

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, JANUARY 9, 2008 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Mary Beth Broeren

**STAFF MEMBER:** Jill Arabe, Andrew Gonzales, Ron Santos, Rami Talleh,  
Pamela Avila (recording secretary)

**MINUTES:** **NONE**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: CONDITIONAL USE PERMIT NO. 2007-027 (JANKOVICH WALL – CONTINUED FROM THE DECEMBER 12, 2007 ZONING ADMINISTRATOR MEETING WITH THE PUBLIC HEARING CLOSED)**

**APPLICANT/  
PROPERTY OWNER:** Troy & Debbie Jankovich, 501 21<sup>st</sup> Street, Huntington Beach, CA 92648

**REQUEST:** To permit a 22 inch high retaining wall topped with a 38 inch high screen wall (total of five feet in height) in lieu of the maximum allowed height of 18 inches for a retaining wall, located within the minimum required three foot front yard setback for walls.

**LOCATION:** 501 21<sup>st</sup> Street, 92648 (northwest corner of Pecan Ave. and 21<sup>st</sup> St.)

**PROJECT PLANNER:** Jill Arabe

Jill Arabe, Planning Aide, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary.

This item had been continued from the December 12, 2007 Zoning Administrator Hearing.

Staff stated that several letters in support of the wall were received from neighbors, but staff still recommends denial based upon findings.

**THE PUBLIC HEARING HAD BEEN CLOSED AT THE DECEMBER 12 MEETING AND WAS NOT REOPENED.**

Mary Beth Broeren, Zoning Administrator, asked if staff's denial is based on aesthetics and staff stated yes.

Bob Stachelski, Public Works Transportation Manager, reviewed the traffic analysis submitted by the applicant and confirmed that there was no concern with construction of a wall within the triangle of visibility. Mr. Stachelski stated there are many factors taken into consideration which include speed of vehicles, width of parkway and curb when determining the required visibility.

Ms. Broeren stated that at the last meeting she had agreed with staff's recommendation regarding aesthetics; however, the neighbors have supported this wall and feel that it is compatible with their neighborhood.

Ms. Broeren stated that based on the traffic analysis, the transportation manager's input, and neighborhood support, she will approve the request and asked staff to modify the suggested findings.

**CONDITIONAL USE PERMIT NO. 2007-027 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator 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 of the CEQA Guidelines, because the project consists of the construction of a new fence on a property developed with a single-family home.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2007-027:**

1. Conditional Use Permit No. 2007-027 for the establishment, maintenance and operation of a 22 inch high retaining wall topped with a 38 inch high screen wall (total of five feet in height) in lieu of the maximum allowed height of 18 inches for a retaining wall, within the minimum required three foot front yard setback for walls will not be detrimental to the general welfare of persons working or residing in the vicinity or to the value of the property and improvements in the neighborhood. Although the wall exceeds the maximum allowed height of 42-inches within the 25-foot triangle of visibility at right-of-way intersections, a traffic study shows that pedestrian and motorist visibility will not be affected and therefore will not pose a safety/traffic hazard. The visual character of the neighborhood is not negatively impacted due to the landscaping along the exterior of the wall.
2. The conditional use permit will be compatible with surrounding structures because landscaping is provided in front of the wall and the wall is consistent with the height of other walls in the vicinity.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision

Ordinance, which allows retaining walls to exceed 18 inches within the three foot front yard setback with a conditional use permit.

4. The granting of the conditional use permit will not adversely affect the General Plan and is consistent with the following goals and policies of the General Plan:

LU 9.2: Provide for the preservation of existing residential neighborhoods.

LU 16.1.1: Accommodate development of the City's neighborhoods, boulevards, and districts according to the Community Districts and Subarea Schedules, which requires (Subarea 3B) front yard setbacks to maintain the existing residential neighborhood character.

UD 1.1.1: Coordinate streetscape and landscape design in all residential neighborhoods to strengthen their identities.

The proposed wall will have landscaping which improves the aesthetics of the area and is configured similar to other properties in the area.

#### **CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 07-027:**

1. The site plan received and dated November 13, 2007 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.

#### **ITEM 2: COASTAL DEVELOPMENT PERMIT NO. 2007-017; CONDITIONAL USE PERMIT NO. 2007-042; VARIANCE NO. 2007-011 (YOUNESSI RESIDENCE)**

APPLICANT: Karen Otis – Otis Architecture, 16871 Sea Witch Lane, Huntington Beach, CA 92649

PROPERTY OWNER: Mike Younessi – Alea Investmetns, LLC, 16033 Bolsa Chica Street, Unit No. 104-200, Huntington Beach, CA 92649

REQUEST: **CDP:** To permit an approximately 4,553 sq. ft. single-family dwelling with a 704 sq. ft. attached garage; **CUP:** To permit an approximately 550 sq. ft. 3<sup>rd</sup> floor living area and 674 sq. ft. 3<sup>rd</sup>

story deck; **VAR:** To permit a 17'-2' front yard setback, in lieu of the min. required 20 ft. front yard setback for a front entry garage, and a 6 ft. rear yard setback in lieu of the minimum required 7 ft. rear yard setback for a 2<sup>nd</sup> floor balcony. The request includes a review and analysis for compliance with the Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/ privacy issues, such as window alignments, building pad height, and floor plan layout.

**LOCATION:** 4022 Morning Star Drive, 92649 (south side of Morning Star Dr., west of Edgewater Ln.)  
**PROJECT PLANNER:** Andrew Gonzales

Andrew Gonzales, Assistant Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary.

Staff indicated that the third floor deck faces the neighbors. The third floor habitable area is not within the confines of the second floor roofline.

Staff recommended approval of the coastal development permit and denial of the variance and conditional use permit based on the findings for denial.

Staff has received correspondence from adjoining neighbors who are not supportive of the variance and conditional use permit due to issues of privacy; however, they are supportive of the improvements being made to the property.

Mary Beth Broeren, Zoning Administrator, discussed with staff instances of other homes with similar issues. Staff found photos of one home which had a variance approved in 1995, but the basis for approval was not available at this time.

Ms. Broeren discussed the driveway with staff and minimal dimensions that could be changed by the architect.

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

Pamela Rieder Myers, neighbor, spoke in opposition of the variance and conditional use permit due to privacy concerns and parking constraints that already exist for them.

Leigh Ross, neighbor, spoke in opposition, due to the large structure size.

Karen Otis, applicant, commented that the structure meets code requirements and addressed privacy concerns of neighbors. She spoke of the difficulties due to the angularity of the lot. Ms. Otis said that if they used a longer driveway to park a car, it would block the entry into the house. Ms. Otis has received approval from the Huntington Harbor Homeowners' Association.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Ms. Broeren stated that she had a concern with the third story, as the design does not meet the intent of the zoning code. Ms. Broeren stated she could not support the conditional use permit as it stands now. Ms. Broeren stated that nine homes in the cul de sac are in opposition to the project but are supportive of improvements to the property.

Ms. Broeren asked if it was possible to shrink the interior space to better accommodate the driveway. Ms. Broeren suggested that Ms. Otis confer with her client regarding this aspect. Ms. Broeren stated that she is concerned with the orientation of the third story deck towards the neighbors.

Ms. Broeren gave the applicant time to discuss with her client whether they wanted action now or time to make adjustments to the design. Ms. Broeren suggested they scale back the design and make the plans more compatible to the neighborhood.

Mr. Younessi, the owner, asked about changes in the code after 1997.

Ms. Broeren stated that opposition from the neighborhood and compatibility with the neighborhood are only two of the factors affecting a decision; there are multiple factors and decisions are made on a case by case basis.

Ms. Broeren asked Ms. Otis what option she would prefer and Ms. Otis agreed to continue this item at a minimum of a one month period.

**COASTAL DEVELOPMENT PERMIT NO. 2007-017; CONDITIONAL USE PERMIT NO. 2007-042; VARIANCE NO. 2007-011 WAS CONTINUED TO A DATE UNCERTAIN.**

**ITEM 3: CONDITIONAL USE PERMIT NO. 2007-041; VARIANCE NO. 2007-009 (WALGREENS)**

APPLICANT: David Todd, 2390 East Camelback Road, Suite 410, Phoenix, AZ 85016  
PROPERTY OWNER: Lorbeer Enterprises, LP, 5320 E. 2<sup>nd</sup> Street, Suite 9, Long Beach, CA 90803  
REQUEST: **CUP:** To permit construction of an approximately 13,772 sq. ft. retail/pharmacy building with drive-thru; **VAR:** To permit a 5 space (7%) reduction in the required number of parking spaces, allowing 64 parking spaces in lieu of the minimum required 69 parking spaces.  
LOCATION: 4935 Warner Avenue, 92649 (northwest corner of Warner Ave. and Bolsa Chica St.)  
PROJECT PLANNER: Ron Santos

Ron Santos, Associate Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the subject site. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary emphasizing the suggested modifications to the plans.

Staff received comments from the Police Department (PD). The Police Department recommended approval with two conditions: 1) to require bollards be installed at the front of the main entrance to the store to prevent smash and run burglaries and 2) that video cameras be installed at drive through window to capture license plates of vehicles going through the drive through and images of drivers.

Staff received two inquiries, one from a neighbor who owns a liquor store and another from a citizen who asked to look at the plans.

Staff recommended approval of the request based upon the suggested findings and subject to the suggested conditions as presented in the executive summary.

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

David Todd, applicant, inquired if Condition No. 1 (e) could be modified to allow a one foot overhang instead of a two foot overhang.

Bill Lorbeer, property owner, appreciates the City's cooperation with the applicant, which he feels would benefit the City tremendously.

Ms. Broeren engaged in discussions concerning the overhang. Staff stated that a one foot change would suffice in the driveway area and that wheelchair access would still be available.

Ms. Broeren asked if there was adequate room for delivery trucks and staff stated that Public Works had reviewed that aspect.

#### **THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Ms. Broeren stated that she would modify Condition No. #1E requiring that the raised sidewalks on the south side of the building provide a one foot overhang and meet ADA access requirements.

**CONDITIONAL USE PERMIT NO. 2007-041; VARIANCE NO. 2007-009 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

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

The Zoning Administrator 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 15302 of the CEQA Guidelines, because the project consists of the replacement of existing commercial structures with a structure of substantially the same size, purpose and capacity.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2007-041:**

1. Conditional Use Permit No. 2007-041 to permit construction of an approximately 13,772 sq. ft. retail/pharmacy building with drive-thru 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 will establish a neighborhood-serving commercial use with a contemporary building design and in conformance with current code requirements, in replacement of an existing 25 year old commercial center. The proposed project will not generate significant noise, odors, traffic or other detrimental impacts.
2. The conditional use permit will be compatible with surrounding uses because the proposed commercial use will serve the surrounding neighborhood and is designed to facilitate pedestrian, automobile, and bicycle access. The proposed building height, colors, landscaped setbacks, and outdoor lighting levels are consistent with the character of the surrounding neighborhood. The project is located on a site zoned for and adjacent to other commercial uses.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, except for the parking variance approved concurrently, including land use limitations, minimum landscaping and building setbacks and maximum 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 CG-F1 (Commercial General – 0.35 maximum floor area ratio) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

LU 10.1.1: Accommodate the development of neighborhood, community, regional, office and visitor-serving commercial uses in areas designated on the Land Use Plan in accordance with Policy 7.1.1.

LU 10.1.4: Require that commercial buildings and sites be designed and developed to achieve a high level of architectural and site layout quality.

ED 2.4.1 – Encourage and assist existing and potential commercial owners to modernize and expand their commercial properties.

The proposed project consists of a neighborhood serving commercial use in an area designated for commercial uses on the Land Use Plan. The project design features quality architecture and exterior finish materials, a variety of roof lines and façade treatments, and a functional site layout. The project will replace existing aged buildings with a modern development.

**FINDINGS FOR APPROVAL - VARIANCE NO. 2007-009:**

1. The granting of Variance No. 2007-009 to permit a 5 space (7%) reduction in the required number of parking spaces, allowing 64 parking spaces in lieu of the minimum required 69 parking spaces will not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and under an identical zone classification. The requested variance will not constitute a grant of special privilege because the project site presents a special circumstance (an existing easement over the property) which is inconsistent with the limitations on other properties and which is remedied, in part, by the granting of the requested variance.
2. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The project site is encumbered by the half width of a 50 wide easement along the westerly property line. This easement represents a constraint to development of the site, absent which additional parking spaces may be provided on site to meet the code required minimum.
3. The granting of a variance is necessary to preserve the enjoyment of one or more substantial property rights. The requested variance is necessary to offset a unique constraint to development represented by an existing easement over the property, absent which the property could accommodate the additional parking spaces needed for code compliance.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to property in the same zone classification and is consistent with the General Plan. The proposed use includes a drive-through service window and queuing lane which may accommodate a minimum of 5 vehicles. Provision of the drive through service is anticipated to reduce the demand for parking, since customers using the drive-through window would do so in lieu of parking on site, such that adequate parking will be provided on site despite the parking variance. Accordingly, the requested reduction in parking will not have a detrimental impact on surrounding property owners. The variance will accommodate new development in accordance with the General Plan Land Use and Density Schedule.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2007-041; VARIANCE NO. 2007-009:**

1. The site plan, floor plans, and elevations received and dated December 18, 2007 shall be the conceptually approved design with the following modifications:
  - a. The minimum widths of the drive through lane and the one-way drive aisle on the north side of the building shall be 12 feet.
  - b. The minimum building setback from the northerly property line shall be 29'-6" (to allow for two 12-ft. wide vehicular travel lanes, a six-in. wide curb, and a five-ft. wide planter.
  - c. A 10 ft. visibility triangle shall be provided at the northwest corner of the building, in accordance with the provisions of HBZSO Section 231.22 and 230.88(C).
  - d. The driveway entrances shall have textured and colored pavement (behind sidewalk on private property) for a minimum depth of 20 ft. Paving treatment specifications shall be

included in the working drawing plan sets and shall be subject to review and approval by the Planning Department.

- e. The raised walkways along the south and east sides of the building shall be extended one foot into the adjacent rows of parking stalls to provide a continuous wheel stop. The walkways shall maintain the required minimum width for ADA accessibility.
  - f. Permanent decorative bollards should be placed in front of the main entrance doors. (PD)
  - g. Cameras shall be installed at the drive-through window which record the vehicle license plate and driver's image. (PD)
2. At least 14 days prior to any grading activity, the applicant/developer shall provide notice in writing to property owners of record and tenants of properties immediately adjacent to and across the street/alley the project site. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Planning Department.
  3. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/index.cfm?fuseaction=guidelines>).

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

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

**THE MEETING WAS ADJOURNED AT 2:35 P.M. BY THE ZONING ADMINISTRATOR TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR ON WEDNESDAY, JANUARY 16, 2008 AT 1:30 PM.**

  
Mary Beth Broeren  
Zoning Administrator

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