MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, OCTOBER 23, 2012
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

CANCELLED – NO STUDY SESSION

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE- Led by Commissioner Peterson

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

AGENDA APPROVAL

A MOTION WAS MADE BY RYAN, SECONDED BY PETERSON, TO APPROVE THE PLANNING COMMISSION AGENDA OF OCTOBER 23, 2012, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A. PUBLIC COMMENTS - NONE

B. PUBLIC HEARING ITEMS

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

B-1. ENTITLEMENT PLAN AMENDMENT NO. 12-007 (AMENDMENTS TO SITE PLAN, FLOOR PLANS, AND ELEVATIONS APPROVED UNDER CONDITIONAL USE PERMIT NO. 02-20/COASTAL DEVELOPMENT PERMT NO. 02-12/SPECIAL PERMIT NO. 02-04/TENTATIVE TRACT MAP NO. 16338 - PACIFIC CITY RESIDENTIAL) Applicant and Property Owner: Chaim Elkoby, 21002 HB, LLC **Request:** To amend the site plan, floor plans, and elevations for a 516 unit multi-family residential development originally approved under Conditional Use Permit No. 02-20, Special Permit No. 02-04, Coastal Development Permit No. 02-12, and Tentative Tract Map No. 16338 for the Pacific City project. The Pacific City project is approved for 191,100 square feet of retail, office, restaurant, cultural, and entertainment uses; an eight-story 250

room hotel, spa, and health club; a 2.03 acre open space/park easement; and 516 multifamily residential units above subterranean parking. The applicant proposes to amend plans for the 17.23 acre residential portion only at this time. The proposed modifications include redesigning the cluster building layout, relocating the public open space from the center of the project to the northern edge of Pacific View Avenue while maintaining the previous 2.03 acre size, relocating the pedestrian corridor from the middle to the perimeter, expanding the common recreational area within the project center, rearranging the layout of the two levels of subterranean parking, and complying with the previous Special Permit requests to allow encroachments of retaining walls and private patio wall in the required perimeter residential setback areas and to exceed maximum parking ramp slopes. Access points to the project and the subterranean parking remain the same. The proposed project also includes amendments to the floor plans and elevations. Changes to the elevations, building colors and materials consist of amending the project design from traditional Mediterranean to a contemporary, modern aesthetic. Although the original project was approved as condominiums the applicant intends to lease the units as apartments at this time. Overall, the original count of 516 multi-family units remains the same. **Location**: 21002 Pacific Coast Highway, 92648 (bounded by Pacific Coast Highway, First Street, Atlanta Avenue, and Huntington Street) **Project Planner**: Jane James, Senior Planner

STAFF RECOMMENDATION: Motion to: "Approve Entitlement Plan Amendment No. 2012-007 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Shier Burnett has visited the site, and attended the July 24, 2012 Planning Commission meeting on this item.
- Commissioner Peterson has visited the site, attended the study session, and attended the Design Review Board meeting.
- Chair Mantini has visited the site, attended the study session, attended the July 24, 2012 Planning Commission meeting on this item, spoken to staff, and spoken to the applicant.
- Commissioner Delgleize has visited the site, spoken with the consultant for the property owner, spoken with staff, and attended the study session.
- Commissioner Franklin has visited the site.
- Commissioner Ryan has visited the site, spoken with the applicant, attended the study session, and attended the July 24, 2012 Planning Commission meeting on this item.

Jane James, Senior Planner, gave the staff presentation and an overview of the project.

THE PUBLIC HEARING WAS OPENED.

Chaim Elkoby, Crescent Heights, spoke in support of Item No. B-1, briefly reviewing the design of the proposed project.

Stanley Saitowitz, architect, spoke in support of item No. B-1, describing the architecture and the inspiration for the design.

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

A MOTION WAS MADE BY MANTINI SECONDED BY RYAN, TO APPROVE ENTITLEMENT PLAN AMENDMENT NO. 12-007 WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

FINDINGS FOR CEQA:

The Planning Commission finds and determines all of the following, based on substantial evidence in light of the whole record:

A. Pacific City Environmental Impact Report No. 02-01 ("EIR") was certified by the City Council on June 7, 2004;

B. No substantial changes are proposed to the project, as proposed to be modified by this entitlement plan amendment, which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

C. No substantial changes have occurred with respect to the circumstances under which the project, as proposed to be modified by this entitlement plan amendment, is undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

D. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified as complete, shows any of the following:

(1) The project, as proposed to be modified by this entitlement plan amendment, will have one or more significant effects not discussed in the EIR; or

(2) Significant effects previously examined will be substantially more severe than shown in the EIR; or

(3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, as proposed to be modified by this entitlement plan amendment, but the project proponents decline to adopt the mitigation measures or alternative; or

(4) Mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative; and

E. In accordance with CEQA Guidelines Sections 15162 and 15163, no subsequent environmental impact report or supplement to the EIR need be prepared for this entitlement plan amendment and no further environmental review or documentation is required.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 2012-007:

1. Entitlement Plan Amendment No. 2012-007 is a request to permit modifications to the residential site plan, floor plans, and elevations originally approved under Tentative Tract Map No. 16338, Conditional Use Permit No. 2002-20, Special Permit No. 2002-04, Coastal Development Permit No. 2002-12, and Conceptual Master Plan for the Pacific City project. The proposed amendments 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 project modifications will update the 2004 project entitlements for consistency with current standards regarding building layout and architectural design but will maintain compatibility with the surrounding area. The modifications to amend the site plans and elevations maintain compatibility with the surrounding area by abiding by the previously approved setbacks, access from surrounding streets, building height, and open space areas. The project relocates the pedestrian corridor and public open space to improve accessibility and visibility of these two project features. The modifications will not generate significant traffic, air quality, noise, odors, or other detrimental impacts onto surrounding properties.

2. The entitlement plan amendment will be compatible with surrounding uses because the modifications remain consistent with the previously approved plans and remain compatible with other residential, commercial, and beach open space uses in the surrounding area.

3. The proposed entitlement plan amendment will comply with the provisions of the base district and other applicable provisions in SP 5 (Downtown Specific Plan), 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 is located with exception of the two previously approved special permits. The project modifications will update the 2004 project entitlements for consistency with current design aesthetics and site layout.

4. The granting of the entitlement plan amendment will not adversely affect the General Plan. The project is consistent with the Land Use Element designation of RH-30-sp (High Density Residential - 30 du/gac - specific plan overlay) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

   A. *Economic Element*

      Policy ED 2.4.2: Seek to capture the "new growth" businesses such entertainment-commercial developments.

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

   B. *Coastal Element*

Goal C 1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.
Policy C 1.1.1: With the exception of hazardous industrial development, new development shall be encouraged to be located within, contiguous or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individual or cumulative, on coastal resources.

Policy C 1.1.4: Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

Policy C 1.1.7: Encourage cluster development in areas designated for residential use within the Coastal Zone.

Objective C 1.2: Provide a land use plan that balances location, type, and amount of land use with infrastructure needs.

Policy C 1.2.1: Accommodate existing uses and new development in accordance with the Coastal Element Land Use Plan and the Development and Density Schedule, Table C-1.

Policy C 1.2.3: Prior to the issuance of a development entitlement, the City shall make the finding that adequate services (i.e., water, sewer, roads, etc.) can be provided to serve the proposed development, consistent with policies contained in the Coastal Element, at the time of occupancy.

Policy C 2.2.3: Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

Policy C 2.4.1: Maintain an adequate supply of parking that supports the present level of demand and allows for the expected increase in private transportation use.

Objective C 3.2: Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low-cost facilities and activities.

Objective C 4.1: Provide opportunities within the Coastal Zone for open space as a visual and aesthetic resource.

C. *Housing Element*

Goal H 2: Provide adequate housing sites to accommodate regional housing needs.

Goal H 3: Assist in development of affordable housing.

Policy H 3.1: Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

D. *Land Use Element*

Objective LU 7.1: Accommodate the development of a balance of land uses that provides for commercial, employment, entertainment, and recreation needs of existing and future residents, and provides employment opportunities for residents of the City and the surrounding region and captures visitor and tourist activity.

Policy LU 8.1.1: Accommodate land use development in accordance with the patterns and distribution of use and density depicted on the Land Use Plan Map, in accordance with the principles discussed below:

a. Not applicable
b. Vary uses and densities along the City's extended commercial corridors, such as Beach Boulevard.
c. Increase diversification of community and local commercial nodes to serve adjacent residential neighborhoods.
e. Intermix uses and densities in large-scale development projects.
f. Site development to capitalize upon potential long-term transit improvements.
g. Establish linkages among community areas, which may include pedestrian and vehicular paths, landscape, signage, other streetscape elements, open space, transitions, in form, scale, and density of development, and other elements.

Goal LU 9: Achieve the development of a range of housing units that provides for the diverse economic, physical, and social needs of existing and future residents of Huntington Beach.

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 residents, serve the surrounding region, and capitalize on Huntington Beach's recreational resources.

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.

The entitlement plan amendment would ensure that the project is developed in accordance with current standards and regulations and the approved development plans, which provides a multi-family residential option within a master planned mixed use development site. The multi-family residential project provides an alternative for residents seeking to be within walking distance of work, services or commercial uses and reduce dependency on their automobile. The entitlement plan amendment affects only the site plan layout, floor plans, and architectural design of the residential units but maintains the overall approved density of 516 units along with a 2.03 acre publicly accessible but privately owned and maintained park. Affordable housing units are to be provided through the recently approved amendments to conditions of approval and development agreement, which specifies that the project provide 51 on-site affordable housing units for moderate income households and 26 off-site units for very low income households by the City's Housing Authority. The revised project was previously found in

conformance with the General Plan and the revised plans maintain consistency with the General Plan.

CONDITIONS OF APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 2012-007:

1. Site plans, floor plans, and elevations received and dated September 14, 2012, including the colors and materials boards received August 30, 2012 and colored renderings and elevations received and dated September 18, 2012 with the following modifications:

    a. The sidewalk width along Huntington Street shall be increased by two additional feet.

    b. The floor plans shall be revised so that all dens have at least 50% of one wall open to the adjacent room or hallway or the den space shall be counted as a bedroom and code required parking shall be provided.

    c. The final hardscape and landscape design of the relocated pedestrian corridor along First Street and Pacific View Avenue shall be subject review and approval by the Director of Planning and Building prior to the issuance of grading permits.

2. The following conditions are required to be completed prior to issuance of a building permit:

    a. All project and entitlement related mitigation measures, code requirements, and conditions of approval of the original Pacific City project shall remain in effect (including but not limited to: street and frontage improvements, sewer, water and storm drain infrastructure improvements, traffic mitigation fair share contributions, traffic signals, signing and striping, completion of Pacific View Avenue, medians, traffic impact fees, decorative paving, street lighting, street dedications, pedestrian easements, et al.). (PW)

    b. All existing Agreements between the City of Huntington Beach and the original Pacific City property owner shall be replaced with comparable agreement(s) to be approved by and executed with the City and the new property owner(s). These agreements include: the Subdivision Agreement, Special Utility Easement Agreement, License and Maintenance Agreement, Agreement Regarding Village Green Park, Agreement Regarding City Requirements. (The intent of this Condition of Approval is to capture and transfer certain responsibilities identified in the original agreements between the City and the original property owner, and execute new agreements between the City and the new property owner(s) in a manner consistent with the requirements of the original project approved Conditions of Approval. (PW)

    c. The following items are conditions of approval of the previous project that are applicable to the current project and are repeated below since they may not be obvious from the original documents (PW):

        i) Installation of an all-way stop at the intersection of Pacific View Avenue and Huntington Street.

        ii) Relocation of the crosswalk at the intersection of Pacific Coast Highway/1st Street from the north leg to the south leg, and installation of enhanced paving at that intersection.

    d. To address the proposed revisions to the recorded Final Tract Map No. 16338, the applicant shall comply with one of the following options (PW):

i) The existing pedestrian access easements and the Village Green Park/open space easement shall be formally vacated by the City of Huntington Beach and new pedestrian access easement(s) and a Village Green Park/open space easement shall be dedicated to the City.

ii) A revised Tentative Tract Map and Final Tract Map shall be submitted/processed through and approved by the City of Huntington Beach and recorded with the County of Orange, showing the vacation(s) of the existing pedestrian access easements and the Village Green Park/open space easement and dedication (to the City) of new pedestrian access easement(s) and the Village Green Park/open space easement.

e. Huntington Street shall be re-striped near the proposed locations of the relocated driveways. A striping/signage plan shall be prepared by a registered Civil or Traffic Engineer and submitted for review and approval by the Public Works Department prior to re-striping of Huntington Street. (PW)

3. Any proposed phasing of construction of the residential units, common recreational open space, and publicly accessible open space shall be submitted for review and approval by the Directors of Planning and Building, Public Works, and Community Services.

4. All conditions of approval and mitigation measure required under Environmental Impact Report No. 2002-01, Tentative Tract Map No. 16338, Conditional Use Permit No. 2002-20, Special Permit No. 2002-04, Coastal Development Permit No. 2002-12, Conceptual Master Plan, Entitlement Plan Amendment No. 2006-02, Entitlement Plan Amendment No. 2008-01, and Entitlement Plan Amendment No. 2012-005 for the Pacific City project shall remain valid, with exception of the conditions of approval identified in No. 1 above, as modified herein.

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.

Vice-Chair Bixby returned to the meeting.

B-2. **MITIGATED NEGATIVE DECLARATION NO. 12-004, ZONING MAP AMENDMENT NO. 08-001, CONDITIONAL USE PERMIT NO. 08-014, COASTAL DEVELOPMENT PERMIT NO. 08-008, VARIANCE NO. 11-007, TENTATIVE PARCEL MAP NO. 11-138 (HARMONY COVE MARINA DEVELOPMENT)** **Applicant/Property Owner:** Joe Daichendt, Harmony Cove LLC, c/o TheoryR Properties **Request:** **MND:** To analyze the potential environmental impacts associated with the implementation of the proposed project and legislative amendment. **ZMA:** To amend the existing zoning designation of the land portion of the site from Residential Low Density–Coastal Zone–Flood Plain 2 (RL-CZ-FP2) to Open Space–Parks and Recreation–Coastal Zone–Flood Plain 2 (OS-PR-CZ-FP2). **CUP:** To permit the development of a 23-boat slip marina, an eating and drinking establishment with outdoor dining and alcoholic beverage sales, ancillary uses to the marina (marina office, retail/rental uses), metered parking, and outdoor display of sale and rental equipment. **CDP:** To "approve in concept" of the development of a 23-boat slip marina, an eating and drinking establishment with outdoor dining and alcoholic beverage sales, ancillary uses to the marina (marina office, retail/rental uses), metered parking, and outdoor display of sale and rental equipment. **VAR:** To permit reductions in required setbacks for buildings, rooftop mechanical equipment, backflow prevention device, trash enclosure, and reductions in minimum landscaping requirements. **TPM:** To subdivide the existing privately-owned portion of the site (1.91 acre parcel) into two parcels (0.94 acre parcel for the marina portion of the site and 0.97 acre for the land portion of the site). **Location:** 3901 Warner Avenue, 92649 (2.28-acre site on the north side of Warner Avenue, west of Weatherly Lane) **Project Planner:** Tess Nguyen

STAFF RECOMMENDATION: Motion to:

A. "Approve Mitigated Negative Declaration No. 2012-004 with findings and mitigation measures (Attachment No. 1);"

B. "Approve Zoning Map Amendment No. 2008-001 with findings for approval (Attachment No. 1) by approving the draft City Council Ordinance No. ____ (Attachment No. 2) and forward to the City Council for adoption;"

C. "Approve Conditional Use Permit No. 2008-014 and Variance No. 2011-007 as modified with findings and suggested conditions of approval (Attachment No. 1);"

D. "Approve in Concept Coastal Development Permit No. 2008-008 as modified with findings and suggested conditions of approval (Attachment No. 1);"

E. "Deny Tentative Parcel Map No. 2011-138 with findings (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Shier Burnett has visited the site and was on the Planning Commission during previous hearings on this item.
- Commissioner Peterson has visited the site and reviewed the project for the Design Review Board.
- Vice Chair Bixby has visited the site, spoken to staff, and attended the study session.
- Chair Mantini has visited the site and attended the study session.
- Commissioner Delgleize has visited the site and spoken to staff.
- Commissioner Franklin has visited the site.
- Commissioner Ryan has visited the site, spoken to the applicant, and attended the study session.

Tess Nguyen, Associate Planner, gave the staff presentation and an overview of the project.

THE PUBLIC HEARING WAS OPENED.

Joe Daichendt, applicant, spoke in support of Item No. B-2. He asked the Commission to approve the restaurant facility as submitted. He noted that he would like the pierhead line and the transient slip be addressed in the Water Lease with City Council.

Frank Martinez, Orange County Coast Keeper, spoke regarding Item No. B-2, expressing concern with the environmental study, the bulkhead variance, and the portable pump-out station.

Mike Adams, representative for the applicant, spoke in support of Item No. B-2 and asked that the restaurant be approved as submitted.

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

There was a brief discussion regarding the environmental impacts during the construction process.

There was a brief discussion regarding alcohol use at the site. Ms. Nguyen indicated that alcohol sales is not an allowable use for the site's zoning.

A MOTION WAS MADE BY MANTINI, SECONDED BY RYAN, TO APPROVE MITIGATED NEGATIVE DECLARATION NO. 12-004 WITH FINDINGS AND MITIGATION MEASURES, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A MOTION WAS MADE BY MANTINI, SECONDED BY RYAN, TO APPROVE ZONING MAP AMENDMENT NO. 08-001 WITH FINDINGS AND FORWARD TO THE CITY COUNCIL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

Commissioner Shier Burnett asked that the applicant's request for the 880 sq. ft. restaurant be included in the motion for approving the Conditional Use Permit.

A MOTION WAS MADE BY MANTINI, SECONDED BY PETERSON, TO APPROVE CONDITIONAL USE PERMIT NO. 08-014 AND VARIANCE NO. 11-007 AS MODIFIED WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A MOTION WAS MADE BY MANTINI, SECONDED BY PETERSON, TO APPROVE COASTAL DEVELOPMENT NO. 08-008 IN CONCEPT AS MODIFIED WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A MOTION WAS MADE BY MANTINI, SECONDED BY BIXBY, TO DENY TENTATIVE PARCEL MAP NO. 11-138 WITH FINDINGS, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

Staff indicated that two public speakers for Item No. B-2 were not called to speak and asked that the public hearing be re-opened.

THE PUBLIC HEARING WAS RE-OPENED.

Leroy Moser, resident, spoke in opposition to Item No. B-2, citing potential noise, traffic, and parking impacts.

Liz Noriega, resident, spoke in opposition to Item No. B-2, citing potential parking and safety impacts.

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

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO REAFFIRM THE PRIOR ACTION TAKEN BY THE COMMISSION ON THIS ITEM, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

FINDINGS FOR APPROVAL - MITIGATED NEGATIVE DECLARATION NO. 2012-004:

1. Mitigated Negative Declaration No. 2012-04 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Planning Commission prior to action on Mitigated Negative Declaration No. 2012-04, Zoning Map Amendment No. 2008-01, Conditional Use Permit No. 2008-14, Coastal Development Permit No. 2008-08, Variance No. 2011-07, and Tentative Parcel Map No. 2011-138.

2. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur.

3. There is no substantial evidence in light of the whole record before the Planning Commission that the project, as mitigated through the code requirements and mitigation measures, will have a significant effect on the environment.

FINDINGS FOR APPROVAL - ZONING MAP AMENDMENT NO. 2008-001:

1. Zoning Map Amendment No. 2008-001 amends the existing zoning designation of the land portion by changing the Residential Low Density–Coastal Zone Overlay–Flood Plain 2 (RL-CZ-FP2) zoning designation on the subject site to Open Space–Parks and Recreation–Coastal Zone Overlay–Flood Plain 2 (OS-PR-CZ-FP2). The proposed amendment will establish the Open Space–Parks and Recreation zoning and development standards and will be consistent with the goals, objectives, and land use policies of the General Plan and Local Coastal Program. The proposed zoning is consistent with the goals and policies of

the Land Use, Coastal, and Recreation and Community Services Elements of the General Plan by allowing for the creation of a development compatible with, and sensitive to the existing land uses in the project area and adjoining properties.

2. The Zoning Map Amendment is compatible with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed. The proposed land uses identified in the Open Space–Parks and Recreation land use designation is consistent with the General Plan.

3. A community need is demonstrated for the change proposed. The proposed Open Space–Parks and Recreation zoning provides the standards necessary for the development of water-related recreational uses complementing the proposed marina use and enhancing public opportunities for coastal recreation. The project will also provide for enhanced coastal access through the provision of a 10-foot wide pedestrian public walkway to allow views of the coast, wetlands, bluff areas, and the Harbour.

4. Its adoption of the Open Space–Parks and Recreation zoning will be in conformity with public convenience, general welfare and good zoning practice. The adoption of the zoning utilizes a comprehensive approach, involving public meetings and reviewing the proposed development in terms of existing development standards, design and architectural guidelines, and landscape requirements. The zoning map amendment would result in zoning and General Plan land use designations that are consistent with one another.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2008-014:

1. Conditional Use Permit No. 2008-014 for the development of the proposed 23-boat slip marina, an eating and drinking establishment with an outdoor dining area, ancillary uses to the marina (marina office, retail/rental uses), metered parking, and outdoor display of sale and rental equipment 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 project will be designed to be consistent with the scale and character of the surrounding area with the modifications and conditions of approval imposed. Existing structures adjacent to the project site consist of two-story structures to the immediate east and north, two-story to three-story structures to the west, and four-story structures to the east. The proposed one-story structures at 18 feet high would be consistent with the established development pattern in the area based on the surrounding buildings. The commercial buildings and marina would not introduce a new visible element different than those already existing in the vicinity.

2. The conditional use permit will be compatible with surrounding uses because the project site is located within an existing waterway of a recreational boating harbor where boat traffic in and around the Harbour is common. Single family dwellings and private boat docks are located to the north, east, and to a certain extent west of the property. The proposed marina will add 23 boat slips to the existing approximately 2,000 boat slips in the Harbour, providing additional recreational opportunities to complement other facilities in Huntington Harbour. The project is designed to be consistent with the overall visual character and scale of existing structures surrounding the project site. The project includes one-story structures that are similar to the established development pattern in the area. The project is designed to add visual interest through the use of different building materials and minimize building bulk through the varying rooflines and horizontal projections. The natural amenity of the site such as view of the Harbour has been incorporated into the project layout.

3. The proposed project, as modified, will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The proposed project, as modified and conditioned, and with the variances provides a development that is consistent with the design guidelines and is compatible with the scale and character of the surrounding development.
4. The granting of the conditional use permit will not adversely affect the General Plan. The General Plan Land Use Map designation on the land portion of the subject property is OS-P (Open Space-Park) and the water portion of the subject property is OS-W (Open Space-Water Recreation). The project, as modified, is consistent with the designations and the goals, policies, and objectives of the General Plan Land Use, Coastal, and Recreation and Community Services Elements:

A. *Land Use Element*

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

Objective LU 4.2.4: Require that all development be designed to provide adequate space for access, parking, supporting functions, open space, and other pertinent elements.

Objective LU 7.1: Accommodate the development of a balance of land uses that (a) provides for the housing, commercial, employment, educational, cultural, entertainment, and recreation needs of existing and future residents, (b) provides employment opportunities for residents of the City and surrounding subregion, (c) captures visitor and tourist activity, and (d) provides open space and aesthetic "relief" from urban development.

Objective LU 14.1: Preserve and acquire open spaces for the City's existing and future residents that provide, maintain, and protect significant environmental resources, recreational opportunities, and visual relief from development.

Policy LU 14.1.1: Accommodate the development of public parks, coastal and water-related recreational uses, and the conservation of environmental resources in areas designated for Open Space on the Land Use Map and in accordance with Policy LU 7.1.1.

Approval of the project will allow for the construction of a marina and ancillary uses on a privately owned parcel of land. The marina will provide water-related recreational opportunities for existing and future residents. Services offered by the marina include 22 slips rented to the public on a monthly basis, one boat slip used as a transient dock, and public access to the water. The eating and drinking establishment along with the retail/rental kiosk will complement the proposed marina and enhance public opportunities for coastal recreation. The project will also provide for enhanced coastal access through the provision of a 10-foot wide pedestrian public walkway to allow views of the coast, wetlands, bluff areas, and the Harbour.

B. *Coastal Element*

Goal C 1: Develop a land use plan for the Coastal Zone that protects and enhances coastal resources, promotes public access and balances development with facility needs.

Policy C 1.1.3: The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial or general commercial development, but not over agriculture or coastal-dependent industry.

Policy C 1.1.3a: The provision of public access and recreation benefits associated with private development (such as but not limited to public access ways, public bike paths, habitat restoration and enhancement, etc.) shall be phased such that the public benefit(s) are in place prior to or concurrent with the private development but not later than occupation of any private development.

Goal C 2: Provide coastal resource access opportunities for the public where feasible and in accordance with the California Coastal Act requirements.

Policy C 2.4.2: Ensure that adequate parking is maintained and provided in all new development in the Coastal Zone by (a) applying the City's parking standards at a minimum.

Policy C 2.5.1: Require that existing public access to the shoreline and Huntington Harbour waterways be maintained and enhanced, where necessary and feasible, not withstanding overriding safety, environmental or privacy issues.

Policy C 2.6.2: Require an offer of dedication of an easement in all new development, pursuant to Article 2, Section 30212 of the Coastal Act, to allow lateral access along the shoreline, public recreation areas or to public trails or bikeways unless the following condition(s) exists:

a. Findings are made consistent with Section 30212 of the Coastal Act that access is inconsistent with public safety, military security needs, or that agriculture would be adversely affected; or
b. Access to the site would significantly degrade environmentally sensitive habitat areas; or
c. An offer of dedication for lateral access in accordance with this policy shall be required in conjunction with new development or redevelopment and along all sandy beach areas. Access along the bulkhead may be appropriate, particularly in public use areas such as fishing piers or provided in new development through such accessways.

Goal C 3: Provide a variety of recreational and visitor commercial serving uses for a range of cost and market preferences.

Objective C 3.2: Ensure that new development and uses provide a variety of recreational facilities for a range of income groups, including low cost facilities and activities.

Policy C 3.2.1: Encourage, where feasible, facilities, programs, services that increase and enhance public recreational opportunities in the Coastal Zone.

Policy C 3.2.3: Privately-owned recreation facilities on public land shall be open to the public. Encourage privately-owned recreation facilities on private land to be open to the public.

Policy C 3.4.4: Encourage the provision of public boating support facilities compatible with surrounding land uses and water quality.

The project is in close proximity to similar developments such as the Bay Club and Coral Cay marinas and is consistent with the existing land use pattern where recreational boating activities are currently present in Huntington Harbour. The proposed marina and ancillary uses will be a privately-owned facility on private land open to the public. The marina will increase recreational boating use of coastal waters by providing berthing spaces for existing and future residents of the City to complement other facilities in the Huntington Harbour area. The retail/rental kiosk for kayaks, paddleboards, and other equipment would increase the use of the Harbour for water-related recreation. The new marina will enhance the public's use of recreational resources in the Harbour through the proposed transient side-tie slip that is available to the public for temporary boat mooring and the public dock to launch recreational watercrafts. The proposed project would provide public access to recreational opportunities in the Coastal Zone by a 10-foot wide pedestrian public walkway along the west side of the land portion of the site to allow views of the coast, wetlands, bluff areas, and the Harbour. Environmental impacts from the proposed project were analyzed in Draft MND No. 2012-004. Potential impacts have either been minimized through the project's design or can be mitigated so that all impacts would be less than significant.

C. *Recreation and Community Services Element*

Goal RCS 1: Enrich the quality of life for all citizens of Huntington Beach by providing constructive and creative leisure opportunities.

Objective RCS 1.1: Encourage recreational opportunities unique to Huntington Beach which will enhance visitation and economic development.

Policy RCS 8.1.3: Encourage commercial recreational facilities to provide recreational services and facilities that may or may not otherwise be provided by the City.

The proposed marina and ancillary uses will be a privately-owned facility on private land open to the public. The project proposes to develop a public marina, restaurant, and retail/rental shop for water-related recreational equipment. The proposed marina will increase recreational boating opportunities in Huntington Harbour, an existing recreational boating harbor constructed in the 1960s. The retail/rental kiosk for kayaks, paddleboards, and other equipment would increase the use of the Harbour for water-related recreation for existing and future residents.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2008-008:

1. Coastal Development Permit No. 2008-008 for the "approval in concept" of the boat slips/marina, eating and drinking establishment with outdoor dining and alcoholic beverage sales, ancillary uses to the marina (marina office, retail/rental uses), metered parking, and outdoor display of sale and rental equipment in the coastal zone conforms with the General Plan, including the Local Coastal Program. The project layout is consistent with the

proposed Open Space-Park land use designation on the property and the applicable provisions of the Coastal Zone overlay standards of the City's certified Local Coastal Program as well as the Open Space-Parks and Recreation zoning standards, except for the modifications and requested variances.

2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The proposed project, as modified and conditioned, complies with all development standards except for the requested variances.

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, as conditioned and with the implementation of all mitigation measures, will provide all required infrastructure consistent with the Local Coastal Program and City requirements.

4. The development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project will not impact existing public access or recreation opportunities in the coastal zone. The project will enhance public recreation opportunities within the vicinity by providing berthing spaces for existing and future residents of the City to complement other facilities in the Huntington Harbour area. The retail/rental kiosk for kayaks, paddleboards, and other equipment would increase the use of the Harbour for water-related recreation. The new marina will enhance the public's use of recreational resources in the Harbour through the proposed transient side-tie slip that is available to the public for temporary boat mooring and the public dock to launch recreational watercrafts. The proposed project would provide public access to recreational opportunities in the Coastal Zone by a 10-foot wide pedestrian public walkway along the west side of the land portion of the site to allow views of the coast, wetlands, bluff areas, and the Harbour.

FINDINGS FOR APPROVAL – VARIANCE NO. 2011-007:

1. The granting of Variance No. 2011-007 to allow a 10-foot interior side and water side setbacks for the eating and drinking establishment building, a 3-foot roof equipment setback for the eating and drinking establishment building, a 5-foot or 10-foot setback for the backflow prevention device depending on the size of the device, a 6-foot 8-inch setback for the trash enclosure, and zero landscaping and zero trees along the west side of the property for off-street parking facilities will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The development standards in the OS-PR zoning district apply to sites with a minimum lot size of 5 acres. With the minimum lot size of 5 acres, sites under the OS-PR zoning district are large enough to accommodate the required setbacks and other development standards. The subject site, a remnant parcel of the Huntington Harbour subdivision, is only 0.97 acre in size and shaped like a triangle. Due to its size and shape, the project would not be able to comply with the required development standards. Approval of the requested deviations will not constitute a grant of special privilege as the variance will allow the development of the site with a marina, an eating and drinking establishment, and ancillary uses to provide additional recreational opportunities to complement other facilities in Huntington Harbour.

2. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The site is small, only 0.97 acre in size, and irregularly shaped like a triangle. Because of its size and shape, the property would not be able to

provide the setbacks or comply with other development standards as compared to a larger site with a standard shape. Granting the deviations in setbacks and landscaping standards allows the subject property to enjoy the same privileges as the other properties in the vicinity and under identical zone classification.

3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The requested variances are necessary to allow the proposed project to be developed with a marina and ancillary uses, similar to developments such as the Bay Club and Coral Cay marinas in close proximity to the subject site. Granting the requested variances will not affect the overall visual character and scale of the proposed development onsite in the context of the surrounding area. The subject site is able to enjoy the right to develop the site in accordance with the OS-PR zoning district.

4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification and is consistent with the General Plan. The development of a marina, eating and drinking establishment with outdoor dining, and ancillary uses will not be materially detrimental to the public welfare because the proposed buildings are designed to be consistent with the scale and character of the surrounding area. The proposed one-story structures at 18 feet high would be consistent with the established development pattern of two- to three-story structures in the vicinity. The granting of the variances will not adversely affect the General Plan. It is consistent with the Land Use Element designation of OS-P (Open Space-Park) on the subject property.

FINDINGS FOR DENIAL - TENTATIVE PARCEL MAP NO. 2011-138:

1. Tentative Parcel Map No. 11-138 for the subdivision of the existing privately-owned portion of the site (1.91 acre parcel) into two parcels (0.94 acre parcel for the marina portion of the site and 0.97 acre for the land portion of the site) is not consistent with the requirements of the OS-PR zoning district on the subject property. The minimum lot area is 5 acres for a site in the OS-PR zoning district; however, the proposed subdivision will create a 0.97 acre parcel and will not comply with the minimum lot area of 5 acres.

2. The subdivision is not consistent with the proposed type and density of development because the proposed uses on the project site are related to each other and should not be sold separately from each other. The proposed uses on the land portion (marina office, water-related equipment sales and rental, and required parking) are necessary to serve the proposed marina use in the water portion. It would not be appropriate to separate these portions of the proposed project into separate parcels. Thus, it should not be divided in a manner that may allow them to potentially come into separate ownership in the future.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. Pre-construction (within 60 days of a disturbing activity) and post-construction (30 days after cessation of the marina portion of the project and prior to issuance of a Certificate of Occupancy or final inspection for the marina) eelgrass surveys shall be conducted to determine the level of eelgrass loss, if any, as a result of the project activities. This survey shall be valid for 60 days unless conducted between August and October, in which case it is valid until March 1 of the following year. **(Mitigation Measure)**

2. Prior to issuance of a Certificate of Occupancy or final inspection for the marina, any loss in acreage of eelgrass habitat shall be mitigated according to State and Federal environmental

policies. Mitigation may include out-of kind mitigation (suitable to the resource agencies) if the total area is less than 10 square meters, or replacement at a 1.2 to 1 ratio (for every 1 square meter of eelgrass disturbed or lost, 1.2 square meters is to be replaced) in a suitable location if the total is more than 10 square meters. In the event of replacement, subsequent success monitoring at six months, and annually beginning at one year through five years with success criteria as determined in the Southern California Eelgrass Mitigation Policy. **(Mitigation Measure)**

3. Prior to issuance of a Certificate of Occupancy or final inspection for the marina, if no eelgrass is found on site then the project shall provide 50 square meters of eelgrass to compensate for other non-specific project impacts such as short term disruption of the epifauna and infauna biota. The eelgrass shall be monitored for subsequent success at six months, and annually beginning at one year through five years with success criteria as determined in the Southern California Eelgrass Mitigation Policy. **(Mitigation Measure)**

4. During construction, dredging and other turbidity generating work shall be limited to the months of November to March to minimize impacts to foraging and nesting for protected avian species. If dredging and pile driving activities cannot be timed to avoid encroachment into the least tern nesting season, the applicant shall be required to effectively contain visibly detectable surface turbidity associated with in water construction activities to the smallest footprint practicable and not more than 0.5 acre maximum during the least tern season. During construction, a qualified biologist shall conduct weekly monitoring of the silt curtain(s) and monitor water quality at a distance of no more than 10 meters outside of the silt curtain and 100 meters upcurrent of the silt curtain. Turbidity (via light transmittance) shall be measured at one meter above the bottom, mid-depth, and one meter below the surface both at 10 meters and 100 meters from the dredge operations. A decrease in light transmittance of more than 30% (average of the three readings) from that found 100 meter upcurrent shall result in a suspension of dredging until the cause is corrected. Additionally, dissolved oxygen concentrations (DO) and hydrogen ion concentrations (pH) shall be measured at the same depths and locations. Dredge operations shall be suspended at any time the biological oxygen demand causes concentrations of DO to be less than 5 mg/l and pH to drop below 7.5 (average of the three measurements) in the area within 10 meters of the silt curtain unless ambient condition DOs are below 5 mg/l and pH below 7.5 at the station 100 meters upcurrent. In the event that turbidity extends beyond the allowable limits, turbidity generating activities shall cease until such time as turbidity levels are brought back into compliance. **(Mitigation Measure)**

5. During construction, if sea lions, seals (or other marine mammals), or sea turtles are observed within 100 meters of the construction or dredging process, all in water activity shall cease until observations indicate the marine mammals or turtles have departed the work site. **(Mitigation Measure)**

6. During construction, a biological observer shall be present during the pile driving and dredging activities and shall have the authority to cease operations if a marine mammal or turtle comes within the exclusion zone, fish species are observed to be dead, and California least terns are present within the exclusion zone. **(Mitigation Measure)**

7. During construction, if any marine mammal is observed within 100 meters of the work site, all pile driving and dredging activities shall cease until the marine mammals or turtle has left the area of concern. If a marine mammal enters the safety zone after pile-driving of a segment has begun, pile-driving shall continue. If a marine mammal in the 100-meter safety

zone is observed, but more than 10 meter away, the contractor shall wait at least 15 minutes to commence pile-driving. If the marine mammal has not left the 100-meter safety zone after 15 minutes, pile-driving can commence. All pile driving activities shall be accomplished by a soft start sequence. At the beginning of each pile driving event and after breaks of more than 15 minutes, the soft start method shall be employed for impact pile driving. The hammer shall be operated at less than full capacity (i.e. approximately 40-60% energy levels) with no less than a 1-minute interval between each of five strikes for a 5-minute period. After the 5-minute soft-start period, full capacity strikes shall be allowed during the duration of each individual pile driving event. **(Mitigation Measure)**

8. Prior to any earth-disturbing activities (e.g., excavation, trenching, grading) that could encounter undisturbed soils, the project applicant shall retain an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology to determine if the project could result in a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines or disturb human remains. The investigation shall include, as determined appropriate by the archaeologist and the City of Huntington Beach, an updated records search of the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System, updated Native American consultation, and a pedestrian survey of the area proposed for development. The results of the investigation shall be documented in a technical report or memorandum that identifies and evaluates any archaeological resources within the development area and includes recommendations and methods for eliminating or avoiding impacts on archaeological resources or human remains. The measures shall include, as appropriate, subsurface testing of archaeological resources and/or construction monitoring by a qualified professional and, if necessary, appropriate Native American monitors identified by the applicable tribe (e.g., the Gabrieliño Tongva Nation) and/or the Native American Heritage Commission. The methods shall also include procedures for the unanticipated discovery of human remains, which shall be in accordance with Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. The technical report or memorandum shall be submitted to the City of Huntington Beach for approval. As determined necessary by the City, environmental documentation (e.g., CEQA documentation) prepared for future development within the project site shall reference or incorporate the findings and recommendations of the technical report or memorandum. The project applicant shall be responsible for implementing methods for eliminating or avoiding impacts on archaeological resources identified in the technical report or memorandum. Projects that would not encounter undisturbed soils and would therefore not be required to retain an archaeologist shall demonstrate non-disturbance to the City through the appropriate construction plans or geotechnical studies prior to any earth-disturbing activities. Projects that would include any earth disturbance (disturbed or undisturbed soils) shall comply with the procedures for the identification for paleontological resources. **(Mitigation Measure)**

9. During any project-related earth-disturbing activities (including projects that would not encounter undisturbed soils), if evidence of an archaeological site or other suspected historical resource as defined by CEQA Guidelines Section 15064.5, including darkened soil representing past human activity ("midden"), that could conceal material remains (e.g., worked stone, fired clay vessels, faunal bone, hearths, storage pits, or burials) are discovered, all earth-disturbing activity within 100 feet of the find shall be halted and the City of Huntington Beach shall be notified. The project applicant shall retain an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology to assess the significance of the find. Impacts to any significant resources shall

be mitigated to a less-than-significant level through data recovery or other methods determined adequate by the archaeologist and that are consistent with the Secretary of the Interior's Standards for Archaeological Documentation. Any identified cultural resources shall be recorded on the appropriate DPR 523 (A-L) form and filed with the appropriate Information Center. **(Mitigation Measure)**

10. During construction, should paleontological resources (i.e., fossil remains) be identified at a particular site, the construction foreman shall cease construction within 100 feet of the find until a qualified professional can provide an evaluation. Mitigation of resource impacts shall be implemented and funded by the project applicant and shall be conducted as follows:
    a. Identify and evaluate paleontological resources by intense field survey where impacts are considered high
    b. Assess effects on identified sites
    c. Consult with the institutional/academic paleontologists conducting research investigations within the geological formations that are slated to be impacted
    d. Obtain comments from the researchers
    e. Comply with researchers' recommendations to address any significant adverse effects where determined by the City to be feasible

    In considering any suggested mitigation proposed by the consulting paleontologist, the City of Huntington Beach staff shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, applicable policies and land use assumptions, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for paleontological resources is carried out. **(Mitigation Measure)**

11. Prior to the issuance of a Certificate of Occupancy, automatic seismic shutoff devices shall be installed for utilities such as electricity and gas. **(Mitigation Measure)**

12. During all phases of the project during construction and post-construction, Best Management Practices (BMPs) shall be implemented to prevent and control untreated runoff, turbidity and implement water quality standards and waste discharge requirements. BMPs may include sandbags, detention basins, clarifiers, and silt curtain(s). The silt curtain(s) shall be continually maintained free and clear of debris, shall be properly maintained without holes, rips, or tears, and shall remain in place for the duration of the marina construction and dredging activities or until permanent BMPs are installed and operational. **(Mitigation Measure)**

13. During construction, if turbidity is observed at a distance of 100 ft. or greater from the actual work site, either the work shall be stopped until the water returns to normal or, if deemed necessary, a silt curtain shall be installed until turbidity returns to normal. **(Mitigation Measure)**

14. During construction, the applicant shall require by contract specifications that the following construction best management practices (BMPs) be implemented by contractors to reduce construction noise levels:
    a. Notification shall be mailed to owners and occupants of all developed land uses immediately bordering or directly across the Harbour channel from the project site area providing a schedule for major construction activities that will occur through the duration of the construction period. In addition, the notification shall include the identification and contact number for a community liaison and designated construction manager that shall

be available on-site during all construction activities. Contact information for the community liaison and construction manager shall be located at the construction office, City Hall, and the Police Department.

b. Ensure that construction equipment is properly muffled according to industry standards. Shut off or run noise generating equipment and machinery on their lowest settings when not in use.
c. Implement the best available technology throughout all construction activities in noise attenuation measures, including but not limited to sound barriers and noise blankets.
d. Ensure that all construction work that would be expected to create high noise and/or vibration levels shall be carefully scheduled to be performed in the least amount of time possible.
e. All project personnel shall be made aware of the potential for noise and vibration impacts and shall practice good neighbor policies designed to minimize noise and vibration impacts at all times. **(Mitigation Measure)**

15. During construction, the applicant shall require by contract specifications that construction staging areas, along with the operation of earthmoving equipment within the project site, are located as far away from vibration- and noise-sensitive sites as possible. Contract specifications shall be included in the proposed project construction documents, which shall be reviewed and approved by the City. **(Mitigation Measure)**

16. Prior to the start of construction, the applicant shall be required to submit a noise and vibration control plan to the Planning and Building Director for approval. Features that shall be included in the noise and vibration control plan are:
    a. A list of all major noise and vibration generating equipment that will be used on the site for each phase of construction.
    b. Noise and vibration predictions at each of the sensitive receptors that were indentified in the report for each phase of the construction.
    c. Locations, heights, and materials for noise barriers that may be employed and schedule for their installation.
    d. Other mitigation measures that will be used. These might include use of temporary noise barriers for stationary equipment, use of low-noise and vibration equipment or highly efficient mufflers, and alternative construction methods. **(Mitigation Measure)**

17. During construction, pile-driving activities shall be scheduled between the hours of 8:00 AM and 4:00 PM on Mondays through Fridays only. Piles shall be installed with jetting, predrilling, or pile cushioning to reduce the duration of pile-driving. **(Mitigation Measure)**

18. Prior to the start of construction and during construction, the applicant shall perform the following tasks:
    a. Conduct pre- and post-construction video and survey inspections of the Weatherly Bay Swimming Pool complex, Weatherly Bay tennis court, Weatherly Bay perimeter wall adjacent to the project site, and Warner Avenue Bridge.
    b. Install meters to measure and monitor vibrations.
    c. Visually monitor the above structures for damage on a daily basis, and video and survey once per week during construction.
    d. Upon evidence of structural damage to the above structures, the applicant shall cease construction operations immediately and assess, repair, and remediate any damages to the structures in accordance with the recommendations in the Preliminary Geology and Soils Report.

e. Provide a bond in an amount determined by the City Engineer for the repair and/or replacement of structural damage to the Weatherly Bay Swimming Pool complex, Weatherly Bay tennis court, Weatherly Bay perimeter wall adjacent to the project site, and Warner Avenue Bridge. **(Mitigation Measure)**

19. Prior to issuance of a Certificate of Occupancy for the land portion of the site, the applicant shall be required to pay a fair-share fee for mitigation of the impacts to the public sanitary sewer system resulting from the increase in flow anticipated as a result of the development. **(Mitigation Measure)**

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2008-014/COASTAL DEVELOPMENT PERMIT NO. 2008-008/VARIANCE NO. 2011-007:

1. The site plan, floor plans, and elevations received and dated February 17, 2012, shall be the conceptually approved design with following modifications:

   a. The project pierhead line shall be established a minimum 25 feet east of the westerly property line of the subject site and the marina/boat slips shall be redesigned to comply with the pierhead line unless an alternative pierhead line is established by the City Council.

   b. The project pierhead line shall be established at the north property line of the subject site unless the proposed boat slips are approved by the California State Lands Commission.

   c. The transient side-tie boat slip shall be located entirely within the water portion of the subject property.

   d. Depict on the site plan the correct location of the following:
      1. gangway to the public dock
      2. gangway to the boats to the north
      3. eelgrass mitigation area

   e. The public accessway (sidewalk) along the western perimeter of the site, adjacent to the proposed marina, shall be a minimum 10 feet in width.

   f. The eating and drinking establishment shall have a maximum of 12 seats and be a maximum of 880 sq. ft. in size. The outdoor dining area shall be a maximum of 400 sq. ft. in size.

   g. The site plan shall depict the location of the outdoor storage and display areas for retail sales and rental of water-related equipment. The outdoor storage and display areas shall be a maximum of 200 sq. ft. in size and be adjacent to the retail/rental kiosk. It shall not be located in any required building setback areas, required landscaping areas, required public accessway areas, and required pedestrian and vehicular circulation areas.

   h. The eating and drinking establishment/marina office building shall be setback a minimum 10 feet from the western perimeter of the land portion of the property.

   i. The landscaped areas along the entire frontage on Warner Avenue (except for driveway openings and walkways) shall be a minimum of 25 feet in width.

j. The landscaped area along the entire east property line that is adjacent to the parking area and driveway shall have a minimum 5-foot plantable width and one tree for each 90 sq. ft. of landscaped area.

k. The interior landscaping areas for the parking lot shall provide approximately 63 sq. ft. or equal to five percent of the perimeter landscaping area and be distributed throughout the parking area.

l. The rooftop mechanical equipment on the eating and drinking establishment/marina office building shall be setback a minimum of three feet from the edge of the building and be fully screened from view on all sides.

m. The backflow prevention device shall be setback a minimum five feet from the southern property line for backflow protection devices 2-inches and smaller and shall be setback a minimum 10 feet from the southern property line for backflow protection devices larger than 2-inches.

n. The trash enclosure shall be setback a minimum of six feet, eight inches from the eastern property line and be screened from view from the street.

o. The site plan shall depict the locations of all signs identifying public access and public use areas. **(HBZSO 221.12)**

p. Additional stone tiles shall be incorporated to the façade of the kiosk building similar to that of the restaurant building. **(DRB)**

q. The roof design of the kiosk building shall be similar to that of the restaurant building. **(DRB)**

2. All development within the California State Lands Commission's jurisdiction shall not be constructed until all appropriate approvals are obtained.

3. The project shall comply with all mitigation measures adopted for the project in conjunction with Mitigated Negative Declaration No. 2012-004.

4. Prior to the issuance of grading permits, the following shall be completed:

   a. The property owner shall obtain all required approvals for the boat slips/marina from the appropriate regulatory agencies, including but not limited to, U.S. Fish and Wildlife, California Department of Fish and Game, State Lands Commission, California Coastal Commission, and the City. **(PL)**

   b. The pierhead line shall be established by a City Council resolution.

   c. At least 14 days prior to any grading activity, the applicant/developer shall provide notice in writing to property owners of record and tenants of properties within a 500-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to

issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Planning and Building Department.

d. The required domestic, irrigation and fire water services to be shown on the project's Precise Grading Plan shall be connected to the existing 6-inch diameter water main located in Weatherly Lane. **(PW)**

e. Provide an evaluation of the project's visual impact and incorporate in its design the preservation of public views to and from the bluffs, to the shoreline and ocean, and to the wetlands and the preservation of existing mature trees to the maximum extent feasible. The report shall be reviewed and approved by the Director of Planning and Building. **(HBZSO 221.14)**

f. A report evaluating flood hazards shall be submitted and the project shall be designed to comply with all provisions relating to the Floodplain Overlay District. The report shall be reviewed and approved by the Director of Planning and Building. **(HBZSO 221.20)**

5. Prior to submittal for building permits, the following shall be completed:

a. 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 Division.

b. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of Fire and Public Works 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.

c. Submit three (3) copies of the site plan and floor plans and the processing fee to the Planning and Building Department for addressing purposes. The address assignment shall be reviewed and approved prior to submittal for building permits.

6. Prior to issuance of building permits, the following shall be completed:

a. An "Acceptance of Conditions" form shall be properly executed by the applicant and an authorized representative of the owner of the property, recorded with the County Recorder's Office, and returned to the Planning and Building Department for inclusion in the entitlement file. Conditions of approval shall remain in effect in the recorded form in perpetuity, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach.

b. An offer to dedicate an easement for the lateral public access shall be required. The property owner shall execute and record a document in a form and content acceptable to the City Attorney's Office and Department of Planning and Building irrevocably offering to dedicate to the City of Huntington Beach an easement for a 10-foot wide lateral public access along the bulkhead for public walkway purposes for a period of 21 years. The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property. The recorded

document shall include legal descriptions of both the applicant's entire parcel and the easement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the City determines may affect the interest being conveyed. The offer to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. Liability and responsibility (maintenance) shall be assumed by the property owner. The document shall be recorded with the County Recorder's Office and a copy filed with the Department of Planning and Building. **(HBZSO 221.36.C and J)**

c. The applicant shall furnish a title report and all necessary subordination agreements. Title insurance shall be provided for the easements. The amount of insurance shall reflect the estimated cost to acquire an equivalent accessway elsewhere in the vicinity. All offers to dedicate shall be made free of all encumbrances. The report shall be reviewed and approved by the Director of Planning and Building. **(HBZSO 221.36.N)**

d. The property owner shall obtain all required approvals for the boat slips/marina from the appropriate regulatory agencies, including but not limited to, U.S. Fish and Wildlife, California Department of Fish and Game, State Lands Commission, California Coastal Commission, and the City prior to any construction of the slips. A copy of the written notice of approval from each applicable agency shall be submitted to the Planning and Building Department for inclusion in the entitlement file. **(PL)**

e. The property owner shall submit to the Community Services Department for review and approval the appropriate signage to be posted at the project site to inform the public that the dock is available for public use. **(CS)**

f. The property owner shall submit to the Community Services Department for review and approval the appropriate signage to be posted at the project site to inform the public that the parking meters and pay stations are not operated by the City. **(CS)**

g. The property owner and/or marina operator shall submit to the Director of Planning and Building for review and approval the appropriate language within each lease agreement prohibiting persons living aboard any boat docked or moored at the proposed facility. **(HBMC 13.36.150)**

h. The property owner shall submit to the Director of Planning and Building for review and approval a Parking Management Plan to evaluate the proposed metered parking for consistency with the Coastal Zone Overlay District and ensure that adequate public parking be provided at the project site. **(PL)**

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

   a. Construction equipment shall be maintained in peak operating condition to reduce emissions. During clearing, grading, earth moving, or excavation, maintain equipment engines in proper tune. Truck idling shall be prohibited for periods longer than 10 minutes. **(PW)**

   b. Use low sulfur (0.05% by weight) fuel by weight for construction equipment. **(PW)**

c. Phase and schedule construction activities to avoid high ozone days. Discontinue construction during second stage smog alerts. **(PW)**

d. A phased schedule for construction activities to minimize daily emissions shall be complied with. Treat unattended construction areas with water (disturbed lands which have been, or are expected to be unused for four or more consecutive days). Schedule activities to minimize the amount of exposed excavated soil during and after the end of work periods. **(PW)**

e. On-site parking shall be provided for all construction workers and equipment unless approved otherwise by the Department of Public Works. **(PW)**

f. The property owner for the subject project shall be responsible for all required clean up of off-site dirt tracking, pavement damage and/or restriping of the public rights-of-way as determined by the Department of Public Works. **(PW)**

g. Any operation involving dewatering shall require approval of a dewatering plan and the applicant shall obtain the necessary De Minimis Permit from the California Regional Water Quality Control Board [Order No. R8-2009-0003 (CAG998001)] and provide a copy to Public Works. Discharges to the City's sanitary sewer system shall only be permitted during off-peak hours and non-raining times and with the approval by permit from the Orange County Sanitation District. **(PW)**

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

i. Pre-construction (within 60 days of a disturbing activity) and post-construction (30 days after cessation of the marina portion of the project and prior to issuance of a Certificate of Occupancy or final inspection for the marina) eelgrass surveys shall be conducted to determine the level of eelgrass loss, if any, as a result of the project activities. This survey shall be valid for 60 days unless conducted between August and October, in which case it is valid until March 1 of the following year. **(Mitigation Measure)**

j. During construction, dredging and other turbidity generating work shall be limited to the months of November to March to minimize impacts to foraging and nesting for protected avian species. If dredging and pile driving activities cannot be timed to avoid encroachment into the least tern nesting season, the applicant shall be required to effectively contain visibly detectable surface turbidity associated with in water construction activities to the smallest footprint practicable and not more than 0.5 acre maximum during the least tern season. During construction, a qualified biologist shall conduct weekly monitoring of the silt curtain(s) and monitor water quality at a distance of no more than 10 meters outside of the silt curtain and 100 meters upcurrent of the silt curtain. Turbidity (via light transmittance) shall be measured at one meter above the bottom, mid-depth, and one meter below the surface both at 10 meters and 100 meters from the dredge operations. A decrease in light transmittance of more than 30% (average of the three readings) from that found 100 meter upcurrent shall result in a suspension of dredging until the cause is corrected. Additionally, dissolved oxygen concentrations (DO) and hydrogen ion concentrations (pH) shall be measured at the same depths and locations. Dredge operations shall be suspended at any time the biological oxygen demand causes concentrations of DO to be less than 5 mg/l and pH to

drop below 7.5 (average of the three measurements) in the area within 10 meters of the silt curtain unless ambient condition DOs are below 5 mg/l and pH below 7.5 at the station 100 meters upcurrent. In the event that turbidity extends beyond the allowable limits, turbidity generating activities shall cease until such time as turbidity levels are brought back into compliance. **(Mitigation Measure)**

k. During construction, if sea lions, seals (or other marine mammals), or sea turtles are observed within 100 meters of the construction or dredging process, all in water activity shall cease until observations indicate the marine mammals or turtles have departed the work site. **(Mitigation Measure)**

l. During construction, a biological observer shall be present during the pile driving and dredging activities and shall have the authority to cease operations if a marine mammal or turtle comes within the exclusion zone, fish species are observed to be dead, and California least terns are present within the exclusion zone. **(Mitigation Measure)**

m. During construction, if any marine mammal is observed within 100 meters of the work site, all pile driving and dredging activities shall cease until the marine mammals or turtle has left the area of concern. If a marine mammal enters the safety zone after pile-driving of a segment has begun, pile-driving shall continue. If a marine mammal in the 100-meter safety zone is observed, but more than 10 meter away, the contractor shall wait at least 15 minutes to commence pile-driving. If the marine mammal has not left the 100-meter safety zone after 15 minutes, pile-driving can commence. All pile driving activities shall be accomplished by a soft start sequence. At the beginning of each pile driving event and after breaks of more than 15 minutes, the soft start method shall be employed for impact pile driving. The hammer shall be operated at less than full capacity (i.e. approximately 40-60% energy levels) with no less than a 1-minute interval between each of five strikes for a 5-minute period. After the 5-minute soft-start period, full capacity strikes shall be allowed during the duration of each individual pile driving event. **(Mitigation Measure)**

n. Prior to any earth-disturbing activities (e.g., excavation, trenching, grading) that could encounter undisturbed soils, the project applicant shall retain an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology to determine if the project could result in a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines or disturb human remains. The investigation shall include, as determined appropriate by the archaeologist and the City of Huntington Beach, an updated records search of the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System, updated Native American consultation, and a pedestrian survey of the area proposed for development. The results of the investigation shall be documented in a technical report or memorandum that identifies and evaluates any archaeological resources within the development area and includes recommendations and methods for eliminating or avoiding impacts on archaeological resources or human remains. The measures shall include, as appropriate, subsurface testing of archaeological resources and/or construction monitoring by a qualified professional and, if necessary, appropriate Native American monitors identified by the applicable tribe (e.g., the Gabrieliño Tongva Nation) and/or the Native American Heritage Commission. The methods shall also include procedures for the unanticipated discovery of human remains, which shall be in accordance with Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety

Code. The technical report or memorandum shall be submitted to the City of Huntington Beach for approval. As determined necessary by the City, environmental documentation (e.g., CEQA documentation) prepared for future development within the project site shall reference or incorporate the findings and recommendations of the technical report or memorandum. The project applicant shall be responsible for implementing methods for eliminating or avoiding impacts on archaeological resources identified in the technical report or memorandum. Projects that would not encounter undisturbed soils and would therefore not be required to retain an archaeologist shall demonstrate non-disturbance to the City through the appropriate construction plans or geotechnical studies prior to any earth-disturbing activities. Projects that would include any earth disturbance (disturbed or undisturbed soils) shall comply with the procedures for the identification for paleontological resources. **(Mitigation Measure)**

o. During any project-related earth-disturbing activities (including projects that would not encounter undisturbed soils), if evidence of an archaeological site or other suspected historical resource as defined by CEQA Guidelines Section 15064.5, including darkened soil representing past human activity ("midden"), that could conceal material remains (e.g., worked stone, fired clay vessels, faunal bone, hearths, storage pits, or burials) are discovered, all earth-disturbing activity within 100 feet of the find shall be halted and the City of Huntington Beach shall be notified. The project applicant shall retain an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology to assess the significance of the find. Impacts to any significant resources shall be mitigated to a less-than-significant level through data recovery or other methods determined adequate by the archaeologist and that are consistent with the Secretary of the Interior's Standards for Archaeological Documentation. Any identified cultural resources shall be recorded on the appropriate DPR 523 (A-L) form and filed with the appropriate Information Center. **(Mitigation Measure)**

p. During construction, should paleontological resources (i.e., fossil remains) be identified at a particular site, the construction foreman shall cease construction within 100 feet of the find until a qualified professional can provide an evaluation. Mitigation of resource impacts shall be implemented and funded by the project applicant and shall be conducted as follows:
   i. Identify and evaluate paleontological resources by intense field survey where impacts are considered high
   ii. Assess effects on identified sites
   iii. Consult with the institutional/academic paleontologists conducting research investigations within the geological formations that are slated to be impacted
   iv. Obtain comments from the researchers
   v. Comply with researchers' recommendations to address any significant adverse effects where determined by the City to be feasible

   In considering any suggested mitigation proposed by the consulting paleontologist, the City of Huntington Beach staff shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, applicable policies and land use assumptions, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for paleontological resources is carried out. **(Mitigation Measure)**

q. During all phases of the project during construction and post-construction, Best Management Practices (BMPs) shall be implemented to prevent and control untreated runoff, turbidity and implement water quality standards and waste discharge requirements. BMPs may include sandbags, detention basins, clarifiers, and silt curtain(s). The silt curtain(s) shall be continually maintained free and clear of debris, shall be properly maintained without holes, rips, or tears, and shall remain in place for the duration of the marina construction and dredging activities or until permanent BMPs are installed and operational. **(Mitigation Measure)**

r. During construction, if turbidity is observed at a distance of 100 ft. or greater from the actual work site, either the work shall be stopped until the water returns to normal or, if deemed necessary, a silt curtain shall be installed until turbidity returns to normal. **(Mitigation Measure)**

s. During construction, the applicant shall require by contract specifications that the following construction best management practices (BMPs) be implemented by contractors to reduce construction noise levels:
   i. Notification shall be mailed to owners and occupants of all developed land uses immediately bordering or directly across the Harbour channel from the project site area providing a schedule for major construction activities that will occur through the duration of the construction period. In addition, the notification shall include the identification and contact number for a community liaison and designated construction manager that shall be available on-site during all construction activities. Contact information for the community liaison and construction manager shall be located at the construction office, City Hall, and the Police Department.
   ii. Ensure that construction equipment is properly muffled according to industry standards. Shut off or run noise generating equipment and machinery on their lowest settings when not in use.
   iii. Implement the best available technology throughout all construction activities in noise attenuation measures, including but not limited to sound barriers and noise blankets.
   iv. Ensure that all construction work that would be expected to create high noise and/or vibration levels shall be carefully scheduled to be performed in the least amount of time possible.
   v. All project personnel shall be made aware of the potential for noise and vibration impacts and shall practice good neighbor policies designed to minimize noise and vibration impacts at all times. **(Mitigation Measure)**

t. During construction, the applicant shall require by contract specifications that construction staging areas, along with the operation of earthmoving equipment within the project site, are located as far away from vibration- and noise-sensitive sites as possible. Contract specifications shall be included in the proposed project construction documents, which shall be reviewed and approved by the City. **(Mitigation Measure)**

u. Prior to the start of construction, the applicant shall be required to submit a noise and vibration control plan to the Planning and Building Director for approval. Features that shall be included in the noise and vibration control plan are:
   i. A list of all major noise and vibration generating equipment that will be used on the site for each phase of construction.

ii. Noise and vibration predictions at each of the sensitive receptors that were indentified in the report for each phase of the construction.
iii. Locations, heights, and materials for noise barriers that may be employed and schedule for their installation.
iv. Other mitigation measures that will be used. These might include use of temporary noise barriers for stationary equipment, use of low-noise and vibration equipment or highly efficient mufflers, and alternative construction methods. **(Mitigation Measure)**

v. During construction, pile-driving activities shall be scheduled between the hours of 8:00 AM and 4:00 PM on Mondays through Fridays only. Piles shall be installed with jetting, predrilling, or pile cushioning to reduce the duration of pile-driving. **(Mitigation Measure)**

w. Prior to the start of construction and during construction, the applicant shall perform the following tasks:
i. Conduct pre- and post-construction video and survey inspections of the Weatherly Bay Swimming Pool complex, Weatherly Bay tennis court, Weatherly Bay perimeter wall adjacent to the project site, and Warner Avenue Bridge.
ii. Install meters to measure and monitor vibrations.
iii. Visually monitor the above structures for damage on a daily basis, and video and survey once per week during construction.
iv. Upon evidence of structural damage to the above structures, the applicant shall cease construction operations immediately and assess, repair, and remediate any damages to the structures in accordance with the recommendations in the Preliminary Geology and Soils Report.
v. Provide a bond in an amount determined by the City Engineer for the repair and/or replacement of structural damage to the Weatherly Bay Swimming Pool complex, Weatherly Bay tennis court, Weatherly Bay perimeter wall adjacent to the project site, and Warner Avenue Bridge. **(Mitigation Measure)**

8. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released, and issuance of a Certificate of Occupancy until the following has been completed:

a. Compliance with all conditions of approval specified herein are accomplished and verified by the Planning and Building Department.

b. All improvements must be completed in accordance with approved plans, except as provided for by conditions of approval.

c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.

d. A Certificate of Occupancy must be approved by the Planning Division and issued by the Building and Safety Division.

e. The applicant shall provide signs identifying the public access and public use areas subject to the review and approval by the Director of Planning and Building. **(HBZSO 221.12)**

f. The public accessway associated with private development shall be provided. **(HBZSO 221.17)**

g. The owner and operator of the marina shall provide a permanent holding tank pump-out facility or equivalent service which is operable and available for use at all times and which is capable of servicing all vessels berthed, docked, or moored at the marina. **(HBMC 13.44.070)**

h. The property owner shall install appropriate signage at the project sign to inform the public that the dock is available for public use. **(CS)**

i. The property owner shall install appropriate signage at the project site to inform the public that the parking meters and pay stations are not operated by the City. **(CS)**

j. The property owner and/or marina operator shall provide a sample lease agreement with the appropriate language within each lease agreement prohibiting persons living aboard any boat docked or moored at the proposed facility. **(HBMC 13.36.150)**

k. Pre-construction (within 60 days of a disturbing activity) and post-construction (30 days after cessation of the marina portion of the project and prior to issuance of a Certificate of Occupancy or final inspection for the marina) eelgrass surveys shall be conducted to determine the level of eelgrass loss, if any, as a result of the project activities. This survey shall be valid for 60 days unless conducted between August and October, in which case it is valid until March 1 of the following year. **(Mitigation Measure)**

l. Prior to issuance of a Certificate of Occupancy or final inspection for the marina, any loss in acreage of eelgrass habitat shall be mitigated according to State and Federal environmental policies. Mitigation may include out-of kind mitigation (suitable to the resource agencies) if the total area is less than 10 square meters, or replacement at a 1.2 to 1 ratio (for every 1 square meter of eelgrass disturbed or lost, 1.2 square meters is to be replaced) in a suitable location if the total is more than 10 square meters. In the event of replacement, subsequent success monitoring at six months, and annually beginning at one year through five years with success criteria as determined in the Southern California Eelgrass Mitigation Policy. **(Mitigation Measure)**

m. Prior to issuance of a Certificate of Occupancy or final inspection for the marina, if no eelgrass is found on site then the project shall provide 50 square meters of eelgrass to compensate for other non-specific project impacts such as short term disruption of the epifauna and infauna biota. The eelgrass shall be monitored for subsequent success at six months, and annually beginning at one year through five years with success criteria as determined in the Southern California Eelgrass Mitigation Policy. **(Mitigation Measure)**

n. Prior to the issuance of a Certificate of Occupancy, automatic seismic shutoff devices shall be installed for utilities such as electricity and gas. **(Mitigation Measure)**

o. Prior to issuance of a Certificate of Occupancy for the land portion of the site, the applicant shall be required to pay a fair-share fee for mitigation of the impacts to the public sanitary sewer system resulting from the increase in flow anticipated as a result of the development. **(Mitigation Measure)**

9. All diking, dredging, and filling shall be permitted only where there is no feasible, less environmentally-damaging alternative and where feasible mitigation measures have been provided, consistent with the Coastal Conservation District in Chapter 216. **(HBZSO 221.18)**

10. Dredging activities shall be coordinated with the City to ensure that there will not be any disruption to Marine Safety vessels and Huntington Harbour Yacht Club activities. **(CS)**

11. The property owner shall be responsible for the maintenance and/or dredging of the water portion of any adjacent property to provide adequate access from the main channel to the marina/boat slips. **(PL)**

12. The marina use shall comply with the following:

    a. Any proposed boats shall not extend beyond the pierhead line.

    b. The proposed public dock shall be maintained by the developer and remain open to the general public. **(CS)**

    c. The hours of operation for the public dock shall be 5:00 AM to 10:00 PM in order to be consistent with public park curfews. **(CS)**

    d. Appropriate signage shall be posted and maintained to inform the public that the dock is available for public use. **(CS)**

    e. Appropriate signage shall be posted and maintained to inform the public that the parking meters and pay stations are not operated by the City. **(CS)**

    f. The property owner and/or marina operator shall provide a clause within each lease agreement prohibiting persons living aboard any boat docked or moored at the proposed facility. **(HBMC 13.36.150)**

    g. The property owner shall obtain all required approvals from the appropriate regulatory agencies, including but not limited to, U.S. Fish and Wildlife, California Department of Fish and Game, State Lands Commission, California Coastal Commission, and the City prior to any maintenance work requiring permits. A copy of the written notice of approval from each applicable agency shall be submitted to the Planning and Building Department for inclusion in the entitlement file. **(PL)**

13. Alcoholic beverage sales and service shall be prohibited.

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

reviewed by the Planning Commission may be required pursuant to the provisions of HBZSO Section 241.18.

15. 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.

16. The project shall comply with all applicable requirements of the Municipal Code, Building & Safety Department and Fire Department, as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein.

17. Conditional Use Permit No. 2008-014 and Variance No. 2008-009 shall not become effective until the California Coastal Commission approves the Coastal Development Permit and the City Council establishes the pierhead line.

18. Conditional Use Permit No. 2008-014 and Variance No. 2008-009 in conjunction with Coastal Development Permit No. 2008-008 shall become null and void unless exercised within two years of the date of final approval by the City Council, or within one year of the date of final Coastal Development Permit approval by the Coastal Commission if the Coastal Development Permit is appealed, or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.

19. Incorporation of 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/green-building-guidelines-rating/).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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

Commissioner Delgleize recused herself on Item No. B-3 due to a possible conflict of interest and left the room.

B-3. **DRAFT MITIGATED NEGATIVE DECLARATION NO. 08-13, GENERAL PLAN AMENDMENT NO. 08-05, ZONING MAP AMENDMENT NO. 08-05, TENTATIVE TRACT MAP NO. 17238, CONDITIONAL USE PERMIT NO. 08-26 (LAMB RESIDENTIAL SUBDIVISION)** **Applicant:** Michael Adams, Michael C. Adams Associates, and Thomas Grable, Tri Pointe Homes, LLC **Property Owner:** Fountain Valley School District **Request: MND:** To analyze the potential environmental impacts associated with the implementation of the proposed project. **GPA:** To amend the existing Land Use Element designation of an approximately 11.65-acre site from Public with an underlying designation of Residential Low Density (P-RL) to Residential Low Density (RL-7), which allows a maximum density of seven units per net acre. **ZMA:** To amend the existing zoning designation of an approximately 11.65-acre site from Public-Semipublic (PS) to Residential Low Density (RL) to be consistent with the proposed General Plan Land Use Element designation. **TTM/CUP:** To permit (a) the subdivision of an approximately 11.65-acre site to accommodate 81 numbered lots with reduced lot sizes for new detached single-family homes and eight lettered lots A-H for streets with reduced widths and landscaping; and (b) development of an 81 unit single-family residential subdivision proposed as a Planned Unit Development (PUD) with varying lot sizes (min. 3,659 square feet, max. 6,695 square feet) that average approximately 3,600 square feet (45 feet wide by 80 feet deep) in lieu of the minimum 6,000 square feet and 60 feet wide standard for RL (Residential Low Density) lots, including associated infrastructure and site improvements, and mutual benefits that include offsite sewer, water and storm drain improvements. The request includes a review and analysis for compliance with the Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/ privacy issues, such as window alignments, building pad height, and floor plan layout. **Location:** 10251 Yorktown Avenue, 92646 (north side of Yorktown Avenue, east of Brookhurst Street) **Project Planner:** Jane James

STAFF RECOMMENDATION: Motion to:

A. "Approve Mitigated Negative Declaration No. 08-13 with findings and mitigation measures (Attachment No. 1);"

B. "Approve General Plan Amendment No. 08-05 by approving draft City Council Resolution No. _____ (Attachment No. 7) and forward to the City Council for adoption;"

C. "Approve Zoning Map Amendment No. 08-05 with findings (Attachment No. 1) by approving draft City Council Ordinance No. _____ (Attachment No. 8) and forward to the City Council for adoption;"

D. "Approve Tentative Tract Map No. 17238 with findings and suggested conditions of approval (Attachment No. 1);"

E. "Approve Conditional Use Permit No. 08-26 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Shier Burnett is familiar with the site.
- Commissioner Peterson has visited the site, attended the study session, and spoken with representatives for the applicant.
- Vice Chair Bixby has visited the site, attended the Subdivision Committee, spoken with Holly Derheim, neighbors, staff, and the applicant, and spoken with Alan Gandall.
- Chair Mantini has visited the site, attended the study session, and spoken with staff and the applicant.
- Commissioner Franklin has visited the site and spoken with the applicant.
- Commissioner Ryan has visited the site, attended the study session, spoken with the applicant and the adjacent neighbors.

Jane James, Senior Planner, gave the staff presentation and an overview of the project.

THE PUBLIC HEARING WAS OPENED.

Tom Grable, Tri Pointe Homes, spoke in support of Item No. B-3, stating that the project would be beneficial to the community.

Kim Burns, resident, spoke in support of Item No. B-3, stating that the property in its current state is an eyesore and this project would beautify the area.

Stephen McMahon, Fountain Valley School District, spoke in support of Item No. B-3, noting that the school district is working to offset any impacts to AYSO. He stated that the district has offered three alternatives for relocation to AYSO.

Helen Ford, resident, spoke in opposition to item No. B-3, citing concerns with the public notification process, the Mitigated Negative Declaration, and the proposed mature tree removal.

Edra Bonsall, resident, spoke in opposition to Item No. B-3, citing potential loss of soccer fields and impacts to AYSO activities.

Cheri Olson, resident, spoke in opposition to item No. B-3, citing potential environmental and traffic impacts. She stated that the project is incompatible with the existing neighborhood.

Robert Zordani (with 4 minutes donated by Thu-Hang), spoke in opposition to Item No. B-3, citing potential impacts to the roads from construction, and the potential traffic impacts.

Stanley Friedman, resident, (with 4 minutes donated by Mai Tran), spoke in opposition to Item No. B-3, citing small lot sizes, potential traffic impacts, and incompatibility with the neighborhood.

Holly Derheim, resident, spoke in opposition to Item No. B-3, citing potential traffic and parking impacts, potential loss of the pedestrian easement, and incompatibility with the neighborhood.

Alan Gandall, AYSO Region 117, spoke in opposition to Item No. B-3, citing the potential loss of soccer fields, particularly the loss of the only U-14 field in the region, which he felt was not properly analyzed in the MND.
Norm Whiteman, resident, spoke in opposition to Item No. B-3, citing potential loss of park space.

Betsy Crimi, resident, spoke in opposition to Item No. B-3, citing potential traffic impacts.

Richard Kushnir, resident, spoke in opposition to item No. B-3, citing concerns with potential loss of park space, potential traffic impacts, and potential overcrowding of the neighborhood.

Mario Curti, resident, spoke in opposition to Item No. B-3, citing the potential loss of park space and sports fields.

Laura Gardner, resident, spoke in opposition to Item No. B-3, citing potential traffic impacts, the small lot sizes, and the potential loss of quality of life for neighboring residents.

Sandra Golightly, resident, spoke in opposition to Item No. B-3, citing potential traffic and aesthetic impacts.

Cecil Patterson, resident, spoke in opposition to Item No. B-3, citing potential traffic impacts.

Niki Williams, resident, spoke in support of Item No. B-3, citing the current degraded state of the school site.

Katie Fabre, resident, spoke in support of Item No. B-3, citing potential increase in property values and the proposed park improvements.

Mike Adams, applicant, spoke in support of Item No. B-3, stating the proposed public benefits far outweigh the potential impacts.

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

There was a brief discussion regarding the analysis of recreation impacts included in the MND. Vice-Chair Bixby indicated that he felt the analysis was deficient in the recreation section, he also felt the park improvements should trigger a Measure C vote and thus he would not be voting in favor of the project.

A MOTION WAS MADE BY MANTINI, SECONDED BY FRANKLIN, TO APPROVE MITIGATED NEGATIVE DECLARATION NO. 08-013, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE GENERAL PLAN AMENDMENT NO. 08-005 AND FORWARD TO THE CITY COUNCIL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE ZONING MAP AMENDMENT NO. 08-005 WITH FINDINGS AND FORWARD TO THE CITY COUNCIL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A MOTION WAS MADE BY MANTINI, SECONDED BY FRANKLIN, TO APPROVE TENTATIVE TRACT MAP NO. 17238 WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

A MOTION WAS MADE BY MANTINI, SECONDED BY FRANKLIN, TO APPROVE COONDITIONAL USE PERMIT NO. 08-026 WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

FINDINGS FOR APPROVAL - ZONING MAP AMENDMENT NO. 08-05:

1. Zoning Map Amendment No. 08-04 to rezone the 8.35-acre project site from Public-Semipublic (PS) to Residential Low Density (RL) is consistent with the goals, objectives, and land use policies of the General Plan as identified below. The proposed change is also

consistent with General Plan Amendment No. 08-04, which is being processed concurrently. The land uses in the surrounding area are consistent with the proposed change in zoning because surrounding land uses include low density residential uses to the north, east, west, and south (across Yorktown Avenue), and Public-Semipublic (PS) to the west (Lamb Park). As discussed in the environmental assessment for this project, there will be appropriate infrastructure and services available to support the proposed development.

A. *Land Use Element*

Goal LU 2: Ensure that development is adequately served by transportation infrastructure, utility infrastructure, and public services.

There will be improvements made in conjunction with the project including private streets, storm drainage improvements and flood control protection to ensure that the development is adequately served with infrastructure.

Policy LU 9.2.1: Require that all new residential development within existing residential neighborhoods (i.e., infill) be compatible with existing structures, including the use of complimentary building materials, colors, and forms, while allowing flexibility for unique design solutions and maintenance of privacy on abutting residences.

The proposed homes are compatible with existing homes in the area in terms of style, materials, and colors. They are well articulated and will have enhanced architectural elevations along street frontages. Although all the proposed homes will be two-story and, in some cases, taller than the homes surrounding the site, there will be increased rear setbacks of a minimum 20 feet (twice the minimum distance of ten feet permitted within the RL zoning district) and greater second floor setbacks that will alleviate potential privacy intrusions onto existing residences. Furthermore, the proposed placement of the windows will avoid direct views onto existing residential properties.

Policy LU 9.3.2: Require that residential subdivisions consider reduced street widths to achieve a more "intimate" relationship between structures, to the extent feasible and in accordance with the Huntington Beach Fire Department regulations.

The width of the streets for the proposed subdivision is 40 feet and 36 feet (curb face-to-curb face) and meet the minimum allowed with an approved Fire Master Plan by the Fire Department. The street width is in scale with the proposed residential units and creates a relationship between the scale and architecture of adjacent structures. The buildings will include fire sprinklers and the development will include increased fire protection measures.

1. *Housing Element*

Policy H 2.4: Utilize surplus school and park sites for residential use where appropriate and consistent with the City's General Plan.

The project will result in development of a residential PUD on a vacant school site and contributes to the City's housing stock. The project includes an affordable housing provision as required by existing City requirements, thereby assisting to achieve the City's overall housing goals.

Policy H 3.6: Encourage use of sustainable and green building design in new and existing housing.

The project is proposing the incorporation of green building strategies into the construction of the buildings that will meet all mandatory measures of State of California Housing and Community Development's 2010 California Green Building Code, including providing energy efficiency 30 percent greater than the 2008 California Energy Commission Title 24 code standards.

2. *Circulation Element*

Objective CE 5.1: Balance the supply of parking with the demand for parking.

The project proposes to construct an approximately 31 space public parking lot in conjunction with the proposed park improvements to the unimproved 2.6-acre park located at the southwesterly portion of the site. Additionally, the project will provide 118 additional on-street parking spaces. Appropriate wording will be placed in the CC&Rs specifically allowing and guaranteeing the ability of the general public to park on and use the private streets within the project. The parking demands that would be generated by the proposed residential development would be accommodated within the project boundaries in the private garages and driveways and along the internal streets. The construction of the 31-space public parking lot and allowance for public on-street parking within the project will address parking within the neighboring area.

3. *Utilities Element*

Policy U 3.1.1: Maintain existing public storm drains and flood control facilities upgrade and expand storm drain and flood control facilities.

A new 33-inch reinforced concrete storm drain in accordance with the Master Plan of Drainage that will run for approximately 2,080 linear feet will run to Kamuela Drive. The proposed installation of the storm drain will provide an upgrade to the City's storm drain system above the minimum requirements for a standard residential subdivision.

4. *Recreation and Community Services Element*

Objective 4.1: Improve and modernize existing parks and facilities to overcome existing design deficiencies and deteriorated conditions.

The project will develop a 2.6-acre undeveloped public park located at the southwest corner of the subject property. The park improvements include a multi-use practice field, two 60 square-foot tot-lot play areas, half court basketball court, shade structure, picnic table, benches, bike racks, an approximately 31 onsite space public parking lot, irrigation, landscaping, and sidewalks in and around the areas of the parking lot and tot-lot play areas. The project will upgrade and modernize the site with a fully functional park containing the latest in park equipment and infrastructure. In addition, the project will pay park full Park Land In-Lieu fees required for the new 81 residential units pursuant to the Quimby Act.

2. Zoning Map Amendment No 08-05 would only change the land use designation rather than a general land use provision and would not affect the uses authorized in and the standards prescribed for the proposed zoning district.

3. A community need is demonstrated for the change proposed. The changes would expand the opportunities for housing and address the needs of a growing population.

4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice. The zoning map amendment would provide for compatible land uses and eliminate an existing zoning designation that is no longer appropriate for the site. The zoning map amendment would result in zoning and General Plan land use designations that are consistent with one another and would allow the property to be rightfully developed.

FINDINGS FOR APPROVAL – MITIGATED NEGATIVE DECLARATION NO. 08-13:

4. Mitigated Negative Declaration No. 08-13 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of twenty (20) days. Comments received during the comment period were considered by the Planning Commission prior to action on the Mitigated Negative Declaration No. 08-13, General Plan Amendment No. 08-05, Zoning Map Amendment No. 08-05, Tentative Tract Map No. 17238, and Conditional Use Permit No. 08-26.

5. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. Mitigation measures are incorporated to address impacts to geology/soils, hydrology/water quality, biological resources, hazards and hazardous materials, cultural resources, and mandatory findings of significance. The proposed geology/soils mitigation measures would incorporate measures with site preparation, fill placement and compaction, seismic design features, excavation and shoring requirements, foundation design, concrete slabs and pavement, surface drainage, trench backfill, and geotechnical observation in order to mitigate against impacts to liquefaction and settlement at the subject site. The proposed hydrology/water quality mitigation measure would require that a Hydrology and Hydraulic analysis be prepared, reviewed and approved by the City with specifications that drainage improvements be designed and constructed to mitigate against potential impacts of increased runoff during development, or deficient downstream systems in accordance with the Department of Public Works. The proposed biological resources mitigation measure would incorporate a measure that would ensure that impacts to nesting birds in the project area are protected during site development and result in a less than significant impact. The hazards and hazardous materials mitigation measure requires that a soils survey be prepared for the project site to ensure that any potential hazardous materials do not remain on site. The proposed noise mitigation measure will ensure that adjacent sensitive noise receptors (i.e., residential) are protected during site development through the incorporation of sound attenuation devices on construction machinery, requirements for properly maintained construction equipment, and that stationary equipment are directed away from sensitive noise receptors. The mitigation measures also specify procedures for the projection of cultural and paleontological resources are discovered during the development of the project. However, the mitigation measures would ensure that impacts would be less than significant in the unlikely event these resources are discovered during grading and construction activities.

6. There is no substantial evidence in light of the whole record before the Planning Commission that the project, as mitigated, will not have a significant effect on the environment. Potential impacts from the project are minimized to a less than significant level through the project design, standard code requirements and the recommended mitigation measures.

FINDINGS FOR APPROVAL - TENTATIVE TRACT MAP NO. 17238:

1. Tentative Tract Map No. 17238 for the subdivision of approximately 11.65 acres of land into 81 numbered lots for the purpose of constructing 81 detached single-family residences and 8 lettered lots for streets, landscaped areas, and a water quality basin is consistent with the requirements of the RL zoning district with exceptions that are proposed as part of the Planned Unit Development (PUD) design for the project. These exceptions include deviations to minimum lot width and size and are permissible with development of a PUD pursuant to Huntington Beach and Subdivision Ordinance (HBZSO). The proposed subdivision is consistent with goals, policies, and objectives of the General Plan Land Use Element that govern new subdivisions and residential development.

2. The site is physically suitable for the type and density of development. The project site is able to accommodate the type of development proposed from a public service, circulation, and drainage perspective. The proposed subdivision will result in a density of 6.95 units per acre (6.5 units/gross acre). The proposed density is below the allowable density of 7 units per acre of Residential Low Density land uses designation for which the project is proposing to be designated. The proposed density would be consistent with, or lower than existing surrounding developments.

3. The design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The site has been previously used as a public elementary school by the Fountain Valley School District. The site does not contain any significant habitat for wildlife or fish. Design features of the project as well as compliance with the provisions of Chapter 221 of the Huntington Beach Zoning and Subdivision Ordinance will ensure that the subdivision will not significantly impact the function and value of any resources adjacent to the project site. The project will comply with all mitigation measures identified in Mitigated Negative Declaration No. 08-13.

4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided. The subdivision will provide all necessary easements and will not affect any existing easements.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 08-26:

1. Conditional Use Permit No. 08-26 for the development of a 81 unit single-family residential subdivision proposed as a Planned Unit Development (PUD) with varying lot sizes (min. 3,659 square feet, max. 6,695 square feet) that average approximately 3,600 square feet (45 feet wide by 80 feet deep) and associated infrastructure and site improvements, including mutual public benefits that include offsite storm drain and park improvements. The project, with conditions, will result in less than significant impacts related to traffic, noise, lighting, aesthetics, including privacy. The project will have greater setbacks at a minimum

of 20 feet 2 inches along the first floor and upper story setbacks to protect privacy impacts onto existing residences located to the north of the subject development. The project will provide mutual benefits for the residents of the project and the general public. The mutual benefits include the improvement of a 2.6-acre undeveloped public park located at the southwest corner of the subject property with a multi-use practice field, two 60 square-foot tot-lot play areas, half court basketball court, shade structure, picnic table, benches, bike racks, an approximately 31 onsite space public parking lot, irrigation, landscaping, and sidewalks in and around the areas of the parking lot and tot-lot play areas. Additional public benefits consist of allowing park users to park on the tracts' private streets, and water quality and storm drain improvements including construction of a 2,080 linear foot storm drain. Based upon the conditions impose and mitigation measures, the proposed project will not result in significant impacts onto adjacent properties.

2. The conditional use permit will be compatible with surrounding single family residential in terms of setbacks, onsite parking, lot coverage, and allowable building height. The project includes two-story homes that are compatible with surrounding developments in terms of each building's overall mass and scale. Increased rear setbacks will be provided for those lots located adjacent to existing homes. Enhanced landscaping will be provided throughout the development. The proposed detached single family residential subdivision/development will be compatible with the surrounding single family residential uses in terms of density, layout and overall design.

3. The proposed project 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. Variations to lot size and width are permitted by conditional use permit as part of a Planned Unit Development.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the proposed General Plan Land Use Element designation of Residential Low Density. In addition, it is consistent with the following policy of the General Plan:

   Policy LU 9.2.1: Require that all new residential development within existing residential neighborhoods (i.e., infill) be compatible with existing structures, including the use of building heights, grade elevations, orientation and bulk that are compatible with the surrounding development.

   The proposed homes are compatible with existing homes in the area in term of style, materials, and colors. The buildings are will articulated and will have enhanced building elevations along street frontages. The buildings are provided with a setback buffer along the north, west, and east property lines.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. The grading plan prepared for the proposed project shall contain the recommendations included in the reports listed below. These recommendations shall be implemented in the design of the project and include measures associated with site preparation, fill placement and compaction, seismic design features, excavation and shoring requirements, foundation design, concrete slabs and pavement, surface drainage, trench backfill, and geotechnical observation.

i) The August 21, 2007 Geotechnical Investigation and Liquefaction Evaluation Proposed Residential Development Lamb School Site, prepared by Southern California Geotechnical.

ii) The February 28, 2012 Geotechnical Review and Commentary of Existing Documents for the Lamb School Site Project, prepared by Petra.

These reports suggest relatively uniform subsurface conditions exist across the project site. However, where existing school structures and improvements have precluded direct access to subsurface areas, additional borings and soil samples are recommended to provide deeper soil information. Although no new impacts or unusual subsurface conditions are anticipated, Mitigation Measure GEO-2 is recommended prior to construction to complete site investigations. **(Mitigation Measure)**

2. Prior to issuance of building permits for the project, in order to complete the soils information in areas of the site where existing structures and improvements have prevented easy access to deeper soil, additional subsurface borings shall be conducted. The project shall comply with any additional recommendations resulting from this additional subsurface investigation. **(Mitigation Measure)**

3. Prior to ground disturbance, the applicant shall provide the City of Huntington Beach proof that a certified biologist has been retained to determine if nesting birds are present within the project footprint or within a 250-foot buffer around the site. If nesting birds are present, construction activity shall be avoided in the area until nesting activity is complete (generally February 1 to August 31), as determined by the biologist. If ground or vegetation disturbance would occur between February and August, a preconstruction nesting bird survey shall be conducted seven days prior to any ground or vegetation disturbance. Any active nests identified shall have a buffer area established within a 100-foot radius (200 foot for birds of prey) of the active nest. Disturbance shall not occur within the buffer area until the biologist determines that the young have fledged. Construction activity may occur within the buffer area at the discretion of the biological monitor. **(Mitigation Measure)**

4. Prior to ground disturbance, the applicant shall provide the City of Huntington Beach proof that a certified biologist has been retained to determine if nesting birds are present within the Project footprint or within a 250-foot buffer around the site. If nesting birds are present, construction activity shall be avoided in the area until nesting activity is complete (generally February 1 to August 31), as determined by the biologist. If ground or vegetation disturbance would occur between February and August, a preconstruction nesting bird survey shall be conducted seven days prior to any ground or vegetation disturbance. Any active nests identified shall have a buffer area established within a 100-foot radius (200 foot for birds of prey) of the active nest. Disturbance shall not occur within the buffer area until the biologist determines that the young have fledged. Construction activity may occur within the buffer area at the discretion of the biological monitor. **(Mitigation Measure)**

5. Prior to issuance of a grading permit, the project applicant shall have a soils survey conducted for the proposed project site to determine if any agricultural chemicals (herbicides, insecticides, pesticides and metals) remain at the project site from past agricultural use. The applicant shall implement the mitigation recommendations in the soils report. **(Mitigation Measure)**

6. All construction equipment shall use available noise suppression devices and properly maintained mufflers. All internal combustion engines used in the project area shall be

equipped with the type of muffler recommended by the vehicle manufacturer. In addition, all equipment shall be maintained in good mechanical condition to minimize noise created by faulty or poorly maintained engine, drivetrain, and other components. **(Mitigation Measure)**

7. During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receptors and as far as possible from the boundary of the residential use. **(Mitigation Measure)**

8. Prior to the issuance of a grading permit, Hydrology and Hydraulic analysis shall be submitted for Public Works review and approval (10, 25, and 100-year storms shall be analyzed as applicable). The drainage improvements shall be designed and constructed as required by the Department of Public Works to mitigate impact of increased runoff due to development, or deficient, downstream systems. Design of all necessary drainage improvements shall provide mitigation for all rainfall event frequencies up to a 100-year frequency. Runoff shall be limited to existing 25-year flows, which must be established in the hydrology study. If the analysis shows that the City's current drainage system can not meet the volume needs of the project runoff, the developer shall be required to attenuate site runoff to an amount not to exceed the existing 25-year storm as determined by the hydrology study. As an option, the developer may choose to explore low-flow design alternatives, onsite attenuation or detention, or upgrade the City's storm drain system to accommodate the impacts of the new development, at no cost to the City. **(Mitigation Measure)**

9. Prior to demolition, the whole of the existing Lamb School shall be fully recorded onto DPR 523 forms and the forms delivered to the South Coastal Central Information Center at CSU-Fullerton. Delivery of the data to the Center mitigates for potential direct and unavoidable impacts to the existing structure complex. **(Mitigation Measure)**

10. The project applicant shall ensure that during ground-disturbing activities an archaeological mitigation monitoring program shall be implemented within the project boundaries. Full-time monitoring shall continue until the project archaeologist determines that the overall sensitivity of the project area has been reduced from high to low, as a result of mitigation monitoring. Should the monitor determine that there are no cultural resources within the impacted areas, or should the sensitivity be reduced to low during monitoring, all monitoring shall cease. Specifically, prior to issuance of the first rough grading permit, and for any subsequent permit involving excavation to increased depth, the landowner or subsequent project applicant shall provide evidence to the City of Huntington Beach that a qualified archaeologist has been retained by the landowner or subsequent project applicant, and that the consultant(s) will be present during all grading and other significant ground disturbing activities.

    If, during the implementation of the monitoring program, any historic or prehistoric cultural resources are inadvertently discovered by the archaeological Inspector, the find(s) must be blocked off from further construction-related disturbance by at least 50 feet, and no further project-related earthmoving shall occur in the area of the discovery until the City approves the measures to protect or appropriately mitigate for the find. The Project Archaeologist must determine whether the find is a historic resource as defined under §15064.5(a)(3) of the CEQA Guidelines. If the find(s) is not found to be a historic resource, enough data must be gathered so that the find can be recorded onto DPR523 forms sets and then project-related excavations can continue in the vicinity of the find. If the find(s) is determined to be a historic resource, the resource must undergo Phase 3 data recovery following professional

guidelines. Any prehistoric artifacts recovered as a result of the mitigation effort shall be donated to a qualified scientific institution approved by the City where they would be afforded long-term preservation to allow future scientific study.

Once the Project Archaeologist determines that the potential for impacts to buried cultural resources has been reduced to "low", active archaeological monitoring may cease. **(Mitigation Measure)**

11. The project applicant shall ensure that during excavation a qualified paleontologic monitor is present to observe excavation in areas identified as likely to contain paleontologic resources. Based upon this review, areas of concern include undisturbed older Quaternary deposits. Paleontologic monitors should be equipped to salvage fossils as they are unearthed, to avoid construction delays, and to remove samples of sediments likely to contain the remains of small fossil invertebrates and vertebrates. Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens. Monitoring may be reduced or eliminated if the potentially fossiliferous units described herein are determined upon exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources, or if the parameters of the proposed project will not impact potentially fossiliferous units. This decision is at the discretion of the qualified paleontologic monitor. If the monitoring program results in positive findings, then refer to PR-2 to PR-4. **(Mitigation Measure)**

12. Preparation of recovered specimens to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Preparation and stabilization of all recovered fossils are essential in order to fully mitigate adverse impacts to the resources. **(Mitigation Measure)**

13. Identification and curation of specimens into an established, accredited museum repository with permanent retrievable paleontologic storage. These procedures are also essential steps in effective paleontologic mitigation and CEQA compliance. The paleontologist must have a written repository agreement in hand prior to the initiation of mitigation activities. Mitigation of adverse impacts to significant paleontologic resources is not complete until such curation into an established museum repository has been fully completed and documented. **(Mitigation Measure)**

14. Preparation of a report of findings with an appended itemized inventory of specimens. The report and inventory, when submitted to the appropriate Lead Agency along with confirmation of the curation of recovered specimens into an established, accredited museum repository, will signify completion of the program to mitigate impacts to paleontologic resources. **(Mitigation Measure)**

CONDITIONS OF APPROVAL – TENTATIVE TRACT MAP NO. 17238:

1. The Tentative Tract Map No. 7238 dated May 15, 2012 and July 9, 2012 (received and dated by City on October 15, 2012), shall be the approved layout except with the following exception:
   a. The primary right-of-way into the tract shall be a minimum 60 ft. wide between Yorktown Avenue to the northern terminus (adjacent to Lots No. 43 and 44).

2. Prior to submittal of the tract map to the Public Works Department for processing and approval, the following shall be required:

   a. An Affordable Housing Agreement in accordance with the Affordable Housing Program shall be submitted to the Planning and Building Department for review and approval by the City Attorney, and accepted by the City Council. Said agreement shall be recorded with the Orange County Recorder's Office prior to issuance of the first building permit for the tract. A total of 8.1 affordable housing units will be required at an offsite location that will be under the full control of Tri Pointe Homes or another City approved party. Tri Pointe Homes may consider new construction or substantial rehabilitation (as defined by Government Code Section 33413 affordable housing production requirements) of existing non-restricted units with the condition that upon completion of the rehabilitation the units become restricted to long-term affordability in compliance with City requirements.

3. The final map for Tentative Tract Map No. 17238 shall not be approved by the City Council until General Plan Amendment No. 08-05, Zoning Map Amendment No. 08-05 are approved and in effect.

4. The following conditions shall be completed prior to recordation of the final map unless otherwise stated:

   a. Payment of the In-Lieu Parkland Dedication Fee pursuant to the City's adopted fee schedule.

   b. At least 90 days before City Council action on the final map, CC&Rs shall be submitted to the Departments of Planning and Building, Public Works, Fire, and City Attorney's office for review and approval. The CC&Rs shall include the following:

      i. Provide for maintenance, repair and replacement by a Homeowner's Association (HOA) for all common area landscaping, irrigation, drainage facilities, water quality BMP's, water system lines, fire system lines, and private service utilities.

      ii. Incorporate a Fire Master Plan that provides a strategic plan for overall fire protection within the project with general guidelines outlining the creation and maintenance of fire access roadways, access walkways to and around buildings, and hydrant quantity and placement as required by the California Fire and Building Codes (CFC and CBC).

      iii. Prohibit the blocking or screening of fire hydrants or fire service facilities located in public right-of-way or onsite.

      iv. Provide funding sources for implementation, monitoring and maintenance of water quality treatment train BMP's and appurtenances per the approved Water Quality Management Plan (WQMP). The approved WQMP shall be incorporated into the CC&R's by reference, and shall be updated as required by local, state or federal law or regulation and the City of Huntington Beach Local Implementation Plan (LIP).

      v. The CC&Rs shall restrict any revision or amendment of the WQMP except as may be dictated by either local, state or federal law and the LIP.

      vi. Appropriate language shall be placed into the project CC&Rs specifically allowing and guaranteeing the ongoing ability of the general public to utilize on street parking within the development. **(Public Benefit)**

vii. Appropriate language shall be incorporated into the project CC&R's restricting on-street parking for recreational vehicles. **(FD)**

c. Portions of the backyards of several existing homes adjacent to the proposed development currently drain through chain-link fences and to the subject property. The blockage of this flow by the proposed development walls could result in potential flooding of said adjacent backyards. The applicant shall provide to the City of Huntington Beach Public Works Department for review and approval the proposed method to address this issue. **(PW)**

5. The following conditions shall be completed prior to issuance of a Grading Permit:

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

b. The proposed detention basin within the City Park shall be designed for a maximum ponding depth of 2 feet with minimum side slopes of 4:1. The maximum detention allowed shall be 1.5 hours. The proposed turf section for the detention area shall be designed by a Registered Landscape Architect for proper function as both water detention basin and playing surface. **(PW)**

c. Hydrology and Hydraulic analysis shall be submitted for Public Works review and approval (10, 25, and 100-year storms shall be analyzed as applicable). The drainage improvements shall be designed and constructed as required by the Department of Public Works to mitigate impact of increased runoff due to development, or deficient, downstream systems. Design of all necessary drainage improvements shall provide mitigation for all rainfall event frequencies up to a 100-year frequency. Runoff shall be limited to existing 25-year flows, which must be established in the hydrology study. If the analysis shows that the City's current drainage system can not meet the volume needs of the project runoff, the developer shall be required to attenuate site runoff to an amount not to exceed the existing 25-year storm as determined by the hydrology study. As an option, the developer may choose to explore low-flow design alternatives, onsite attenuation or detention, or upgrade the City's storm drain system to accommodate the impacts of the new development, at no cost to the City. **(Mitigation Measure)**

d. The grading plan prepared for the proposed project shall contain the recommendations included in the reports listed below. These recommendations shall be implemented in the design of the project and include measures associated with site preparation, fill placement and compaction, seismic design features, excavation and shoring requirements, foundation design, concrete slabs and pavement, surface drainage, trench backfill, and geotechnical observation.

i) The August 21, 2007 Geotechnical Investigation and Liquefaction Evaluation Proposed Residential Development Lamb School Site, prepared by Southern California Geotechnical.
ii) The February 28, 2012 Geotechnical Review and Commentary of Existing Documents for the Lamb School Site Project, prepared by Petra.

These reports suggest relatively uniform subsurface conditions exist across the project site. However, where existing school structures and improvements have precluded direct

access to subsurface areas, additional borings and soil samples are recommended to provide deeper soil information. Although no new impacts or unusual subsurface conditions are anticipated, Mitigation Measure GEO-2 is recommended prior to construction to complete site investigations. **(Mitigation Measure)**

6. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released for the first residential unit until the following has been completed:

   a. A new a new 33-inch reinforced concrete storm drain shall be constructed in accordance with the Master Plan of Drainage that will run for approximately in accordance with the Master Plan of Drainage that will run for approximately 2,080 linear feet that will run to Kamuela Drive. **(Public Benefit)**

   b. The final map shall be recorded with the County of Orange.

7. Comply with all mitigation measures adopted for the project in conjunction with Mitigated Negative Declaration No. 08-13.

8. Incorporation of 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/green-building-guidelines-rating/).

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 08-26:

1. The site plan, floor plans, and elevations dated May 15, 2012 and July 9, 2012 (received and dated by City on October 15, 2012), shall be the conceptually approved design with the following modifications:

   r. Any building elevations visible from public view or along the periphery of the development shall be architectural enhanced in a similar fashion to the front elevations (i.e., enhanced window and door treatments and contrasting building materials).

   s. Depict the location of all gas meters, water meters, electrical panels, air conditioning units, mailboxes (as approved by the United States Postal Service), and similar items on the site plan and elevations. If located on a building, they shall be architecturally designed into the building to appear as part of the building. They shall be architecturally compatible with the building and non-obtrusive, not interfere with sidewalk areas and comply with required setbacks.

   t. Incorporate a 10' by 10' visibility triangle for the intersection between Lots B, C, D and E. The visibility triangles pertain to the intersecting points adjacent to Lot Nos. 8, 21, 36, and 42. **(HBZSO Sect. 233.88C)**

   u. The plans shall be revised to reflect construction of new block walls on the perimeter of the former school site subject to approval by the adjacent property owners.

2. Green building strategies shall be incorporated into the construction of the residential units that meet all mandatory measures of the State of California Housing and Community Development's 2010 California Green Building Code, including providing energy efficiency 30 percent greater than the 2008 California Energy Commission Title 24 code standards.

Incorporation of 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). **(Public Benefit)**

3. Prior to demolition, the whole of the existing Lamb School shall be fully recorded onto DPR 523 forms and the forms delivered to the South Coastal Central Information Center at CSU-Fullerton. Delivery of the data to the Center mitigates for potential direct and unavoidable impacts to the existing structure complex. **(Mitigation Measure)**

4. Prior to ground disturbance activity, the following shall be completed:

   a. The applicant shall provide the City of Huntington Beach proof that a certified biologist has been retained to determine if nesting birds are present within the project footprint or within a 250-foot buffer around the site. If nesting birds are present, construction activity shall be avoided in the area until nesting activity is complete (generally February 1 to August 31), as determined by the biologist. If ground or vegetation disturbance would occur between February and August, a preconstruction nesting bird survey shall be conducted seven days prior to any ground or vegetation disturbance. Any active nests identified shall have a buffer area established within a 100-foot radius (200 foot for birds of prey) of the active nest. Disturbance shall not occur within the buffer area until the biologist determines that the young have fledged. Construction activity may occur within the buffer area at the discretion of the biological monitor. **(Mitigation Measure)**

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

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

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

   c. Truck idling shall be prohibited for periods longer than 10 minutes.

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

   e. Discontinue operation during second stage smog alerts.

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

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

   h. All construction equipment shall use available noise suppression devices and properly maintained mufflers. All internal combustion engines used in the project area shall be equipped with the type of muffler recommended by the vehicle manufacturer. In addition, all equipment shall be maintained in good mechanical condition to minimize

noise created by faulty or poorly maintained engine, drivetrain, and other components. **(Mitigation Measure)**

i. Stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receptors and as far as possible from the boundary of the residential use. **(Mitigation Measure)**

j. The project applicant shall ensure that during ground-disturbing activities an archaeological mitigation monitoring program shall be implemented within the project boundaries. Full-time monitoring shall continue until the project archaeologist determines that the overall sensitivity of the project area has been reduced from high to low, as a result of mitigation monitoring. Should the monitor determine that there are no cultural resources within the impacted areas, or should the sensitivity be reduced to low during monitoring, all monitoring shall cease. Specifically, prior to issuance of the first rough grading permit, and for any subsequent permit involving excavation to increased depth, the landowner or subsequent project applicant shall provide evidence to the City of Huntington Beach that a qualified archaeologist has been retained by the landowner or subsequent project applicant, and that the consultant(s) will be present during all grading and other significant ground disturbing activities.

   If, during the implementation of the monitoring program, any historic or prehistoric cultural resources are inadvertently discovered by the archaeological Inspector, the find(s) must be blocked off from further construction-related disturbance by at least 50 feet, and no further project-related earthmoving shall occur in the area of the discovery until the City approves the measures to protect or appropriately mitigate for the find. The Project Archaeologist must determine whether the find is a historic resource as defined under §15064.5(a)(3) of the CEQA Guidelines. If the find(s) is not found to be a historic resource, enough data must be gathered so that the find can be recorded onto DPR523 forms sets and then project-related excavations can continue in the vicinity of the find. If the find(s) is determined to be a historic resource, the resource must undergo Phase 3 data recovery following professional guidelines. Any prehistoric artifacts recovered as a result of the mitigation effort shall be donated to a qualified scientific institution approved by the City where they would be afforded long-term preservation to allow future scientific study.

   Once the Project Archaeologist determines that the potential for impacts to buried cultural resources has been reduced to "low", active archaeological monitoring may cease. **(Mitigation Measure)**

k. The project applicant shall ensure that during excavation a qualified paleontologic monitor is present to observe excavation in areas identified as likely to contain paleontologic resources. Based upon this review, areas of concern include undisturbed older Quaternary deposits. Paleontologic monitors should be equipped to salvage fossils as they are unearthed, to avoid construction delays, and to remove samples of sediments likely to contain the remains of small fossil invertebrates and vertebrates. Monitors must be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens. Monitoring may be reduced or eliminated if the potentially fossiliferous units described herein are determined upon exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources, or if the parameters of the proposed project will not impact potentially fossiliferous units. This decision is at the discretion of the qualified paleontologic monitor. If the monitoring program results in positive findings, then refer to PR-2 to PR-4. **(Mitigation Measure)**

l. Preparation of recovered specimens to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Preparation and stabilization of all recovered fossils are essential in order to fully mitigate adverse impacts to the resources. **(Mitigation Measure)**

m. Identification and curation of specimens into an established, accredited museum repository with permanent retrievable paleontologic storage. These procedures are also essential steps in effective paleontologic mitigation and CEQA compliance. The paleontologist must have a written repository agreement in hand prior to the initiation of mitigation activities. Mitigation of adverse impacts to significant paleontologic resources is not complete until such curation into an established museum repository has been fully completed and documented. **(Mitigation Measure)**

n. Preparation of a report of findings with an appended itemized inventory of specimens. The report and inventory, when submitted to the appropriate Lead Agency along with confirmation of the curation of recovered specimens into an established, accredited museum repository, will signify completion of the program to mitigate impacts to paleontologic resources. **(Mitigation Measure)**

6. Prior to issuance of grading permits, the following shall be completed:

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

b. Blockwall/fencing plans (including a site plan, section drawings, and elevations depicting the height and material of all retaining walls, walls, and fences) consistent with the grading plan shall be submitted to and approved by the Planning and Building Department. Double walls shall be avoided to the greatest extent feasible. Applicant shall coordinate with adjacent property owners and make reasonable attempts to construct one common property line wall. If coordination between property owners cannot be accomplished, the applicant shall construct up to a six (6') foot tall wall located entirely within the subject property and with a two (2) inch maximum separation from the property line. Prior to the construction of any new walls, a plan must be submitted identifying the removal of any existing walls located on the subject property. Any removal of walls on private residential property and construction of new common walls shall include approval by property owners of adjacent properties. The plans shall identify materials, seep holes and drainage.

c. The project applicant shall have a soils survey conducted for the proposed project site to determine if any agricultural chemicals (herbicides, insecticides, pesticides and metals) remain at the project site from past agricultural use. The applicant shall implement the mitigation recommendations in the soils report. **(Mitigation Measure)**

d. Hydrology and Hydraulic analysis shall be submitted for Public Works review and approval (10, 25, and 100-year storms shall be analyzed as applicable). The drainage improvements shall be designed and constructed as required by the Department of Public Works to mitigate impact of increased runoff due to development, or deficient, downstream systems. Design of all necessary drainage improvements shall provide mitigation for all rainfall event frequencies up to a 100-year frequency. Runoff shall be

limited to existing 25-year flows, which must be established in the hydrology study. If the analysis shows that the City's current drainage system cannot meet the volume needs of the project runoff, the developer shall be required to attenuate site runoff to an amount not to exceed the existing 25-year storm as determined by the hydrology study. As an option, the developer may choose to explore low-flow design alternatives, onsite attenuation or detention, or upgrade the City's storm drain system to accommodate the impacts of the new development, at no cost to the City. **(Mitigation Measure)**

e. An arborist shall submit a report documenting the health, location, and size of existing on-site trees for review and approval. Any on-site trees deemed to be mature shall be replaced in conformance with adopted City policies. Replacement trees shall be in place prior to occupancy of the first residential unit.

7. Prior to submittal for building permits, the following shall be completed:

   a. Zoning entitlement conditions of approval 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. Submit three (3) copies of the site plan and the processing fee to the Planning and Building Department for addressing purposes after street name approval by the Fire Department.

   c. Contact the United States Postal Service for approval of mailbox location(s).

   d. In order to complete the soils information in areas of the site where existing structures and improvements have prevented easy access to deeper soil, additional subsurface borings shall be conducted. The project shall comply with any additional recommendations resulting from this additional subsurface investigation. **(Mitigation Measure)**

8. Prior to issuance of building permits, the following shall be completed:

   a. Submit a copy of the revised site plan, floor plans and elevations pursuant to Condition No. 1 for review and approval and inclusion in the entitlement file to the Planning and Building Department; and submit 8 inch by 10 inch colored photographs of all colored renderings, elevations, materials sample board, and massing model to the Planning and Building Department for inclusion in the entitlement file.

   b. An interim parking and building materials storage plan shall be submitted to the Planning Department to assure adequate parking and restroom facilities are available for employees, customers and contractors during the project's construction phase and that adjacent properties will not be impacted by their location. The plan shall also be reviewed and approved by the Fire Department and Public Works Department. The applicant shall obtain any necessary encroachment permits from the Department of Public Works.

   c. A Fire Master Plan shall be submitted and approved by the Fire Department. The Fire Master Plan shall include but is not limited to the following:

      i. Building locations, height and stories, addresses, and construction type;

      ii. Property dimensions or accurate scale;

      iii. Location of the following:

         1. Hydrants with travel distance between called out;

2. Red curbing;
3. Gate locations or opticoms (if required) and fences; and
4. Fire land dimensions, lengths, signage and striping, turning radii at corners and circles/cul-de-sacs.

iv. A list of Alternative Materials and Methods (per the 2010 C.F.C. Section 104.9) of compliance to the road width requirements. The items the developer shall provide for the Fire Department include, but are not limited to the following:

1. Reduced hydrant spacing (increased water availability) provided at strategic locations approved by the Fire Department to accommodate Fire Department Operations;
2. Red curbing (additional red curbing beyond what's required in the Fire Department's City Specifications) to prevent parking near hydrants;
3. Signage at development entrances identifying the Fire Road locations, red curb areas, hydrant locations;
4. Increased Fire Protection System standards (i.e. Bell provided on each side of homes, instead of just one side, that will activate upon fire sprinkler water flow); and
5. Restrictions shall be incorporated into the development's CC&R's restricting on street parking for recreational vehicles. **(FD)**

d. A public art element shall be reviewed and approved by the Design Review Board, the Planning Director, and the Cultural Services Division Manager prior to issuance of any building permit for the project. The public art shall be in place at the subject site prior to final building inspection. The public art element shall be integrated and be in a location that is visible to the public within the Lamb residential project. Public art shall incorporate the following:

i. Artistic excellence and innovation;
ii. Appropriate to the design of the project; and
iii. Indicative of the community's cultural identity (ecology, history, society).

e. All existing overhead 12kV electrical distribution and various communication lines along the Yorktown Avenue frontage shall be undergrounded. **(PW)**

9. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released for the first residential unit until the following has been completed:

a. The applicant shall obtain the necessary permits from the South Coast Air Quality Management District and submit a copy to Planning and Building Department.

b. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Planning and Building Department.

c. All building spoils, such as unusable lumber, wire, pipe, and other surplus or unusable material, shall be disposed of at an off-site facility equipped to handle them.

d. Development and completion of the improvements for the 2.6-acre undeveloped public park located at the southwest corner of the subject property. The park improvements shall include a multi-use practice field, two 60 square-foot tot-lot play areas, half court

basketball court, shade structure, picnic table, benches, bike racks, an approximately 31 onsite space public parking lot, irrigation, landscaping, and sidewalks in and around the areas of the parking lot and tot-lot play areas. **(Public Benefit)**

10. Conditional Use Permit No. 08-26 shall become null and void unless exercised within two years of the date of the final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning and Building Department a minimum 30 days prior to the expiration date.

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

12. 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.

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 JANUARY 24, 2012

RECOMMENDED ACTION: Motion to: "Approve the January 24, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY BIXBY, SECONDED BY SHIER BURNETT, TO APPROVE THE JANUARY 24, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED MARCH 13, 2012

RECOMMENDED ACTION: Motion to: "Approve the March 13, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY BIXBY, SECONDED BY RYAN, TO APPROVE THE MARCH 13, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-3. PLANNING COMMISSION MINUTES DATED MARCH 15, 2012

RECOMMENDED ACTION: Motion to: "Approve the March 15, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY BIXBY, TO APPROVE THE MARCH 15, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-4. PLANNING COMMISSION MINUTES DATED MARCH 27, 2012

RECOMMENDED ACTION: Motion to: "Approve the March 27, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY BIXBY, TO APPROVE THE MARCH 27, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

C-5. PLANNING COMMISSION MINUTES DATED APRIL 24, 2012

RECOMMENDED ACTION: Motion to: "Approve the April 24, 2012, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY MANTINI, SECONDED BY SHIER BURNETT, TO APPROVE THE APRIL 24, 2012 PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

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

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

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING
Jane James, Senior Planner– reported on the items for the next Planning Commission Meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS - NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Bixby reported that he attended the community meeting on the 7-Eleven Alcohol Conditional Use Permit. He also asked staff to work on providing digital plans in lieu of paper plans.

Commissioner Ryan reported that he went to the Farmer's Market at Peter's Landing and recommended it.

Chair Mantini thanked staff for their efforts on tonight's public hearing items.

ADJOURNMENT: Adjourned at 10:23 PM to the next regularly scheduled meeting of Tuesday, November 13, 2012.

APPROVED BY:

Scott Hess, Secretary

Janis Mantini, Chairperson