

# AGENDA

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, MARCH 27, 2007  
HUNTINGTON BEACH CIVIC CENTER  
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:45 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

### CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: *Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*

### AGENDA APPROVAL

A. PROJECT REVIEW (FUTURE AGENDA ITEMS):

A-1. **ZONING TEXT AMENDMENT NO. 06-08 (SECTION 230.96 – WIRELESS COMMUNICATION FACILITIES)** – Rosemary Medel

B. STUDY SESSION ITEMS:

B-1. **BRIGHTWATER SPECIFIC PLAN STATUS** – Chair Scandura

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

D. PLANNING COMMISSION COMMITTEE REPORTS

E. PUBLIC COMMENTS – Regarding Project Review or Study Session portions of Meeting

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

F. PLANNING COMMISSION COMMENTS

6:30 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

**CALL PLANNING COMMISSION MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:** *Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*

**AGENDA APPROVAL**

**A. ORAL COMMUNICATIONS**

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

**B. PUBLIC HEARING ITEMS**

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

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

- B-1. RECONSIDERATION OF CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL).** **Applicant:** Phil Burtis. **Request:** To permit a K-8 school for up to 229 students, pre-school for up to 100 students, day care (before/after-school) for up to 150 children, church services for up to 168 people, Sunday school for up to 100 children, infant/toddler care for up to 20 children and the addition of four 24 ft. by 60 ft. modular classroom buildings at an existing closed school site. **Location:** 5172 McFadden Ave. (south side of McFadden Ave., east of Bolsa Chica St.). **Project Planner:** Ron Santos

**STAFF RECOMMENDATION:** Motion to: "Approve Conditional Use Permit No. 06-26 with findings and suggested conditions of approval."

**C. CONSENT CALENDAR:**

**C-1. PLANNING COMMISSION MINUTES DATED JANUARY 9, 2007**

**RECOMMENDED ACTION:** Motion to: "Approve the January 9, 2007, Planning Commission Minutes as submitted."

**C-2. PLANNING COMMISSION MINUTES DATED JANUARY 23, 2007**

**RECOMMENDED ACTION:** Motion to: "Approve the January 23, 2007, Planning Commission Minutes as submitted."

**C-3. PLANNING COMMISSION MINUTES DATED FEBRUARY 13, 2007**

**RECOMMENDED ACTION:** Motion to: "Approve the February 13, 2007, Planning Commission Minutes as submitted."

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

**E. PLANNING ITEMS**

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

**F. PLANNING COMMISSION ITEMS**

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

**F-2. PLANNING COMMISSION COMMENTS**

Commissioner Shier-Burnett -

Commissioner Speaker -

Vice Chairperson Livengood -

Chairperson Scandura -

Commissioner Farley -

Commissioner Horgan –

Commissioner Dwyer -

**ADJOURNMENT:**

**Adjourn to the next regularly scheduled meeting of April 10, 2007.**

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

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

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

## HUNTINGTON BEACH PLANNING COMMISSION Public Hearing Procedures

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

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

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

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

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

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



City of Huntington Beach Planning Department  
**STUDY SESSION REPORT**

**TO:** Planning Commission  
**FROM:** Scott Hess, Acting Director of Planning  
**BY:** Rosemary Medel, Associate Planner *RM*  
**DATE:** March 27, 2007

**SUBJECT: ZONING TEXT AMENDMENT NO. 06-08 (AMENDING SECTION 230.96-  
WIRELESS COMMUNICATIONS FACILITIES)**

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**PROJECT REQUEST AND SPECIAL CONSIDERATIONS**

Zoning Text Amendment No. 06-08 represents a request for the following:

To amend Section 230.96 (Wireless Communication Facilities) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO).

**CURRENT LAND USE, HISTORY OF SITE, GENERAL PLAN DESIGNATION**

LOCATION	GENERAL PLAN	ZONING	LAND USE
Citywide	All Land Use Categories	All Zoning Categories	All Land Uses

**APPLICATION PROCESS AND TIMELINES**

DATE OF COMPLETE APPLICATION: Not applicable  
MANDATORY PROCESSING DATE: Legislative Action-Not Applicable

The application is tentatively scheduled for the Planning Commission meeting of April 10, 2007 with City Council public hearing to follow.

**CEQA ANALYSIS/REVIEW**

The proposed zoning text amendment is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act.

## **COMMENTS FROM CITY DEPARTMENTS AND OTHER PUBLIC AGENCIES**

The City Attorney's Office initiated this amendment pursuant to a temporary moratorium.

## **PUBLIC MEETINGS, COMMENTS AND CONCERNS**

The City Council considered and approved the moratorium at their regular meeting on August 7, 2006. On March 5, 2007 the City Council extended the moratorium for one year from the initial adoption.

## **PLANNING ISSUES**

The City Attorney's Office initiated a temporary moratorium on the installation of wireless telecommunication facilities in the public right-of-way because in 2005 Verizon Wireless requested permission to place wireless antennae in the public right-of-way but claimed that it was not required to pay any fee or be charged for the use of the public right-of-way, and subsequently refused to sign an agreement offered to other wireless carriers for use of the public right-of-way. The moratorium prohibits the installation of any facilities used or associated with the transmission or reception of wireless communication services (including personal communication, cellular and paging) within, on, below, or above a City owned, operated or controlled street or alley, public rights-of-way in the sidewalks, and/or parkway adjacent thereto.

With the adoption of the moratorium by the City Council, the City Attorney's Office was instructed to prepare updates to the Huntington Beach Zoning and Subdivision Ordinance that are consistent with state and federal law. The intent of the attached draft ordinance is to encourage and facilitate wireless communication facilities where they are invisible to pedestrians, and co-located with other facilities. The proposed changes include the requirements for a Wireless Permit application and clarify requirements for wireless facilities in the public right-of-way.

## **ATTACHMENTS:**

1. Chapter 230, Section 230.96 - Legislative Draft
2. City Council Report dated August 7, 2006

## 230.96 Wireless Communication Facilities

A. **Purpose.** **The purpose of this Section is to encourage and facilitate wireless communications throughout the City, while preventing visual clutter by locating wireless communication facilities outside of residential zones and where they are invisible to pedestrians, and co-located with other facilities.** All wireless communication facilities shall comply with these **regulations with regard to their requirements and guidelines in order to regulate the location, placement, construction, modification and design to protect the** of wireless facilities for the protection of public safety, general welfare, and quality of life in the City of Huntington Beach.

### B. ~~Permit Required.~~

- ~~1. Administrative approval by the Director may be granted for proposed wireless communication facilities (including but not limited to ground mounted, co-located, wall, roof, or utility mounted) that are: (3568-9/02)~~
  - ~~a. Co-located to approved facilities at existing heights or complies with the base district height limit for modified facilities, and compatible with surrounding buildings and land uses by incorporating stealth techniques; or (3568-9/02)~~
  - ~~b. Completely stealth facilities and complies with the base district height limit; or (3568-9/02)~~
  - ~~c. Facilities in non-residential districts and in compliance with the maximum building height permitted within the zoning district; and (3568-9/02)~~
    - ~~1. Screened from view and not visible from beyond the boundaries of the site at eye level (six feet); or (3568-9/02)~~
    - ~~2. Substantially integrated with the architecture of the existing building or structure to which it is to be mounted; or (3568-9/02)~~
    - ~~3. Designed to be architecturally compatible with surrounding buildings and land uses by incorporating stealth techniques. (3568-9/02)~~
- ~~2. Conditional use permit approval by the Zoning Administrator shall be required for all proposed wireless communication facilities (including but not limited to ground mounted, co-located, wall, roof or utility mounted) that are: (3568-9/02)~~
  - ~~a. Exceeding the maximum building height permitted within the zoning district; or (3568-9/02)~~
  - ~~b. Visible from beyond the boundaries of the site at eye level (six feet); or (3568-9/02)~~
  - ~~c. Not substantially integrated with the architecture of the existing building or structure to which it is to be mounted; or (3568-9/02)~~
  - ~~d. Not designed to be architecturally compatible with surrounding buildings and land uses; or (3568-9/02)~~
  - ~~e. Facilities in residential districts that do not meet B.1.a or B.1.b. (3568-9/02)~~
- ~~3. Design review shall be required for wireless communication facilities located in redevelopment areas, on public right of ways, in OS-PR and PS zones, in areas subject to~~

specific plans, on or within 300 feet of a residential district, and in areas designated by the City Council. Design review is not required for wireless communication facilities that comply with section B.1. (3568-9/02)

**BC.** Definitions. For the purpose of this section, the following definitions for the following terms shall apply: (3568-9/02)

1. Accessory Structure. Any structure or equipment that is to be located ancillary to an antenna or antennas in the establishment and operation of a wireless communication facility. (3568-9/02)
2. Co-Location or Co-Located. The location of multiple antennas which are either owned or operated by more than one service provider at a single location and mounted to a common supporting structure, wall or building. (3568-9/02)
3. Completely Stealth Facility. Any stealth facility that has been designed to completely screen all aspects of the facility including appurtenances and equipment from public view. Examples of completely stealth facilities may include, but are not limited to architecturally screened roof-mounted antennas, façade mounted antennas treated as architectural elements to blend with the existing building, flagpoles, church steeples, fire towers, and light standards. (3568-9/02)
4. Ground Mounted Facility. Any wireless antenna that ~~are~~**is** affixed to a pole, tower or other freestanding structure that is specifically constructed for the purpose of supporting an antenna. (3568-9/02)
5. Microwave Communication. The transmission or reception of radio communication at frequencies of a microwave signal (generally, in the 3 GHz to 300 GHz frequency spectrum). (3568-9/02)
6. Pre-existing Wireless Facility. Any wireless communication facility for which a building permit or conditional use permit has been properly issued prior to the effective date of this ordinance, including permitted facilities that have not yet been constructed so long as such approval is current and not expired. (3568-9/02)
7. Roof Mounted. Any wireless antenna directly attached or affixed to the roof of an existing building, water tank, tower or structure other than a telecommunications tower. (3568-9/02)
8. Stealth Facility or Techniques. Any wireless communication facility, which is designed to blend into the surrounding environment, typically, one that is architecturally integrated into a building or other concealing structure. See also definition of completely stealth facility. (3568-9/02)
- ~~9. Telecommunication Facility. A wireless communication facility that is either wall mounted, utility mounted, or roof mounted. (3568-9/02)~~
- ~~109.~~ Utility Mounted. Any wireless antenna mounted to an existing above-ground structure specifically designed and originally installed to support utilities such as but not limited to electrical power lines, cable television lines, telephone lines, non-commercial wireless service antennas, radio antennas, street lighting **but not traffic signals**, recreational facility lighting, ~~traffic signal equipment~~ or any other utility which meets the purpose and intent of this definition. (3568-9/02)
- ~~110.~~ Wall Mounted. Any wireless antenna mounted on any vertical or nearly vertical surface of a building or other existing structure that is not specifically constructed for the purpose of supporting an antenna (including the exterior walls of a building, an existing

parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign) such that the highest point of the antenna structure is at an elevation equal to or lower than the highest point of the surface on which it is mounted. (3568-9/02)

~~1211.~~ Wireless Communication Facility or Facility. An antenna structure and any appurtenant facilities or equipment that **transmits electronic waves or is** used **for the transmission or receipt of signals that are used** in connection with the provision of wireless communication service, including, but not limited to digital, cellular and radio service. (3568-9/02)

**CD.** Applicability. (3568-9/02)

~~1.~~ All wireless communication facilities which are erected, located, or modified within the City of Huntington Beach ~~on or following the effective date of section 230.96~~ shall comply with these **regulations** ~~guidelines~~, subject to the categorical exemptions under ~~subparagraph (3) of this section~~, provided that: (3568-9/02)

1. ~~a.~~ All facilities, for which ~~applications~~ **permits** were **issued** ~~determined complete~~ by the ~~Planning Department~~ prior to the effective date of this section, shall be exempt from these regulations and guidelines. (3568-9/02)

~~b.~~ All facilities for which Building and Safety issued building permits prior to the effective date of section 230.96 shall be exempt from these regulations and guidelines, unless and until such time as subparagraph (2) of this section applies. (3568-9/02)

~~e2.~~ Any facility, which is subject to a previously approved and valid conditional use permit, may be modified within the scope of the applicable permit without complying with these regulations and guidelines. (3568-9/02)

~~2.~~ All facilities for which building permits and any extension thereof have expired shall comply with the provisions of section 230.96. (3568-9/02)

~~3.~~ The following uses shall be exempt from the provisions of section 230.96 until pertinent federal regulations are amended or eliminated. See Section 230.80 (Antennae) for additional requirements. (3568-9/02)

~~A3.~~ Any antenna structure that is one meter (39.37 inches) or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service for television purposes, as defined by Section 207 of the Telecommunication Act of 1996, Title 47 of the Code of Federal Regulations, and any interpretive decisions thereof issued by the Federal Communications Commission (FCC). (3568-9/02)

~~B4.~~ Any antenna structure that is two meters (78.74 inches) or less in diameter located in commercial or industrial zones and is designed to transmit or receive radio communication by satellite antenna. (3568-9/02)

~~C5.~~ Any antenna structure that is one meter (39.37 inches) or less in diameter or diagonal measurement and is designed to receive Multipoint Distribution Service, provided that no part of the antenna structure extends more than five (5) feet above the principle building on the same lot. (3568-9/02)

~~D6.~~ Any antenna structure that is designed to receive radio broadcast transmission. (3568-9/02)

E7. Any antenna structure used by authorized amateur radio stations licensed by the FCC.  
(3568-9/02)

**D. Permit Required.**

**1. Administrative approval by the Director may be granted for proposed wireless communication facilities (including but not limited to ground mounted, co-located, wall, roof, or utility mounted) that are:**

**a. Co-located with approved facilities at existing heights or that comply with the base district height limit for modified facilities, and compatible with surrounding buildings and land uses by incorporating stealth techniques; or**

**b. Completely stealth facilities that comply with the base district height limit; or**

**c. Facilities in non-residential districts that are in compliance with the maximum building height permitted within the zoning district; and**

**i. Screened from view and not visible from beyond the boundaries of the site at eye level (six feet); or**

**ii. Substantially integrated with the architecture of the existing building or structure to which it is to be mounted; or**

**iii. Designed to be architecturally compatible with surrounding buildings and land uses by incorporating stealth techniques.**

**2. Following Department approval of a Wireless Permit Application, a**

**Conditional Use Permit approval by the Zoning Administrator shall be required for all proposed wireless communication facilities (including but not limited to ground mounted, co-located, wall, roof or utility mounted) that are:**

~~a. Exceeding the maximum building height permitted within the zoning district; or~~

~~ba. Visible from beyond the boundaries of the site at eye level (six feet); or~~

~~eb. Not substantially integrated with the architecture of the existing building or structure to which it is to be mounted; or~~

~~de. Not designed to be architecturally compatible with surrounding buildings and land uses; or~~

~~e. Facilities in residential districts that do not meet B.1.a or B.1.b.~~

**3. As a condition of the Conditional Use Permit, the Zoning Administrator shall minimize significant adverse impacts to public visual resources by incorporating one or more of the following into project design and construction:**

**a. Stealth installations;**

**b. Co-location and locating facilities within existing building envelopes;**

**c. Minimizing visual prominence through colorization or landscaping;**

**d. Removal or replacement of facilities that become obsolete.**

34. Design review shall be required for any wireless communication facilities located in redevelopment areas, on public right-of-ways, in OS-PR and PS zones, in areas subject to specific plans, on or within 300 feet of a residential district, and in areas designated by the City Council. Design review is not required for wireless communication facilities that comply with subsection 1.

**E. Wireless Permit Required. No wireless communication facility shall be installed anywhere in the City, without approval of a Wireless Permit by the Director. The applicant shall submit a Wireless Permit Application and demonstrate that the antenna is located in the least obtrusive location feasible so as to eliminate any gap in service. The applicant shall also provide documentation that demonstrates the following:**

1. Existing gaps in coverage, and the radius of area from which an antenna may be located to eliminate the gap in coverage.
2. Compatibility with the surrounding environment or that the facilities are architecturally integrated into a structure.
3. Screening or camouflaging by existing or proposed topography, vegetation, buildings or other structures as measured from beyond the boundaries of the site at eye level (six feet).
4. Massing and location of the proposed facility are consistent with surrounding structures and zoning districts.
5. No portion of a wireless communication facility shall project over property lines.
6. Interference: To eliminate interference the following provisions shall be required for all wireless communication facilities regardless of size:
  - a. Prior to issuance of a building permit, the applicant must submit the following information to the Police Department for review:
    - i. All transmit and receive frequencies;
    - ii. Effective Radiated Power (ERP);
    - iii. Antenna height above ground, and
    - iv. Antenna pattern, both horizontal and vertical (E Plane and H Plane).
  - b. At all times, other than during the 24-hour cure period, the applicant shall comply with all FCC standards and regulations regarding interference and the assignment of the use of the radio frequency spectrum. The applicant shall not prevent the City of Huntington Beach or the countywide system from having adequate spectrum capacity on the City's 800 MHz voice and data radio frequency systems. The applicant shall cease operation of any facility causing interference with the City's facilities immediately upon the expiration of the 24-hour cure period until the cause of the interference is eliminated.
  - c. Before activating its facility, the applicant shall submit to the Police and Fire Departments a post-installation test to confirm that the facility does not interfere with the City of Huntington Beach Public

**Safety radio equipment. The Communications Division of the Orange County Sheriff's Department or Division-approved contractor at the expense of the applicant shall conduct this test. This post-installation testing process shall be repeated for every proposed frequency addition and/or change to confirm the intent of the "frequency planning" process has been met.**

**d. The applicant shall provide to the Planning Department a single point of contact (including name and telephone number) in its Engineering and Maintenance Departments to whom all interference problems may be reported to insure continuity on all interference issues. The contact person shall resolve all interference complaints within 24 hours of being notified.**

**e. The applicant shall insure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.**

**EF. Facility Standards: The following standards apply to all wireless communication facilities:**

**1. Aesthetics:**

**a. Facility: All screening used in conjunction with a wall or roof mounted facility shall be compatible with the architecture of the building or other structure to which it is mounted, including color, texture and materials. All ground mounted facilities shall be designed to blend into the surrounding environment, or architecturally integrated into a building or other concealing structure. (3568-9/02)**

**b. Equipment/Accessory Structures: All equipment associated with the operation of the facility, including but not limited to transmission cables, shall be screened in a manner that complies with the development standards of the zoning district in which such equipment is located. Screening materials and support structures housing equipment shall be architecturally compatible with surrounding structures by duplicating materials and design in a manner as practical as possible. If chain link is used, then it must be vinyl coated and not include barbed wire. (3568-9/02)**

**c. General Provisions: All Wireless Communication Facilities shall comply with the Huntington Beach Urban Design Guidelines. (3568-9/02)**

**2. Building Codes: To ensure the structural integrity of wireless communication facilities, the owners of a facility shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for facilities that are published by the Electronic Industries Association, as amended from time to time. (3568-9/02)**

**3. Conditions of Approval: Acceptance of conditions by the applicant and property owner shall be ensured by recordation of the conditions on the property title. (3568-9/02)**

**4. Federal Requirements: All Wireless Communication Facilities must meet or exceed current standards and regulations of the FCC, and any other agency of the state or federal government with the authority to regulate wireless communication facilities. (3568-9/02)**

**~~5. Interference: To eliminate interference the following provisions shall be required for all wireless communication facilities regardless of size: (3568-9/02)~~**

- ~~\_\_\_\_\_ a. Prior to issuance of a building permit, the applicant must submit the following information to the Police Department for review: (3568-9/02)~~
  - ~~\_\_\_\_\_ 1. All transmit and receive frequencies; (3568-9/02)~~
  - ~~\_\_\_\_\_ 2. Effective Radiated Power (ERP); (3568-9/02)~~
  - ~~\_\_\_\_\_ 3. Antenna height above ground, and (3568-9/02)~~
  - ~~\_\_\_\_\_ 4. Antenna pattern, both horizontal and vertical (E Plane and H Plane). (3568-9/02)~~
- ~~\_\_\_\_\_ b. At all times, other than during the 24-hour cure period, the applicant shall comply with all FCC standards and regulations regarding interference and the assignment of the use of the radio frequency spectrum. The applicant shall not prevent the City of Huntington Beach or the countywide system from having adequate spectrum capacity on the City's 800-MHz voice and data radio frequency systems. The applicant shall cease operation of any facility causing interference with the City's facilities immediately upon the expiration of the 24-hour cure period until the cause of the interference is eliminated. (3568-9/02)~~
- ~~\_\_\_\_\_ c. Before activating its facility, the applicant shall submit to the Police and Fire Departments a post-installation test to confirm that the facility does not interfere with the City of Huntington Beach Public Safety radio equipment. The Communications Division of the Orange County Sheriff's Department or Division-approved contractor at the expense of the applicant shall conduct this test. This post-installation testing process shall be repeated for every proposed frequency addition and/or change to confirm the intent of the "frequency planning" process has been met. (3568-9/02)~~
- ~~\_\_\_\_\_ d. The applicant shall provide to the Planning Department a single point of contact (including name and telephone number) in its Engineering and Maintenance Departments to whom all interference problems may be reported to insure continuity on all interference issues. The contact person shall resolve all interference complaints within 24 hours of being notified. (3568-9/02)~~
- ~~\_\_\_\_\_ e. The applicant shall insure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the applicant to comply. (3568-9/02)~~

**65. Lighting:** All outside lighting shall be directed to prevent "spillage" onto adjacent properties, unless required by the FAA or other applicable authority, and shall be shown on the site plan and elevations. (3568-9/02)

**76. Maintenance:** All facilities and appurtenant equipment **including landscaping** shall be maintained to remain consistent with the original appearance of the facility. Ground mounted facilities shall be covered with anti-graffiti coating. (3568-9/02)

**87. Monitoring:** For all wireless communication facilities, the applicant shall provide a copy of the lease agreement between the property owner and the applicant prior to the issuance of a building permit. (3568-9/02)

**98. Signs:** The facility shall not bear any signs or advertising devices other than certification, warning, or other required seals of signage. (3568-9/02)

**9. Facilities on Public Property:** Any wireless communication facility to be placed over, within, or beneath City property shall obtain a lease or franchise from the City prior to applying for a Wireless Permit and an administrative or conditional use permit.

**10. Landscaping:** Landscape planting, irrigation and hardscape improvements may be imposed depending on the location, the projected

vehicular traffic, the impact on existing facilities and landscape areas, and the visibility of the proposed facility. Submittal of complete landscape and architectural plans for review and approval by the Directors of Public Works and Planning may be required.

**11. Utility Agreement: If the proposed facility will require electrical power or any other utility services to the site, the applicant will be required to furnish the City's Real Estate Services Manager either a drafted utility franchise agreement between the City of Huntington Beach and the applicant to place those lines in the public right-of-way, or a written statement from the utility company that will be supplying the power or other services, that they accept all responsibility for those lines in the public right-of-way.**

~~F. Site Selection. For all wireless communication facilities, the applicant shall provide documentation that demonstrates the following: (3568-9/02)~~

- ~~1. Compatibility with the surrounding environment or architecturally integrated into a structure. (3568-9/02)~~
- ~~2. Screened or camouflaged by existing or proposed topography, vegetation, buildings or other structures as measured from beyond the boundaries of the site at eye level (six feet). (3568-9/02)~~
- ~~3. Massing and location of the proposed facility are consistent with surrounding structures and zoning districts. (3568-9/02)~~
- ~~4. No portion of a wireless communication facility shall project over property lines. (3568-9/02)~~
- ~~5. Significant adverse impacts to public visual resources shall be minimized by incorporating one or more of the following into project design and construction: (Res No. 2004-80-9/04)
  - ~~a. Co-locating antennas on one structure; (Res No. 2004-80-9/04)~~
  - ~~b. Stealth installations; (Res No. 2004-80-9/04)~~
  - ~~c. Locating facilities within existing building envelopes; (Res No. 2004-80-9/04)~~
  - ~~d. Minimizing visual prominence through colorization or landscaping; (Res No. 2004-80-9/04)~~
  - ~~e. Removal of facilities that become obsolete. (Res. No. 2004-80-9/04)~~~~
- ~~6. Wireless communication facilities affecting the public viewshed and/or located in areas designated water Recreation, Conservation, Parks and Shoreline shall be removed within six (6) months of termination of use and the site restored to its natural state. (Res No. 2004-80-9/04)~~

**G12. Facilities in the Public Right-of-Way. Any wireless communication facility to be placed over, **within**, on or beneath the public right-of-way shall comply with the following standards: (3568-9/02)**

- 1a. Any wireless communication facilities to be constructed on or beneath the public right-of-way must have a franchise agreement with **obtain an encroachment permit from** the City or the owner that has a wireless franchise agreement with the City, or **and** the applicant must provide documentation demonstrating that the applicant is a state-franchised telephone corporation exempt from local franchise requirements. (3568-9/02)**

- 2b. All equipment associated with the operation of a facility, including but not limited to **cabinets**, transmission cables **but excepting antennas**, shall be placed underground in those portions of the street, sidewalks and public rights-of-way where cable television, telephone or electric lines are underground. At no time shall equipment be placed underground without appropriate conduit. (3568-9/02)
- 3c. The City Engineer shall approve the location and method of construction of all facilities located within public rights-of-way **and the installation of facilities within the public rights-of-way must comply with Title 12 of the Huntington Beach Municipal Code, as the same may be amended from time to time.** (3568-9/02)
- 4d. All wireless communication facilities shall be subject to applicable City permit and inspection fees, including, but not limited to, those pertaining to encroachment permits, **administrative or conditional use permits**, and all applicable fees. (3568-9/02)
- 5e. Any wireless communication facility installed, used or maintained within the public rights-of-way shall be removed or relocated when made necessary by any "project." For purposes of this section, project shall mean any lawful change of grade, alignment or width of any public right-of-way, including but not limited to, the construction of any subway or viaduct that the City may initiate either through itself, or any redevelopment agency, community facility district, assessment district, area of benefit, reimbursement agreement or generally applicable impact fee program. (3568-9/02)
- 6f. ~~Wireless communication facilities may be installed on existing utility poles, conduits and other facilities of a public utility, with the approval of the City Engineer, provided a franchise agreement exists allowing wireless installation. (3568-9/02)~~ **If the facility is attached to a utility pole, the facility shall be removed, at no cost to the City, if the utility pole is removed pursuant to an undergrounding project.**
- 7g. ~~Prior to the approval of any required building permits or entitlements (Conditional Use Permits, Variances, etc.) the applicant shall have a franchise agreement approved by the City Council. (3568-9/02)~~ **The service provider shall enter into a franchise agreement with the City. As of March 17, 2007, the California Supreme Court, in the case entitled Spring Telephony PCS v. County of San Diego, will determine whether California Public Utilities Code § 7901 grants a state-wide franchise to use the public rights-of-way for the purpose of installation of wireless communications facilities. Pending resolution of this legal question, any applicant seeking to use the public right-of-way must enter into a City franchise to install wireless communications facilities. The franchise shall provide that the franchise fee payments shall be refunded to the applicant and the franchise become null and void if and when the California Supreme Court establishes that the provider has a state-wide franchise to install a wireless communications facility in the public right-of-way.**

~~H. Facilities on Public Property. Any wireless communication facility to be placed over, on or beneath public property shall comply with the following standards: (3568-9/02)~~

- ~~—1. Wireless communication facilities shall be installed in accordance with all applicable City codes and ordinances, including, but not limited to, standards for paving in the event that any undergrounding of utilities is required. (3568-9/02)~~
- ~~—2. Any wireless communication facilities to be constructed on or beneath public property must have a lease agreement with the city. (3568-9/02)~~

~~I. Additional Requirements:~~

- ~~1. Landscaping: Landscape planting, irrigation and hardscape improvements may be imposed depending on the location, the projected vehicular traffic, the impact on existing facilities and landscape areas, and the visibility of the proposed facility. Submittal of complete landscape and architectural plans for review and approval by the Directors of Public Works and Planning may be required. Public Works inspectors may require additional improvements during installation based on facility impacts. (3568-9/02)~~
- ~~2. Utility Agreement: If the proposed facility will require electrical power or any other utility services to the site, the applicant will be required to furnish the City's Real Estate Services Manager, either a drafted utility franchise agreement between the City of Huntington Beach and the applicant to place those lines in the public right of way, or a written statement from the utility company who will be supplying the power or other services, that they accept all responsibility for those lines in the public right of way. (3568-9/02)~~

### ~~113.~~ Facility Removal.

- a. Wireless communication facilities affecting the public view and/or located in areas designated water Recreation, Conservation, Parks and Shoreline shall be removed within six (6) months of termination of use and the site restored to its natural state.**
- 1b. Cessation of Operation:** Within thirty (30) **calendar** days of cessation of operations of any wireless communication facility approved under this section, the operator shall notify the Planning Department in writing. The facility shall be deemed abandoned pursuant to the following sections unless: (3568-9/02)
  - A1.** The City has determined that the operator has resumed operation of the wireless communication facility within six (6) months of the notice; or (3568-9/02)
  - B2.** The City has received written notification of a transfer of wireless communication operators. (3568-9/02)
- 2c. Abandonment:** A facility that is inoperative or unused for a period of six (6) continuous months shall be deemed abandoned. Written notice of the City's determination of abandonment shall be provided to the operator of the facility and the owner(s) of the premises upon which the facility is located. Such notice may be delivered in person, or mailed to the address(es) stated on the facility permit application, and shall be deemed abandoned at the time delivered or placed in the mail. (3568-9/02)
- 3d. Removal of Abandoned Facility:** The operator of the facility and the owner(s) of the property on which it is located, shall within thirty (30) **calendar** days after notice of abandonment is given either (1) remove the facility and restore the premises, or (2) provide the Planning Department with written objection to the City's determination of abandonment.  
Any such objection shall include evidence that the facility was in use during the relevant six- (6) month period and that it is presently operational. The Director shall review all evidence, determine whether or not the facility was properly deemed abandoned, and provide the operator notice of its determination. (3568-9/02)
- 4e. Removal by City:** At any time after thirty-one (31) **calendar** days following the notice of abandonment, or immediately following a notice of determination by the Director, if applicable, the City may remove the abandoned facility and/or repair any and all damage to the premises as necessary to be in compliance with applicable codes. The City may, but shall not be required to, store the removed facility (or any part thereof). The owner of the premises upon which the abandoned facility was located, and all prior operators of the

facility, shall be jointly liable for the entire cost of such removal, repair, restoration and/or storage, and shall remit payment to the City promptly after demand thereof is made. The City may, in lieu of storing the removed facility, convert it to the City's use, sell it, or dispose of it in any manner deemed appropriate by the City. (3568-9/02)

RECEIVED

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Council/Agency Meeting Held:		CITY CLERK CITY OF HUNTINGTON BEACH
Deferred/Continued to: <u>Approved for</u>		City Clerk's Signature
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	<u>45 days</u>	
Council Meeting Date: 8/7/2006	Department ID Number:	CA06-27

**CITY OF HUNTINGTON BEACH  
REQUEST FOR CITY COUNCIL ACTION**

**SUBMITTED TO:** HONORABLE MAYOR AND CITY COUNCIL

**SUBMITTED BY:** JENNIFER MCGRATH, City Attorney

**PREPARED BY:** JENNIFER MCGRATH, City Attorney

**SUBJECT:** Moratorium on the installation of wireless telecommunication facilities in the public right-of-way.

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

**Statement of Issue:** Should the City adopt a forty-five (45) day moratorium on the installation of wireless telecommunication in the Public Right-of-Way?

**Funding Source:** None

**Recommended Action:** Motion to: Approve and adopt Ordinance No. 3748 with specific findings regarding the detriment to the public's health, welfare and safety, and to direct staff to prepare revised regulations that comply with state and federal law and are consistent with recent court decisions.

**Alternative Action(s):** Do not approve and adopt Ordinance No. 3748.

**Analysis:** A temporary moratorium would prohibit the installation of any facilities used or associated with the transmission or reception of wireless communication services (including personal communication, cellular and paging) within, on, below, or above a City owned, operated or controlled street or alley, public rights-of-way in the sidewalks, and/or parkway adjacent thereto (hereafter "Public Right-of-Way"). This issue was initially raised in 2005 when Verizon Wireless requested permission to place wireless antennae in the Public Right-of-Way but claimed it was not required to pay any fee or charge for use of the Public Right-of-Way, and subsequently refused to sign an agreement offered to other wireless carriers for use of the Public Right-of-Way.

G-1A

G-1A.3

**ATTACHMENT NO. 1**

ATTACHMENT NO. 2.2

*Adopted  
9-18-06*

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF HUNTINGTON BEACH EXTENDING INTERIM  
ORDINANCE NO. 3748 FOR SIX MONTHS

WHEREAS, on August 7, 2006, the City Council adopted a 45-day moratorium on the installation of wireless telecommunication facilities in the public right-of-way; and

Pursuant to Government Code Section 65858 Interim Ordinance No. 3748 may be extended for up to ten months and 15 days upon notice and public hearing; and

At least ten (10) days prior to September 18, 2006, the City Clerk has caused to be published in a newspaper of general circulation a notice advising that on September 18, 2006 at 6:00 p.m. or as soon thereafter, the City Council will consider extending Interim Ordinance 3748; and

Since adoption of Interim Ordinance No. 3748 on August 7, 2006, the City has taken steps to alleviate the conditions that led to the adoption of Interim Ordinance No. 3748, which steps are included in the Report of the City Council of the City of Huntington Beach dated September 5, 2006, which is attached herein as Exhibit A; and

Based upon the current state of the law, if a temporary moratorium is not established, wireless telecommunications facilities could be installed, constructed or modified in the public right-of-way without conforming to any of the protections afforded by City regulations. This could lead to wireless telecommunications facilities which:

1. Create land use incompatibilities;
2. Create visual and aesthetic blight or view interference due to excessive size, height, or absence of camouflaging;
3. Create traffic and pedestrian safety hazards due to unsafe location of poles, towers, equipment cabinets or other materials or construction, particularly in public right-of-way locations;
4. Reduce property values;
5. Create operational conflicts with other land use or facilities authorized or existing on the same or neighboring sites; or
6. Deteriorate the quality of life in a particular community or neighborhood.

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

ORDINANCE NO. 3748

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH ESTABLISHING A TEMPORARY MORATORIUM ON THE INSTALLATION OF WIRELESS TELECOMMUNICATION FACILITIES IN THE PUBLIC RIGHT-OF-WAY, AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose.

The City Council finds and declares:

1. In September 2002, the City Council adopted Zoning and Subdivision Ordinance Section 230.96 pertaining to wireless communication facilities and requiring that all wireless communication facilities comply with the requirements and guidelines set forth in Section 230.96 (hereinafter, the "Wireless Ordinance"). The purpose of the Wireless Ordinance included regulation of the location and design of wireless facilities for the protection of public safety, general welfare, and quality of life in the City of Huntington Beach. Specifically, section 230.96(G) of the Wireless Ordinance establishes standards for wireless facilities that are to be located in the Public Right-of-Way including all City owned, operated or controlled streets, alleys, rights-of-way in the sidewalks and/or parkways adjacent thereto (hereinafter, the "PROW").
2. In 2005, a dispute developed with Verizon Wireless ("Verizon") regarding the City's Wireless Ordinance including the provision that requires any wireless communication facility that is to be constructed on or beneath the PROW or installed on existing utility poles, conduits and other facilities of a public utility to have a franchise agreement with the City.
3. In 2005, the 9<sup>th</sup> Circuit Court of Appeals issued a ruling in *Metro PCF, Inc., v. City and County of San Francisco*, 400 F.3d 715 (9<sup>th</sup> Cir 2005) that clarified the standards that apply with respect to regulations for wireless telecommunication facilities, especially as they relate to the requirement that such regulation is not prohibited nor have the effect of prohibiting the provision of personal wireless services.
4. In 2006, a three judge panel of the Ninth Circuit Court of Appeals issued a ruling in the case *Sprint PCS v. City of La Cañada Flintridge*, in which it determined that under California Public Utilities Code Section 7901, a city's power to control the "time, place, and manner in which roads [and] highways are accessed" when granting telephone companies construction permits does not include the authority to withhold permits on the PROW based upon aesthetics. However, in a post-ruling memorandum, the Court seemed to broaden the City's basis for permit

The City Council of the City of Huntington Beach finds that these potential effects from the installation, construction, or modification of additional wireless telecommunications facilities in the PROW constitute a current and immediate threat to the public safety, health and welfare. The City Council further declares that it is unclear whether the City can regulate wireless telecommunications facilities in the rights-of-way solely on the basis of aesthetics. It is therefore, the City's intention to prepare and adopt, within a reasonable time, revised regulations which will comply with the requirements of State and Federal law and are consistent with current case law to avoid any legal challenge from the enforcement of its Wireless Ordinance.

8. Given the unsettled state of the law, as set forth in the foregoing, and the potential harm to the community by the placement, construction, and modification of wireless telecommunications facilities in the PROW, this moratorium is being established to provide time to seek clarification of the law, and permit City staff to undertake appropriate action and develop appropriate regulations consistent with the requirements of State and Federal law. The City does not intend that the moratorium prohibit or have the effect of prohibiting the provision of personal wireless services; rather, it is a short term suspension on new facilities in the PROW, and does not limit the development of such facilities on private property or other public property. The City fully recognizes its responsibilities under the Telecommunications Act of 1996. The City believes, however, that a temporary moratorium is in the best interests of the City and its residents in order to assure that irreversible development activity does not occur that would harm the public health, safety or welfare.
9. There are pending applications on file with the City for installation of wireless facilities within the PROW.

SECTION 2. Applicability. The provisions of this ordinance shall apply to all facilities on, below, or above a City owned, operated or controlled street or alley, public rights-of-way in the sidewalk, and/or parkway adjacent thereto, used for or associated with the transmission or reception of wireless communications services (including personal communication, cellular and paging) and including, without limitation, antenna, masts, poles, towers, conduits, cables, structures, buildings, additions to existing antenna, masts, poles, towers, structures or buildings (the "Facilities"), which Facilities shall be subject to all of the provisions as set forth below unless otherwise specified in this ordinance, notwithstanding any other regulations of the City.

SECTION 3. Moratorium.

1. Moratorium applies to all public rights-of-way within the City. Within all areas situated in the PROW, there shall be a temporary moratorium in effect, commencing on the effective date of this ordinance, prohibiting the installation of any and all Facilities, as set forth in Section 2, and/or the issuance of permits or installation of such Facilities, except as described in Section 4.

and every section, subsection, sentence, clause, or phrase, not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. The City Clerk shall cause this ordinance to be posted in three places designated by City Council pursuant to City Charter Section 500(c) and published by title with a brief summary at least once within fifteen (15) days after its adoption in a newspaper of general circulation, published in the County of Orange and circulated in the City, in accordance with Section 36933 of the California Government Code; shall certify to the adoption of this ordinance and shall cause a certified copy of this ordinance, together with proof of publication, to be filed in the Office of the Clerk of this City.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 7th day of August, 2006.

Dan Sullivan

Mayor

REVIEWED AND APPROVED:

Linda Cullum King  
City Administrator

APPROVED AS TO FORM:

Jennifer M. Gish  
City Attorney LMA  
7/31/06

INITIATED AND APPROVED:

Jennifer M. Gish  
City Attorney 7/31/06

Urgency Ord. No. 3748

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss:  
CITY OF HUNTINGTON BEACH )

I, JOAN L. FLYNN, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular meeting thereof held on the 7th day of August, 2006 and was passed and adopted by at least five affirmative votes of said City Council.

**AYES:** Bohr, Green, Coerper, Sullivan, Hardy, Hansen, Cook

**NOES:** None

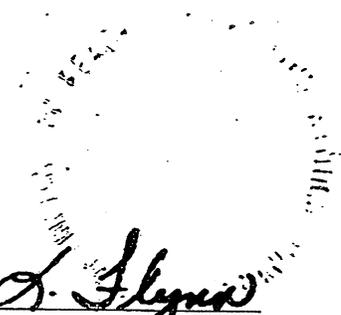
**ABSENT:** None

**ABSTAIN:** None

I, JOAN L. FLYNN, CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the Huntington Beach Fountain Valley Independent on August 17, 2006

In accordance with the City Charter of said City

Joan L. Flynn, City Clerk  
Robin Bohr, Deputy City Clerk

  
Joan L. Flynn  
City Clerk and ex-officio Clerk  
of the City Council of the City  
of Huntington Beach, California

2. This temporary moratorium is intended to prohibit issuance of permits for such Facilities. The City may continue to process such applications during the term of the moratorium; however, any new standards for such Facilities and the permitting thereof which are adopted during the moratorium and are effective at the expiration of the moratorium shall nevertheless apply to such an application. To the extent applicable, any time limits relative to the processing and action upon permit applications for any and all Facilities described above in Section 2 are tolled during the term of the moratorium.

SECTION 4. Exceptions.

The provisions of this ordinance shall not apply to:

1. Government owned and operated communications Facilities and/or existing emergency medical care provider owned and operated communications Facilities, or new Facilities in the same location as existing Facilities, which are required to repair, replace, maintain or enhance such existing Facilities provided such Facilities are to be used primarily to protect public health, safety and welfare, as determined by the Director of Public Works.
2. Any intended Facilities exempted from this ordinance by Federal law.
3. Nothing herein shall be deemed to limit the processing or approval of wireless telecommunications facilities that are to be located on public and private property, or public property other than in the PROW, subject to the provisions of the Huntington Beach Zoning and Subdivision Ordinance.

SECTION 5. CEQA Exemption. The City Council finds that, regarding the California Environmental Quality Act (CEQA), there is no possibility that the adoption of this ordinance may have a significant adverse effect on the environment (CEQA Guideline 15061 (b)(3)) because this ordinance will reduce the possibility of such effects by: limiting the range and intensity of new uses possible in the areas it covers.

SECTION 6. Effective Date. This ordinance is declared to be an urgency ordinance measure adopted pursuant to the provisions of Government Code Section 65858. As set forth in the findings above, this ordinance is necessary for preserving the public safety, peace, health and welfare. Accordingly, upon adoption by a four-fifths vote of the City Council, this ordinance shall take effect immediately.

SECTION 7. Duration. This ordinance shall be of no further force or effect 45 days after the date of its adoption, unless prior to that date the City Council extends its term.

SECTION 8. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each

denial to allow consideration of aesthetics in conjunction with other factors, but not to deny a permit based *solely* upon aesthetics. More recently, the California Court of Appeals issued a ruling in *Sprint Telephone PCS v. County of San Diego*, (June 20, 2006) 140 Cal. App. 4<sup>th</sup> 748 recognizing the right of municipalities to exercise reasonable control over the time, place and manner by which telephone corporations use the public right-of-way to install and operate their facilities. In fact, the California Court of Appeals concluded that a wireless ordinance that employs the permitting process to regulate the place including location of the equipment and the manner or the appearance and characteristics of the premises in which wireless providers use the right-of-way was authorized by the California Public Utilities Code.

5. As a result of the City's dispute with Verizon and in light of these decisions by the State and Federal courts, the City needs to refine and develop new regulations relating to placement of wireless telecommunications facilities in the PROW, which regulations include provisions relating to the design and aesthetics of such facilities.
6. It is also the understanding of the City that the League of California Cities is currently pursuing legislation to amend Public Utilities Code Section 7901.1 to clarify the ability of cities to regulate facilities that are located within the PROW on the bases of aesthetic concerns.
7. Based upon the current state of the law, if a temporary moratorium is not established, wireless telecommunications facilities could be installed, constructed or modified in the PROW without conforming to any of the protections afforded by city regulations. This could lead to wireless telecommunications facilities which:
  - i. Create land use incompatibilities;
  - ii. Create visual and aesthetic blight or view interference due to excessive size, height, or absence of camouflaging;
  - iii. Create traffic and pedestrian safety hazards due to unsafe location of poles, towers, equipment cabinets or other materials or construction, particularly in PROW locations;
  - iv. Reduce property values;
  - v. Create operational conflicts with other land use or facilities authorized or existing on the same or neighboring sites; or
  - vi. Deteriorate the quality of life in a particular community or neighborhood.

1. The City Council of the City of Huntington Beach finds that the potential effects from the installation, construction, or modification of additional wireless telecommunications facilities in the public right-of-way constitute a current and immediate threat to the public safety, health and welfare. The City Council further declares that it is unclear whether the City can regulate wireless telecommunications facilities in the rights-of-way solely on the basis of aesthetics. It is therefore, the City's intention to prepare and adopt, within a reasonable time, revised regulations which will comply with the requirements of State and Federal law and are consistent with current case law to avoid any legal challenge from the enforcement of the Huntington Beach Municipal Code or the Zoning and Subdivision Ordinance.

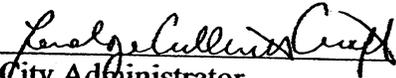
2. The Report of the City Council of the City of Huntington Beach dated September 5, 2006, which is attached herein as Exhibit A is approved and adopted.

3. Interim Ordinance No. 3748 shall be extended six months from September 18, 2006, to permit City staff to undertake appropriate action and develop appropriate regulations consistent with the requirements of State and Federal law.

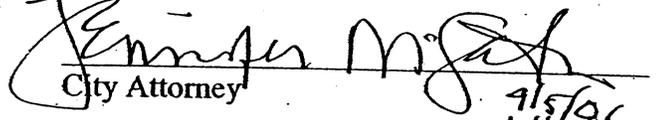
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Mayor

REVIEWED AND APPROVED:

  
\_\_\_\_\_  
City Administrator

INITIATED AND APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney  
9/5/06  
LHM 9/5/06

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ATTACHMENT NO. 2.11

# REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: 8/7/2006

DEPARTMENT ID NUMBER: CA06-27

Since that time, various federal and state court decisions indicate that Zoning and Subdivision Ordinance Code Section 230.96 may be subject to legal challenge. Although the League of California Cities is currently pursuing legislation to clarify the ability of cities to regulate facilities that are located within the Public Right-of-Way, if a temporary moratorium is not established, wireless facilities could be installed, constructed, or modified within the Public Right-of-Way without conforming to any of the protections currently afforded by City regulations. This could lead to wireless telecommunication facilities which create traffic and pedestrian safety hazards; create operational conflicts with other land use or facilities authorized or existing on the same or neighboring site; deteriorate the quality of life in a particular community or neighborhood; create land use incompatibilities; or create visual and aesthetic blight or view interference due to excessive size, height, or absence of camouflage.

Government Code Section 65858 authorizes the adoption, as an urgency measure, of an interim ordinance for the immediate protection of the public safety, health or welfare, prohibiting any use which may be in conflict with a zoning proposal that will be considered by the Planning Commission and City Council within a reasonable time following staff's preparation of amendments to Section 230.96 as well as to related provisions of the Huntington Beach Municipal Code consistent with recent court decisions.

The interim measure goes into effect immediately upon adoption by a four-fifths vote of the City Council. If a temporary moratorium is not established, wireless telecommunications facilities could be installed, constructed or modified in the Public Right-of-Way without conforming to any of the protections afforded by City regulations.

**Environmental Status:** There is no possibility that the adoption of this ordinance may have a significant adverse effect on the environment because this ordinance will reduce the possibility of such effects by limiting the range and intensity of new uses possible in the areas that it covers (CEQA Guidelines §15061(b)(3)).

**Attachment(s):**

City Clerk's Page Number	No.	Description
3	1.	Ordinance No. <u>3748</u> An Interim Ordinance of the City of Huntington Beach Establishing a Temporary Moratorium on the Installation of Wireless Communication Facilities in the Public Right-of-Way and Declaring the Urgency Thereof to Take Effect Immediately.



City of Huntington Beach Planning Department  
**STAFF REPORT**

**TO:** Planning Commission  
**FROM:** Scott Hess, Acting Director of Planning  
**BY:** Ron Santos, Associate Planner *RS*  
**DATE:** March 27, 2007

**SUBJECT: RECONSIDERATION OF CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL)**

**APPLICANT:** Phil Burtis, 17451 Duello Lane, Huntington Beach, CA 92647

**PROPERTY**

**OWNER:** Ocean View School District, c/o Scott Stark, 17200 Pinehurst Lane, Huntington Beach, CA 92647

**LOCATION:** 5172 Mc Fadden Avenue (south side of Mc Fadden Ave., east of Bolsa Chica St.)

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**STATEMENT OF ISSUE:**

At the March 13, 2007 Planning Commission Study Session, the Planning Commission voted to schedule a public hearing to reconsider the Planning Commission's February 27, 2007 action with respect to Conditional Use Permit No. 06-26. The request for reconsideration was filed by Commissioner Shier-Burnett with the intent that the Planning Commission re-evaluate Condition of Approval No. 2(b), which requires a 42-inch tall chain-link fence to separate the easterly parking lot and drive aisle from the grass playing fields.

**RECOMMENDATION:**

Motion to:

"Approve Conditional Use Permit No. 06-26 with findings and suggested conditions of approval (Attachment No. 1)."

**ALTERNATIVE ACTION(S):**

The Planning Commission may take alternative actions such as:

- A. "Approve Conditional Use Permit No. 06-26 with findings and modified conditions of approval."
- B. "Deny Conditional Use Permit No. 06-26 with findings for denial."
- C. "Continue Conditional Use Permit No. 06-26 and direct staff accordingly."

**Public Notification:**

Legal notice was published in the Huntington Beach/Fountain Valley Independent on March 15, 2007 and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), applicant, and interested parties.

As of March 20, 2007, staff has received one telephone call regarding the reconsideration action. The call was received from an AYSO Commissioner, who indicated opposition to the reconsideration. No other communication supporting or opposing the request has been received.

**ANALYSIS:**

This analysis considers only the issue which constitutes the reason for the reconsideration request; the condition of approval requiring the 42-inch tall chain-link fence. Please refer to the February 27, 2007 staff report (Attachment No. 3) for a complete project description, background information and project analysis.

At the February 27, 2007 meeting, the Planning Commission discussed concerns related to the safety of the children who may be playing on the fields and the potential hazard represented by vehicles in the adjacent parking area. Based on this discussion, Condition of Approval No. 2(b) requiring the fence was adopted (see Attachment No. 2). The condition requires a fence extending from the front property line to the rear property line, along the edge of the playing field. In addition, the Planning Commission required that the fence include gates and openings for pedestrian and maintenance vehicle access.

Subsequent to the February 27, 2007 Planning Commission meeting, the applicant expressed objections to the requirement for the fence, based on assertions that the school/church does not use the playing fields and the easterly parking lot concurrently, the fence will inhibit emergency evacuation of the buildings, and the fence is not required by code. A letter indicating the specific objections to the fence requirement and outlining the school/church use of the parking lot and fields was submitted by the applicant on March 7, 2007, and is provided as Attachment No. 4.

Notwithstanding, staff believes that installation of safety fencing along the westerly boundary of a portion of the playing field, specifically the northerly 340 feet, is warranted and should be required as a condition of approval. The northerly 340 feet is the portion which is contiguous to the drive aisle and parking area. (See Attachment No. 3.14 – Site Plan). This recommendation considers that the applicant's project narrative states that the church/school provides after school sports and that school children use the playing field during recess and physical education classes. Although the applicant's March 7, 2007 letter indicates that the easterly parking lot will be gated, reserved for school staff, and will not experience vehicular traffic, use of the easterly parking lot by school staff does represent vehicular traffic which should be considered a potential hazard. It can be reasonably expected that school staff will generate vehicular traffic in the easterly parking lot at various times during the day coinciding with use of the field by school children.

Staff's believes however that a fence is not necessary along the southerly 300 feet of the playing field, since this area is contiguous to a paved area that will be used for overflow parking purposes only during special events; and that it is unlikely that those special events will coincide with use of the fields. The special events referenced include parent teacher nights, open houses and plays. Finally, staff believes that

openings may be provided in the fence, as originally required, as necessary to ensure that the fence will not inhibit emergency evacuation to the playing fields.

Attachment No. 5 indicates the field allocation schedules for use of Robinwood School by AYSO for Fall 2006 and Spring 2007. The schedule is provided for information purposes only and does not necessarily represent actual use of the field. It is the opinion of staff that the safety of AYSO participants is a matter for consideration by the Community Services Department/Commission and the Ocean View School District, and does not bear direct relation to Grace Lutheran's request.

Staff is recommending approval of the conditional use permit request, subject to the suggested findings and conditions of approval provided in Attachment 1. Attachment No. 1 includes all the conditions of approval approved by the Planning Commission at the February 27, 2007, with the exception that the condition requiring the chain-link fence (2b) has been modified to require the fence only along the northerly 340 feet of the playing field.

**ATTACHMENTS:**

1. Suggested Findings and Conditions of Approval – Conditional Use Permit No. 06-26
2. Planning Commission Notice of Action letter dated February 28, 2007
3. Planning Commission Staff Report dated February 27, 2007
4. Applicant's letter received and dated March 7, 2007
5. AYSO Field Allocation (for informational purposes only)

SH:HF:RS:cs

## **ATTACHMENT NO. 1**

### **SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL**

#### **CONDITIONAL USE PERMIT NO. 06-26**

##### **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 the operation of existing facilities and structures involving negligible additions and expansion of use are exempt from further environmental review.

##### **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:**

1. Conditional Use Permit No. 06-26 for the establishment, maintenance and operation of a K-8 School for up to 229 students; pre-school for up to 100 students; day care (before/after-school) for up to 150 children; church with Sunday morning worship services for up to 168 people; Sunday school (during worship) for up to 100 children; infant/toddler care for up to 20 children and four 24 ft. by 60 ft. portable classroom buildings on site will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed project represents use of existing facilities designed and intended for the primary use proposed (school). The proposed church use and additional classrooms represent only a minor expansion of the prior/historical use of the site. In addition, a traffic study has been prepared by a licensed professional traffic engineer and reviewed by City staff. The study concludes that no significant traffic impacts will result and adequate parking is provided on site to ensure no detrimental impacts to surrounding properties.
2. The conditional use permit will be compatible with surrounding uses because the proposed school, child care and church represent neighborhood-serving, institutional uses which support the needs of the community. The proposed uses will occupy existing facilities with a long standing presence in the community.
3. The proposed church/child care/school use 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 HBZSO permits private schools, child care and religious assembly uses in the PS zoning district with approval of a conditional use permit by the Planning Commission. No variances are proposed and the project will be required to provide additional landscaping within the front setback and block wall fencing along the residential property line, as necessary for compliance with current HBZSO development standards.
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 P(RL) (Public – Residential Low Density Underlying

Designation) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Objective LU 9.4: Provide for the inclusion of recreational, institutional, religious, educational and services uses that support resident needs within residential neighborhoods.

Objective LU 13.1: Provide for the continuation of existing and development of new uses, such as governmental administrative, public safety, human service, cultural, educational, infrastructure, religious, and other uses that support the needs of existing and future residents and businesses.

Policy LU 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 LU 7.1.1

Policy LU 13.1.2: Allow for the continuation of existing and development of new religious facilities in any land use zone where they are compatible with adjacent uses and subject to the city review and approval.

Policy LU 13.1.6: Encourage surplus schools and other public properties to be made available first for other public purposes, such as parks, open space, adult or child care, and secondarily for reuse for private purposes and/or other land uses and development.

B. Public Facilities and Public Services Element

Policy PF 4.3.1: Continue to encourage the operation of public services, such as elderly or child day care, at "closed" school sites

Policy PF 4.3.2: Investigate the feasibility of permitting and/or providing child or elderly day care services at public and private institutional facilities, such as churches, temples, other religious buildings, hospitals and schools.

Approval of the requested conditional use permit furthers the General Plan Objectives and Policies identified above by providing for the establishment of educational, religious, and child care uses that serve the surrounding neighborhoods. In addition, the project provides for the adaptive re-use of existing institutional facilities (a closed school site) for semi-public purposes, including child day care.

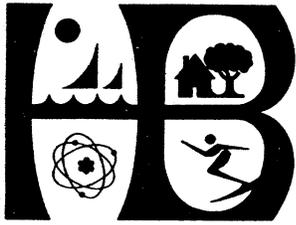
**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:**

1. The site plan, floor plans, and elevations received and dated January 12, 2007 shall be the conceptually approved design with the following modifications:
  - a. The portable classroom buildings shall be painted to match the existing classroom buildings. **(DRB)**
  - b. The portable classroom buildings shall be fitted with skirts. **(DRB)**
  - c. A semi-permanent landscape planter a minimum of three feet in width shall be installed in lieu of temporary planter boxes proposed along the north and east sides of the easterly most portable classroom building, adjacent to the parking lot. **(DRB)**

2. Prior to issuance of building permits for the portable classroom buildings, the following shall be completed:
  - a. A coordinated sign and pavement marking program shall be submitted for review by the Planning Department. The program shall include signs at the driveway entrances, sign(s) providing contact information for Grace Lutheran and AYSO, and sign(s) directing vehicles to the overflow parking area. **(Planning Commission)**
  - b. A 42-inch tall chain-link fence (or equivalent) shall be installed along the westerly side of the northerly 340 feet of the grass play fields. The fence shall include gates and/or openings for pedestrian and maintenance vehicle access to the fields. The precise design of the fence shall be subject to review and approval by the Planning Department. **(Planning Commission w/ Staff Modifications)**
3. The use shall comply with the following:
  - a. Only the uses described in the narrative received and dated February 15, 2007 shall be permitted.
  - b. The school/church shall encourage carpooling by providing incentives to parents of school children (e.g., discounts, gifts, etc.). A program to encourage carpooling shall be developed and submitted to the Planning Department for review and approval prior to installation of the portable classroom buildings.
  - c. The school/church shall explore opportunities to provide van/bus transportation options for students.
  - d. A maximum of three designated staff shall be permitted to park in the westerly parking lot. All other staff shall be required to park in the easterly parking lot. **(Planning Commission)**
  - e. Drop-off/ pick-up times for pre-school students and K-8 students shall be staggered by a minimum of 30 minutes respectively. Parents of school children and the Planning Department shall be provided written notice of the drop-off/ pick-up schedules and procedures.
  - f. The paved area at the southeast corner of the site shall be made available for overflow parking purposes as necessary for all school/church special events occurring on site. A plan showing proposed parking lot striping shall be submitted for review and approval by the Planning Department.

#### **INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

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



## Huntington Beach Planning Commission

P.O. BOX 190

CALIFORNIA 92648

### NOTICE OF ACTION

February 28, 2007

Phil Burtis  
17451 Duello Lane  
Huntington Beach, CA 92647

**SUBJECT:** CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL)

**APPLICANT:** Phil Burtis, 17451 Duello Lane, Huntington Beach, CA 92647

**REQUEST:** To permit a K-8 school for up to 229 students, pre-school for up to 100 students, day care (before/after-school) for up to 150 children, church services for up to 168 people, Sunday school for up to 100 children, infant/toddler care for up to 20 children and the addition of four 24 ft. by 60 ft. modular classroom buildings at an existing closed school site.

**PROPERTY**

**OWNER:** Ocean View School District, c/o Scott Stark, 17200 Pinehurst Lane, Huntington Beach, CA 92647

**LOCATION:** 5172 McFadden Ave. (south side of McFadden Ave., east of Bolsa Chica St.)

**DATE OF ACTION:** February 27, 2007

On Tuesday, February 27, 2007, the Huntington Beach Planning Commission took action on your application, and your application was **conditionally approved** with findings. Attached to this letter are the findings and conditions of approval.

Please be advised that the Planning Commission reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand, Five Hundred Forty-One Dollars (\$1,541.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and Two

ATTACHMENT NO. 2.1

Thousand Three Hundred Seventy-Nine Dollars (\$2,379.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is **MARCH 9, 2007**.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has started.

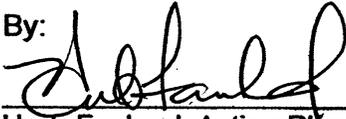
"Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020."

If you have any questions, please contact Ron Santos, Associate Planner, at (714) 536-5561 or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Scott Hess, Secretary  
Planning Commission

By:



Herb Fauland, Acting Planning Manager

SH:HF:RS:cs

Attachments: (1) Findings and Conditions of Approval – CUP No. 06-26

c: Honorable Mayor and City Council  
Chair and Planning Commission  
Paul Emery, Deputy City Administrator  
Scott Hess, Acting Director of Planning  
Eric Engberg, Division Chief/Fire Marshal  
Terri Elliott, Principal Civil Engineer  
Gerald Caraig, Permit-Plan Check Manager  
Property Owner  
Project File

## **FINDINGS AND CONDITIONS OF APPROVAL**

### **CONDITIONAL USE PERMIT NO. 06-26**

#### **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 the operation of existing facilities and structures involving negligible additions and expansion of use are exempt from further environmental review.

#### **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:**

1. Conditional Use Permit No. 06-26 for the establishment, maintenance and operation of a K-8 School for up to 229 students; pre-school for up to 100 students; day care (before/after-school) for up to 150 children; church with Sunday morning worship services for up to 168 people; Sunday school (during worship) for up to 100 children; infant/toddler care for up to 20 children and four 24 ft. by 60 ft. portable classroom buildings on site will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed project represents use of existing facilities designed and intended for the primary use proposed (school). The proposed church use and additional classrooms represent only a minor expansion of the prior/historical use of the site. In addition, a traffic study has been prepared by a licensed professional traffic engineer and reviewed by City staff. The study concludes that no significant traffic impacts will result and adequate parking is provided on site to ensure no detrimental impacts to surrounding properties.
2. The conditional use permit will be compatible with surrounding uses because the proposed school, child care and church represent neighborhood-serving, institutional uses which support the needs of the community. The proposed uses will occupy existing facilities with a long standing presence in the community.
3. The proposed church/child care/school use 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 HBZSO permits private schools, child care and religious assembly uses in the PS zoning district with approval of a conditional use permit by the Planning Commission. No variances are proposed and the project will be required to provide additional landscaping within the front setback and block wall fencing along the residential property line, as necessary for compliance with current HBZSO development standards.
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 P(RL) (Public – Residential Low Density Underlying Designation) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Objective LU 9.4: Provide for the inclusion of recreational, institutional, religious, educational and services uses that support resident needs within residential neighborhoods.

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Policy PF 4.3.2: Investigate the feasibility of permitting and/or providing child or elderly day care services at public and private institutional facilities, such as churches, temples, other religious buildings, hospitals and schools.

Approval of the requested conditional use permit furthers the General Plan Objectives and Policies identified above by providing for the establishment of educational, religious, and child care uses that serve the surrounding neighborhoods. In addition, the project provides for the adaptive re-use of existing institutional facilities (a closed school site) for semi-public purposes, including child day care.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:**

1. The site plan, floor plans, and elevations received and dated January 12, 2007 shall be the conceptually approved design with the following modifications:
  - a. The portable classroom buildings shall be painted to match the existing classroom buildings. **(DRB)**
  - b. The portable classroom buildings shall be fitted with skirts. **(DRB)**
  - c. A semi-permanent landscape planter a minimum of three feet in width shall be installed in lieu of temporary planter boxes proposed along the north and east sides of the easterly most portable classroom building, adjacent to the parking lot. **(DRB)**
2. Prior to issuance of building permits for the portable classroom buildings, the following shall be completed:
  - a. A coordinated sign and pavement marking program shall be submitted for review by the Planning Department. The program shall include signs at the driveway entrances, sign(s) providing contact information for Grace Lutheran and AYSO, and sign(s) directing vehicles to the overflow parking area.
  - b. A 42-inch tall chain-link fence (or equivalent) shall be installed along the westerly side of the grass play fields. The fence shall include gates and/or openings for pedestrian and maintenance vehicle access to the fields. The precise design of the fence shall be subject to review and approval by the Planning Department.
3. The use shall comply with the following:
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  - c. The school/church shall explore opportunities to provide van/bus transportation options for students.
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  - e. Drop-off/ pick-up times for pre-school students and K-8 students shall be staggered by a minimum of 30 minutes respectively. Parents of school children and the Planning Department shall be provided written notice of the drop-off/ pick-up schedules and procedures.
  - f. The paved area at the southeast corner of the site shall be made available for overflow parking purposes as necessary for all school/church special events occurring on site. A plan showing proposed parking lot striping shall be submitted for review and approval by the Planning Department.

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

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



City of Huntington Beach Planning Department

**STAFF REPORT**

**TO:** Planning Commission  
**FROM:** Scott Hess, Acting Director of Planning  
**BY:** Ron Santos, Associate Planner *RS*  
**DATE:** February 27, 2007

**SUBJECT: CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL)**

**APPLICANT:** Phil Burtis, 17451 Duello Lane, Huntington Beach, CA 92647

**PROPERTY**

**OWNER:** Ocean View School District, c/o Scott Stark, 17200 Pinehurst Lane, Huntington Beach, CA 92647

**LOCATION:** 5172 Mc Fadden Avenue (south side of Mc Fadden Ave., east of Bolsa Chica St.)

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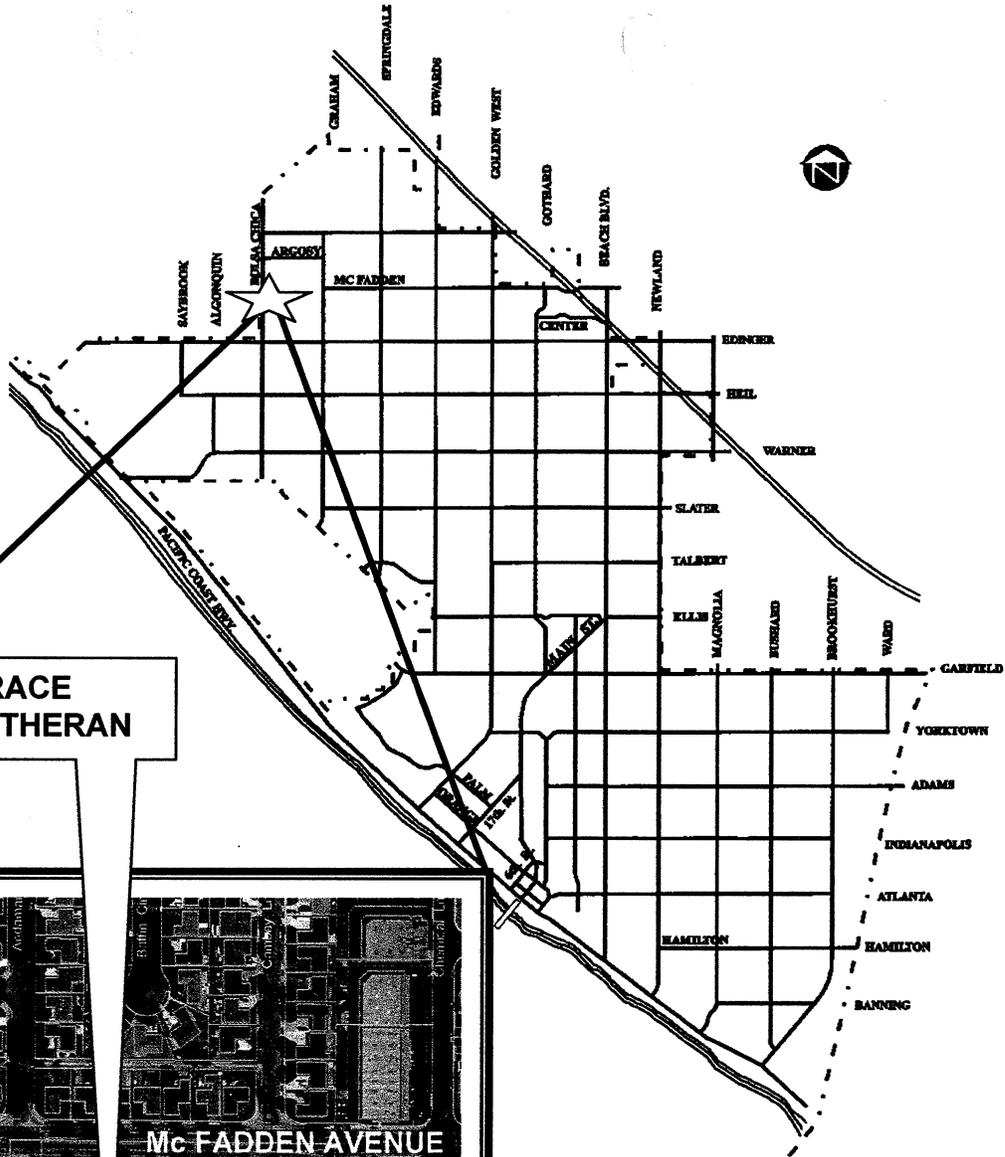
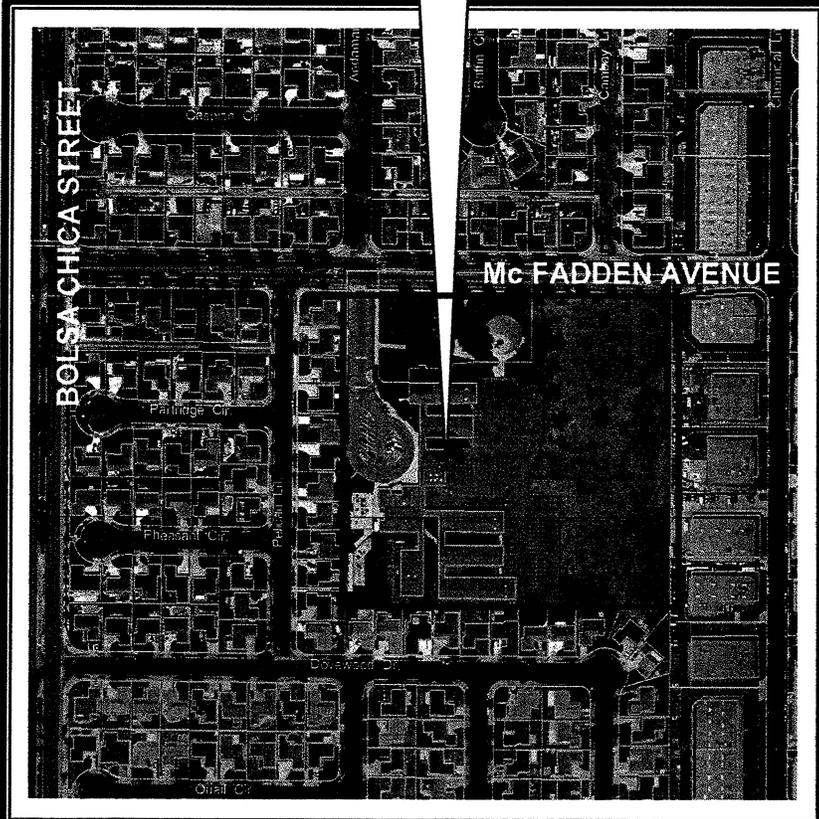
**STATEMENT OF ISSUE:**

- ◆ Conditional Use Permit No. 06-26 request:
  - To establish a private school, child care, and religious assembly use at a former public school site (Robinwood School).
  - Addition of four portable classroom buildings.
  
- ◆ Staff's Recommendation: Approve Conditional Use Permit No. 06-26 with modifications based upon the following:
  - The project will not generate adverse impacts.
  - Approval of the requested conditional use permit provides for the establishment of educational, religious, and child care uses that serve the surrounding community.
  - The project provides for the adaptive re-use of existing institutional facilities (a closed school site) for semi-public purposes.
  - The proposed use is consistent with the prior historical use of the site.
  
- ◆ Staff's Suggested Modifications:  
Conditional Use Permit No. 06-26
  - Proposed portable classroom buildings shall be painted to match the existing classroom buildings.
  - Proposed portable classroom buildings shall be fitted with skirts.
  - A semi-permanent landscape planter a minimum of three feet in width shall be installed, in lieu of proposed temporary planter boxes, along the north and east sides of the easterly-most portable classroom building, adjacent to the parking lot.

B-1

**ATTACHMENT NO. 3.1**

GRACE LUTHERAN



**VICINITY MAP**  
**CONDITIONAL USE PERMIT NO. 06-26**  
**(GRACE LUTHERAN CHURCH/SCHOOL – 5172 Mc FADDEN AVENUE)**

**RECOMMENDATION:**

Motion to:

“Approve Conditional Use Permit No. 06-26 with findings and suggested conditions of approval (Attachment Nos. 1 and 2).”

**ALTERNATIVE ACTION(S):**

The Planning Commission may take alternative actions such as:

- A. “Deny Conditional Use Permit No. 06-26 with findings for denial.”
- B. “Continue Conditional Use Permit No. 06-26 and direct staff accordingly.”

**PROJECT PROPOSAL:**

Conditional Use Permit No. 06-26 represents a request for the following:

To permit the following uses at a former public school site (Robinwood School), pursuant to Section 214.06, PS District: Land Use Controls, Public and Semipublic Uses, Private Schools, Day Care General and Religious Assembly:

- K-8 School for up to 229 students;
- Pre-School for up to 100 students;
- Day Care (before/after-school) for up to 150 children;
- Religious Assembly with Sunday morning worship services for up to 168 people;
- Sunday School (during worship) for up to 100 children; and
- Infant/Toddler Care for up to 20 children.

In addition, the applicant is requesting approval to install four 24 ft. by 60 ft. portable classroom buildings on site. Each of the portable buildings contains two classrooms. No other site improvements are proposed.

Proposed school hours are 8:15 a.m. to 2:45 p.m., from September through mid-June. Church services would be provided on Sunday only, 9:30 a.m. to approximately 11:00 a.m. Daycare services would be provided 6:30 a.m. to 6:00 p.m., Monday through Friday. In addition, the school plans three to four parent-teacher nights per year (7:00 p.m. to 8:00 p.m.), two to three open house events per year (9:00 a.m. to 2:00 p.m.) and three to four plays or special events per year (6:00 p.m. to 8:00 p.m.).

Grace Lutheran previously operated a school at Haven View School and is proposing to relocate their operations from that site. The applicant has indicated that, because Robinwood School is completely fenced and has a multi-use/cafeteria room, the site is better suited to accommodate their use. The multi-use room (Building #8 on the site plan) will be used for church services as well as school assemblies. The other existing buildings on the site include six classroom buildings and an administrative building. The site also provides grass play fields and a pre-school play yard.

**Background:**

According to the Ocean View School District, Robinwood School was originally constructed to accommodate 600 students. The public school closed in 1980 and was subsequently occupied by Coastline Community College from 1992 to January 2006. Grace Lutheran is now occupying the site, in advance of their required entitlements. The City has not received complaints regarding their current operations and code enforcement action has been stayed pending completion of the entitlement processing.

**ISSUES:**

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

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	P(RL) (Public – Residential Low Density Underlying Designation)	PS (Public-Semipublic)	Closed Public School Site (formerly Robinwood School)
North of Subject Property (across Mc Fadden):	RL-7 (Residential Low Density – Max. 7 units/acre)	RL (Residential Low Density)	Single-Family Residential
East of Subject Property:	I-F2-d (Industrial – 0.5 max. Floor Area Ratio – Design Overlay)	IL (Industrial Limited)	Industrial
South of Subject Property:	RL-7	RL	Single-Family Residential
West of Subject Property:	RL-7	RL	Single-Family Residential

**General Plan Conformance:**

The General Plan Land Use Map designation on the subject property is P(RL) (Public – Residential Low Density Underlying Designation). The proposed project is consistent with this designation and the goals and objectives of the City’s General Plan as follows:

A. Land Use Element

Objective LU 9.4: Provide for the inclusion of recreational, institutional, religious, educational and services uses that support resident needs within residential neighborhoods.

Objective LU 13.1: Provide for the continuation of existing and development of new uses, such as governmental administrative, public safety, human service, cultural, educational, infrastructure, religious, and other uses that support the needs of existing and future residents and businesses.

Policy LU 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 LU 7.1.1.

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Approval of the requested conditional use permit furthers the General Plan Objectives and Policies identified above by providing for the establishment of educational, religious, and child care uses that serve the surrounding neighborhoods. In addition, the project provides for the adaptive re-use of existing institutional facilities (a closed school site) for semi-public purposes, including child day care.

**Zoning Compliance:**

The proposed project is located in the PS (Public-Semipublic) zone. The proposed change from the prior/historical public school use of the project site to a private school, child care, and religious assembly use renders the property subject to current City of Huntington Beach Zoning and Subdivision Ordinance (HBZSO) requirements.

The existing site is non-conforming to certain HBZSO development standards: specifically parking lot drive aisle widths, parking lot landscaping, fencing adjacent to residential properties and landscaping along the street frontage. However, the degree of non-conformance is minimal.

With respect to the parking areas, the HBZSO provides for existing non-conforming parking areas that were approved at a reduced dimension to remain (HBZSO Sec. 231.26(F)). In addition, the Fire Department has determined that the existing site conditions provide adequate access for emergency services.

The HBZSO requires six foot tall block wall fencing at the residential property line to the west (in replacement of existing chain-link fencing along three parcels), and a ten foot landscape setback along Mc Fadden Avenue (adjacent to the westerly driveway). These code requirements are identified in a list previously provided to the applicant and is attached (Attachment No. 5) for informational purposes only.

The following table identifies parking requirements for the proposed land uses, pursuant to Section 231.04 – Off-Street Parking and Loading Spaces Required, of the HBZSO. The table indicates that a 30 space parking surplus would be provided on site.

LAND USE	REQUIRED PARKING RATIO	PROJECT REQ'T
Religious Assembly:	1 space per 35 sq. ft. of assembly area	3,060 sq. ft. = 88 spaces*
Elementary School:	1.5 spaces per classroom	20 classrooms = 30 spaces
Pre-School:	1 space per staff, plus 1 per classroom	14 staff/6 classrooms = 20 spaces
Day Care:	1 space per staff, plus 1 per classroom	2 staff/ 9 classrooms = 11 spaces
<b>TOTAL:</b>	<b>PROPOSED: 118 spaces</b>	<b>REQUIRED: 88 spaces*</b>

\* Total required parking is based on the use generating the greatest concurrent parking demand.

**Urban Design Guidelines Conformance:**

The Urban Design Guidelines do not address school sites or include recommendations applicable to the proposed portable classroom buildings.

**Environmental Status:**

The proposed project is Categorically Exempt pursuant to Section 15301, Class 1 of the California Environmental Quality Act, which states that the operation of existing facilities and structures involving negligible additions and expansion of use are exempt from further environmental review.

**Coastal Status:** Not applicable.

**Redevelopment Status:** Not applicable.

**Design Review Board:**

The Design Review Board (DRB) reviewed the project on February 8, 2007 and recommended the following modifications:

- a. The portable classroom buildings shall be painted to match the existing classroom buildings.
- b. The portable classroom buildings shall be fitted with skirts.
- c. A semi-permanent landscape planter a minimum of three feet in width shall be installed in lieu of temporary planter boxes proposed along the north and east sides of the easterly most portable classroom building, adjacent to the parking lot.

Staff concurs with the DRB and has incorporated their recommendations into the Suggested Conditions of Approval (Attachment No. 1).

**Other Departments Concerns and Requirements:**

The Departments of Building and Safety, Community Services, Fire, Police and Public Works have reviewed the proposed project and identified applicable code requirements (Attachment No. 5). The Police Department also recommends the following conditions of approval (Attachment No. 2):

- The existing driveway is not clearly marked as a main entrance. Use clear signage and a pavement treatment at the driveway entrances, thus clearly designating the property as semi-private space.
- Building number eight, the multi-purpose room, should have windows facing the driveway/parking and office area. This would allow users of this room to passively observe the entrance and parking area.
- The multi-purpose room and the backs of the preschool classrooms create a walkway between them. There are limited surveillance opportunities into this walkway, which make it vulnerable for undesirable activity. The preschool buildings should have windows on the north side of the buildings as well as the south.

**Public Notification:**

Legal notice was published in the Huntington Beach/Fountain Valley Independent on February 15, 2007 and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), applicant, and interested parties.

The applicant also held a community meeting at the project site on February 12, 2007. Invitations were mailed to property owners and tenants within a 500 foot radius of the project site, members of the City Council and Planning Commission. The meeting was attended by three members of the public. The attendees asked few questions of the applicant and did not indicate opposition to the proposed project.

As of February 20, 2007, no communication supporting or opposing the request has been received.

**Application Processing Dates:**

<b><u>DATE OF COMPLETE APPLICATION:</u></b>	<b><u>MANDATORY PROCESSING DATE(S):</u></b>
Conditional Use Permit: January 23, 2007	March 26, 2007

**ANALYSIS:**

**Land Use Compatibility**

The project presents minimal planning issues because the proposed use of the site is consistent with the historical use, with the exception of the added church functions and the minor expansion represented by the four modular buildings. The conditional use permit will be compatible with surrounding uses because the proposed school and church represents a neighborhood-serving, institutional use which supports the needs of the community.

**Traffic**

The applicant submitted a traffic study prepared by RK Engineering Group, Inc., which analyzed the project's potential traffic and parking impacts, including those associated with the proposed Sunday church services. The study concludes that the project will not generate significant impacts, but includes the following recommendations to improve operations at the site:

- The school/church shall encourage carpooling by providing incentives to parents of school children (e.g., discounts, gifts, etc.). A program to encourage carpooling shall be developed and submitted to the Planning Department for review and approval prior to installation of the portable classroom buildings.
- The school/church shall explore opportunities to provide van/bus transportation options for students.
- All staff shall be required to park in the easterly parking lot.
- Drop-off/pick-up times for pre-school students and K-8 students shall be staggered by a minimum of 30 minutes respectively. Parents of school children and the Planning Department shall be provided written notice of the drop-off/pick-up schedules and procedures..
- The paved area at the southeast corner of the site shall be made available for overflow parking purposes as necessary for all school/church special events occurring on site.

The above recommendations represent sound operating practices for the type of use proposed and are consistent with requirements imposed on similar projects approved by the City, including the Huntington Christian School at 9700 Levee Drive. Moreover, staff has observed that the drop-off/pick-up events as they are currently occurring at the site (parents park in the drive aisle of the westerly parking lot while waiting for their child) impede circulation in the parking lot and represents a less than ideal condition. Accordingly, staff recommends that the suggestions from the traffic study described above be made conditions of approval.

At the February 15, 2007 Planning Commission study session on this item, the Planning Commission requested that staff address the following issues as part of this report:

**Parking for Planned Special Events**

The applicant's project narrative indicates that the school intends to hold several special events throughout the year, including plays/shows for up to 250 people. In addition, the American Youth Soccer Organization (AYSO) uses the grass play fields on the site via prior arrangement with the school district.

The Planning Commission requested that staff analyze the adequacy of on-site parking to accommodate these events. As noted above, the project site provides 118 parking spaces. The resulting ratio of persons to parking spaces during these special events is 2.1; meaning that if the average occupancy of vehicles parking at the site for the special event is a minimum of 2.1 people, adequate parking would provided. Because the attendees at such events may be assumed to consist primarily of children and their parent(s)/family members, a 2.1 to 1 occupant/vehicle ratio should be considered a conservative estimate. Therefore, staff anticipates that adequate parking will be available.

Notwithstanding, the project site includes a paved blacktop area, south of the easterly parking lot which could be used to accommodate any overflow parking needs. The applicant's project narrative indicates that the school/church intends to utilize this space for parking as necessary; and as noted above, staff recommends that this be made a condition of approval. On-street parking is also available along Mc Fadden Avenue in front of the project site.

With respect to parking needed to accommodate AYSO's use of the site, the applicant's narrative states that AYSO is provided keys to the gate at the easterly parking lot. Use of this parking lot will provide for their long-standing and continued use of the school fields.

**Parking for Robinwood Park**

The City's agreement with the Oceanview School District for use of a separately fenced portion of the site (2 acres) as a public park does not include provision for off-street parking. Moreover, staff does not believe that there is a nexus between the proposed use of the existing school site and public parking for use of Robinwood Park. Notwithstanding, Robinwood is a neighborhood park generally serving the surrounding residents. Available on-street parking is ordinarily adequate to support public use of the park. It should also be noted that there are numerous parks throughout the City of comparable size and larger which provide no off-street public parking (e.g., Lake Park – 5 acres; Manning Park – 2.5 acres, Langenbeck Park – 18 acres).

**Fence Along Easterly Property Line**

The Planning Commission requested that staff report on the condition of the block wall located along the project site's easterly property line. Staff has confirmed that the wall is in a state of disrepair. However, the applicant has advised that the wall is not located on school property. The City has active code enforcement cases regarding the wall, based on prior complaints, but has had difficulty in gaining compliance – in part, because of the numerous industrial property owners involved. The school district has erected a chain-link fence adjacent to the block wall to ensure the safety of the school children.

Staff recommends approval of the request based on findings that the proposed use is compatible with surrounding properties, will not generate detrimental impacts and furthers the goals and policies of the General Plan, as outlined in this report.

**ATTACHMENTS:**

1. Suggested Findings and Conditions of Approval – Conditional Use Permit No. 06-26
2. Suggested Conditions of Approval – Police Department memo dated December 20, 2006
3. Site Plan, Floor Plans and Elevations received and dated January 12, 2007
4. Project Narrative received and dated February 15, 2007
5. Code Requirements Dated February 1, 2007 (for informational purposes only)

SH:HF:RS:cs

## **ATTACHMENT NO. 1**

### **SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL**

#### **CONDITIONAL USE PERMIT NO. 06-26**

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

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

##### **SUGGESTED FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:**

1. Conditional Use Permit No. 06-26 for the establishment, maintenance and operation of a K-8 School for up to 229 students; pre-school for up to 100 students; day care (before/after-school) for up to 150 children; church with Sunday morning worship services for up to 168 people; Sunday school (during worship) for up to 100 children; infant/toddler care for up to 20 children and four 24 ft. by 60 ft. portable classroom buildings on site will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed project represents use of existing facilities designed and intended for the primary use proposed (school). The proposed church use and additional classrooms represent only a minor expansion of the prior/historical use of the site. In addition, a traffic study has been prepared by a licensed professional traffic engineer and reviewed by City staff. The study concludes that no significant traffic impacts will result and adequate parking is provided on site to ensure no detrimental impacts to surrounding properties.
2. The conditional use permit will be compatible with surrounding uses because the proposed school, child care and church represent neighborhood-serving, institutional uses which support the needs of the community. The proposed uses will occupy existing facilities with a long standing presence in the community.
3. The proposed church/child care/school use 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 HBZSO permits private schools, child care and religious assembly uses in the PS zoning district with approval of a conditional use permit by the Planning Commission. No variances are proposed and the project will be required to provide additional landscaping within the front setback and block wall fencing along the residential property line, as necessary for compliance with current HBZSO development standards.

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 P(RL) (Public – Residential Low Density Underlying Designation) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Objective LU 9.4: Provide for the inclusion of recreational, institutional, religious, educational and services uses that support resident needs within residential neighborhoods.

Objective LU 13.1: Provide for the continuation of existing and development of new uses, such as governmental administrative, public safety, human service, cultural, educational, infrastructure, religious, and other uses that support the needs of existing and future residents and businesses.

Policy LU 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 LU 7.1.1

Policy LU 13.1.2: Allow for the continuation of existing and development of new religious facilities in any land use zone where they are compatible with adjacent uses and subject to the city review and approval.

Policy LU 13.1.6: Encourage surplus schools and other public properties to be made available first for other public purposes, such as parks, open space, adult or child care, and secondarily for reuse for private purposes and/or other land uses and development.

B. Public Facilities and Public Services Element

Policy PF 4.3.1: Continue to encourage the operation of public services, such as elderly or child day care, at “closed” school sites

Policy PF 4.3.2: Investigate the feasibility of permitting and/or providing child or elderly day care services at public and private institutional facilities, such as churches, temples, other religious buildings, hospitals and schools.

Approval of the requested conditional use permit furthers the General Plan Objectives and Policies identified above by providing for the establishment of educational, religious, and child care uses that serve the surrounding neighborhoods. In addition, the project provides for the adaptive re-use of existing institutional facilities (a closed school site) for semi-public purposes, including child day care.

**SUGGESTED CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:**

1. The site plan, floor plans, and elevations received and dated January 12, 2007 shall be the conceptually approved design with the following modifications:
  - a. The portable classroom buildings shall be painted to match the existing classroom buildings. **(DRB)**
  - b. The portable classroom buildings shall be fitted with skirts. **(DRB)**
  - c. A semi-permanent landscape planter a minimum of three feet in width shall be installed in lieu of temporary planter boxes proposed along the north and east sides of the easterly most portable classroom building, adjacent to the parking lot. **(DRB)**
2. The use shall comply with the following:
  - a. Only the uses described in the narrative received and dated February 15, 2007 shall be permitted.
  - b. The school/church shall encourage carpooling by providing incentives to parents of school children (e.g., discounts, gifts, etc.). A program to encourage carpooling shall be developed and submitted to the Planning Department for review and approval prior to installation of the portable classroom buildings.
  - c. The school/church shall explore opportunities to provide van/bus transportation options for students.
  - d. All staff shall be required to park in the easterly parking lot.
  - e. Drop-off/ pick-up times for pre-school students and K-8 students shall be staggered by a minimum of 30 minutes respectively. Parents of school children and the Planning Department shall be provided written notice of the drop-off/ pick-up schedules and procedures.
  - f. The paved area at the southeast corner of the site shall be made available for overflow parking purposes as necessary for all school/church special events occurring on site.

**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.

# POLICE DEPARTMENT

## SUGGESTED CONDITIONS OF APPROVAL

### CONDITIONAL USE PERMIT NO. 06-26

c/o Starling Thomas Concepts  
Jan Thomas  
PO Box 2201  
Mission Viejo, CA 92690-0201  
(949) 348-8186

---

DATE: December 20, 2006  
PROJECT: Grace Lutheran Church and School  
LOCATION OF PROJECT: 5172 McFadden Ave.  
STC REFERENCE NUMBER: STC06-112

1. The existing driveway is not clearly marked as a main entrance. Use clear signage and a pavement treatment at the driveway entrances, thus clearly designating the property as semi-private space.
2. Building number eight, the multi-purpose room, should have windows facing the driveway/parking and office area. This would allow users of this room to passively observe the entrance and parking area.
3. The multi-purpose room and the backs of the preschool classrooms create a walkway between them. There are limited surveillance opportunities into this walkway, which make it vulnerable for undesirable activity. The preschool buildings should have windows on the north side of the buildings as well as the south.



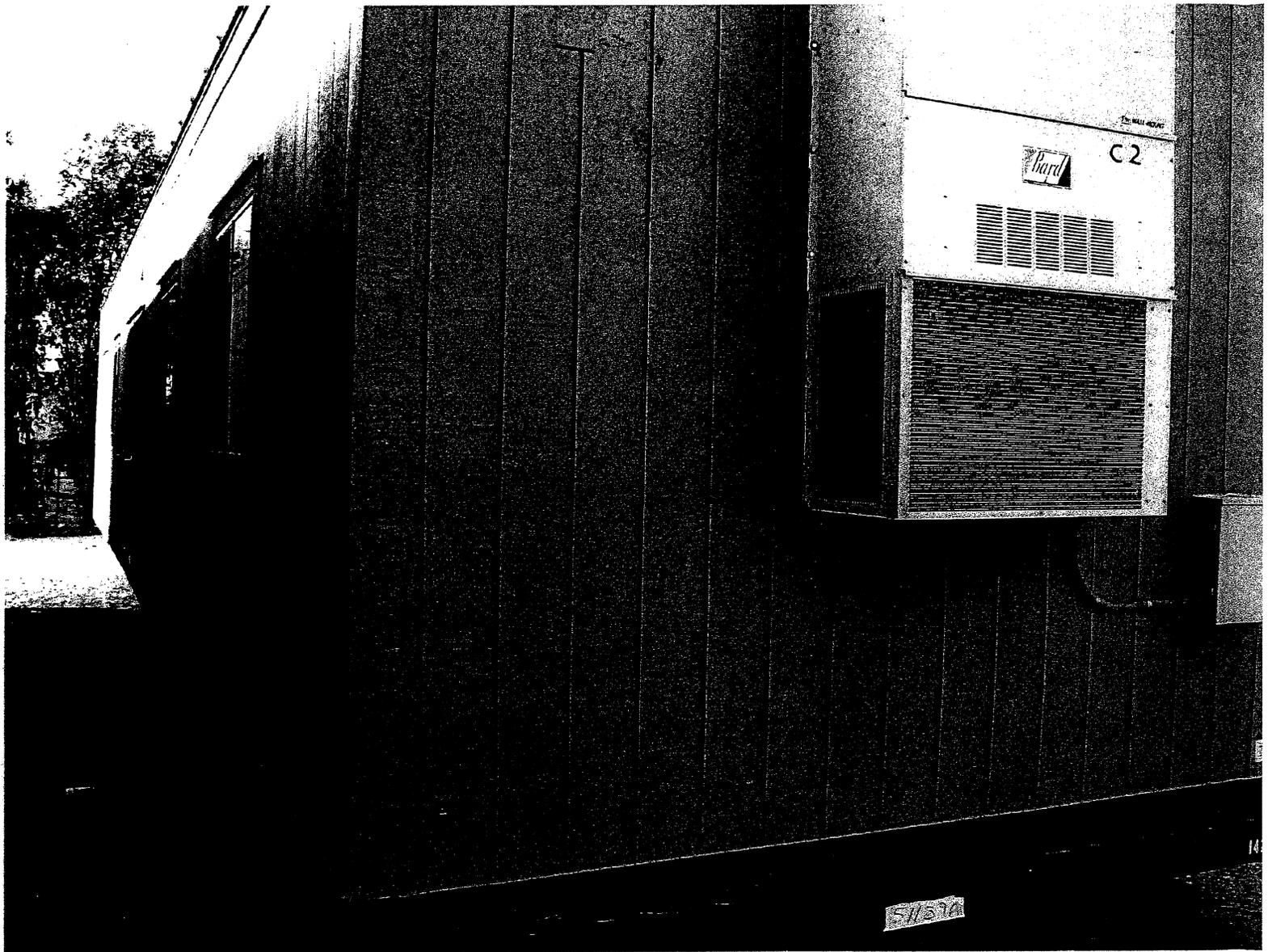




ATTACHMENT NO. 3.16



ATTACHMENT NO. 3.17



ATTACHMENT NO. 3.18



**PROPERTY OWNER:**

Ocean View School District  
17200 Pinehurst Lane  
Huntington Beach, CA 92647

**PROPERTY LEASEE:**

Grace Lutheran Church  
6931 Edinger Avenue  
Huntington Beach, CA 92647

**LOCATION:**

5172 McFadden Street  
Huntington Beach, CA 92647

**BACKGROUND:**

Grace Lutheran Church has operated an Elementary, Junior High School, and Preschool at the Haven View School site owned by the Ocean View School District for 10 years. This usage was approved under CUP 95-40. In 2005, the School District indicated that the Robinwood School site was coming available and that Grace might prefer that site. The Robinwood site is totally fenced and had a multiuse cafeteria/room, which were not available at the Haven View site. Following the public bidding process, Grace was awarded a five year lease for the Robinwood site. Grace then returned the Haven View site to the Ocean View School District. Prior to being occupied by Grace, Robinwood was occupied by Coastline Community College, who subleased the multiuse room to a church.

**CONDITIONAL USE PERMIT USAGES:**

The following CUP approval is requested for the program at the Robinwood School site.

1. Elementary & Junior High School for up to 229 students
2. Preschool for up to 100 students
3. Before and after school day care for up to 150 students from 6:30 A.M. to 6:00 P.M., for grade school students Monday through Friday (12 month program)
4. Sunday morning worship for 168 people
5. Sunday school during worship for up to 100 children

City of Huntington Beach

FEB 15 2007

ATTACHMENT NO. 3.19

245 FISCHER AVENUE, SUITE B-2, COSTA MESA, CALIFORNIA 92626

T: 714-556-5774 • F: 714-556-1572 • W: IRWIN-PANCAKE.COM

***AYSO SOCCER PROGRAM:***

The playgrounds have been improved by the City of Huntington Beach as part of an agreement between AYSO and the Ocean View School District for use of the grass area and parking. Grace will honor that agreement. Grace has been in joint usage with AYSO at the Haven View site. AYSO has a key to the east parking lot for their usage.

***PUBLIC PARK:***

The existing public park at the front of the site shall remain. The School and Church operations shall not interfere with the park. The public will have access to unused parking adjacent to the park.

***ADJACENT PROPERTY USE:***

North, West and South – Single Family Residential Homes  
East – Industrial

***POPULATION SERVED:***

Families of residents of Robinwood and Huntington Beach

***HAZARDOUS WASTE AND SUBSTANCE:***

This site is not located within a Hazardous Waste and Substance Site.

***SPECIAL EVENT PARKING:***

If necessary will be provided on the paved playground area.

***EAST PROPERTY LINE FENCE:***

The precast concrete fence that is in disrepair is not on the school property. Ocean View School District has requested that the owners repair their fence. No repair work has been completed. Ocean View School District has installed a 3' chain link fence to protect students from the wall.



Carl Irwin, AIA C4525

The following information is provided for the Grace School activities at the Robinwood school site at 5172 McFadden.

1 School operating dates:

- o The school operates roughly from September through mid-June yearly
- o Rec club is additionally available June through August

1 School weekday operating hours are 8:15 AM until 2:45 PM with additional items of:

- |                                |                 |              |
|--------------------------------|-----------------|--------------|
| o Rec club opens before school | 6:30 – 7:45 AM  | 25 students  |
| o Band starts before school    | 7:00 – 7:15 AM  | 35 students  |
| o After school pickup          | 2:45 – 3:15 PM  | 200 students |
| o After school sports          | 3:00 – 5:00 PM  | 50 students  |
| o Morning recess               | 9:30 – 10:30 AM | (3x20 min)   |
| o Lunch Period 1               | 11:30– 12:30 PM |              |
| o Lunch Period 2               | 12:00 – 1:00 PM |              |

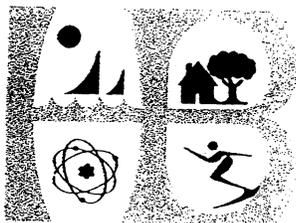
2 Non-School functions:

- |  |                   |            |
|--|-------------------|------------|
| o Parent-teacher nights (3 - 4 per year) | 7:00 – 8:00 PM    | 40 people  |
| o Open houses (2 – 3 per year)           | 9:00 AM – 2:00 PM | 150 people |
| o Plays/shows/events (3-4 per year)      | 6:00 – 8:00 PM    | 250 people |

City of Huntington Beach

RECEIVED FEB 15 2006

ATTACHMENT NO. 321



# City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

## DEPARTMENT OF PLANNING

Phone 536-5271  
Fax 374-1540

February 1, 2007

Phil Burtis  
17451 Duello Lane  
Huntington Beach, CA 92647

**SUBJECT: CONDITIONAL USE PERMIT NO. 06-026 (GRACE LUTHERAN CHURCH/  
SCHOOL) – PROJECT IMPLEMENTATION CODE REQUIREMENTS  
5172 Mc FADDEN AVENUE, HUNTINGTON BEACH**

Dear Mr. Burtis:

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

It should be noted that this requirement list is in addition to any "conditions of approval" adopted by the Planning Commission. Please note that if the design of your project changes or if site conditions change, the list may also change.

The attached project implementation code requirements may be appealed to the Planning Commission as a matter separate from the associated entitlement(s) within ten calendar days of the approval of the project pursuant to the Huntington Beach Zoning and Subdivision Ordinance Section 248.24. The appeal fee is \$494.00.

If you would like a clarification of any of these requirements, an explanation of the Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes, or believe some of the items listed do not apply to your project, and/or you would like to discuss them in further detail, please contact me at (714) 536-5561 and/or the respective source department (contact person below).

Sincerely,

RON SANTOS  
Associate Planner

Enclosure

cc: Gerald Caraig, Building and Safety Department – 714-374-1575  
Lee Caldwell, Fire Department – 714-536-5564 Steve Bogart, Public Works – 714-536-5580  
Herb Fauland, Principal Planner Jason Kelley, Planning Department  
Ocean View School District c/o Scott Stark  
17200 Pinehurst Lane  
Huntington Beach, CA 92647

ATTACHMENT NO. 3.22



**CITY OF HUNTINGTON BEACH**  
**DEPARTMENT OF BUILDING & SAFETY**

**INTER-DEPARTMENT COMMUNICATION**

TO: APPLICANT  
VIA: EMAIL 12-11-06  
(PDF)

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**From:** Eric Haghani                      **Extension:** 1589  
**To:** Ron Santos                              **Dated:** 12/6/06

**Project Location:** 5172 McFadden  
**Comments for:** Grace Lutheran Church/School

**Application No.:** 2006-0157                      **File No.:**

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The following are comments to the file (petition) identified above. This list is not a plan check correction list. General information is provided to help facilitate the development by giving you up front information on building code issues, City policies, and other codes or laws as they apply to your project. Please review the comments below before you submit for plan check.

If you incorporated the information below, you must next submit for plan check of structural and building code requirements. You may obtain all required forms and information for plan check review and permit applications on the 3<sup>rd</sup> floor of City Hall.

The approval of plans and specifications does not permit the violation of any section of the Building Code, or other local ordinance or state law.

Please include the following issues in the design of your project to reduce plan check corrections and improve turn around time.

**I. Special Conditions:**

The following items need to be made apart of the Conditions of Approval for this project for plan check submittal documents:

- None

**II. Code Issues:**

1. Plans are incomplete.
2. Prior to the issuance of the building permit, the plans and building permit application shall specify the groups of occupancy, types of construction, floor area's square footage, along with all other relevant information.
3. Plan submittal documents must include "Conditions of Approval".

City of Huntington Beach

4. Certificate of Occupancy required for this project.
5. Contact Fire Department for possible Methane Barrier requirements.
6. Plans must be prepared and stamped and wet signed by a California licensed Architect and/or Engineer.

**Change of Use (Church Assembly Space):**

7. Any alterations to the interior will require a building permit. New certificate of occupancy must be included in plan check and inspection of interior alterations or repairs is required.
8. Provide an occupant load analysis on the plans and provide an exit plan to show all exit aisles and cross aisles used for exiting.
9. Any Sanctuary/Platform area must have side exits and each must accommodate 1/3 the total occupant load with the main exit to accommodate 1/2 the total occupant load.
10. Panic type hardware shall be utilized for all portions of the building serving the A and E occupancies.
11. Show path of travel from accessible parking stalls to assembly area.
12. When the total construction cost of alterations, structural repairs, or additions over the last three years (including the proposed work) does not exceed a valuation threshold of \$113,586 based on the construction index, access path of travel improvements and sanitary facilities, etc. shall be provided to the extent that the cost of providing access is at least 20% of the total cost of construction cost. (CBC Section 1134B.2.1, Exception 1)
13. If project does not meet the General Exemption provisions of (CBC Section 1134B.2.1), plans and details shall show full compliance with all applicable accessibility provisions of the CBC Chapter 11B.

**Portable Classrooms:**

14. Please clarify the Occupancy Group of the Portable Classrooms.
15. Provide on the plans required wall and opening protection and fire resistance of wall and parapet due to location on property. See California Building Code © Section 503 and Table 5-A.
16. Portable Classrooms shall be approved by the State of California for the intended use, and the official seal of approval shall be affixed to the coaches.
17. The Portable Classrooms shall be accessible to the physically disabled and toilet facilities shall be provided on the site for the occupants of the coaches.
18. Provide complete details and specifications for the access ramp.
19. Tie-down anchors designed by a licensed civil or structural engineer shall be installed to resist wind or seismic overturning. Plans for the installation of anchors shall be provided.

**Re-striping of Existing Parking Area:**

20. Provide a parking analysis and provide disabled parking stalls per Table 11B-6 & provide complete details.



## HUNTINGTON BEACH FIRE DEPT.

### PROJECT IMPLEMENTATION CODE REQUIREMENTS

**DATE:** JANUARY 12, 2007

**PROJECT NAME:** GRACE LUTHERAN CHURCH/SCHOOL

**ENTITLEMENTS:** CONDITIONAL USE PERMIT NO. 2006-026

**PROJECT LOCATION:** 5172 Mc FADDEN AVENUE, HUNTINGTON BEACH, CA

**PLANNER:** RON SANTOS, ASSOCIATE PLANNER

**TELEPHONE/E-MAIL:** (714) 536-5271/ rsantos@surfcity-hb.org

**PLAN REVIEWER-FIRE:** LEE CALDWELL, FIRE DEVELOPMENT SPECIALIST

**TELEPHONE/E-MAIL:** (714) 536-5531/ lcaldwell@surfcity-hb.org

**PROJECT DESCRIPTION:** TO PERMIT A K-8 SCHOOL FOR UP TO 229 STUDENTS; PRE-SCHOOL FOR UP TO 100 STUDENTS; DAY CARE (BEFORE/AFTER-SCHOOL) FOR UP TO 150 CHILDREN; CHURCH SERVICES FOR UP TO 168 PEOPLE; SUNDAY SCHOOL FOR UP TO 100 CHILDREN; INFANT/TODDLER CARE FOR UP TO 20 CHILDREN; THE ADDITION OF FOUR PORTABLE CLASSROOM BUILDINGS AT AN EXISTING CLOSED SCHOOL SITE AND MINOR MODIFICATIONS TO THE FIRE LANES.

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The following is a list of code requirements deemed applicable to the proposed project based on plans received and dated January 12, 2007. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer- Fire: LEE CALDWELL, FIRE DEVELOPMENT SPECIALIST.

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#### **1. THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO ISSUANCE OF BUILDING PERMITS:**

- a. Existing Fire Access Roads shall be maintained in compliance with City Specification # 401, Minimum Standards for Fire Apparatus Access. Reference compliance with City Specification # 401 in the plan notes. **(FD)**
- b. Existing Fire Lanes shall be posted, marked, and maintained per City Specification #415, Fire Lanes Signage and Markings on Private, Residential, Commercial and Industrial Properties. Reference compliance with City Specification # 415 in the plan notes. **(FD)**
- c. Existing school Fire Alarm System should be extended to provide coverage to the new modular buildings. Reference compliance in the plan notes. **(FD)**
- d. Fire Extinguishers shall be installed and located in all areas to comply with Huntington Beach Fire Code standards found in City Specification #424. The minimum required dry chemical fire extinguisher size is 2A 10BC and shall be installed within 75 feet travel distance to all portions of

the building. Extinguishers are required to be serviced or replaced annually. Reference compliance with City Specification # 424 in the plan notes. **(FD)**

- e. GIS Mapping Information shall be provided to the Fire Department in compliance with GIS Department CAD Submittal Guideline requirements. Final site plot plan shall be submitted in digital format via CD rom. Reference compliance with GIS Mapping Information in the plan notes. **(FD)**
- f. All Fire Department requirements shall be noted on the Building Department plans. **(FD)**

**2. THE STRUCTURE(S) CANNOT BE OCCUPIED, THE FINAL BUILDING PERMIT(S) CANNOT BE APPROVED, AND UTILITIES CANNOT BE RELEASED UNTIL THE FOLLOWING HAS BEEN COMPLETED:**

- a. Fire Access Roads maintained in compliance with City Specification # 401, Minimum Standards for Fire Apparatus Access. **(FD)**
- b. Fire Lanes posted, marked, and maintained per City Specification #415, Fire Lanes Signage and Markings on Private, Residential, Commercial and Industrial Properties. **(FD)**
- c. Existing school Fire Alarm System extended to provide coverage to the new modular buildings. **(FD)**
- d. Fire Extinguishers shall be installed and located in all areas to comply with Huntington Beach Fire Code standards found in City Specification #424. **(FD)**
- e. GIS Mapping Information provided to the Fire Department in compliance with GIS Department CAD Submittal Guideline requirements. **(FD)**

**3. THE FOLLOWING CONDITIONS SHALL BE MAINTAINED DURING CONSTRUCTION:**

- a. Fire/Emergency Access And Site Safety shall be maintained during project construction phases in compliance with City Specification #426, Fire Safety Requirements for Construction Sites. **(FD)**

**4. OTHER:**

- a. Discovery of soil contamination or underground pipelines, etc., must be reported to the Fire Department immediately and the approved work plan modified accordingly in compliance with City Specification #431-92 Soil Clean-Up Standards. **(FD)**
- b. Outside City Consultants. The Fire Department review of this project and subsequent plans may require the use of City consultants. The Huntington Beach City Council approved fee schedule allows the Fire Department to recover consultant fees from the applicant, developer or other responsible party. **(FD)**

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Fire Department City Specifications may be obtained at:  
Huntington Beach Fire Department Administrative Office

5<sup>th</sup> floor of City Hall  
2000 Main Street  
Huntington Beach, CA 92648  
(714) 536-5411

or through the City's website at [www.surfcity-hb.org](http://www.surfcity-hb.org)

If you have any questions, please contact the Fire Prevention Division at (714) 536-5411.



## HUNTINGTON BEACH PLANNING DEPT. PROJECT IMPLEMENTATION CODE REQUIREMENTS

**DATE:** FEBRUARY 1, 2007  
**PROJECT NAME:** GRACE LUTHERAN CHURCH/SCHOOL  
**ENTITLEMENTS:** CONDITIONAL USE PERMIT NO. 06-26  
**PROJECT LOCATION:** 5172 Mc FADDEN AVENUE, HUNTINGTON BEACH  
**PLAN REVIEWER:** RON SANTOS, ASSOCIATE PLANNER  
**TELEPHONE/E-MAIL:** (714) 536-5271/ rsantos@surfcity-hb.org  
**PROJECT DESCRIPTION:** TO PERMIT A K-8 SCHOOL FOR UP TO 229 STUDENTS; PRE-SCHOOL FOR UP TO 100 STUDENTS; DAY CARE (BEFORE/AFTER-SCHOOL) FOR UP TO 150 CHILDREN; CHURCH SERVICES FOR UP TO 168 PEOPLE; SUNDAY SCHOOL FOR UP TO 100 CHILDREN; INFANT/TODDLER CARE FOR UP TO 20 CHILDREN; AND ADDITION OF FOUR PORTABLE CLASSROOM BUILDINGS AT AN EXISTING CLOSED SCHOOL SITE.

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The following is a list of code requirements deemed applicable to the proposed project based on plans received and dated January 12, 2007. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Planning Commission in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

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1. The site plan, floor plans, and elevations approved by the Planning Commission shall be the conceptually approved design with the following modifications.
  - a. Bicycle parking facilities shall be provided in accordance with the provisions of HBZSO Section 231.20 – *Bicycle Parking*.
  - b. A ten-foot wide landscape planter shall be provided along the Mc Fadden Avenue street frontage on the east side of the westerly driveway (HBZSO 214.08(F)). Said landscaping shall displace one existing parking space.
  - c. A solid masonry or concrete wall at least six feet in height shall be constructed along the westerly property line, adjoining existing residential parcels, except where such a wall currently exists. (HBZSO 214.08(I))
2. Prior to submittal for building permits, the following shall be completed:
  - a. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified by the Departments of Building & Safety, 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.

ATTACHMENT NO. 3.28

- b. An application for address assignment for the four proposed portable classrooms along with the processing fee (currently \$253) shall be submitted to the Planning Department for addressing purposes.
3. 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 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.
4. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
5. Conditional Use Permit No. 06-26 shall not become effective until the ten calendar day appeal period from the date of Planning Commission approval of the entitlements has elapsed.
6. Conditional Use Permit No. 06-26 shall become null and void unless exercised within one year 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.
7. The Planning Commission reserves the right to revoke Conditional Use Permit No. 06-26 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
8. 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.
9. Construction shall be limited to Monday – Saturday 7:00 AM to 8:00 PM. Construction shall be prohibited Sundays and Federal holidays.
10. The applicant shall submit a check in the amount of \$43.00 for the posting of the Notice of Exemption at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the Planning Commission's action.
11. All permanent, temporary, or promotional signs shall conform to Chapter 233 of the HBZSO. Prior to installing any new signs, changing sign faces, or installing promotional signs, applicable permit(s) shall be obtained from the Planning Department. Violations of this ordinance requirement may result in permit revocation, recovery of code enforcement costs, and removal of installed signs.



## HUNTINGTON BEACH PUBLIC WORKS DEPARTMENT

### PROJECT IMPLEMENTATION CODE REQUIREMENTS

**DATE:** FEBRUARY 8, 2007

**PROJECT NAME:** GRACE LUTHERAN CHURCH/SCHOOL

**ENTITLEMENTS:** CONDITIONAL USE PERMIT NO. 06-26  
PLANNING APPLICATION NO. 2006-0157

**DATE OF PLANS:** JANUARY 9, 2007

**PROJECT LOCATION:** 5172 Mc FADDEN AVENUE, HUNTINGTON BEACH

**PLANNER:** RON SANTOS, ASSOCIATE PLANNER

**PLAN REVIEWER:** STEVE BOGART, ASSOCIATE CIVIL ENGINEER

**TELEPHONE/E-MAIL:** 714-374-1692 / [SBogart@surfcity-hb.org](mailto:SBogart@surfcity-hb.org)

**PROJECT DESCRIPTION:** TO PERMIT A K-8 SCHOOL FOR UP TO 229 STUDENTS; PRE-SCHOOL FOR UP TO 100 STUDENTS; DAY CARE (BEFORE/AFTER-SCHOOL) FOR UP TO 150 CHILDREN; CHURCH SERVICES FOR UP TO 168 PEOPLE; SUNDAY SCHOOL FOR UP TO 100 CHILDREN; INFANT/TODDLER CARE FOR UP TO 20 CHILDREN; AND ADDITION OF FOUR PORTABLE CLASSROOM BUILDINGS AT AN EXISTING CLOSED SCHOOL SITE.

This memo shall replace and supersede the previous memo dated August 4, 2006.

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The items below are to meet the City of Huntington Beach's Municipal Code (HBMC), Zoning and Subdivision Ordinance (ZSO), Department of Public Works Standard Plans (Civil, Water and Landscaping), American Public Works Association (APWA) Standards Specifications for Public Works Construction (Green Book), Orange County Drainage Area Management Plan (DAMP) and the City Arboricultural and Landscape Standards and Specifications. The list is intended to assist the applicant by identifying requirements which shall be satisfied during the various stages of project permitting, implementation and construction. If you have any questions regarding these requirements, please contact the Plan Reviewer.

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#### THE FOLLOWING DEVELOPMENT REQUIREMENTS SHALL BE COMPLETED PRIOR TO ISSUANCE OF A BUILDING PERMIT:

1. The Traffic Impact Analysis shall be submitted for review and approval (General Plan , I-CE 4). All comments provided for the analysis (dated October 26, 2006) shall be addressed. In addition, the following requirements shall also be incorporated prior to approval of the Traffic Impact Analysis:
  - A. If restriping of the existing parking lot affects vehicle stacking in the driveway, it shall be addressed in the analysis.

- B. The current site plan shall be forwarded to the Traffic Consultant so that it may be incorporated into the analysis and coordination of any stacking issues may be addressed.
2. Traffic impact fees shall be paid at the rate applicable at the time of Building Permit Issuance. The current rate of \$151 per net new added daily trip is adjusted annually. This project will be assessed a traffic impact fee based on the projected addition trips from the Traffic Impact Analysis. (MC 17.65)

**THE FOLLOWING DEVELOPMENT REQUIREMENTS SHALL BE COMPLETED PRIOR TO FINAL INSPECTION OR OCCUPANCY:**

1. An Encroachment Permit is required for all work within the City's right-of-way. (MC 14.36.020)
2. The existing domestic water service and meter currently serving the existing development may potentially be utilized if it is of adequate size, conforms to current standards, and is in working condition as determined by the Water Inspector. If the property owner elects to utilize the existing water service, any non-conforming water meter, appurtenances, meter box and/or vault, meter by-pass pipeline and backflow protection device shall be upgraded to conform to the current Water Division Standards. (ZSO 255.04E)
3. A separate backflow protection device shall be installed per Water Division Standards for irrigation water service. (Resolution 5921 and Title 17)
4. The property owner shall be required to remove and re-connect portions of the existing on-site water system to establish appropriate meter protection between the meter and backflow protection device. This shall require all interconnections between the existing meter and backflow protection device to be eliminated. (Resolution 5921 and Title 17)
5. All applicable Public Works fees shall be paid at the current rate unless otherwise stated, per the attached Public Works Fee Schedule adopted by City Council Resolution 2006-47. (ZSO 240.06/ZSO 250.16)

## CUP-06-26 Grace Lutheran School

Ron,

You asked for some additional information related to our school, so hopefully this will help. On the last page of this is a bitmap of the site with the four key areas shown that are referred to in the discussion below. The key things to note are the fence that cordons off the parking area from playground area and the rest of the school site, and the logical demarcation line on the map dividing the field into a north and south sections.

In order to stay focused on this particular CUP, we have to stay focused on times when the school and church are in session, and where they have activities during those times.

For this use, it must also be noted that the asphalt area south of the parking area is really a playground area, and has basketball courts, ball walls, tether balls, lunch tables, and other items. Somehow this area started getting referred to as "overflow parking", but within the context of this CUP we have no need for any such overflow parking (although it was noted one could open it in the event of some super-huge school program or church picnic or something of that nature). We have, to this date, never had the need to do that, and would only do so if the event itself were after-hours from a school perspective.

The church is probably a bit easier to deal with to get started. The church is in session on Sundays usually 52 weeks of the year. People are on-site from maybe 7:00 AM (the early set up folks) to perhaps as late as 1:00 PM (the last tear-down person). Church service is 9:30 to 11:00ish.

Since this is a church, there are also some opportunities for an additional service or two; as example, there would likely be an evening service on Christmas, perhaps afternoon as well, potentially evening services on say Ash Wednesday or Easter. It is hard to list absolutely everything for all time, but this is the current plan. Basically we're talking about 100 people, which translates to maybe 40 – 60 autos, before noon on Sundays. The existing on-site parking well exceeds those needs.

During all those church indicated events and times, there are no planned activities on the field. The driveway is open, the fence separating the parking area from the playground area is up, and there is no time when children are in a traffic area.

The school is a little harder to quantify. School is in session daily from roughly 8:00 AM to 3:00 PM. There are early arrivers and late leavers, but the majority of traffic is around the 8:00 AM time for drop-off and 2:45 time for pick-up. Between these daily core hours, the parking in the east area is reserved for staff and the gate on that side is locked. There is no traffic allowed.

There is also relatively little use of the north end of the field anyway. The playground equipment is all at the south end. Certainly some activity is allowed on the north end of the field, for

RECEIVED MAR 07 2006  
ATTACHMENT NO. 4.1

instance in PE the students may well run 'track' events around the field. But the whole idea we have in laying out our equipment and field use is to minimize the opportunity for kids (or others) to be in a traffic situation. During school hours, it just doesn't happen, period.

Now the issue of after-school sports was raised, and that is a reasonable question. It is true that the driveway would be open, and participants could park in that east parking area. But the fence separating the parking area from playground area is still in place. And note that 90% of all activity is offset to the south end on the field intentionally to minimize any issues. As examples, for softball, the left outfielder is on the north end but well away from the driveway and the other players are closer to the inside of the field and the southern section. Even in flag football, the field is offset to favor the south end, and is set up well inbound of the driveway. The spectators are situated in the field area between the driveway and the playing area boundary and are typically well beyond 10 foot separation. For basketball and volleyball, all events are held on the south end, volleyball on the grass and basketball on the asphalt. There is no time when after-school sports would require the playground area to become parking.

As additional information, consider the field area south of the demarcation line. A fence between the field and asphalt there places a barrier between the school buildings and south end of the field. The south end of the field is critical to our school emergency plan. Our earthquake and fire evacuation plans all call for the school personnel to proceed from all buildings to designated areas on the south end of the field. Having a fence there, even with some pedestrian access points, could severely hamper our evacuation. And again, during school days, the playground is there and recess and lunch times allow for kids to play on the field areas south of the demarcation line. Kids will be kids, and having a fence there is just one more thing to climb on or go around and cause an accident. Additionally, it would back up to our playground equipment and just be in the way: we would not want a running child to crash into a chain link fence chasing a basketball!

Student safety continues to be our top priority. We have mitigated the field vs. driveway issue by locking that area during school hours and having no planned field use during church service times. Thus for the conditional use of putting a school and church on this site, there is no obvious reason to require a fence. And having no code requirement on which to base a decision clearly leans toward requiring no fence. And even in the event some type of barrier were to be considered, anything south of the demarcation line actually negatively impacts overall child safety when looking at the entire picture.

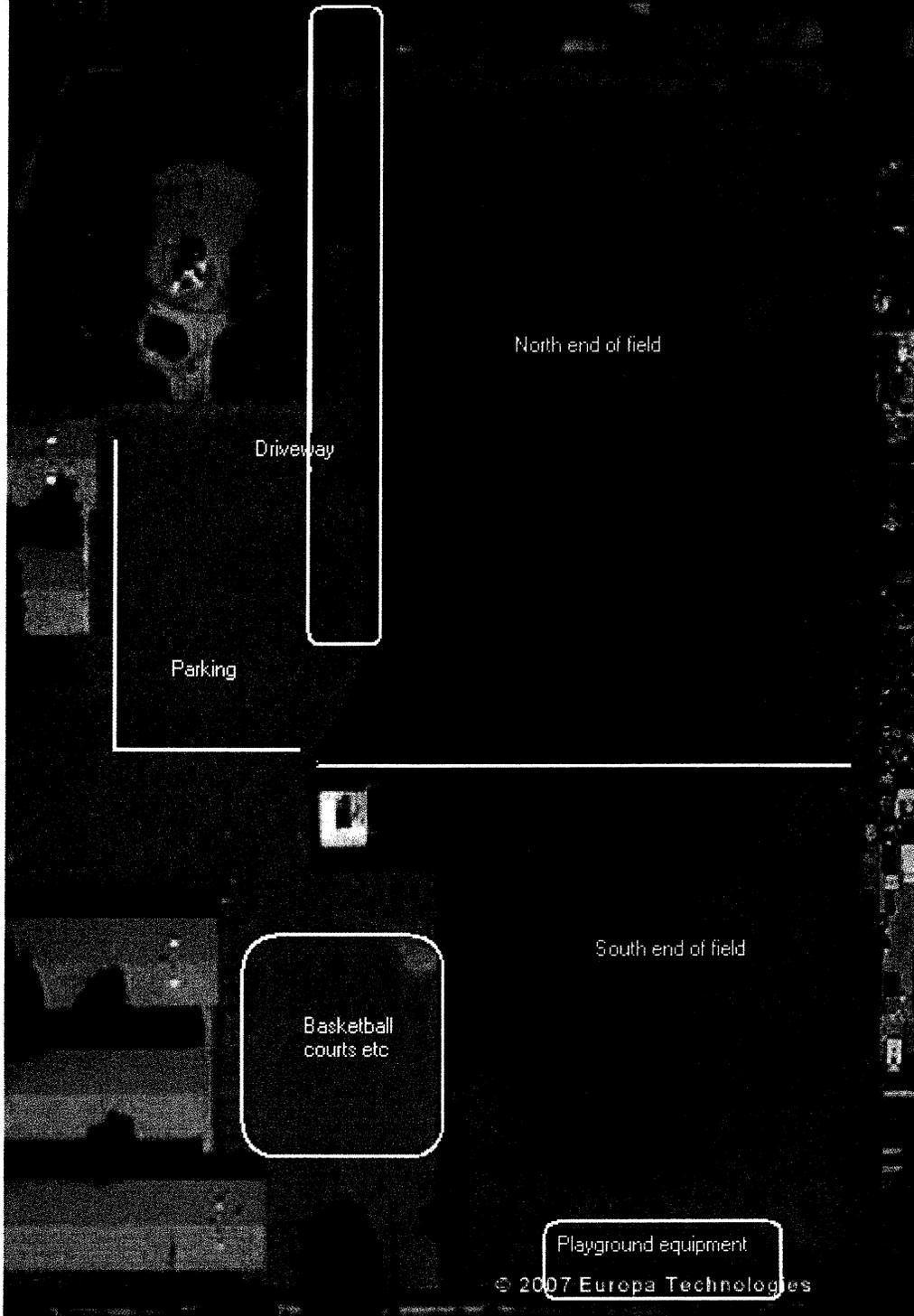
That then leads to questions related to AYSO. AYSO is allowed to use the field. They typically do so on Saturdays, and thus there is no intersection with school or church activities. From time-to-time they do have Sunday tournaments, typically early in the morning. Thus there are times when people coming to church could potentially generate traffic while soccer was in action, but only in the case when the front parking area fills up.

Therefore, since there is no nexus between AYSO Saturday use and the CUP in question, and there is no city code requirement covering this, then placing a fence requirement on CUP-06-26 seems iffy at best. If, however, the City wishes to have the Parks & Rec Commission (who has AYSO jurisdiction) work jointly with AYSO and OVSD (the landowner), then the applicant would be willing to participate in such discussion. Note however the applicant would strenuously object to any fixed barriers south of the demarcation line. Also note that were the City to use code enforcement on the block wall on the far east side of the property, then a potentially even more hazardous issue could be mitigated. If that happened, the existing 42" fence erected by OVSD to keep students away from said block wall could be removed or parts of it possibly even reused elsewhere.

To summarize, there is no evidence that the CUP in question implies any interaction between children and traffic and all efforts to keep them separated have been done. Any barrier considered in the future should be semi-permanent rather than fixed (to allow for access to the field when needed), and should at no time extend beyond the end of the driveway itself. And any such barrier should require joint approval, cooperation and funding from the City, AYSO, and OVSD.

Thank you for your time and consideration in this matter.

5152 mcfadden ave huntington beach ca 92647



ATTACHMENT NO. 4.4

# SPRING 2007 FIELD ALLOCATIONS

**FINAL**

FIELD ALLOCATIONS

Page Four

<u>ORGANIZATION</u>	<u>FACILITY</u>	<u>SCHOOL DISTRICT</u>	<u>DATES</u>	<u>TIMES</u>	<u>DAYS</u>	<u>FIELDS</u>	
<u>AYSO #56</u>	→→Gisler	HBCSD	2/15 - 7/31	5pm-9pm	M-F	2	
	Peterson	HBCSD	2/15-7/31	8am-5pm	Sat		
				4pm-Dusk	M-W-F	3	
				8am-5pm	Sat	3	
<hr/>							
<u>AYSO #55</u>	**Sun View	OVSD	2/15 - 7/31	4pm-Dusk	M-F	2	
				8am-5pm	Sat	2	
				10am-5pm	Sun	3	
	**Glen View	OVSD	2/15 - 7/31	4pm-Dusk	M-F	1	
				8am-5pm	Sat	2	
				10am-5pm	Sun	2	
	**Spring View	OVSD	2/15 - 7/31	4pm-Dusk	M-F	1	
				<b>(No usage April 26, May 31, June 13)</b>		Sat	2
	**Lark View	OVSD	4/15 - 7/31	4pm-Dusk	M-F	2	
				8am-5pm	Sat	3	
				10am-5pm	Sun	3	
	**Mesa View	OVSD	2/15 - 7/31	4pm-Dusk	M-F	3	
				<b>(No usage April 26, June 7 and 13)</b>		Sat	3
	**College View	OVSD	2/15 - 7/31	4:30pm-9pm	M-F	1	
			8am-5pm	Sat	2		
			10am-5pm	Sun	2		
<hr/>							
<u>AYSO #5</u>	**Vista View	OVSD	2/15 - 7/31	4pm-Dusk	M-F	1	
				8am-6pm	Sat	1	
<hr/>							
<u>North Huntington Beach Soccer Club</u>							
	**Hope View	OVSD	2/15 - 7/31	4pm-9pm	M-Th	2	
				5- 7pm	F	2	
				9am-Dusk	Sat	2	
				10am-5pm	Sun	2	
	**Lake View	OVSD	2/15 - 7/31	4:30pm-Dusk	M-F	2	
				9m-dusk	Sat	2	
				10am-5pm	Sun	2	
<hr/>							
<u>AYSO #143</u>	→→**Haven View	OVSD	2/15 - 7/31	4pm-9pm	M-F	2	
				8am-Dusk	Sat		
				10am-5pm	Sun		
	→→**Harbour View	OVSD	2/15 - 7/31	4pm-9pm	M-Fri	3	
				8am-5pm	Sat		
				10am-5pm	Sun		
	Meadow View	OVSD	2/15 - 7/31	4pm-dusk	M-F	2	
				8am-dusk	Sat		
				10am-5pm	Sun		
	Clegg/Stacy	West	2/15 - 7/31	4pm-Dusk	M-F	4	
			8am-Dusk	Sat			
			9am-5pm	Sun			
Robinwood	OVSD	2/15 - 7/31	4pm-Dusk	M-F	2		
			9am-dusk	Sat			
			10am-5pm	Sun			

Not allocated:  
Village View,  
Schroeder,  
Marine View.

FALL  
2006  
FIELD  
ALLOCATIONS

Organization	Facility	School District	Dates	Times	Days	Fields
AYSO #143	Clegg-Stacy	West	8/1 - 2/14	4pm-Dusk	M-F	3 No Reservation
				9am-Dusk	Sat & Sun	
	Schroeder	West	8/1 - 2/14	4pm-Dusk	M-F	1
	Harbour View	OVSD	8/1 - 2/14	4pm-9pm	M-F	5
				9am-9:00pm	Sat	
				10am-5:00pm	Sun	
	Haven View	OVSD	8/1 - 2/14	4pm-9:30pm	M-F	3
				9am-5pm	Sat	
	Marine View	OVSD	8/1 - 2/14	4pm-Dusk	M-F	2
	<b>NO USAGE JUNE 17-SEPT. 30</b>			9am-Dusk	Sat	
	Meadow View	OVSD	8/1 - 2/14	4pm-Dusk	M-F	3
				9am-Dusk	Sat	
			10am-5pm	Sun		
	Village View	OVSD	8/1 - 2/14	4pm-Dusk	M-F	3
<b>NO USAGE JUNE 17-SEPT. 30</b>			9am-Dusk	Sat		
Robinwood	OVSD	8/1 - 2/14	4pm-Dusk	M-F	3	
			9am-Dusk	Sat		
			10am-5pm	Sun		
North Huntington Beach Soccer Club	Hope View	OVSD	8/1 - 2/14	4pm-9pm	<b>M,Th</b>	2
			8/1 - 2/14	5pm-7pm	Fri	
<b>Tourney 8/26-29, Sept 2-4 - Pleasant View, Sun View, Gister</b>			8/1 - 2/14	9am-6pm	Sat	
			8/1 - 2/14	10am-5pm	Sun	
	Lake View	OVSD	8/1 - 2/14	4pm-Dusk	M-F	2
<b>NO USAGE JUNE 17-SEPT. 30</b>			9am-Dusk	Sat		
			10am-5pm	Sun		
	Marina	HBHSD	8/1-2/14	6-10	T, Th	1 (West field)
South Coast Bayern*	Dwyer	HBSD	8/1 - 2/14	4pm-9:00pm	M-F	1 West-side of City-Gym
Fields requested - but not allocated.	<b>NO USAGE</b>		8/1 - 2/14	8am-Dusk	Sat	2
Worthy, Sowers			8/1 - 2/14	8am-Dusk	Sun	2
	Edison High	HBHSD	8/1 - 2/14	4pm-8pm	M-F	2
	Edison High	HBHSD	9/1 - 12/31	8am-5pm	Sat-Sun	2
	Marina High	HBHSD	8/1 - 2/14	6pm-10:00pm	M, W, TH	2 (N/S)
Y.M.C.A. Soccer	Dwyer	HBSD	8/1 - 2/14	4:30pm-6:30pm	M-F	2 East-side of City-Gym
Fields requested - but not allocated.	<b>NO USAGE</b>		8/1 - 2/14	4:30pm-7:00pm	M & W	1 Left side near park
Oak View, Smith M.W.F., Eader-Sat.	Eader	HBSD	8/1 - 2/14	4:30pm-7:00pm	T & TH	1
	Smith	HBSD	8/1 - 2/14	4:30pm-6:30pm	T & TH	3
	Westmont	OVHS	8/1 - 2/14	4:30pm-6:30pm	T & TH	
<b>NO USAGE JUNE 17-SEPT. 30</b>			8/1 - 8/16	4:30-6:00pm	M-F	1
	Worthy	City				

ATTACHMENT NO. 5.2

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**From:** PBurtis@eqecat.com [mailto:PBurtis@eqecat.com]  
**Sent:** Tuesday, March 20, 2007 3:35 PM  
**To:** Santos, Ron  
**Cc:** ppcgreen@verizon.net  
**Subject:** RE: CUP-06-26 - Returned fee

OK, will do.

=====

On the CUP issue, by the way, I'd just like to reiterate our position to be perfectly clear for everyone. Please forward to any interested parties.

As described in the document I sent you on 07 Mar 07, we tried to make it very clear that there is no issue from a church/school perspective related to the playing field vs. driveway boundary. It is fenced & locked and there is no traffic vs. child contention related to the school and or church during normal operating hours. And although potential issues exist for after-school sports, we mitigated that by having the area of the field in use be well away from the driveway. Our contention is that the odds of a student vs. car incident are extremely low. (there is no such thing as 0 risk)

Please note that if OVSD was turning this back into a school, we would not be having this discussion. They would not need a CUP since the use wouldn't be changing, so whatever activities are deemed somehow 'at-risk' would just be as they are. It's unfortunate that doing nothing more than changing the word 'public' to the word 'private' in front of the word 'school' causes so many issues; the 'use' per se isn't changing (a school is a school at the end of the day), just the word in front of 'school'.

Please also note that there are plenty of places within the City where similar situations can occur. As example, just a few months back I was personally driving northbound on Goldenwest just past Warner by Murdy Park. There's nothing but sidewalk between the large front grass and Goldenwest. A soccer ball came flying into this busy street. Much more dangerous than our little driveway.

We had stated we were willing to work with involved parties to come to a resolution. However, it would be unfair to have that resolution be that our poor little school needing to solely foot the bill for fencing along the driveway and field. There's no code requirement, there's no issue related to the CUP under consideration. And certainly anything south of the driveway is not a good idea because overall it makes safety actually worse not better. Why would we pay for something to make safety

City of Huntington Beach

MAR 20 2007

LATE COMMUNICATION B-1

worse?

Since the overall issue seems to be between the City and AYSO usage of the field, which is a lease agreement with OVSD, it seems those three parties should be the ones mitigating any issues that might exist as related to AYSO usage of the field. Having the school added as a fourth party - in the role of consultation and advisement - is clearly appreciated, but somehow the school becoming the sole owner of the problem makes it very difficult on us.

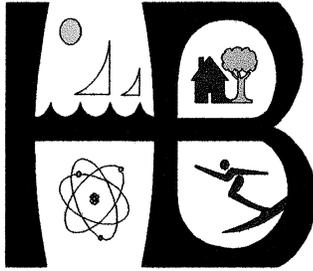
We fully understand that there is lack of leverage to get things done. Note the years of discussion on the crumbling block wall to the east of the property. It has not been fixed because there was not enough leverage. Thus we can see why some might want to try to fix any potential driveway issues under auspices of our CUP; it has leverage to get something done. But is this approach fair to the applicant? And, historically, it's been this way for how long? And if we changed our mind tomorrow and went elsewhere, would the issue still exist? Doesn't that imply that the responsibility lies somewhere between AYSO, OVSD, and the City?

Nonetheless, we were, and still are, willing to work with the major stakeholders in this issue. If the City or AYSO were willing to fundraise to pay for an appropriate, semi-permanent barrier between the driveway and and field north of the storage containers, then we would be more than happy to help design the plan and help ensure the implementation. But it seems like the requirement needs to be placed with the City group that allows AYSO field usage in conjunction with OVSD, not as part of our use permit. There is no nexus here. There is no code requirement to guide as as to what to do. There is little obvious tie to the CUP in question.

I will be at the March 27th public hearing and will be available to answer questions should they arise.

Thank you for your time, consideration and fairness in this request.

Phil



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JANUARY 9, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

### CALL PLANNING COMMISSION MEETING TO ORDER

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

### AGENDA APPROVAL

A MOTION WAS MADE BY HORGAN, SECONDED BY LIVENGOOD TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF JANUARY 9, 2007, BY THE FOLLOWING VOTE:

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

### MOTION APPROVED

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

- A-1.    MITIGATED NEGATIVE DECLARATION NO. 00-07/COASTAL DEVELOPMENT PERMIT NO. 00-13/CONDITIONAL USE PERMIT NO. 00-43 (PARK AVENUE MARINA) – Rami Talleh

Rami Talleh, Associate Planner, gave an overview of the proposed project and advised of changes to the plans regarding the width of the driveway and staff recommendations. Talleh also advised of two late communications received in opposition to the project.

Commissioner Dwyer asked how much of the property is submerged under water. Talleh stated that the City Council would establish a pier head line.

Discussion ensued regarding the timing of the hearing and the width of the driveway and required easement.

- A-2.    ZONING TEXT AMENDMENT NO. 06-08 (SECTION 230.96 – WIRELESS COMMUNICATION FACILITIES) – Rosemary Medel

Continued to January 23, 2007.

**A-3. EXTENSION OF TIME NO. 06-10 (PACIFIC CITY – TENTATIVE TRACT MAP NO. 16338) – Jane James**

Jane James, Senior Planner, gave an overview of the extension of time request and work that has been completed on the project. James explained that the current Tentative Tract Map has an expiration date of January 22, 2007; however, an automatic extension of 60 days was put in place upon the application for extension. With the 60 day extension the current expiration date is March 23, 2007. The proposed extension of time would then extend the Tentative Tract Map expiration to March 23, 2008.

Chair Scandura asked when the proposed opening of Pacific City is slated. James advised the retail shops are scheduled for November 2008; the hotel and the first phase of the residential housing is slated for Spring 2009.

Commissioner Speaker disclosed that he is currently on the waiting list for one of the residences at the Pacific City site.

**B. STUDY SESSION ITEMS:**

**B-1. MAJOR PROJECTS UPDATE – Herb Fauland**

Herb Fauland, Acting Planning Manager, reviewed the lists of projects slated for completion this year and advised of upcoming projects. Scott Hess, Acting Planning Director, reviewed a list of projects that could potentially be completed this year.

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

**D. PLANNING COMMISSION COMMITTEE REPORTS:**

Commissioner Horgan requested information on Green Building policies in the cities of Aliso Viejo, Mission Viejo, and Irvine, and how they are implemented.

Commissioner Livengood stated that a Green Building walking tour is being offered at the next APA conference in San Diego and that the Design Review Board's next meeting is scheduled for January 11, 2007, at 3:30 p.m.

Commissioner Shier-Burnett noted that the Environmental Board met and reviewed the Mitigated Negative Declaration for the Park Avenue Marina project.

Commissioner Scandura stated that the next Council/School District Issues Committee meeting is scheduled for January 12, 2007, at 12:00 p.m. He also reviewed committee assignments and requested that the Green Building Committee be added to the committee list.

**E. PUBLIC COMMENTS (Regarding Project Review or Study Session Portions of Meeting):**

Mike Adams, Consultant, spoke in favor of Item SS A-1, and explained that the project has been delayed partially due to the requirement of an additional Biological Report. He stated that the property was a public launch facility in the 1920s and that the applicant's intent is for the project to be compatible with the area.

**F. PLANNING COMMISSION COMMENTS:**

Commissioner Scandura informed the Commissioners on how he will be conducting the future Planning Commission meetings and asked for volunteers to set up the next Planning Commission Workshop tentatively scheduled for March 2007. Commissioners Livengood, Speaker, and Farley volunteered for the Committee.

**6:10 P.M. – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

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

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

**AGENDA APPROVAL**

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY HORGAN, TO APPROVE THE PLANNING COMMISSION AGENDA OF JANUARY 9, 2007, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**NOMINATION AND ELECTION OF CHAIRPERSON**

John Scandura nominated and elected Planning Commission Chair 6-1 (Scandura-Abstain)

**NOMINATION AND ELECTION OF VICE-CHAIRPERSON**

Tom Livengood nominated and elected Planning Commission Vice Chair 6-1 (Livengood-Abstain)

**WELCOME NEWLY APPOINTED PLANNING COMMISSIONER FRED SPEAKER**

Chair Scandura welcomed Commissioner Speaker back to the Planning Commission.

**A. ORAL COMMUNICATIONS - NONE**

**B. PUBLIC HEARING ITEMS:**

- B-1. MITIGATED NEGATIVE DECLARATION NO. 00-07/COASTAL DEVELOPMENT PERMIT NO. 00-13/CONDITIONAL USE PERMIT NO. 00-43 (PARK AVE. MARINA): Applicant: Hugh Seeds Request: MND: To analyze the potential environmental impacts associated with the implementation of the proposed project. CUP/CDP: To allow the construction of a boat marina consisting of a floating dock with four boat slips, a pedestrian ramp, and public access to the water. The marina also includes a three-story 2,793 square foot marina office with caretaker's unit and 1,189 square feet of associated parking garage and carport on a 6,179 square foot lot. Location: 16926 Park Avenue (Terminus of Park Avenue in Huntington Harbor). Project Planner: Rami Talleh**

**STAFF RECOMMENDATION: Motion to:**

- A. "Approve Mitigated Negative Declaration No. 00-07 with findings and mitigation measures;"
- B. "Approve Coastal Development Permit No. 00-13 and Conditional Use Permit No. 00-43 with findings and suggested conditions of approval."

**The Commission made the following disclosures:**

- Commissioner Shier-Burnett advised she has visited the site, attended the Study Session on 12/7/06, and spoke with staff.
- Commissioner Livengood visited the site and spoke with two residents and staff.
- Commissioner Speaker visited the site and spoke with staff.
- Chair Scandura stated he visited the site; attended the Study Session on 12/7/06; and spoke with Mike Adams, Mayor Coerper, and the nearby motel owner.
- Commissioner Farley – None.
- Commissioner Dwyer visited the site and spoke with staff.
- Commissioner Horgan visited the site and spoke with residents and staff.

Rami Talleh, Associate Planner, gave a Powerpoint presentation of the proposed project. He distributed modified conditions of approval and described the type of easement required for the project. The new condition requires a 20 foot wide vehicle access road in lieu of the original 22 foot requirement. Talleh also advised of two late communications received which are in opposition to the proposed project and one late communication from the County of Orange.

Talleh read into record the late communication received by the County of Orange Planning Department. The letter stated that the required width for a driveway is 24 feet in lieu of the proposed 20 feet.

Commissioner Shier-Burnett asked if any electrical hookups would be installed for the boat docks. Talleh stated there would not be any outlets installed.

Livengood questioned the new required width of the driveway and how it would affect the Fire Department's emergency response vehicles.

Eric Engberg, Fire Marshall, stated that the existing access is 30 feet and the County requirement is 20 feet; which has been deemed adequate.

Commissioner Horgan asked why the item is before the Planning Commission if the neighbor will not grant the required easement. She asked if the applicant knew about the current zoning of the property when he purchased it.

Talleh stated that the applicant was aware of the current zoning and that the open space-water recreation zoning allows marinas subject to entitlement. The caretaker's unit would be considered an accessory use to the proposed marina.

Discussion ensued between Commissioners and staff regarding the width of the easement, emergency vehicle access and parking control.

Commissioner Farley asked if provisions would be put in place to keep the owner from not renting out the boat slips and using the property as a residence. Talleh stated that non-compliance with the conditions in the Conditional Use Permit (CUP) could result in its revocation.

Commissioner Speaker voiced his concern regarding the length of time it would take to revoke the CUP if necessary.

Leonie Mulvihill, Sr. Deputy City Attorney stated that the process of revocation had been conducted on past CUP's and if necessary, would be presented to the Planning Commission or City Council by the Director of Planning.

Livengood stated that flooding on Park Avenue is a constant problem and the new construction may add to the problem.

Dwyer stated that Park Avenue is located in County of Orange jurisdiction; therefore, its flooding issues are not in the Planning Commission's purview regarding this project.

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

Mike Adams, Consultant for the applicant, stated that the small size of the Marina would not impact the neighborhood. He assured the Commission that the public access would be maintained and the caretaker's unit would be consistent with zoning codes.

John Woods, resident, spoke in opposition to the proposed project. He voiced his concern regarding potential flooding, traffic congestion, overnight stays on boats, charter boats and drinking in the proposed boat dock area.

Bruce Duaharelt, resident, stated he is in opposition to the proposed project. Traffic congestion, an insufficient vehicle turning radius, property damage, and flooding were his main concerns.

Debbie Grani, resident, advised she is in opposition to the proposed project. She presented a petition signed by residents concerned about the potential problems associated with a public marina in their neighborhood.

Alicia Dose, resident, spoke in opposition to the proposed project. Ms. Dose stated that she is concerned about local wildlife being harmed if a marina is installed in their neighborhood.

David Slater, resident, spoke in opposition to the proposed project and stated that it is not consistent with current zoning codes. He advised that the proposed project is being processed as a caretaker's unit but is really a residence.

Anna Bostelman, resident, voiced her opposition to the proposed project because of flooding issues already present in the neighborhood. She stated that the proposed project is too large for the peninsula and will cause parking problems for residents.

Gretchen Hoad, resident, spoke in opposition to the proposed project. She stated that she felt the proposed project was trying to avoid current zoning codes by posing as a caretaker's unit. She also voiced concern regarding the loss of open space.

Tom Burke, resident, spoke in opposition to the proposed project. He felt that the neighborhood's peace would be disturbed unnecessarily by boaters having parties in the dock area. He expressed that Park Ave. is a residential area, not a marina.

Tim Haley, resident, spoke in opposition to the proposed project and warned residents against public dock rentals. He referred to a boat dock he owns nearby that has been a constant source of problems after being rented out. Drinking and disturbing the peace of residents has been the main issue.

Michael Van Voorhis, resident and president of the Sunset Beach Homeowners Association, spoke in opposition to the proposed project. He stated that he is an adjacent homeowner and would not grant an easement for the proposed project. He questioned the required width of the entry road. He presented a letter from the County of Orange which stated a 24 foot mandatory width in lieu of the proposed 20 foot easement.

Tom Barry, resident, spoke in opposition to the proposed project and advised he would not grant an easement for access to the marina.

Mark Nialis, Attorney for Mrs. Van Voorhis, spoke about the easement. He stated the easement does not allow for public use and use as such would be an undue burden on his client's property. He referenced the indemnification letter from the County of Orange stating that the applicant would be liable for the care of the drainage ditch along the entrance road. By relieving the County of flooding issues it may create an inverse condemnation to the property.

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

Shier-Burnett questioned the indemnification of the County with regards to the drainage area and who, ultimately, would be responsible for repairs and reimbursements. Talleh stated that the applicant would be liable.

Leonie Mulvihill, Sr. Deputy City Attorney, stated that the applicant and the County of Orange would have to come to an agreement regarding liability. She stated that the indemnification is included as part of the condition for approval and certificate of occupancy for the proposed project.

Shier-Burnett asked if the owner was not able to be financially liable for potential property damage due to flooding, would it be grounds to deny the application.

Mulvihill stated that the City Attorney's Office is unable to regulate that issue since this agreement has not been established and could be modified.

Discussion ensued regarding the required width of the easement, the drainage ditch and property damage liability.

Scandura asked if the width of the entry road would be the sole entrance and would it comply with Americans with Disabilities Act requirements. Talleh stated that the walkway would have to comply with current ADA requirements.

Scott Hess, Acting Director of Planning, noted that staff had not viewed the County of Orange letter stating a 24 foot width requirement until today. He explained that the project application was processed as required by state law and presented to the Planning Commission. Hess stated that building permits would not be issued if current zoning requirements are not met.

Commissioner Livengood reviewed findings for denial with the Commission: Public access is inadequate; the project will have a negative effect on the environment; not consistent with code requirements; does not establish responsibility for long term maintenance and liability for driveway access from Park Avenue; the proposed project is an infill development but will not provide all necessary infrastructure to adequately service the site with regard to storm drains and access; and the commercial use is not compatible with the residential community.

Commissioner Dwyer stated he was against the motion with regards to flooding issues being caused by the proposed project.

Mike Adams, Consultant for the applicant, stated the design could be modified to accommodate the easement and the other issues mentioned by the Planning Commission.

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHIER-BURNETT TO DENY MITIGATED NEGATIVE DECLARATION NO. 00-07/COASTAL DEVELOPMENT PERMIT NO. 00-13/CONDITIONAL USE PERMIT NO. 00-43 WITH FINDINGS, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**FINDINGS FOR DENIAL**

**MITIGATED NEGATIVE DECLARATION NO. 00-07/**  
**COASTAL DEVELOPMENT PERMIT NO. 00-13/**  
**CONDITIONAL USE PERMIT NO. 00-43**

**FINDINGS FOR DENIAL - MITIGATED NEGATIVE DECLARATION NO. 00-07:**

1. The Mitigated Negative Declaration No. 00-07 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and made 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 the Mitigated Negative Declaration and Coastal Development Permit No. 00-13/Conditional Use Permit No. 00-43.

2. Mitigation measures are not adequate to avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. There are flooding issues and unsafe pedestrian access to the site. The large structure, elevated pad height, and pavement for parking eliminate open space to handle runoff from flooded streets thus impacting adjacent property owners. The proposed project does not comply with the County of Orange, Sunset Beach Specific Plan requirements for a minimum 24 foot wide vehicular access and submittal of a traffic study.
3. There is substantial evidence in light of the whole record before the Planning Commission that the project, Coastal Development Permit No. 00-13/Conditional Use Permit No. 00-43, will have a significant effect on the environment.

**FINDINGS FOR DENIAL - COASTAL DEVELOPMENT PERMIT NO. 00-13:**

1. Coastal Development Permit No. 00-13 for the construction of a boat marina consisting of an offshore floating dock with four boat slips, a pedestrian ramp, public access to the water, a 2,793 square foot, three story marina office with caretaker's unit and 1,189 square feet of associated parking garage and carport on an approximately 6,179 square foot lot, as proposed, does not conform with the General Plan, including the Local Coastal Program. There is inadequate vehicular and pedestrian access from Park Ave. to the subject site. The proposed marina does not establish responsibility for long term maintenance and liability for the driveway access from Park Avenue to the subject site. In addition the size and scale of the building does not adequately provide public coastal views.
2. At the time of occupancy the proposed development cannot be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project is an infill development but will not provide all necessary infrastructures to adequately service the site with regard to storm drains and access.
3. The development does not conform with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed access to the subject site from Park Ave. as well as the proposed on-site ten foot wide public access path is inadequate because of conflicts between pedestrians and vehicles. Safe pedestrian access is not provided to the site.

**FINDINGS FOR DENIAL – CONDITIONAL USE PERMIT NO. 00-43:**

1. Conditional Use Permit No. 00-43 for the establishment, maintenance, and operation of a boat marina consisting of an offshore floating dock with four boat slips, a pedestrian ramp, public access to the water, a 2,793 square foot, three story marina office with caretaker's unit and 1,189 square feet of associated parking garage and carport on an approximately 6,179 square foot lot 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. The size and scope of the project will result in significant increases in traffic, noise, light and odor above levels anticipated in the area.
2. The Conditional Use Permit is not compatible with surrounding uses because the marina is a commercial use that would impose unmitigatable burdens on the neighborhood.

3. The proposed marina will not comply with the provisions of the base district. The proposed caretaker's unit is not incidental to an open space use because the size and scale of the caretaker's unit is considerably large compared to the proposed marina size which is only four boat slips.
4. The granting of the conditional use permit will adversely affect the General Plan. It is inconsistent with the Land Use Element designation of OS-W (Open Space – Water Recreation) on the subject property. In addition, it is inconsistent with the following policies of the General Plan:

*Coastal Element*

*Policy C 3.2.1* Establish the responsibility for long term maintenance and liability prior to approval of any major recreational facility, including marina, Public Park, trail, etc.

*Policy C 4.2.2:* Require that the massing, height, and orientation of new development be designed to protect public coastal views.

The proposed marina does not establish responsibility for long term maintenance and liability for the driveway access from Park Avenue and the subject site. In addition the size and scale of the proposed building does not adequately provide public coastal views.

**C. CONSENT CALENDAR - NONE**

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

**E. PLANNING ITEMS**

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

**Scott Hess, Acting Planning Director - reported on the items from the previous City Council meeting.**

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

**Scott Hess, Acting Planning Director – reported on the items scheduled for the next City Council meeting.**

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

**Herb Fauland, Acting Planning Manager – reported on the items scheduled for the next Planning Commission meeting.**

**F. PLANNING COMMISSION ITEMS**

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

**F-2. PLANNING COMMISSION COMMENTS**

Commissioner Shier-Burnett – Thanked Rami Talleh, Associate Planner, for arranging for the hand delivery of public hearing notices to the adjacent properties of Item B-1.

Commissioner Speaker – Thanked staff for their assistance regarding Item B-1.

Vice-Chairperson Livengood – Thanked Rami Talleh for his thorough staff report and presentation of Item B-1. He also asked for information regarding the setback of the church at Bolsa Chica and Warner.

Chairperson Scandura – Thanked Councilmember Gil Coerper for appointing him to the Planning Commission and stated that it is an honor to serve the citizens of Huntington Beach. He thanked his family for attending the meeting and for their support.

Commissioner Farley – None.

Commissioner Horgan – Stated she will be unable to attend the next meeting.

Commissioner Dwyer – Stated he will be unable to attend the next meeting. Advised he is on the Board of the Orange County Marathon and sends his regrets to the family of the runner who passed away during the recent marathon.

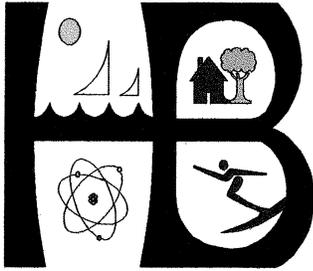
**ADJOURNMENT:**

**Adjourned at 10:05 p.m. to the next regularly scheduled meeting of January 23, 2007.**

APPROVED BY:

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

\_\_\_\_\_  
John Scandura, Chair



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JANUARY 23, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

### CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL:                    P            P            P            P            A            P            P  
*Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*  
*(Commissioner Horgan excused absence)*

### AGENDA APPROVAL

A MOTION WAS MADE BY FARLEY, SECONDED BY DWYER, TO MOVE STUDY SESSION ITEM A-2 IN ADVANCE OF ITEM A-1; STUDY SESSION ITEM E AHEAD OF ITEM B; AND TO APPROVE THE PLANNING COMMISSION AGENDA OF JANUARY 23, 2007, BY THE FOLLOWING VOTE:

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

### MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER

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

A-1.    ZONING TEXT AMENDMENT NO. 06-08 (AMENDING SECTION 230.96- WIRELESS COMMUNICATIONS FACILITIES) – Rosemary Medel

Continued to a date uncertain at the request of the City Attorney.

A-2.    CONDITIONAL USE PERMIT NO. 05-29 (HB DENTAL BUILDING) – Rami Talleh

Rami Talleh, Associate Planner, gave an overview of the proposed project.

Discussion ensued between Commissioners and staff regarding access to the property for customers and emergency vehicles. Talleh stated that the access would be primarily from Warner Ave. and there is a turning radius requirement for emergency vehicles and a three foot maneuvering area at the end of the drive aisle.

Shier-Burnett asked about the center island located on Warner Avenue and expressed concern that patrons traveling west would make illegal left turns to enter the property. Talleh stated that the center island is present and that it may be extended in the future. He added that a bond may be put in place for the future construction of the center island to prohibit illegal left turns if necessary.

**B. STUDY SESSION ITEMS:**

**B-1. RULES, PROTOCOLS, AND BYLAWS – Chairperson Scandura**

Chair Scandura reviewed the three documents with the Planning Commission. Scandura discussed possible changes to some of the rules regarding conduct in the near future and recommended the Commissioners read Robert's Rules of Order.

**B-2. COMMITTEE ASSIGNMENTS – Chairperson Scandura**

Scandura presented a draft assignment list for review by the Planning Commission. Scandura stated that he received the recommendations from the Commissioners and would present the formal assignments for action by the Planning Commission at the February 13, 2007, meeting.

Commissioner Speaker suggested that a member of the Planning Commission be assigned to the Senior Center Committee. Scott Hess, Acting Director of Planning, stated that there is a member of the Planning Department currently on the Committee; however, City Council did not include a member of the Planning Commission. Hess noted that the Planning Commission would be made aware of any upcoming committee meetings.

**B-3. CHAIR GOALS 2007 – Chairperson Scandura**

Chair Scandura reviewed his goals for the Planning Commission. He stated he would like to focus on decision making, teamwork, and working with the City Council and staff in order to achieve these goals.

**B-4. ANNUAL PLANNER'S INSTITUTE – LEAGUE OF CALIFORNIA CITIES  
(MARCH 21-23, 2007, SAN DIEGO) – Chairperson Scandura**

Chair Scandura discussed the upcoming conference and the benefits to the Planning Commission. He noted that he and Commissioners Speaker, Shier-Burnett, Farley, and Dwyer would be attending the conference.

**C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS):**

Herb Fauland, Acting Planning Manager, reviewed the agenda items for the 7:00 p.m. portion of the meeting.

**D. PLANNING COMMISSION COMMITTEE REPORTS:**

Chair Scandura reported that he attended the Council/School District Issues Committee meeting on January 12, 2007. The Committee reviewed the Fountain Valley School District's Strategic Plan and the property redevelopment program. Scandura stated that the Wardlow/Lamb School sites have not yet been sold. He also distributed some information regarding graffiti prevention.

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

Ali Rezaei, applicant for Study Session Item A-2 spoke in favor of the proposed project and stated he was available for questions.

Bob Dingwall gave an explanation of why the City approved the allocation of speaker's time.

**F. PLANNING COMMISSION COMMENTS:**

Commissioner Speaker asked if staff recommendations on projects typically include an alternative action recommendation. Staff provided an explanation.

Commissioner Livengood suggested changes to the various city departments' code requirements letter and the suggested conditions for approval. He noted that they be consistent with the requirements listed in the Fire Department's format. Scott Hess noted that the suggestions are good and that staff will be evaluating the code requirements letter and incorporating changes.

**6:40 P.M. – RECESS FOR DINNER**

**7:15 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE** – Led by Commissioner Shier-Burnett

**ROLL CALL:**                    *P*            *P*            *P*            *P*            *A*            *A*            *P*  
*Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*  
*(Commissioners Horgan, Dwyer excused absences)*

**AGENDA APPROVAL**

**A MOTION WAS MADE BY FARLEY, SECONDED BY SPEAKER, TO MOVE ITEM D-1 AHEAD OF ITEM C AND TO APPROVE THE PLANNING COMMISSION AGENDA OF JANUARY 23, 2007, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

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

**PRESENTATION OF PLANNING COMMISSION RESOLUTION NO. 1615 IN APPRECIATION TO OUTGOING CHAIRPERSON DINGWALL**

Chair Scandura and Former Mayor Dave Sullivan presented Former Planning Commissioner Dingwall with a resolution and plaque in appreciation of his service on the Planning Commission and to the City of Huntington Beach.

Dingwall thanked the Commissioners and the Staff for their dedication and hard work. He stated that he was honored to have the opportunity to serve the City of Huntington Beach.

**A. ORAL COMMUNICATIONS:**

Tim Geddes, resident, commended the Planning Commission on their preparation, review, and denial of the Park Avenue Marina project.

**B. PUBLIC HEARING ITEMS - NONE**

**C. CONSENT CALENDAR:**

**C-1. PLANNING COMMISSION MINUTES DATED OCTOBER 10, 2006**

**RECOMMENDED ACTION:** Motion to: "Approve the October 10, 2006, Planning Commission Minutes as submitted."

**A MOTION WAS MADE BY FARLEY, SECONDED BY SHIER-BURNETT, TO APPROVE THE OCTOBER 10, 2006, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**C-2. PLANNING COMMISSION MINUTES DATED OCTOBER 24, 2006**

**RECOMMENDED ACTION:** Motion to: "Approve the October 24, 2006, Planning Commission Minutes as submitted."

**A MOTION WAS MADE BY FARLEY, SECONDED BY SHIER-BURNETT, TO APPROVE THE OCTOBER 24, 2006, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**C-3. PLANNING COMMISSION MINUTES DATED NOVEMBER 14, 2006**

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

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY FARLEY, TO APPROVE THE NOVEMBER 14, 2006, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**C-4. PLANNING COMMISSION MINUTES DATED DECEMBER 12, 2006**

**RECOMMENDED ACTION:** Motion to: "Approve the December 12, 2006, Planning Commission Minutes as submitted."

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY FARLEY, TO APPROVE THE DECEMBER 12, 2006, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**D. NON-PUBLIC HEARING ITEMS:**

**D-1. EXTENSION OF TIME NO. 06-10 (PACIFIC CITY - TENTATIVE TRACT MAP NO. 16338) Applicant: Michael Gagnet Request: To permit a one year extension of time for Tentative Tract Map No. 16338. Location: 21002 Pacific Coast Highway (between First and Huntington Streets, south of Atlanta Avenue) Project Planner: Jane James**

**RECOMMENDATION:** Motion to: "Approve Extension of Time for Tentative Tract Map No. 16338 for a one year period of time to March 23, 2008."

**The Commission made the following disclosures:**

- Commissioner Shier-Burnett – None.
- Commissioner Speaker – None.
- Commissioner Livengood – None.
- Chair Scandura - None.
- Commissioner Farley drove by the site.

Jane James, Senior Planner, gave a Powerpoint presentation of the proposed request and provided an outline as to what has been completed on the project to date and what is slated to be completed in the near future.

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER TO APPROVE EXTENSION OF TIME NO. 06-10, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**E. PLANNING ITEMS**

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

**Herb Fauland, Acting Planning Manager** - reported that the Bicycle Parking and Density Bonus Zoning Text Amendments had been approved at the January 16, 2007, meeting.

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

**Herb Fauland, Acting Planning Manager** – reported on the items scheduled for the next City Council meeting.

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

**Herb Fauland, Acting Planning Manager** – reported on the items scheduled for the next Planning Commission meeting.

**F. PLANNING COMMISSION ITEMS**

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

**F-2. PLANNING COMMISSION COMMENTS**

Commissioner Shier-Burnett – Thanked Bob Dingwall for all his help while on the Commission.

Commissioner Speaker – None.

Vice-Chairperson Livengood – Congratulated Bob Dingwall on his award.

Chairperson Scandura – None.

Commissioner Farley – Thanked Bob Dingwall for his assistance while on the Commission.

Commissioner Horgan – Absent.

Commissioner Dwyer – Absent.

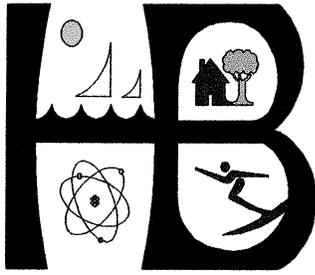
**ADJOURNMENT:**

**Adjourned at 7:40 p.m. to the next regularly scheduled meeting of February 13, 2007.**

APPROVED BY:

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

\_\_\_\_\_  
John Scandura, Chair



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, FEBRUARY 13 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

### CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL:                    P                    P                    P                    P                    P                    A                    P  
*Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*  
*(Commissioner Dwyer arrived at 5:35 pm)*

### AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY FARLEY, TO MOVE STUDY SESSION ITEM A-2 IN ADVANCE OF ITEM A-1 AND TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF FEBRUARY 13, 2007, BY THE FOLLOWING VOTE:

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

### MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER

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

##### A-1.    CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL) – Ron Santos

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

Commissioner Shier-Burnett questioned the ownership of the property or who leases the property and what control does the City have over the development of the school district property. Santos stated the lease allows for the property to be developed and cited other areas in the city owned by the school district which have been developed with long term leases.

Discussion ensued between the Commissioners and staff regarding zoning code compliance, possible impacts on the park, and potential use of the property.

**A-2. ENTITLEMENT PLAN AMENDMENT NO. 06-05 (TUSCANY DEVELOPMENT AFFORDABLE HOUSING MODIFICATION) - Rami Talleh**

Rami Talleh, Associate Planner, gave an overview of the proposed amendment.

Commissioner Livengood asked if this amendment is in compliance with the Holly Seacliff Specific Plan. Talleh advised that the minimum requirements are to provide 15% of the units affordable to moderate income levels.

Leonie Mulvihill, Senior Deputy City Attorney, reviewed the Affordable Housing Ordinance and provision for in lieu fees. She noted that the Holly Seacliff Specific Plan, however, precludes the ability to pay in-lieu fees for sites greater than one acre.

Scott Hess, Acting Planning Director, stated that the affordable housing requirement for Holly Seacliff must be a minimum 15%, which for this project would be five units. The options proposed by the applicant allow for only four units, which would be 13%, and therefore, does not comply with the minimum requirements.

**B. STUDY SESSION ITEMS:**

**B-1. PLANNING COMMISSION WORKSHOP UPDATE – Workshop Committee**

Vice Chair Livengood reviewed the draft agenda for the workshop. He discussed Commission goals and suggested having a speaker on the subject of Green Building. The topic of blue print reading was added to the draft agenda. He requested the Commissioners submit dates of availability in the month of April 2007, in order to schedule the workshop.

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION WORKSHOP DRAFT AGENDA WITH MODIFICATIONS, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

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

**D. PLANNING COMMISSION COMMITTEE REPORTS:**

Commissioner Shier-Burnett reported that a member of the Environmental Board will be publishing an article on solar energy.

Commissioner Livengood reported on The Strand which was presented to the Design Review Board on February 8, 2007. He stated the design modifications are favorable and he looks forward to seeing the project completed.

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

Mike Adams, consultant for the applicant for Study Session Item A-2 spoke in favor of the proposed amendment and stated he was available for questions.

**F. PLANNING COMMISSION COMMENTS:**

Commissioner Shier-Burnett requested information regarding the St. Peters by the Sea site. Staff reported that they will provide the information.

Commissioner Horgan inquired about the upcoming conference in Newport Beach regarding drug rehabilitation houses in residential neighborhoods

Leonie Mulvihill, Senior Deputy City Attorney, advised she would be attending the conference and would provide information to the Commission at a later date.

Chair Scandura thanked the Workshop Committee for their efforts on the agenda. Scandura advised he met with the City Administrator recently regarding Planning Commission issues. He also commented on a recent newspaper article and a quote attributed to a former Planning Commissioner.

**6:30 P.M. – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

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

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

**AGENDA APPROVAL**

**A MOTION WAS MADE BY HORGAN, SECONDED BY FARLEY, TO APPROVE THE PLANNING COMMISSION AGENDA OF FEBRUARY 13, 2007, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**A. ORAL COMMUNICATIONS - NONE**

**B. PUBLIC HEARING ITEMS:**

- B-1. CONDITIONAL USE PERMIT NO. 05-29 (HB DENTAL BUILDING). Applicant: Hossien Mazi. Request: To permit the construction of a 6,900 sq. ft. two-story, medical office building with access to on-site parking from Warner Ave., an arterial street, in addition to an abutting alley. Location: 7792 Warner Ave. (south side of Warner Avenue between Oak Lane and Ash Street). Project Planner: Rami Talleh**

**STAFF RECOMMENDATION:** Motion to: "Approve Conditional Use Permit No. 05-29 with findings and suggested conditions of approval."

**The Commission made the following disclosures:**

- Commissioner Shier-Burnett walked the site, the alley, and adjoining sites.
- Commissioner Livengood visited the site.
- Commissioner Speaker visited the site.
- Chair Scandura walked the site, the alley, and adjoining sites; and spoke with staff.
- Commissioner Farley drove by the location.
- Commissioner Dwyer drove by the location.
- Commissioner Horgan drove by the location.

Rami Talleh, Associate Planner, gave a Powerpoint presentation of the proposed project highlighting the relocation of the proposed alley driveway and improvements which would improve access and circulation.

Commissioner Dwyer asked about a gate which is located in the alley. Talleh explained that the gate is part of a private onsite driveway.

Horgan questioned the alley improvement and why the entire alley wasn't being completed. Talleh stated that a bond would be put in place for future improvement of the alley.

Livengood asked if there was enough turning radius area for emergency vehicles. Talleh stated that those requirements would have to be met prior to completion of the project.

Commissioner Speaker asked who was responsible for the alley construction. Talleh advised that the property owner at the time of development is responsible.

Discussion ensued between Commissioners and staff regarding ownership and responsibility for the alley and easements.

Mulvihill explained how the alley was developed over the years with each project and that the city has an easement to allow for access.

**THE PUBLIC HEARING WAS OPENED**

Ali Rezaei, Engineer for the Applicant, spoke in favor of the project and stated that he will comply with Fire Department requirements regarding turning radius and access. He added that he favors Warner Ave. as the main entrance to the property.

## **FINDINGS AND CONDITIONS OF APPROVAL**

### **CONDITIONAL USE PERMIT NO. 05-29**

#### **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 15303, Class 3 of the CEQA Guidelines, which states that the construction of a commercial building with less than 10,000 square feet of gross floor area is exempt from further environmental review.

#### **FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 05-29:**

1. Conditional Use Permit No. 05-29 for the establishment, maintenance, and operation of a 6,900 sq. ft. two-story, medical office building with access to on-site parking from Warner Ave., an arterial street, in addition to an abutting alley will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed medical office building will not result in significant increases in traffic, noise, light, or odor above levels compatible with the area. Residential uses across from Warner Avenue and the adjacent alley are buffered by approximately 120 and 20 feet of right-of-way respectively. The proposed driveway on Warner Avenue is the only driveway access point along that street for the subject block. The driveway is located in an area visible to motorists and is not anticipated to disrupt the flow of vehicles on Warner Avenue.
2. The conditional use permit will be compatible with surrounding uses because the building is sited and designed to complement the adjacent office building and constructed with similar materials and design characteristics. The proposed driveway on Warner will be the only driveway from that street for the entire block between Oak Lane and Ash Street and will provide more efficient access to the site, adequate access for emergency vehicles, and greater access opportunities for the adjacent offices.
3. The proposed medical office building 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. The project will comply with all code requirements including building height, setbacks, landscaping, parking, and floor area ratio.
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  
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.

Policy LU 10.1.12: Require that Commercial General uses be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development including the consideration of incorporation of site landscape, particularly along street frontages and in parking lots.

The application allows for the establishment of a new medical office building within the City. The project will provide opportunity for prospective businesses to move to or relocate within the City and serve residents. The design of the project will be compatible with other commercial buildings in the area by siting the building at the street frontage, providing quality architectural features, and providing sufficient landscaping along the street frontage and within the parking area.

B. Urban Design Element

Goal UD 1: Enhance the visual image of the City of Huntington Beach

Objective UD 1.1: Identify and reinforce a distinctive architectural and environmental image for each district in Huntington Beach.

The proposed project enhances the visual image of the City by siting the building at the street frontage to convey a visual link to the street and sidewalk. The design of the proposed medical office building incorporates quality materials and a design compatible with an adjacent recently constructed office building to create a distinctive district for this portion of Warner Avenue.

C. Circulation Element

Policy CE2.3.2: Limit driveway access points and require adequate driveway widths onto arterial roadways and require driveways be located to ensure the smooth and efficient flow of vehicles, bicycles and pedestrians.

Policy CE 2.3.3: Require, where appropriate, an irrevocable offer of mutual access across adjacent non-residential properties fronting arterial roadways and require use of shared driveway access.

The proposed driveway on Warner will be the only driveway from that street for the entire block between Oak Lane and Ash Street. The driveway is accessible to eastbound traffic and limited to right turn in and right turn out ingress/egress to ensure the smooth and efficient flow of vehicles. Westbound traffic will be prevented from turning left into the site by a painted median and must utilize the entrance from the alley via Oak Lane. Furthermore, cross access between the subject site and the general office building to the west is provided via the alley and an irrevocable offer of cross access is provided from the subject site to the dental office to the east. The cross access agreements ensure the proposed driveway will serve all the developments on Warner Avenue between Oak Lane and Ash Street.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 05-29:**

The site plan, floor plans, and elevations received and dated November 13, 2006, shall be the conceptually approved design.

**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:**

**D-1. COMMITTEE ASSIGNMENTS – Chair Scandura**

Chair Scandura made Planning Commission committee assignments for the Design Review Board, Environmental Board, Subdivision Committee, Green Buildings Subcommittee and the School District Issues Subcommittee.

**A MOTION WAS MADE BY DWYER, SECONDED BY HORGAN TO APPROVE COMMITTEE ASSIGNMENTS, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**E. PLANNING ITEMS**

- E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING**  
**Herb Fauland, Acting Planning Manager - reported on the items from the previous City Council meeting.**
- E-2. CITY COUNCIL ITEMS FOR NEXT MEETING**  
**Herb Fauland, Acting Planning Manager – reported on the items scheduled for the next City Council meeting.**
- E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING**  
**Herb Fauland, Acting Planning Manager – reported on the items scheduled for the next Planning Commission meeting.**

**F. PLANNING COMMISSION ITEMS**

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

**F-2. PLANNING COMMISSION COMMENTS**

Commissioner Shier-Burnett – None.

Commissioner Speaker – None.

Vice-Chairperson Livengood – Distributed a handout on the topic of Green Building to the Commission.

Chairperson Scandura – None.

Commissioner Farley – None.

Commissioner Horgan – Stated that she is pleased to see the Planning Commission taking the lead regarding Green Building in the City of Huntington Beach and believes Huntington Beach could become a leader in the state on this issue.

Commissioner Dwyer – Advised he will be unable to attend the next regularly scheduled meeting.

**ADJOURNMENT:**

**Adjourned at 8:00 p.m. to the next regularly scheduled meeting of February 27, 2007.**

APPROVED BY:

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

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John Scandura, Chair