ATTACHMENT 3
DRAFT ORDINANCE FOR REZONE

ORDINANCE NO. 14-

AN ORDINANCE RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA GRANTING APPROVAL TO ADOPT REZONE R-13-02 FOR A REZONE (OR CHANGE) OF THE ZONING CLASSIFICATION OF THE 4.17-ACRE DEVELOPMENT SITE FOR THE 125 EAST BAKER APARTMENT PROJECT FROM COMMERCIAL LIMITED (CL) TO PLANNED DEVELOPMENT RESIDENTIAL – HIGH DENSITY (PDR-HD) AT 125 EAST BAKER STREET.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, The proposed project is a five-story, 240-unit apartment complex (63-foot maximum height proposed) at a density of 58 dwelling units (du's) per acre with a six-story parking structure (62.5-foot maximum height proposed) with 457 parking spaces and four outdoor on-grade parking spaces, along with the following specific entitlements:

1. **Final Environmental Impact Report (State Clearinghouse #2013081051)**. Certification of the Final Environmental Impact Report (EIR) for the project.

2. **General Plan Amendment GP-13-02**. Change the land use designation of the 4.17-acre development site from Industrial Park to High Density Residential. In addition to the change in land use designation, the general plan amendment also involves text amendment(s) to the City's General Plan to reflect a site-specific density of 58 dwelling units per acre, and a site-specific height of six stories.

3. **Rezone R-13-02.** A rezone (or change) of the zoning classification of the 4.17-acre development site from Commercial Limited (CL) to Planned Development Residential – High Density (PDR-HD).

4. **Zoning Code Amendment CO-13-02**. A zoning ordinance to amend Costa Mesa Municipal Code Title 13 for a site-specific density of 58 dwelling units per acre. The site is proposed to be designated PDR-HD (Planned Development Residential-High Density) in the City's Zoning Code. The designation allows up to 20 dwelling units per acre, or 83 dwelling units maximum for the site. The proposed 240-unit project would require an amendment to Table 13-58 (Planned Development Standards) to allow a site-specific density of 58 dwelling units per acre for this project.

5. **Master Plan PA-13-11**. A Master Plan application for the proposed development of a five-story 240-unit residential apartment building (63 feet overall height) that wraps around a six-story parking structure (62.5 feet overall height) with 457 parking spaces in the structure and four outdoor on-grade parking spaces with a deviation from: on-site parking spaces (538 parking spaces required; 461 parking spaces proposed).
6. **Development Agreement DA-14-02.** A Development Agreement between the applicant and the City of Costa Mesa to fund future public improvements in the area.

WHEREAS, a Rezone (or change) of the zoning classification of the 4.17-acre development site is proposed from Commercial Limited (CL) to Planned Development Residential – High Density (PDR-HD) for the development of the project as described above.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 24, 2014, and continued to March 24, 2014, with all persons having the opportunity to speak and be heard for and against the proposal.

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the Draft EIR was circulated from November 6, 2013 to December 20, 2013 for public review and comment.

WHEREAS, the Planning Commission has reviewed all environmental documents comprising the Final EIR and has found that the Final EIR considers all environmental impacts of the proposed project and a reasonable range of alternatives, and the Final EIR is complete, adequate, and fully complies with all requirements of CEQA, the CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines.

WHEREAS, the Federal Aviation Administration (FAA) issued a Determination of No Hazard To Air Navigation on May 16, 2013, which established a maximum building height of 111 feet above mean sea level (approximately 65 feet above ground level) for the proposed project.

WHEREAS, the Airport Land Use Commission for Orange County (ALUC), at their meeting of January 16, 2014, determined, on a 6-1 vote, that the proposed project was consistent with the Commission's Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA) and the AELUP for Heliports.

WHEREAS, the Planning Commission, on a 5-0 vote, recommended that City Council certify the EIR, tentatively approve General Plan Amendment GP-13-02; and approve Zoning Code Amendment CO-13-02, and Master Plan PA-11-13, by separate resolutions.

WHEREAS, a duly noticed public hearing was held by the City Council on April 15, 2014, and continued to May 6, 2014, with all persons having the opportunity to speak and be heard for and against the proposal.

WHEREAS, with the exception of the Final EIR, Development Agreement DA-14-02, Zoning Code Amendment CO-13-02, and Rezone R-13-02, Master Plan PA-13-11, will be subject to the approval of the General Plan Amendment GP-13-02.

SECTION 1: REZONE. Based on the evidence in the record and the findings contained in Exhibit A, **THE CITY COUNCIL HEREBY GRANTS APPROVAL TO ADOPT** R-13-02, which amends the Zoning Map of the City of Costa Mesa (Exhibit B) with respect to the property described above.

SECTION 2: ENVIRONMENTAL DETERMINATION. Pursuant to the California Environmental Quality Act (CEQA), a Draft EIR was circulated from November 6, 2013 to December 20, 2013 for public review and comment. The City of Costa Mesa received written and verbal comments from the general public, government entities, and other interested parties during the public review period. Written and verbal comments received from the general public, government entities, and other interested parties were responded to in the manner prescribed in California Code of Regulations Section 15088. A Responses to Comment document was prepared which includes responses to comment on environmental issues received during the public review period of the Draft EIR and errata pages showing redlined/strikeout revisions reflected in the Final EIR. No significant new information has been added to the Final EIR and no changes to the proposed project have occurred which would require recirculation under CEQA Guidelines Section 15088.5. The Draft EIR, Responses to Comments, errata pages identifying revisions to the Draft EIR, and any other information added by the City constitutes the Final EIR for this project. The Planning Commission has reviewed all environmental documents comprising the Final EIR and has found that the Final EIR considers all environmental impacts of the proposed project and a reasonable range of alternatives, and the Final EIR is complete, adequate, and fully complies with all

requirements of CEQA, the CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines. The Final EIR for this project reflects the independent judgment of the City of Costa Mesa.

SECTION 3: INCONSISTENCIES. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 4: SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 5: PUBLICATION. This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

_____
JIM RIGHEIMER
Mayor, City of Costa Mesa

ATTEST:

_____
CITY CLERK OF THE
CITY OF COSTA MESA

APPROVED AS TO FORM:

_____
CITY ATTORNEY

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, BRENDA GREEN, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution Number 14__ as considered at a regular meeting of said City Council held on the 6th day of May, 2014, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the 6th day of May, 2014, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this ___ day of _____, 2014

EXHIBIT A

FINDINGS

A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:

Required Finding: A compatible and harmonious relationship exists between the proposed use and existing buildings, site development, and uses that exist or have been approved for the general neighborhoods.

Response: With implementation of the mitigation measures identified in the EIR for the proposed project, all potentially significant impacts have been reduced to less than significant levels. With the implementation of the recommended conditions of approval, the proposed project will be compatible and harmonious with uses that exist within the general neighborhood. The project features quality construction and materials. The proposal provides on-site amenities comparable with quality residential units. The parking study prepared for the project identifies that the parking demand is adequate for this project. The Airport Land Use Commission for Orange County (ALUC) determined that the proposed project was consistent with the Commission's Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA).

Required Finding: Safety and compatibility of the design of the parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.

Response: The parking study prepared for the project concludes that the parking will be sufficient to accommodate the proposed mix of units within this project. The mitigation measures in the EIR include provisions for a traffic signal at Baker/Pullman intersection, street improvements at the Red Hill/ Baker intersection, payment of traffic impact fees, and to provide adequate sight distance for vehicles at all project drive approaches.

Required Finding: The use complies with performance standards as prescribed elsewhere in the Zoning Code, subject to approval of the proposed Zoning Code Amendment for site specific changes to the density and height limits for this site.

Response: The project complies with the City's Zoning Code, subject to approval of the associated Zoning Code Amendment for site specific text changes as it pertains to density and building height, and complies with the intent of the Zoning Code as it pertains to on-site parking spaces.

Required Finding: The use is consistent with the General Plan.

Response: A change in the land use designation of the 4.17-acre development site from Industrial Park to High Density Residential is proposed to accommodate the development; therefore, the proposed rezone to PDR-HD would be consistent with the proposed High Density Residential General Plan designation for the project site.

Required Finding: The cumulative effect of all the planning applications have been considered.

Response: The cumulative effects of General Plan Amendment GP-13-02, Zoning Code Amendment CO-13-02, Rezone R-13-02, and Master Plan PA-13-11 have all been considered for this project and no significant cumulative

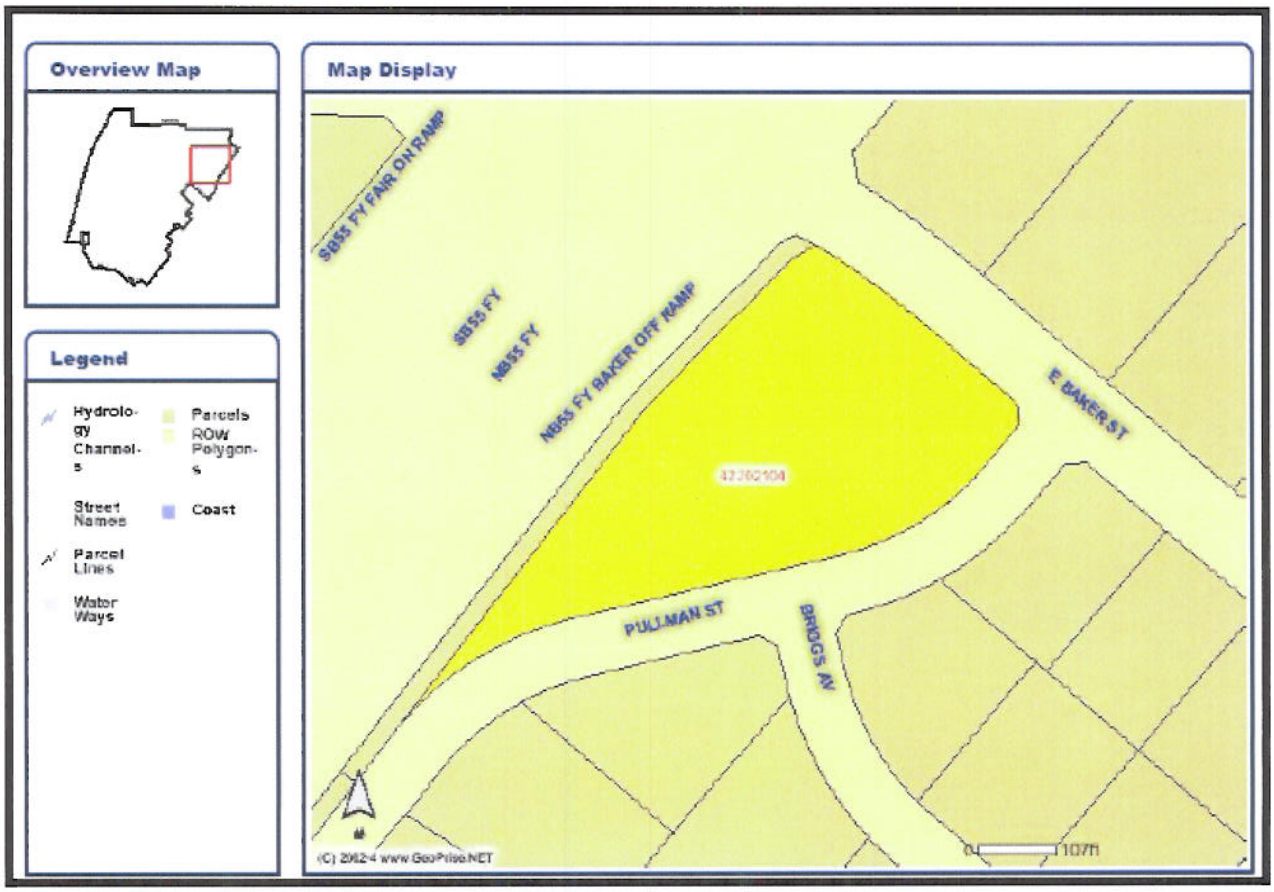
impacts were identified.

B. **Required Finding:** The proposed rezone is consistent with the Zoning Code and the General Plan.

Response: The project site is located at the southwest corner of Baker Street and Pullman Street. The site is approximately 4.17-acres in size (181,415 square feet), is roughly triangular-shaped, and is currently occupied by a 66,000-square-foot two-story office building constructed in 1974, a surface parking lot, signage, and landscaped areas within the parking area and around the perimeter of the site. The property is currently zoned CL (Commercial Limited) and has a General Plan Land Use Designation of Industrial Park (MP). The proposed project involves replacing the existing office building and surface parking areas with an apartment building and parking structure as described above. The apartment units are comprised of studio units, one-bedroom units, two-bedroom units and three bedroom units. A rezone (or change) of the zoning classification of the 4.17-acre development site from Commercial Limited (CL) to Planned Development Residential – High Density (PDR-HD). The proposed rezone to PDR-HD would be consistent with the proposed High Density Residential General Plan designation for the project site.

C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures. The Final EIR was prepared for this project pursuant to Article 7 - EIR Process, of the CEQA Guidelines, although the proposed project could have a significant effect on the environment, mitigation measures and conditions of approval have been included, which avoid or substantially lessen the significant environmental effects, as identified in the final EIR.

EXHIBIT B

Amendment to the Zoning Map

Change the zoning designation of the 4.17-acre development site at 125 East Baker Street from Commercial Limited (CL) to Planned Development Residential-High Density (PDR-HD)