

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

February 13, 2006

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., February 13, 2006 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Perkins, followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

Commissioners Present:

Chairman Bill Perkins

Vice Chair Donn Hall

Eleanor Egan, James Fisler, and Bruce Garlich

Also Present: R. Michael Robinson, Secretary

Costa Mesa Planning Commission

Tom Duarte, Deputy City Attorney

Ernesto Munoz, City Engineer

Raja Sethuraman, Associate Engineer

Lt. Karl Schuler, Police Department

Kimberly Brandt, Principal Planner

Claire Flynn, Senior Planner

Mel Lee, Senior Planner

MINUTES:

The minutes for the meeting of January 9 and January 23, 2006 were accepted as distributed.

PUBLIC COMMENTS:

Martin Millard, 2730 Harbor Boulevard, Costa Mesa, felt the Commission should now take the leadership role with the new recently unveiled Urban Plans for the City and decide solely on "what's best for Costa Mesa."

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

Commissioner Fisler commented that he was pleased to see the bridge completed at Fairview Park.

The Chair sent his congratulations to the Gold Medal Winners in this year's Winter Olympics.

PUBLIC HEARINGS:

**SOBECA URBAN PLAN &
WESTSIDE URBAN PLANS**

City

The Chair opened the public hearing for consideration of City-initiated projects to create a Mixed-Use Overlay District for the Bristol Street corridor area (SoBECA Urban Plan) and Westside Costa Mesa area (Westside Urban Plans), as follows:

- (a) GP-05-11 GENERAL PLAN AMENDMENT - A resolution of the City Council of the City of Costa Mesa to: (1) to amend the description of specified land use designations (i.e. General Commercial, Commercial Center, Neighborhood Commercial, Light Industrial, and Medium/High Density Residential) to allow mixed-use development and/or residential land uses within a mixed-use overlay district; (2) to include references to Urban Plans; (3) to amend the Noise Element to describe acceptable exterior residential noise standards for specified areas of a residential or mixed-use development in the overlay district. Environmental determination: Mitigated Negative Declaration.
- (b) CO-05-05 ZONING CODE AMENDMENT - An ordinance of the City Council of the City of Costa Mesa, California amending Title 13 of the Costa Mesa Municipal Code to establish provisions and review procedures for a mixed-use overlay district and to identify acceptable exterior residential noise standards for specified areas of a residential or mixed-use development in the overlay district. Environmental determination: Mitigated Negative Declaration.

- (c) REZONE PETITION R-05-07 FOR MIXED-USE OVERLAY ZONING DISTRICT – Application of the Mixed-Use Overlay Zoning District on Zoning Map to areas included Urban Plan(s). Environmental determination: Mitigated Negative Declaration.
- (d) SOBECA URBAN PLAN SP-05-06 – Urban Plan to allow all types of mixed-use development (vertical, horizontal, and live/work) in the plan area pursuant to an approved Master Plan. Environmental determination: Mitigated Negative Declaration.
- (e) 19 WEST URBAN PLAN SP-05-07 – Urban Plan to allow horizontal and vertical mixed-use development pursuant to an approved Master Plan. Live/work developments are conditional uses in this plan area. Environmental determination: Mitigated Negative Declaration.
- (f) MESA WEST URBAN PLAN SP-05-08 – Urban Plan to allow live/work or residential development pursuant to an approved Master Plan process. Environmental determination: Mitigated Negative Declaration. Environmental determination: Mitigated Negative Declaration.
- (g) MESA WEST RESIDENTIAL OWNERSHIP URBAN PLAN SP-05-09 – Urban Plan to allow specified residential development standards/incentives or a density bonus pursuant to an approved Master Plan application. Environmental determination: Mitigated Negative Declaration.

Planning Commission Secretary R. Michael Robinson explained that the above urban plans are based on direction provided by City Council to craft workable implementation documents. He said the draft plans have been in the public arena since September of last year, and a number of constructive comments and insightful questions have been received from Planning Commission and the community. He said substantive comments about the documents, and ideas for additional information that should or should not be in the plan, would be given written responses. In addition, he said staff would be preparing any changes to the text that would be submitted to Planning Commission prior to the public hearing on March 13th, and would also be made available to the public. He noted that staff appreciates the comments and questions that are received from both the public and the Commission.

In response to a question from the Chair, Mr. Robinson stated that staff will typically group the questions by “topical area” and therefore, can be found according to the subject matter or topic.

The Chair asked Counsel if the Commission felt the need to go to a study session prior to the March 13th public hearing, how would they proceed. Deputy City Attorney Tom Duarte explained that depending upon what the Commission wants to do, they can send this item to a study session; they could table it; they could continue it to a date certain as a public hearing, or whatever prerogative the Commission desires to take, after public testimony at this hearing from the citizens.

Senior Planner Claire Flynn reviewed the information in the staff report and gave a presentation. She said staff was recommending the Planning Commission receive public comment for the SoBeca and Westside Urban Plans and then continue these items to the Planning Commission meeting of March 13, 2006.

Commissioner Fidler asked if the difference in expected population growth by the year 2025 was due to projections from this project and does it mean that most of the growth will take place on the Westside. Ms. Flynn said that a projected 10,333 residents may be generated from the 3,771 residential units that may come about from the live/work and residential developments proposed in the Westside Ur-

ban Plan. She said it is a theoretical development scenario over the next 25 years.

Commissioner Fidler commented that this is a tool to create standards for orderly residential development where we don't have standards now. He said his question is about parking that will be handled on a case-by-case basis and whether certain projects may be required to have more than the minimum parking.

Commissioner Egan said some Parks Commissioners have raised the concern about providing recreational facilities for the new residents who are anticipated to come into the subject area. Ms. Flynn said there is some discussion of the park impacts and the mitigation being payment of park fees, however, she said before the March 13th meeting, there would be additional information to provide to the Commission with regard to impacts to parks and recreation.

Commissioner Egan said similarly, with respect to schools, the environmental documentation at this point, indicates there would not be a need for additional school facilities. Ms. Flynn indicated that staff would be communicating with external agencies on these items.

The Chair explained the process by which he believed the meeting should proceed.

The following people commented on the SoBeca Urban Plan:

SOBECA URBAN PLAN
PUBLIC COMMENT:

●Martin Millard, 2730 Harbor Boulevard, commented on his support of the SoBeca Plan. ●Jerry Russell, with Engineered Precision, Inc., 607 Randolph Avenue, Costa Mesa, noted under "Allowable Uses", page 12 of the Initial Study, Negative Declaration, it states, "No commercial uses shall be designed or operated so as to expose residents to offensive odors, dust, electrical interference, and/or vibration." He said their business currently produces all of those environmental factors, but to a degree similar to their commercial zoning and business neighbors. If a planning process is put into place that would prohibit building of residential units on the basis of existing industrial/commercial environmental factors, then he did not see a problem. However, he said it was not fair to impose new restrictions on the use of their property to accommodate a profit potential of various development interests. ●Dr. Harold Cozen, 1600 Cataluna Place, Palos Verdes Estates, stated that he is the owner of properties at 2920 Bristol Street, 700 and 710 Randolph Avenue, and 2941 Randolph Avenue, which are within the SoBECA Urban Plan area. While he was not sure it is necessary, overall it seems to be a good plan with considerable flexibility and latitude. He felt the residential component in the horizontal mixed-use, or vertical mixed-use, should be either apartments or condominiums, and the decision in the form of a residential development, whether apartment or condominium, should also rest solely with the owner. ●Marshal Topping, Daylo Properties, LOC, 2950 Randolph Avenue, in the SoBECA district, stated that the idea is good and the area is under-utilized in its current zoning and SoBECA fits with the plan of the City. He felt that the City should make the density high enough so developers can come in and afford to give business owners enough to move their businesses, and make it a reasonable business decision. ●Jason Delaoa, property owner at 2083 Continental Avenue, Costa Mesa, on the Westside and also an employee and business owner in the SoBECA Urban Plan area, felt moving forward with progress and improving the City is a good agenda to lead with. However, he had concerns with the SoBECA Plan in that current businesses will continue to stay and operate as usual with 4-story residential moving in on each side. ●Eric Nelson, 1234 East 17th Street, Santa Ana, stated that he is with Red Mountain Retail Group, and they are owners of property in the SoBECA area. He thanked those involved for putting together what he and his business partners' feel is a great plan;

great overlay, with a great zoning document. He said they are in absolute support of this plan. He asked that at some point, that these plans be separated out so that the 4 plans did not halt building in all those areas because they want the plans to move forward. The Chair advised Mr. Nelson that the Commission shared the same concern with staff and they are looking into it as well. ●Shaheen Sadeghi, The Lab & Camp projects on Bristol Street, wished to thank staff and the Commission for their time over the past 4-5 years. He stated the SoBeca Urban Plan is a good and sensible plan and noted that this area is completely different from the Westside. He also suggested that the urban plans be separated out. He clarified the fact that this does not take any rights away, but basically adds value to their properties and gives opportunity to take the product that's there and making it better. He added that there is already residential just a couple of doors down. He said there is compatibility and he has not heard of any complaints. The Chair requested that Mr. Sadeghi speak with some of the individuals that have spoken and let them know more about the project because felt there seemed to be some misinterpretation. Mr. Sadeghi said there was only one complaint received which was from Mr. Russell, and he has contacted him and is happy to follow through.

Commissioner Garlich stated that he and Mr. Sadeghi spoke by phone today. He had some concerns about some comments made during the last study session regarding conditional use permits.

Commissioner Egan also spoke with Mr. Sadeghi by phone today and they discussed some of those same issues. She said she encouraged him to bring forth the concerns he expressed about separating the SoBECA plan from the Westside plan.

In response to a comment from Mr. Sadeghi regarding his communications with two Commissioners, the Chair explained that any communications with person(s) regarding the public hearings and involving the Commission, the Commission would acknowledge those conversations as a matter of public record.

Comments continued. ●Bob Wink, property owner in the SoBECA Urban Plan area, 2968 Randolph Avenue, Costa Mesa, stated that he wanted to compliment the speakers with a good attitude who wanted to move forward rather than stopping because he felt this urban plan is a good one and would help everyone, residents and businesses alike. He said he could see no downside to the SoBECA urban plan.

The following people commented on the Westside Urban Plans:

WESTSIDE URBAN PLANS
PUBLIC COMMENT:

●Martin Millard, 2730 Harbor Boulevard, Costa Mesa, commented that as far as the Westside plans, he felt these plans would be more driven by developers coming in and he believed some were lining up now. He said this "free-market" concept that the City is going with, is absolutely the right way of doing it. He recalled the Redevelopment Plan and eminent domain, but now that it has come down to this "free-market" kind of system that's market driven. ●Gary Weisberg, attorney with Paulmieri, Tyler, Weiner, Wilhelm & Waldron, LLP, 2603 Main Street, Irvine, stated that the Westside Revitalization Association comprised of approximately 150 business and property owners with long-standing ties to the City has retained his firm. He said they are here to speak against the proposal, the proposed land use changes and related City actions currently being considered. He expressed opposition to the project and believed the Mitigated Negative Declaration does not fulfill the requirements under the California Environmental Quality Act. He asked that the letter received by the Commission containing their objections, be made a formal attachment to this evenings hearing. He believed the proposals would create a loss of thousands of jobs on the industrial use properties, and secondly, would create a patchwork of incompatible land uses

throughout the Westside.

The Chair confirmed that the Commission had received Mr. Weisberg's letter and Deputy City Attorney Tom Duarte stated that the City Attorney's Office will provide a response to the Commission which will be made a part of the record. In response to a reference (page 45 of the report) from the Chair, Mr. Robinson explained that staff would look at what type of response is needed and respond to Commission accordingly.

Comments continued. ●Harvey Berger, Berger Development Company, 1048 Irvine Avenue, Newport Beach, stated he has been a developer in Costa Mesa since 1965. He felt that mixed-use and condominium development should be encouraged, and that it might be the right time, because inventory is building in new developments right now and sales have slowed substantially. He complimented the City on its efforts. ●John Hawley, Westside business and property owner for 37 years, said it is not his intention to hold up the development of the Westside. He expressed concerns about density, parking, height, compatibility and development standards. He emphasized land use compatibility. ●Mike Harrison, with Trico Realty said they are industrial property owners on the Westside for a number of years with their first project built in 1968. He felt Attorney Weisberg stated the case well in terms of what those concerns are. The question was raised about some restriction that would be imposed on any residential development so that it doesn't become a "burden" on existing industrial uses. ●Justin McMillan, property owner on the Westside for 2 years and he wanted to say "thank you." He said having reviewed the plans, its clear to him that over the past year some interested developers in the area have brought good changes; 19th Street is safe to walk down, and new development is creating interest which makes it safer. ●Carole Ann Burr, 1712 Whittier Avenue and a resident in Costa Mesa since 1953, believed most property owners of the Westside look forward to improvements; however, they desire to maintain a compatible living and business environment for all property owners. Mrs. Burr said that careful planning and consideration of traffic flow, environmental impacts, public services, schools, and parking could only achieve this objective. ●Andre Ferrara, resident of Costa Mesa said after reviewing the plans, he was hopeful the plans would be followed through and implemented. ●Chris Eric, Westside property owner and resident expressed his disappointment with "spot-zoning." He said this occurs with a huge number of properties on the Westside and he would like to see it resolved. He also felt there were many things that happen on the Westside that are detrimental to the health of people in the long-run and felt the City must be careful of this "status quo" and look to the future with a positive eye and resolve the present issues. ●Bill Modic, 1728 Placentia Avenue, Costa Mesa, said his main concern is that he knows the City is going to go ahead and make these changes. He said he wants to see the Westside developed properly but he did not want to see "overcrowding." ●John Moorehart felt the West 19th Street area between Newport Boulevard and Superior Avenue seems like a good plan, however, he felt the City should take the areas easier to identify and take a vote from the property owners. He said he was not sure if there is sufficient infrastructure for some of this development on the Westside.

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

MOTION:
GP-05-11; CO-05-05; R-05-07;
SP-05-06; SP-05-07; SP-05-08;
SP-05-09

A motion was made by Chair Perkins, seconded by Vice Chair Hall and carried 5-0, to continue General Plan Amendment GP-05-11; Zoning Code Amendment CO-05-05; Rezone Petition R-05-07 for Mixed-use Overlay Zoning District; SoBECA Urban Plan SP-05-06;

Continued

19 West Urban Plan SP-05-07; Mesa West Urban Plan SP-05-08; and Mesa West Residential Ownership Urban Plan SP-05-09 to the study session of March 6, 2006 in the Chambers.

During discussion on the motion, Commissioner Garlich expressed concerns regarding additional input at the next study session because it would take time to process further information by the following week before the public hearing.

In response to Commissioner Garlich, Ms. Flynn explained that depending upon the level of input, she believed staff would be able to respond to the comments and questions from the study session of March 6th, through a supplemental memo. Many of the issues that were heard this evening, have been issues previously addressed in previous study sessions. She said if staff is not able to respond to a question in a supplemental memo, staff may be able to supply additional information at the public hearing on March 13, 2006, or, will advise that additional time is necessary to address the issue or comment.

In response to another question from Commissioner Garlich regarding being locked into the public hearing on March 13, 2006, if additional time was needed, Deputy City Attorney Tom Duarte said that at the time of the study session on March 6th and depending upon what happens, the public hearing could be continued again.

The Chair explained the reason for the study session was to get approximately 10 minutes for comments; a time to process everything that's been said tonight; hopefully receive a response to comments packet—a chance to read that, go through it, make additional comments and ask questions; and then look forward to proceeding on the 13th if possible. We can always continue if we need to.

Commissioner Egan said she would like to clarify that under the motion, the Commission would hold a study session, and that they would then have the further public hearing on the 13th. The Chair confirmed and said the study session would apply under the same guidelines as all study sessions. Mr. Duarte confirmed and added that as Commission has already contemplated, if staff cannot prepare the supplemental information for the next hearing, then the Commission would continue it to another date.

Commissioner Fidler, referring to the SoBECA Urban Plan, pages 9 and 10, stated that there are comments regarding massing, and the 4-story buildings that might shed some light regarding questions and concerns expressed by previous speakers.

BREAK:

NORTH COSTA MESA
SPECIFIC PLAN AMENDMENT
SP-06-01

City

The Chair called a recess and the meeting resumed at 7:53 p.m.

The Chair opened the public hearing for consideration of a North Costa Mesa Specific Plan Amendment SP-06-01 amending Appendix E of the Theater and Arts District Plan that identifies additional public improvements in the public right-of-way and funding sources. Environmental determination: exempt.

Principal Planner Kimberly Brandt reviewed the information in the staff report and made a presentation. She pointed out the changes referencing pages 7, 8, and 9 and corrected an error in the total committed amount to the Theatre and Arts District in terms of public funding (page 8). She said staff was recommending Planning Commission recommend by minute order to City Council, adoption of the resolution.

The Chair requested that Ms. Brandt explain the term, “recommend by minute order.” Ms. Brandt stated that because this is a specific plan amendment, it will require a final action by the City Council, so the action by Planning Commission this evening is a recommendation to City Council. It is not necessary for the Planning Commission to adopt a

resolution in order to make that recommendation to City Council, so by a verbal motion, or by minute order, the Commission can forward their recommendation to City Council. If Commission does make that recommendation, it will go forward to the City Council meeting on March 7th.

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

MOTION:
SP-06-01
Recommended to City Council

A motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 5-0 to recommend by minute order to City Council, adoption of the resolution.

PLANNING APPLICATION
PA-95-10

The Chair opened the public hearing for consideration to revoke Planning Application PA-95-10 for Eric Strauss, authorized agent for Barbara and Roger Allensworth, for a 90-day review of conditions of approval for a conditional use permit for the expansion of an existing sports bar into the adjacent space to allow 6 billiards tables and 4 or more electronic game machines, located at 580 Anton Boulevard #201, in a PDR-HD zone. Environmental determination: exempt.

Allensworth/Strauss

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said if the conditional use permit is revoked this evening, it would do the following: (1) it would return the Corner Office to its original footprint; (2) it would not allow this facility to be used as ancillary banquet facilities; (3) the two remaining billiard tables will be required to be removed, (4) the two electronic game machines (code allows up to 4 without a CUP) would remain, and (5) the restaurant could continue to be operated as a restaurant per our City code which requires an 11 p.m. closing time. Currently, under their present CUP, they are allowed to stay open until 1 p.m. with meeting rooms concluding operations at 10 p.m. He said staff was recommending revocation of the conditional use permit for Planning Application PA-95-10, based on testimony in Police Department reports over the past 3 months.

In response to a question from Commissioner Garlich regarding operation of the banquet room, Mr. Lee explained that because the operation of the banquet room is related to the operation of Corner Office, if their CUP is revoked this evening, that would prohibit them from utilizing the banquet room for any purpose since the parking requirement is different for a meeting room or banquet facility versus a restaurant that is parked at 4 per 1,000.

Lt. Karl Schuler, Costa Mesa Police Department, said in response to the meeting that took place on October 10, 2005, Police Department staff met with the ownership, management and legal staff of the Corner Office Sports Grill at their facility in the morning to establish a working relationship with the Police Department and Corner Office staff. At that time, it was felt there was a good understanding of how things would be resolved at that location and they all felt the best way to do that was through communications. A proposal was written up for enforcement and a copy was given to legal staff and management/ownership of the Corner Office. Since that time, on November 19, 2005, there was an assault with deadly weapon that took place inside the facility during business hours and did not get reported until 2.5 hours after the fact. On December 3, 2005, the Police Helicopter crew was flying over the area of the Corner Office facility; they were warned by the tower at Orange County Airport that there was an object in the air near their location. The crew observed a helium balloon the size of a small couch, flying at about 800 feet above the ground. When they looked down, they saw an individual tying this balloon onto a vehicle parked in the front parking lot of the Corner Office Sports Bar & Grill. He said the culmination of these two incidents indicated to police that there was not sufficient security on hand at that location. More importantly, January 4, 2006, the night of the Rose Bowl game (the occupancy level is 234 people posted at the entrance) the police went to the Corner Office Sports Bar & Grill for patrol check and found there were approximately 500

people on the premises. Police officers requested management staff to reduce the number of patrons in order to obtain the legal level of occupancy. There were additional violations discovered at that time (drinking outside on the patio). Lt. Schuler stated that even though this restaurant has been under the watchful eye of the police, it is the Police Department's opinion, that the ownership and management have not been responsible and for that reason they support staff's recommendation to revoke the conditional use permit of the Corner Office Sports Bar and Grill.

There was discussion between the Chair and Lt. Schuler with regard to the details of each of the incidences including the number of police officers that were used to resolve the issues.

Duane Heldt, one of the current operators for Corner Office Sport Bar & Grill, 570 Anton Boulevard, Costa Mesa, stated that in Lt. Schuler's report he has said nothing about the banquet room or the 2 pool tables. At this time, they have board meetings; an astrology club; The Orange County Ski Club; etc., in that banquet room and they are always out of there by 9:30 in the evening. He did not believe the banquet should not be closed off. He said they pay approximately \$5,000/month in rent, plus utilities and maintenance. He said closing the banquet room could hurt them financially. Mr. Heldt felt that changing the hours of operation would have an impact on the business, but they could live with that.

There was discussion between Commissioner Garlich and Mr. Heldt concerning his legal advice. He said he originally wanted an extension to seek legal advice and indicated he would be appreciative if the Commission would give that consideration.

In response to the Chair regarding the helium balloon, Mr. Heldt said he never knew anything about it until Lt. Schuler told him a week ago. He said he was there that day because the Army/Navy game was in progress at the time.

In response to the Chair regarding the assault with a deadly weapon, Mr. Heldt said the man refused to take medical help from the paramedics. In response to the Chair's concern about the incident regarding the number of people in the restaurant when police came to spot check, Mr. Heldt said he remembered they were very busy that night but he felt the number of 500 had been totally inflated. He did admit there were too many people there that evening

In response to the Chair regarding why she did not call the police Stephanie Potter, 580 Anton Boulevard, Suite 201, Costa Mesa, stated that when the incident occurred, the victim did not want anyone to call the police or get medical help. She said she insisted on getting the victim medical help because she felt that was what Lt. Schuler would have wanted her to do and get a report done immediately.

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

MOTION:
PA-95-10
Revoked

A motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 5-0 to revoke Conditional Use Permit PA-95-10, by adoption of Planning Commission Resolution PC-06-08, based on public testimony, analysis and information in the Planning Division staff report and findings contained in exhibit "A."

During discussion on the motion, Commissioner Egan stated that when the Commission first heard this matter about 90 days ago, there was testimony about obtrusive calls for service for: vandalism and battery, 2 victims injured and multiple arrests were made; numerous DUI arrests, assaults with a deadly weapon, a stabbing, patron drinking, or had alcoholic beverages on the patio in violation of the ABC license, a victim was raped at the bar, and a shooting which

was the result of a birthday party celebration in the rear room was pushed out into the parking lot where numerous shots were fired. At that time, the Commission bent over backwards to preserve the property owner's investment. Hoping that we would be protecting the public safety at the same time, one of the 2 CUP's was revoked and restricted hours of operation and added other conditions were put into place. Ninety days later, there has been another "assault with a deadly weapon." Commissioner Egan said she felt the Commission has to do what they can to protect public safety because somebody is going to get killed. She said she is not inclined to continue the matter—the owner has the opportunity to appeal the revocation to the City Council should the Commission go that route.

Commissioner Garlich agreed with Commissioner Egan's assessment and said his core concern is exactly what she said, somebody is going to get killed over there if the Commission doesn't do something, and do it tonight. He felt he had personally gone the extra mile in the last hearing and stuck his neck out to try to give the owners and operators the benefit of the doubt. Since then, three incidents have taken place, one of which was assault with a deadly weapon. He felt the key phrase he heard tonight was, "unbeknownst to me." He said everything that goes on over there seems to be "unbeknownst" to the people who are running this operation. He said the only thing the Commission can do this evening, is to revoke the conditional use permit, and further, he did not support an extension or a continuance either. He said the work that was done by the previous attorney may or may not have been satisfactory to his client, but for the record, his attorney did call him (Commissioner Garlich) over a week ago. He does not want our Police Department to have to use their resources to enforce these kinds of conditional uses. The only way we know what's going on is if our police officers go there and monitor it. Under the current basic discretionary approval that exists, they can operate as restaurant until 10 p.m. He said that people, who can't tell that there are 500 people in a room, maybe wouldn't be able to tell when it's 10 p.m. He said he has no confidence that anything is going to be enforced, and he doesn't want anybody killed at that restaurant on his watch.

The Chair said he also supports this motion. He said he was also concerned when he heard the owner say he did not know when something happened. He felt owners, operators and management of restaurants, bars, etc., should all be mindful, especially where alcohol is concerned.

Vice Chair Hall said he was going to make a substitute motion, but having heard the Commission's testimony, he believed it would be a waste of time to continue the item. He said he sees the opportunity for the operators of the Corner Office Sports Bar and Grill to appeal to the City Council as somewhat of a continuation. He said he would rather see it continued, but he would support the motion.

Commissioner Fisler said he would support the motion and that on October 10th of last year, Commissioners Egan, Garlich, and himself, voted to help the restaurant. He felt that by revoking PA-03-39, there would be no live music or DJ and that this would *fix* the problem because he didn't want to add a fatal blow to this business without giving them that chance. Now, he does not think that was the answer so he would support the motion.

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-05-42 for Pete Volbeda, authorized agent for Joe Cefalia, for a variance from minimum lot size requirements (12,000 sq. ft. required, approximately 4,000 sq. ft. per lot proposed) and lot width requirements (100 ft. required, 58 ft. and 62 ft. proposed); consider Susannah Place instead of Orange Avenue as the front of Parcel #2; in conjunction with a development review for the construction of 2, two-story, single-family residences, located at 2590 Orange Avenue, in an

PLANNING APPLICATION
PA-05-42

Cefalia/Volbeda

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 approval, by adoption of Planning Commission resolution, subject to conditions.

In response to a question from Commissioner Fisler regarding the actual standard for the lot width of an R1 zoned property, Mr. Lee explained that 50 feet minimum lot width is the standard for R1, and 100 feet is the minimum standard for this zoning district which is R2-MD. Commissioner Fisler confirmed with Mr. Lee that if both lots became R1 and the front becomes "Susannah Place", they would both meet the 50 feet requirement. In response to another question from Commissioner Fisler regarding the average lot size required if there is more than 1 lot, Mr. Lee explained that for common interest developments code specifies a minimum 3,000 square foot with an average 3,500 square foot for each lot. In this instance, the proposal is not for a common-interest development. This would be an actual subdivision for two completely separate and independent lots; there is no average. .

Commissioner Egan asked if this were to be a common-interest development, how would that change the applicable standards and the variances that would need to be approved. Mr. Lee explained that in order for a common-interest development to be approved, a variance for the minimum number of units would be required. Under current code, 3 or more units are required for a common-interest development. However, minimum lot width and lot sizes would not apply in that instance, because there would be one lot that would be required to be held in common with the properties, and if that were the case, then there would be no physically separated and subdivided lots.

Commissioner Egan asked if the ordinance that would eliminate the minimum "3 units" requirement, has gone before City Council yet. Mr. Robinson said that item is on the Council agenda for next Tuesday, February 21st.

Commissioner Garlich, anticipating Council may pass this waiver, asked whether a common-interest development had any advantages to the proposed lot split. Mr. Lee stated that the only advantage in this instance would be that one lot could be held in common. He said what distinguishes a common-interest development from this project, is that under a common-interest development, a homeowners association would be responsible for maintenance of the common areas, which would not be the case for this development since each lot is physically separated and would be owned independent from the other.

Commissioner Fisler asked Mr. Lee to review minimum lot sizes with him again for R1, R2-MD and HD and R3 zoning districts. Commissioner Fisler confirmed that R1 lots have a minimum lot size of 6,000 square feet and these are 4,100 square feet.

Pete Volbeda, architect for the project and representing the property owner, 615 North Benson Avenue, Upland, agreed to the conditions of approval. Mr. Volbeda explained that this project is similar to a previous project on 23rd Street. He said their belief is in pride of ownership and that the property will be better maintained better with a good appearance if these are ownership units. He noted that the project exceeds the lot size requirements; there is more open space than required; and they are below the standards when applicable and it is better than the required ordinance. One of the reasons they don't want a common lot development is because with 2 members you would have a lot of tie votes. Mr. Volbeda requested approval of the project by the Planning Commission.

Commissioner Egan stated that previously when Planning Commis-

sion has approved a 2-lot condominium development, the conditions of approval included an arbitration agreement in the event there was a stalemate between the 2 owners. Mr. Volbeda responded that somebody has to pay for the arbitrator and then argue about which arbitrator to choose, etc. He felt it would be much easier with separate ownership.

PA-05-42

PUBLIC COMMENT

•Teresa Catlin, 2078 Susannah Place, Costa Mesa, explained that Susannah Place is a very small cul-de-sac and the project proposes 2 driveways. She said the cul-de-sac couldn't accommodate the people who live there now because of all the new developments on Santa Ana, Del Mar, and Orange Avenue and people needing a place to park. People are so bold now that they even park in front of the driveways and have to be towed away. •Richard Nelson, 210 Susannah Place, Costa Mesa, submitted a petition signed by approximately 9 residents and property owners on Susannah Place including himself. The residents opposed the variance because having 2 more homes on the cul-de-sac would cause exacerbation of already overcrowded local schools; it would cause a negative effect in residential density beyond the General Plan capacity; it will compound the existing congested traffic flow on Orange Avenue; the variance will remove 3 to 4 additional parking spaces while at the same time, adding a potential of 3 to 6 cars; and the addition of two high-density noncompliant, two-story buildings will bring down their property values and has the potential of causing financial hardship. •Norm Dias, 203 Susannah Place, Costa Mesa, said that for whatever reason, City Council has decided that Costa Mesa needs to have more housing for people and he is not opposed to that, but he is opposed to the density which he watching this City constantly escalate. If the City continues to allow this to move eastward, there will be a parade of developers wanting to come in and buy up these large parcels and divide them. He believed this project was short by a huge percentage and not by 50 feet. He said he got a ticket in his own driveway because the driveways are too short. The Police Department wouldn't negate the ticket because of ADA rules. He asked if people cannot park in their own driveways because of the ADA rules, where should they park? Everyday from 6 p.m. on, the street is so congested; there is no parking left. How does the City know these people won't buy these places and turn them into rentals? Commissioner Egan, addressing Mr. Dias, said given that the zoning is R2 and the applicant has a right to put 2 units on his property, is there a difference between making it 2 single-family homes, 2 condominiums, or 2 rental units? Mr. Dias felt if they have the square-footage as required by the City, for any or all of the above-mentioned designations of residence, and he didn't think it mattered what goes there. He believed that they should follow the guidelines established by the City to have the square-footage to build what they are asking to build. •Patty Pertschi, 201 Susannah Place, Costa Mesa, said her concerns regarding this project, are the driveways and why the address which is currently Orange Avenue is going to be switched to Susannah Place.

Pete Volbeda returned to the podium to address the issues. He explained that this site has a drive approach on Orange Avenue and on Susannah Place, and Orange Avenue is a very busy street. He felt putting both driveways on Susannah Place should relieve a lot of traffic. In addition, they are dedicating 3 feet of their site to allow the sidewalk to go through on Susannah Place. There is about 20 feet of distance required for the parking stall in front of the garage. He said if they do not get approved this evening, they can proceed and build these as rental units, but they prefer ownership units.

In response to the Chair, Mr. Lee said the City code specifies that a minimum of four parking spaces as shown in the plan; 2 garage

spaces, and 2 outside on the driveway leading to the garage (19 to 20 feet in length clear of any public right-of-way, including sidewalks so that the vehicles do not overhang into the public right-of-way in violation of the ADA regulation). The Chair wished to draft language into the conditions of approval for this code requirement and the applicant agreed.

Vice Chair Hall said it is his understanding that, by right, the property owners could build 2 units for rental. Mr. Lee confirmed and agreed they could also build units of equal size as shown on the site plan. Vice Chair Hall felt the only difference between what is permitted and what they are asking for is home ownership. He believed there would be plenty of parking. He said he heard one of the speakers say he was ticketed because his car was hanging over the driveway against ADA requirements. He confirmed the driveway length was at fault. Vice Chair Hall asked if there was something that could be done so that these people are not subjected to that. Mr. Munoz stated that the City must meet ADA federal requirements, and this home does not allow the car to be fully clear of the sidewalk so it's a problem. Mr. Munoz felt it could be discussed with the Police Department and Transportation Services Division to see if there is a way to exempt those people from having violation problems. The Chair requested that Mr. Munoz discuss this with the property owners and get back to them with the results of his discussions with the Police Department and Transportation Services. Mr. Munoz agreed. Vice Chair Hall also suggested that the people on Susannah Place should apply for a restricted parking status, which would give them permit parking only. Mr. Lee stated that there is a procedure to allow for permit parking on a public street, which is typically reviewed by the Transportation Services Division, which makes their recommendation to City Council. Vice Chair Hall said he understands that on address assignments, normally addresses are assigned to the narrow side of the lot and when this lot is divided, the narrow side now becomes Susannah Place. He felt these changes would be far superior to having 2 rental units built on that street, and he felt it would improve the driveway problems.

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

MOTION:
PA-05-42
Approved

A motion was made by Vice Chair Hall, seconded by Chair Perkins, and carried 3-2 (Fisler and Egan voted no) to approve Planning Application PA-05-42, by adoption of Planning Commission Resolution PC-06-09, based on analysis and information in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

During discussion on the motion, the Chair wished to add a condition that would require people to park in their garages and on their driveways. Commissioner Egan requested that legal counsel give an opinion on that request. Deputy City Attorney Tom Duarte stated that his first understanding of the Chair's request was to comply with code, but as just stated by the Chair, the City cannot condition property owners not to park on public streets. Commissioner Garlich offered that we already have the code that requires garage space be provided for a two-car garage, if it is a two-car garage. There is no code that says a car has to be parked in there.

Commissioner Fisler said he would not support this motion and said he was at the losing end of a 4 to 1 vote on the previous project on 23rd Street. He felt the applicants wanted to move the orientation of these two substandard lots onto Susannah Place making them R1 lots. He said 2-story homes may eventually show up on that street; as a realtor he encourages home ownership, but not at the expense and integrity of the street.

SUBSTITUTE MOTION:
PA-05-42

A motion was made Commissioner Fisler, seconded by Commissioner Egan, and failed to carry 2-3 (Garlich, Perkins and Hall voted no), to

Failed to carry

deny Planning Application PA-05-42.

During discussion on the motion, Chair Perkins said that although Commissioner Fisler brings up some valid points about the parking, he felt the possibility of this property being developed as rental units was just not an option.

Commissioner Egan said because of the zoning, the owner could put 2 individual single-family homes requiring a lot split and variances, rental units with no variance, or a common-interest development with no variances assuming City Council adopts the ordinance. She said she sees no basis for a finding that shows the owner is deprived of any property rights that similarly situated owners in the vicinity and in the same zoning district enjoy, and he can do a common interest development which would solve some of these problems. It would eliminate the variances and they could have a common driveway, which would put one less driveway on the street and for these reasons she supports the substitute motion.

Vice Chair Hall agreed this could be developed as a common interest development, which would be exactly the same project presented here. He believed this is the best choice for people on the street.

Commissioner Garlich stated that both of these motions are well-founded, however, he felt when you put all the conflicts together, the fact that the small lot developments standards that were born out of the concern of developments on the eastside would allow a 3,500 square-foot lot size was sufficient, but these far exceed that. The opportunities to do the same things with a common interest development, and the fact that 2 units could be there as rentals, it seems if you try to use common sense as Vice Chair Hall has, if you wind up this proposal. It best serves the community in terms of ownership versus rental, and individual ownership, as opposed to any kind of difficulties that might come from common ownership. The lot width is the same as an R1 lot would require, and parking problems are a problem everywhere, but he did not believe it makes it any worse under a number of scenarios given. When all of this is said and done, approving this project is slightly better than not approving it, and he would not support the substitute motion.

The Chair then called the substitute motion as shown above and then called for the original motion as shown above.

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-05-55 for Ron Cruz, authorized agent for Deutsch SDL, LTD, and Legacy Partners, for a conditional use permit to provide overflow off-site parking (interior and exterior) at 102 Kalmus Drive, for offices located at 2955-2995 Red Hill Avenue, in an MG zone. Environmental determination: exempt.

Senior 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. He noted that a condition has been included that would require the Zoning Administrator to review the CUP in 6 months to determine if the proposed off-street parking and shuttle service has been effective in reducing the amount of on-street parking.

Commissioner Garlich commented that Mr. Lee's presentation and the report indicates that the property owner is doing this to improve the parking opportunities for the employees. Mr. Lee confirmed. Further, he said because of extensive modifications to the building, they already have the parking plan in place and that is what necessitates the conditional use permit.

In response to a question from the Chair regarding condition of ap-

PLANNING APPLICATION
PA-05-55

Deutsch SDL/Cruz

proval #14 and the drop off and pick ups in the public street area and how it would be enforced if it becomes and issue, Mr. Lee stated that there is earlier condition where the applicant is to provide a parking plan which will designate on both properties, the pick-up and drop-off areas that will be provided. As part of the follow-up before the Zoning Administrator review, staff would go out and conduct a site inspection to verify that the pick-up and drop-off is being done in the manner as stated in the Parking Management Plan.

Ron Cruz, 2860 Michelle Drive, Irvine, agreed to the conditions of approval. He said that Secured Funding is one of the largest employers in the City and has of 750 employees, and while they are currently using the lot on Kalmus Drive, there have been no structural modifications to the building yet. He said this project would allow them to provide 141 vehicles on site, which would be beneficial to the neighborhood. The Chair commended Mr. Cruz on his company's initiative to provide parking on their own for their employees and a Parking Management Plan.

Commissioner Garlich commented that when he visited the site today, he ran into at least 3 parking attendants to whom he explained who he was and why he was there. He said they were very accommodating; they knew what was going on and were very professional. He said he was very impressed with how they represented the company.

Vice Chair Hall also wanted to commend Secured Funding for doing an excellent job in solving the problem before someone else notices it. He thanked them for their efforts.

Wayne Lam, 610 Newport Center Drive, Newport Boulevard, said he represented Secured Funding and just wanted to mention that they adding employees daily, but the owner saw fit to sit through this hearing and brought his son with him. He is a resident of Costa Mesa. He noted that there are states that are trying to lure businesses out of Costa Mesa because when you have the kind of educated employee workforce, they're an attractive organization for people that require call centers, etc.

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

MOTION:
PA-05-55
Approved

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 5-0 to approve Planning Application PA-05-55, by adoption of Planning Commission Resolution, PC-06-10, based on analysis and information in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

REPORT OF THE DEVELOPMENT SVS. DEPARTMENT:

Planning Commission Secretary R. Michael Robinson, reminded the Commission that there is previously scheduled special study session and closed session with the City Attorney's Office on March 20th at 6:30 p.m. in Conference Room 1B. The City Attorney has asked for any comments or questions on the Draft Assembly Ordinance prior to that meeting. He said they have received comments and questions from two Commissioners so if there others have any questions, please submit them directly to Ms. Kimberly Hall Barlow, City Attorney

REPORT OF THE CITY ATTORNEY'S OFFICE:

None.

ADJOURNMENT:

There being no further business, Chairman Perkins adjourned the meeting at 9:40 p.m. to the meeting of Monday, February 27, 2006.

Submitted by:

R. MICHAEL ROBINSON, SECRETARY
COSTA MESA PLANNING COMMISSION