

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

September 27, 2004

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., September 27, 2004 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Garlich, followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

Commissioners Present:

Chairman Bruce Garlich
Vice Chair Bill Perkins
Katrina Foley, Dennis DeMaio and Eric Bever

Also Present: Perry L. Valentine, Secretary
Costa Mesa Planning Commission
R. Michael Robinson, Plng. & Redevelopment Mgr.
Marianne Milligan, Sr. Deputy City Attorney
Ernesto Munoz, City Engineer
Willa Bouwens-Killeen, Senior Planner
Kimberly Brandt, Senior Planner
Claire Flynn, Associate Planner
Wendy Shih, Associate Planner

MINUTES:

The minutes for the meeting of September 13, 2004 were held over to the Planning Commission meeting of October 11, 2004.

PUBLIC COMMENTS:

Martin Millard, 2973 Harbor Boulevard, Costa Mesa, reiterated his disappointment with the Commission's decision to grant an extension of time to the current business at 1100 Bristol Street at the August 23rd Planning Commission meeting. Commissioner Foley reminded Mr. Millard that this property is significantly farther away and not part of the area under consideration for Bristol Street improvements. She also pointed out that the reason has a lot more to do with County control of the land than it has to do with weed abatement. The County is currently in the process of putting out an RFP to determine the type of use they want to have there and in the meantime, the Commission simply continued the conditional use permit because the current lessee is on a month-to-month agreement with the County. The County is currently collecting \$25,000/month and would rather do that than have a vacant parcel.

In response to a question from Tamar Goldman regarding procedures for the Habitat for Humanity agenda item, the Chair explained that the entire matter would be discussed at one time; there would also be a review of the report by staff, and a presentation and comments from the applicant followed by comments from the public on all the items at the same time. The Commission will then vote on each of these items separately. In further response to Ms. Goldman, Chairman Garlich said this item would be scheduled on the City Council agenda of October 18, 2004.

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

None.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

DRAFT ORDINANCE
ESTABLISHING ZONING
REGULATIONS FOR MOTOR
VEHICLE RETAIL SALES
BUSINESSES

City

The Chair opened the public hearing for consideration of a draft ordinance for the City Council of the City of Costa Mesa, California amending Title 13 of the City of Costa Municipal Code, to establish additional zoning regulations for motor vehicle retail sales businesses; and outdoor communication systems operated by commercial and industrial uses. Environmental determination: exempt.

Staff recommended the Planning Commission recommend to City Council, a postponement of the item for a period of twelve (12)

months, by adoption of Planning Commission resolution to allow Harbor Boulevard of Motor Cars Dealers Association to work with their members to address outdoor communication systems.

Ms. Brandt explained that in discussions with the member dealers, the issue regarding amplified sound was of most concern to them. There are several dealers within the City that have been in existence for many years and have used outdoor communications systems that are an integral part to the daily business operation. She said the Association recommended that, as opposed to implementing an ordinance at this point, that the City Council allow them to work with the Association members to voluntarily restrict the use of their outdoor communication systems between 8 a.m. and 7 p.m. In reviewing this recommendation with them, staff believed that was an alternative worth pursuing. She said there are no current, ongoing complaints with Code Enforcement regarding the use of these outdoor systems. Staff is recommending that this alternative approach be implemented for a year and then come back for review to see if it's necessary to adopt a draft ordinance. She noted that if the Commission wishes to recommend adoption of an ordinance to City Council, there is one attached to the staff report. She said it is important to remember that the City could not limit this "ban" on an outdoor communication system just to motor vehicle dealers; it would also have to apply to all types of commercial and industrial businesses.

Ms. Brandt stated that the other issue was a ban on the storage of vehicle inventory in residential areas. She said the Association stated that it is not their dealers' business practice to store their inventory on residential streets because it would expose them to vandalism and theft; it is not their standard operating procedure to do this so they did not feel (1) that it was necessary to adopt an ordinance, or (2) they would be neutral on any type of ordinance that the City would adopt in that respect, given that it is not their business practice. Ms. Brandt said it is staff's recommendation that there is no need to do anything additional to the municipal code to address this type of business operation. She said staff feels that this happens infrequently and there are simple measures that can be used to enforce it without adopting a new municipal code provision.

Commissioner Foley confirmed with Ms. Brandt that the association does not represent *all* of the car dealerships because there are other car dealerships that are not members of the association that seem to have other issues that are being dealt with. Ms. Brandt stated that if there is a dealer that would use this type of practice, the thought is, that it would be a smaller independent dealer.

There was discussion between Commissioner Bever and Ms. Brandt regarding complaints and how they would be handled.

In response to a question from Vice Chair Perkins as to why 12 months is appropriate, Ms. Brandt stated that within that time frame, staff is anticipating that the association will be working with its members regarding voluntary compliance with the use of the outdoor paging system. It is anticipated the Chief Code Enforcement Officer attending one or more of their association meetings in terms of establishing a relationship with the members. If a complaint were to occur, it would be handled on a case-by-case basis. The 12 months would provide enough time to establish a record of these types of complaints and how they were responded to and how long it took to correct the situation.

Kirk Varga, General Manager of Theodore Robins Ford; Matt Moloci, South Coast Acura (past President of Harbor Boulevard of Cars) stated that they have met together and discussed ways to refocus speakers, by eliminating paging prior to 8 a.m. and after 7 p.m. in an

effort to be good neighbors. Mr. Varga said they have not received any complaints and try to do a good job and they are eliminating any type of music. He said the association is working together to resolve any issues. Mr. Moloci noted that the association has invited people from the City to attend their meetings and provide recommendations; they would be willing to consider them.

Commissioner Bever asked the representatives if they would be willing to work with former mayor, Sandra Genis who has been hearing things in the neighborhood, and provide her with a phone number or some other means of communications. Mr. Varga said they have the ability to provide that information to her.

Mike Berry, 2064 Meadow View, Costa Mesa, stated that the way this issue was presented to the Commission was inappropriate. He said problems with this issue have been going on for six years that he knows about. At least twice representatives have come before the Commission and discussed this topic. He noted that there are more dealers on Placentia Avenue than there are members in the Harbor Boulevard of Cars. Commissioner Foley stated that Ms. Brandt did in fact, raise the issue, i.e., that the ramifications of the ordinance would be that it would apply to fast food restaurants, etc., every place in the City.

Mr. Valantine stated that Mr. Berry has brought the Placentia Avenue situation to the attention of staff, and he thought he had been informed of the status and offered his apologies if that was not the case. He said City staff, both Planning and Code Enforcement, have done a comprehensive research of Placentia Avenue in terms of parking and set backs; selling of cars from some of those properties; missing landscaping; etc., and the Code Enforcement Office is in the process of following up. He said some of those properties that were previously selling are no longer selling cars, so progress is being made, but it is a long street and it will take some time to get all the way through it. In response to a question from Commissioner Foley regarding a document relating to these actions, Mr. Valantine stated that the documentation for these actions is some internal collection of papers and historical information.

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

MOTION:
Ordinance establishing additional regulations for Motor Vehicle Retail Sales Businesses
Recommended postponement

A motion was made by Commissioner Foley, seconded by Chairman Garlich, and carried 5-0 to recommend to City Council, postponement of this item for 12 months, by adoption of Planning Commission Resolution PC-04-65, to allow Harbor Boulevard of Motor Cars Dealers Association to work with their members to address the issues.

In response to a question from the Chair, Mr. Brandt stated that this item would go to the City Council agenda of October 18, 2004.

HABITAT FOR HUMANITY OF ORANGE COUNTY

Mark Korando
This item was tabled to hear the next item first.

LATER:

The Chair opened the public hearing for consideration of a project by Habitat For Humanity of Orange County for Mark Korando, to build an eight-unit, single-family residential, common-interest development on a 1.49-acre parcel located at 2300 Harbor Boulevard/380 West Wilson Street, currently in a C1-S and R3 zone as follows:

(a) GENERAL PLAN AMENDMENT GP-03-03 AND REZONE PETITION R-03-01 to change the General Plan land use designations from General Commercial (1.12-acre parcel) and High Density Residential (0.37-acre parcel) to Low Density Residential; and rezone from Shopping Center (C1-S) and Multi-Family Residential District (R3), to Planned Development Residential-Low Density (PDR-LD). Environmental determination: Mitigated Negative Declaration.

(b) MASTER PLAN PA-03-59 AND TENTATIVE TRACT MAP T-16502 to create a residential, common-interest development con-

sisting of five 1-story, and three 2-story, single-family detached homes; and a common lot for open space/parking/private street; and a tentative tract map to subdivide the project site into eight residential lots and a common lot for open space/access easements/circulation and parking purposes. Environmental determination: Mitigated Negative Declaration.

Associate Planner Claire Flynn reviewed the information in the staff report and gave a presentation. She stated staff is recommending that: (a) Planning Commission adopt resolution recommending to City Council: 1. Adoption of the mitigated negative declaration and mitigation monitoring program; and 2. Denial of General Plan Amendment GP-03-03 and Rezone R-03-01. She stated that staff is also recommending that: (b) Planning Commission adopt resolution recommending to City Council: 1. Denial of the Final Master Plan PA-03-59; and 2. Denial of Tentative Tract Map T-16502. Ms. Flynn indicated that, if Planning Commission considered the site suitable for residential development and recommended approval of the General Plan Amendment/Rezone, the Final Master Plan has been developed to conform to the City's Residential Development Standards and Design Guidelines.

Rob Balen, LSA Associates, stated that their firm performed additional noise monitoring at the project site and at Wake Forest Road pursuant to the Planning Commission's request for additional monitoring during the early morning (6:00 a.m. to 8:00 a.m.) to the late evening (9:00 p.m. to 11:00 p.m.) time periods. He said that these additional noise readings confirmed the original findings of the Negative Declaration. The noise levels increase somewhat during the morning peak rush hour with car travel within the neighborhood but only gets up to 55 decibels (dba). Within the project site, the noise levels at the morning peak hour were 54.1 dba, which accounts for a reduction of 1.4 decibels by the 14-foot sound wall. In the afternoon and evening, noise levels were measured at approximately 51.0 dba. Mr. Balen indicated that the additional noise monitoring was to verify if the opening at Wake Forest Road would adversely impact the existing residential community. The sound engineer found that the noise levels with or without the opening in Wake Forest Road would be similar, and that the opening Wake Forest would have a very minor or unnoticeable affect on noise levels.

Ms. Flynn confirmed with the Chair that tonight's action by the Planning Commission relates strictly to a policy decision as to whether the site is suitable for a residential land use. Staff considers the site unsuitable for residential development. The decision does not relate to the existing code violations, or noise disturbances from Harbor Center; and it does not relate to the fact that the applicant is Habitat for Humanity.

The Chair announced that relating to those disturbances that have been brought to the City's attention via letters, phone calls, e-mails, etc., he has asked Mr. Valentine to arrange a meeting between the appropriate personnel, including the proper management level people at Home Depot, with the City Planning staff, Code Enforcement staff, and whomever else the Planning Division believes is appropriate, to retrain and reeducate the people with regard to conditions of approval for Home Depot. He gave examples of some of the issues that are of great concern to the neighborhood and the City. Further, he said that these issues are not on our agenda this evening in dealing with this application, but they are pertinent as to what's going on there, and he felt the meeting would be a good start toward improving relations. He asked that the results be brought back to a later study session for Planning Commission to review. Commissioner Foley also requested that the pavement in front of the loading area be stenciled with "No Idling" in large print; discussion of the subject of

signage; exiting procedures for forklifts from the building without beeping their horns.

In response to Vice Chair Perkins, Mr. Balen explained the primary functioning noise attenuation that is blocking the noise impacts from Home Depot into the neighborhood, is the wall adjacent to Home Depot and there is no gap or break planned for that wall. In response to a question from Vice Chair Perkins regarding a “trickle down” effect through the neighborhood, Mr. Balen said that noise levels are comparable between inside the property and inside the neighborhood.

Vice Chair Perkins asked what would happen if the master plan was either denied by Commission or not carried through by the developer. Ms. Flynn stated that Planning Commission will be making their recommendation to City Council, and if City Council rezones the property and if Habitat for Humanity then decides not to move forward with their proposed final master plan, they could conceivably bring forward another project/master plan. In other words, approval of the master plan is not necessarily a guarantee as to what will be developed on the property because applications for other master plans may be made if the developer does not carry through with the original proposal. In any case, a new or revised master plan would need to be reviewed/approved by the Commission and Council.

In response to a question from Commissioner Bever regarding the noise level when there is a break in that wall, Mr. Balen stated that the first wall is the “first line of defense” and performs nearly all of the sound attenuation of Home Depot’s loading dock activities. Destruction of the entire second wall or opening Wake Forest Road would have a negligible impact on noise, and the human ear could not detect the change.

In reviewing the landscape plan, Commissioner Foley confirmed that the landscape plan proposes 100 new trees and that Sycamore and Magnolia trees are posed for the location along the wall and will eventually become taller than the wall.

The Chair requested that Ms. Flynn discuss the access from different areas. Ms. Flynn stated that there is a significant grade difference (about 6 feet) from Wilson Street onto the subject site. The other site access alternative would be through Home Depot and ICI Development has already stated that they will not make that access available to the project site. The only other alternative access that is viable is from Wake Forest Drive.

Commissioner Foley stated that there has been a lot of talk about whether this project is or is not similar to R1 and asked Ms. Flynn to discuss the issue of the street and size of the street. Ms. Flynn explained that the currently proposed street is a private street and is 25’ wide. If it were a public street, it would be approximately double the size with parking available on both sides of the street. In this case, a 25’ wide street is proposed with parking available only on the east side of the street.

In response to another question from Commissioner Foley regarding R1 versus PDR-LD, Ms. Flynn said the differences are: the size of the streets, set backs, lot sizes, and maintaining a common interest development with the CC&R’s that tie all 8 lots together. Common interest can be done in an R1 zone but it is more commonplace in a PDR-LD zone and is preferable to the applicant for those reasons.

In response to a question from Commissioner Foley regarding the master plan under an R1 zone, Ms. Flynn stated the master plan is only necessary for “Planned Development.” Mr. Valentine stated that if it were zoned R1 and if there were more than 2 two-story homes, Planning Commission would need to approve a design re-

view. In any event, the Planning Commission would have to approve the tract map to divide the property into the number of lots necessary for the proposal in the R1 zone.

Mark Korando, 582 Park Drive, Costa Mesa, stated that the commercially designated portion of the site was in fact, historically, an asphalt wasteland where trash, weeds and debris once collected against residential properties of College Park and provided unrestricted access from College Park into the rear of Harbor Center. Further, the smaller rectangular southerly portion of the site was used as a residential site, thus, this current commercial and residential mix of general plan and zoning designations on the site. The proposal before the Commission tonight is to create a cohesive, down-zoning of both the commercial and the high-density residential parcels to a low-density residential use of the entire property. Secondly, he said the general plan policy regarding new residential developments encourages the conversion of existing, marginal or vacant commercial/industrial property to residential. This site is vacant. As a commercial property, it has no visibility and access, which renders it "marginal". Staff suggests a type of storage facility would be the most appropriate use for the property. He discussed the ongoing noise concerns by residents with 60 reported noise complaints. The last complaint was reported in January of 2004 with the exception of a complaint this past Wednesday. The noise levels have not been exceeded as set by the City's noise standards. The noise levels have been proven to be at acceptable levels. The study also notes that the westerly wall provides the sound attenuation. Since the study did not take into account the new homes between the westerly sound wall and the opening at Wake Forest, there may be additional attenuation provided after the completion of the construction. The traffic study determined that 77 average daily trips will be generated by the residential development and added to the residential traffic on Wake Forest.

He said staff has noted 3 City housing goals that this proposal would accomplish: (1) encourage low-density, owner-occupied housing; (2) the design of the proposed structures adhere to the City's Residential Development Standards and Design Guidelines; and (3) the project will not result in a loss of dwelling units in the City's housing stock.

He pointed out that there are no significant environmental impacts and that the design exceeds most of the City's design and development standards. The development does not require any variances to accomplish the development and will reduce the traffic impacts in the general area if compared to commercial development of the site.

He said Habitat has met with the residents on at least four occasions in the last two years, twice during the initial project design and twice at the request of Planning staff prior to this meeting. During those meetings, comments by the residents indicated their main concern was density. They suggested R1 zoning for 7.26 dwelling units per acre as allowed by the General Plan. The shape of the site does not provide for conventional rectangular lots at the 6,000 square-foot City standard, so the proposal is to provide for a PDR-LD zone. The initial design for the site was to build 12 homes. After meeting with the residents, the proposal was reduced to 8 homes, or 5.4 dwelling units per acre where the average lot size is 6,582 square feet, or 582 square feet above the R1 standard. Another concern was existing noise, so Habitat paid for a study of the existing noise and found that while there is noise in the neighborhood, it does not exceed the community standards. This fact has been further substantiated by the findings in the initial study over a 2-year period. The residents voiced concerns about providing adequate parking, so Habitat incorporated an additional 8 parking spaces on the site over the City standard, or 1 additional space per unit. Landscaping with the site was a

concern, so they added landscaping along the 14' high walls to buffer any noise rebounding from within the site. The initial architecture of the site was an issue with some of the residents, and as a result, the architecture of the homes was completely redesigned to look more compatible with the architecture of College Park. They heard concerns about people driving to Wilson Park, or walking down the sidewalk to go to the park. As a result, they have added "passive" and "active" recreational uses to the common areas, and a landscape swale with a controlled access gate to the rear of Wilson Park. Habitat has invested 2 years listening to the adjacent homeowners and addressing their concerns. Habitat has reduced the size of the proposal resulting in a redesign of the homes and the site, four times, and they have added significant upgrades.

Habitat believes that the compromises and upgrades they are proposing for this development, while not giving the opponents exactly what they want, has produced a development that is good for Costa Mesa and good for Habitat for Humanity of Orange County. Mr. Korando said that they have read the conditions of approval and are in agreement with those conditions.

In response to a question by Vice Chair Perkins, Mr. Korando stated that a reduction of one unit to the proposed eight-unit project would create significant financial implications that may render the master plan unbuildable by Habitat. In response to another question from Vice Chair Perkins, Mr. Korando explained the meaning of "target marketing" and how Habitat intends to meet this condition of approval.

In response to a question from Commissioner Foley regarding the proposed streetscape off Wake Forest Road, Mr. Korando stated that ICI Development would continue to maintain the bermed areas.

In response to a question from Commissioner Foley regarding a concern about a possible stop sign at College and Wake Forest, Mr. Valentine said he believed that would not be needed because there would only be 8 or so additional trips in a peak hour and would not be enough to meet the warrants for a stop sign.

In response to the Chair's request to explain the three layers of CC&R's, Mr. Korando stated that the City's is requesting one layer of CC&R's, and Habitat will have another layer of CC&R's that will talk about: property maintenance; the requirement to park vehicles in the garage; landscape maintenance; building maintenance; street sweeping; occupancy limits based on the Housing and Urban Development (HUD) guideline standards. A third layer of CC&Rs will also impose resale restrictions put on the property so that Habitat will have the first right of refusal to repurchase the property at a set dollar amount (formula) so as to guarantee, should they enter into an agreement with the Redevelopment Agency for housing funds, that the housing will be available to low-income families for a period of 60 days.

In response to the Chair's request regarding the "sweat equity" program, Mr. Korando explained that it typically requires working 3 Saturdays a month for 1 year to comply with the 500-hours of sweat equity. In further response Mr. Korando confirmed that in their affordable housing agreement with the jurisdictions, there is a period which allows people to rent them for a short period of time so that they can complete their sweat equity and education classes. Habitat's interest is to make sure these homeowners are successful in their endeavor as a homeowner.

The Chair discussed the opportunity for the homebuyer to actually live in and experience their environment before the final papers are signed and if the initial enthusiasm for the opportunity was to diminish for any reason, they would be able to get out of it up until 3 days

after the final signing of the papers to take ownership.

Commissioner Bever asked what would be the fair market value on these units. Mr. Korando stated it is hard to determine because they do not do appraisals on the property, prior to selling it to the applicant(s). He believed their mortgage would be about \$180,000. Commissioner Bever said that it is not realistic to expect individuals who can afford a mortgage of \$180,000 to maintain the streets, driveway, buildings and landscaping that a person who could afford perhaps a \$550,000 home would be maintaining. Commissioner Bever also commented that restricting the valuation and the potential tax revenue in terms of property tax would limit the City's ability, and the County and State's ability, to pay for the services that these individual homeowners would require. Commissioner Bever felt that other than personal enjoyment, there is no incentive to improve the home or to redecorate, and there's no ability to benefit from any improvements. He believed Habitat homeownership represents a "long-term" rental agreement.

Commissioner Foley asked how this line of questioning relates to whether residential is appropriate behind the Home Depot and whether the master plan or the Negative Declaration should be approved or denied because these issues regarding property values are not land use issues under the jurisdiction for review by the Planning Commission. Chairman Garlich added that Planning Commission makes decisions on land use issues and makes findings—the items that were being discussed aren't the basis for findings because they aren't land use based.

Commissioner Foley pointed out that there are several kinds of different scenarios that could be presented regarding all these issues that are being raised. She said UCI has professor housing at the UCI campus with 99-year leases and those people all improve their properties. These are all subjective views that have nothing to do with the issues before the Commission tonight. Commissioner Bever said he was just trying to define the difference between homeownership and long-term rental situations.

In response to a question from the Chair regarding affordable housing goals, Ms. Flynn stated that the City does set affordable housing goals in the housing element in the General Plan. She said it is important to note that in land use decisions when we are considering General Plan amendments and rezones, that we do not consider affordable housing goals as part of the determination of whether the site is suitable.

Mr. Korando stated that Habitat would pay for any improvements that are made to the property to provide incentives for improvements.

Commissioner Bever asked about the impacts of diesel fumes/exhaust, and the Chair referred to Item #6 in the Response to Comments document addressing that issue. Commissioner Bever confirmed with Mr. Korando that the housing and urban development occupancy standards allow for 2 individuals per bedroom plus one per household. Mr. Korando stated that all of the requirements by HUD are particular to the point in time when the escrow closes and the sale of the property happens.

The following people expressed opposition to the proposed project: Mike Berry, 2064 Meadow View Lane; Martin Millard, 2973 Harbor Boulevard; Lori Ellen Duffield, 2285 Rutgers Drive; Ulena Versco, north Rutgers Drive, Danny Denaff, Wake Forest Road resident; Mary Kip, 2343 College Drive; Ruth Duetro, 2356 Cornell Drive; Charmaine Pickett, 2394 College Drive; Kathryn Vaquit, 2349 College Drive; Ken Dutro, 2356 Cornell Drive; Beth Refakas, 320 Magnolia Street; Gloria Kelly, 2437 College Drive; Sue West, 2414 College Drive; Debbie Roe, 308 Joanne Street; Chris VaLauria, 2365

College Drive; Tamar Goldmann, 2324 College Drive; Pala Steel, 304 Joanne Street; Paula Oberstein, 2321 College Drive, Bob Bankston, Wake Forest Drive resident, Costa Mesa. Their comments were as follows:

(1) The City needs to provide affordable housing but they need to do it for the people of Costa Mesa; (2) Costa Mesa is becoming the regional spot for all affordable housing and it does not help our City to improve its economic demographics; (3) There are existing parking problems on the residential streets and cut-through traffic or increased traffic is not desirable; (4) The project site should be considered for a parking lot; (5) The City is just adding more density to what has been termed a “very nice, quiet neighborhood”; (6) Many of the speakers made complaints about Home Depot (trucks, noise, beeping, diesel odors, security lights, etc.) and in some cases, complaints that they had never fulfilled the obligations to the tenants they had made promises to; (7) An alternative location such as Fairview Park is more suitable; (8) Tamar Goldmann made the following requests: (a) the Planning Commission should decline the Negative Declaration; (b) if housing must be approved, please make it R1 to reduce the number of units because of the odd shape of the lot; (c) recommend a public street and not a private street because parking is a concern; this issue has never been about who is going to live there, but about how many people and how many cars; (d) if the Commission goes as far as recommending the Planned Development, please turn back the current master plan and insist that Mr. Korando actually work with the neighbors to come up with something that’s suitable.

During public communications, the Chair pointed out that the issue regarding overflow parking in the neighborhood is known to the City and City Council has had staff looking at it and they have asked staff to look at solutions that are good for the entire area. He confirmed with staff that it would be on the City Council agenda of November 15, 2004. Commissioner Foley said the possibility of having this as a parking lot is not under consideration and, under the settlement agreement the wall can only be opened up for residential. In response to the Chair about comments regarding unkept promises by the developer of Harbor Center, Mr. Valantine stated that those are not issues the City has jurisdiction over and that it is between the developer and the property owners.

With regard to the noise study, the Chair asked staff what the times of day were when the study was conducted. Mr. Balen stated that there were 4 different times that they collected the data for monitoring: September 1998—afternoon monitoring; October 2001—afternoon monitoring; June 2004—afternoon monitoring; and then last week, September 2204—6 a.m. to 8 a.m. and from 9 p.m. to 11 p.m.

The following people favored the project, are homeowners and/or volunteers for Habitat for Humanity: Mark Finley, 1925 Pomona Street; Ursula Bowan, Costa Mesa resident; Marianne O'Connell, 922 Van Ness Court; and Gerome Blackman, Habitat volunteer. They made the following comments:

(1) Although never homeless or destitute, and a rather hardworking family who never hoped to own their own home at yesterday's or today's prices, thanks to Habitat for Humanity, the volunteers and support from the community, his family has a place to call home. His children can laugh and play in safety, his wife has a kitchen of her own to create in and he goes to bed at night with a sense of security for his family's future. (2) Habitat for Humanity is a top notch organization that brings in top notch people to the community like Mark Korando and many others. Habitat homes are beautiful and well built. In terms of Costa Mesa unfairly taking the burden of affordable housing, Costa Mesa has approximately 11 houses that are Habitat houses; the City of Irvine has 14; Huntington Beach has 6; Brea has 12; and Rancho Santa Margarita has 48. (3) When the first three Habitat houses went up on Del Mar, the neighbors were very nervous at first, and then they came to Habitat constructors and asked for ideas on how to improve their own homes. As a result, 4 homes other than Habitat went through major improvements which benefited the entire community. (4) The people who move into these homes will be improving their standards and their life. This will be such an improvement for their lives; the little noise created by Home Depot won't be noticeable. The complaints heard tonight are problems experienced by many people, and they are the problems of living and increased population; if we all work together, we can make this a better community.

Mark Korando returned to the podium and addressed the issues. With respect to traffic and parking, he said when the wall was built the traffic improved, but it is still bad. In contrast, commercial development of the site would potentially add 1,200 additional cars a day. High-density apartment units and mobilehome parks are a real problem in this area and one that Habitat cannot change. This project can provide additional housing that is not overcrowded, is at a low-density designation, and is not a burden on this community. He said they are trying to get as close as possible to the R1 designation on an oddly shaped piece of property. Commissioner Bever talks about the taxes to provide for services; Habitat is removing the burden of the street away from the City and putting the burden directly on the people who are using that street (for access, parking, activity).

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

MOTION 1:
GP-03-03/R-03-01
Recommended adoption of
Mitigated Negative Declaration
and approval of the GPA and Re-
zone

A motion was made by Commissioner Foley, seconded by Chairman Garlich, and carried 3-2 (Bever and DeMaio voted no), to recommend to City Council, by adoption of Planning Commission Resolution PC-04-65: (1) adoption of the mitigated negative declaration and mitigation monitoring program; and, (2) approval of requested General Plan Amendment GP-03-03 and Rezone R-03-01.

Commissioner Foley said she came to this meeting with an open mind about how to come to some kind of a compromise with the developer as to these issues, and request that they try to reduce the number of units in the development, but she did not honestly believe that would please anyone. She believed that the environmental study was sound and that this development is not going to increase traffic in any significant way within the community. In addition, the noise at Home Depot she agreed needs to be addressed and noted Commission directed Planning Division to work with Home Depot to deal with their violations. If those violations were not occurring, the noise would not be an issue.

The General Plan encourages conversion of existing marginal vacant property to residential and this is a marginal vacant parcel. It currently has access only through Home Depot under its present commercial designation. The residential R3 lot only has access through Home Depot. It is unreasonable to expect that we can build a commercial center behind Harbor Center with a residential component that can only be accessed through the loading dock of Home Depot. It did not make any sense—there is no visibility and no access. She felt the City should work with the neighbors further down from this development, concerning the parking problems caused from high-density neighboring properties located across Wilson Street. She said she believes in “traffic calming measures.” She said the location of the loading docks was decided before she the other Commissioners became Commissioners. She said this project has no variances. She also spoke about the parking standards within the community. Aside from all the technical issues, she said she felt sad because most of the comments that she heard tonight were about how people did not want low-income people to come into their neighborhood and that they’re going to reduce the property values. All of that is just not true with respect to this development. This is a quality development. There are people who are hard-working and possibly, may have the same income as many of the people commenting here this evening. Many people who live in our neighborhoods are on fixed incomes. She believed that the City should support people who are willing to change their lives, work hard, contribute to our community; put 500 hours of sweat time into building their home. She gave an example of her own participation in building one of the homes on Del Mar. She expressed that it doesn’t matter if you have a 60-year restriction, you have pride in ownership. She said her decision is based on what she believes is in the best interest, in the long-term, for this community.

Chairman Garlich said he agreed with everything Commissioner Foley had said. Further, he said they sit on the dais every other Monday making land use decisions principally based on the criteria that the City has put in the General Plan and Zoning Code. The Commission typically takes actions based on people bringing projects forward that meet those criteria, and this project does that. The residents’ frustration is understandable—its related to the Home Depot, the Harbor Center development of years ago and its carried over to the point where between concerns about noise and cut-through traffic, and parking, that come from a variety of sources including the Fairview end of Wake Forest Drive, and they overwhelm anybody’s ability to get beyond those frustrations. He said this project is not introducing all the noise that we heard about from most of the people tonight. If anything, it may reduce it a bit with the homes and landscaping that go in there. The parking will be in excess of what the City requires and the Habitat for Humanity CC&R’s will require people to actually park in their garages. He said the City is addressing the issues of overflow parking. The density numbers are virtually the same as R1. He said the Commission applies these standards and tries to do it consistently and this project meets all the standards. He said staff’s recommendation to deny and many comments made by the people here tonight, relate to whether this is a good place for these people who may live in these homes. He said it was his feeling that they should be allowed to make that decision for themselves. For all those reasons and the reasons Commissioner Foley gave, he would support this motion.

Commissioner Bever said he comes down with a different assessment and in reading these reports, it’s clear that Council in the history of this parcel, didn’t really want the City to go in this direction and did not feel that housing was appropriate here. Staff also does not feel that housing is appropriate here, and obviously, the public doesn’t

feel housing is appropriate here.

Vice Chair Perkins said he was supporting this part of the motion but said he would make further comments during the motion on the master plan. He said the reason why he is supporting this motion, is because he does think housing needs to go there.

Commissioner DeMaio said he could not support this motion because he's heard a lot about noise and a lot about parking. He said it sounds, in his opinion, that we shouldn't be adding any more vehicles to that neighborhood. He said he is a firm believer that Habitat is a great organization and does a great job but in this situation he has to support staff.

MOTION 2:
PA-03-59/T-16502
Recommended denial of Master
Plan and Tentative Tract Map

A motion was made by Vice Chair Perkins, seconded by Commissioner DeMaio, and carried 3-2 (Garlich and Foley voted no) to recommend to City Council, by adoption of Planning Commission Resolution PC-04-66: (1) denial of Final Master Plan PA-03-59; and (2) denial of Tentative Tract Map T-16502 with the following findings:

Findings:

Delete findings A, B, C and replace with the following:

- A. The proposed development fails to comply with Costa Mesa Municipal Code Section 13-29 (e) because safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered, however, the quiet enjoyment and compatibility of the proposed residential neighborhood may be adversely affected due to the proximity to the commercial use.

During discussion on the motion, Vice Chair Perkins said he knows that houses need to go in there. He said he knows that's not a popular choice referring to the GPA and Rezone. He said he didn't know if this project was the best plan. He said he is of the opinion that it should be more like R1. He said he is also of the opinion that it should be homes that fit that area that can be sold for market rate.

There was discussion between Commissioner Foley and Commissioner Perkins regarding his decision to deny the master plan and tract map based on the fact that he thinks it should be fair market value instead of based on a land use decision. He said he felt 8 units was too much and ultimately asked Mr. Korando if he would be willing put 4 units on that site. Mr. Korando said the project would die if it did not get the 8 units approved.

SUBSTITUTE MOTION:
PA-03-59/T-16502
Withdrawn

A substitute motion was made by Commissioner Foley and seconded by Chair Garlich, to continue the master plan for 2 weeks to allow time for staff to work with Mr. Korando and take into consideration any comments that Vice Chair Perkins might have here tonight to change the master plan proposal.

There was further discussion among Commissioner Foley, Vice Chair Perkins and the Chair. Vice Chair Perkins said that at this point he was more concerned with the number of units on the site.

The substitute motion was withdrawn and the original motion was called and carried 3-2 (Foley and Garlich voted no).

GENERAL PLAN
AMENDMENT GP-04-03 AND
REZONE PETITION R-04-05

City

This item was placed before the item above due to travel complications:

MOTION:
GP-04-03/R-04-05
Continued

The Chair opened the public hearing for consideration of General Plan Amendment GP-04-03 and Rezone Petition R-04-05 for the City of Costa Mesa for a general plan amendment to change the land use designation from High Density Residential to Public/Institutional; and a rezone petition to change the zoning district from PDR-HD (Planned Development Residential-High Density) to I&R (Institutional and Recreational) for the approximately 6.5-acre vacant area located at 2501 Harbor Boulevard (Fairview Developmental Center). Environmental determination: Negative Declaration.

Senior Planner Kimberly Brandt recommended a continuance to the Planning Commission meeting of January 10, 2005. During that time frame staff anticipates reviewing the disposition of the property and how the City wants to proceed, and possibly entering into negotiations with the State regarding this property. During the 90-day time frame, the State has indicated that they will not be engaging in any efforts to market the property during that interim period.

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins, and carried 4-1 (Foley voted no) to continue this item to the Planning Commission meeting of January 10, 2005.

During discussion on the motion, Commissioner Foley asked the reason the City needs to continue. Ms. Brandt stated that the continuance for 90 days will allow the City to evaluate the information that the State has just recently compiled regarding the value of the property, the exact dimensions of the property, to decide whether or not they want to enter a formal negotiation with the State to possibly purchase it. Ms. Brandt stated that City Council did not give staff a specific time frame for processing the general plan and rezone; it was scheduled along with the Habitat for Humanity project so they would run together, given that the City can only amend the General Plan once more this calendar year. Commissioner Foley said her understanding from the City Council direction, was that there were 2 sites that the City Council wanted to ensure were not going to be overdeveloped, and so the reason they directed staff to move forward with the general plan amendment and rezone was to do that. Chairman Garlich confirmed the State has assured us "in writing", that they not going to dispose of the property in the interim.

Commissioner Bever asked if it were to be rezoned I&R, would it have an impact on the property's value. Ms. Brandt stated that was correct, however, "public/institutional" allows for a variety of uses that are not limited to parks and open space and does allow for build alternatives, such as public institutional buildings. Commissioner Bever said it is his understanding that the City is making some concessions to the State by backing away from this rezone and asked if the State has assured us any concessions with regarding to their disposition of the Fairgrounds property. Ms. Brandt stated that the Fairgrounds have not been declared surplus and they are not looking to sell it at this time. The subject property has been declared surplus and they are seeking to dispose of it. The City is looking at the 2 properties independently.

No one else wished to speak.

The Chair summarized that what has come out of this discussion is that staff is asking for time to understand data they haven't had a chance to understand before they make a recommendation to the Planning Commission as to what should be recommended to City Council. The 90 days is simply coincident with the next opportunity to amend the general plan. The Chair repeated his motion and it was carried 4-1 (Foley voted no).

EXTENSION OF TIME FOR
PLANNING APPLICATION
PA-01-44

The Crossing Church/Dan Steward

The Chair opened the public hearing for consideration of an extension of time for Planning Application PA-01-44 for Dan Steward, to install a 7,910 sq. ft. tent structure and a 1,440 sq. ft. modular trailer for use as a temporary sanctuary for The Crossing Church, for a period not to exceed 5 years located at 2115 Newport Boulevard in a C2 zone. Environmental determination: exempt.

Senior Planner Willa Bouwens-Killeen reviewed the information in the staff report and gave a presentation. She said staff was recommending approval by adoption of Planning Commission Resolution, subject to conditions.

There was discussion between the Chair, Commissioner Bever and staff regarding the 2-1/2 year status report and City Council's approval of a 5-year term to allow the tent to remain, while the church is being built.

Dan Steward, 3245 Idaho Lane, Costa Mesa, agreed to the "ongoing conditions of approval."

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

MOTION:
PA-01-44
Approved

A motion was made by Vice Chair Perkins, seconded by Commissioner Foley and carried 5-0 to approve the extension of time to expire on April 1, 2007, by adoption of Planning Commission Resolution PC-04-67, 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

The Chair opened the public hearing for consideration of Design Review PA-04-22 for Bradford L. Smith, authorized agent for Linda Steifel, 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 pro-posed), located at 330 East 15th 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 is recommending denial by adoption of Planning Commission resolution.

There was discussion between the Chair and staff regarding the different alternatives as shown in the staff report.

Bradford L. Smith, introduced himself as architect and authorized agent, 365 B. Old Newport Boulevard, Newport Boulevard.

The developer, David Yore, 3359 Via Tivoli, Costa Mesa, agreed to the conditions of approval should the project be approved. Mr. Yore explained that they have 3 single-family residences that are deficient in numbers and therefore, require a variance. He explained that everything is the same with both air space condominiums and single-family homes except for the parking requirement. As a condominium project, an area that was landscaped would now turn into hardscape for a parking space.

He said from a development standpoint, they are trying to develop 3 single-family units because the problem with condominium units is that if one owner wants to sell at a later date, he/she is at the mercy of the other two owners and they do not want that. He suggested that there is also a value to the City to approve single-family residences because of the disproportionate number of rental units within the City. He said it was not possible for staff to approve this project because in meeting the code for everything else, they could not meet code without a minor modification for a reduction in driveway width, and a variance from average lot size requirements. He felt this lot

was unique in that its bounded by the school property as having lots of visible open space, and its shape is unusually wide and are a basis for granting the variance as it relates to these items. He reminded the Commission that this project meets or exceeds all other criteria and asked for their consideration of the single-family residences rather than condominiums.

Commissioner Foley agreed with the applicant in that single-family homes are preferable to condominiums. In response to Commissioner Foley as to what makes this property different from others of the same shape, Mr. Yore explained that common lot "A" has two issues; one is that because of the very nature of it, it takes away from square-footage that would otherwise be used to meet the minimum and the average lot sizes; secondly, under the guidelines provided by the City, it discusses common lot "A" and that it is used in common by the three residences. He said in realty, the only thing used in common by the three residences is the first 30 feet; the rest is used in common by less than 3 of them. He felt some of the space in lot "A" could be used in lot 1, 2, or 3. There was further discussion between Commissioner Foley and Mr. Yore regarding common lot A.

There was discussion between the Chair and Mr. Yore regarding Alternative 2 (the condominium alternative) and the required parking spaces that would require the landscaping to be replaced by parking spaces.

Commissioner Foley asked the applicant to discuss other special circumstances applicable to the property to justify a variance. Mr. Yore felt this rectangular lot is unique regardless of how many there are in the City. This site fits all three units very well and there would be very little difference if one is removed from the plan.

The Chair explained some of the background of the small lot subdivisions and the guidelines that came about because developers have historically come before the Commission with one lot too many for their residential developments. He said that the need to be able to make valid findings to grant a variance is very important to him. He was not sure that this property would meet that intent.

Commissioner Foley explained that even if two homes were allowed on the property it could not be subdivided because the lot is not deep enough. In response to a question from Commissioner Foley, Senior Deputy City Attorney, Marianne Milligan agreed that it was possible to take into consideration that this is a denial of the right build on the property because they cannot build 2 single-family homes on the property and are forced to build a condominium unit which is essentially the same. Commissioner Foley explained further that there are 3 buildings; they are not changing much of the massing of the buildings on the site, and it is not a better development by turning it into condominiums. The depth of the lot prevents 2 single-family homes from being built because they cannot meet the standards. Mr. Valentine said, two units can be built there but they may not be sold separately, and in fact 3 units could be built, but they would have to be used as rental units or for-sale airspace condominiums. The developer could not build 2 to 3 units for sale as townhomes, or single-family and comply with the development standards.

There was further discussion among the Commissioners. Commissioner Bever felt the Commission was being forced to approve a lesser quality project. Commissioner Foley asked Ms. Milligan, could the finding be, that because of the depth of the lot and because of the unique circumstance that you can build 3 buildings on the lot and make them condominiums, but if you want them to be homeowner occupied, it does not meet the standards and the variance should be allowed because it devalues the property and grants others a special privilege not enjoyed by the applicant? Ms. Milligan said

her concern was that finding might apply to many other properties in the City, and the Commission is setting a precedent and would have a difficult time justifying it in the future. Commissioner Foley pointed out that this particular situation has not come up before and that each and every one has been before the Commission on a “case-by-case” basis.

There was further discussion among the Commissioners. Mr. Valentine referenced a recent example on Elden Avenue that resulted in a reduction of the number of units, however in this case, that would not work because it could not be turned into either single-family homes, or condominium airspace units.

Commissioner Bever said his main reservation here is that the Commission has a potential for approving an inferior product condominiums because the guidelines will allow the Commission to do it. In response to the Chair, Commissioner Bever said it’s inferior because it could require adding another 160 feet of hardscape, removing landscaping and putting parking outside (7 outside instead of 6). He said he would rather see those cars parked in a garage, and if it were he buying one of those homes, he would rather have the ability to park 2 cars in his garage.

Mr. Yore said that Council indicated that a strong sense of discretion was in order in reference to the legislature, but is there not also a strong sense of discretion that rests upon each Commissioner in terms of the overall project; while it raises the question of precedent, this property provides the opportunity to distinguish it from others that may try to make the same claim for their own application.

Commissioner Bever stated that this is a unique site in that it is adjacent to permanent open space. Ms. Milligan felt that would be a very valid finding.

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

MOTION
PA-04-29
Approved

A motion was made by Commissioner Foley, seconded by Chairman Garlich and carried 5-0, to approve by adoption of Planning Commission Resolution PC-04-68, based on information and analysis in the Planning Division staff report and findings contained in exhibit “A”, subject to conditions in exhibit “B” with the following modifications:

Findings:

A. “The proposed variance ~~does not comply~~ complies with Costa Mesa Municipal Code Section 13-29(g) because special circumstances applicable to the property do ~~not~~ exist, and application of development standards would ~~not~~ deprive ~~such~~ the property of privileges enjoyed by others in the vicinity under identical zoning classifications. Approval of the variance would not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated. For example, adjacent to the property there is permanent open space which is provided at the school, and to require the property owner to develop the property as condominiums would actually reduce the amount of landscape area provided within the overall development and reduce the quality of the overall development. The narrow width of the site precludes homes from fronting on 15th Street and even though, as condominium units, the same number of structures could be built, it would be an inferior development. The General Plan encourages development of ownership housing, and strict compliance with lot size limitations would be inconsistent with the intent of the General Plan in this case. The lot lines dividing the lots include jogs and Lot 2 extends in the common drive/back out area in front of the Lot 3 driveway/open parking spaces. The untidy...”

B, C, D, and E remain as is.

During the motion the Commission expressed that they were finally able to resolve the issue of findings and thanked the applicant for his

patience and his persistence.

The Chair explained the appeal process.

REPORT OF THE DEVELOPMENT SVS. DEPARTMENT

Mr. Valentine reminded everyone about the “Open House” next week, October 4, 2004 beginning at 5 p.m. prior to the 6:30 study session.

REPORT OF THE SENIOR DEPUTY CITY ATTORNEY

None.

ADJOURNMENT:

There being no further business, Chairman Garlich adjourned the meeting at 11:32 p.m., to the study session of Monday, October 4, 2004.

Submitted by:

PERRY L. VALANTINE, SECRETARY
COSTA MESA PLANNING COMMISSION