



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, NOVEMBER 8, 2011

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

### CALL PLANNING COMMISSION MEETING TO ORDER

P P P P A P P

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

Commissioner Farley was absent.

### AGENDA APPROVAL

A MOTION WAS MADE BY MANTINI, SECONDED BY PETERSON, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF NOVEMBER 8 , 2011, BY THE FOLLOWING VOTE:

AYES: Shier Burnett, Peterson, Mantini, Delgleize, Bixby, Ryan,

NOES: None

ABSENT: Farley

ABSTAIN: None

AGENDA APPROVAL APPROVED 6-0-1 (Farley – Absent)

### MOTION APPROVED

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

##### A-1. ZONING TEXT AMENDMENT NO. 09-002 (WIRELESS COMMUNICATION FACILITIES) – Ricky Ramos, Senior Planner

Ricky Ramos, Senior Planner, gave a brief overview of the proposed project.

#### B. STUDY SESSION ITEMS - NONE

##### B. PUBLIC COMMENTS

Dianne Larson, resident, spoke in opposition of Study Session Item A-1. She stated she has concerns with the proposed appeal language, the distance allowed between cell towers and schools and the proposed co-location distance between new and existing cell towers.

Don McFarland, resident, spoke in opposition of Study Session A-1. He cited concerns with the lack of control by the City over the locations of the cell towers. He

noted he would like cell companies to have explicit language in the application process identifying the areas known as "dead zones".

Jeff Busche, resident, spoke in opposition of Study Session Item A-1. He noted he would like the City to restrict the location of proposed cell towers that are in close proximity to elementary schools.

Robert Jystad, Vice President, California Wireless Association, spoke in support of Study Session Item A-1. He noted that a letter provided to the City does have a model ordinance included. He spoke briefly on the history of the wireless industry.

Dave Brown, California Wireless Association, spoke in support of Study Session A-1. He noted that the City of Huntington Beach has a very restrictive wireless ordinance. He stated that enhanced coverage is important to public safety and first responders in an emergency.

Commissioner Ryan asked Mr. Jystad if the model ordinance provided to the Commissioners has been adopted by any city in the nation. Mr. Jystad stated that he is not aware of any city that has adopted the model ordinance. He noted that many cities have used it for discussion when addressing the topic of cell towers.

Commissioner Bixby asked staff if they had any information regarding the status of current and pending litigation involving cell tower issues. A brief discussion took place regarding litigation involving cell towers.

Commissioner Bixby asked staff for an overview of the direction given to staff from the City Council in preparing the revised ordinance. Scott Hess, Planning and Building Director, explained that the information provided to the Commissioners is the staff recommended revisions. The Commissioners will be provided with alternatives including the Council's recommendations in the final staff report.

Vice Chair Mantini inquired if the Planning staff was going to prepare clarification to the comments received from the Personal Communications Industry Association. Mike Vigliotta stated that a memo has been drafted which addresses the comments that were received from the PCIA and a copy of the final version will be distributed to the Commissioners.

Commissioner Shier Burnett asked staff about the proposed 1,000 feet radius being recommended in the public notification process. Mr. Ramos stated that staff had found the guideline while researching other cities ordinances.

A brief discussion took place regarding the possible legal impacts to the City's ordinance should various laws be passed at the Federal level.

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

Herb Fauland, Planning Manager, noted that the one late communication was received from Kara Leiban Azocar of the PCIA. Mr. Fauland reviewed items for the public hearing portion of the meeting.

- E. PLANNING COMMISSION COMMITTEE REPORTS - NONE
- F. PLANNING COMMISSION COMMENTS - NONE

6:13 P.M – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE- Led by Vice Chair Mantini

P P P P A P P

ROLL CALL: Shier Burnett, Peterson, Mantini, Delgleize, Farley, Bixby, Ryan

Commissioner Farley was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY MANTINI, SECONDED BY BIXBY TO APPROVE THE PLANNING COMMISSION AGENDA OF OCTOBER 25, 2011, BY THE FOLLOWING VOTE:

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

MOTION APPROVED

- A. PUBLIC COMMENTS - NONE
- B. PUBLIC HEARING ITEMS

B-1. CONDITIONAL USE PERMIT NO. 11-010 (VITTORIO'S RESTAURANT EXPANSION) Applicant/Business Owner: Frank Tahvildari Property Owner: Kitsigianis Properties Request: To permit the expansion of an existing 3,200 sq. ft. restaurant into an approximately 962 sq. ft. adjoining commercial suite and 890 sq. ft. of outdoor dining area. The request also includes: (a) dancing on an 120 sq. ft. dance floor, (b) live entertainment (i.e., karaoke and a piano bar), and (c) the onsite sales, service, and consumption of alcohol for the expanded restaurant area and the outdoor dining area. Location: 5921 Warner Avenue, 92649 (northwest corner of Springdale Street and Warner Avenue) Project Planner: Andrew Gonzales

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 11-010 with suggested findings and conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Ryan has visited the site.
- Commissioner Bixby has visited the site, frequented the restaurant, visited the adjacent property and attended the Study Session.

- Chair Delgleize has visited the site, spoke with staff and attended the Study Session.
- Vice Chair Mantini has visited the site and attended the Study Session.
- Commissioner Peterson has visited the site.
- Commissioner Shier Burnett has visited the site and attended the Study Session.

Andrew Gonzales, Associate Planner, gave the staff presentation and an overview of the project. Mr. Gonzales stated that he had received one phone call from an unidentified resident citing concern with potential noise impacts.

Commissioner Bixby inquired if staff could briefly explain the current process in place for reporting noise violations if the proposed permit is approved. Mr. Gonzales outlined the current process for reporting noise violations and the possible penalties

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

Diana O'Brien, resident, spoke in opposition of Item No. B-1 citing concerns with potential noise impacts.

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

**A MOTION WAS MADE BY RYAN, SECONDED BY MANTINI, TO APPROVE CONDITIONAL USE PERMIT NO. 11-018 WITH SUGGESTED FINDINGS AND REVISED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

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

#### **MOTION APPROVED**

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

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or not expansion area exempt from further environmental review.

#### **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 11-010:**

1. Conditional Use Permit No. 11-010 to permit the expansion of an existing 3,200 sq. ft. restaurant into an approximately 962 sq. ft. adjoining commercial suite and 890 sq. ft. outdoor dining area including requests to permit (a) dancing on an 120 sq. ft. dance floor, (b) live entertainment (i.e., karaoke and a piano bar), and (c) the onsite sales, service, and consumption of alcohol for the expanded restaurant area and the outdoor dining area 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. Live entertainment will be conducted entirely indoors and will include karaoke and a piano bar. The main entrance of the restaurant is oriented toward Warner Avenue, away from adjacent residential properties to the north and west (across the East Garden Grove Wintersberg Channel) including the east (across Springdale Street). With incorporation of conditions of approval the entertainment use will be conducted within the interior of the building to prevent the live entertainment activities from exceeding established noise thresholds as defined by the City Noise Ordinance (Chapter 8.40 Noise Control). The project will not modify onsite vehicular circulation and will be provided with efficient vehicular ingress/egress from the adjacent right-of-way and adjoining commercial properties. The project will not be located in close proximity to potentially sensitive land uses. The project will be adequately parked and will not have any significant impacts onto abutting properties. Furthermore, the consumption of alcoholic beverages will be wholly contained within the building's interior and outdoor dining areas of the restaurant. The project will not generate significant noise, odors, or other detrimental impacts onto surrounding properties.

2. The conditional use permit will be compatible with surrounding uses because the restaurant with live entertainment is consistent with the character of the existing commercial shopping center. The live entertainment use will occur within the restaurant, surrounded by commercial uses to the north, south, and west and residential uses to the east. The subject restaurant is oriented toward the south parking lot area adjacent to Warner Avenue. The rear of the building faces the eastern property line with no openings. The live entertainment use will be subject to noise regulations to ensure compatibility with surrounding businesses and residents. Potential noise impacts on residential uses to the east will be mitigated with the installation of sound attenuation and limitation of interior music to 98 dBA pursuant to a noise study. The live entertainment use will be conditioned to operate between the hours of 9:00 PM and 12:00 AM, seven days a week. The conditional use permit will be compatible with surrounding uses because the commercial recreation and entertainment use will be conducted wholly within the interior of an existing unit within an established district containing similar commercial uses. Other existing indoor recreational uses have been established within commercial areas and maintain similar characteristics to existing commercial uses in the surrounding area. Additionally, the onsite sale and consumption of alcoholic beverages will be ancillary to the project and will occur entirely within the interior of the building.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance and any specific condition required for the proposed use in the district in which it is located. The existing building conforms to applicable site development standards including required minimum setbacks, minimum onsite parking, and maximum floor area ratio. Commercial recreational uses and the onsite sale of alcoholic beverages is permit within the CG (Commercial General) zoning district with the approval of a conditional use permit.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of CG-F1 (Commercial General – Maximum Floor Area Ratio) on the subject property. In addition, it is consistent with the following policies and goals of the General Plan:

A. Land Use Element

Policy – 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.

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.

Policy – 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures to prevent negative impacts on adjacent properties.

The proposed project will provide for the continuation of an existing restaurant use within the Commercial General land use district that is consistent with the Land Use and Density Schedules and compatible with the mix of land uses within the surrounding area. The proposed conditional use permit will serve the cultural, entertainment and recreational needs of a successful restaurant business by allowing the establishment to provide a broad range of restaurant related activities and services in a safe manner for residents of the surrounding area. To mitigate any detrimental impacts, a series of security measures will be applied to the project by the City's Police Department.

B. 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.

Policy – 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules

The project is located along a focal corridor of the City which contains existing restaurants, retail, and entertainment uses. The project serves to provide a diversity of uses along Warner Avenue and serves to facilitate in the expansion of commercial uses within this district with vibrant and unique uses. A wider array of commercial uses within the surrounding area will facilitate greater patronage. Increased patronage will assist and stimulate further investment and strengthen the City's economic vitality in the surrounding area.

C. Noise Element

Objective – N 1.8: Minimize the generation of excessive noise level impacts from entertainment and restaurant/bar establishments into adjacent residential or "noise sensitive" land uses.

Objective – 1.8.1: Require that entertainment and restaurant/bar uses take appropriate steps to control the activities of their patrons on-site, as well as within a reasonable and legally justified distance or proximity, to minimize potential noise-related impacts on adjacent residential neighborhoods.

The requested Conditional Use Permit will accommodate live entertainment within an existing restaurant. The proposed use will market its services to local residents and residents in the surrounding region thereby expanding the service-based commercial opportunities in the City. It will be located in an existing shopping center, which includes service related uses compatible with surrounding commercial development. Measures will put in place to minimize the potential noise impacts onto the adjacent sensitive land uses (i.e., residential).

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 11-010:**

1. The site plan and floor plans received and dated June 2, 2011, shall be the conceptually approved design with the following modification:
  - a. The parking matrix noted on Sheet No. 1 shall reflect total onsite parking as 320 spaces.
2. The use shall comply with the following:
  - a. All areas where the sales, service, and consumption of alcoholic beverages will be permitted shall be sufficiently illuminated to permit the identification of patrons.
  - b. Prior to the sale of alcoholic beverages, a copy of the Alcoholic Beverage Control Board (ABC) license, along with any special conditions imposed by the ABC, shall be submitted to the Planning and Building Department for inclusion in the entitlement file. Any conditions that are more restrictive than those set forth in this approval shall be adhered to.
  - c. All conditions of the Entertainment Permit shall be observed.
  - d. Only the uses described in the project narrative shall be permitted (see attached narrative).
  - e. The use conditions listed herein shall be clearly posted on the premises at all times.
3. Prior to commencing with live entertainment activities, a copy of an approved Entertainment Permit, approved by the Police Department and issued by the Business License Department, shall be submitted to the Planning & Building Department.
4. A review of the use shall be conducted by the Planning Commission within one (1) year of the issuance of Certificate of Occupancy to verify compliance with all conditions of approval and applicable Chapters of the Huntington Beach Zoning and Subdivision Ordinance. The review shall primarily focus on the potential noise impacts to the surrounding properties.
5. The development services departments and divisions (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.

6. CUP No. 11-010 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning and Building Department a minimum 30 days prior to the expiration date.
7. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>).

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

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

**C. CONSENT CALENDAR – NONE**

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

**E. PLANNING ITEMS**

**E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING**

Scott Hess, Director of Planning and Building- reported on the items from the previous City Council Meeting.

**E-2. CITY COUNCIL ITEMS FOR NEXT MEETING**

Scott Hess, Director of Planning and Building- reported on the items for the next City Council Meeting.

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

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

**F. PLANNING COMMISSION ITEMS**

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

**F-2. PLANNING COMMISSION COMMENTS – NONE**

**ADJOURNMENT:** Adjourned at 7:23 PM to the next regularly scheduled meeting of Tuesday, November 23, 2011.

APPROVED BY:

---

Scott Hess, Secretary

---

Barbara Delgleize, Chairperson

