



CITY COUNCIL AGENDA REPORT

MEETING DATE: JUNE 17, 2014

ITEM NUMBER:

SUBJECT: REVIEW OF PLANNING APPLICATION PA-13-29 AND TENTATIVE TRACT MAP 17668 FOR DEVELOPMENT OF 28 RESIDENTIAL AND LIVE/WORK UNITS AT 511 HAMILTON STREET, 2089, 2095 AND 2099 HARBOR BOULEVARD

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MINOO ASHABI, PRINCIPAL PLANNER

DATE: JUNE 10, 2014

**FOR FURTHER INFORMATION CONTACT: MINOO ASHABI AIA (714) 754-5610
Minoo.ashabi@costamesaca.gov**

RECOMMENDATIONS

The Planning Commission recommends that the City Council take the following action:

1. Adopt an Initial Study/Mitigated Negative Declaration.
2. Approve Planning Application PA-13-29 – Master Plan for development of a 28-unit residential project including seven live/work units on 1.53-acres zoned Planned Community Commercial. The project includes the following deviations:
 - a. A Minor Modification to reduce the perimeter open space along Harbor Boulevard from 20 feet to 17 feet.
 - b. A Variance to reduce the perimeter open space along Hamilton Street from 20 feet to 10 feet.
 - c. Deviation from Residential Design Guidelines with respect to second and third floor ratios to first floor (100% allowed, 104% - 110% percent proposed).
3. Approve Tentative Tract Map 17668 – Subdivision of a 1.53-acre property for condominium purposes to allow private sale and ownership of the 28 residential and live/work units.

Please refer to the Planning Commission staff report dated May 27, 2014 (Attachment 5) for detailed information and analysis related to the project. The Initial Study/ Mitigated Negative Declaration and the related documents are available on the City's website at the following link:

<http://www.costamesaca.gov/index.aspx?page=151>

Review of Planning Application

A request for review was filed on May 30, 2014 by Councilmember Genis. The request noted the following concerns with approval of the 28-unit project.

1. Impacts and compatibility with community garden.
2. Consistency with planning and environmental laws as well as city's land use policies.
3. Adoption of an Initial Study/ Mitigated Negative Declaration is inappropriate in this case.

The following includes a discussion of the above mentioned topics.

Community Garden/ Impacts and Compatibility

The 0.45-acre community garden is one of two community gardens within the City. It is considered a passive institutional use and is compatible with the proposed residential and live/work development. The garden includes 42 parcels (200 SF each) that are rented annually to the residents. Access to the garden is provided through a vehicular gate on Charle Street.

Shade and Shadow

The City of Costa Mesa has not adopted a specific policy related to shade and shadow or any thresholds with respect to effect of shade and shadow on light sensitive uses. Other cities typically consider residential uses (back yards), outdoor pools, commercial uses (outdoor cafes) and institutional uses (schools, convalescent homes public parks and active play areas) as light sensitive uses.

The threshold is typically 2 or 3 hours of shade during late fall and winter months or determined on a case by case basis. For example, Cities of Los Angeles and Santa Monica have adopted a specific threshold and consider a significant impact as following:

Cast shadow on shade-sensitive land uses for more than three hours between the hours of 9:00 AM and 3:00 PM (between late October and early April), or for more than four hours between the hours of 9:00 AM and 5:00 PM (between early April and late October).

The Initial Study/ Mitigated Negative Declaration indicated that: "The community garden to the north of the project site is separated from the proposed structures by a 10-foot rear yard setback and approximately **20 foot** wide access drive from the nearest residence." Therefore, due to the broad setbacks from the sensitive uses, shadow impacts on nearby properties are considered less than significant.

The applicant subsequently prepared a shade and shadow study focusing on the three hour shade threshold (Attachment 5 of Planning Commission Report) that confirmed the initial findings. Considering the following, staff determined that the shade and

shadow effects on the community garden is not significant and the exhibits were included in the Planning Commission report dated May 27, 2014:

- The community garden includes a driveway to the south abutting the project site that is more than **21 foot** wide. With the 10-foot building setback and the noted driveway, the first row of garden parcels are 35 feet away from the 3-story structures. The footprint of the shaded area only affects the garden parcels at the south edge of community garden (maximum 12 parcels). The garden includes 42 parcels and 30 of these parcels will be available for full-use throughout the year (Attachment 5).
- The community garden is not considered an active open space; the gardens are heavily used during spring and summer months when no shade and shadow affects are anticipated. Although, the community gardens are mostly used for growing flowers, tomatoes, peppers, etc. during the active months that take advantage of the full sun; leafy vegetables and herbs (i.e., cabbage, kale, mint, broccoli) and root vegetables (beets, carrots, etc.) could be grown in the shade and during the inactive months.
- There is evidence that shaded parts of the community garden along the block wall is purposely being used by the gardeners (Attachment 7).
- In comparison, the other community garden located at 170 Del Mar Avenue is not completely open to sunlight. The garden includes at least two mature trees that provide shade for the southern portion of the garden (Attachment 5).
- The project site is zoned commercial and could potentially be developed with buildings up to 30-feet in height placed at the property line. The proposed development includes detached structures setback 10 feet from the property line, that are 34 feet in height (to the peak of the hip roof), which is four feet higher than permitted height under current commercial zoning.

During the review public notice period, the applicant prepared a more detailed shade and shadow study considering the thresholds adopted by City of LA that demonstrates shade and shadow impacts between the months of October and April. The study indicated the areas affected by over 3-hours of shade are limited to less than 18 percent of the overall garden area (including the driveway) during winter months as noted below. All shade and shadow studies including an alternative with a two-foot reduction in overall building height of units 1-6 are included as Attachment 6.

3 HOUR SHADE AREAS						
<i>date</i>	<i>Drive aisle shaded SF</i>	<i>Garden area shaded SF</i>	<i>Total area shaded SF</i>	<i>% of drive shaded</i>	<i>% of garden shaded</i>	<i>% of total area shaded</i>
21-Oct	2232	80	2312	76.3%	0.4%	9.9%
21-Dec	2267	1755	4022	77.5%	8.6%	17.2%
21-Feb	2256	51	2307	77.1%	0.2%	9.9%
21-Apr	322	0	322	11.0%	0.0%	1.4%

Consistency with planning and environmental laws as well as city's land use policies

The General Plan Land use for this site is General Commercial. This designation is intended to permit a wide range of commercial uses, which serve both local and regional needs. These land use areas are typically located along major transportation routes with significant traffic. The General Commercial land use allows residential and other noncommercial uses, as "complementary uses" through the Planned Development process. The General Plan also notes that the residential densities in planned development projects shall not exceed 20 dwelling units per acre with a corresponding population density of up to 50 persons per acre.

On February 4th, the City Council on a 3-2 vote (Council members Leece and Genis voting no) allowed the project to proceed with the proposal for a 28-unit residential development in a Planned Development Commercial (PDC) zone.

Adoption of an Initial Study/ Mitigated Negative Declaration is inappropriate in this case.

Under the "fair argument" standard, an Environmental Impact Report (EIR) must be prepared where, "after examining the entire record, there is substantial evidence to support a fair argument that a project may have a significant effect on the environment.

The environmental effects of the project were not considered significant and an EIR was not prepared.

The question is whether there is *substantial* evidence of a significant effect on the environment that may occur from the shading that will be caused by the project. The shade study, concluding that there is no significant effect on the community garden from the shading cause by the project. This is evidence that there will be no significant effects on the environmental.

Under CEQA, "substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact," but does not include "argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment."

The mere fact that shading will occur, does not necessarily mean that the shade that would be caused by the project would create a significant environmental impact. An impact can be due to a project, but will not require an EIR unless that impact is shown to be a potentially significant impact. Initially, the broad setbacks to the garden patches and subsequently the shade and shadow studies confirmed that the shade impact on the garden patches is affecting only nine percent of the total gardening areas and therefore not a significant impact.

A lead agency has discretion to determine whether evidence, offered to it by citizens claiming a fair argument exists, meets CEQA's definition of substantial evidence. In making that determination the mere fact that there is "public controversy over the environmental effects of a project" is not enough to require that an EIR be prepared;

neither is the mere possibility of adverse impact on a few people, as opposed to the environment in general.”

Traffic

In addition to the noted issues, Councilmember Genis raised a concern with the projected Level of Service at the Harbor/ Hamilton intersection.

The traffic study conducted for the proposed 28-unit residential project at Harbor Boulevard – Hamilton Avenue intersection follows the standard City methodology. Typically, projects of this magnitude do not require a traffic study; per City’s requirements, traffic analysis is required when projects add 50 peak hour trips at an intersection. The proposed project is expected to generate 21 two-way trips in the morning peak hour period and 28 two-way trips in the evening peak hour period. The maximum number of trips in a single direction is expected to be 18 inbound in the evening peak hour period.

Staff required the analysis of Harbor Boulevard – Hamilton Avenue intersection to assess the left-turn impacts from project trips leaving the site and its impact to the proposed project driveway operations. Therefore, in addition to standard City-required Intersection Capacity Utilization (ICU) methodology, staff also requested analysis of this intersection using a more detailed Highway Capacity Manual (HCM) methodology. The ICU methodology is purely a sum of individual volume-to-capacity ratios of critical movements of an intersection. HCM uses traffic signal timing and simulates intersection operations, and produces detailed results including queue lengths for left-turn volumes. Both methodologies provide average results of overall intersection operations.

The ICU methodology forecasted a Level of Service (LOS) A at the intersection. This is using a capacity of 1,600 per hour per lane and applying it to the observed existing traffic volumes with additional project traffic. The more detailed HCM operations-based methodology forecasted a LOS C at this location. In general, traffic volumes on Harbor Boulevard at this location, which represent over 80 percent of traffic do not experience any significant delays and clear the intersection within one phase. The traffic on Hamilton Avenue, which is a minor street, may experience a longer wait time for green with longer delays. However, the results of the intersection analysis is based on weighted scale and the projected LOS values represent the overall intersection operations.

Based on the results of the study, additional left-turn queue storage length for eastbound Hamilton Avenue to northbound Harbor Boulevard movement was recommended and the driveway on Hamilton Avenue was restricted to right-turn exit only. The entry on Hamilton Street is limited to emergency vehicles.

ALTERNATIVES

The City Council has the following alternatives:

- Uphold the Planning Commission's adoption of Initial Study / Mitigated Negatives Declaration and approval of Planning Application PA-13-29 and Tentative Tract Map No. 17668 subject to conditions and mitigation measures; or
- Direct staff to prepare a resolution for denial of the project.

MINOO ASHABI
Principal Planner

GARY ARMSTRONG, AICP
Director of Economic & Development /
Deputy CEO

Attachments:

1. [Draft Resolution upholding Planning Commission's approval](#)
2. [Review Application](#)
3. [May 27, 2014 Planning Commission Meeting Minutes](#)
4. [May 27, 2014 Planning Commission Staff Report and Related Exhibits](#)
5. [Community Garden Exhibit](#)
6. [Shade and Shadow Exhibits](#)
7. [Submitted Plans and Photos \(by applicant\)](#)

cc:

Chief Executive Officer
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Red Mountain Asset Fund I, LLC
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Red-E- Rentals
2075 Harbor Boulevard
Costa Mesa, CA 92627

Dale Frankhouse
2077 Harbor Boulevard
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COMMUNICATIONS

CITY OF COSTA MESA
OFFICIAL PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Costa Mesa City Council at its regular meeting on Tuesday, June 17, 2014, at 7:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, to consider the following item:

Application No.: PA-13-29 & TTM 17668

Applicant: South Coast Communities LLC

Site Address: at 511 Hamilton Street, and
2089, 2095 and 2099 Harbor Boulevard

Zone: PDC

Contact: Planning Division
(714) 754-5245

Environmental Determination:
Mitigated negative Declaration

Email: cityclerk@costamesaca.gov

Website: www.costamesaca.gov

Description:

The proposed project involves:

- Adoption of an **Initial Study/Mitigated Negative Declaration (IS/MND):**
- **Planning Application PA-13-29** – Master Plan for a 28-unit detached three-story townhouse development including seven live/work units with ground floor workspace. The project site is located in Planned Development Commercial Zoning district where ancillary residential use of up to 20du/acre is permitted by approval of a master plan. The project requests approval of the following deviations:
 - A Minor Modification to reduce the perimeter open space along Harbor Boulevard from 20 feet to 17 feet.
 - A Variance to reduce the perimeter open space along Hamilton Street from 20 feet to 10 feet.
 - Deviation from Residential Design Guidelines to allow 104% -110% second floor and third floor ratio to first floor (100% recommended)
- **Tentative Tract Map 17668** – Subdivision of a 1.53-acre property for condominium purposes to allow private sale and ownership of the 28 residential and live/work units.

Public Comments: Oral or written comments must be received by the City Clerk prior to the hearing date (see above) or presented in-person at the hearing. If you challenge this action in court, you may be limited to raising only those issues you, or someone else raised, at or prior to the hearing.

For further information, please contact Minoo Ashabi, Principal Planner, at (714) 754-5610 or visit the Planning Division, Second Floor of City Hall, 77 Fair Drive, Costa Mesa, California. The Planning Division is open 8:00 a.m. to 5:00 p.m., Monday through Friday. Copies of Staff Reports will be available to interested parties on Friday, June 13, 2014 after 4:00 p.m. or available on the City's website, www.costamesaca.gov.

From Tom Lewis
2075 HARBOR

"The project would redevelop an infill site that has deteriorated buildings"

Gee, so would a nice dental office, medical suits or a Vet hospital. Along with some complementary support businesses.

A Neighbors view

Many years back (1977) The City had a plan to purchase the 30,000 Square foot lot on Hamilton along with the corner lot that now is the garden and create a park for the use of the many residents in this area that need an open space to get out of their high density apartments that line Charle street. This would add value to the neighborhood, resolve part of Red Mountain's dilemma and be complementary to the existing commercial uses. What a wonderful asset it would be to 100's of our west side's lower income families.

The facts are:

Red Mountain bought this property, **knowing it had subsurface contamination**, in a **cavalier move** to combine the properties and build to suit for a major retailer. They talked of 7-11, Walgreens and such, with condos in the rear. They evicted the tenants and allowed the buildings to be vandalized.

In the next few years we all had to deal with the economy. With a two year effort Red Mountain proposed a new commercial project. Some of it was very good; however, before they could get going they ran out of money. Red Mountain has used, as an excuse, leaving the empty buildings because of a lender requirement. **The truth is** that they have already prepared the buildings for demolition and are using them as leverage to promote the sale of the site. **"If it looks bad enough the City will go for anything to get rid of it!"** Costa Mesa's staff planners aligned with that concept and presented it to the Council and Planning Commission as a **"really good thing because it will clean up the corner"**. Ignoring the fact that, as residential, to be built in a commercial zone it must be, **"Complementary to Commercial uses"**

The **deteriorated buildings** are not the city's or the neighbor's responsibility to fix!

This was to be a **money making project by Red Mountain**, they are responsible for the mess and if they can't find a good use for it, **too bad!** Dumping the wrong project here to fix Red Mountain's problem is dumping their solution on us.

"There is no commercial use for this property", Red Mountain

The truth is: This project will make them the most money!

AKM

Tim Lewis
20 75 HARBOR

Planning application issues

1. Pg 2 existing Development "The site includes five parcel previously developed with commercial buildings and a gasoline station (all properties have been vacant for several years)

Comment: this statement fails to describe the number of parcels (7) and their existing developed uses. Where was the gas station? Assumption or deception?

2. Surrounding Property:

Comment: The descriptions here do a poor job of conveying the surrounding property.

North: City garden, auto repair garage.

South: construction equipment rental yard

East: Medical offices

West: High density apartments

The use of the expression "Multiple family Residential" is misleading. What does this say?

The failure to list contiguous uses at all, is misleading. Is an Automotive repair Garage with a grandfathered use, contiguously wrapped by the project, less important than a "Fast food restaurant" Across a street and facing away from the project?

The listing of "Red-E-Rental" makes the assumption that the reader knows what it is or does?

"East: Harbor Blvd. (commercial and residential)". This is very misleading as the entire city could be called commercial and residential. This portion of harbor blvd. is automotive orientated.

There is no residential use in the area of direct influence on Harbor blvd.

A three block description of Harbor starting at Victoria going south on the west. Used car sales, Auto stereo installation, radiator / auto air repair, Tile store, Glass shop, Used car sales, Walk up Taco, Medical office, auto repair, medical office, Rental store, U-storage and uhaul rental, auto repair, Toyota car storage, auto repair, auto upholstery, Restaurant, car wash, tire store. @2000 harbor

East side of harbor going south. Norm's 24hr restaurant, Thrift store and collection, auto parts store, archery shop, labor ready, used car sales/auto repair, T. Robbins Ford, Gas station/ auto repair, car rental, auto repair, auto painting, Motel, small commercial center.

Ok where is the residential within the area of influence on Harbor Blvd?

Page 3 Background Project location

This rambling description is confusing and impossible to understand as to what is accurately there. Important information about the previous uses has been left out and mixed up. The information regarding the addresses and their uses is simply not correct.

More misinformation about the surrounding uses:

North is a fast food on Harbor, however, the property behind it and directly across from the proposed homes on Hamilton is a portion of and driveway for the used car dealership on Harbor. The proposed homes are directly in line with the service and repair department of the dealership. This ignores that Rudys garage is also in the area of influence along eight of the homes to their northern boundaries.

East: ignores the fact that fact one home is five feet away from the medical building.

South: Ignores General Transmission that is closer than the storage.

General plan

"Residential and other noncommercial uses that are **Complementary to commercial uses.**"

I would like to hear the definition of the term "Complementary"!

Webster dictionary: Supplying mutual needs or deficits. Producing effects in concert different from those produced separately.

The previous use of the property:

Medical office. Providing medical care to persons living in this area and those of immediate need.

Automotive repair. Providing automotive repair to the community and those with immediate needs. Repair of equipment with automotive type engines such as fork lifts and air compressors.

Roofing Contractor. Having a need to store materials and equipment for immediate repairs requires a storage yard of some size. It should be located next to a use that is not offended by truck traffic and noise.

Tree service contractor. (Long time use of this property not noted in the request) Needing parking for trucks, equipment and storage of materials/waste where traffic ,noise and smell is not an issue.

The above previous uses of this property were truly complementary uses to the neighborhood for both residential and commercial users.

Please list where "**Complementary to commercial uses**" is provided by this project in order for it to be "**consistent with the General Plan land use designation**".

1. Noise from four repair shops, storage and tillers in the community garden. Tendency to offend residents and cause complaints. Barking dogs

2. Hours of operation by all businesses without a CUP limiting hours are 7:00 AM to 11 PM. This is not the norm in a residential area. Tendency to offend residents and cause complaints. Barking dogs
3. Loading and unloading of flat bed tow trucks at both Rudys garage and general transmission. Hi idle diesel engines and hydraulic units. Barking dogs
4. Odors from the community garden, 3 repair shops, Propane tank refilling, Taco restaurant, the running of diesel engines and at least one commercial trash can within 5 feet of a home. Tendency to offend residents and cause complaints.
5. 24-7 Night lighting for security and after dark operations exist to the north, south and East. Tendency to offend residents and cause complaints.
6. With Cautious respect I must make a notation about, "The First Step House" on Charle street. It is this Cities oldest running Alachol recovery group. The residents here are very troubled and in need. They come and go on foot along Charle St. They tend to be intermixed with the homeless. These troubled folks have a greater tendency to frieghten and sometimes to offend the other users of this area. I would not brand any people in need as dangerous or chriminal in nature, however, having them hanging out around your property will make you very nervous at times. Tendency to offend residents and cause complaints. Barking dogs.
7. Late night users of Harbor Blvd are a strange fact that most don't see. Having after hour video from General transmission reviels a strange group of persons that sometimes exhibit really bizarre behavior along Harbor Blvd after dark. Its not illeagle to walk the streets all night and in this area they do. We often find food trash, beer bottles and needles on our lawn. A constant reminder of the after hours world here. With only a 6 foot wall and 10 feet from the sidewalk it will be a constant Dog barking every night and well, a tendency to cause complaints.

What part of this project is complementary to the commercial users ? (maybe the Taco seller)

f Rem

Tim Lewis
2075 HARBOR