

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION**

September 13, 2004

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., September 13, 2004, at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chair Foley, followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

Commissioners Present:

Chair Bruce Garlich

Vice Chair Bill Perkins

Commissioners: Katrina Foley, and Eric Bever

Commissioners Absent:

Dennis DeMaio,

Also Present: Kimberly Brandt, Acting Secretary

Costa Mesa Planning Commission

Marianne Milligan, Senior Deputy City Attorney

Ernesto Munoz, City Engineer

Raja Sethuraman, Associate Engineer

Rob Balen, LSA Associates

Mel Lee, Associate Planner

Wendy Shih, Associate Planner

MINUTES:

The minutes for the meeting of August 23, 2004 were accepted as distributed.

PUBLIC COMMENTS:

Martin Millard, 2730 Harbor Boulevard, Costa Mesa, expressed his disagreement with the Planning Commission's decision to grant an extension of time to the business at 1100 Bristol Street at the last public hearing.

Mike Berry, 2064 Meadow View, Costa Mesa, expressed his opposition to an upcoming item (Habitat for Humanity) scheduled for the September 27th public hearing. He expressed concerns regarding the Habitat project at 1950 Pomona Avenue. He submitted a list of questions and was advised that the project planner would address the issues and get back to him. Commissioner Foley requested confirmation regarding his statement that "no one in Costa Mesa could buy one of these homes."

Tamar Goldman, 2324 College Drive, Costa Mesa, also requested a copy of Mr. Berry's responses also be given to her. She commented that a number of her neighbors are concerned about the opening of the wall to allow the building of the proposed project. She indicated that both she and her neighbors are not satisfied with the

Terry Shaw, 420 Bernard Street, Costa Mesa, announced that the Costa Mesa Historical Society would be holding an open house on Saturday, September 17, 2004 from 9 a.m. to 3 p.m. at the Estancia Adobe.

**PLANNING COMMISSIONERS
COMMENTS/SUGGESTIONS:**

Commissioner Foley invited the public to the Mesa del Mar Annual Luau being held at TeWinkle Park on Saturday, September 17, 2004 from 9 a.m. to 3 p.m. She also announced that there would a Homeland Security drill at the Fairgrounds parking lot on Wednesday between 9 a.m. and 3 p.m.

Vice Chair Perkins announced a diabetes walk sponsored by the Jr. Diabetes Foundation coming in October.

Chairman Garlich announced that the "Reading By Nine" program is about to begin with the new school year at Pomona, Whittier and Wilson schools, sponsored by the LA Times and Daily Pilot, and supported generously with book donations through Rotary International.

The Chair also stated that the "Festival of Children" was in progress

at South Coast Plaza during the weekends through September with a mission statement of “improving the lives of children.”

Chairman Garlich also expressed his gratitude to the Costa Mesa Police and Fire Departments for organizing the 911 Remembrance Ceremony conducted outside Station #5 at the Civic Center.

He relayed that there was also a recent Neighborhood Community Emergency Response Program graduation ceremony at the Neighborhood Community Center, with a drill that involved the use of FRS family radios.

OLD BUSINESS:

On a motion made by Chairman Garlich, seconded by Vice Chair Perkins and carried 4-0 (Dennis DeMaio absent), the item under “Old Business” received the action below:

EXTENSION OF TIME FOR PLANNING APPLICATION PA-04-12

Planning Commission approved by adoption of Planning Commission Resolution PC-04-52, the following findings that support the Commission’s approval of an extension of time for Planning Application PA-04-12 during the August 23, 2004 meeting.

Findings (replace A. and B.)

- A. The CUP extension complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area. Granting the time extension will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood. It will not allow a use, density or intensity, which is not in accordance with the General Plan designation for the property.
- B. The CUP extension complies with Costa Mesa Municipal Code Section 13-29 (e) because:
 - a. The use is compatible with uses that exist or have been approved for the general area.
 - b. The use is consistent with the General Plan.
 - c. The planning application is for a project-specific case is not to be construed to be setting a precedent for future development.
- C. Same.
- D. Same.

CONSENT CALENDAR:

On a motion made by Chairman Garlich, seconded by Commissioner Foley and carried 4-0 (Dennis DeMaio absent), the next two items received the action below.

ANNUAL REVIEW OF DEVELOPMENT AGREEMENT DA-04-01 (DA-94-01)

City/Auto Club

Annual review of Development Agreement DA-04-01 (DA-94-01 for Jeffery Prokop, authorized agent for Interinsurance Exchange of the Automobile Club, located at 3333 Fairview Road. Environmental determination: exempt.

The Commission made a finding that based on evidence in the record, the City and the Automobile Club of Southern California have demonstrated good faith compliance with the terms and conditions of Development Agreement DA-94-01.

ANNUAL REVIEW OF DEVELOPMENT AGREEMENT DA-04-02 (DA-00-01)

City/Auto Club

Annual review of Development Agreement DA-04-02 (DA-00-01) for Paul Freeman, authorized agent for C. J. Segerstrom and Sons, located at 1201 South Coast Drive. Environmental Determination: exempt.

The Commission recommended to City Council that they: (1) determine the Segerstrom Home Ranch Development and the City have demonstrated good faith compliance with the terms and conditions of Development Agreement DA-04-02; and (2) direct staff to limit future reviews to outstanding development agreement obligations only.

PUBLIC HEARINGS:

PACIFIC MEDICAL PLAZA
1626/1640 NEWPORT BLVD.

Brown/Newman

Trailed By the Next Item
LATER:

The Chair opened the public hearing for consideration of the Pacific Medical Plaza for Cora Newman/Government Solutions, authorized agent for Joseph Brown, for the conversion of two existing trailer parks to allow the construction of a 76,500 square-foot, 4-story medical office building; with a three-level parking structure, located at 1626/1640 Newport Boulevard in a PDC zone.

- (a) FINAL ENVIRONMENTAL IMPACT REPORT NO. 1051 for the Pacific Medical Plaza, located at 1626/1640 Newport Boulevard;
- (b) GENERAL PLAN AMENDMENT GP-02-06/R-02-03 for a site-specific floor area ratio (FAR) for a moderate-traffic generating land use (0.30 FAR allowed, 0.40 FAR maximum proposed), and a rezone petition from C2 (General Business District) to PDC (Planned Development Commercial). Environmental determination: Final EIR No. 1051;
- (c) MOBILE HOME PARK CONVERSION PA-02-37 to convert two existing trailer parks, El Nido and Snug Harbor Village, to a medical office land use. Environmental determination: Final EIR No. 1051; and
- (d) FINAL MASTER PLAN PA-02-36 for the construction of a 4-story, 76,500 square-foot, medical office building and a three-level parking structure on 4.4 acres. Environmental determination: Final EIR No. 1051.

Senior Planner Kimberly Brandt presented an overview of the information in the staff report and gave a visual presentation of the site characteristics.

Ms. Brandt made the following recommendations to Planning Commission, all, by adoption of Planning Commission resolution: (a) for Final EIR No. 1051, she recommended Planning Commission recommend to City Council, certification of the Final Program EIR No. 1051. She noted that the components of the EIR, the Draft Environmental Document, and it's Technical Appendices, as well as the Response to Comments Document were completed and attached to the Final EIR staff report; (b) General Plan Amendment GP-02-06 and Rezone Petition R-02-03, she recommended Planning Commission adopt the resolution recommending to City Council, denial of the amendment and rezone; (c) for the Mobile Home Park Conversion Permit PA-02-37, she recommended Planning Commission recommend to City Council, termination of the nonconforming uses on the property by approving the conversion; and (d), she recommended Planning Commission recommend to City Council, denial of Master Plan Amendment PA-02-36.

Discussion:
(a) EIR #1051

In response to a question from Vice Chair Perkins regarding adoption of the Final EIR No. 1051, Ms. Brandt said the environmental documentation is independent of any decision that the Commission will make on the project. Prior to any recommendation to City Council, the Commission may recommend certification of the Final EIR and still proceed with a recommendation of not approving the project.

In response to a question from Commissioner Bever regarding the General Plan Amendment increase in the FAR as the major issue, and whether that also follows through to the denial on the master plan, Ms. Brandt confirmed that was correct.

The Chair stated that there is an issue regarding traffic and traffic mitigation relating to the widening of Newport Boulevard and requested that Ms. Brandt explain. She stated that the environmental document includes a mitigation measure for the proposed project that indicates that the project contributes to the need for the widening of

Newport Boulevard between 17th Street and 19th Street. The mitigation measure includes the addition of a 4th, northbound, through-lane between 17th and 19th Streets, and the addition of a 4th, southbound, through-lane between 19th Street and Broadway. Ms. Brandt stated that this mitigation measure is necessary, not only for the proposed project, but all of the project alternatives that consider new development for the project site. She said there is a finding that is made in respect to this improvement because its not totally within the jurisdiction of the City of Costa Mesa, but falls within the jurisdiction of CalTrans and that we as a City, cannot guarantee its implementation. It is necessary for the City to make a finding of “unavoidable adverse impact”, although it is likely that this mitigation measure will occur, but the City cannot guarantee it.

In response to a question from Vice Chair Perkins regarding how the FAR is determined from one use to another, Mr. Brandt confirmed that it is done through traffic generation.

There was discussion between the Chair, Commissioner Bever, Vice Chair Perkins and Engineering staff regarding the differences between alternative uses, and the comparisons of the figures (particularly, impacts on levels of service) for those alternatives and the proposed use, including mitigations, as shown in the supplemental daily traffic analysis provided by Engineering staff. There was also a review of the figures in the analysis and how they were determined, and under what circumstances these figures would be caused to change.

In response to a request from Vice Chair Perkins, the Chair reviewed some of the history of the Newport Boulevard widening recommendations.

Carol Hoffman, authorized agent for the applicant, 230 Newport Center Drive, Newport Beach, gave a presentation of the proposed project with the following comments: (1) This is a mixed use street and Orange Avenue serves both commercial and retail business. (2) The EIR proves there are no significant impacts, other than the traffic. (3) The mobilehome parks were nonconforming and could not have been improved without a General Plan Amendment and a zone change. (4) The medical office use is permitted under the General Plan and zoning code at a .3 FAR, and the 4-story height is allowed under the General Plan. (5) The General Plan Amendment allows the site-specific .4 FAR. (6) A detailed master plan has been submitted to the Commission showing exactly what is being proposed and how the building fits on the site. (7) The architecture was designed by HOK Architecture.

Bill Roger, Senior Vice President of HOK Architects, said that they are one of the leading architectural firms in the country and discussed the exterior architecture of the building; landscape design; setbacks; elevations; location of the building on site in proximity to neighboring businesses and residential properties; the parking structure and its amenities.

Ms. Hoffman resumed her presentation and made the following additional comments: (8) She said it is important to note that the site plan allows the on-site loop circulation, so that cars can enter both on Orange Avenue, as well as Newport Boulevard. (9) There are layers of landscaping with trees at the perimeter and planters at the base; provision were made for planter boxes on the parking structure itself to soften the building exterior as it faces residential development on the eastside; all of the windows are oriented away from the street with few exceptions.

Mr. Roger returned to the podium and discussed (with renderings) the typical layout of the medical plaza with exam rooms, physician

offices.

Ms. Hoffman resumed her comments regarding site access. She said that it would be appropriate to have access along Orange Avenue in a “right in” along the northerly driveway, and a “right-in, right-out” only on a southerly driveway, and also allowing the 2 driveways along the Newport Boulevard frontage. She said should the Planning Commission see fit to recommend approval of this project, they would ask that condition of approval #4 be deleted from the master plan. She said the parking ratio of 6 spaces 1,000 square feet satisfies code.

Ms. Hoffman said they conducted community outreach meetings and on June 25, 2004 attended the meeting. They also indicated that there is project support from surrounding properties and the SRO property owner has indicated that the aesthetics of the proposed building are pleasing; they don’t object to the 4-story height. The owner of the shopping center at 17th Street and Orange Avenue has indicated his support and believes in the compatibility of the proposed use.

In response to a question from the Chair regarding specifics on the EIR, Ms. Hoffman stated that the traffic impacts whether for a retail center with the existing zoning, or this proposed medical plaza, they are still going to require the same improvements at 17th and 19th Streets on Newport Boulevard.

In response to a question from Commissioner Foley regarding the driveways off Orange Avenue with a the combination of driveways, would result in a reduction of traffic on Orange, Mr. Sethuraman did not believe the traffic would be any different, but it will be distributed better. In further response to Commissioner Foley regarding additional use of Orange Avenue, Ms. Brandt stated that both driveways as currently proposed, are right turns into and out of the project site. She said all traffic that will be using the driveway from Orange Avenue will be proceeding southbound from 17th Street should use the first driveway, so they would not need the second driveway. By consolidating both driveways into 1, it would not affect the distribution between Newport Boulevard frontage road or Orange Avenue. The Chair said his assumption would be that since the traffic analysis is done using a model, and since the model didn’t include the number of driveways, then the results are insensitive to the issue of whether there are 2 or 1.

In response to a question from Commissioner Foley regarding required speed bumps on 16th Street (traffic-calming measures), that were not required for Orange Avenue or Ogle Street, Mr. Sethuraman stated that traffic measures like speed bumps are considered on residential streets, not on collectors such as Orange Avenue. He said regarding Ogle Street, staff feels it will not be impacted as much because the rear driveways’ design, “right in”, “right out”, was initiated during the design phase to help prevent cutting through other neighborhoods. In further response, he said traffic will be coming on Orange Avenue only in the southbound direction from 17th Street, and there won’t be traffic from the project making “left” turns onto Orange Avenue to reach Ogle Street.

Commissioner Bever asked what assurance the Commission has that there won’t be some type of weekend use in this facility. Ms. Hoffman stated that there is a condition in the staff report indicating that if the medical plaza were to entertain a clinic use (later hours and weekends), they would have to come back to the Commission and demonstrate whether that would be a compatible. Ms. Brandt clarified that there are assumptions in the traffic model in terms of how the traffic will work during the weekday but there is no guarantee that they will not operate on the weekend. Staff has a conceptual

idea that doctors will lease this for typical medical spaces, but there is nothing that would prohibit a portion of this building being used for an urgent care location. Ms. Brandt explained urgent care or walk-in clinics could be open 7 days a week, including holidays and have close to 24-hour operations. EIR 1051 includes a mitigation measure that says that if any type of land use is proposed that would extend beyond the normal business hours that the use would have to come back for a conditional use permit. In that context, it is important to not put too much merit in the idea that this building will not be operated on the weekend. There is the potential that it can be and will be operated on weekends over the course of its life. The Chair said it was his understanding that the mitigation-monitoring program would address this issue and would require the applicant to come back to the Planning Commission for the CUP to allow operation on weekends.

There was discussion between Commissioner Foley, Mr. Roger, Commissioner Bever, and Chairman Garlich regarding the issues of floor-to-floor height in terms of support, data, and (2) the size of the mechanical penthouse on the roof with further discussion of comparisons of these impacts between a normal office building and a medical office building.

Ms. Hoffman discussed the differences between a normal office building and a medical office building in terms of intensity per square foot and noted that the distinction is made with that factor in mind.

Commissioner Bever asked whether the ratio of 6 per 1,000 square feet (parking) was accurate because the calculation is generated based on a medical office standard. Ms. Hoffman indicated it was adequate because their traffic engineer conducted a study of the amount of parking for comparable medical buildings in other cities, and found that they were utilizing a somewhat lesser amount of parking.

In response to Commissioner Foley regarding under-grounding utilities (Response to Comments Document), Ms. Brandt said there are no requirements, Ms. Hoffman said although there is one line adjacent to the property but serves overhead service to adjoining properties but all of them on the Medical Plaza side will be underground.

No one else wished to speak and the Chair closed the public hearing on EIR #1051 (SCH NO. 2003071089)

MOTION:
(a) EIR NO. 1051
Recommended Certification

A motion was made by Vice Chair Perkins, seconded by Chairman Garlich and carried 4-0 (DeMaio absent), to recommend to City Council, certification of Final EIR No. 1051, by adoption of Planning Commission Resolution PC-04-56, based on the information and analysis in the Final EIR Report #1051.

In response to the Chair, Ms. Brandt stated that all items for the Pacific Medical Plaza would go forward to the City Council on October 18, 2004.

Discussion:
(b) GP-02-06/R-02-03

In response to a question from Commissioner Bever regarding traffic models in the area of medical facilities of comparable size, and the fact the figures in most instances show that this use is at the extremely low end of the "moderate" traffic use, Mr. Sethuraman explained how the trips rates are derived and what the figures mean. He said the most important issue is that the a.m. and p.m. peak hour rates is what should be looked at because that is what the analysis is based upon—the focus of the analysis. Further, he said the ITE traffic rates represent a good rate for this site and fall under the moderate category (20 to 75 trips).

No one else wished to speak and the Chair closed the public hearing for General Plan Amendment GP-02-06 and Rezone Petition R-02-03.

MOTION:
(b) GP-02-06/R-02-03
Recommended Approval

A motion was made by Chairman Garlich, seconded by Commissioner Foley, and carried 4-0 (DeMaio absent) to recommend to City Council, approval of GP-02-06 and R-02-03, by adoption of Planning Commission Resolution PC-04-57, based on public testimony and information and analysis contained in the Planning Division staff report, including the "2000 General Plan Amendments" contained in exhibit "A", "Findings and Facts in Support of Findings for the Pacific Medical Center" in exhibit "B", and the "Statement of Overriding Considerations" in exhibit "C."

Discussion:
(c) PA-02-37

Ms. Brandt explained that it is necessary to approve this mobilehome park conversion application in order to terminate the legal nonconforming use of the project site. She said the attached resolution should be modified slightly, based on the Commissioner's previous action and made recommendations (as shown in the motion following discussion on this portion of the item).

Jeff Goldfarb, attorney with Rattan & Tucker, on behalf of the applicant, requested that reference be made to the fact that the EIR was approved and that the Statement of Findings and Facts was approved pursuant to the resolution.

In response to the request, Sr. Deputy City Attorney Marianne Milligan said she had no problem with the request and it would, in fact, make it clearer.

Ms. Brandt recommended that the reference be placed as a new 5th paragraph (as shown in the motion below), beginning with: "Whereas, the Planning Commission recommended..."

Irene Shannon, former mobilehome park resident, said she was confused about the terms "park closure" and "park conversion." Ms. Brandt explained how each was different from the other and the relationship it has to the development presently under discussion. There was further discussion between the Chair, Commissioner Foley, Ms. Brandt and Ms. Shannon regarding compliance of the requirements by the owner for the mobilehome parks. Commissioner Bever confirmed with Ms. Milligan that regardless of how this turns out this evening or in January, it doesn't relieve the applicant of any responsibilities or other actions he made need to take with regard to any of the business he has transacted in the past 2 years. Ms. Milligan said they would still be responsible for the minimum property maintenance provisions under the Municipal Code.

MOTION:
(c) PA-02-37
Recommended approval
as modified

A motion was made by Vice Chair Perkins, seconded by Commissioner Foley, and carried 4-0 (DeMaio absent) to recommend approval to City Council, of PA-02-37 as modified by staff, by adoption of Planning Commission Resolution PC-04-58, based on information and analysis contained in the Planning Division staff report, and findings contained in exhibit "A" with the following modifications based on the approval action taken by Planning Commission:

Resolution (PC-04-58)

Delete the reference on page 8 of the resolution. Delete the last paragraph that states, "~~BE IT FURTHER RESOLVED that the Planning Commission has also considered and finds that the benefits of the project outweigh the unavoidable adverse impacts that remain after mitigation and does hereby recommend to City Council...~~"

Add a new 5th Paragraph: "WHEREAS, the Planning Commission has also considered and has found that the benefits of the project outweigh the unavoidable adverse impacts that remain after mitigation and has recommended to City Council, adoption of the Statements of Facts and"

Findings, and Statement of Overriding Considerations as contained in Planning Commission Resolution PC-04-57.

Discussion:
(d) PA-03-26

Assuming from the Commission's previous actions that they would approve the master plan, Ms. Brandt recommended the items on page 3 (Alternatives) of the staff report for the proposed final master plan, be considered in the Commission deliberations, and included another standard condition of approval to be added because it was inadvertently left off of the list. She stated concerns regarding the Orange Avenue elevation of the parking structure. She also noted the EIR includes mitigation measures that prohibit openings on the easterly elevation and a higher parapet wall to screen any lighting on the rooftop level of the parking structure. She believes the parking structure can still have improved landscaping, and architectural treatments that will result in a more compatible interface with the residential uses directly across Orange Avenue. She said condition of approval #14 to the "approval resolution" addresses this concern. The second concern has to do with vehicle access onto Orange Avenue. She said there has already been significant discussion regarding the number of driveways that should be included on Orange Avenue. She reiterated staff's recommendation for only one driveway on Orange Avenue aligning with the alley across from the project site (approximate center of the site as it faces Orange Avenue). Condition of approval #4 was included and would modify the site plan to include only one driveway access to Orange Avenue. Lastly, she said there are 2 parcels that comprise the project site and prior to initiating any type of building permit application; it will be necessary to process a lot line adjustment. She also read into the record, a condition regarding a storm run off study and another relating to the hours of operation (as shown in the motion below).

Beth Refakas, 320 Magnolia Avenue, Costa Mesa, felt the project should be denied because of density, cut-through traffic, hours of operation are inaccurate; traffic of employees exiting and entering along Orange Avenue should not be allowed and Orange Avenue should be closed off with ingress and egress off Newport Boulevard; and, the building is out-of-scale with the area.

Terry Shaw, 420 Bernard Street, Costa Mesa, felt the use of the project is commendable, but he was concerned with the building size and that the height is out-of-scale with the area, but still felt the Commission should approve the project. He felt the one driveway access would be a better idea. He liked the parking structure enhancements. He felt there the hours of operation as suggested by Vice Chair Perkins, were the best course to follow.

In response to a question from Commission Foley regarding egress only from Newport, Mr. Sethuraman explained that one of the access alternatives is "no Orange Avenue access" and that would mean it's the only way out – through Newport Boulevard. Having access on Orange Avenue would relieve some of the pressure off Newport Boulevard in that respect. Commissioner Foley said she was concerned about cut through traffic on Ogle Street and asked what could be done and suggested speed bumps. Mr. Sethuraman stated that they have monitored Ogle Street very closely for the last few years, and they found that the traffic Ogle Street carries is considerably less than the threshold for considering that kind of measure and is far from being an issue at this point. He pointed out that by limiting the access to right-in and right-out, the traffic that is coming into this project is only coming from 17th Street and the rest from Newport Boulevard and are coming only from the north and Orange Avenue would only be 25%. If a problem arises on Ogle Street, staff would work with the residents and there are a lot of other measures that can be put in place.

The Chair said he believed without the Orange Avenue access, the only access onto the site is from Newport Boulevard and 16th Street. All the traffic would be going through one intersection to get onto the site. Commissioner Bever felt it would be a safe assumption that some of the patients or clients would be coming from the Eastside, in which case, providing that access on Orange Avenue is an advantage.

MOTION:

(d) PA-02-36

Recommended approval as modified

A motion was made by Vice Chair Perkins, seconded by Chairman Garlich, and carried 4-0 (DeMaio absent) to approve by adoption of Planning Commission Resolution PC-04-59, based on information and analysis contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B", mitigation measures contained in exhibit "C", with the following modifications:

Conditions of Approval

Delete:

4. ~~Site access from Orange Avenue shall be redesigned to a single driveway that aligns with the alley across Orange Avenue. Access will be restricted to right in vehicle turning movements.~~

Add:

29. Submit a storm run off study showing the method of draining this site and tributary areas without exceeding the capacity of the public drainage facility, and provide method of removing all pollutants prior to entering the public storm drain system.
30. Hours of business operation for the medical office building shall be restricted to only Monday through Friday, 7 a.m. to 6 p.m.

During the motion, there was discussion between Chairman Garlich, staff, and Commissioner Bever regarding the deletion of condition of approval #4 and how the related mitigation would apply.

Chairman Garlich felt the project was the right thing for the area and Costa Mesa. The traffic issue is a push in that any usage there is going to rely on some improvement, which at this time is the widening of Newport Boulevard. The four-story alternative is better than the three-story alternative, not only architecturally, but provides more landscaping and more set back from the surrounding properties which is a positive aspect of the project. It also helps with the hydrology concerns in having more landscape area to percolate water back into the soil is aided by that. He said the need is valid; the expansion of Hoag Hospital will place the largest demand on medical office space. The people who will be working there are quality people and it's convenient for people who need to see a doctor, in or out of the area. He said a building of this type at the entry to our City is a good statement of what our City can become and he did not feel a 4-story building should become an issue.

Commissioner Foley said she is supporting the project for many of the reasons expressed by the Chair. She said the visual prominence of the building would definitely be an attractive addition to our community. She said that personally, she would like to improve things in this area into something more attractive. The narrow and stepped-type of building this is on Newport Boulevard, visually lessens the impact from the street. The 4 stories comply with the General Plan policies and the traffic is no different, and there would be much more traffic if it was a retail center. This will encourage revitalization, and it may encourage the neighboring properties to improve their properties. She said she wanted to make it clear that this project was analyzed with "no 19th Street Bridge" and it would not trigger a requirement of a 19th Street Bridge.

Commissioner Bever said he concurred with the comments that have been made and if there is one downside, it is because we are not taking that whole block and making something new out of it.

BREAK:

The Chair called a recess and the meeting resumed at 9:45 p.m.

EXTENSION OF TIME FOR PA-01-03 & PA-01-04 PLUS POSSIBLE MODIFICATION OF CONDITIONS

Beacon Bay Enterprises/Taylor

This Item Was Heard First Under Public Hearings:

The Chair opened the public hearing for consideration of an extension of time for PA-01-03 and PA-01-04, plus possible modification of conditions for Wesley Taylor, authorized agent for Beacon Bay Enterprises, for conditional use permits to allow motor vehicle sales on the front half of the lot with an administrative adjustment to deviate from front landscape setbacks for auto display (20-foot landscape setback required; 15-foot landscape setback proposed); and to allow outdoor storage of motor vehicles on the rear half of a commercial property, located at 2059 Harbor Boulevard in a C2 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending approval of the extension to September 4, 2005, by adoption of Planning Commission resolution, subject to conditions.

Mr. Lee confirmed with the Chair that the maximum extension the Commission can approve is one year and that it could take several additional extensions depending on the extent of the soil remediation. In response to a question from Commissioner Bever regarding changes in Charle Street access, Mr. Lee said that at the time the project was originally approved, staff had recommended that the 2 driveway approaches along the Charle Street frontage be closed off and access taken directly from Harbor Boulevard, and was later modified over the course to the CUP, to allow 1 driveway to remain along the Charle Street frontage.

Wesley Taylor, authorized agent for Beacon Bay Enterprises, 3 Civic Plaza, Newport Beach, reviewed all of the most recent improvements since the Planning Commission meeting of February 23, 2004. Mr. Taylor agreed to the clerical corrections for the extension date and the condition relative to the one driveway on Charle Street.

Tiny Hyder, a Myran Drive resident, Costa Mesa, stated that homeless people congregate around the inside perimeter of the property at night, and the odor permeating from this property during the day is almost unbearable. She said this area is becoming a “night flop” for the street people and as time passes, the problem is growing. She said the stench from the oil is very bad but the mixture from the homeless makes it much worse. In response to a request from the Chair, Ms. Brandt agreed to notify the appropriate City personnel regarding the problem.

No one else wished to speak, and the Chair closed the public hearing.

MOTION:

PA-01-03/PA-01-04
Approved Extension

A motion was made by Vice Chair Perkins, seconded by Commissioner Bever, and carried 5-0 to approve the extension of time for PA-01-03 and PA-01-04 to September 4, 2005, by adoption of Planning Commission Resolution PC-04-55, based on analysis and information contained in the Planning Division staff report and findings contained in exhibit “A”, subject to conditions in exhibit “B.”

PLANNING APPLICATION PA-04-14

Saunders/Sax

The Chair opened the public hearing for consideration of Planning Application PA-04-14 for Stan Sax, authorized agent for John Saunders, Doug Morehead and Jason Golding, to allow a restaurant/bar/nightclub to serve alcoholic beverages after 11 p.m. (midnight Sunday through Thursday and 2 a.m. Friday and Saturday), to allow live entertainment/dancing within 200 feet of a residential use, and to allow off-site parking at 2801 Bristol Street for a restaurant located at 2831 Bristol Street in a CL zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending denial by adoption of the Planning Commission resolution.

Mr. Lee explained that the property was formerly occupied by a restaurant known as, "Arnie's Manhattan Deli." The restaurant hours of operation were limited to 11 p.m. and live entertainment and dancing were not allowed. Previous requests for a conditional use permit to allow live entertainment and dancing in that same building were denied by both the Planning Commission and City Council in 1984. The property is zoned commercial (CL). Immediately behind the restaurant is an existing nonconforming, 2-story, 30-unit apartment complex called "Bristol Bay Apartments." Mr. Lee described other residential properties in proximity to the restaurant and the high probability of potential parking problems that might occur between residents of these properties and patrons of the restaurant.

He said the applicant is proposing to reopen the restaurant as "Hamburger Mary's Bar and Grill"; a combination restaurant, bar, and nightclub, including extended hours of operation, and a request for live entertainment and dancing. Staff believes that because only 126 feet separate the restaurant from the adjacent residential, parking could easily become a problem to nearby residents.

They are also proposing a 500 square-foot outdoor patio, which would add floor area to the existing establishment and requires additional parking. To offset the number of parking spaces required by code, the applicant has proposed the minor conditional use permit allow for the off-site parking with an existing office complex immediately adjacent to this property.

Staff's primary concern is the proximity of these apartments to the restaurant building and parking area to be used by the patrons of the restaurant. Because the proposed use would have the operational characteristics of a nightclub, (live entertainment and dancing), and would be open past 11 p.m., noise impacts could be potentially disruptive to all nearby residents.

Mr. Lee noted that this restaurant could still be established at this location under the previously approved CUP which was required to close at 11 p.m.; had no entertainment or dancing; nor would the applicant be permitted to construct the patio which would create the need for the off site parking. He said the Commission could also approve the application and he requested conditions that should they decide to do so, would be implemented to mitigate some of the concerns he previously discussed.

In response to the Chair, Mr. Lee stated that the letters he is referencing are from the owner of the apartment complex directly north of the restaurant. The reference regarding the complex that is actually on the subject property is under the same ownership and indicates support of the project.

In response to a question from Commission Bever concerning the existing parking for the restaurant, Mr. Lee said that since the restaurant has been vacated, tenants have probably been using the parking area. Mr. Bever pointed out that it would be very easy for the tenants to mix in with customer parking and no one would be able to tell the difference and parking availability would be reduced all the more.

In response to a question from Vice Chair Perkins, Mr. Lee stated that an establishment that's open later than 11 p.m., or has live entertainment, or dancing, and is within 200 feet of a residential use or residential zone, would necessitate approval of a conditional use permit. He said the only state requirement would be for the ABC license and the license being requested is consistent with the type of use proposed. In response to a question from Commissioner Foley regarding how many feet away from the residential the establishment is, Mr. Lee stated that it is 126 feet between the restaurant building and the nearest apartment building. In further response to Commissioner Foley, Mr. Lee said notices were sent within a 500-foot radius

of the site.

Stan Sax, the applicant and also president of “Hamburger Mary’s, International”, 955 Goldenrod Avenue, Corona Del Mar, agreed with the conditions of approval and made the following comments: (1) there will be no more than one pool table in the establishment; (2) it is a bon-a-fide eating place with 13 other operating restaurants with monthly reports reflecting 65% of the income from food and 35% from alcohol; (3) live entertainment means bingo, karaoke, drag show, etc.; and (4) there are no windows or doors that open to the apartments.

Mr. Sax addressed the issues Mr. Lee discussed previously. He said with regard to the rear doors, one would be permanently closed with a bell sounding in case of emergency (emergency exit); the other doors are for staff coming and going before the hours of operation, which would be the “kitchen help”, and the main entrance (side door as always) is for patrons. He verified the letter was sent by the owner of both residential apartment properties, and a tenant residing in one of the buildings. To address the issues of the opposing tenant, he said that this is not a rowdy crowd—this is a gay and lesbian crowd who are a lot softer speaking group, and they don’t have fights and don’t affect the apartments. Further, he said the patrons cannot walk across the drainage channel as stated in the letter because there is no access to it. He said if there are concerns regarding noise and rowdiness, he was agreeable to having a parking lot attendant to watch for signs of noise and this would include lighting on the parking lot. He said the reason they have a DJ booth is not so much that they have dancing, but rather, to provide background music—daytime music is a little different from the evening music. He felt that by building a very large, spectacular, well-landscaped property, it could be said that this is the standard for Hamburger Mary’s. He said they have a training program for employees and the facilities to do a nice job in hardwood floors, booths, and an excellent kitchen facility. He said the approval by Jason Golding to use the 12 additional parking spaces at the adjacent commercial building enables the restaurant to pay rent for those parking spaces that will be necessary because their busiest times are Friday and Saturday nights. He also suggested that the parking stops be eliminated altogether which are used to accommodate overflow parking. This would render it unnecessary for anyone coming off Bristol to make a left and go back into the parking lot. Finally, he said the primary use of the restaurant facility would be a showplace for all the “Hamburger Mary’s”; the nightclub is only a minor portion of their operation and mostly used on the weekends. He said the existing solid wall at the back where the apartments are and another existing solid at a portion of the apartment building that faces there, would greatly reduce the noise, if any, coming from the restaurant.

There was discussion between Commissioner Foley, staff and the applicant regarding the location of the walls just discussed by the applicant. In response to a question by the Chair regarding whether the Bristol Street Ad hoc Committee had gotten out to look at this site, Vice Chair Perkins confirmed they had not.

Clark Dubriel, owner of an apartment building next door to the subject property, a 23-unit apartment complex on Wallace Street in Costa Mesa, and business owner of a 25 million dollar a year construction company (Sun Pacific Construction) located also in Costa Mesa and is an active business partner in the community. He said his brother owns 36 restaurants for which he was part of the construction and is very aware of noise abatement problems and is familiar with the challenges here. He noted that some of staff’s overheads actually show the relationship between his building and the restaurant and he reviewed them with the Commission and staff. The aerial shot

showed that his building was physically closer to the restaurant than the building directly behind the restaurant. He said his apartment building houses very nice people who have children that are sleeping and even when it was just an 11 p.m. operation, he had complaints about car doors slamming, conversations in the parking lot from tenants that are directly next door to that. He said to allow this operation beyond 11 p.m. is going to be very detrimental to the population of that building, even under the best of circumstances. He felt there was good reason why this restaurant has been closed for 2 years. He did not believe it was an ideal location for a restaurant of any kind.

Terry Shaw, 320 Bernard Street, Costa Mesa, suggested that the Commission follow staff's recommendation to deny the permit. He said if he lived in that area he would not want an established restaurant open at that hour and he believed the tenants in all the adjacent apartment buildings would agree.

Beth Refakas, 320 Magnolia Street, Costa Mesa, reiterated Mr. Dubriel's testimony regarding school-age children living in those apartments. She also felt there was a possibility the noise that is carried, could also affect the single-family homes on Drake.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-04-14
Denied

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins and carried 4-0 (DeMaio absent) to deny this application by adoption of Planning Commission Resolution PC-04-60, based on findings contained in exhibit "A."

The Chairman commented that this is not a reflection on Hamburger Mary's business model, or their business at all, but rather because it is not the right location for this business. He felt this was probably the reason why similar businesses were previously denied CUP's for longer hours and live entertainment at this location. Vice Chair Perkins echoed the Chair's comments.

Commissioner Foley suggested that the City needs to rezone this site so that people don't go through this process needlessly.

Commissioner Bever agreed with the Commission and added that it's disruptive and inappropriate.

The Chair explained the appeal process.

MINOR DESIGN REVIEW
PA-04-17

Nguyen & Dhong/Nguyer

The Chair opened the public hearing for consideration of Minor Design Review PA-04-17 for LamTristan Nguyen, authorized agent for Nguyen & Dhong, for a design review for an 822 sq. ft. second-floor addition to a single-story, single-family residence and to construct a new 2,734 sq. ft., two-story duplex at the rear of the property with a variance from driveway parkway landscaping (10' required; 0' proposed) and a minor modification to allow a 12' wide driveway (16' required), located at 1992 Anaheim Avenue in an R2-HD zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. She said staff was recommending approval by adoption of the Planning Commission resolution, subject to conditions.

In response to question from Commissioner Bever regarding the number of trees that are required on site in an R2 zone, Ms. Shih stated that this is a code requirement and would be reviewed at the time of plan check. In further response to another question from Commissioner Bever, Ms. Shih confirmed that subdividing this property is not part of the applicant's request at this time, but they are proposing a total of 3 units, which could become condo ownership units if they wish to convert.

LamTristan Nguyen, 12461 Merrill Street, Garden Grove, agreed to

the conditions of approval.

In response to a question from Commission Bever regarding the trees, Mr. Nguyen explained that some of the trees would be used in landscaping to make the property have a softer appearance.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-04-17
Approved

A motion was made by Commissioner Foley, seconded by Vice Chair Perkins and carried 4-0 (DeMaio absent) to approve by adoption of Planning Commission Resolution PC-04-61, based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

DESIGN REVIEW PA-04-22
Steifel/Smith

Design Review PA-04-22 for Bradford L. Smith, authorized agent for Linda Steifel, for a design review to construct a 3-unit, 2-story, small-lot common interest development with variances from minimum and average lot sizes (3,000 sq. ft. minimum with 3,500 sq. ft. average required; 2,884 sq. ft. minimum with 3,131 sq. ft. average proposed), located at 330 East 15th Street in an R2-MD zone. Environmental determination: exempt.

Staff announced that the applicant wished to continue this item to the Planning Commission meeting of September 27, 2004, to allow time for staff to review the most recent revised plans.

MOTION:
PA-04-22
Continued

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins, and carried 4-0 (DeMaio absent) to continue this item to the Planning Commission meeting of September 27, 2004.

PLANNING APPLICATION
PA-04-28

Sedghi

The Chair opened the public hearing for consideration of Planning Application PA-04-28 for Ali Sedghi, for a variance from driveway landscaping requirements (10' required; 0' proposed) in conjunction with a minor design review to construct a new, two-story residence behind an existing residence and a minor modification to reduce the driveway width (16' required; 10' proposed), located at 134 East Wilson Street, in an R2-MD zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. She said staff was recommending approval by adoption of the Planning Commission resolution, subject to conditions.

Ali Sedghi, applicant and property owner, 134 East Wilson Street, Costa Mesa, agreed to the conditions of approval.

In response to a question from Commission Bever regarding the vehicular access for the rear unit, Ms. Shih explained that the Transportation Services Division has reviewed the plans and feel that the two open spaces are sufficient to accommodate vehicles backing out onto Wilson Avenue.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-04-28
Approved

A motion was made by Vice Chair Perkins, seconded by Chairman Garlich and carried 4-0 (DeMaio absent) to approve by adoption of Planning Commission Resolution PC-04-62, based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

PLANNING APPLICATION
PA-04-30

Beebout

The Chair opened the public hearing for consideration of Planning Application PA-04-30 for Jason Beebout, authorized agent for Greg Beebout, for an auto detailing business to operate inside an existing industrial building, located at 981 West 18th Street in an MG zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff re-

port and gave a presentation. He said staff was recommending approval by adoption of the Planning Commission resolution, subject to conditions.

Authorized agent, Jason Beebout, 8232 Malloy Drive, Huntington Beach, agreed with the conditions of approval.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-04-30
Approved

A motion was made by Commissioner Foley, seconded by Vice Chair Perkins and carried 4-0 (DeMaio absent) to approve by adoption of Planning Commission Resolution PC-04-63, based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

PLANNING APPLICATION
PA-04-32

Gugasian/Dossey

The Chair opened the public hearing for consideration of Planning Application PA-04-32 for Marcia Dossey, authorized agent for Levon Gugasian, for a conditional use permit to allow a members-only cigar lounge with sales of alcoholic beverages for on-site consumption, with a minor conditional use permit to deviate from shared parking based upon off-set hours of operation, located at 750 West 17th Street, #A, in an MG zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending approval by adoption of the Planning Commission resolution, subject to conditions.

Marcia Dossey, authorized agent for the applicant, 177 Riverside Avenue, Newport Beach, agreed to the conditions of approval, but questioned condition of approval #5 regarding ABC licensing. The tenant, Derek Guard stated that ABC has informed him that they want to convert that ABC license to a Type 57 (also for private clubs), which is an "on-premises club permit" that they feel would be more appropriate with this business. In response to the Chair, Mr. Guard explained that the difference is, they have now decided that Type 51 licenses are going to be generally issued to non-profit clubs and Type 57 is for profit clubs.

Mr. Lee confirmed with the Chair that this would not affect staff's recommendation. He said the applicant is correct in his understanding of the ABC licensing descriptions. He said the Type 51 is very similar to the Type 57 and the only distinction is that one refers to "privately owned" versus "civic and community" clubs. He also confirmed that staff is comfortable with their recommendation of approval because this license will not permit alcoholic beverages to the "general public."

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-04-32
Approved

A motion was made by Chairman Garlich, seconded by Commissioner Foley and carried 4-0 (DeMaio absent) to approve by adoption of Planning Commission Resolution PC-04-65, based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B", with the following modification:

Conditions of Approval

- 5. "...with a Type ~~51~~ 57 (On-Sale General, Club) State Alcoholic Beverage Control license. ..."

The Chair explained the appeal process.

REPORT OF THE DEVELOPMENT SVS. DEPARTMENT

Acting Secretary Kimberly Brandt announced the 5th annual Planning Division Open House to be held on October 4, 2004, from 5 p.m. to 6:30 p.m.

REPORT OF THE ASSISTANT CITY ATTORNEY: None.

ADJOURNMENT: There being no further business, Chairman Garlich adjourned the meeting at 11 p.m., to the study session of Monday, September 20, 2004.

Submitted by:

KIMBERLY BRANDT, ACTING SECRETARY
COSTA MESA PLANNING COMMISSION