

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

**November 22, 2004**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., November 22, 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  
Katrina Foley, Dennis DeMaio and Eric Bever

Commissioners Absent:

Vice Chair Bill Perkins

Also Present: Kimberly Brandt, Acting Secretary  
Costa Mesa Planning Commission  
Tom Wood, Assistant City Attorney  
Ernesto Munoz, City Engineer  
Mel Lee, Associate Planner  
Wendy Shih, Associate Planner

**MINUTES:**

The minutes for the meeting of November 8, 2004 were accepted as distributed.

**PUBLIC COMMENTS:**

Tiny Hyder updated the Commission regarding the present state of the two lots on her street (Myran Drive). A status report was given by Mel Lee, project planner, who addressed the mulch for the tree, as well as the standing water, which were Ms. Hyder's two major concerns.

Ann Hogan-Shereshevsky, 2152 Elden Avenue, Costa Mesa, discussed her disappointment with the City's approval of the Pacific Medical Plaza. Ms. Shereshevsky also expressed her views concerning the City's disinterest in providing decent, low-income housing for seniors and disabled persons.

Pamela Frankel, Myran Drive resident, Costa Mesa, expressed her concerns surrounding the clearing of the two lots adjacent to her property.

**PLANNING COMMISSION  
COMMENTS/SUGGESTIONS:**

Commissioner DeMaio wished the residents of Costa Mesa a Happy Thanksgiving.

Commissioner Foley expressed to Ms. Frankel and Ms. Hyder that she was sorry she was unable to do more to assist in the effort of their transition.

Commissioner Foley stated that with her recent election to City Council, this would be her last Planning Commission meeting. She gave a visual presentation reviewing her involvement in City and community projects. She thanked many of the people she worked with including staff and her fellow Commissioners.

Vice Chair Perkins wished everyone a safe and happy holiday.

Chairman Garlich wished Commissioner Foley the very best on her new position as a Council Member for the City of Costa Mesa. He also wished everyone a Happy Thanksgiving.

**CONSENT CALENDAR:**

On a motion made by Chairman Garlich, seconded by Vice Chair Perkins and carried 5-0, the item on the Consent Calendar received the action below.

**DEVELOPMENT AGREEMENT  
DA-04-05 (DA-99-02)**

Sakioka Farms

Development Agreement DA-04-05 for George Sakioka, authorized agent for Roy K. Sakioka and Sons/Marjack/RTS-Sunflower/Iscina-Sunflower/Sakioka Farms for an Annual Review of the Sakioka Farms Development Agreement DA-99-02, located at 14850 Sunflower Avenue. Environmental determination: exempt.

Planning Commission recommended to City Council: (1) that based on the evidence in the record, they determine and find that Roy K. Sakioka and Sons/Marjack/RTS-Sunflower/Iscina-Sunflower/Sakioka Farms has demonstrated good faith compliance with the terms and conditions of Development Agreement DA-99-02; (2) that future periodic reviews be delegated to Planning Commission and that a formal periodic review be conducted every two years; and (3) that separate annual reviews be conducted for individual owner-ship interests.

## **PUBLIC HEARINGS:**

### DEVELOPMENT REVIEW DR-04-06

Segerstrom/Hull

The Chair opened the public hearing for consideration of Development Review DR-04-06 for Eric Hull of Tait and Associates, authorized agent for C.J. Segerstrom and Sons, for the construction of a 14,868 sq. ft. retail building with a pharmacy drive-thru (Sav-On) and a request for a public convenience or necessity finding for the sale of alcoholic beverages, located at 1150 and 1170 Baker Street in a C1 zone. Environmental Determination: Mitigated Negative Declaration.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a visual presentation. She said staff was recommending that Planning Commission adopt the Mitigated Negative Declaration and approval of DR-04-06, by adoption of Planning Commission resolution, subject to conditions.

In response to a question from Commissioner Foley regarding whether the wall to the rear north would change, Ms. Shih explained that the applicant is proposing to construct a 10-foot high, sound attenuation wall.

Paul Freeman, authorized agent, 3315 Fairview Road, Costa Mesa, commented that the project fully complies with City standards, requiring no variances or deviations. He listed the attributes of the project and pointed out several areas in which the project met and exceeded City standards. He also said a considerable amount of "outreach" was done with the surrounding community via three public meetings, including other additional meetings, e-mail communications, and telephone conversations with 5 nearby residents. As a result of this input, substantial changes were made to the plan that included a perimeter block wall; a screen wall around the receiving area; a signage program to encourage reduced noise; limitations on delivery hours; employee parking at the rear; relocated trash enclosure from the northeast corner to the Sav-On receiving area; and shield all parking lot lights from residential areas.

In response to the Chair, Mr. Freeman agreed to the conditions of approval. Martin Saulberg, (Albertson's/Sav-On representative), 1421 South Manhattan Avenue, Fullerton, California, also agreed to the conditions of approval.

There were discussions between the Commission and the applicant regarding modifications and additional conditions that would further address noise attenuation, aesthetics, parking and signage, etc., relating to: (1) a change in delivery hours with signage approved by staff; (2) limited hours of operation for the business; (3) the prohibition of establishing a home delivery service; (4) construction of a 6' high wall and landscaping to screen the loading dock area under direction of staff; (5) establishment of a signage program under direction of staff, to include a prominently displayed sign with a contact telephone number in case of problems and/or emergencies; and (6) rear location for employee parking.

Teresa Benson, 3013 Buchanan Way, Costa Mesa, stated that she and her husband had not received a copy of the supplemental report. They thanked staff for their response to the e-mail communications they sent last week. The Bensons had issues with the current business, i.e., Hoag Hospital, about noise and to whom they should direct their complaints to in the future when the new Sav-On is constructed.

The Chair asked that they call Code Enforcement instead of the Police Department and promised to provide the phone number. In response to a question from Teresa Benson, the Chair explained that the Planning Commission has final authority over this item and the decision could be appealed to City Council.

Ann Hogan-Shereshevsky, 2152 Elden Avenue, Costa Mesa, noted that many Sav-On drug stores are open for 24 hours. In response, representative Martin Saulberg of the Albertson's/Sav-On, stated that they have agreed not to operate 24 hours. Ms. Shereshevsky also commented that she did not like to see drug stores selling alcoholic beverages.

John Feeney, 1154 Dorset Lane, Costa Mesa, said only 20 people in the immediate area were notified on this item. He said this project sounds like Harbor Center and Target Center. He said the conditions are not being adhered to there because he has talked to people who live next to those centers. He disagreed with the noise consultant's statements that the additional wall height would sufficiently reduce noise impacts to a level of insignificance. He did not agree that reflective materials could reduce noise; he said the drainage all goes into his residential neighborhood and is not being resolved. He asked who would control the delivery hours and asked if they would be putting up signs to instruct the truck drivers to turn their motors off. He felt that Code Enforcement is "unconcerned" because they have placed calls complaining about the "air conditioning system blowers" on the Hoag Health Center.

In response to the Chair regarding the drainage issue, Mr. Munoz explained that drainage in this neighborhood goes northerly behind the site. Part of the property does drain forward towards Baker Street and Fairview Road. Some of the water drains to the rear and the system is able to handle the drainage.

Ernie Feeney, 1154 Dorset Lane, Costa Mesa, said when they were remodeling Hoag Center, the construction became a major problem. She detailed those events and asked that the Commission keep Wendy's and that the retail building remain.

John Benson, 3013 Buchanan Way, Costa Mesa, wanted to know if they had 20 additional days to study the Negative Declaration. The Chair explained that this data was collected to augment the date that was already in the Negative Declaration. He said the conclusions were that it didn't change the findings acoustically, or the recommendations from a noise standpoint, and that 20 more days will not be given. He commented about a restaurant that would be going into the center and that its deliveries would greatly impact his home because there is only a 5-foot setback. He said the study did not even mention the new retail space restaurant that will be there. The Chair explained that the potential, future, restaurant is not a part of the application and not a part of the study, so it is not something being considered this evening. The Chair also reiterated former testimony regarding explicit concerns and the proposed conditions to mitigate those concerns.

In response to a question from Commission Bever, a phone number was given for persons bothered by noise and/or other problems generated at the center: to call for assistance, voicing complaints, and other issues.

There was comment by Mr. Freeman regarding particular noises during evening and late night hours throughout centers such as this, generally related to deliveries and cleaning machines by third-party vendors. He assured the Commission that they are looking into this problem and are committed to deal with it. He also reiterated their compromises and stand with regard to concerns that were raised this evening and throughout the review of this project.

Mr. Feeney returned to the podium and expressed his disagreement with Mr. Freeman's testimony. In response, Mr. Munoz explained that there is no "waste" water draining by the site because it is all handled by the sewer system. As Mr. Freeman indicated previously, that the grading for this development, will result in less drainage to the north. Commissioner Foley confirmed with Mr. Munoz that the water coming into the residential neighborhood is rainwater related. Ernie Feeney also returned to the podium and challenged Mr. Munoz that the problems discussed by she and her husband did happen. Commissioner Foley stated that Mr. Munoz was explaining what has happened since then with corrective action and improvements.

In response to question from Commissioner Bever regarding rerouting some of the runoff to Fairview Road, Bob Fernandez from C.J. Segerstrom & Sons, provided more information on the site's overall drainage.

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

A motion was made by Vice Chair Perkins, seconded by Commissioner DeMaio and carried 5-0 to adopt the Mitigated Negative Declaration and approve DR-04-06, by adoption of Planning Commission Resolution PC-04-75, based on information and analysis contained in the Planning Division staff report and findings contained in exhibit "A" subject to conditions in exhibit "B", with the following modification and additions:

Conditions of Approval

- 15. Delivery hours shall be limited to 7 a.m. to 8 6 p.m., Monday through Friday. Signs shall be posted along the north and east walls of the Sav-On building subject to approval of the Planning Staff requiring trucks to turn off engines when loading or unloading
- 18. Hours of operation shall be limited to 7 a.m. to 11 p.m., Monday through Sunday.
- 19. Home delivery service is prohibited on this site.
- 20. Applicant shall install a partial 6-foot high block wall including landscaping to screen the loading dock, under direction of the Planning staff.
- 21. The applicant, together with Planning staff, shall establish a signage program that includes contact information (i.e., emergency phone number), prominently located on site.

During discussion on the motion, Commissioner Foley stated that she believed this plan would better the neighborhood, more than what currently exists. She felt the mitigation measures together with the elimination of Wendy's, would also make this a much less troublesome area for the neighborhood.

Chairman Garlich also supported the motion. He said this property has been commercial property for more than 25 years and it is getting better.

The Chair opened the public hearing for consideration of Planning Application PA-03-42 for John Garrison, authorized agent for ABCO Realty/Al Mozayeni, for a design review to construct a 2-story (with basement), 26 unit, residential townhouse development with a variance from building height (27' allowed, 31' proposed) and minor modification to encroach into the front yard setback (20' allowed, 16' proposed), located at 2013-2029 (odd numbers only) Anaheim Avenue in an R3 zone. Environmental determination: exempt.

MOTION:  
DR-04-06  
Approved

PLANNING APPLICATION  
PA-03-42

ABCO Realty/Garrison

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He explained that the variance is no longer required since the plans now meet the City's height requirement. Mr. Lee stated that an additional proposed condition of approval has been added for Commission's consideration regarding the sale of ownership, condominium-style units. He said staff was recommending approval, by adoption of Planning Commission resolution, subject to conditions.

Al Mozayeni, ABCO Realty, 18552 MacArthur Boulevard, Irvine, agreed to the conditions of approval. Mr. Mozayeni thanked Planning staff for the time and effort they put into this project. He also advised that they are specifically looking at this project as a "for sale" venture.

The Chair also thanked the developer for his diligence and many redrafts of the plans.

There was discussion between Commissioner Bever and Mr. Mozayeni regarding the previous architectural elements and the new site plan architectural elements; Commissioner Foley also discussed the installation of large mature trees that would assist in the aesthetically pleasing appearance of the project's exterior elements.

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

A motion was made by Commissioner Foley, seconded by Commissioner DeMaio and carried 5-0 to approve by adoption of Planning Commission Resolution PC-04-76, based on analysis and information in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following addition:

Conditions of Approval

27. All residential units shall be "for sale" units. The site shall not be developed for apartments or other non owner-occupied units.

During discussion on the motion, Vice Chair Perkins agreed with the Commission that this is a good project and he thanked the applicant for all his hard work, as did all the Commissioners.

The Chair explained the appeal process.

The Chair called a recess and the meeting resumed at 9:15 p.m.

*After the above action was completed Commissioner DeMaio was called away on business.*

MOTION:  
PA-03-42  
Approved

*BREAK:*  
*Note:*

PLANNING APPLICATION  
PA-04-39

Solter Family Trust/Fox

Planning Application PA-04-39 for Melissa J. Fox, authorized agent for Solter Family Trust, for variances from parking (7 spaces required; 4 spaces provided) and from landscape setback requirements (10' required; 5' proposed) to legalize a 2<sup>nd</sup> dwelling unit, located at 703 Center Street in an R2-HD zone. Environmental determination: exempt.

Staff recommended a continuance of this item to the Planning Commission meeting of December 13, 2004.

No one else wished to speak.

A motion was made by Commissioner Foley, seconded by Vice Chair Perkins, and carried 4-0 (DeMaio absent) to continue the item to the Planning Commission meeting of December 13, 2004.

MOTION:  
PA-04-39  
Continued

REVIEW ZONING PERMIT  
PROCESSING REGULATIONS

City

The Chair opened the public hearing for consideration of existing Zoning Permit Processing regulations and alternatives for permit streamlining. Environmental determination: exempt.

Acting Secretary Kimberly Brandt reviewed the information in the staff report and gave a presentation. She said staff is recommending that Planning Commission provide staff with direction regarding the proposed amendment to the permit processing regulations, so that a draft ordinance can be prepared.

The Chair requested that the Commission divide this category into two parts: Part I/Process suggestions on Pages 5 and 6 of the staff report and then Part II/Land Use Matrix. Commissioner Foley suggested taking the Land Use Matrix first and the Chair agreed.

**PART I: LAND USE MATRIX:**

Commissioner Foley pulled the following items to exclude from revision for discussion: #46 needs clarification of language; #47 and #48 deal with amusement centers, animal hospitals, and animal shelters and the recommendation is to change from conditional use permit to a minor conditional use permit which requires no public hearing and she believed that animal uses generate a lot of discussion and that public hearing generally help improve the proposed project; and #150 warehouses, she would not support downgrading this from a conditional use permit to minor conditional use permit because she believes there is a sufficient number of mini-warehouses in our community.

Vice Chair Perkins said he felt that items #111, #112 (Office General), #130 and #142 were too vague. In response, Ms. Brandt explained the reason and how that term is used. There was further discussion on the subject between the Chair, staff, and Commissioner Foley. Ms. Brandt further explained how the matrix is used by staff. In response to another question from Vice Chair Perkins regarding "Martial Arts", she explained the difference between a business license and a home occupation permit.

In response to a question from Commissioner Bever regarding item #67 (commercial art/graphic design) as a permitted use in the PDR-MD, PDR-HD, and PDR-NCM zones, and the feasibility of an "Antique Mall" which would include creating and selling (retail and wholesale) in an industrial zone, Ms. Brandt concluded that perhaps the antique mall could be categorized by itself and that she would do further research on this subject.

There was also discussion between staff, Commissioner Foley and the Chair regarding changes in language on some items, and other minor corrections.

There was discussion between Commission Foley and Ms. Brandt regarding the rationale for the change from conditional use permit to minor conditional use permit in several areas, particularly, amusement centers. Ms. Brandt stated that staff felt a use to be significant, it would be referred to Planning Commission. She advised they would still have the same public noticing process.

**MOTION:**  
Part I-Land Use Matrix  
Direction to Staff

**PART I: Chapter IV-Citywide Land Use Matrix Recommendations**

A motion was made by Commissioner Foley, seconded by Chairman Garlich recommended adoption of the Citywide Land Use Matrix with revisions as proposed in the staff report with the exception of items 46, 47, 48, and 150 (leave as a Conditional Use permits); items 111 and 112 (revise to combine into 1 item); item 67 (revise the matrix to make "commercial art graphic design" permitted uses in the PDR-MD, PDR-HD, and PDR-NCM zones); and items 80 and 130 (directed staff to revise the language in the matrix and clarify "exceptions"), and directed staff to review the matrix and clarify contradictory language and/or insufficient definition., and to research the category of "Antique Mall" not currently included or categorized in the Matrix.



The Chair announced that Part II, the items would be called as numbers 1 through 10 relating to Planning Application Requirements

**PART II: PLANNING APPLICATION RECOMMENDATIONS**

**ITEM 1:**

**PART II: Chapter III-Planning Application Recommendations**

*Delegate all final authority for land use entitlements except legislative acts (i.e., general and specific plans, development agreements, and rezones) to the Planning Commission. This would include master plans in the Planned Development and Town Center zoning districts.*

*Discussion:*

Commissioner Foley said she had concerns it related to master plans because it could all be changed at Planning Commission level and she felt it should go to City Council. Vice Chair Perkins stated that master plans are "appealable." In response to the Chair, Ms. Brandt explained that Planning Commission is the final review authority for the C1-S zones and the I&R zones. The Chair said he believes that in the spirit of relieving the process of the amount of time it takes, and relieving Council of what they would ordinarily have to do, the Planning Commission would have to decide if they would feel comfortable taking on that responsibility with the concurrence of City Council and he had no objections to doing so. Ms. Brandt said the only authority being transferred down to the Commission is the Planned Development zones and Town Center Zones master plans.

**MOTION**  
Item #1  
Include in Draft Ordinance

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins, and carried 4-0 (DeMaio absent), to recommend to City Council for inclusion into the draft ordinance.

**ITEM 2:**

*Delegate all review and approval of projects in public parks to the Parks and Recreation Commission. Exception: With a master plan adoption, the Planning Commission shall be the final review authority with a joint study session and public hearing with the Parks and Recreation Commission.*

*Discussion:*

Commissioner Foley believed that the Planning Commission deals with land use issues on a regular basis and the Parks and Recreation Commission does not. She said they are not in the role of balancing interests and she recommended that instead of delegating all review and approval of projects in public parks to the Parks and Recreation Commission, that Planning Commission have a joint meeting where there are land uses issues. Mr. Brandt clarified that Planning Commission currently reviews the master plan and then the projects, once the master plan is approved, are carried out at staff level. She felt the statement is a little misleading and should say, instead of "projects", "master plans." In response to Vice Chair Perkins regarding the appeal process, Ms. Brandt said any Commissioner could appeal a decision as a private citizen to City Council, because it would not go the Planning Commission as proposed. Commissioner Foley said with a joint meeting, the issue of streamlining is addressed, and the vote be can be taken separately by the respective bodies. There was further discussion by the Commission regarding the following: final authority to the Parks and Recreation Commission by City Council; the current of flow processing master plans; joint meeting expenses and/or non expenses and saving City staff time; and Parks and Recreation Commission input and authority.

**MOTION**  
Item #2  
Include in Draft Ordinance

A motion was made by Commissioner Foley, seconded by Chairman Garlich and carried 3-1 (Perkins voted no), to recommend to City Council, to retain the Planning Commission authority on master plans and hold joint meetings with the Parks and Recreation Commission.

**ITEM 3:**

*Delegate approval of major amendments to master plans to the Zoning Administrator and approval of minor amendment to staff.*

*Discussion:*

In response to Commissioner Bever and Vice Chair Perkins, Ms. Brandt explained that this would be looked at as more of an operational change in how major and minor amendments are determined.

Commissioner Bever confirmed with Ms. Brandt that this would not foreclose on a major amendment being forwarded to Planning Commission.

The Chair said the problem with this idea is that the Commission doesn't know which amendments they are since there is no definition. The purpose of this is to remove it from the public hearing process, and for those reasons he and Commissioner Foley would have a major concern. Commissioner Foley pointed out the lengthy discussions in public hearings regarding setbacks, trees, placement of windows, etc., and how it would all be lost. She said delegating something like this to the Zoning Administrator, can actually create more delays in the process if appealed.

MOTION:  
Item #3  
No recommendation

A motion was made by Chairman Garlich, seconded by Commissioner Foley and failed to carry (item remained as written) 2-2 (Bever and Perkins voted no, DeMaio absent) not to recommend this item to City Council. No recommendation.

ITEM 4:

*Delegate approval of Lot Line Adjustments to staff rather than Zoning Administrator.*

Discussion:

Commissioner Foley said she could support this item and asked Ms. Brandt to explain any negative consequences. Ms. Brandt did not believe there were any negative consequences. She said presently, there is no public notice associated with a Lot Line Adjustments; it is moving lot lines within two parcels and no additional parcels can be created; staff already makes findings of General Plan consistency, zoning code consistency, and it is something very easily accomplished at staff level.

MOTION  
Item #4  
Include in Draft Ordinance:

A motion was made by Vice Chair Perkins, seconded by Commissioner Bever and carried 4-0 (DeMaio absent), to recommend to City Council, inclusion into the draft ordinance.

ITEM 5:

*Allow over-the-counter staff approval of one-story accessory buildings in R2 and R3 zones, instead of a Development Review.*

Discussion:

Ms. Brandt explained that accessory buildings in these multi-family zones would be detached carports, detached garages, and possibly a laundry building, or pool/clubhouse. Currently, these are taken in as a development review with a fee and takes approximately 15 working days to get processed and approved. She stated that staff does not need to take in the formal application, and that it can be done at staff level.

There was discussion between the Chair and Ms. Brandt regarding formal Development Review applications and the required fee.

MOTION:  
Item #5  
Include in Draft Ordinance

A motion was made by Commissioner Foley, seconded by Vice Chair Perkins and carried 4-0 (DeMaio absent), to recommend this item for inclusion in the draft ordinance.

ITEM 6:

*Increase number and/or percentage of code deviations that can be considered as a Minor Modification. As an example, increase deviation range for all minor modifications to 33-1/3% (See Table 13.28(j)(1)).*

Discussion:

Ms. Brandt referred to page 14 of the staff report, and the table that describes "minor modification", which is a deviation from a development standard that does not require the City to make the state-required findings for variances and administrative adjustments. The City created the minor modification category, which says deviation can occur in the front yard setback, rear yard setback and side yard setback, etc., within these specified percentages. For the most part, they are 20% or less. She confirmed with the Chair that the range could be increased, or additional items could be added. There was further discussion between the Chair, Commissioner Foley, and Ms. Brandt regarding the issues of setbacks, side yard width, rear yard depth, etc., which the Commission subsequently felt were sensitive issues that should not be changed.



MOTION:  
Item #6  
Recommended Exclusion

A motion was made by Commission Foley, seconded by Chairman Garlich and carried 4-0 (DeMaio absent), to recommend exclusion in the draft ordinance.

ITEM 7:

*Allow condominium conversions of non-occupied dwelling units through Development Review process.*

Discussion:

Ms. Brandt said this process has been back and forth over the years. This is an example when someone is intending to build condominiums or townhomes but initially comes in and gets approval for the plan, and then later comes in to get approval of the tentative tract map. Because they are technically approved as apartments, they are allowed to go ahead and start their building permit process. Once the permit is obtained, they come back and file the tract map to convert the apartments to condominiums. It is a way of allowing the project to begin construction prior to getting the final map recorded. The Chair confirmed the benefit here is to allow the developer, to save time and money. Ms. Brandt said staff would still want the applicant to go through a review to make sure that the project being converted to condominiums, still meets all the applicable codes. The Chair felt that the term, "condominium conversion" is not clear. Ms. Brandt responded that it is defined in the Municipal Code as going from newly constructed, non-occupied "apartments" to "condominiums."

The Commission generally felt it was worrisome to enable the developer to get going on his project before he has his tract map.

Assistant City Attorney Tom Wood felt there was nothing in the current code or even in state law that could stop this practice. He there are several projects now that have tract maps recorded on them but the owner, for some reason has decided not to sell them and has just rented them

In response to a question from Commissioner Bever regarding this subject and the project approved this evening with a condition indicating this project will be a "for sale" project and will that same process be used to save the 6-month waiting period for his project to begin.

Mr. Wood said that the Commission could probably impose a similar condition. He would also like to see a General Plan policy added that addressed retaining or seeking to expand owner occupancy. It can be done because the condition has been imposed.

There was discussion by Planning Commission regarding the process. Ms. Brandt said the process is already in place. The reason the process is referred to as "a conversion of a non-occupied residential unit", is that there used to be a difference between development standards for an apartment project versus development standards for a condominium project. There was further discussion between Commissioner Foley and Mr. Wood regarding this subject and other cities with some bad press regarding the illegal selling of apartments as condominiums.

In response to a question from Commissioner Foley regarding the reason why developers do this, Mr. Brandt stated that it is timing and has to do with their construction loans. As soon as the appeal period elapses, they can come in and submit for plan check and begin the building permit process.

If they had filed a map concurrently with that design application, once they have the map approved by the Planning Commission, they would then have to submit that map to the County of Orange for final map recordation taking approximately 6 months. During that timeframe, building permits could not be issued.

In response to a question from Commissioner Foley regarding the perspective of answering the question by allowing the construction to go on as the developer wants to do, City Engineer Ernesto Munoz explained that it is a benefit to the developer and affords him to go forward with the project in getting everything in place as a rental project.

There was further discussion by the Planning Commission the process. Ms. Brandt said the process is already in place. The reason the process is referred to as "a conversion of a non-occupied residential unit", is that there used to be a difference between development standards for an apartment project versus development standards for a condominium project. Today, they are virtually the same except for the condominium private open space requirement. She also noted that the tract map would still come back to Planning Commission.

Chairman Garlich explained that under the current situation, someone who wants to do a condominium development can find themselves paying on a loan for six months while nothing can be done.

In response to Commissioner Foley, Mr. Munoz explained that the process of the map is predicated upon title reports, research, submittals through the County on surveying, establishing controls, etc., and it is a set process.

MOTION:  
Item #7  
Recommended Exclusion

A motion was made by Chairman Garlich, seconded by Commissioner Foley and carried 4-0 (DeMaio absent), to recommend to City Council, exclusion of the item in the draft ordinance.

ITEM 8:

*Reduce public notice requirements from 500 feet to state-mandated 300 feet.*

Discussion:

Vice Chair Perkins felt it was unnecessary to go beyond the state-mandated 300 ft. In response to the Chair, Ms. Brandt stated that this should be revenue neutral, but there is more time to handling paper work and mail distribution costs (clerical time, printing, and postage). Commissioner Foley felt that more people should be noticed and it should be left the way it is. The Chair agreed and said the benefit is miniscule compared to the impact on the community, particularly as since the City is built out now.

MOTION:  
No recommendation

A motion was made by Chairman Garlich, seconded by Commissioner Foley and failed to carry 2-2 (Bever and Perkins voted no to retain, DeMaio absent), to retain the 500-foot requirement.

ITEM 9:

*Eliminate on-site public notice posting.*

Discussion:

Ms. Brandt explained the present system for posting and the cost per month excluding incidental costs such as Code Enforcement putting up signs on residential properties when there is a public hearing. Commissioner Foley felt it was not a cost problem, but rather a problem with the vendor and their management of the business. The Chair felt that there may be some surrounding neighbors who may not have received a mailing and this may be the only noticing they would see. Commissioners Bever and Perkins disagreed and felt it was a still a savings because there would be less waste and replacement costs. It was also felt the signs do not belong in residential neighborhoods and are an eyesore when vandalized.

MOTION:  
Item #9  
No recommendation

A motion was made by Commissioner Perkins, seconded by Commissioner Bever and failed to carry 2-2 (Garlich and Foley voted no, DeMaio absent), to eliminate the on-site posting requirement.

ITEM 10:

*Limit public notice for second-story Minor Design Reviews to adjoining parcels only instead of a 500-foot radius; or allow over-the-counter staff approval of second-story residential construction (i.e., require building permit only, instead of Minor Design Review).*

Discussion:

The Commission felt that more information should be submitted by staff because they were not comfortable with the over-the-counter staff approval of second-story residential construction. Commissioners Perkins and Bever felt the second part of this item was workable but it did need additional information. The Chair believed that it took the larger projects out of the realm for public hearing; those over 50% which ordinarily would have anticipated adjustments, conditions of approval and minor design changes.

In response to Commissioner Foley regarding the number of Minor Design Reviews that go on the Planning Commission, Ms. Brandt explained that since most go to the Zoning Administrator now, and only occasionally when appealed (or other reasons), to Planning Commission; the Planning Division has had only a few that have come in at less than 50%. The Chair and Commissioner Bever felt that some data should be brought forward as a basis for them to make a recommendation. The Chair also asked for further study on what is the impact on residents and/or businesses that are 500 feet *away* from the project and include that data in the analysis.

MOTION:  
Item #10  
No Recommendation

REVIEW OF ZONING CODE  
AMENDMENTS (DEFINITIONS,  
STANDARDS, REVISIONS)

City

A motion was made by Commissioner Bever, seconded by Commissioner Foley and carried 4-0 (DeMaio absent), to table this item to allow preparation for analysis and additional information.

The Chair opened the public hearing for consideration of a review of possible Zoning Code amendments to clarify existing zoning definitions and standards, including a revision to the definition of "mobile-home park conversion" to include a mobilehome park closure. Environmental determination: exempt.

Ms. Brandt reviewed the information in the staff report and gave a presentation. She said staff is recommending that Planning Commission provide staff with direction regarding the proposed clarifications to existing regulations for the preparation of a draft ordinance.

In response to questions from the Chair, Assistant City Attorney Tom Wood stated that the City Attorney's Office felt that the current wording of the City's code does not cover the closing of mobile-home parks. The Chair asked staff if someone could close the park without the City being involved, or without the City having any jurisdiction over the relocation of tenants, and that state law would also not apply.

Ms. Brandt explained that the Conversion Impact Report, which addresses the relocation of the mobilehome owners, would go to City Council for review and approval as was done with El Nido and Snug Harbor Trailer Parks. This report is required for the closure of the park. Although the City would have no discretion over the closure of the mobilehome parks, the conversion impact report would still come back to the Planning Commission.

Ms. Brandt explained that a mobilehome closure can be accomplished by 2 processes. If the City does not have any closure requirement, in terms of discretionary review, the property owner can give a 1-year notice to the tenants and submit a Conversion Impact Report to the City for review and approval. If a mobilehome park conversion is proposed, then it is only a 6-month notice to the tenants, but the applicant or property owner, would only be able to give that 6-month notice, once he has secured approval of the mobilehome park conversion permit. By including closure within the conversion permit process it simplifies the process.

The Chair felt the major difference is if this is not done, the park owner has the option of going through closure as opposed to conversion, and doesn't have to get the mobilehome park conversion permit completed and approved before the six-month notice to vacate can be given.

In response to a question from the Chair, Mr. Wood stated that if the change is made, it would conform to our authority. He added that there are restrictions and we cannot stop someone from going out of business. The Chair added that the park owner still has the obligation to prepare a Conversion Impact Report and the City still has the authority to pass judgment on its adequacy. The difference is in the time line. Commissioner Foley said it also spells out to each part involved what the process is for the residents as well as the applicant and eliminates the confusion for everyone.

With regard to the definition of "recreational vehicle", the Chair stated it makes the point where its obvious, that the person is living there as permanent resident in a recreational vehicle gets the same benefits as if they were in a "mobilehome."

Commissioner Foley said there may be mobilehome parks in our City that are technically RV parks and are not subject to the mobilehome park laws that require relocation package. In response to the Chair, Ms. Brandt stated that there are two recreational vehicle parks within the City. One is Anchor Trailer Park located in the 1500 block of Newport Boulevard and staff is concerned because there are recreational vehicles that have room additions on them and the people are using that as a permanent residence. The other recreational vehicle park in the City is located on West Bay Street across from the Daily Pilot site. Staff's observations acknowledge that it appears to be functioning as a recreational vehicle park with transient-type occupancy. During the closure on El Nido and Snug Harbor trailer parks, it was evident that many RV's and travel trailers in both of those parks had not been moved for decades and had room additions and were very permanent structures. Ms. Brandt confirmed with the Chair that those people could be denied the relocation benefits that the people in mobile homes would get in the same park. Commissioner Foley stated that many of the residents that were living in the El Nido and Snug Harbor trailer parks have moved over to Anchor Trailer Park and she would be very concerned about putting them through the same thing without having provided them with a mechanism to protect them.

MOTION1:  
Zoning Code Amendments  
Failed for lack of a second

A motion was made by Commissioner Bever to adopt the proposed Zoning Code amendments with the exception of those following designation, 1 and designation 4. Motion failed for lack of a second.

MOTION 2: Zoning Code  
Amendments  
Recommended to City Council

A motion was made Commissioner Foley, seconded by Chairman Garlich, and carried 3-1 (Bever voted no, DeMaio absent), to recommend to City Council, approval of the proposed Zoning Code amendments regarding mobilehome park conversions in Sections 1 and 4 as proposed by staff included in the Planning Division staff report of November 22, 2004, and directed staff to forward on to City Council.

During discussion on the motion, Commissioner Bever said that he didn't think it was the Commission's job to protect citizens who make choices and if you live in a mobilehome park, you live on leased land and live in certain situations—you are making a choice. He said people make choices and bear the responsibility for them, and he said for that reason he would not support the motion.

Commissioner Foley responded that when this issue came up, many of the mobilehome park residents came before both Planning Commission and City Council and expressed concern that they would be relocated to the Anchor Park and once there, Anchor Trailer Park could close and they have no place to live. It was an anticipated foreseeable event that they had expressed a concern about and wanted the City to address. The City did not address it at that time and this is a way to correct that.

The Chair added that he did not disagree with the philosophy about making choices, however, he believed this was a limited situation here with people who think they made that choice, by doing what they did, they have taken themselves out of consideration to be helped or to be relocated.

Vice Chair Perkins agreed with the Chair and said he also promotes self-reliance, however, there is part where justice has a role and with these folks, some are just a victim of their circumstances.

**MOTION 3:**  
Nine other Amendments  
Recommended to City Council

A motion was made by Commission Foley, seconded by Commissioner Perkins, and carried 3-1 (Bever voted no, DeMaio absent), to recommend to City Council for inclusion in a draft ordinance, Sections 2, 3, and 5-11, as proposed by staff in the Planning Division staff report of November 22, 2004.

**REPORT OF THE DEVELOPMENT SVS. DEPARTMENT**

None.

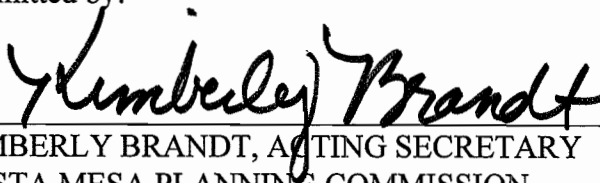
**REPORT OF THE ASSISTANT CITY ATTORNEY:**

None. Mr. Wood expressed that he was happy to be back on the dais with Planning Commissioners.

**ADJOURNMENT:**

There being no further business, Chairman Garlich adjourned the meeting at 11:42 p.m. to the study session of January 3, 2005.

Submitted by:



KIMBERLY BRANDT, ACTING SECRETARY  
COSTA MESA PLANNING COMMISSION