MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JANUARY 26, 2010
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

	P	*P*	*P*	*P*	*P*	*A*	*P*
ROLL CALL:	*Mantini,*	*Scandura,*	*Speaker,*	*Farley,*	*Shier Burnett,*	*Delgleize,*	*Livengood*

Commissioner Delgleize was absent.

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF JANUARY 26, 2010, BY THE FOLLOWING VOTE:

AYES: **Mantini, Scandura, Speaker, Farley, Shier Burnett, Livengood**
NOES: **None**
ABSENT: **Delgleize**
ABSTAIN: **None**

MOTION APPROVED

Commissioner Delgleize arrived at 5:20 PM.

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

A-1. CONDITIONAL USE PERMIT NO. 09-012 (APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF NEWLAND STREET CAR WASH) – Ethan Edwards, Associate Planner

Ethan Edwards, Associate Planner, gave a brief overview of the proposed project. He noted that this project was approved by the Zoning Administrator on November 18, 2009 and was appealed on November 30, 2009.

Commissioner Scandura briefly discussed lot sizes of existing express car washes in Huntington Beach.

Commissioner Mantini asked if the applicant had made the recommended design changes and Mr. Edwards said that these changes were made prior to the appeal.

Commissioner Delgleize asked what kind of landscaping is proposed. Mr. Edwards said the applicant is proposing trees.

Chair Farley questioned staff report attachment 3 and Mr. Edwards noted that these are the latest, revised plans.

Mr. Scandura said that he has concerns with water conservation.

Commissioner Mantini asked about the project's proposed operating hours and Mr. Edwards noted that these are specified on staff report attachment 4.5, Item No. 4-a.

A-2. GENERAL PLAN AMENDMENT NO. 09-002/ZONING MAP AMENDMENT NO. 09-002/ZONING TEXT AMENDMENT NO. 09-007/CONDITIONAL USE PERMIT NO. 09-024/NEGATIVE DECLARATION NO. 09-006 (WARD GARFIELD SPECIFIC PLAN) – Jane James, Senior Planner

Jane James, Senior Planner, gave a brief overview of the proposed project, and noted that the proposed site is approximately 43 acres. She also noted that the property is owned by Southern California Edison. She said that the project includes a proposal to add an "SP" (Specific Plan) suffix to the existing General Plan Designation. She also noted that staff has received six letters in response to this project.

Commissioner Livengood said that he has concerns with the proposed project's impacts on the neighboring residents.

Commissioner Delgleize asked about proposed hours of operation for the Recreational Vehicle (RV) Storage Facility. Ms. James said that there would be no change to the operating hours at the existing nursery or Edison substation. The Storage Facility office hours would be 8:00 AM-5:00 PM, seven days a week and remote entry access for RV owners would be available 7:00 AM-7:00 PM, Monday through Friday, and 7:00 AM-5:00 PM Saturday and Sunday.

Ms. Delgleize asked about the responses and concerns staff has received from neighboring residents. Ms. James indicated that these issues will be addressed when this item comes before the Planning Commission at the public hearing on February 9, 2010.

Commissioner Speaker asked for clarification on the operating hours listed on staff report Attachment 4.1. Ms. James said that the remote gate (for RV owners) would be available 7:00 AM-7:00 PM, Monday through Friday, and 7:00 AM-5:00 PM Saturday and Sunday. She said that the RV Storage Facility Office hours would be 8:00 AM-5:00 PM, seven days a week, and that a roving security guard would be on the premises.

Commissioner Scandura asked for more details regarding the six letters that staff has received, and asked if these letters were in support of the project or against it. Ms. James noted that most of the letters were in support of the project, and cited concerns with landscaping, and that some of the letters were from public agencies.

Chair Farley asked if on-site RV repairs would be allowed and Ms. James said that staff is not recommending on-site repairs be a permitted use. Mr. Farley also asked about vehicle towing and washing and Ms. James said that staff is recommending that these uses be permitted.

A-3. GENERAL PLAN CONFORMANCE NO. 09-007 (FRONTAGE ROAD AT BEACH BLVD./ATLANTA AVENUE) – Tess Nguyen, Associate Planner

Tess Nguyen, Associate Planner, gave a brief overview of the proposed project. She noted that staff report Attachment Nos. 2.4 and 2.5 display the existing parcels map and the proposed parcels map.

Commissioner Shier Burnett asked if this General Plan Conformance would change the Planning Commission's approval of the Beach Promenade project and Ms. Nguyen said no.

Ms. Delgleize asked about access and egress from the site. Ms. Nguyen noted that this would be from Beach Blvd and also said that this would be more fully addressed in the next phase of development.

Commissioner Livengood recommended moving Public Comments (Item No. SS C-1) before Item No. SS B-1.

Mr. Farley asked staff about reciprocal access and Planning Manager Herb Fauland noted that this will be addressed when the phase two development project comes before the Planning Commission.

A MOTION WAS MADE BY FARLEY, SECONDED BY LIVENGOOD, TO MOVE ITEM NO. SS C-1 BEFORE ITEM NO. SS B-1, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER.

B. STUDY SESSION ITEMS

B-1. PLANNING COMMISSION WORKSHOP (REVIEW PROPOSED AGENDA ITEMS) – Chair Blair Farley

Chair Farley polled the Planning Commission and asked for recommendations for a workshop date and topics.

Commissioner Delgleize suggested the Beach/Edinger Corridors Traffic/Circulation update, recommending a focus on parking garages. She also recommended an update on undergrounding utilities and suggested that Aaron Klemm, Energy Project Manager, give a presentation.

Commissioner Speaker suggested a workshop date in March. He recommended discussing a downtown permit parking forum for residents. He asked staff if this issue would be coming before the Planning Commission. Planning and Building Director Scott Hess noted that most permit parking issues come before the Zoning Administrator (ZA) and only come before the Planning Commission if the ZA's decision is appealed.

Commissioner Scandura recommended discussing the General Plan Circulation Element, Green Buildings and standards, Open Park Space, and the Quimby Act.

Commissioner Mantini recommended discussion of the Transit Center and Circulation Element, and alcohol sales in the downtown area.

Mr. Hess suggested that the Planning Commission discuss upcoming major projects, Robert's Rules of Order and the process for developing adequate findings.

Mr. Farley suggested holding the workshop on April 1, 2010 and then called for a Straw Vote.

STRAW VOTE #1
A motion was made by Farley, seconded by Livengood, to tentatively schedule the 2010 Planning Commission Workshop for Thursday, April 1, 2010.

AYES:	**Mantini, Scandura, Speaker, Farley, Delgleize, Livengood**
NOES:	**Shier Burnett**
ABSTAIN:	**None**
ABSENT:	**None**

MOTION APPROVED

C. PUBLIC COMMENTS

Bill Holman, of Michael C. Adams Associates, spoke regarding Item No. SS A-3 and discussed water conservation issues.

Richard Hwang, applicant, spoke in favor of Item No. SS A-1. He noted that he operates two other express car washes in Long Beach. Commissioner Speaker asked Mr. Hwang if he would provide the Planning Commission with the addresses of these two car washes prior to the Planning Commission public hearing scheduled for February 9, 2010. Mr. Hwang said yes.

D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Herb Fauland, Planning Manager, reviewed the items for tonight's meeting. He noted that there is one Late Communication for Item No. B-1 (Goldenwest Assisted Living) and three Late Communications for Item No. B-2 (Appeal of Zoning Administrator's Approval of T-Mobile Wireless Facility).

E. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Scandura noted that the Subdivision Meeting for "The Ridge" is scheduled for Thursday, January 28th at 3:00 PM in meeting room B-7.

F. PLANNING COMMISSION COMMENTS

Commissioner Livengood indicated that he will be making a motion to move Item No. D-1 (General Plan Conformance) before Item No. B-1.

Commissioner Shier Burnett noted that the applicant for Huntington Shorecliffs Mobile Home Park Conversion, the law firm of Hart, King and Coldren, will be holding a residents' meeting on Friday, January 29th at 3:00 PM. Director of Planning and Building Scott Hess noted that Hart, King and Coldren sent a new survey to the Huntington Shorecliffs residents approximately a month ago.

Commissioner Scandura asked about the 2010 Planning Commission Committee assignments. Chair Farley indicated that he plans to agendize this topic at the next Planning Commission meeting.

6:09 PM – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Shier Burnett

	P	P	P	P	P	P	P
ROLL CALL:	***Mantini,***	***Scandura,***	***Speaker,***	***Farley,***	***Shier Burnett,***	***Delgleize,***	***Livengood***

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY FARLEY, TO MOVE ITEM NO. D-1 AHEAD OF ITEM NO. B-1 AND TO APPROVE THE PLANNING COMMISSION AGENDA OF JANUARY 26, 2010, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

THE MINUTES WILL REFLECT ITEMS IN THEIR ORIGINAL ORDER.

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS

B-1. NEGATIVE DECLARATION NO. 09-001/GENERAL PLAN AMENDMENT NO. 09-001/ CONDITIONAL USE PERMIT NO. 09-003 (GOLDENWEST ASSISTED LIVING)

Applicant: Douglas Pancake, AIA, Irwin Pancake Architects **Request:** **ND**: To analyze the potential environmental impacts associated with the construction of an assisted living/convalescent facility. **GPA**: To amend the General Plan floor area ratio (FAR) designation from the existing CO-F1 (Commercial Office-0.35 Max. FAR) designation to the proposed CO-F3 (Commercial Office-1.0 Max. FAR) designation. The amendment would make the General Plan and Huntington Beach Zoning & Subdivision Ordinance FAR designations consistent. **CUP**: To permit an assisted living/convalescent facility that consists of 124 rooms; 144 beds; 48 parking spaces; outdoor amenities such as a courtyard, gardens, and playground; indoor amenities such as communal dining areas, social activity rooms, housekeeping and ancillary offices. **Location:** 17200 Goldenwest Street (east side of Goldenwest Street, between Warner Avenue and Betty Drive) **Project Planner:** Ethan Edwards

STAFF RECOMMENDATION:

Motion to:

A. "Approve Negative Declaration No. 09-001 with findings and mitigation measures (Attachment No. 1)."

B. "Approve General Plan Amendment No. 09-001 by approving the draft City Council Resolution (Attachment No. 2) and forward to the City Council for adoption.

C. "Approve Conditional Use Permit No. 09-003 with findings and suggested conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Livengood has visited the site and attended the study session.
- Commissioner Delgleize has visited the site, attended the study session and spoken to staff.
- Commissioner Shier Burnett has visited the site and attended the study session.
- Chair Farley has visited the site and attended the study session.
- Vice Chair Speaker has visited the site, attended the study session, and voted on this project when it came before the Design Review Board on November 12, 2009.
- Commissioner Scandura has visited the site, attended the study session and spoken to staff.
- Commissioner Mantini has visited the site and attended the study session.

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project.

Mr. Scandura asked staff about parking, noting that for an assisted living facility, approximately 75% of the parking would be for employees. He said that the proposed parking ratio would be sufficient on a weekday, but that he had concerns with weekends and holidays, when visitors would require parking.

Mr. Edwards noted that staff has visited a similar assisted living facility (Sunrise Assisted Living) and that the proposed 1:3 parking ratio was sufficient there for weekdays, weekends and holidays.

Mr. Farley asked staff if this project comes under the classification of Affordable Housing. Mr. Edwards said no, that Goldenwest Assisted Living would operate as a commercial business.

THE PUBLIC HEARING WAS OPENED.

Paul Freeman of Burke Real Estate Group (property owner) spoke in favor of Item No. B-1. He noted that he has received many inquiries from potential residents and their families and that this project would fill a need within the community.

Douglas Pancake of Irwin Pancake Architects (the applicant) spoke in favor of Item No. B-1. He thanked Associate Planner Ethan Edwards for his efforts on this project. He noted that the proposed design of the Goldenwest Assisted Living Facility includes 'stepping' architecture to create visual appeal. He also said that the staff of the facility would strive to be respectful of their neighbors.

Commissioner Scandura asked about parking. Mr. Pancake indicated that the proposed parking ratio is .33 spaces per bed, with one parking space for each three residents.

Chair Farley asked if reciprocal parking is proposed with Home Depot and Mr. Freeman said no.

Commissioner Delgleize complimented the applicant and staff on this project and said that she appreciates the thoughtfulness in planning.

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

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE NEGATIVE DECLARATION NO. 09-001 WITH FINDINGS AND MITIGATION MEASURES, TO APPROVE GENERAL PLAN AMENDMENT NO. 09-001 BY APPROVING THE DRAFT CITY COUNCIL RESOLUTION AND FORWARD TO THE CITY COUNCIL FOR ADOPTION, AND TO APPROVE CONDITIONAL USE PERMIT NO. 09-003 WITH FINDINGS AND SUGGESTED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

FINDINGS FOR APPROVAL - NEGATIVE DECLARATION NO. 09-001:

1. The Negative Declaration No. 09-001 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Any comments received during the comment period were considered by the Planning Commission prior to action on the Negative Declaration and Conditional Use Permit No. 09-003.

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

3. There is no substantial evidence in light of the whole record before the Planning Commission that the project, as mitigated through the conditions of approval for Conditional Use Permit No. 09-003 will have a significant effect on the environment.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 09-003:

1. Conditional Use Permit No. 09-003 for the establishment, maintenance and operation of an approximately 116,670 sq. ft. assisted living/convalescent facility with 144-beds within 124 rooms on a 2.71 acres 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 in that the proposed project will provide housing for the elderly and persons with special needs within an attractively designed structure that compliments and provides an appropriate transition between residential and commercial uses. Based upon the conditions imposed, the proposed project will be compatible with the adjacent residential, public, and commercial uses.

2. The conditional use permit will be compatible with surrounding uses because the massing and scale is designed to be harmonious with adjacent land uses including a reduced building height nearest to adjacent single-family homes. The architectural design provides a high quality residential feel and the site layout, including courtyards and landscaping, and associated parking is in keeping with the surrounding residential and commercial developments. The assisted living/convalescent use will have minimal impact on City services because the use is mostly self-contained and occupants typically live at a slower pace and onsite staff is available to tend to daily needs.

3. The proposed assisted living/convalescent facility 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 including minimum building setbacks, parking and landscape requirements; and maximum building height and floor area ratio and any specific condition required for the proposed use in the district in which it would be located.

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 Office on the subject property. The project helps to satisfy a growing social need for families that require assistance for elderly members that are physically and mentally challenged and need daily care and support. In addition, it is consistent with the following goals and policies of the General Plan:

A. *Land Use Element*

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

Objective LU 9.5: Provide for the development of housing for senior citizens, the physically and mentally challenged, and very low, low, and moderate income families.

Policy LU 9.5.2: Require that special needs housing is designed to be compatible with adjacent residential structures and other areas designated for other categories of use provided that no adverse impacts will occur.

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

The assisted living/convalescent facility will provide housing opportunities for existing and future senior citizens and the physically and mentally challenged needing help with activities of daily living. The proposed use is designed to be compatible with surrounding uses and structures.

B. *Housing Element*

Objective HE 3.1: Facilitate the development of housing for low and moderate income households which is compatible with and complements adjacent uses and is located in close proximity to public and commercial services.

Policy HE 3.1.1: Encourage the provision and continued availability of a range of housing types throughout the community, with variety in the number of rooms and level of amenities.

Policy HE 4.1.2: Provide for a wide variety of housing types for different income levels and household needs.

Policy HE 5.1.2: Promote housing which meets the special needs of handicapped and elderly persons, as well as housing facilities for drug and alcohol rehabilitation, and for persons with AIDS.

The assisted living/convalescent facility will provide a housing option designed with amenities for elderly persons with special needs and care. The facility is compatible with

adjacent residential and commercial uses and appropriately located near public and commercial services.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 09-003:

1. The site plan, floor plans, and elevations received and dated November 4, 2009 shall be the conceptually approved design.

2. 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).

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

   a. At least 14 days prior to any grading activity, the applicant/developer shall provide notice in writing to property owners of record and tenants of properties immediately adjacent to and across the street from within a 1,000-foot radius of the project site as noticed for the public hearing. The notice shall include a general description of planned grading activities and an estimated timeline for commencement and completion of work and a contact person name with phone number. Prior to issuance of the grading permit, a copy of the notice and list of recipients shall be submitted to the Planning Department.

   b. Prior to the onset of ground disturbance activities, the project developer shall implement the following requiring nesting surveys and avoidance measures for sensitive nesting and Migratory Bird Treaty Act (MBTA) species, and appropriate agency consultation.

      Nesting habitat for protected or sensitive species:
      1) Vegetation removal and construction shall occur between September 1 and January 31 whenever feasible.
      2) Prior to any construction or vegetation removal between February 15 and August 31, a nesting survey shall be conducted by a qualified biologist of all habitats within 500 feet of the construction area. Surveys shall be conducted no less than 14 days and no more than 30 days prior to commencement of construction activities and surveys will be conducted in accordance with California Department of Fish and Game (CDFG) protocol as applicable. If no active nests are identified on or within 500 feet of the construction site, no further action is necessary. A copy of the pre-construction survey shall be submitted to the City of Huntington Beach. If an active nest of a MBTA protected species is identified onsite (per established thresholds), a 250-foot no-work buffer shall be maintained between the nest and construction activity. This buffer can be reduced in consultation with CDFG and/or U.S. Fish and Wildlife Service.
      3) Completion of the nesting cycle shall be determined by a qualified ornithologist or biologist.

4. The use shall comply with the following:

   a. Conditional Use Permit No. 09-003 shall not become effective until General Plan Amendment No. 09-001 has been approved by the City Council, and is in effect.

5. 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.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

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

B-2. **APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF CONDITIONAL USE PERMIT NO. 09-015 (T-MOBILE WIRELESS COMMUNICATIONS FACILITY)** **Applicant:** Monica Moretta, Sequoia Deployment Services, Inc. **Request:** To permit the construction of a 55 ft. high wireless communications facility designed as a palm tree "monopalm" with 12 panel antennas and one (1) GPS antenna, including associated equipment surrounded by a 7 ft. 6 in. high blockwall. The request includes the relocation of a 5 ft. high block wall trash enclosure. **Zoning Administrator Approved Re-Design:** On November 4, 2009, the Zoning Administrator approved the construction of a 55 ft. high wireless communications facility as a completely stealth designed church bell tower with six (6) panel antennas and one (1) GPS antenna, including the requirement to completely underground all associated ancillary equipment. **Location:** 6666 Heil Avenue, 92647 (south side of Heil Avenue, east of Edwards Street) **Project Planner:** Jill Arabe

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 09-015 with suggested findings and conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

- Commissioner Livengood has attended the study session and visited the site.
- Commissioner Delgleize has attending the study session, visited the site and served as the real estate agent for some of the neighborhood residents.
- Commissioner Shier Burnett has attended the study session and visited the site.
- Vice Chair Speaker has attended the study session, visited the site and voted on this project when it came before the Design Review Board on September 10, 2009.
- Commissioner Scandura has attending the study session, visited the site, talked to staff and the neighbors, spoken to resident Mr. J.D. McFarland, considered appealing the project, and his children have attended Community United Methodist Church.
- Commissioner Mantini has attending the study session and visited the site
- Chair Farley has attended the study session and visited the site.

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

Commissioner Scandura briefly discussed the coverage gap that the applicant says exists. He asked how many other cell towers are within a 1-4 mile radius and what criterion is used to prove a coverage gap in T-Mobile service.

Mr. Scandura also noted that the federal government wants cell companies to be able to install cell towers. He also said that per the Telecommunications Act, the Planning Commission cannot base their decision based on frequency issues.

Deputy City Attorney Mike Vigliotta noted that in order to deny the project, the Planning Commission needs substantial evidence that the tower would be aesthetically undesirable and would lower property values.

THE PUBLIC HEARING WAS OPENED.

Monica Moretta, applicant from T-Mobile, spoke in favor of Item No. B-2, citing T-Mobile's need for a cell tower to provide better cellular service and remedy the existing coverage gap.

Pete Shubin, applicant's representative from Sequoia Deployment Services, spoke in favor of Item No. B-2, citing T-Mobile's need for a cell tower to provide better cellular service and remedy the existing coverage gap. Commissioner Scandura asked Mr. Shubin how a gap in coverage is proven and Mr. Shubin said that the T-Mobile network logs cellular signal strengths and weaknesses.

Dianne Larson, appellant, spoke in opposition to Item No. B-2. She said that there is no gap in cell coverage and the cell tower would be detrimental to the welfare of persons in the vicinity and detrimental to the property values. She also said that the proposed wireless communication facility does not meet code requirements or the requirements of the wireless permit application. She stated that plans were not made available to the public prior to the Zoning Administrator's meeting of September 30, 2009 and the Zoning Administrator didn't review new written evidence submitted at the public hearing.

Carol Settimo, resident, spoke in opposition to Item No. B-2, citing potential health concerns and the possible decrease in property values.

Dana Drake, resident, spoke in opposition to Item No. B-2, citing concerns with property values and questioning the coverage gap cited by T-Mobile.

J.D. McFarland, resident, spoke in opposition to Item No. B-2, citing concerns with quality of life, aesthetics and health concerns.

Bill Kettler, resident, spoke in opposition to Item No. B-2, saying that he questions T-Mobile's claim of a coverage gap and citing concerns with property values.

Fred Booth, resident, spoke in opposition to Item No. B-2, citing concerns with public notification of the project, potential decline in property values and possible health concerns.

Blanca Evans, resident, spoke in opposition to Item No. B-2, saying that the proposed cell tower would result in lowered property values and citing possible health concerns.

Ron Passmore, resident, spoke in opposition to Item No. B-2, citing concerns with the proposed cell tower's proximity to schoolchildren and potential health issues.

John Anderson, resident, spoke in opposition to Item No. B-2, citing potential health concerns and the possible decrease in property values.

John Finley, resident, spoke in opposition to Item No. B-2, citing potential health concerns and the possible decrease in property values and the quality of life for residents.

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

Mr. Livengood asked Duane Hertado, the representative from Community United Methodist Church (CUMC), about the church's position regarding the project. Mr. Hertado indicated that the church voted in favor of the project, 20 to 0.

Mr. Livengood stated that he is now against approving this project. He cited concerns with aesthetics, decline in property values, and said he felt the proposed tower would not be compatible with surrounding uses. He also voiced concerns with T-Mobile's maintenance and repair schedule and the proximity of other cell towers. He recommended that the Planning Commission deny this request.

Mr. Scandura asked staff about the proposed cell tower dimensions and Ms. Arabe said that the base would be 3' at each sector. Mr. Scandura discussed alternatives to approving the project, such as continuing or conducting an independent study. He also said that he has concerns that T-Mobile has not proven that the coverage gap exists.

Commissioner Mantini said that she concurs with Commissioner Scandura and noted that the engineering data and cell signal strength would ebb and flow and not necessarily indicate an unacceptable coverage gap.

Mr. Scandura also noted that the Planning Commission's ability to limit cell towers is limited by federal law.

Ms. Shier Burnett concurred with Commissioner Scandura and asked for more research data and a possible independent study to prove the coverage gap.

Mr. Livengood said that based on the information received from local realtors, property values would decline if the cell tower were constructed.

Chair Farley noted that gap coverage studies won't always match, and said that T-Mobile has made a business decision. He asked the Planning Commission to approve or deny the project.

Mr. Vigliotta advised that in order to deny the project, the Planning Commission must express their findings that there is not a gap in coverage, or provide substantial evidence in the record that shows that there is no gap in coverage.

Mr. Scandura said that to deny the project without showing findings might conflict with federal law. He recommended an independent study.

Mr. Vigliotta said that if T-Mobile can prove the coverage gap, then the city must allow the tower to be built, per the Federal Telecommunications Act.

Mr. Livengood said that the evidence presented to the Planning Commission doesn't prove or support the existence of a coverage gap.

Mr. Scandura noted that if the Planning Commission's decision is contrary to federal law, the city could face a lawsuit.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHIER BURNETT, TO DENY CONDITIONAL USE PERMIT NO. 09-015 WITH FINDINGS, BY THE FOLLOWING VOTE:

AYES:	**Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**Mantini, Scandura**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

FINDING FOR DENIAL – CONDITIONAL USE PERMIT NO. 2009-015:

1. Based on the wireless permit application, supplemental maps and information, and testimony presented at this Planning Commission meeting, there are incomplete and inconsistent facts regarding whether the project is necessary to fill a significant gap in wireless coverage. In part, maps submitted by the applicant demonstrate that existing wireless communications facilities owned by the wireless carrier are within close proximity of the proposed bell tower and provide wireless coverage for the vicinity. This coverage may not be the best coverage possible but there is satisfactory coverage according to the applicant's own coverage maps. Finally, there was no evidence presented that alternative sites were analyzed and considered as available to remediate any significant gap in coverage issues in the area.

   Conditional Use Permit No. 2009-015 for the establishment, maintenance and operation of a 55 ft. high wireless communications facility disguised as a bell tower with six (6) panel antennas and one (1) GPS antenna, including completely stealth associated equipment will be detrimental to the general welfare of persons working or residing in the vicinity and detrimental to the value of the property and improvements in the neighborhood. The distance of the proposed wireless communications facility to the closest resident is approximately 125 feet and therefore will intrude into the views of adjacent residents. The proposed design of the new bell tower will create visual blight because it will eliminate the open design of the existing bell tower. Furthermore, the conditional use permit will not be compatible with surrounding land uses. Masked in the existing tower, as proposed, the wireless communications facility and supporting structure will not blend into the surrounding residential environment including the existing church based on the submitted exhibits and documentation in the staff report.

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED SEPTEMBER 9, 2009

RECOMMENDED ACTION: Motion to: "Approve the September 9, 2009, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY SPEAKER, SECONDED BY DELGLEIZE, TO APPROVE THE SEPTEMBER 9, 2009, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS

D-1. GENERAL PLAN CONFORMANCE NO. 09-006 (NEWLAND ST. AND EDISON DRIVE UNDERGROUND UTILITY DISTRICT)

Applicant: City of Huntington Beach **Request:** To determine if proposed underground utility district is in conformance with the goals, objectives, and policies of the General Plan. **Location:** Newland Street (between Pacific Coast Highway and Hamilton Avenue) and all of Edison Drive. **Project Planner:** Jane James

STAFF RECOMMENDATION: Motion to: "Adopt Resolution No. 1640, approving General Plan Conformance No. 09-006 with findings (Attachment Nos. 1 and 2)."

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

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHIER BURNETT, TO ADOPT RESOLUTION NO. 1640, APPROVING GENERAL PLAN CONFORMANCE NO. 09-006 WITH FINDINGS, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

E. PLANNING ITEMS

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

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

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING
Herb Fauland, Planning Manager – reported on the items for the next Planning Commission Meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS - NONE

ADJOURNMENT: Adjourned at 9:30 PM to the next regularly scheduled meeting of Tuesday, February 9, 2010.

APPROVED BY:

Scott Hess, Secretary

Blair Farley, Chairperson