyone happy holidays.

Commissioner Ray - Welcomed Commissioner Burnett back from maternity leave. Announced the Planning Commission holiday celebration for Thursday, December 15, 2006, at 6:00 p.m. at Chimayo Restaurant. He also announced the election of Chair and Vice-Chair will occur at the January 10, 2006 meeting. He concluded by summarizing the past year and the accomplishments of the Planning Commission, thanked all those involved and wished everyone happy holidays.

Commissioner Livengood - Thanked outgoing Chair Ray for his leadership as Chair.

Commissioner Burnett – Thanked outgoing Chair Ray for his leadership as Chair.

Commissioner Horgan – Thanked outgoing Chair Ray for his leadership as Chair.

ADJOURNMENT:

Adjourned at 10:05 p.m. to the Holiday Celebration at Chimayo Restaurant, 315 Pacific Coast Highway, at 6:00 p.m. on Thursday, December 15, 2005.

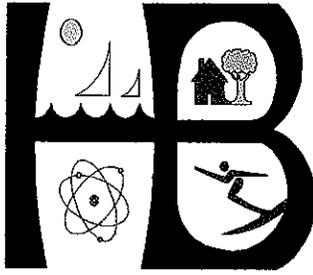
NOTE: The regularly scheduled meeting of December 27, 2005 has been cancelled.

HZ:HF:rk

APPROVED BY:

Howard Zelefsky, Secretary

Steve Ray, Chair



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, MAY 23, 2006

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

6:00 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: P P P P P P P
Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer

AGENDA APPROVAL

A MOTION WAS MADE BY RAY SECONDED BY SCANDURA TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF MAY 23, 2006, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS) - NONE

B. STUDY SESSION ITEMS

B-1. PROJECT REVIEW PROCESS – Commissioner Ray

Ray reviewed the item and some minor changes in language stating that the intent of the Commission is to improve the current process by making it more streamlined and easier for the public to use.

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) - NONE

D. PLANNING COMMISSION COMMITTEE REPORTS:

Commissioner Livengood stated that the Design Review Board had approved the Pacific City Project on May 18, 2006.

Chair Dingwall requested a Study Session presentation be scheduled with the Design Review Board on the Pacific City Project in order to review the new design.

Commissioner Scandura reported that the next Quarterly School District meeting is tentatively scheduled for late September, 2006.

Commissioner Ray reported on the Project Review Committee meeting of May 9, 2006.

E. PUBLIC COMMENTS (Regarding Study Session Portion of Meeting):

Mike Adams, Planning Consultant, professed his support of the Project Review Process Committee and asked the Planning Commission to approve the process tonight.

F. PLANNING COMMISSION COMMENTS:

Commissioner Horgan reported on her and Commissioner Burnett's attendance at the May 3rd joint City Council and Economic Development meeting at the 3rd Street Promenade in Santa Monica. She reported on Green Building/Development and urged that the topic be placed on the Planning Commission Workshop agenda.

Commissioner Burnett also reported on the May 3rd meeting. She also asked to have the issue of Green Building/Development be placed on the Planning Commission Workshop agenda.

Commissioner Livengood requested that a draft agenda be prepared and sent to staff on the Planning Commission Workshop.

Commissioner Ray reported on his role as Chair of the Green Building Environmental Coalition for the Irvine Great Park and the role of Green Building/Development.

Chair Dingwall reported that he would work with staff in preparing the Planning Commission Workshop agenda for discussion at the meeting of June 13th.

6:20 P.M. – RECESS FOR DINNER

7:05 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Chair Dingwall

ROLL CALL: *P* *P* *P* *P* *P* *P* *P*
Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY BURNETT, TO APPROVE THE PLANNING COMMISSION AGENDA OF MAY 23, 2006, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS

PROCEDURE: Commission Disclosure Statement(s), Staff Report Presentation, Commission Questions, Public Hearing, Discussion/Action.

B-1. REVOCATION OF CONDITIONAL USE PERMIT NO. 05-08 (LE PETIT PARIS DANCING): **Applicant:** Vu Tran **Request:** To consider the revocation of Conditional Use Permit No. 05-08, which permitted dancing (140 sq. ft. dance floor) and a one-space reduction in required parking at an existing dining/nightclub establishment. **Location:** 10142 Adams Avenue (southeast of the Adams Avenue/Brookhurst Street intersection). **Project Planner:** Ron Santos

STAFF RECOMMENDATION: Motion to: "Revoke Conditional Use Permit No. 05-08 with findings for revocation."

The Commission made the following disclosures:

- Commissioner Dwyer visited the exterior of the site.
- Commissioner Scandura visited the site and spoke with staff.
- Chair Dingwall stated he spoke with staff.
- Commissioner Horgan visited the exterior of the site.
- Commissioner Ray visited the exterior of the site and spoke with staff.
- Commissioner Livengood visited the site and spoke with staff.
- Commissioner Burnett visited the exterior of the site.

Ron Santos, Associate Planner, gave a Powerpoint presentation reviewing the background on the Le Petit Paris establishment. Issues addressed were violations of the Conditional Use Permit No. 05-08; Fire and Police Inspection reports; the Entertainment Permit issued by the Police Department; and the lack of a current Certificate of Occupancy.

Commissioner Dwyer asked if the business was no longer in operation. Staff stated they were recently advised it had closed due to management issues.

Horgan asked about any problems or complaints after 2002? Staff advised the Entertainment Permit had been revoked in 2004 and re-issued in 2005.

Ray questioned whether the applicant had contacted the Planning Department and what type of notifications had been made to him. Staff advised appropriate notifications had been made.

Chief Small and Fire Marshal Engberg both stated officers had recently visited the business and found it closed.

Santos advised that a dance floor delineation plan and certificate of occupancy application had been received at the Planning Counter the day prior (May 22, 2006). He was unaware of who had dropped it off and no determination of compliance had been made on the request.

Livengood asked for a timeline of permit suspensions.

Chief Small stated that in June 2004, the Entertainment Permit was revoked due to numerous civil citations and multiple police calls for service; in June 2005 it was renewed; in November 2005, the dancing CUP was added; and on June 1, 2006, the Entertainment Permit will expire. To date a renewal application has not been submitted.

Discussion ensued between the Commissioners and staff regarding building codes, reapplication of the entertainment permit and revocation of the 1998 CUP.

THE PUBLIC HEARING WAS OPENED

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

Scandura commended the Planning staff, Police Department and Fire Department on their preparation of the report. He suggested listing all violations in the findings for revocation.

Dingwall agreed and professed his concern regarding the lack of attention to the fire violations by the applicant.

**A MOTION WAS MADE BY DWYER, SECONDED BY HORGAN TO REVOKE
CONDITIONAL USE PERMIT NO. 05-08 WITH MODIFIED FINDINGS. ACTION WAS
TAKEN BY THE FOLLOWING VOTE:**

| | |
|-----------------|---|
| AYES: | Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |

MOTION PASSED

**FINDINGS FOR REVOCATION -
CONDITIONAL USE PERMIT NO. 05-08**

1. Conditional Use Permit No. 05-08 to permit a 140 sq. ft. dance floor and a one-space reduction in required parking in conjunction with an existing restaurant (La Petit Paris) was issued on the basis of erroneous or misleading information or misrepresentation. The applicant's written project narrative and testimony presented to the Planning Commission at the October 11, 2005 hearing represented that the majority of dancing at the establishment would consist of some form of ballroom dancing and that the functions involving dancing would be primarily limited to swing dancing lessons, birthday parties, wedding receptions and anniversary celebrations. Inspections by City staff and promotional flyers obtained during those inspections indicate that the establishment has operated and had intended to operate as a nightclub with unrestricted dancing and unauthorized live entertainment.
2. The terms or conditions of approval of Conditional Use Permit No. 05-08 for a 140 sq. ft. dance floor and a one-space reduction in required parking in conjunction with an existing restaurant (La Petit Paris) and other laws or provisions have been violated. Inspections conducted by Fire Department and Police Department personnel document numerous violations of Conditional Use Permit No. 05-08, the establishment's Police Department Entertainment Permit, Alcoholic Beverage Control License, and Building and Fire codes, which represent a threat to health and safety and a detriment to surrounding property owners, including the following:

- Failure to post Certificate of Occupancy
- Failure to post room capacity signs
- Obstruction of sprinkler systems
- Dance floor not delineated/ Means of delineation not submitted for approval by Planning Department (Required – Conditional Use Permit)
- Dancing occurring outside of designated area in lounge (Prohibited – Conditional Use Permit/ Entertainment Permit)
- Dancing occurring in dining room (Prohibited – Conditional Use Permit/ Entertainment Permit)
- Music audible at approximate distance of 200-feet from perimeter of establishment (50-foot maximum distance – Entertainment Permit)
- Live entertainment provided in dining room after 9:00 p.m. (Prohibited – Entertainment Permit)
- Three entertainers (1 drummer, 2 dancers) in piano bar area (Limit: 1 entertainer – Entertainment Permit)
- Only one security guard in parking lot (Two security guards required – Entertainment Permit)
- Entertainment occurring after 1:30 a.m. (Prohibited – Entertainment Permit)
- Special event held with outside promoter. (Prohibited – Alcoholic Beverage Control License)
- Cover charge collected from males entering establishment only. (Prohibited – Alcoholic Beverage Control License)
- Occupancy limits exceeded – approximately 450 occupants observed. (250 maximum occupancy – Building/ Fire Code)
- No maximum occupancy signs posted. (Required – Building/ Fire Code)

C. CONSENT CALENDAR:

C-1. PLANNING COMMISSION MINUTES DATED FEBRUARY 28, 2006

RECOMMENDED ACTION: Motion to: “Approve the February 28, 2006, Planning Commission Minutes as submitted.”

A MOTION WAS MADE BY RAY, SECONDED BY LIVENGOOD, TO APPROVE THE FEBRUARY 28, 2006, PLANNING COMMISSION MINUTES AS MODIFIED, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED MARCH 14, 2006

RECOMMENDED ACTION: Motion to: "Approve the March 14, 2006, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY RAY, SECONDED BY SCANDURA, TO APPROVE THE MARCH 14, 2006, PLANNING COMMISSION MINUTES AS MODIFIED, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

C-3. PLANNING COMMISSION MINUTES DATED MARCH 28, 2006

RECOMMENDED ACTION: Motion to: "Approve the March 28, 2006, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY HORGAN, SECONDED BY SCANDURA, TO APPROVE THE MARCH 28, 2006, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

C-4. PLANNING COMMISSION MINUTES DATED APRIL 11, 2006

RECOMMENDED ACTION: Motion to: "Approve the April 11, 2006, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY BURNETT, SECONDED BY SCANDURA, TO APPROVE THE APRIL 11, 2006, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS:

D-1. PROJECT REVIEW PROCESS – Commissioner Ray

Commissioner Ray reviewed minor language changes and stated that these changes will delineate how items move through the process.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY RAY, TO APPROVE THE PROJECT REVIEW PROCESS AS SUBMITTED, ACTION WAS TAKEN BY THE FOLLOWING VOTE:

AYES: Burnett, Livengood, Scandura, Dingwall, Ray, Horgan, Dwyer
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Planning Manager – reported on the items from the previous City Council meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Planning Manager – Advised City Council requested staff provide options for fees of Home Daycare Facilities for the June 5, 2006, meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Principal Planner – reported on the items scheduled for the next Planning Commission meeting.

Commissioner Ray reminded staff that the Planning Commission Bylaws and Rules were approved at the May 15, 2006, meeting of the City Council.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Burnett – Recommended Commissioners view the last City Council meeting (May 15, 2006) on the City's website. She referenced the Council's discussion and recommendation of timeliness during Planning Commission meetings.

Commissioner Livengood - Suggested having an outline for a Commission workshop ready for the next scheduled meeting on June 13, 2006.

Vice-Chairperson Scandura – Commended the Chair and Commissioners on their conduct in dealing with such a serious issue as revocation of CUP No. 05-08 for Le Petit Paris. He suggested consideration of possible revocation of the CUP issued in 1998 to the same business.

Chairperson Dingwall – Commended Commissioner Ray for the time and effort he put into the Project Review Process.

Commissioner Ray – Questioned Commissioner Burnett on how long the last City Council meeting was and thanked the Commissioners for their participation in the Project Review Process.

Commissioner Horgan – None.

Commissioner Dwyer – Advised he cannot be expected to run a marathon in the time it took for tonight's meeting.

ADJOURNMENT:

Adjourned at 8:10 p.m. to the next regularly scheduled meeting of Tuesday, June 13, 2006.

APPROVED BY:

Howard Zelefsky, Secretary

Robert Dingwall, Chair