

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

**January 24, 2005**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., January 24, 2005 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  
Acting Commissioner Sandra Genis

Also Present: R. Michael Robinson, Secretary  
Costa Mesa Planning Commission  
Tom Duarte, Deputy City Attorney  
Ernesto Munoz, City Engineer  
Willa Bouwens-Killeen, Principal Planner  
Kimberly Brandt, Principal Planner  
Claire Flynn, Senior Planner  
Mel Lee, Senior Planner  
Wendy Shih, Associate Planner

**MINUTES:**

The minutes for the meeting of December 13, 2004 were accepted as distributed.

**PUBLIC COMMENTS:**

None.

**PLANNING COMMISSION  
COMMENTS/SUGGESTIONS:**

Chairman Garlich welcomed Acting Commissioner Sandra Genis to the meeting and thanked her for her service to the City and community. Chairman Garlich advised that former Commissioner Dennis DeMaio is doing well after his recent back surgery and noted that he gifted the Commission's dinner meeting this evening with a cake wishing to thank the Commission and Planning Division for all their hard work and helpful guidance during his tenure with the Planning Commission.

Vice Chair Bill Perkins echoed the welcome to Ms. Genis and his thanks to former Commissioner DeMaio for his service to the community and City.

Acting Commissioner Sandra Genis thanked the Council for her appointment to this evening's Planning Commission meeting and wished former Commissioner DeMaio well, and a speedy recovery.

**CONSENT CALENDAR:**

On a motion made by Chairman Garlich, seconded by Vice Chair Perkins and carried 3-0, the item on the Consent Calendar received the action below.

**VACATION OF EXCESS RIGHT-  
OF-WAY**

Vacation of Excess Right-of-Way at 628 West 19<sup>th</sup> Street for the Costa Mesa Sanitary District. Environmental determination: exempt.

City/Sanitary District

Adopted Planning Commission Resolution PC-03-01, finding that the proposed vacation of excess right-of-way and acquisition by Costa Mesa Sanitary District at 625 West 19<sup>th</sup> Street is in conformity with the City of Costa Mesa 2000 General Plan by a vote of 3-0.

**PUBLIC HEARINGS:**

**GENERAL PLAN AMENDMENT  
GP-04-03 AND REZONE PETI-  
TION R-04-05**

City of Costa Mesa

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 Ctr.). Environmental determination: Negative Declaration.

Principal Planner Kimberly Brandt reviewed the information in the staff report and gave a presentation. She said staff is recommending that Planning Commission recommend to City Council, approval of the Negative Declaration, and adoption of General Plan Amendment GP-04-30 and Rezone Petition R-04-05, by adoption of Planning Commission resolution.

She discussed the Parks and Recreation Commission's interest in this state-owned, for-sale, surplus site for potential open space uses. She said City Council concurred with the Parks and Recreation Commission regarding this property and directed that an "Acceptability Study" be conducted for this and other sites for park or recreational uses. She advised that the proposed designation of "Public or Semi-Public" is not limited to open space uses and may include development opportunities associated with this zone and general plan. Under the current zoning designation, approximately 100 units could be built on the site. Ms. Brandt indicated that the state has asked for a continuance until there is a full Commission to decide the City's request to rezone.

There was discussion between the Chair, staff, and City Engineer Ernesto Munoz regarding the timing of the results of the park studies. Mr. Munoz said that staff would be proposing funding in the upcoming budget for a consultant to assist the City with this task. He felt it would probably not be reviewed until approximately July of this year because there were several sites to be considered as directed by City Council.

Dee Storme, a Brandywine Terrace resident, stated that she believed the City could use more open space projects and suggested parks, a museum and/or a library.

The Chair confirmed with Ms. Brandt that these are potential uses under the I&R zone.

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

The Chair stated that for the record in conjunction with the State's request for a continuance, it was his feeling that the Commission should move on this request by Council because they are going to make the ultimate decision.

MOTION:  
GP-02-30/R-04-05  
Recommended to City Council

A motion was made by Acting Commissioner Sandra Genis, seconded by Chairman Garlich and carried 2-1 (Bill Perkins voted no), to recommend to City Council, approval of the Negative Declaration, and adoption of General Plan Amendment GP-04-30 and Rezone Petition R-04-05, by adoption of Planning Commission Resolution PC-03-02, based on information and analysis contained in the Planning Division staff report and findings contained in exhibit "A", with the following additional finding:

Resolution

Paragraph #12: WHEREAS, the level of detail regarding the range of future uses is such that further potential environmental impacts are too speculative for evaluation at this time; and...

During discussion on the motion, Vice Chair Perkins said he did not agree with the motion and felt that the State's request for continuance should be granted. The Chair reminded Vice Chair Perkins that the City is the applicant, not the State.

Acting Commissioner Sandra Genis commented that those requesting the continuance would have the opportunity to address the City Council regarding this item.

Ms. Brandt stated that this item would be scheduled on the City Council City Council agenda of Tuesday (because of the holiday), February 22, 2005.

PARCEL MAP PM-04-287

DeFazio/Danjon

Parcel Map PM-04-287 for Danjon Engineering, authorized agent for Cathryn De Fazio/Scripps Red Hill Associates, LLC, to subdivide an existing 11-acre property into 3 parcels ranging in size from 3 to 4 acres; with a conditional use permit for shared access and parking, located at 2955, 2975, and 2995 Red Hill Avenue in an MP zone. Environmental determination: exempt.

Staff recommended a continuance of this item to allow additional time for conditions of approval to be worked out between the applicant and Engineering staff.

MOTION:  
PM-04-287  
Continued

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins and carried 3-0 to continue this item to the Planning Commission meeting of February 14, 2005.

TENTATIVE TRACT MAP T-16801

Burke Real Estate Group

The Chair opened the public hearing for consideration of Tentative Tract Map T-16801 for Scott Meserve/Burke Real Estate Groups, for a one-lot airspace subdivision of a future three-building, office/condominium complex, located at 250 Baker Street in an MP zone. Environmental determination: exempt.

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

Scott Meserve with Burke Real Estate Group, 1805 East Garry, Santa Ana, agreed to the conditions of approval.

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

MOTION:  
T-16801  
Approved

A motion was made by Vice Chair Perkins, seconded by Acting Commissioner Genis and carried 3-0 to approve by adoption of Planning Commission Resolution PC-05-03, based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

TENTATIVE TRACT MAP T-16819

Christie/Varga

Tentative Tract Map T-16819 for Rene Varga of DRC, authorized agent for Steve Christie of BKM Development Company, LLC, to further subdivide a property (originally approved under PM-02-195) into two lots for condominium purposes; with a minor conditional use permit for shared driveway access between the lots, located at 3184-3188 Pullman Street and 3189-3193 Red Hill Avenue in an MP zone. Environmental determination: exempt.

Withdrawn.

This item was withdrawn by the applicant. No further action was required.

APPEAL ZONING ADMINISTRATOR'S DENIAL OF MINOR DESIGN REVIEW ZA-04-76

Rommel/Negrete

An appeal was filed for the Zoning Administrator's denial of Minor Design Review ZA-04-76 for Eric Negrete, authorized agent for Don Remmel, to enclose a previously approved second-floor deck with a solarium-style patio enclosure at the front of the residence at 1372 Garlingford Street in an R1 zone. Environmental determination: exempt.

Withdrawn

On January 5, 2005, Vice Chair Perkins withdrew this appeal because the applicant modified the plans to comply with the City's Residential Design Guidelines and their plan no longer requires a minor design review. There was no further action required.

EXTENSION OF TIME FOR PLANNING APPLICATION PA-01-34/TENTATIVE TRACT MAP T-16070

Pacific Builders/United Pacific Dev.

The Chair opened the public hearing for consideration of an extension of time for Planning Application PA-01-34/Tentative Tract Map T-16070 for United Pacific Development LLC, authorized agent for Pacific Builders LP, for a design review to construct an 18-unit, 2- to 3-story, small-lot, common interest development; with variances from front setback requirements (20 ft. required;

minimum 10 ft. proposed); from rear setback requirements (20 ft. required; minimum 10 ft. proposed); from building height requirements (2 stories, maximum 27 ft. allowed; 3 stories, 34 ft. proposed); chimney height requirements (29 ft. allowed; 37 ft. proposed); and setback for a 6-foot wall and common front landscape area (10 ft. required; minimum 4.5 ft. proposed); with an 18-lot tentative tract map, located at 2100 and 2130 Canyon Drive in an R2-MD zone. Environmental determination: Mitigated Negative Declaration.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff is recommending approval of a one-year extension of time.

In response to a question from Vice Chair Perkins regarding the sufficiency of a one-year extension, Principal Planner Willa Bouwens-Killeen apologized for the delay of her presence in this matter due to an emergency in the building she was helping to quell, and stated that the applicant has submitted the grading plan for plan check and is diligently working with staff to try and obtain the building permits as soon as possible.

Charlie Mallen, United Pacific Development Company and Pacific Rim Builders, 3111 North Tustin Avenue, Orange, agreed to the conditions of approval already in effect.

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

MOTION:  
PA-01-34/T-16070  
Approved

A motion was made by Vice Chair Perkins, seconded by Acting Commissioner Sandra Genis, and carried 3-0 to approve a one-year extension of time to expire January 13, 2006, by adoption of Planning Commission Resolution PC-05-04, based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

EXTENSION OF TIME AND  
POSSIBLE MODIFICATION TO  
CONDITIONS OF APPROVAL  
FOR PLANNING APPLICATION  
PA-03-33

Lissoy Family Trust/Roberts

The Chair opened the public hearing for consideration of an extension of time and possible modifications to conditions of approval for Planning Application PA-03-33 for Tim Roberts, authorized agent for Lissoy Family Trust, for a minor design review to construct a 5-unit, two-story, small-lot common interest development; with a variance from average individual lot area requirements (3,500 sq. ft. average required; 3,245 sq. ft. average proposed), located at 168, 172, and 176 Merrill Place in an R2-MD zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending that Planning Commission approve a one-year extension of time.

Mr. Lee noted that a recent letter from an adjacent property owner and received by the Planning Division describing the condition of overgrown trees on the property in relationship to nearby power lines, was forwarded to the applicant to address those issues.

Tim Roberts with Patriot Development Company, 2518 N. Santiago Boulevard, Orange, agreed to the conditions of approval.

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

MOTION:  
PA-03-33  
Approved

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins, and carried 3-0 to approve a one-year extension of time to expire December 8, 2005, by adoption of Planning Commission Resolution PC-05-05, based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

PLANNING APPLICATION  
PA-04-33

D'Alessio Investments/DeFrenza

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-04-33 for John DeFrenza, authorized agent for D'Alessio Investments, for a proposed 4,245 sq. ft. restaurant/nightclub within 200 feet of residential property to be open until 2 a.m., 7 days a week, with live entertainment and dancing, located at 1777 Newport Blvd. in a C2 zone with off-site valet parking at 1764 Anaheim Avenue in an R2-HD zone, and 640 West 17<sup>th</sup> Street in a C2 zone. Environmental determination: exempt.

Senior Planner Mel Lee explained that this application has had several continuations due to applicant's efforts to present a viable valet and parking plan to the Planning Commission. He reviewed the information in the staff report and gave a presentation. He said staff was recommending that Planning Commission deny the application, by adoption of Planning Commission Resolution.

Mr. Lee stated that at the last meeting on this matter, 7 persons spoke in favor of this project and 15 persons spoke in opposition. Of those in opposition, the reasons noted (noise, traffic, and parking) involved the location of the restaurant and abutting residential properties. Mr. Lee stated that the off-site parking plan and the report regarding potential impacts from the Police Department served to reconfirm staff's original opinion including the same recommendation by the Transportation Services Division, to recommend denial of this project.

Tom Yelnick, a partner in "Ami Beaucoup", described the establishment as a fine dining restaurant and lounge. He said it is not a nightclub; there will be no dancing; and no live music. They are primarily addressing the 35-year and older group. The restaurant will provide at least 50% of the daily income for food. The menu consists of high-end foods with only 7 entrees. The music theme is a Frank Sinatra/Dean Martin/Tony Bennett style.

In response to a question from the Chair regarding live music and dancing, Mr. Lee stated that on pages 69 and 70 of the staff report, the description makes reference to music and dancing, as well as describing the martini lounge. The applicant's original request was to allow for live entertainment and dancing within 200 feet of a residential zone and notices were provided, based on that description. The supplemental memo dated November 1, 2004, clarified "background music" as the mode of music, and, at the November 8<sup>th</sup> hearing, the applicant indicated there might be some dancing, but it would be beyond their control. Mr. Lee said the staff report for this meeting clearly reflects the applicant's request. Mr. Yelnick requested that the live music and dancing be deleted from the request.

Mr. Yelnick said their music would be provided through a state-of-the-art sound system, which specifically distributes the sound evenly throughout the restaurant so there are no originating decibels trying to compete with the space.

He felt that perhaps the Commission should consider that their restaurant is in fact to be an upscale restaurant/lounge and that it should be more accurately compared with such places as the "Rouge" at Fashion Island, or "Chat Noir" at South Coast Plaza Town Center instead of the Sutra Lounge and other such places the Police Department chose to make comparisons with in the immediate area.

In response to a question from Vice Chair Perkins regarding security, Mr. Yelnick stated that if security is an issue they would follow the guidelines set forth by the Planning Commission.

Dennis D'Alessio, property owner and partner in this establishment, felt the City needs high-end, classy, trendy restaurant/lounges; not a nightclub and bar. He said this is a redevelopment area and the City needs to encourage development. He said there are 18 daytime uses and 3 are nighttime uses. If this plan were to fail, he would then be pressured to rent to another daytime use and he felt the 5,000 square feet for more daytime use added congestion to the area and would mean added trouble for businesses such as the already overcrowded parking lots. Lastly, he felt the Commission granted the Bamboo Terrace the right to stay open late and to have live music until 2 a.m. with no regard for the parking issue (February of 2004 public hearing). With regard to the noise, he said there would actually be less noise on a second floor use than a first floor use.

Mr. D'Alessio felt that the issues over the parking area at 1764 Anaheim were "a long and tedious drawn out affair" which included investigations, consultants, attorneys and hearings between the City and himself. He said after a year and a half, the City finally found in his favor, and that his parking lot at that address is in fact a "legal nonconforming commercial use."

In response to the Chair regarding code violations referenced by the property owner, Mr. Lee stated that these are ongoing actions with the Code Enforcement Division. He said the citations have not been paid; several of the photographs, for example, page 30 of the staff report shows conditions at one of the properties Mr. D'Alessio owns. He said without going into too much detail, as of this date, a number of those violations are still outstanding and a number of those citations remain unpaid.

The Chair stated with regard to Mr. D'Alessio's remarks about the Commission encouraging daytime business if this project is denied, he said it was recently approved for a daytime office use. He said this office use also met the parking and traffic requirements.

The Chair stated with regard to Mr. D'Alessio's remarks about the Bamboo Terrace, that the Commission gave the Bamboo Terrace the right to do some things without the parking being addressed. He did not believe this was an accurate statement, and stated that it was addressed by the Commission to their satisfaction (see Minutes February 9, 2004). He said things that are involved in the application which would result in a conditional use permit deal with land, so issues regarding the kind of music and clientele, and all of those things, cannot be relied upon for the long term, so it is a valid issue to discuss them.

Acting Commissioner Sandra Genis questioned the rendering of the floor plan standing areas around the bar and was told it was a water feature, however the plan clearly states those areas are "drink wells." She asked the applicants if they had written permission to utilize the PetSmart/Michael's parking lot. Mr. D'Alessio stated that they have verbal permission to use the lot but they had nothing in writing at this time.

Acting Commissioner Genis also asked about the discussion of the second-floor noise being blocked somehow; she said because they have windows on the back of the building, how would that second floor noise be blocked. Mr. D'Alessio stated that in the previous hearing, it was suggested that those windows would not exist and it would be solid brick wall at the back, and would include provision for adequate circulation. He said the two restrooms would also be in the back, as well as the kitchen, helping to buffer the noise. Acting Commissioner Genis felt this kitchen was very small considering the size of the restaurant. She also noted that the tables appear

to be fairly small. Mr. Yelnick said they have retained the services of a renowned chef in the area. He said regarding the kitchen size, the menu consists primarily of appetizers and most of the entrees themselves will be appetizers, and several will be ordered. The entrees are limited to 8 dishes.

In response to questions concerning valet service from Acting Commissioner Genis, Mr. Yelnick stated there would be 7 valets and a captain. Mr. Yelnick stated that the number of valets corresponds to the number needed through estimates from 3 separate valet services. He said he is one of the founding members of the "Yard House Restaurant" and is adequately qualified.

Rex Brady, an Irvine resident raised in Costa Mesa who is Mr. D'Alessio's attorney made the following comments. He said the frontage street area as pointed out by Mr. D'Alessio previously happens to be a 2-way street and is not a one-way street and traffic travels in both directions all the way through to an egress and ingress point where it becomes one way. He said it is his understanding that there are 67 parking spaces that are on the frontage road along the front of the buildings. In addition, there are 20 offsite parking spaces in the back of some of those frontage buildings for a total of 87 existing parking spaces. There must be 10 spaces per 1,000 square feet for each business. There are only 3 businesses that doing business at night (Golden Truffle, Café Ruba and Bamboo Terrace). He said he did not know how many square feet each of those businesses have but he did know that the applicant is 4,200 square feet, so approximately 40 spaces would be required. He believed there are actually enough parking spaces currently existing on the frontage road. There are no parking requirements for other than the off-site parking that already exists. He said references made to the Municipal Code are inaccurate. He felt the findings in exhibit "A" were in error as follows: Page 7 of the staff report. Code Section 13-29(e), Finding A reads, "The proposed use is not compatible and harmonious with the residential uses in the surrounding area." He said the Municipal Code does not say "residential" and he felt this was prejudicial. He said in Finding "B", Code Section 13-29(g)(2) has been paraphrased and it is not a proper statement of the rule. He said staff has reached a conclusion and they will do everything the can to lead this decision making body to make the same decision and conclusion they have already reached by misstating the law, and misstating the facts because this is not a one-way street. He also pointed out that the decision has already been made about the parking lot Mr. D'Alessio owns. It is a "legal nonconforming commercial property" and decided by the City. He has the right to use it with certain restrictions.

Mr. Brady requested that if the Commissioner is leaning towards denying this project, he asked that they please reconsider the notion that the back lot and valet parking may not even be necessary. He said he firmly believes that and there needs to be a reanalysis conducted on the existing parking.

He suggested that with all 4 existing businesses there is enough parking and 18<sup>th</sup> Street could also be factored in and other Municipal parking lots such as in the back of the structure and the police substation as an alternative.

In response to a question from Vice Chair Perkins regarding parking assumptions made by staff, Mr. Lee explained how the number of parking space figures in the parking analysis came to be and how staff came to their conclusions.

Mr. Robinson stated that the applicant's requirement for their specific use and all the collective uses along Newport Boulevard are

shown in the table. He also said the attorney's parking calculations are incorrect because the required parking for this use is 55 spaces (10 spaces per 1,000 for the first 3,000 square feet and 20 spaces per 1,000 for any area above 3,000 square feet.

There was discussion between the Chair and Mr. Lee regarding the valet solution for this use. Mr. Lee said the valet parking solution was born out of the fact that 1777 Newport Boulevard actually has no parking space on its property, so any patron parking would be off site.

In response to question from Acting Commissioner Genis regarding persons per car, Mr. Lee explained that the number of parking spaces is based upon the square-footage of the establishment and not necessarily on the number of seats or tables within the establishment. .

**BREAK:**

The Chair called a recess and resumed the meeting at 8:43 p.m.

The following people: Chris Ayayo, 1773 Newport Boulevard representing the Bamboo Terrace Restaurant; Mark Korando, 582 Park Drive; Jeff Mu, 589 Park Drive; Terry Shaw, 420 Bernard Street; Jim Martindale, 585 Park Drive; Walt Hollowell, resident of Kenwood Place; Mark Allen Korando, 592 Park Drive; Sandy Johnson, 344 Cabrillo Street; Bill Turpit, 1772 Kenwood Place; Beth Refakas, 320 Magnolia Street, Debra Young of the Bamboo Terrace, 1773 Newport Boulevard; Cindy Breneman, and Jamie Korando, 592 Park Drive, Costa Mesa, spoke in opposition to the restaurant/lounge and made the following comments: the project would create an escalation in parking problems; noise is heard 6 feet from homes; alcohol is a problem (over concentration in the area); no one wants to pay for valet parking; reduced valuation of 25% on surrounding residential homes; suggestions were made to use Triangle Square, or South Coast Plaza as a location instead (plenty of parking, well lighted, no issues with noise, and is home for 2 successful entertainment venues); a great idea but in the wrong neighborhood; as trash has is taken out, it will make noise and probably wake up residents; and, where will employee parking be designated.

In response to question from the Chair regarding valet parking by the Golden Truffle, Mr. Lee stated that in 1984 a zone exception permit was approved (in part, for valet parking). He said valet parking for both the Golden Truffle and Bamboo Terrace is accommodated at the rear of each property respectively, which contains area for parking vehicles. The applicant asked why they were allowed to have valet parking and the applicant is not. Transportation Services Division pointed out that may have been the policy 20 years ago, but under today's guidelines, there would be no circumstances Transportation Services would allow for valet parking in a public right-of-way for the reasons previously discussed in the staff report.

The following people were in favor of the restaurant/lounge: Rich D'Alessio, brother of the applicant and owner of a pizza restaurant in Newport Beach; and Doug Jardine, 27171 Westridge, Laguna Hills (investor).

They favored the restaurant/lounge and made the following comments: they wanted a place that catered to "like-minded" business people; a 35-year and older group who enjoy fine dining, drinks and the musical background of Sinatra, Martin, Bennett, etc.; this is not a bar and there is a significant difference between a bar/nightclub and a restaurant/lounge; the record clearly shows that at the last meeting, the people who spoke in favor of the restaurant were businessman who reside in Costa Mesa and who are neighbors



residing in the same area as the residents who spoke this evening; all of the people involved in this venture are either residents or past residents of Costa Mesa and want a place to socialize with their friends who are also business owners.

The Chair stated that the basis for the recommendation from the Transportation Services Division to deny the application was because the public right-of-way would be used for the purpose of valet parking. Mr. Lee confirmed that it was the opinion of the Transportation Services Engineer that for several reasons, including the fact that people would be queuing in a public right-of-way which creates serious traffic hazards and potential liability over collisions between vehicles and pedestrians.

John DeFrenza, architect for the project, 20301 S.W. Birch Street, Newport Beach stated that if his client, Dennis D'Alessio, were to close the restaurant at 11 p.m., he believed the facility would not be here for review by the Planning Commission.

Although Mr. DeFrenza could not address a question regarding drink wells from Acting Commissioner Genis because he said is not the restaurant designer, he did offer that because he was the architect for the shell of the restaurant, he could confirm the capability of the applicants to comply with code.

In response to Acting Commissioner Genis' interpretation of standing areas with drink wells in that she felt it changed the type of business from what it was stated to be, the applicant agreed to delete those areas from the plan.

The Chair asked Deputy City Attorney Tom Duarte for the interpretation of a 2-1 vote by the Commission this evening. Mr. Duarte advised that the majority of a full Commission, 3 members, constitutes a quorum. A majority of that quorum would be 2, which would constitute a Planning Commission action on a 2-1 vote.

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

MOTION:  
PA-04-33  
Denied

A motion was made by Chairman Garlich, seconded by Acting Commissioner Genis and carried 3-0 to deny by adoption of Planning Commission Resolution PC-05-06.

During discussion on the motion, Vice Chair Perkins reviewed the census tract information and ABC License figures in the 3 areas and concluded that there is an over concentration of liquor licenses in those areas. He said the applicant used Sutra as a reference, which he said he found very telling. He said the fact that there is no security plan bothers him.

Acting Commissioner Genis said she is also very concerned about the over concentration of ABC licenses in the area and that she had the same concerns about a second-story establishment, "an accident waiting to happen", particularly because the reference was to a more mature group, and oddly enough as you age, your alcohol tolerance can go down. In any case, she said the valet parking is a huge problem. It would block existing parking, and reduce the ability to utilize the existing parking, the ability to access the existing businesses as the valet cars stack up.

All those people would have trouble backing out and it would not allow for an adequate backup aisle. While a valet service was approved in 1984 for the Golden Truffle, hopefully something has been learned about that in 20 years. Whether this is a bar or a lounge, the bar area extends over 50 feet and a large portion of the total space is devoted to bar area.

The Chair said he felt the same concerns as his fellow Commissioners. The use in this location is a very "iffy" question and he took exception to the characterization that perhaps the Commission is being "biased" or even being led by staff to be "biased", or that staff is "biased." He said when he first became a Commissioner, what he observed about staff in dealing with a variety of applications, was the extent to which they tried to find ways to make things work, and he still believes that's the behavior pattern he sees most often. He said in his experience with regard to applications like this one, there have been some approved and some that have been denied. Some staff recommended denial and the Commission recommended approval. It always comes down to specific use at the specific location. The Avalon Bar was one where staff recommended denial and the Commission overwhelmingly approved it.

He said he had no reason to doubt that "Ami Beaucoup" in a better location, would work just fine. The most outstanding problem he could see was the parking dilemma and he did not see that changing.

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-04-37 and Vesting Tentative Tract Map VT-16694 for Hersel Zahab of Land Development Consultants, authorized agent for Richard Dick, for a design review to construct a 32-unit, two-story, small-lot, common interest development; including a minor modification for an 18-foot front setback (20' required); and a vesting tentative tract map containing 32 lots and 6 common lots, located at 330/340 West Bay Street in an R2-MD zone. Environmental determination: Mitigated Negative Declaration.

Senior Planner Claire Flynn 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. Ms. Flynn read into the record, a modification in the resolution, additions to the conditions of approval (numbers 32 and 33), and a modification to condition #17 in the City Engineer's letter dated December 22, 2004.

Hersal Zahab, authorized agent for the applicant, LDC, 1050 N. Tustin Avenue, Anaheim, agreed to the conditions of approval.

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

A motion was made by Acting Commissioner Sandra Genis, seconded by Vice Chair Garlich and carried 3-0 to approve by adoption of Planning Commission Resolution PC-05-07, 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 additions and modifications:

Resolution:

Paragraph #1: ...330 and 340 W. Bay Street, requesting approval of the following: (1) Planning Application PA-04-37 for design review of a 32-unit residential development for homeownership, including a minor modification for an 18-foot front setback at Thurin Avenue, and (2) Vesting Tentative...

Conditions of Approval:

32. Prior to issuance of demolition permits, the Developer shall retain a California Certified Asbestos Consultant for assistance in complying with applicable asbestos regulations and shall submit to the City's Building Safety Division, an asbestos abatement plan in compliance with all local, state and fed-

PLANNING APPLICATION  
PA-04-37/VESTING TENTATIVE  
TRACT MAP VT-16694

Dick/Zahab

MOTION:  
PA-04-37/VT16694  
Approved

eral regulations for City approval.

- 33. Prior to the issuance of grading permits, the Developer shall comply with SCAQMD Rule 1403, Asbestos Emissions from Demolition/Renovation Activities. The Developer shall submit proof of fee payment and compliance with SCAQMD Rule 1403 to the City's Building Safety Division prior to issuance of grading permits.

City Engineer's Letter dated December 22, 2004/Conditions:

- 17. ...The onsite drainage facility shall be designed with a minimum capacity to detain 24-hour run-off from a 25-year storm, or other method as deemed acceptable by the City Engineer.

During discussion on the motion, Acting Commissioner Sandra Genis commented that it was nice to see a project where the rules were adhered to and the project has exceeded its open space requirement. She felt the developer had accomplished a quality development instead of maximizing every square foot.

The Chair explained the appeal process.

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.

The applicant redesigned the project and eliminated the variance requests and the revised plan can now be processed through a minor conditional use permit reviewed by the Zoning Administrator. The applicant has withdrawn the application and no further action is necessary.

The Chair opened the public hearing for consideration of Planning Application PA-04-41 for Johnny Lu/Loft 18 LLC, to construct a 6-unit, 2-story, common-interest development (air-space condominiums) with minor modifications for a 4-foot (5 feet required) left side setback for one of the garages, and a 12-foot wide (16 ft. required), common driveway, located at 654 West 18<sup>th</sup> Street in an R2-HD zone. Environmental determination: exempt.

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

Johnny Lu, 1 South Fair Oaks Avenue, Pasadena, agreed to the conditions of approval. In response to a question from Acting Commissioner Sandra Genis, Mr. Lu explained that although there are 3 designated bathrooms for a one-bedroom unit, two of those bathrooms do not contain shower facilities and one could also serve as a laundry room.

Roman Gunther stated that his mother owns the property directly east at 650 West 18<sup>th</sup> Street and that this would be a nice project benefiting the community. However, he felt there was an issue related to the planned parallel parking along the fence and was afraid people would be consistently running into the wall. He also did not believe the turn-around area in the middle was adequate.

The Chair requested that Ms. Shih address these issues. She explained that code allows parking within the setback and requires a minimum 6-foot high block wall, or fence around the property, which has been incorporated into the conditions and code requirements for the project. She said the wall would mitigate any concerns with headlights, parking and/or noise for parking along the side.

PLANNING APPLICATION  
PA-04-39

Solter Family Trust/Fox

Withdrawn.

PLANNING APPLICATION  
PA-04-41

Lu

There was further discussion by Mr. Gunther regarding some possible changes in the design elements of the project.

Acting Commissioner Genis commented that she had concerns with respect to the width of the driveway. Mr. Lu stated that the landscape requirements made it difficult to have the 16-foot widths but he felt the widths proposed were reasonable for this project.

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

MOTION:  
PA-04-41  
Approved

A motion was made by Vice Chair Perkins, seconded by Chairman Garlich and carried 3-0 to approve by adoption of Planning Commission Resolution PC-05-08, based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

During discussion on the motion, Acting Commissioner Genis stated that she would support the motion, however, she did feel that caution should be used since there is conflict with General Plan policy LU1A.6 which says, "aggressively pursue methods to discourage the development of multiple units on long, narrow, single parcels;" and LU1C.5 states, "develop incentives for lot combinations, or disincentives for development without lot combinations." She said the applicant is of course, at the mercy of what the next door neighbors want to do and they can hold it because they don't want to combine, and she believed when these are turned into condominiums, it makes it even less likely they will be combined because there are more owners involved. However, it is consistent with what the City has done in the past and with what Council has approved in the past and it would probably not be fair to deny this project.

The Chair said he discussed this matter with Mr. Robinson during the break to confirm his observation that the policy has been in place for a long time and many such developments have been approved as stated by Acting Commissioner Genis. He said the trade-off in this case, is landscaping versus a wider driveway and under the circumstances, the trade-off favors the landscaping and is probably a better solution than giving it up.

Vice Chair Perkins agreed with Acting Commissioner Genis and the Chair and felt this project would improve the area and was good for the community.

The Chair explained the appeal process.

PLANNING APPLICATION  
PA-04-42/TENTATIVE PARCEL  
MAP PM-04-114

Cefalia

The Chair opened the public hearing for consideration of Planning Application PA-04-42 and Tentative Parcel Map PM-04-114 for Joseph Cefalia, for a design review to construct a 3-unit, 2-story, small-lot, common interest development, and a 4-lot parcel map to accommodate the project, located at 2307 and 2325 Orange Avenue in an R2-MD zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. She pointed out that the applicant revised the plans and the variances are no longer necessary (as originally noticed). She said staff was recommending approval by adoption of Planning Commission resolution, subject to conditions.

Joseph Cefalia, 1625 Irvine Avenue, Costa Mesa, agreed to the conditions of approval.

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

MOTION:  
PA-04-42/PM-04-114  
Approved

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins and carried 3-0 to approve by adoption of Planning Commission Resolution PC-05-09, 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 additional code requirements (numbers moved to accommodate additions):

Code Requirements

29. Submit Title Report Update of subject property.
34. The parcel map shall be developed in full compliance of CMMC Sec. 13-208 through 13-261 inclusive.
35. Dedicate all vehicular and pedestrian access rights to Orange Avenue, except at approved locations.

The Chair explained the appeal process.

**REPORT OF THE DEVELOPMENT SVS. DEPARTMENT:**

R. Michael Robinson outlined the information in the memorandum to the Planning Commission dated January 13, 2005, regarding the Planning Commission Design Awards Selection. He also pointed out the list of projects eligible for the Commission's consideration and stated that the deadline for submitting their selection(s) has been extended. There was discussion regarding the date between Mr. Robinson and the Chair; the deadline date was then set for the Planning Commission meeting of March 14, 2005.

**REPORT OF THE CITY ATTORNEY'S OFFICE:**

None.

**ADJOURNMENT:**

There being no further business, Chairman Garlich adjourned the meeting at 10:37 p.m. to the study session of Wednesday, February 9, 2005.

Submitted by:

  
R. MICHAEL ROBINSON, SECRETARY  
COSTA MESA PLANNING COMMISSION