CITY COUNCIL AGENDA REPORT

MEETING DATE: APRIL 17, 2012 ITEM NUMBER:

SUBJECT: AMENDMENT TO PLANNING APPLICATION PA-02-11A FOR DEVELOPMENT OF 113 RESIDENTIAL UNITS (PHASE 3 OF PREVIOUSLY APPROVED 145-UNIT PROJECT) LOCATED AT 421 BERNARD STREET

DATE: APRIL 6, 2012

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MINOO ASHABI, SENIOR PLANNER

FOR FURTHER INFORMATION CONTACT: MINOO ASHABI, AIA (714) 754-5610
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RECOMMENDATION

Approve the project by taking the following action:

- Adopt resolution to adopt Addendum to Final Environmental Impact Report No. 1050 and approve Master Plan Amendment PA-02-11A, subject to conditions.

BACKGROUND

Original Project Approved in 2004

In April 2003, City Council approved the original project "Plaza Residences" project containing the residential and commercial site located at 1901 Newport Boulevard involving a 161-unit condominium project. The application also included a site-specific amendment to the Land Use Element to allow for development of the five-level parking structure (four-level; a minor modification for the four-foot encroachment of balconies and patio areas into the 20-foot setback along Bernard Street and Harbor Boulevard was also required; and a General Plan amendment (Planned Development Commercial - PDC) to allow the site-specific residential density and FAR. The Zoning Code was also amended to reflect the site-specific basis to accommodate the proposed high-density residential uses (42 du/ac) and site-specific FAR of 0.70.

PLANNING APPLICATION SUMMARY

Location: 401 Bernard Street Application: PA-02-11A

Request: Development of 113 for-rent residential units on a vacant site originally approved for 145 units. A parking structure and 32 units have been built during phase one and two.

SUBJECT PROPERTY:

Zone: PDC
General Plan: Commercial Center
Lot Dimensions: Irregular
Lot Area: 2.46 acres (balance of 3.61 acre residential site area of mixed-use development)

Existing Development: Vacant parking lot

SURROUNDING PROPERTY:

North: Single and multiple family residences
South: Methodist Church, Commercial across 19th St.
East: Commercial and residential condos.
West: Commercial, retail uses

Development Standard	Required/Allowed	Proposed/Provided
Lot Area	1 acre	2.46 acres (Overall original residential site area is 3.61 acres)
Density of Residential	20 du/acre	40 du/acre (per previous entitlement)
Perimeter Open Space	20 feet abutting public ROW	20 feet – Harbor Blvd. 16 feet- Bernard St.*
Common Open Space	42 % min.	
Building Height	4 stories and 3 stories along Bernard 50 feet	4 stories and 3 stories along Bernard 48 feet
Parking Structure Height	Six levels / 60 feet (five levels above grade)	Five levels /45 feet (four levels above grade)
Building Setbacks		
Front (Bernard St.)	20 ft.	16 ft.
Side (Harbor Blvd.)	20 ft.	20 ft.
Rear (commercial use)	-0- ft.	-0- ft.
Patios and balconies	Encroach 2 feet in setback along Bernard St. Noise barriers required	16 ft. building setback along Bernard St. * Noise barriers not proposed***
Parking:		
Parking in structure (covered)	283	283**
Surface parking	-0-	-0-

*subject to approval of a Minor Modification for walls, patios, and balconies.
** original approval included 40 additional spaces by City Council because private garages were proposed
*** subject to approval of a variance to exempt outdoor private spaces (i.e., patios, balconies)

CEQA Status	Addendum to Final Environmental Impact Report (FEIR) No. 1050
Final Action	City Council

From April to August 2004, there were several public hearings involved in rehearing the proposed project. A rehearing and subsequent settlement negotiations between interested parties were conducted during a six-month period, leading to a reduction in the overall density and height of the proposed project.

In January 2004, the City Council approved Master Plan PA-02-11 for development of 145 condominium units (40/du per acre) for the residential site. The project included the residential condominiums in four separate three- to four-story buildings with associated recreational amenities. The project also included a parking structure (two-level subterranean) that would exclusively serve residents of the development. The project was required to provide a total of 415 parking spaces including 40 surplus spaces, located in the City's Downtown Redevelopment project area and subject to inclusionary housing requirements.

The first phase of the project including 32 condominium units and a five-level mixed use parking structure to serve the residential and commercial uses was completed in 2008. Construction of the remainder of the project was on hold and the site became subject to a foreclosure proceeding. The site has been recently acquired by Fairfield Residential Company LLC., which will be carrying out the remaining phases of the project.

A tentative tract map was also approved and recorded with the initial phase of the project for the condominium development (Tract Map 16382). The map is still valid and the applicant may choose to sell the proposed for-rent units as condominiums if they are built to condominium standards.

Park fees in the amount of $700,218 have been remitted to the City upon recordation of the map and may be applied for future park-related improvements and acquisitions, as applicable. No other pending park fees will be applicable for the project.

ANALYSIS

PROJECT LOCATION

The overall 7.79-acre site is generally bound by Bernard Street to the north, West 19th Street to the south, Newport Boulevard to the east, and Harbor Boulevard to the west. A private access driveway traverses the site in a north-to-south direction. Approximately 4.18 acres of the site is currently developed with the 1901 Newport Plaza office building and another approximately 1.15 acres is developed with 32 condominium units. The remaining acreage (2.46 acres) which is currently proposed for development with 113 apartments is within an undeveloped, grassy area at the corner of Bernard Street and Harbor Boulevard.

Project Description

The proposed project includes 113 units in one building connected with a parking structure that wraps around the existing condominium project to the east and the existing commercial buildings to the south. The buildings are proposed as three- and four-story structures, with the three stories facing Bernard Street. The number of units for the overall project has remained the same, which includes 41 one bedrooms, 64 two bedrooms, eight three bedrooms for a total of 113 units.

Project Comparison		
	Original Entitlement	**Proposed Amendment to Master Plan**
Density	40 du/acre	40 du/acre
No. of Units	113 units (balance of the originally approved 145 units)	113 units
Ownership	Condominiums	For-rent units built to condo standards and specifications
Parking	318 spaces A 5-level parking structure and 2-levels subterranean parking over residential structures Important Note: 40 surplus parking spaces above Code-required parking were added pursuant to Council direction to account for two-car enclosed garages potentially being used as storage	283 spaces per zoning code 5- level parking structure (4 above grade)
Housing type	Two-story Townhomes and one-story flats	Apartment flats
Number of Bedrooms	All 2-bedroom units	Mix of 1, 2, and 3 bedroom units
Common Open space	42 percent	42 percent
Building Height	Four- and three-story buildings	Four- and three-story buildings
Parking Structure Height	Six level structure (five levels above grade, one level below grade)	Five level parking structure (4 levels above grade, one level below grade)
Setbacks	Harbor Blvd. – 20 ft. Bernard Street – 20 ft. with 4-foot encroachment of balconies Alley – 20 ft. residential structure except at corner (Harbor Blvd.)	Harbor Blvd. – 20 ft. Bernard Street – 16 ft. Alley - 0 feet parking structure 14 ft. residential structure
Patios/balconies	Sound glass barrier required	Variance requested to exempt patios and balconies from noise standards

Parking

The original entitlement approved 145 units and 415 parking spaces; this includes 40 surplus parking spaces above code requirements. With the first phase of the project, 32 condominium units were built and 97 residential parking spaces; 318 spaces were included in the final phase of the project. With this amendment, the applicant is proposing to provide 283 parking spaces consistent with the zoning code requirements.

The parking structure is proposed with five levels (four levels above ground and one subterranean) that will connect to the easterly portion of the building and contain 283 parking spaces as required by the zoning code as follows:

Type of units	Parking requirement per unit	Total
41	One covered, 0.5 open and 0.5 guest parking	103
64	One covered, 1.5 open, and 0.5 guest parking	192
8	One covered, 2.5 open, and 0.5 guest parking	32
		283*

*covered parking spaces reduce the required number by 0.25 space per unit and guest parking reduced by 0.25 for projects with more than 50 units.

Access/Circulation

Vehicular access to the proposed project would be from the project entrance on Bernard Street. This entrance would be gated for security and would lead directly into the first (ground) level of the parking structure. Pedestrian access would also be available along Bernard Street and the private drive along the east side of the Pacific Gateway Apartments Project site, which would separate the existing Pacifica condominium residences from the proposed apartments.

Open Space and Landscaping

Approximately 42 percent of the residential site area would be retained as open space through the provision of common open space and private patios and balconies. Common open space would be a landscaped courtyard, a covered outdoor lounge/patio and pool and landscaped walkways and setback areas located along the edges of the proposed residential development with larger areas fronting Bernard Street and Harbor Boulevard. Along Harbor Boulevard, the proposed apartment building would be set back approximately 20.7 feet from the Harbor Boulevard right-of-way and 16.2 feet from Bernard Street.

The applicant is requesting a minor modification to reduce the perimeter landscape along Bernard Street from 20 feet to 16 feet. The ground level units will include patios facing Bernard Street and the upper levels include balconies. The reduced setback is sufficient to allow for adequate planting of trees and planting for an attractive streetscape and view from residential properties to the north. This setback and landscaping will be consistent with the condominium portion of the project on Bernard Street.

Traffic Analysis

The project site was previously approved for a total of 145 condominium units, of which 32 units have been built. In comparison to the original proposal, application of the most recent Institute of Transportation Engineers (ITE) Trip Generation (8th Edition) Apartment trip rates to the currently proposed 113 apartments results in a decrease of 3 trips in the AM peak hour and a decrease of 4 trips in the PM peak hour, with a total daily decrease of 23 trips.

The Harbor Boulevard and Bernard Street intersection was examined for potentials of a new traffic signal in March, 2012. The original traffic analysis was prepared in 2002 that found the noted intersection would operate at level of service (LOS) C or better with the project. With the recent study, peak hour counts were collected in March 2012. The study confirmed the original determination and concluded that the intersection will operate at LOS C or better and a traffic signal will not be warranted. Based on the recent warrant results, it was determined by staff that the condition of approval related to the installation of a traffic signal at Harbor Boulevard and Bernard Street be removed. The project's share of traffic mitigation fees in the amount of $175,761 were submitted with the initial phase of the development.

Project Phasing

The developer is committed in building this project subsequent to the approval process. The project site contains three interconnected buildings and a parking structure that is proposed to be built in one phase.

Noise Impacts - Patios and Balconies

The proposed project includes a variance request to exempt outdoor balconies/patios from being considered as noise sensitive areas with respect to the City's Noise Ordinance. The variance request is being made because sound mitigation for exterior balcony/patio areas has been considered impractical. A variance of this type has been approved in 2010 for the Mesa Verde Senior Apartments at Harbor Boulevard/E. Mesa Verde Drive (currently in plan check).

Title 13, Section 13-280(d) and (e), Exterior Noise Standards, of the Costa Mesa Zoning Code indicates that exterior noise standards shall not apply to "private balconies or patios regardless of size" of multifamily residential development located within the Mixed-Use Overlay District and North Costa Mesa Specific Plan area.

The intent of this exemption is to recognize the outdoor noise environment of mixed-use development with residential uses located adjacent to commercial uses in particular. To promote mixed-use development and acknowledge the unique nature of these uses, this exemption would exclude private balconies or patios as being identified as a noise sensitive area for purposes of noise attenuation.

If the variance is approved, noise mitigation will not be required for private balconies or patios. If the variance is denied, the applicant will need to submit a noise analysis identifying the units that will require mitigation measures to reduce the exterior noise level at the balconies and patios affected by traffic noise on Harbor Boulevard and Bernard Street (refer to Mitigation Measure NOI-3)

Affordable Housing Requirement

Celeste Brady, special legal counsel, shall be present at the public hearing to answer any questions regarding the affordable housing obligations.

The project site is located in the City's Downtown Redevelopment area. In compliance with the inclusionary housing requirements for RDA areas, a total of 12 affordable housing units were required per State law (seven moderate income units and 5 low/very low income units). This requirement was memorialized in an agreement with the Redevelopment Agency (RDA). The City's RDA was abolished on February 1, 2012 as required by state.

There are a number of different implications to the affordable housing requirement for this project due to the proposed revisions to the development project and implications of RDA dissolution. Staff is currently working with the City's special legal counsel and the applicant on any potential changes to the Affordable Housing Agreement.

Condition No. 45 indicates, in part, that:

The project site is subject to and encumbered by specific inclusionary affordable housing obligations and covenants that are referenced in that certain Memorandum of Affordable Housing Agreement ("AHA") recorded in the Official Records, County of Orange, against the project site ("Covenants"), which Covenants run with the land and require the developer/owner of the project site to provide either on-site or off-site the required inclusionary affordable housing units as a condition to development of the project site. As the developer/owner's current application to the City for a land use entitlement on the project site proposes a rental housing development, which is different than the previously approved land use entitlement for an ownership housing development; thus, the developer/owner cannot satisfy and fulfill the Covenants of record. The AHA and Covenants provide, in part, that in the event the developer/owner fails to provide the required affordable housing units on-site as a part of the development of the project site pursuant to the AHA to the satisfaction of the City's Development Services Director, then the developer/owner is responsible legally and financially for the entire affordable housing obligation, which legal obligation was triggered by entitlement and development of residential units on the project site.

This land use entitlement is conditionally effective and is expressly and intentionally subject to the developer/owner negotiating and reaching agreement with and entering into a contract or contracts with the City of Costa Mesa and the Costa Mesa Housing Authority acting as successor housing agency as to the assets and functions of the dissolved Costa Mesa Redevelopment Agency ("CMHA"), which contract(s) shall set forth specific amendments to and modifications of the Covenants and the agreements that established such Covenants, and/or the provisions under which such Covenants and agreements may be terminated and released, including without limitation the AHA and that certain Settlement Agreement (Plaza Residential Project-1901 Newport Boulevard) entered into among the developer/owner's predecessor-in-interest to the project site, and the City, and the dissolved Agency (of which the CMHA is successor-in-interest) (together, "Amended Covenants").

Justifications for Approval

Staff recommends approval of the requested entitlements for the following reasons:

- *The Addendum to FEIR complies with State law.* The environmental analysis determined that the proposed amendment would not have any new or substantially more severe impacts than what was evaluated FEIR 1050. There are no new mitigation measures that were not adopted at the time the FEIR was certified that would further reduce the project impacts. FEIR 1050, when considered in conjunction with this Addendum, provides adequate documentation pursuant to the CEQA guidelines. All previous mitigation measures are included as Exhibit C of the resolution and applicable to the project.

- *Proposed amendment to master plan is consistent with land use objectives of the City's General Plan.* The proposed project is consistent with General Plan Goal LU-1A.1 in that the project provides for a mix and balance of housing and employment opportunity. The project site is in close proximity to bus transit and commercial uses.

The proposed project is consistent with General Plan Goal HOU-3 to provide a variety of housing types in terms of cost, design, location and tenure. Even though the project is currently proposed as for-rent units, a recorded tract map and compliance with the City's condominium standards will allow the units to be sold as condominiums. Condition No. 6 requires that the development comply with all requirements of Article 1, Chapter 5, (and Article 2, Chapter V) and Article 9, Chapter 5 of Title 13 of the Costa Mesa Municipal Code relating to development standards for multi-family residential projects. The development is also ensured to be of high quality materials and construction as noted by the applicant and included as condominium standards as Attachment 5.

- *Proposed Development is consistent with the Zoning Code and General Plan.* The proposed 113-unit development at a maximum 40 du/acre and five-level parking structure (four-levels above grade) are consistent with the approval of the original master plan for the project site. The proposed 283 parking spaces are consistent with the zoning code requirements; however, less than the original approval. The location of the project would allow use of alternative modes of transportation that may be attractive to a new population that can take advantage of these options.

- *Project complies with Zoning Code and intent of Residential Design Guidelines.* The overall architectural design promotes excellence and compatibility. The buildings are designed with three and four stories with the three-story units along Bernard Street. As low-rise buildings in a planned development zone, the proposed units are not subject to the application of the 80 percent second-floor to first-floor ratio recommended in the City's Residential Design Guidelines; however the variety of building elevations, materials and staggered massing diminishes the boxy design appearance from the front and side views. Condition No. 11 requires that no modification to the building design and height without approval of the Development Services Director.

- *Change of the project to a "for-rent" development would still result in a high-quality development due to construction to condominium specifications.* Even though the project is proposed as for-rent units, the developer is intending a luxury style apartment living for professionals that prefer an urban location. The project includes full amenities and will be built to high quality standards as noted in the condominium standards included as Attachment 4. The approved tentative tract map will allow the applicant to sell these units in the future without a conversion process when the current economic conditions change.

- *Project traffic impacts will remain the same and consistent with the original project.* The total number of residential units will remain the same (145 units) with the latter phase of development. Access to the site will remain from Bernard Street as originally planned. The project master plan including traffic improvements will provide for adequate on-site circulation.

- *Minor modification for 16-foot front setback on Bernard Street is compatible with the neighboring condominiums to the west and allow for adequate landscaping.* The proposed reduced landscape setback is consistent with the first phase of the project and provide for similar type of landscaping and patio design. This setback is not facing a major street and does not compromise the livability of the units

facing Bernard Street. The proposed building wall is more than 16 feet from the Bernard Street right-of-way and the balconies are extending beyond the building wall with less than a foot offset for articulation. Fending for the private patios on the ground level and along Harbor Boulevard frontage will need to meet the zoning code standards.

- *The project architecture and site design are complementary to the existing condominiums (Phase 1) and the surrounding commercial and residential uses with excellent design, and generous landscape setback at Harbor Boulevard and Bernard Street.* The buildings are designed with Spanish Colonial elements complementary to Phase One of the project and the elevations are designed with articulation to enhance the appearance of the structures from the public rights-of-way and the neighboring properties.

- *Shadows from the Pacific Gateway Residences Project would not extend onto adjacent shade-sensitive land uses.* Shadow conditions were analyzed for the project at 9:00 AM, noon, and 3:00 PM for each of the three days (June 21, September 23, and December 21) that showed minimal shade/shadow effects from the proposed project on existing single-family residential homes along Bernard. Therefore, consistent with the findings of FEIR 1050, shade and shadow impacts associated with the proposed project are considered less than significant and no mitigation is required.

- *The proposed project is consistent with the recorded Tract Map and subdivision requirements*. The original tract map provided for condominium ownership of the residential units. The master plan amendment will not modify subdivision of the site and allow for future sale of the units if they are built to condominium standards.

- *The requested variance for exemption of balconies and patios from City's Noise Standards provides for better usage of outdoor areas.* The tall enclosures confine the balconies, and patios, limit views and makes them less practical for use of the residents. Given the mixed use setting of the project applying the mixed use exemption will be practical and consistent with the previous projects and will not deter from usability of the private open spaces. Approval of the requested variance would allow the balcony railing to be consistent on all building elevations and complementary to the building design. In addition, there have been problems identified with balcony sound glass:

  - Sound glass may create a claustrophobic environment with limited airflow for some residents which may discourage the use of outdoor balconies on a regular basis.
  - Sound glass may not be practical in achieving noise level reductions as these measures attenuate noise for seated persons of average height only.
  - Sound glass may be difficult to maintain on a regular basis, requiring custom-fitted replacements if damaged and ongoing cleaning.

  The Cities of Irvine and Huntington Beach have indicated that noise mitigation for exterior balconies is no longer required. Given the fact that the proposal is a mixed-use development, staff believes the unique type and location of the proposed mixed-use development justifies approval of the variance request.

Title 13, Section 13-280(d) and (e), Exterior Noise Standards, of the Costa Mesa Zoning Code indicates that exterior noise standards shall not apply to "private balconies or patios regardless of size" of multifamily residential development located within the Mixed-Use Overlay District and North Costa Mesa Specific Plan area.

- *Project complies with parking requirements.* City Council required an additional 40 parking spaces above those required by Code to address parking concerns with the use of two-car enclosed garages for storage. The revised project does not include any two-car enclosed garages, and therefore, the proposed project does not include any surplus parking spaces above Code requirements. Staff does not believe that additional parking spaces are needed above and beyond those required by Code.

FISCAL REVIEW

Fiscal review is not required for this item.

LEGAL REVIEW

The City Attorney's office has considered the proposal and determined that a General Plan amendment is necessary in order for the project to proceed as proposed.

GENERAL PLAN CONFORMITY

The project requires approval of a general plan amendment for residential development. If approved, the proposal will be in accordance with the General Plan Medium Density land use designation with maximum density of 12 du/acre (44 units allowed, 33 units proposed).

ENVIRONMENTAL DETERMINATION

Pursuant to CEQA and the State CEQA Guidelines, an addendum to the FEIR No. 1050 was prepared. No new mitigation measures or environmental impacts were identified compared to the originally-approved project. Although not required by CEQA, the Addendum was circulated for public review through the State Clearinghouse from March 7 to March 26, 2012.

The document and the received letters are available at the following link:

http://www.ci.costa-mesa.ca.us/docs/planning/environmental-bulletin/Addendum-030612.pdf

Responses to Comments

Only two public letters were received during the public comment period and the responses are included as Attachment 3.

ALTERNATIVES

The City Council:

1. *Approve the Addendum to FEIR No. 1050 and amendment to Master Plan PA-02-11*. This would allow the applicant to proceed with construction of the 113-unit for-rent housing project with the recommended conditions of approval as discussed in this report.

2. *Deny all discretionary requests*. The entitlement for 113 condominium units will remain in place.

CONCLUSION

The proposed for-rent project is consistent with the height, density, and design and massing of the original project. Approval of the Master Plan amendment will provide for development of this site that has been vacant for more than five years with luxury apartments. The project will be a quality project built with condominium standards that will be a benefit to the community. This location provides housing opportunities to professionals in a mixed use setting and in close proximity to commercial, transit and transportation corridors.

MINOO ASHABI, AIA
Senior Planner

KHANH NGUYEN
Interim Development Services Director

Attachments:
1. City Council Resolutions
2. Location Map
3. Addendum to FEIR and Public Comments
4. Submitted plans
5. Submitted Condo standards

cc:
Chief Executive Officer
Assistant Chief Executive Officer
Economic Development Director
Public Services Director
City Attorney
Transportation Svs. Manager
City Engineer
City Clerk (9)
Staff (4)
File (2)

File: CC04172012PA-02-11A	Date: 4/6/12	Time: 9:45 AM