



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, AUGUST 25, 2015

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 P P P

ROLL CALL: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson

### AGENDA APPROVAL

A MOTION WAS MADE BY BRENDEN, SECONDED BY SEMETA, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF AUGUST 25, 2015, BY THE FOLLOWING VOTE:

AYES: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson

NOES: None

ABSENT: None

ABSTAIN: None

### MOTION APPROVED

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

**A-1. GENERAL PLAN CONFORMANCE NO. 15-004 (CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2015/16):** To evaluate the Capital Improvement Program for Fiscal Year 2015/16 for compliance with the General Plan.

**Location:** Citywide **City Contact:** John Ramirez, Contract Planner

John Ramirez, Contract Planner, and Todd Broussard, Principal Civil Engineer, gave a brief overview of the proposed project.

At Commissioner Brenden's request, staff gave a brief overview of the service level standards listed in the Growth Element.

There was a brief discussion regarding the Planning Commission's role in approving Capital Improvement Projects. Staff clarified that approving Capital Improvement projects is the City Council's purview and Planning Commission's role is to determine the conformance of those projects with the General Plan.

**A-2. GENERAL PLAN AMENDMENT NO. 15-001 (HOUSING ELEMENT UPDATE):** Staff presentation of requirements and components of a Housing Element.

**Location:** Citywide **City Contact:** Jennifer Villasenor, Planning Manager

Jennifer Villasenor, Planning Manager, gave a lengthy overview of the proposed project.

At Vice-Chair Pinchiff's request, Ms. Villasenor reviewed the process for surveying the housing stock of the city and selecting sites to meet the Regional Housing Needs Assessment (RHNA) numbers. There was a brief discussion regarding how the RHNA numbers are determined and how those numbers are met once a city reaches build out. There was a brief discussion regarding the impacts of not meeting the RHNA numbers or having a non compliant Housing Element. Ms. Villasenor noted that the consequences could range from the city being vulnerable to litigation up to the city being prohibited from issuing any building permits.

At Chair Kalmick and Commissioner Crowe's request, Ms. Villasenor gave an overview of the Beach and Edinger Corridors Specific Plan Amendment which precipitated the Housing Element Amendment. Ms. Villasenor noted that any RHNA shortfalls must be addressed within three years of the date of the Housing Element adoption, which would be September 2016 for the City of Huntington Beach.

**B. STUDY SESSION ITEMS – NONE**

**C. PUBLIC COMMENTS – NONE**

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

Jane James, Planning Manager, noted that there were two Late Communication items for Public Hearing Item Nos. B-1 and B-2.

**E. PLANNING COMMISSION COMMITTEE REPORTS – NONE**

**F. PLANNING COMMISSION COMMENTS - NONE**

**6:37 P.M. – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE – Led by Commissioner Mandic**

*P P P P P P P*

**ROLL CALL: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson**

**AGENDA APPROVAL**

**A MOTION WAS MADE BY BRENDEN, SECONDED BY SEMETA, TO MOVE ITEM NO. D-1 BEFORE ITEM NO. B-1 AND MOVE ITEM B-6 AFTER ITEM NO. B-4, BY THE FOLLOWING VOTE:**

**AYES: Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson**  
**NOES: None**  
**ABSENT: None**  
**ABSTAIN: None**

**MOTION APPROVED**

**THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER.**

**A. PUBLIC COMMENTS – NONE**

**B. PUBLIC HEARING ITEMS**

**B-1. VARIANCE NO. 15-002 – APPEAL (JACKSON RESIDENCE)**

**Appellant/Property Owner:** Charles and Corrine Jackson **Applicant:** Ron Wikstrom **Request:** To permit an approximately 2,211 sq. ft. 1<sup>st</sup> and 2<sup>nd</sup> floor addition with 451 sq ft. attached garage to an existing 912 sq. ft. single family residence with nonconforming side yard setbacks in lieu of a maximum 50% addition of 456 sq. ft. This 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:** 824 Geneva Avenue, 92648 (east side of Geneva Ave., between Indianapolis Ave. and Hill St.) **City Contact:** Joanna Cortez, Assistant Planner

**STAFF RECOMMENDATION:** Motion to: “Approve Variance No. 15-002 with suggested findings and conditions of approval (Attachment No. 1).”

The Commission made the following disclosures:

- Commissioner Crowe has visited the site.
- Commissioner Semeta had no disclosures.
- Vice-Chair Pinchiff had no disclosures.
- Chair Kalmick has visited the site, spoke with a neighbor, and was on the Planning Commission for the vote on the Evangeline Hotel which was cited in the applicant’s documents.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden has visited the site, and the three comparable properties listed in the staff report.
- Commissioner Hoskinson had no disclosures.

Joanna Cortez, Assistant Planner, gave the staff presentation and an overview of the project.

Commissioner Mandic inquired about the historical significance of the property. Ms. Cortez confirmed that the site is not listed as historically significant.

**THE PUBLIC HEARING WAS OPENED.**

Charles Jackson, property owner, spoke in support of Item No. B-1, citing the unusual layout of the site as a reason to support the variance request. He also expressed frustration regarding the proposed alley dedication and improvements.

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

Chair Kalmick stated that he disagreed with the Zoning Administrator’s denial of the Variance and indicated that he is in support of this request.

There was a brief discussion regarding the whether the age and size of the lot could be considered a special circumstance.

Commissioner Crowe asked staff is there was a requirement to merge the three lots into one lot. Ms. Cortez indicated that the property owner will be required to record a covenant to hold as one lot.

**A MOTION WAS MADE BY BRENDEN, SECONDED BY MANDIC, TO APPROVE VARIANCE NO. 15-002 WITH FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** 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 of the CEQA Guidelines, because the project consists of an addition to an existing single-family residence within a residential zone.

**FINDINGS FOR APPROVAL – VARIANCE NO. 15-002:**

1. The granting of the variance for a 2,211 sq. ft. two-story addition in lieu of the maximum allowed square footage of 456 sq. ft. (50% addition) will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The subject property has a small, existing structure built in 1929 with nonconforming side yard setbacks along the southwest property line. New construction within identical or similar zoning classifications (such as the Downtown Specific Plan) have been approved with reduced side yard setbacks and other deviations from required development standards. Due to these allowances, property owners have maximized improvements on their lots. The proposed two-story addition will comply with all required setbacks, alley dedication, and is consistent with other properties within the vicinity and under an identical zone classification.
2. Due to the structure's nonconforming side yard setbacks, age of the original construction, and small size of the home, 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 zoning classification. The subject property consists of a 912 sq. ft. single family dwelling built in 1929 at a setback of 3 feet for the residence and 2 feet 6 inches for the detached garage. The current setback requirement is 4 feet 6 inches for both structures, rendering the existing dwelling legal nonconforming. In order to bring the property into compliance, portions or all of the structure would need to be demolished in order to comply with required setbacks, compromising the architectural and structural integrity of the existing dwelling. The other option would be to limit the addition to 50% of the existing residence, totaling a maximum of 1,318 sq. ft. for a 5,595 sq. ft. lot. A typical new home size in the RMH-A zone is 2,875 sq. ft. Either option would place an undue burden on the property owner. With the exception of the variance request, the two-story addition will comply with all code provisions, including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Additionally, the overall design of the proposed addition is smaller than existing homes within the vicinity as the property owner is

maintaining larger than required setbacks (between 6 ft. and 18 ft.) along the northeast and rear property lines. Limiting the addition to 50% of the existing structure or 456 sq. ft. would deprive the subject property of privileges enjoyed by other similar zoned properties without this unique circumstance. The granting of the variance would not be necessary if the setbacks along the southwest property line of the existing residence were conforming.

3. The granting of a variance is necessary to preserve the enjoyment of one or more property substantial property rights. The requested variance will allow the subject to be improved in the same manner consistent with other properties within the neighborhood with identical zoning classification. Additionally, new construction within identical or similar zoning classifications (such as the Downtown Specific Plan) has been approved with reduced side yard setbacks and other deviations from required development standards. With the exception of the variance request, the two-story addition will comply with all code provisions and is compatible with surrounding residential properties. Limiting the addition to 50% of the existing structure or 456 sq. ft. would deprive the subject property of privileges enjoyed by other similar zoned properties.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification. The proposed addition will comply with all code provisions including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Additionally, the overall design of the proposed two-story addition is smaller than other homes within the vicinity as the property owner is maintaining larger than required setbacks along the northeast and rear property lines. The granting of the variance will provide for property rights consistent with other properties. No detrimental impacts to surrounding properties are anticipated.
5. The granting of the variance will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RMH-25-d (Residential Medium High Density – 25d/u per acre – Design Overlay) on the subject property, including the following policy:

Land Use Element

Policy LU 7.1.2: Require that development be designed to account for the unique characteristics of project sites and objectives for community character as appropriate.

The requested variance accounts for a property constructed in 1929, prior to current setbacks requirements. In order to bring the structure into compliance, portions or all of the existing structure would need to be demolished, compromising the architectural and structural integrity of the structure, placing an undue burden upon the property owner. The proposed 2,211 sq. ft. two-story addition will comply with all code provisions, including setbacks, maximum height, floor area ratio, parking, alley dedication, and right of way improvements. Granting the addition would allow the subject property the opportunity to be improved in the same manner as nearby properties with similar lot configurations under identical zone classification.

**CONDITIONS OF APPROVAL – VARIANCE NO. 15-002:**

1. The site plan, floor plan, and elevations received and dated March 19, 2015 shall be the conceptually approved design with the following modifications:
  - a. The proposed patio cover located in the front of the house shall be set back a minimum of 12 feet from the front property line.

- b. An onsite 36 inch box tree or the palm equivalent shall be depicted in the front yard and a 24 inch box tree shall be depicted in the parkway. (HBZSO Section 232.08, Resolution 4545, HBMC 13.50)
2. Prior to submittal for building permits, Zoning entitlement conditions of approval and code requirements identified in separately transmitted memorandum from the Departments of Fire, Public Works, and Planning & Building shall be printed verbatim on one of the first three pages of all 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.
3. VAR No.15-002 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 Department a minimum 30 days prior to the expiration date.
4. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
5. The final building permit(s) cannot be approved until the following have been completed:
  - a. All improvements must be completed in accordance with approved plans.
  - b. Compliance with all conditions of approval specified herein shall be verified by the Planning & 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.
6. The Development Services Departments and divisions (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 Zoning Administrator's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18.
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/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.

**B-2. CONDITIONAL USE PERMIT NO. 15-022 (Q TATTOO ESTABLISHMENT)**

**Applicant:** Love Nguyen **Property Owner:** Jake Newman **Request:** To permit the establishment of an approximately 1,150 sq. ft. tattoo business within an existing commercial building. **Location:** 8450 Edinger Avenue, 92647 (southwest corner of Edinger Ave. and Newland St.) **City Contact:** Jill Arabe, Associate Planner

**STAFF RECOMMENDATION:** Motion to: "Approve Conditional Use Permit No. 15-022 with suggested findings and conditions of approval (Attachment No.1)."

The Commission made the following disclosures:

- Commissioner Crowe has visited the site.
- Commissioner Semeta had no disclosures.
- Vice-Chair Pinchiff had no disclosures.
- Chair Kalmick has visited the site.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden had no disclosures.
- Commissioner Hoskinson had no disclosures.

Jill Arabe, Associate Planner, gave the staff presentation and an overview of the project.

Vice- Chair Pinchiff expressed concern regarding the wording of Finding No. 3, which he felt required the Planning Commission to assess the business owner's abilities as opposed to determining the land use suitability of the project.

There was a brief discussion regarding the process for issuing a business license for tattoo establishments and if the police department is involved. Captain William Stuart, Police Department, indicated that the County Health Department regulates these types of facilities.

**THE PUBLIC HEARING WAS OPENED.**

Love Nguyen, applicant, spoke in support of Item No. B-2, noting that she was available for any questions.

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

Staff proposed amending Finding No. 3 to read "The proposed tattoo establishment complies with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. In addition, the business will be required to comply with all standards and regulations of any State, County, and local laws, in particular, Huntington Beach Municipal Code Chapter 8.72, *Tattoo, Body Piercing and*

*Permanent Cosmetics Regulations*, and any applicable standards of County of Orange Health Care Agency, Environmental Health.” Staff indicated that these changes would relieve the Planning Commission of the burden of determining the business owner’s ability to comply with the health and safety code.

Vice-Chair Pinchiff questioned Ms. Nguyen regarding the experience of the tattoo artists for the proposed business.

**A MOTION WAS MADE BY PINCHIFF, SECONDED BY BRENDEN, TO APPROVE CONDITIONAL USE PERMIT NO. 15-022 WITH FINDINGS AND CONDITIONS OF APPROVAL WITH STAFF RECOMMENDED MODIFICATIONS TO FINDING NO. 3, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** 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 Categorical Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1—*Existing Facilities*, which states operation and minor alteration to existing structures are exempt from further review under CEQA.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 15-022:**

1. Conditional Use Permit No. 15-022 for the establishment, maintenance and operation of an approximately 1,150 sq. ft. tattoo business in an existing commercial center 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 subject property is comprised of similar and complementary commercial uses to the proposed tattoo establishment. In addition, based upon the conditions imposed, the tattoo establishment will comply with Huntington Beach Municipal Code Chapter 8.72, which establishes criteria, standards, and regulations to ensure safe and sterile tattoo operations for the health of both clients and operators of the tattoo business.
2. The conditional use permit will be compatible with surrounding uses because the tattoo establishment will be conducted wholly within the interior of the existing suite within an established district containing similar commercial uses. The tattoo business is not anticipated to create undue noise and adequate onsite parking is provided.
3. The proposed tattoo establishment complies with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. In addition, the business will be required to comply with all standards and regulations of any State, County, and local laws, in particular, Huntington Beach Municipal Code Chapter 8.72, *Tattoo, Body Piercing and Permanent Cosmetics Regulations*, and any applicable standards of County of Orange Health Care Agency, Environmental Health.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of Commercial General on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Goal LU 10: Achieve the development of a range of commercial uses.

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, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

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.

The proposed project offers a new use to an existing multi-tenant commercial center that provides a mixture of commercial uses and caters to the needs of local residents and visitors in the surrounding region. The project meets all applicable development standards and improves the long-term viability of the property by expanding the current tenant base in the center.

B. Economic Development Element

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

The project is located along arterial streets and near City boundaries. The existing center has other commercial uses and the proposed use would add to the center's range of services for the surrounding community.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 15-022:**

1. The site plan, floor plans, and elevations received and dated June 10, 2015 shall be the conceptually approved design.
2. The use shall comply with the following:
  - a. Hours of operation: 12:00 PM – 9:00 PM daily
  - b. No outdoor seating shall be provided in front of the business to avoid loitering. **(PD)**
  - c. Maintain lighting in front of and around the side of the building. Lighting shall not produce glare on adjacent residential property.
  - d. The rear door shall be kept closed at all times during the operation of the business except for emergency purposes. The rear door shall not consist solely of a screen or ventilated security door. **(PD)**

3. The business shall comply with all standards and regulations of any State, County, and local laws, in particular, Huntington Beach Municipal Code Chapter 8.72, Tattooing, Body Piercing and Permanent Cosmetics Regulations, and any applicable standards of County of Orange Health Care Agency, Environmental Health. **(PD)**
4. The development services departments (Planning & Building, Fire, 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.

**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.

Paul D'Alessandro, Assistant City Attorney, informed the Planning Commission that Matt Silver, from the law firm Silver & Wright, will be providing legal counsel to the Planning Commission for Item Nos. B-3 through B-6.

- B-3. PLANNING APPLICATION NO. 2015-137 (APPEAL OF DIRECTOR'S DECISION REGARDING MEDICAL MARIJUANA DISPENSARY)**  
**Appellant/Applicant:** Medical Aid Program, d.b.a. Med-Aid HB **Property Owner:** Sheren Truong/Nhu Truong **Request:** To obtain zoning approval to establish a medical marijuana dispensary in the IG (Industrial General) zone at 17511 Griffin Lane, #6 **Location:** 17511 Griffin Lane, #6, 92647 (west side of Griffin Lane, south side of Slater Avenue) **City Contact:** Jane James, Planning Manager

**STAFF RECOMMENDATION:** Motion to: "Deny Planning Application No. 2015-137 (Appeal of Director's Decision) with findings (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Crowe has visited the site.
- Commissioner Semeta had no disclosures.
- Vice-Chair Pinchiff had no disclosures.
- Chair Kalmick has visited the site.

- Commissioner Mandic had no disclosures.
- Commissioner Brenden had no disclosures.
- Commissioner Hoskinson had no disclosures.

Jane James, Planning Manager, gave the staff presentation and an overview of the project.

Vice-Chair Pinchiff asked staff to provide background on the appeal process for a business license. Ms. James reviewed the appeal process for a business license and a certificate of occupancy.

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

Mark Bertignoli, resident and business owner, spoke in support of Item No. B-3. He stated that his rights have been denied in the opening of a marijuana dispensary in Huntington Beach and feels discriminated against.

Sean Bozarth, Peirano & Associates, spoke in support of Item No. B-3. He objected to this hearing before the Planning Commission instead of the Finance Department Director. He briefly discussed the appeal process that brought this item before the Planning Commission and stated that the medical marijuana cooperative is a retail business and is therefore allowable in the industrial zone.

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

Commissioner Semeta asked legal counsel to clarify the court's determination on if a medical marijuana dispensary is a retail use. Mr. Silver stated that, as cited in the staff report, the Court of Appeal determined in the Monterrey case that a medical marijuana dispensary is not a retail land use. Mr. Silver also noted that a medical marijuana dispensary is expressly prohibited in the city's zoning code.

There was a brief discussion regarding the validity of the ordinance and appeal process. Vice-Chair Pinchiff expressed concerns regarding the due process rights of the applicant and the interim ordinance but indicated that he would likely vote to deny the appeal based on the advice of legal counsel. Mr. Silver indicated that it is the court's purview to determine the legality of an ordinance, not the Planning Commission or City Council's purview.

#### **A MOTION WAS MADE BY KALMICK, SECONDED BY MANDIC, TO DENY PLANNING APPLICATION NO. 2015-137 (APPEAL OF DIRECTOR'S DECISION) WITH FINDINGS, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

#### **MOTION APPROVED**

**FINDINGS FOR DENIAL – PLANNING APPLICATION NO. 2015-137:**

1. Medical marijuana dispensaries have been a prohibited use within the City since the City adopted Ordinance No. 3788 in November 2007. Since then, Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 204.18, Prohibited Uses, went into effect in June 2015 and expressly articulates that medical marijuana dispensaries are not a permitted use anywhere within the City including all zoning districts and all specific plan areas.
2. Huntington Beach Zoning and Subdivision Ordinance Section 212.04 lists all the permitted and conditionally permitted uses in the IG (General Industrial) zone, and medical marijuana dispensaries are not listed as a permitted or conditionally permitted use. HBZSO Section 212.04 adds that “use classifications that are not listed are prohibited.” Consequently, dispensaries are a prohibited use.
3. Huntington Beach Zoning and Subdivision Ordinance Section 204.02, provides that the Director of Planning and Building shall determine whether a specific use is within one of the permitted Industrial use classifications. The Director shall exclude the use “if its characteristics are substantially different than those typical of uses named within the classification.” The Director finds that medical marijuana dispensaries are substantially different than Industrial, Custom or any other permitted or conditionally permitted use in the IG (General Industrial) zone.
4. Planning Application No. 2015-137 (Appeal of Director’s Decision) to obtain zoning approval of a medical marijuana dispensary will be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
5. Planning Application No. 2015-137 (Appeal of Director’s Decision) to obtain zoning approval of a medical marijuana dispensary will not be compatible with surrounding uses because pursuant to Ordinance No. 3788, the City repealed, in November 2007, the limited exemption for dispensaries in Industrial zones. Further the City enacted in June 2015 Huntington Beach Zoning and Subdivision Ordinance Section 204.18, expressly demonstrating that medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
6. Planning Application No. 2015-137 (Appeal of Director’s Decision) to obtain zoning approval of a medical marijuana dispensary will not comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
7. Planning Application No. 2015-137 (Appeal of Director’s Decision) to obtain zoning approval of a medical marijuana dispensary is not consistent with the General Plan Land Use Element. In addition, it is not consistent with the following policy of the General Plan:

A. Land Use Element:

Policy LU 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules (Table LU-2a and 2b).

The City has established that medical marijuana dispensaries are not a permitted use in any zoning district or specific plan area and therefore the request to obtain zoning approval of a medical marijuana dispensary is not in compliance with the General Plan or the Zoning and Subdivision Ordinance.

**B-4. PLANNING APPLICATION NO. 2015-145 (APPEAL OF DIRECTOR'S DECISION REGARDING MEDICAL MARIJUANA DISPENSARY)**

**Appellant/Applicant:** Daniel G. Richmond, c/o Cristian L. Peirano, Peirano and Associates, Inc. **Property Owner:** Phan Property Management **Request:** To obtain zoning approval to establish a medical marijuana dispensary at 17416 Beach Blvd. **Location:** 17416 Beach Blvd., 92647 (east side of Beach Blvd., approximately 350 feet north of Slater Avenue) **City Contact:** Jane James, Planning Manager

**STAFF RECOMMENDATION:** Motion to: "Deny Planning Application No. 2015-145 (Appeal of Director's Decision) with findings (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Crowe has visited the site.
- Commissioner Semeta had no disclosures.
- Vice-Chair Pinchiff had no disclosures.
- Chair Kalmick has visited the site.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden had no disclosures.
- Commissioner Hoskinson had no disclosures.

Jane James, Planning Manager, gave the staff presentation and an overview of the project.

**THE PUBLIC HEARING WAS OPENED.**

Sean Bozarth, Peiranp & Associates, spoke in support of Item No. B-4, stating that his client was denied due process in his business license application. He briefly spoke regarding the case for the City of Monterrey and stated that it is not binding. He stated that this use is in the Commercial General zone and as a retail use it is allowable.

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

Chair Kalmick confirmed with staff that the site is zoned Beach Edinger Corridors Specific Plan.

Vice-Chair Pinchiff stated that his decisions for Item Nos. B-3 through B-6 are based on the discussions held during the hearing for Item No. 3 and considered those discussions part of the public record for Item No. B-3 through B-6.

**A MOTION WAS MADE BY KALMICK, SECONDED BY BRENDEN, TO DENY PLANNING APPLICATION NO. 2015-145 (APPEAL OF DIRECTOR'S DECISION) WITH FINDINGS, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**MOTION APPROVED**

**FINDINGS FOR DENIAL - PLANNING APPLICATION NO. 2015-145:**

1. Medical marijuana dispensaries have been a prohibited use within the City since the City adopted Ordinance No. 3788 in November 2007. Since then, Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 204.18 went into effect in June 2015 and expressly articulates that medical marijuana dispensaries are not a permitted use anywhere within the City including all zoning districts and all specific plan areas.
2. The property is located in the *Neighborhood Boulevard Segment* of the Beach and Edinger Corridors Specific Plan (BECSP). Medical marijuana dispensary is not listed as a permitted land use of the *Neighborhood Boulevard Segment*. BECSP Section 2.2, states that "Proposed uses that are not explicitly listed in the use charts may be permitted if it is determined by the planning director that the proposed uses meet the purpose and intent of the plan."
3. Medical marijuana dispensaries do not meet the purpose and intent of the Beach and Edinger Corridors Specific Plan or the *Neighborhood Boulevard Segment*. The *Neighborhood Boulevard Segment* use designation is designed to have pedestrian oriented uses available to the neighboring residential subdivisions. These pedestrian oriented uses are primarily Specialty Goods Anchors, Community Oriented Anchors, and Entertainment Anchors, along with numerous similar uses (BECSP Section 2.1.8.). Medical marijuana dispensaries do not meet the pedestrian oriented uses of the *Neighborhood Boulevard Segment*.
4. Court decisions have recognized that medical marijuana dispensaries are a unique land use different from any other permitted uses, including uses such as retail, personal service and pharmacy. (*Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1092-94.)
5. The Planning Commission has jurisdiction over this use determination appeal pursuant to HBZSO Section 204.02, including the business license aspects of the appeal, because one of the grounds the Finance Director cited for denial of the business license was lack of zoning approval. (HBMC Section 5.08.360.)
6. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.

7. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not be compatible with surrounding uses because pursuant to Ordinance No. 3788, the City repealed in November 2007 the limited exemption for dispensaries in Industrial zones. Further, the City enacted in June 2015, Huntington Beach Zoning and Subdivision Section 204.18, expressly demonstrating that medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
8. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
9. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary is not consistent with the General Plan Land Use Element. In addition, it is not consistent with the following policy of the General Plan:

B. Land Use Element:

Policy LU 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules (Table LU-2a and 2b).

The City has established that medical marijuana dispensaries are not a permitted use in any zoning district or specific plan area and therefore the request to obtain zoning approval of an MMD is not in compliance with the General Plan or the Zoning and Subdivision Ordinance.

**B-5. PLANNING APPLICATION NO. 2015-146 (APPEAL OF DIRECTOR'S DECISION REGARDING MEDICAL MARIJUANA DISPENSARY)**

**Appellant/Applicant:** CHC Organization, Inc. d.b.a. Surf City Collective by Solomon Fishman President/CEO **Property Owner:** Demond **Request:** To obtain zoning approval to establish a medical marijuana dispensary at 19142 Beach Blvd., Suite Y. **Location:** 19142 Beach Blvd., Suite Y, 92648 (east side of Beach Blvd., approximately 725 feet south of Garfield Avenue) **City Contact:** Jane James, Planning Manager

**STAFF RECOMMENDATION:** Motion to: "Deny Planning Application No. 2015-146 (Appeal of Director's Decision) with findings (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Crowe has visited the site.
- Commissioner Semeta had no disclosures.
- Vice-Chair Pinchiff had no disclosures.
- Chair Kalmick has visited the site.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden had no disclosures.
- Commissioner Hoskinson had no disclosures.

Jane James, Planning Manager, gave the staff presentation and an overview of the project.

**THE PUBLIC HEARING WAS OPENED.**

Sean Bozarth, Peirano & Associates, spoke in support of Item No. B-5, noting that the Sunset Beach Specific Plan expressly prohibits medical marijuana dispensaries, while the Beach and Edinger Corridors Specific Plan does not expressly forbid them, which he believes means that medical marijuana dispensaries are not prohibited elsewhere in the city. Mr. Bozarth spoke regarding the business operating without a business license and stated that it was an issue of prior restraint. He stated that most of the dispensaries requested business licenses for dispensing marijuana publications and that the denial of a business license was a violation of free speech.

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

Chair Kalmick asked staff if the Sunset Beach Specific Plan has the force of law due to its current status. Ms. James stated that the California Coastal Commission has not certified the Sunset Beach Specific Plan. Therefore the city will not have coastal authority within the Sunset Beach Specific Plan until it has been adopted and certified by the California Coastal Commission.

Vice-Chair Pinchiff stated that his decisions for Item Nos. B-3 through B-6 are based on the discussions held during the hearing for Item No. 3 and considered those discussions part of the public record for Item No. B-3 through B-6.

**A MOTION WAS MADE BY KALMICK, SECONDED BY BRENDEN, TO DENY PLANNING APPLICATION NO. 2015-146 (APPEAL OF DIRECTOR'S DECISION) WITH FINDINGS, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**MOTION APPROVED**

**FINDINGS FOR DENIAL - PLANNING APPLICATION NO. 2015-146:**

1. Medical marijuana dispensaries have been a prohibited use within the City since the City adopted Ordinance No. 3788 in November 2007. Since then, Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 204.18 went into effect in June 2015 and expressly articulates that medical marijuana dispensaries are not a permitted use anywhere within the City including all zoning districts and all specific plan areas.
2. The property is located in the *Neighborhood Parkway Segment* of the Beach and Edinger Corridors Specific Plan (BECSP). Medical marijuana dispensary is not listed as a permitted land use of the *Neighborhood Parkway Segment*. BECSP Section 2.2, states that "Proposed uses that are not explicitly listed in the use charts may be permitted if it is determined by the planning director that the proposed uses meet the purpose and intent of the plan."

3. Medical marijuana dispensaries do not meet the purpose and intent of the Beach and Edinger Corridors Specific Plan or the *Neighborhood Parkway Segment*. The *Neighborhood Parkway Segment* use designation is designed to have pedestrian oriented uses available to the neighboring residential subdivisions. These pedestrian oriented uses are primarily Specialty Goods Anchors, Community Oriented Anchors, and Entertainment Anchors, along with numerous similar uses (BECSP Section 2.1.8.). Medical marijuana dispensaries do not meet the pedestrian oriented uses of the *Neighborhood Parkway Segment*.
4. Court decisions have recognized that medical marijuana dispensaries are a unique land use different from any other permitted uses, including uses such as retail, personal service and pharmacy. (*Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1092-94.)
5. The Planning Commission has jurisdiction over this use determination appeal pursuant to HBZSO Section 204.02, including the business license aspects of the appeal, because one of the grounds the Finance Director cited for denial of the business license was lack of zoning approval. (HBMC Section 5.08.360.)
6. Planning Application No. 2015-146 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
7. Planning Application No. 2015-146 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not be compatible with surrounding uses because pursuant to Ordinance No. 3788, the City repealed in November 2007 the limited exemption for dispensaries in Industrial zones. Further the City enacted in June 2015, Huntington Beach Zoning and Subdivision Section 204.18, expressly demonstrating that medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
8. Planning Application No. 2015-146 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
9. Planning Application No. 2015-146 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary is not consistent with the General Plan Land Use Element. In addition, it is not consistent with the following policy of the General Plan:

C. Land Use Element:

Policy LU 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules (Table LU-2a and 2b).

The City has established that medical marijuana dispensaries are not a permitted use in any zoning district or specific plan area and therefore the request to obtain zoning approval of an MMD is not in compliance with the General Plan or the Zoning and Subdivision Ordinance.

- B-6. PLANNING APPLICATION NO. 2015-147 (APPEAL OF DIRECTOR'S DECISION REGARDING MEDICAL MARIJUANA DISPENSARY)**  
**Appellant/Applicant:** HBCG Cooperative, Inc. by way of Daniel G. Richmond  
**Property Owner:** Phan Property Management **Request:** To obtain zoning approval to establish a medical marijuana dispensary at 17416 Beach Blvd.  
**Location:** 17416 Beach Blvd., 92647 (east side of Beach Blvd., approximately 350 feet north of Slater Avenue) **City Contact:** Jane James, Planning Manager

**STAFF RECOMMENDATION:** Motion to: "Deny Planning Application No. 2015-147 (Appeal of Director's Decision) with findings (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Crowe has visited the site.
- Commissioner Semeta had no disclosures.
- Vice-Chair Pinchiff had no disclosures.
- Chair Kalmick has visited the site.
- Commissioner Mandic had no disclosures.
- Commissioner Brenden has had no disclosures.
- Commissioner Hoskinson had no disclosures.

Jane James, Planning Manager, gave the staff presentation and an overview of the project.

Commissioner Hoskinson confirmed with staff that the medical marijuana dispensaries referred to in Item Nos. B-3 through B-6 had opened for business without procuring a business license. Commissioner Hoskinson inquired with staff what authority the applicant indicated they were operating under without a business license. Ms. James referred the question to the applicant for an answer.

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

Mark Bertignoli, business owner, indicated that his comments for Item No. B-3 also applied to Item No. B-6.

Cristian Peirano, Peirano & Associates, spoke in support of Item No. B-6, citing that the business operated without a license because it was denied the opportunity to apply for a business license. He stated that he did not dispute the city's ability to ban medical marijuana but that it was done improperly. He spoke briefly regarding the ongoing court case regarding this issue and stated that the city does not have the authority to regulate through its licensing procedures. Mr. Peirano encouraged the Planning Commission to continue this item and ask to see the depositions for the ongoing court case.

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

There was a brief discussion regarding the role of the Planning Commission in this appeal and Mr. Silver advised that the item before the Planning Commission was solely to determine if the Director's land use decision is correct.

**A MOTION WAS MADE BY KALMICK, SECONDED BY SEMETA, TO DENY PLANNING APPLICATION NO. 2015-147 (APPEAL OF DIRECTOR'S DECISION) WITH FINDINGS, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**MOTION APPROVED**

**FINDINGS FOR DENIAL - PLANNING APPLICATION NO. 2015-147:**

1. Medical marijuana dispensaries have been a prohibited use within the City since the City adopted Ordinance No. 3788 in November 2007. Since then, Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 204.18 went into effect in June 2015 and expressly articulates that medical marijuana dispensaries are not a permitted use anywhere within the City including all zoning districts and all specific plan areas.
2. The property is located in the *Neighborhood Boulevard Segment* of the Beach and Edinger Corridors Specific Plan (BECSP). Medical marijuana dispensary is not listed as a permitted land use of the *Neighborhood Boulevard Segment*. BECSP Section 2.2, states that "Proposed uses that are not explicitly listed in the use charts may be permitted if it is determined by the planning director that the proposed uses meet the purpose and intent of the plan."
3. Medical marijuana dispensaries do not meet the purpose and intent of the Beach and Edinger Corridors Specific Plan or the *Neighborhood Boulevard Segment*. The *Neighborhood Boulevard Segment* use designation is designed to have pedestrian oriented uses available to the neighboring residential subdivisions. These pedestrian oriented uses are primarily Specialty Goods Anchors, Community Oriented Anchors, and Entertainment Anchors, along with numerous similar uses (BECSP Section 2.1.8.). Medical marijuana dispensaries do not meet the pedestrian oriented uses of the *Neighborhood Boulevard Segment*.
4. Court decisions have recognized that medical marijuana dispensaries are a unique land use different from any other permitted uses, including uses such as retail, personal service and pharmacy. (*Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1092-94.)
5. The Planning Commission has jurisdiction over this use determination appeal pursuant to HBZSO Section 204.02, including the business license aspects of the appeal, because one of the grounds the Finance Director cited for denial of the business license was lack of zoning approval. (HBMC Section 5.08.360.)
6. Planning Application No. 2015-147 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.

7. Planning Application No. 2015-147 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not be compatible with surrounding uses because pursuant to Ordinance No. 3788, the City repealed in November 2007 the limited exemption for dispensaries in Industrial zones. Further, the City enacted in June 2015, Huntington Beach Zoning and Subdivision Section 204.18, expressly demonstrating that medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
8. Planning Application No. 2015-147 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.
9. Planning Application No. 2015-147 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary is not consistent with the General Plan Land Use Element. In addition, it is not consistent with the following policy of the General Plan:

D. Land Use Element:

Policy LU 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules (Table LU-2a and 2b).

The City has established that medical marijuana dispensaries are not a permitted use in any zoning district or specific plan area and therefore the request to obtain zoning approval of an MMD is not in compliance with the General Plan or the Zoning and Subdivision Ordinance.

C. CONSENT CALENDAR

C-1. **PLANNING COMMISSION MINUTES DATED MARCH 10, 2015**

**RECOMMENDED ACTION:** Motion to: "Approve the March 10, 2015, Planning Commission Minutes as submitted."

**A MOTION WAS MADE BY BRENDEN, SECONDED BY MANDIC, TO APPROVE THE MARCH 10, 2015 PLANNING COMMISSION MINUTES AS AMENDED, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** Pinchiff  
**ABSENT:** None

**MOTION APPROVED**

**C-2. PLANNING COMMISSION MINUTES DATED MARCH 24, 2015**

**RECOMMENDED ACTION:** Motion to: "Approve the March 24, 2015, Planning Commission Minutes as submitted."

**A MOTION WAS MADE BY BRENDEN, SECONDED BY SEMETA, TO APPROVE THE MARCH 24, 2015 PLANNING COMMISSION MINUTES AS AMENDED, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**MOTION APPROVED**

**D. NON-PUBLIC HEARING ITEMS**

**D-1. GENERAL PLAN CONFORMANCE NO. 15-004 (CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2015/16) Applicant:** City of Huntington Beach, Public Works Department **Property Owner:** City of Huntington Beach **Request:** To evaluate the Capital Improvement Program for Fiscal Year 2015/16 for compliance with the General Plan. **Location:** Citywide **City Contact:** John Ramirez, Contract Planner

**STAFF RECOMMENDATION:** Motion to: "Adopt Resolution No. 1689, approving General Plan Conformance No. 15-004, with findings (Attachment Nos. 1 and 2)."

John Ramirez, Contract Planner, gave the staff presentation and an overview of the project.

**A MOTION WAS MADE BY CROWE, SECONDED BY SEMETA, TO ADOPT RESOLUTION NO. 1689, APPROVING GENERAL PLAN CONFORMANCE NO. 15-004, WITH FINDINGS, BY THE FOLLOWING VOTE:**

**AYES:** Crowe, Semeta, Pinchiff, Kalmick, Mandic, Brenden, Hoskinson  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**MOTION APPROVED**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Planning Commission finds that the proposed 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 15306 of the CEQA Guidelines because the project involves information collection which does not result in major disturbance to an environmental resource.

**FINDINGS FOR APPROVAL – GENERAL PLAN CONFORMANCE NO. 15-004:**

1. The 2015/16 Capital Improvement Program conforms to the following goals, objectives, and policies of the General Plan:

**Land Use Element 13.1.1** Allow for the continuation of existing public and private institutional, cultural, educational, and health uses at their present locations and development of new uses in areas designated on the Land Use Plan Map in accordance with Policy 7.1.1.

**Public Facilities and Public Service Element 6.1.3** Maintain or improve the governmental facilities and services in order to meet the adopted levels of service and standards established in the Growth Management Element.

**Recreation and Community Services Element 4.1** Improve and modernize existing parks and facilities to overcome existing design deficiencies and deteriorated conditions.

**Circulation Element 1.2.1** Enhance circulation system standards for roadway and intersection classifications, right-of-way width, pavement width, design speed, capacity and associated features such as medians and bicycle lanes.

**Circulation Element 1.2.3** Maintain primary truck routes that sustain an effective transport of commodities while mitigating the negative impacts on local circulation and on noise sensitive land.

**Circulation Element 2.1.1** Maintain a city-wide level of service (LOS) not to exceed LOS "D" for intersections during the peak hours.

**Circulation Element 2.1.2** Maintain a city-wide level of service (LOS) for links not to exceed LOS "C" for daily traffic with the exception of Pacific Coast Highway south of Brookhurst Street.

**Circulation Element 2.1.3** Identify and improve roadways and intersections that are approaching, or have reached, unacceptable levels of service.

**Circulation Element 6.1.10** Implement appropriate traffic devices and operational programs throughout the community to ensure that conflicts between pedestrians, bicycles, and vehicles are minimized and safety enhanced.

**Circulation Element 7.10** Ensure that bicycle and pedestrian facilities within the City comply with accessibility provisions of the Americans with Disabilities Act (ADA).

The Capital Improvement Program (CIP) ensures that City facilities are improved and enhanced and continue to be adequately accessible and maintained in order to provide services to residents and visitors. The CIP ensures that an adequate amount of new circulation and access improvements are developed and maintained to support existing and future development. CIP projects will provide continued improvements to streets, bike lanes and traffic signals, while reducing conflicts between pedestrians, bicycles and vehicles and enhancing safety for all modes of transportation. The CIP ensures that existing parks and facilities are maintained in the best condition for optimal and enjoyable use by both residents and visitors within the City. Capital improvements maintain an essential and integral circulation infrastructure allowing the movement of people and goods throughout the City.

**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, 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**

Commissioner Mandic inquired with staff regarding alcohol conditional use permits being heard before the Zoning Administrator. Ms. James gave a brief overview of the process and described that the zoning determines which public body a conditional use permit is brought to.

Commissioner Brenden reported on various community events he had recently attended.

Commissioner Hoskinson described his recent trip to Toronto and shared his observations about the increase of high density projects in that area without corresponding increase in public transportation.

Chair Kalmick noted his opinion that the City Council should revisit the policy to prohibit medical marijuana dispensaries.

**ADJOURNMENT: Adjourned at 9:02 PM to the next regularly scheduled meeting of Wednesday, September 9, 2015.**

APPROVED BY:

  
\_\_\_\_\_  
Scott Hess, Secretary

  
\_\_\_\_\_  
Edward Pinchiff, Chair