CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 17, 2012 ITEM NUMBER:

SUBJECT: REVIEW OF PLANNING APPLICATION PA-11-22 AT 2775 MESA VERDE DRIVE EAST

DATE: JANUARY 5, 2012

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: WENDY SHIH (714) 754-5136
WENDY.SHIH@COSTAMESACA.GOV

RECOMMENDATION:

Provide feedback on the revised proposal which will be processed at a staff level.

(The project has been revised to comply with Code requirements and is therefore being processed at a staff level.)

BACKGROUND:

On October 10, 2011, by a vote of 5 to 0, Planning Commission approved Planning Application PA-11-22 for a new community building for the residents of Villa Venetia and Pine Brook Village apartments. On October 17, 2011, Council Member Wendy Leece filed a request for City Council review of the project on behalf of the residents from the surrounding neighborhood.

The review request was continued from the November 1, 2011 and December 6, 2011 City Council meetings. During the November Council meeting, residents in the surrounding neighborhood spoke in opposition to the project, citing concerns with vehicle traffic and queueing for the proposed underground garage and at the existing southerly entrance on Golf Course Drive, building height variance, noncompliance with Residential Design Guidelines, and the quality of the view from Golf Course Drive due to removal of part of the lake. The Council continued the item to the December meeting to allow the applicant time to work with staff and residents to address the concerns. The Council then continued the item to their meeting of January 17, 2012, per the applicant's request to allow him additional time to evaluate the project.

The background information is included in the November 1, 2011 Council Agenda Report, which is attached for reference (Attachment 1). The video of the public hearing can be viewed on the City's Web page.

ANALYSIS

Revised Project

The original request, which included a variance from building height requirements and was approved by the Planning Commission, has been withdrawn. The proposed original project has been revised to achieve the following objectives:

- Comply with Code requirements.
- Address most of the concerns expressed by the community.

Detailed plans are pending at this time and are expected to be submitted to the City Council prior to the hearing. Please refer to Table A with regards to the Code requirements for the revised proposal.

TABLE A

PLANNING ZONING REVIEW SUMMARY

Location: 2775 Mesa Verde Drive East Planning Application: Revised Proposal

Request: Construct a new community building serving tenants of both Villa Venetia and Pine Brook Village apartments.

SUBJECT PROPERTY:		SURROUNDING PROPERTY:	
Zone:	R3	North:	R1 (SFR) and C1 (commercial)
General Plan:	High Density Residential	South:	PI (Tanager Park); R1 (SFR); R3 (multi-family)
Lot Dimensions:	Irregular	East:	PDR-MD (multi-family)
Lot Area:	20 acres	West:	R1 (SFR)
Existing Development:	468-unit apartment complex.		

DEVELOPMENT STANDARD COMPARISON

Development Standard	City Requirement	Proposed/Provided
Lot Size:	12,000 SF	20 acres (844,733 SF)
Lot Width:	100 FT	Approx. 620 FT
Density:	1 unit/2,178 SF	1 unit/1,805 SF[1]
Open Space (includes landscaped areas, walkways, pool, tennis court, and lake):		
Open Space	40% min. required	40% (340,269 SF) proposed
	43% (366,128 SF) existing	
Building Height:	2 stories/ 27 FT	2 stories/ 27 FT
Building Setback (Golf Course Drive):	10 FT min.	25 FT – 32 FT
2nd to 1st floor ratio[3]:	80% max.[2]	80%[2]
Building Separation:	10 FT min.	31 FT min.
Parking:		
Covered	471	633
Open	255	164
TOTAL	726[1]	797

CEQA Status Exempt- Class 3
Final Action Planning Commission

1 Existing density and parking approved under Zone Exception Permit ZE-114-69 for a residential project containing both Villa Venetia (subject property) and Pine Brook Village apartments (across Golf Course Drive to the east). The new community building **does not** trigger additional parking requirements.

2 Residential Design Guidelines (second floor area calculation includes "open volume" area).

Table B lists some concerns expressed by the community and recent revisions to the project to address the concerns.

TABLE B

PROJECT REVISIONS

Residents Concerns	Revised Project
Vehicle traffic and queueing problems may be created by the proposed underground parking garage.	Underground parking garage is **eliminated**.
The building height variance is an issue of concern.	Community building height is **reduced** from 3 stories/44 feet to 2 stories/27 feet per Code.
The building mass/noncompliance with Residential Design Guidelines is an issue of concern.	Community building is **modified** to comply with 80 percent second-to-first floor ratio per the Residential Design Guidelines.
Quality landscaping and water features should be incorporated along Golf Course Drive.	**Enhanced** landscaping and water feature along Golf Course Drive is proposed.
Parking should be provided for loading/unloading and service vehicles.	Two parking stalls will be provided for loading/unloading of **service vehicles only**.
Vehicle queueing at the existing southerly entrance on Golf Course Drive is an issue.	A new **right turn** lane into the complex will be constructed at the southerly entrance.

The Villa Venetia development contains an approximately two-acre lake visible from Golf Course Drive and additional waterways. The applicant wishes to fill in a portion of the lake to create recreational amenities: a two-story community building, sundeck, and pool area for their residents. The outdoor "amenity courtyard" containing the swimming pool satisfies the open space requirement for the project in the same manner as the manmade lake because the Zoning Code does not make distinctions between a pool area and an artificial lake. The original development approval in 1970 also did not include a condition of approval requiring that the manmade lake be maintained in perpetuity.

Processing of Code-Compliant Projects

The Zoning Code authorizes the Development Services Director (including Planning staff) to act on and grant approvals of projects which are **compliant with Code requirements**. In the case of the proposed new construction in a residential zone, discretionary review is not required by the Planning Commission or City Council because the proposal does not involve:

- Any deviations from Code requirements (i.e. variances, minor modifications, administrative adjustments, etc.)
- Any deviations from the Residential Design Guidelines.

Since the proposed revisions eliminate the requirement for a variance and deviation from Residential Design Guidelines, the project could now be approved at staff level; no discretionary review is required.

The original application has been withdrawn and was previously scheduled to be considered at the January 17th City Council meeting. Although a public meeting is no longer required for the revised proposal, the applicant has offered to make a formal presentation to review the project revisions.

ALTERNATIVES

1. *Provide feedback/input to staff regarding the revised proposal*. Staff will serve as the decision maker on the revised project and take into consideration comments received from the community and City Council.

2. *Provide direction to staff to refer the final decision on the project to the City Council*. Although the revised proposal would be code compliant and therefore considered at a staff level, Council may direct staff to refer the application to the City Council for final action.

LEGAL REVIEW

The City Attorney's Office has confirmed that the Zoning Code authorizes staff to be the decision making authority on the revised proposal as a code-compliant project. As a ministerial decision, the review of the project is limited to compliance with code requirements (i.e. building height, setbacks, open space, etc.).

CONCLUSION

The original proposed project, including the building height variance request, has been withdrawn. A revised proposal has been developed to comply with Code requirements and address most of the concerns expressed by the community.

WENDY SHIH
Associate Planner

KHANH NGUYEN
Interim Development Services Director

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ATTACHMENTS:
1. City Council Agenda Report for November 1, 2011
2. Location Map
3. Original Proposed Plans Under PA-11-22

File: CC011712PA1122	Date: 010612	Time: 2:30 pm

CITY COUNCIL AGENDA REPORT

MEETING DATE: NOVEMBER 1, 2011 ITEM NUMBER:

ATTACHMENT 1

SUBJECT: REVIEW OF PLANNING APPLICATION PA-11-22: DESIGN REVIEW AND VARIANCE FROM MAXIMUM NUMBER OF STORIES AND BUILDING HEIGHT REQUIREMENTS FOR A NEW COMMUNITY BUILDING AT 2775 MESA VERDE DRIVE EAST

DATE: OCTOBER 20, 2011

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: WENDY SHIH (714) 754-5136
WENDY.SHIH@COSTAMESACA.GOV

RECOMMENDATION:

Adopt the attached resolution to uphold or reverse the Planning Commission's decision to approve Planning Application PA-11-22, a design review and variance for a new community building for the residents of Villa Venetia and Pine Brook Village apartments. The application includes the following:

1. **Variance** from maximum number of stories and building height requirements (two stories/27 feet allowed; three stories/44 feet proposed).

2. **Deviation from the Residential Design Guidelines** for second-to-first floor ratio (80 percent maximum recommended; 86 percent proposed).

BACKGROUND:

Project Site

Villa Venetia is a 468-unit apartment complex bounded by Adams Avenue, Mesa Verde Drive East, and Golf Course Drive. It was originally developed as part of a larger residential community, which includes the 496-unit Pine Brook Village apartments located across Golf Course Drive to the southeast. Both apartment complexes are under common ownership. The property is zoned R3 (Multiple-Family Residential District) and has a General Plan land use designation of High Density Residential.

The Villa Venetia apartment community features a central open space containing a lake, tennis courts, pools/spa, barbeque grilling area, and a leasing office with a community/fitness center.

Meeting History

On August 22, 2011, by a vote of 4 to 0 (Commissioner Fitzpatrick absent), Planning Commission denied without prejudice Planning Application PA-11-15 for a 61-foot high community building. Planning Commission denied the application due to the extent of the variance request for the building height of the proposed community building, which would have exceeded the height of the existing leasing office on the same property by 17 feet:

- 61-foot building height originally proposed
- 41-foot building height of existing leasing building
- 27-foot building height permitted by Code

On October 10, 2011, by a vote of 5 to 0, Planning Commission approved a revised plan for the community building, under Planning Application PA-11-22, for a reduced building height from 61 feet to 44 feet (inclusive of architectural tower and decorative chimney). The architectural tower element was reduced from 61 feet to 41 feet, which is consistent with the existing 41-foot high leasing office building.

The Planning Commission staff report from October 10, 2011 is included as Attachment 3. The video of the public hearing can be viewed on the City's Web page:

http://www.ci.costa-mesa.ca.us/CMCalendar.htm

The applicant's updated letter of justification for the proposed project is attached (Attachment 2).

Call for Review by City Councilmember

On October 17, 2011, Councilmember Wendy Leece filed a request for City Council review of the project on behalf of the residents from the surrounding neighborhood. The attached review application included the following concern: "After reviewing the decision by the Planning Commission, it is [her] opinion that the Costa Mesa Zoning Code is not being followed in approving the variance". (Review Application, Attachment 3).

ANALYSIS:

Variance Findings

The variance approval is based on three legal findings; two of which are questioned in the review application:

- ***Variance Finding 1a***: Because of special circumstances applicable to the property, the strict application of development standards deprives such property of privileges enjoyed by others in the vicinity under identical zoning classifications. *[Section 13-29 (g) (1) a.]*

- ***Variance Finding 1b***: The deviation granted shall be subject to such conditions as will assure that the deviation authorized shall not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated. *[Section 13-29 (g) (1) b.]*

De Novo Hearing

The purpose of this report is to highlight or clarify the evidence in the administrative record that was presented to the Planning Commission prior to its action to approve the proposed project.

This report neither adds any new evidence that was not considered by the Planning Commission nor provides any further justification for the approval of the variance request.

As a de novo hearing, City Council may act to uphold or reverse the Planning Commission's decision.

Evidence for Required Findings

State Law requires that the variance request be considered in an equivalent manner and subject to similar expectations, requirements, and limitations as would be required for other properties in the identical zone and in the vicinity.

With regard to the two variance findings in question, following is a summary of the Planning Commission's consideration of evidence in the administrative record prior to rendering a decision on the project.

- *The unique size, shape, and location of the 20-acre property represent special circumstances to justify approval of the variance request. [Page 5 of 10/10/11 PC Report.]*

  Special circumstances applicable to the property exist to justify approval of the variance from number of stories and building height requirements. Specifically, the variance could be justified due to the unique size, shape, and location of the parcel, which is 20 acres, more than twice the size of other multiple-family residential properties in the immediate area. The property is also uniquely shaped and bounded by Adams Avenue, Mesa Verde Drive East, and Golf Course Drive. The community building would only be visible off-site from Golf Course Drive and the apartment buildings immediately surrounding the new facility.

- *The proposed project shall be "subject to conditions" to ensure that residential development standards are equivalent to or exceed those required for similar structures located in the R3 zone. [Page 2 of 10/10/11 PC Report].*

The approval of a variance request does not constitute a waiver from compliance to the other required development standards in the R3 zone. Evidence was given regarding the other residential development standards were either met or exceeded.

1. The proposed building exceeds street setback requirement (minimum 10 feet required; 25 – 32 feet proposed).

2. The proposed project provides additional parking in excess of the existing parking supply (net increase of 89 new parking spaces). The applicant proposes to reconstruct carports and replace an upper deck tennis court with parking for a net gain of 89 parking spaces on the property, including 20 parking spaces in the subterranean parking structure.

3. The outdoor "amenity courtyard" containing the swimming pool satisfies the open space requirement for the project in the same manner as the manmade lake. Technical note: The Zoning Code is silent as to making distinctions between a pool area and an artificial lake, as both would qualify as open space areas.

- *The applicant indicated that the variance is necessary to realize a substantial property right enjoyed by other R3 zoned properties, but which the property owner cannot enjoy due to such special circumstances and practical difficulties. (Applicant Letter - Attachment 2).*

  In this case, the substantial property right involved the right to provide common recreational facilities desired by the residents in an apartment complex in an R3 zone. The applicant expressed the practical difficulty of the ongoing maintenance of the two-acre lake, which apparently had become an environmental and maintenance burden on the property owner. The owner wished to exercise his right to replace this passive recreational amenity with an actively-used community building, sundeck, and pool area for the 1,700 residents

- *Buildings in the R3 zone are required to exhibit design excellence and be compatible in scale and architecture to other on-site structures. [Page 7 of 10/10/2011 PC report].*

  In addition to replacing the lake with a more active recreational amenity area, evidence was given regarding the proposed community building, which would be similar in scale and architecture to other on-site buildings inclusive of the existing 41 foot high leasing building. The site contains two and three-story structures with heights ranging from 26 feet to 41 feet and the second floor exceeding 80 percent of the first floor.

- *The intent of the Code related to scale and character of existing residential neighborhood would be still met with the approval of the variance. [Page 6 of 10/10/2011 PC report.]*

  There are no other R3-zoned properties with building height variances in the immediate vicinity. The architectural context of surrounding properties was analyzed.

  For example, the new building would be located 25 feet to 32 feet from the Golf Course Drive property line (10 feet required) and more than 100 feet away from any Pine Brook Village apartments across Golf Course Drive and more than 300+ feet away from the single family homes at Mesa Verde Collection. The scale and architecture of the proposed building would be similar to the design of the proposed Mesa Verde Senior Residential Community at the northwest corner of Harbor Boulevard and Mesa Verde Drive.

ALTERNATIVES CONSIDERED:

City Council may consider the following alternatives:

1. *Uphold Planning Commission's decision to approve PA-11-22*. This would allow the construction of the project as proposed, subject to conditions and Code requirements. The draft Council resolution has been updated to reflect the discussion contained in this report.

2. *Reverse Planning Commission's decision and deny PA-11-22.* If Council denies the application, the project may not be constructed as proposed and a similar request involving discretionary approval may not be submitted for six months. However, a proposed building that complies with the height limitations of the R3 zone could be submitted for plancheck at any time.

FISCAL REVIEW:

Fiscal review is not required.

LEGAL REVIEW:

The City Attorney's office has confirmed the legality of the Planning Commission's action and approved the draft Council resolutions as to form.

ENVIRONMENTAL REVIEW:

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures. If the project is approved, it would be exempt from CEQA under Section 15303 for New

Construction. If the project is denied, it is exempt from the provisions of CEQA Section 15270(a) for Projects Which Are Disapproved.

CONCLUSION:

De novo literally translates to "anew" "afresh" or "a second time." A de novo hearing is essentially a new proceeding where the proposal is presented to the City Council for final consideration. In its decisionmaking, Council is not restricted to the evidence that was previously presented to the Planning Commission. In this case, the variance request is a discretionary decision that can be approved or denied by the City Council.

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ATTACHMENTS:
1. Draft Resolutions
2. Applicant Letter dated October 20, 2011
3. Review Application
4. Planning Commission Staff Report
5. Location/Aerial Map
6. Plans