MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JULY 8, 2008
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 Farley, A Dwyer, P Shier-Burnett, P Livengood, P Shaw, P Speaker, P Scandura***

Commissioner Dwyer was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY SHIER-BURNETT, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF JULY 8, 2008, BY THE FOLLOWING VOTE:

AYES: **Farley, Shier-Burnett, Livengood, Shaw, Speaker, Scandura**
NOES: **None**
ABSENT: **Dwyer**
ABSTAIN: **None**

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

A-1. FLOOD MANAGEMENT PLAN (ANNUAL REVIEW) – Andrew Gonzales, Assistant Planner

Andrew Gonzales, Assistant Planner, gave an overview of the project.

Commissioner Scandura asked if the dredging activity described in the staff report would be similar to that in Bolsa Chica and staff indicated that the wetlands and restoration activity is addressed in staff report attachment 8.2.6. Scandura also inquired if additional restrooms would be constructed, and Facilities, Development and Construction Manager Dave Dominguez reported that this construction would be ongoing through the summer of 2009.

Commissioner Speaker inquired regarding the roadway modifications noted in attachment 8.1.13 and staff noted that funding for improvements on Pacific Coast Highway must be provided by the state of California.

Vice-Chair Shier-Burnett inquired if the proposed Senior Center would be affected by the Flood Management Plan Recommended Activities and staff noted that the Senior Center site is not in the flood zone.

Chair Livengood noted that the Shea Homes site is in the flood zone and this was confirmed by staff.

Commissioner Farley mentioned that the Bolsa Chica Wetlands are not included in the Flood Management Plan Recommended Activities and staff stated that this site would be included in the next staff report when this item comes before the Planning Commission on July 22, 2008.

A-2. GENERAL PLAN CONFORMANCE NO. 08-003 (CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2008/09) – Hayden Beckman, Planning Aide

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

Commissioner Farley asked about the proposed Facility Improvements/roof replacements on City Yard Building C and the Water Warehouse and staff indicated that green building materials would be used in this construction.

Commissioner Scandura stated that the purview of the Planning Commission is to ensure conformity with the General Plan and recommended upgrades/repairs to Springdale Street by the high school.

Chair Livengood noted that irrigation and landscaping for the Central Library are addressed in Exhibit A.

B. STUDY SESSION ITEMS - NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Herb Fauland, Planning Manager, advised that there were two Late Communications for Item No. B-1.

D. PLANNING COMMISSION COMMITTEE REPORTS

Vice Chair Shier-Burnett reported that the Ad Hoc Green Committee teamed with members of the Environmental Board and presented a recommendation for a Green Scorecard.

Commissioner Farley reported on the Design Review Board's review of the planned sign program and miscellaneous outdoor improvements for Pacific City.

Vice Chair Shier-Burnett reported on her attendance at the Neighborhood Workshop on June 11, 2008, and recommended that the Planning Commission attend the upcoming Neighborhood Workshop on July 23, 2008.

E. PUBLIC COMMENTS - NONE

F. PLANNING COMMISSION COMMENTS

Vice Chair Shier-Burnett asked staff about the status of Makar; Planning Manager Herb Fauland stated that the parkland dedication fee is in arbitration and the city is waiting for the decision. He also said that the city recently sent a letter to Makar informing them that they are in default of the Owner Participation Agreement (OPA).

Commissioner Scandura spoke on the importance of using judgment regarding each individual project and not merely making sure that codes are being observed.

Commissioner Shaw concurred with Commissioner Scandura and suggested a meeting of the Neighborhood Compatibility committee.

5:55 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Speaker

	P	A	P	P	P	P	P
ROLL CALL:	***Farley,***	***Dwyer,***	***Shier-Burnett,***	***Livengood,***	***Shaw,***	***Speaker,***	***Scandura***

Commissioner Dwyer was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY SCANDURA, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION AGENDA OF JULY 8, 2008, BY THE FOLLOWING VOTE:

AYES:	**Farley, Shier-Burnett, Livengood, Shaw, Speaker, Scandura**
NOES:	**None**
ABSENT:	**Dwyer**
ABSTAIN:	**None**

MOTION APPROVED

A. ORAL COMMUNICATIONS – NONE

B. PUBLIC HEARING ITEMS

B-1. CONDITIONAL USE PERMIT NO. 08-009 (APPEAL – METRO Q RESTAURANT) **Applicant:** Scott Forst and Ida Vallez **Appellant:** Commissioner Fred Speaker **Request**: To permit the establishment of a 4,995 sq. ft. restaurant with on-site sale and consumption of alcoholic beverages. **Location:** 19092 Beach Boulevard, Suites J, K, L and M, 92648 (east side of Beach Boulevard, south of Garfield Avenue) **Project Planner:** Tess Nguyen

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 08-009 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Farley has visited the site.
- Vice Chair Shier-Burnett has visited the site.
- Chair Livengood has visited the site and talked to staff.
- Commissioner Shaw has visited the site.
- Commissioner Speaker has visited the site.
- Commissioner Scandura has visited the site and has spoken to Councilman Joe Carchio

Associate Planner Tess Nguyen gave a Powerpoint presentation of the proposed project.

Commissioner Farley asked if the venue would be open until 1:00 or 2:00 AM, and staff said that a 1:00 AM closing time is one of the conditions of approval.

Vice Chair Shier-Burnett asked about the Police Department recommendation that two security guards patrol the premises from 7:00 PM to 1:30 AM. Acting Chief of Police Chuck Thomas indicated that the Police Department has withdrawn that recommendation and that the Department of Alcoholic Beverage Control will be notified.

Shier-Burnett also asked about external advertising and "Happy Hour" promotions. Acting Chief Thomas advised that food could be advertised, but not alcohol, and that "Happy Hour" type promotions would not be allowed.

Commissioner Speaker noted that noisy trash cans and dumpster use can be an annoyance to local residents.

Commissioner Scandura asked Acting Chief Thomas if the majority of the calls to the Police Department regarding former tenant Beer Nutz were a result of parking lot disturbances, and Thomas said yes.

Commissioner Shaw asked Acting Chief Thomas if the Police Department is happy with the Conditional Use Permit and Thomas stated that they are. Shaw also asked about the possibility of a re-review of the Conditional Use Permit in six or twelve months and Planning Manager Herb Fauland noted that the Conditional Use Permit can be revoked with cause at any time.

Commissioner Farley asked if live entertainment would be provided and staff replied no. Commissioner Shaw asked if outside dining would be allowed and staff also replied no.

Planning Manager Herb Fauland referred the Planning Commission to the Police Department interoffice memo dated June 20, 2008.

THE PUBLIC HEARING WAS OPENED.

Robert Fedor from M&G Permits spoke on behalf of the applicant, in favor of Item No. B-1. He stated that Metro Q Restaurant would have a different clientele than Beer Nutz and feature a family atmosphere.

Karen Stalk, resident, spoke in favor of Item No. B-1.

Ida Vallez, the applicant, spoke in favor of Item No. B-1, citing her years of restaurant management experience. She also noted that Beer Nutz's landlord was absentee. She stated that she was in agreement with the proposed hours of operation, notably the 1:00 AM closing time.

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

Commissioner Speaker asked for clarification on the definition of a bar versus the definition of a restaurant. Speaker also recommended that the following conditions be added: to add a security guard from 9:00 PM to 1:00 AM, to post parking signs in the parking lot and prohibit parking north of the site after 10:00 PM and to prohibit trash dumping between the hours of 10:00 PM and 8:00 AM. He also said that he would support a re-review of this Conditional Use Permit in both six months and twelve months.

Commissioner Shaw noted that he believes that the Conditional Use Permit has adequate conditions in place.

Vice Chair Shier-Burnett agreed with Commissioner Shaw and said that she feels the Police Department has the situation in hand; she noted that she would be amenable to Commissioner Speaker's added conditions, but does not believe that a security guard is necessary.

Commissioner Farley asked if the prohibition of live entertainment is included in the conditions of approval and Planning Manager Herb Fauland stated that this is correct and any request for live entertainment would require a separate Conditional Use Permit and entertainment permit.

Commissioner Scandura stated that he is in favor of the project and supports the current conditions of approval.

Chair Livengood stated that he agrees with a six month and twelve month re-review of the project, but he feels the presence of a security guard to be unnecessary.

Planning Director Scott Hess spoke regarding signage on the property, stating that the applicant has the owner's authority to post parking signs on the property.

Vice Chair Shier-Burnett asked Acting Chief Thomas to have the Police Department work with the applicant to ensure that future disturbances in the parking lot can be avoided.

Commissioner Shaw stated that he felt it was an undue burden on a small business owner to require that a security guard be on the premises;

Commissioners Speaker and Scandura disagreed with Shaw and stated that they felt the security guard to be necessary.

STRAW VOTE

Straw Vote #1: To add a condition of approval requiring a uniformed security guard be on site from 9:00 PM to 1:00 AM, seven days a week.

AYES:	**Farley, Speaker, Scandura**
NOES:	**Shier-Burnett, Livengood, Shaw**
ABSENT:	**Dwyer**
ABSTAIN:	**None**

MOTION FAILED

STRAW VOTE

Straw Vote #2: To add a condition of approval requiring a uniformed security guard be on site on Thursday, Friday and Saturday evenings from 9:00 PM to 1:00 AM.

AYES:	**Farley, Speaker, Scandura**
NOES:	**Shier-Burnett, Livengood, Shaw**
ABSENT:	**Dwyer**
ABSTAIN:	**None**

MOTION FAILED

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHAW, TO APPROVE CONDITIONAL USE PERMIT NO. 08-009 WITH REVISED FINDINGS AND MODIFIED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Farley, Shier-Burnett, Livengood, Shaw**
NOES:	**Scandura**
ABSENT:	**Dwyer**
ABSTAIN:	**Speaker**

MOTION APPROVED

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 08-009

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the project consists of minor alterations to a commercial suite within an existing shopping center.

FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 2008-009:

1. Conditional Use Permit No. 2008-009 for the establishment of a 4,995 sq. ft. eating and drinking establishment (restaurant) with onsite sale and consumption of alcoholic beverages within an existing commercial development will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed restaurant with alcohol sales will not generate additional noise, traffic, or other impacts detrimental to surrounding property and inconsistent with the subject property's commercial zoning. The site provides the necessary parking to accommodate the proposed restaurant. The sales and consumption of alcoholic beverages are proposed inside the restaurant only. The main entrance of the restaurant is oriented towards Beach Boulevard, away from residential units.

2. The conditional use permit will be compatible with surrounding uses because it is a commercial use located in an existing commercial development with other commercial uses with similar characteristics such as retail and restaurants. The subject building is oriented towards Beach Boulevard with the front of the building facing the parking area adjacent to Beach Boulevard. The rear of the building faces the eastern property line with no openings. The building design and orientation creates a buffer for the residential land uses to the east to ensure no detrimental impact.

3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it would be located. The eating and drinking establishment (restaurant) with alcohol sales will be located within an existing commercial center, which conforms to land use and on-site parking requirements applicable to the General Commercial (CG) zoning designation.

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 Commercial General on the subject property. In addition, it is consistent with the following objectives and policies of the General Plan:

   A. *Land Use Element*

      Objective LU 10.1.1 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, and capitalize on Huntington Beach's recreational resources.

   B. *Economic Development Element*

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

      The requested conditional use permit will accommodate existing development by allowing the eating and drinking establishment (restaurant) with alcohol sales. The proposed use will market its services to local residents and residents in the surrounding region thereby expanding the service-based commercial opportunities in the City. It will be located in an existing shopping center, which includes service related uses consistent with the Land Use Density Schedules in the General Plan and is compatible with surrounding commercial development.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2008-009:

1. The site plan, floor plan, and elevation received and dated March 4, 2008, shall be the conceptually approved design with the following modifications:

   a. The proposed outdoor dining area shall be removed.

   b. The existing storefront windows shall remain fixed.

2. The use shall comply with the following:

   a. Hours of operation of the restaurant with alcohol service shall be between 9:00 AM and 1:00 AM seven days a week.

   b. Regular food service, consisting of the complete dinner menu, shall be available until one hour before the close of business.

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

   d. There shall be no trash disposal from 10:00 PM to 8:00 AM seven days a week.

3. Prior to the issuance of a Certificate of Occupancy, the applicant shall install signs in the parking lot of the restaurant to inform customers where to park. The signs shall generally read "Patrons of Metro Q shall not park on the adjacent property (north) parking lot." A site plan and sign plan indicating the location of the proposed signs and the wording of said signs shall be submitted to the Planning Department for review and approval.

4. A review of the use shall be conducted by Planning and Police Departments approximately six (6) months and one (1) year of issuance of the certificate of occupancy to verify compliance with all conditions of approval and applicable Chapters of the Huntington Beach Zoning and Subdivision Ordinance. A report of the findings of the staff review shall be forwarded to the Planning Commission. At that time, the Planning Commission may consider modifications to the conditions of approval.

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

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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

C. CONSENT CALENDAR - NONE

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

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

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

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING
Herb Fauland, Planning Manager – reported on the items scheduled for the next Planning Commission meeting

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Vice Chair Shier-Burnett mentioned the second Neighborhood Workshop (scheduled for July 23, 2008) and spoke regarding the topics to be covered. She also mentioned Fire Development Specialist Lee Caldwell's upcoming retirement and thanked him for his many years of service to the city.

ADJOURNMENT: Adjourned at 8:05 PM to the next regularly scheduled meeting of July 22, 2008.

APPROVED BY:

Scott Hess, Secretary

Tom Livengood, Chair