



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, NOVEMBER 10, 2015

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

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

### CALL PLANNING COMMISSION MEETING TO ORDER

P P P P A P P

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

Commissioner Mandic was absent.

### AGENDA APPROVAL

A MOTION WAS MADE BY BRENDEN, SECONDED BY SEMETA, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF NOVEMBER 10, 2015, BY THE FOLLOWING VOTE:

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

### MOTION APPROVED

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

- A-1. **CONDITIONAL USE PERMIT NO. 15-030/ TENTATIVE TRACT MAP NO. 17930 (NEWLAND CONDOMINIUMS)** Request: To permit the consolidation of two parcels for a one-lot subdivision on an approximately 0.829 net acre site and to construct a development of 13 for-sale townhome condominium units along with associated open space and infrastructure. **Location:** 17541 & 17561 Newland Street, 92647 (west side of Newland Street, approximately 220 feet south of Slater Avenue) **City Contact:** John Ramirez, Contract Planner

John Ramirez, Contract Planner, gave a brief overview of the proposed project.

At Commissioner Pinchiff's request, staff described the state and local laws regarding subdivisions and density bonuses for affordable housing.

There was a brief discussion regarding the covenants that require the affordable units to be owner occupied.

Chair Kalmick requested that staff include in the public hearing staff report additional information regarding the CEQA exemption rationale and the potential impacts of the parking reduction.

Commissioner Brenden asked for further information regarding the parking standards. Mr. Ramirez gave an overview of the density bonus and the state parking standards.

**B. STUDY SESSION ITEMS – NONE**

**C. PUBLIC COMMENTS**

Aaron Orestein, The Olson Company, spoke in support of Study Session Item No. A-1 and indicated that he would work with staff to address all of the Planning Commissioners' questions for the upcoming public hearing.

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

Jane James, Planning Manager, reported that there were two late communication items for Item No. B-1, one late communication item each for Item Nos. B-2 and B-3, and several late communication items for Item No. F-1.

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

Vice-Chair Pinchiff reported on the recent Southeast Area Committee meeting and described that the previously approved AES power plant has been changed to a smaller facility. All file information is available on the California Energy Commission website.

Commissioner Semeta reported on the recent Design Review Board meeting and their review of the Verizon Monopalm.

Chair Kalmick reported on the recent Environmental Board meeting and that AQMD has changed the mitigation funding formula for AES.

**F. PLANNING COMMISSION COMMENTS - NONE**

**5:51 P.M. – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

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

***P P P P A P P***

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

Commissioner Mandic was absent.

## **AGENDA APPROVAL**

**A MOTION WAS MADE BY BRENDEN, SECONDED BY CROWE, TO APPROVE THE PLANNING COMMISSION AGENDA OF NOVEMBER 10, 2015, BY THE FOLLOWING VOTE:**

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

## **MOTION APPROVED**

### **A. PUBLIC COMMENTS**

Susan Welfringer, Huntington Beach Downtown Business Improvement District, spoke in opposition to item No. F-1, stating that she was confident with the direction the Police Department has taken regarding alcohol service in the downtown. She asked the Commission to direct staff to look into visitor improvements for the downtown instead.

### **B. PUBLIC HEARING ITEMS**

- B-1. CONDITIONAL USE PERMIT NO. 15-004 – APPEAL (VERIZON WIRELESS MONOPALM) Applicant/Appellant:** Ryan Birdseye, Birdseye Planning Group  
**Property Owner:** Lester C. and Jimmy L. Smull Family Trust  
**Request:** To permit the installation, maintenance, and operation of a 56 ft. high wireless communication facility designed as a palm tree (monopalm) with twelve (12) 8-ft. long panel antennas, one (1) GPS antenna, twelve (12) remote radio units, two (2) raycaps, and associated support equipment (2 equipment cabinets, 1 standby generator with a 55 gallon fuel tank) within a 238 sq. ft., 6-ft. high equipment enclosure. **Location:** 9062 Adams Avenue, 92646 (southeast corner of Magnolia Street and Adams Avenue) **Environmental Status:** This request is covered by Section 15303, Class 3, California Environmental Quality Act. **City Contact:** Tess Nguyen, Associate Planner

**STAFF RECOMMENDATION:** Motion to: “Approve Conditional Use Permit No. 15-004 with suggested findings and conditions of approval (Attachment No. 1).”

The Commission made the following disclosures:

- Commissioner Crowe has visited the site.
- Commissioner Semeta has visited the site and attended the Design Review Board meeting on this item.
- Vice-Chair Pinchiff has visited the site and spoke with staff.
- Chair Kalmick spoke with staff, visited similar locations, and visited the site.
- Commissioner Brenden has visited the site.
- Commissioner Hoskinson had no disclosures.

Tess Nguyen, Associate Planner, gave the staff presentation and an overview of the project.

At Commissioner Brenden's request, staff gave a brief overview of the four previous projects where additional trees had been required to reduce the visual impact of the wireless facilities.

**THE PUBLIC HEARING WAS OPENED.**

Tyler Forester, Tectonic Engineering representing Verizon Wireless, spoke in support of Item No. B-1. He spoke in opposition to the condition requiring the planting of additional trees to reduce visual impact, citing concerns with the space required for the trees, the potential issues associated with the required irrigation for the trees, and potential financial impacts.

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

Commissioner Semeta reviewed the Design Review Board's recommendation against the required landscaping and described that the type of tree required to achieve the height would not be the same as the monopalm. The Design Review Board also thought it would be too expensive.

Vice-Chair Pinchiff indicated that he would support staff's recommendation, citing concerns from residents regarding the aesthetic impacts of wireless facilities.

Commissioner Brenden stated that he felt the requirement for additional trees placed an unnecessary burden on the applicant and would achieve little mitigation to the aesthetic impacts of the proposed wireless facility.

There was a brief discussion regarding the potential impacts, to the applicant, of requiring additional palm trees.

**A MOTION WAS MADE BY SEMETA, SECONDED BY BRENDEN, TO APPROVE CONDITIONAL USE PERMIT NO. 15-004 WITH SUGGESTED FINDINGS AND MODIFIED CONDITIONS OF APPROVAL TO ELIMINATE THE REQUIREMENT FOR LIVE PALM TREES, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15303 of the CEQA Guidelines, because the project consists of the installation of small new equipment and facilities.

**FINDINGS FOR APPROVAL – CONDITIONAL USE PERMIT NO. 15-004**

1. Conditional Use Permit No. 15-004 for the establishment, maintenance and operation of a 56 foot high wireless communication facility designed as a palm tree (monopalm) with twelve

(12) eight-foot long panel antennas, one (1) GPS antenna, twelve (12) remote radio units, two (2) raycaps, and associated support equipment (2 equipment cabinets, 1 standby generator with a 55 gallon fuel tank) located within an existing commercial shopping center will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The facility is located approximately 280 feet from the nearest residential uses (west) and the structure is located near the rear (southwest corner) of the parcel to help mitigate any visual impacts. Conditions of approval for additional and longer palm fronds as well as painting the antennas green to match the palm fronds color are designed to blend the panel antennas into the design of the palm tree. The facility will not generate noise, traffic, or demand for additional parking above that which already exists on the subject site. The associated equipment will be located within an approximately 238 sq. ft., 6 foot high block wall equipment enclosure.

2. The proposed 56 foot high wireless communication facility will be compatible with surrounding uses because the facility incorporates stealth design technique, designing the facility as a palm tree (monopalm). The facility will be located towards the rear of the existing parcel and behind one-story commercial buildings. The maximum height in the Commercial General zoning designation is 50 feet; however pursuant to Section 230.72 of the Huntington Beach Zoning and Subdivision Ordinance, a wireless communication facility may exceed the maximum height by up to 10 feet. Associated equipment will not be visible from the street.
3. The proposed 56 foot high wireless communication facility designed as a palm tree (monopalm) 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. A conditional use permit is required because the project is a new ground mounted wireless communication facility. The facility complies with the maximum height in the district and is compatible with the surrounding uses due to its stealth design.
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 goal and policies of the General Plan:

A. Land Use Element

Goal LU 2: Ensure that development is adequately served by transportation infrastructure, utility infrastructure, and public services.

Policy LU 2.1.1: Plan and construct public infrastructure and service improvements as demand necessitates to support the land uses specified in the Land Use Plan (as defined in the Circulation and Public Utilities and Services Elements of the General Plan).

B. Utility Element

Policy U 5.1: Ensure that adequate natural gas, telecommunication and electrical systems are provided.

Policy U 5.1.1: Continue to work with service providers to maintain current levels of service and facilitate improved levels of service.

The proposed facility will provide greater levels of service to the surrounding areas while incorporating design, colors, and materials compatible with existing onsite trees. The facility incorporates stealth techniques and is designed as a palm tree. As conditioned, additional and longer painted fronds will be required to make the facility more visually compatible with the surrounding area.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 15-004:**

1. The site plan, floor plans, elevations, received and dated March 27, 2015 and photo simulations and the sample material board of the palm frond and trunk received and dated June 2, 2015 shall be the conceptually approved design with the following modifications:
  - a. Additional fronds and longer fronds shall be provided on the palm tree subject to the review and approval of the Planning Division. (DRB)
  - b. The panel antennas shall be painted green to match the palm fronds. (DRB)
  - c. The proposed monopalm shall match the quality and fullness of the monopalm depicted in the elevations dated March 27, 2015. (DRB)
  - d. Provide a new trash enclosure to replace the existing trash enclosure or provide a letter from Rainbow Environmental Services to verify there is adequate refuse service based on the number of trash enclosures and pick up schedule.
2. Prior to submittal for building permits, the following shall be completed:
  - a. One set of revised site plan and elevations in accordance with Condition No. 1 shall be submitted to the Planning Division for review and approval and inclusion in the entitlement file.
  - b. Zoning entitlement conditions of approval, code requirements identified herein and code requirements identified in separately transmitted memorandum from the Departments of 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.
3. CUP No. 15-004 shall become null and void unless exercised within two years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.
4. The Development Services Departments and divisions (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Community Development may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Zoning Administrator's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18.

5. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/green-building-guidelines-rating>).

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

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

- B-2. CONDITIONAL USE PERMIT NO. 15-056 (BLAST 825 PIZZA BEER AND WINE) Applicant:** James Hudson, Mega Treats LLC **Property Owner:** Mickel 5 Points Holdings LLC and Beach Center Partners LLC **Request:** To permit on-site sale, service, and consumption of beer and wine within an existing 2,995 sq. ft. eating and drinking establishment and a 327 sq. ft. outdoor patio. **Location:** 18541 Beach Blvd. Ste. 101, 92648 (southwest corner of Beach Boulevard and Main Street) **Environmental Status:** This request is covered by Section 15301, Class 1, California Environmental Quality Act. **City Contact:** Joanna Cortez, Assistant Planner

**STAFF RECOMMENDATION:** Motion to: "Approve Conditional Use Permit No. 15-056 with suggested findings and conditions of approval (Attachment No. 1)."

The Commission made the following disclosures:

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

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

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

James Hudson, applicant, spoke in support of Item No. B-2. He presented the Planning Commission with pictures of the inside of the restaurant.

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

Commissioner Brenden expressed concern with the condition limiting alcohol consumption to 10:00 PM on the patio and 11:00 PM inside the restaurant. He stated that he would like Condition Nos. 2(b) and 2(d) be removed from the conditions of approval. Police Lieutenant O'Brien noted that the reasoning behind those conditions is to prohibit customers from bringing alcohol to the patio from offsite or from taking alcohol out of the patio.

Commissioner Hoskinson concurred with Commissioner Brenden's concerns.

Commissioners Semeta and Crowe noted that these conditions are standard and that they supported staff recommendations. Scott Hess, Director of Community Development, concurred that these conditions have been standard recommendations for several years.

Chair Kalmick concurred with Commissioners Semeta and Crowe and supported staff's recommended conditions.

**A MOTION WAS MADE BY PINCHIFF, SECONDED BY SEMETA, TO APPROVE CONDITIONAL USE PERMIT NO. 15-056 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 15-056:**

1. Conditional Use Permit No. 15-056 for sales, service, and consumption of beer and wine within an approximately 2,995 sq. ft. restaurant and 327 sq. ft. outdoor dining area will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed use is located within an existing multi-tenant commercial center with other similar commercial uses. The business will provide an additional restaurant opportunity for the office uses in the center and residential uses in the vicinity. The restaurant is not anticipated to generate additional noise, traffic, or other impacts above existing conditions. Residential uses to the east of the site are buffered from the use by a major arterial street and landscaping.
2. The conditional use permit will be compatible with surrounding residential and commercial uses. The restaurant use is located in an existing multi-tenant commercial center with

other similar commercial uses. Residential uses to the east are buffered from the use by a major street and landscaping. To further reduce the likelihood of noise impacts to residential uses, no dining or consumption of beer and wine within the outdoor patio dining area shall occur between 10:00 PM and 7:00 AM.

3. The proposed 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 and any specific condition on the project. It complies with applicable HBZSO requirements. The proposed hours of operation are consistent with the existing commercial uses and therefore will not generate impacts to adjacent noise-sensitive uses above the existing conditions.

The General Plan Land Use Map designation on the subject property is currently M-sp-d (Mixed Use – Specific Plan Overlay – Design Overlay). The proposed project is consistent with the General Plan land use designation of Mixed Use and the objective and policies of the City's General Plan as follows:

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

The proposed use is compatible with the existing commercial uses in the shopping center such as retail, restaurants, and offices. It provides for the sales and service of beer and wine within the interior of the restaurant and outdoor dining area. The proposed use will not generate significant impacts above existing conditions.

B. Economic Development Element

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

The project is located along a primary corridor of the City that contains existing restaurants and retail. The proposed use will serve to strengthen the existing commercial center.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 15-056:**

1. The site plan and floor plan received and dated September 16, 2015 shall be the conceptually approved layout.
2. The use shall comply with the following:
  - a. Restaurant business hours shall be limited to between 7:00 AM to 11:00 PM daily.
  - b. To further reduce the likelihood of noise disturbances from patrons during late night and early morning hours, no dining or consumption of alcoholic beverages shall be

permitted within the outdoor patio dining area between the hours of 10:00 PM and 7:00 AM.

- c. Prior to sales, service or consumption of alcoholic beverages the business shall obtain an ABC license authorizing alcohol use in the restaurant. The business shall be limited to a Type 41 (On Sale Beer and Wine for Bona Fide Public Eating Place) ABC License. **(PD)**
- d. The patio shall be for the sole use of Blast 825 customers to prevent alcohol from being easily handed from the dining area to the surrounding sidewalks and walkways where people may loiter. **(PD)**
- e. The patio entry/exit point to the sidewalk shall be designated as an emergency exit only. A sign shall be posted in a conspicuous space at the entrance/exit point of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT." **(PD)**
- f. An employee of the establishment must be present at all times in areas where alcohol is served. **(PD)**
- g. Service of alcoholic beverages for consumption off-site shall not be permitted. **(PD)**
- h. No "happy hour" or reduced price alcoholic beverage promotion shall be allowed after 7:00PM. **(PD)**
- i. No loitering shall be permitted within the vicinity of any entrances and exits at any time. **(PD)**
- j. All alcohol shall remain on the establishment's premises, including within outdoor dining areas. **(PD)**
- k. To ensure the location maintains a restaurant atmosphere, food service from the regular menu shall be available from the time the business opens to the public, until at least one hour prior to the scheduled closing time. **(PD)**
- l. The sale of alcoholic beverages shall be made only in conjunction with the sale of food to the person ordering the beverage. **(PD)**
- m. There shall be no entertainment allowed without a valid Entertainment Permit issued by the Huntington Beach Police Department. Entertainment is not allowed on the patio. **(PD)**
- n. The business shall employ a video surveillance system and a one-month video library. The minimum requirements for the cameras will be: color, digital recording to DVR and able to record in low light. The business shall ensure all doors, eating areas, and parking areas are covered by video surveillance. Electronic copies of video must be made available to the Huntington Beach Police Department within 48 hours of request. Digital recordings shall be made available for viewing on-scene upon request by police officers conducting investigations. **(PD)**
- o. All areas where the sales, service, and consumption of alcoholic beverages will be permitted must be sufficiently illuminated to permit the identification of patrons. **(PD)**

- p. All employees shall complete an ABC approved training class within 30 days of being hired and they shall complete the program every 12 months thereafter. **(PD)**
  - q. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is forbidden. **(PD)**
  - r. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business. **(PD)**
  - s. All owners, employees, representatives, and agents must obey all state, local, and municipal laws, and conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by a regulatory authority with jurisdiction over the premise; at all times. **(PD)**
3. Signage shall be reviewed under separate permits and applicable processing.
  4. 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 Community Development 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.
  5. Conditional Use Permit No. 15-056 shall become null and void unless exercised within two (2) years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.
  6. 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.
  7. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/green-building-guidelines-rating>).

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

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

notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

**B-3. CONDITIONAL USE PERMIT NO. 15-052 (ANYTIME FITNESS CLUB)**

**Applicants:** James Adamitis and Jacob Saldana **Property Owner:** Meadowlark Plaza Trust **Request:** To permit an approximately 5,805 sq. ft., 24-hour commercial and recreation use (health club) within a vacant tenant space in an existing shopping center. **Location:** 5341 Warner Avenue, 92649 (north side of Warner Avenue, east of Airport Circle – Meadowlark Plaza) **Environmental Status:** This request is covered by Section 15301, Class 1, California Environmental Quality Act. **City Contact:** Jill Arabe, Associate Planner

**STAFF RECOMMENDATION:** Motion to: “Approve Conditional Use Permit No. 15-052 with suggested findings and conditions of approval (Attachment No. 1).”

The Commission made the following disclosures:

- Commissioner Crowe has visited the site and corresponded with staff.
- Commissioner Semeta has visited the site.
- Vice-Chair Pinchiff has visited the site.
- Chair Kalmick has spoken with staff, and is a member of a board who has offices across the street but he receives no financial contribution from that board.
- Commissioner Brenden has visited the site and has had previous business dealings with another Anytime Fitness franchise.
- Commissioner Hoskinson had no disclosures.

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

There was a brief discussion regarding the safety of the facility and other Anytime Fitness sites. Lt. O’Brien reported that the windows are not obstructed from visual surveillance by patrol and that the Anytime Fitness in Fountain Valley has only had two police calls in the last year.

**THE PUBLIC HEARING WAS OPENED.**

Jacob Saldana, applicant, spoke in support of Item No. B-3, giving a brief overview of the Anytime Fitness business model.

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

Vice-Chair Pinchiff stated that he had safety concerns and asked the Police Department to comment. Lieutenant O’Brien reviewed the security procedures for the business and confirmed that the Police Department is satisfied with the safety precautions. Mr. Saldana gave a detailed review of the standard security procedures and technological advances for Anytime Fitness.

**A MOTION WAS MADE BY BRENDEN, SECONDED BY SEMETA, TO APPROVE CONDITIONAL USE PERMIT NO. 15-052 WITH SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1, of the CEQA Guidelines, which states that operation and minor alteration to existing structures involving negligible or no expansion are exempt from further environmental review.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 15-052:**

1. Conditional Use Permit No. 15-052 for the establishment of an approximately 5,805 sq. ft., 24-hour health club consisting of personal training, group instruction, and exercise equipment 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 use is located within an existing multi-tenant commercial center with other commercial uses. Residential uses are located around the shopping center. However, significant impacts associated to noise, safety, and traffic are not anticipated to negatively affect existing residential uses. The building entrance for the health club is oriented north toward the parking lot. Buildings, parking lots, or streets separate the proposed use from noise-sensitive uses. Although the proposed hours of operation are 24-hours daily, business operations will be conducted indoors only. In conjunction with proposed security measures, conditions are imposed that will further minimize potential safety impacts. The supply of parking will adequately accommodate the proposed and existing uses. The parking requirement for the center including the health club is 664 spaces, which is less than code required parking of 666 spaces.
2. The conditional use permit will be compatible with surrounding residential and commercial uses. The proposed use is located in an existing multi-tenant commercial center with other commercial uses. The interior remodel of the vacant space will help revitalize the center. Additional parking is not required for the use. The business operations will occur indoors only.
3. The proposed 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 and any specific condition on the project. It complies with applicable HBZSO requirements. Although the proposed hours of operation are 24-hours daily, business operations will be conducted indoors only and proposed security measures, in conjunction with imposed conditions, will adequately minimize potential safety impacts.

4. The granting of the conditional use permit will not adversely affect the General Plan. The proposed project is consistent with the General Plan land use designation of Mixed Use and the goals, objectives, and policies of the City's General Plan as follows:

A. Land Use Element

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

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach's recreational resources.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The proposed use is compatible with the existing commercial uses in the shopping center such as retail and eating and drinking establishments. It provides recreational opportunities and services to residents and visitors in the vicinity. It is located along a major corridor and will not generate significant impacts to affect surrounding residential uses.

B. Economic Development Element

Objective ED 2.4: Revitalize, renovate and expand the existing Huntington Beach commercial facilities while attracting new commercial uses.

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

The health club is a commercial use that promotes an active lifestyle and recreational services. It will help revitalize the center by occupying a vacant space on the property. The proposed use will contribute to the economic viability of the shopping center and the responsible growth of the City.

**CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 15-052:**

1. The site plan and floor plan received and dated August 21, 2015, shall be the conceptually approved layout.
2. The use shall comply with the following:
  - a. Only the uses and security measures described in the project narrative received and dated August 21, 2015, and October 7, 2015, shall be permitted.
  - b. The establishment shall employ a video surveillance security system and a one-month video library. The minimum requirements for the cameras will be: color, digital recording to DVR and able to record in low light. The business shall ensure all doors, hallways, and workout areas are covered by video surveillance. Electronic copies of video must be made available to the Huntington Beach Police Department within 48 hours of request pursuant to a police investigation. Digital recordings shall

be made available for viewing on-scene upon request by police officers conducting investigations when circumstances indicate immediate review of the video is necessary to an investigation. You are required to have someone able to access and operate this system during normal staff hours. (PD)

- c. Due to the emergency response buttons and lanyards readily accessible to patrons, Anytime Fitness must obtain an Alarm Permit per Huntington Beach Municipal Code Chapter 5.56 and remain in compliance. Because of the unique business model employed by the applicant, Chapter 5.56 HBMC is not an exact fit, so some flexibility is required. Any alarm activation that results in a public safety response that is later determined by the Police or Fire Chief to have been inappropriate, will constitute a "false alarm" for the purposes of Chapter 5.56 HBMC. (PD)
3. The Development Services Departments (Community Development, Fire, and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Community Development 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. Conditional Use Permit No. 15-052 shall become null and void unless exercised within two (2) years of the date of final approval or such extension of time as may be granted by the Director pursuant to a written request submitted to the Community Development Department a minimum 30 days prior to the expiration date.
5. 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.
6. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (<http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>) or Build It Green's Green Building Guidelines and Rating Systems (<http://www.builditgreen.org/green-building-guidelines-rating>).

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

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

C. **CONSENT CALENDAR - NONE**

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

E. **PLANNING ITEMS**

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

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

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

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

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

Jane James, Planning Manager – reported on the items for the next Planning Commission Meeting.

F. **PLANNING COMMISSION ITEMS**

F-1. **PLANNING COMMISSION REQUEST ITEMS**

**Submitted by Chair Kalmick and Commissioner Brenden** – Discuss Newport Beach's Operator's Permit and additional tools for the Commission to help regulate land use and alcohol control and the effectiveness of the Entertainment Permit in regulating nuisances associated with alcohol and entertainment. In addition, consider a transmittal to the City Council requesting that staff study these issues and report back on potential positive and negative impacts of the City implementing such an ordinance as either a replacement for the Entertainment Permit or as a supplement to it.

**Recommended Action:** Motion to: "Request City Council to direct staff to study Newport Beach's Operator's Permit and report back on both positives and negatives of the City implementing such an ordinance as either a replacement for the Entertainment Permit or as a supplement to it."

Chair Kalmick and Commissioner Brenden gave the presentation and an overview of the request. Chair Kalmick described Council Resolution No. 2013-24 regarding alcohol uses downtown. Chair Kalmick also said police report problems with a combination of alcohol, late night hours, and entertainment. He stated his desire to decouple land use and alcohol permits.

Vice-Chair Pinchiff spoke in support of the request, but noted that he felt the Planning Commission could ask staff to report on this and not forward the request for City Council to direct staff.

There was a brief discussion regarding the possibility of an operator's permit for alcohol service and the potential impacts to businesses. Commissioner Semeta asked for the Police Department's recommendation. Lt. O'Brien expressed concern that it could potentially be cumbersome to both business and staff to process operator's licenses and entertainment permits.

At Chair Kalmick's request, Lt. O'Brien reviewed the consequences for violations of an entertainment permit.

Commissioner Hoskinson expressed concern with the potential impacts on local businesses and wished to continue the dialogue.

Scott Hess, Director of Community Development, reviewed the Planning Commission's role in directing staff to prepare reports and confirmed that the Planning Commission would need to make a request to City Council regarding this item.

Commissioner Semeta requested that the memo to City Council clarify that the City Council direct staff to study the potential for an operator's permit.

**A MOTION WAS MADE BY BRENDEN, SECONDED BY KALMICK, TO REQUEST CITY COUNCIL TO DIRECT STAFF TO STUDY NEWPORT BEACH'S OPERATOR'S PERMIT AND REPORT BACK ON BOTH POSITIVES AND NEGATIVES OF THE CITY IMPLEMENTING SUCH AN ORDINANCE AS EITHER A REPLACEMENT FOR THE ENTERTAINMENT PERMIT OR AS A SUPPLEMENT TO IT, BY THE FOLLOWING VOTE:**

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

**MOTION APPROVED**

**F-2. PLANNING COMMISSION COMMENTS**

Vice-Chair Pinchiff noted that Pacific City is now open and that the city would be holding a Veteran's Day ceremony at the pier, which he encouraged the public to attend.

Commissioner Semeta also encouraged the public to attend the city's Veteran's Day ceremony.

Commissioner Brenden spoke regarding upcoming events in the city.

Commissioner Hoskinson wished his fellow commissioners a happy Thanksgiving, and thanked staff for providing iPads to access electronic Planning Commission packets.

**ADJOURNMENT: Adjourned at 8:48 PM to the next regularly scheduled meeting of Tuesday, November 24 2015.**

APPROVED BY:

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

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