



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: JUNE 12, 2006

*III.2.*  
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-05-56  
THE IRVINE COMPANY - IRVINE APARTMENT COMMUNITIES  
450 ANTON BOULEVARD

DATE: JUNE 1, 2006

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER  
(714) 754-5611

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## **DESCRIPTION**

This application is a request for approval of a master development plan to construct an 890-unit, three-story, multiple family apartment home complex (The Enclave), with a variance from perimeter open space for a bus bay on Sunflower Avenue.

## **APPLICANT**

Irvine Apartment Communities, a division of The Irvine Company, is the authorized agent for MARJACK, LLC, the property owner.

## **RECOMMENDATION**

Adopt attached resolution recommending adoption of the Mitigated Negative Declaration and approval of PA-05-56 to City Council.

*Mel Lee by ZLB*  
MEL LEE, AICP  
Senior Planner

*R. Michael Robinson*  
R. MICHAEL ROBINSON, AICP  
Asst. Development Services Director

## PLANNING APPLICATION SUMMARY

Location: 450 Anton Blvd. Application: PA-05-56

Request: 890 apartment unit development with a variance from perimeter open space requirements.

**SUBJECT PROPERTY:**

Zone: PDR-NCM  
 General Plan: High Density Residential  
 Lot Dimensions: Irregular  
 Lot Area: 40.3 acres (1.7 Million SF)  
 Existing Development: Vacant

**SURROUNDING PROPERTY:**

North: (Across Sunflower) City of Santa Ana  
 South: (Across Anton ) PDC, Commercial Development (Experian)  
 East: (Across Anton ) PDC, Vacant  
 West: (Across Sakioka) PDR-HD, 770 apartment units (The Lakes)

**DEVELOPMENT STANDARD COMPARISON (1)**

Development Standard	Required/Allowed	Proposed/Provided
<b>Lot Size:</b>		
Lot Width (Development Lot)	NA	NA
Lot Area (Development Lot)	1 Acre	40 Acres
<b>Density:</b>		
Zone	25-35 du's per acre	22 du's per acre
General Plan	25-35 du's per acre	22 du's per acre
<b>Building Coverage (Development Lot):</b>		
Buildings	NA	431,437 SF (25%)
Paving	NA	578,269 SF (31%)
Open Space (Total)	737,516 SF (42%)	745,762 SF (42%)
TOTAL		1,755,991 SF (100%)
<b>Building Height:</b>		
Building Height	4 Stories/60 FT	3 Stories/45 FT
Chimney Height	NA	NA
Perimeter Open Space (All Frontages)	20 FT	10 FT (2)-33 FT
Private Open Space	100 SF / 5 FT min. dim.	(3)
Common Open Space	368,758 SF (50% of Total O.S.)	618,514 SF (83% of Total O.S.)
<b>Building Setbacks (Entire Site)</b>		
Front (Anton)	20 FT	26 FT, 6 IN
Side (Sakioka & Anton)	20 FT	20 FT/27 FT
Rear (Sunflower)	20 FT	20 FT
Rear Yard Lot Coverage	NA	NA
Distance Between Buildings	NA	NA
<b>Parking:</b>		
Covered	890	901
Open (Tenant)	592	603
Open (Guest)	235	235
TOTAL	1,717 Spaces	1,739 Spaces
Backup Distance	25 FT	25 FT
Driveway Width:	25 FT	25 FT

NA = Not Applicable or No Requirement

- (1) Per Development Agreement DA-99-02, development required to comply with code requirements in effect at that time the agreement was approved (1999).  
 (2) Does not comply with Code (Variance Requested).  
 (3) Exceeds common area open space, therefore requirement is not applicable.

CEQA Status Mitigated Negative Declaration

Final Action City Council

## **BACKGROUND**

The approximately 40-acre project site is located in the North Costa Mesa Specific Plan area, an urbanized mixed-use area in northeast Costa Mesa. The site is bounded by Sakioka Drive to the west, Sunflower Avenue to the north, and Anton Boulevard to the south and east. The site was used for agricultural production until mid-2003 and is currently vacant. An existing fire station (Metro Fire Station No. 6) abuts the project site to the west, off Sakioka Drive. The site is addressed as 450 Anton Boulevard and is referred to in the North Costa Mesa Specific Plan as "Area 7 - Sakioka Lot 1".

In 1999, City Council approved Development Agreement DA-99-02. The agreement covered the entire Sakioka Farms land holdings and required the property owner to dedicate land to the City to accommodate freeway on-and off-ramps. In exchange for the dedication, the owner was vested land use entitlements for 20 years, subject to compliance with the Zoning Code requirements in effect at the time the agreement was adopted (1999), including the approval requirements for a master plan, which, at the time, required final approval by City Council<sup>1</sup>. Also, as one of the public benefits of the development agreement, the project is subject to park in lieu fees even though the homes proposed are rental units.

A copy of the development agreement is available upon request.

## **ANALYSIS**

### **MASTER PLAN**

The developer is requesting approval of a master plan for the development of 890 multi-family residential apartment homes. The homes are a combination of studio units, ranging in size from 625 square feet to 675 square feet; one-bedroom units, ranging in size from 700 square feet to 900 square feet; and two-bedroom units, ranging in size from 950 square feet to 1,075 square feet. The homes are located in clusters of forty-six, three-story buildings. Parking spaces would be provided in tuck-garages and covered/open surface parking spaces. Parking for guests would be provided along the internal private street and in front of the project's leasing office and main recreational building. The site exceeds code requirements for on-site parking (1,717 parking spaces required; 1,739 parking spaces proposed).

The architecture is a California "Santa Barbara" style with mission tile concrete roofs, decorative windows with balcony and shutter treatments, and plaster wall surfaces. Because Development Agreement DA-99-02 predates the City's Residential Design Guidelines, the project is not required to be evaluated against those requirements. The building design provides enhanced exterior elevations, such as horizontal and/or vertical plane breaks, roof plane breaks, and appropriate architectural details.

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<sup>1</sup> In 2005, the Zoning Code was amended allowing final approval of a master plan by Planning Commission.

Recreational amenities include clubrooms, theater, fitness center, business center, swimming pools, heated spas, outdoor fireplaces, barbeque area, tot lot, and half basketball court, in addition to a private park area at the center of the project. A second recreation area, which includes a pool with pool house, and heated spa, is located at the northerly portion of the site (near Sunflower Avenue). For residential planned developments, Code requires the common open space areas to be a minimum of 50% of the total open space provided within the development. The common open space area provided for this development exceeds the total open space required by code (83% of the total open space is provided).

Vehicle access is provided via two gated entries, one off Anton Boulevard (across from the Experian offices) and the second from an existing access road off Sakioka Drive, adjacent to the fire station and across the street from The Lakes apartments. These access roads will be linked internally with a loop road. The project's traffic analysis, included in the Mitigated Negative Declaration, concluded that a traffic signal was not needed at the project's entrance on Sakioka Drive based on traffic volumes. However, Transportation Services has determined that a traffic signal at this intersection will provide enhanced safety to the residents of the development as well as the driving public. The absence of a traffic signal may result in left turn restriction(s) to and from the project site due to the reduced sight distance of oncoming traffic. The constrained sight distance is due to the horizontal roadway curvature of Sakioka Drive. The new traffic signal is included as a condition of approval #28. Applicant has agreed to the installation of this traffic signal.

The master plan sets forth standards for development and use of this property. In that respect, maximum building heights, on-site landscaping, number of parking spaces, and permitted uses as described in the report and shown on the submitted plans, would become the "zoning regulations" for the project.

There are no mature trees on the property; however, there are numerous mature parkway trees within the public right-of-way that will be preserved when the site is developed. A decorative perimeter wrought-iron fence is proposed along the Sakioka Drive and Anton Boulevard frontages; a decorative masonry wall will be provided along the Sunflower Avenue frontage. Along with the fences and walls, the planting of mature trees and other landscaping materials will be provided to enhance the project's appearance from the street. On-site landscaping will be required to comply with applicable code requirements. An existing bicycle trail along Sakioka Drive and Anton Boulevard will be reconstructed along with the pedestrian sidewalks. The existing power poles along Sunflower Avenue will be removed and overhead utilities relocated underground at the developer's expense.

#### VARIANCE

Municipal Code Section 13-29(g)(1) allows granting a variance where special circumstances exist, such as an unusual lot size, lot shape, topography, or similar features, and where strict application of the zoning ordinance would deprive the property owner of privileges enjoyed by owners of other properties in the vicinity

under an identical zoning classification. Other factors (such as existing site improvements) may also be considered.

A variance is requested to reduce the required perimeter open space (20 feet depth required) to a depth of 10 feet to accommodate an OCTA bus turnout on Sunflower Avenue near Anton Boulevard. The applicant will provide a bus bay due to the site's location next to a heavily traveled street (Sunflower Avenue). The provision for a bus turnout is consistent with planned development criteria for nearby public transportation. The total length of the reduced setback is approximately 80 feet of the approximately 1,380 total feet of lot frontage along Sunflower Avenue, or 0.05 percent (the length of the entire turnout is approximately 200 feet. The proposed setback reduction is for the landscaping only; the buildings still comply with required code setbacks. Therefore, staff supports the variance.

### Metro Fire Station No. 6

Metro Fire Station No. 6 abuts the project on Sakioka Drive. To address potential noise impacts, the nearest on-site homes will be set back approximately 110 feet and buffered by landscaping, open parking areas, and garages. An existing block wall separates the fire station site from the residential property and will remain. Additionally, future residents will be informed of the fire station's existence and 24/7 operation through tenant lease agreements.

### Park Fee

Development Agreement DA-99-02 requires the developer to pay a park fee for this project even though the homes units are rentals, which are not typically subject to park fees pursuant to State law. For this project the park fee is \$4,829.09 per unit, for a total fee of \$4,297,890.10. The developer will receive a credit of \$2,600,000.00 for their private park improvements, thereby resulting in a cash fee payment, to our park development fund, in the amount of \$1,697,890.10.

The development agreement requires the City to grant a credit for private park and recreational facilities if it is "useful" open space and recreational amenities available for use by all residents of the development. Some amenities such as tennis courts, swimming pools, passive and active recreation open space, turf areas and picnic areas are deemed "useful open space" under the development agreement. As indicated earlier, the facilities provided meet or exceed the minimum common open space required by code for the development, and the proposed amenities are consistent with a development of this size. The fee is required to be paid prior to issuance of building permits.

### GENERAL PLAN CONFORMITY

The property has a general plan designation of High Density Residential. Under the general plan designation a maximum density of 25 to 35 units per acre is allowed; 22

units per acre is proposed. As a result, the use and density conforms to the City's General Plan.

As indicated earlier, the proposed project consists of 890 rental apartment units. The City's General Plan Housing Element Goal HOU-4 states, in part, the following:

“It is also the goal of the City of Costa Mesa to provide a reasonable range of choices in terms in unit, type, design, size, price, location, and tenure, with particular emphasis and encouragement for low density, owner-occupied residences.”

It is staff's opinion that the apartment community will compliment recently approved low density, owner occupied housing projects (as well as the residential common interest development conversions), thereby maintaining a reasonable range of housing types as recommended in General Plan Housing Element Goal HOU-4. Additionally, this development will be very high quality in terms of building design, site layout, and recreational amenities.

A recent state law prohibits the City from reducing the maximum allowable density on residentially zoned property that was used in the certification of the City's Housing Element unless an equivalent increase in density is provided elsewhere in the City (Government Code Section 65863). The maximum number of units assumed for the site under the Housing Element is 1,274 units<sup>2</sup>; 890 units are proposed (a reduction of 384 units). Although the number of units proposed is less than what was assumed in the Housing Element, the recent approval of several residential development projects (refer to Table 1 at the end of this report), several of which were for formerly non-residential properties, coupled with the additional units allowed under the City's recently adopted Urban Plans, help balance the City's housing stock units beyond the future inventory assumed in the City's current Housing Element.

#### **NORTH COSTA MESA SPECIFIC PLAN CONFORMITY**

As noted earlier, the site is located within the North Costa Mesa Specific Plan area. The plan was adopted to recognize the unique development potential of the plan area and to sensitively integrate new development with surrounding areas. The plan achieves this purpose by inclusion of specific development standards for eight areas.

The site is identified as Area 7 – Sakioka Lot 1. The development standards for this area include buffering and disclosure requirements for units adjacent to Fire Station No. 6, orientation of units along Sunflower Avenue, pedestrian access to Anton Boulevard and Sakioka Way, and provision of internal open space. The plan also includes standards for affordable housing, if the site is developed with more than 1008 units. The plan proposed for the project complies with all of these additional development standards.

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<sup>2</sup> General Plan Housing Element Table HOU-45.

## **ENVIRONMENTAL DETERMINATION**

In accordance with the California Environmental Quality Act (CEQA), an Initial Study was prepared for this project. Pursuant to CEQA guidelines, if the lead agency determines there is substantial evidence that the project may have a significant effect on the environment, an Environmental Impact Report (EIR) should be required to be prepared. If the lead agency determines there is substantial evidence that the project could not have a significant effect on the environment, a Negative Declaration should be prepared. Therefore, a Mitigated Negative Declaration (IS/MND) was prepared for the project which identified areas of "no impact" and "identified impacts" that would be reduced to a level of insignificance. A copy of the Mitigation Monitoring Program is attached to the Planning Commission resolution for this project. The Negative Declaration was made available for public review, as required by CEQA. A copy of the Initial Study/Mitigated Negative Declaration is also provided as a separately bound document.

## **ALTERNATIVES**

The Planning Commission has the following alternatives:

1. Recommend adoption of the Mitigated Negative Declaration and recommend approval of PA-05-56 to City Council with the recommended conditions of approval and mitigation measures; or
2. Recommend denial of PA-05-56 to City Council. If the project is denied, the project cannot be constructed, and the applicant could not submit substantially the same project for six months.
3. Recommend adoption of the mitigated negative declaration and recommend approval of PA-05-56 to City Council with modifications desired by the Planning Commission.

## **CONCLUSION**

It is staff's opinion the proposed project will be a very high quality apartment Home Village serving the metro area needs, therefore the project is consistent with the goals and objectives of the 2000 General Plan, North Costa Mesa Specific plan, and Development Agreement No. 99-02. Therefore, staff recommends approval of the project to City Council.

Attachments:            Table 1 - Recent Approval Of Residential Development Projects  
                                  Applicant's Project Description and Justification  
                                  Zoning Map/Location Map  
                                  Plans  
                                  Draft Planning Commission Resolution  
                                  Exhibit "A" - Draft Findings  
                                  Exhibit "B" - Draft Conditions of Approval  
                                  Exhibit "C" - Mitigation Monitoring Program

Initial Study/Mitigated Negative Declaration (Separately Bound Document)

cc: Deputy City Manager - Dev. Svs. Director  
Assistant City Attorney  
Assistant City Engineer  
Fire Protection Analyst  
Staff (4)  
File (2)

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File: 061206PA0556	Date: 052206	Time: 10:45 a.m.
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**TABLE 1  
RECENT APPROVAL OF RESIDENTIAL DEVELOPMENT PROJECTS**

Since adoption of the City's Housing Element in January 2002, the City has taken the following actions that have increased the City's housing projections:

1.	Approved general plan and zoning code amendments and a master plan for the development of 145 condominiums at 1901 Newport Boulevard. This approval includes the provision of 12 affordable units (7 low- to moderate-income units on site, and 5 very-low-income units off site) (2004);
2.	Approved of a rezone and conditional use permit to allow a 20-unit expansion to a senior citizen single-room occupancy (SRO) hotel at 2072/2080 Newport Boulevard (2001). This expansion is currently under construction.
3.	Approved general plan and rezone amendments to change the General Plan designation from General Commercial to Medium Density Residential with the appropriate zoning to allow the construction of a 32 unit single family housing at 330/340 West Bay Street (2004).
4.	Approved a residential development at 23 <sup>rd</sup> Street and Orange Avenue for the construction of 25 dwelling units. This property was assumed as a church use in the future land use inventory used in the 2000 General Plan update. (2004)
5.	Approved a rezone Local Business to Medium Density Residential to allow the development of 10 residential units maximum at 2436 Newport Boulevard (2004).
6.	Adopted several mixed-use overlay zones through the Westside Urban Plans, resulting in the potential addition of 3,771 residential units, including 1,398 live/work units (2006).
7.	Adopted several mixed-use overlay zones through the SoBECA Urban Plan, resulting in the potential addition of 455 residential units, including 171 live/work units (2006).

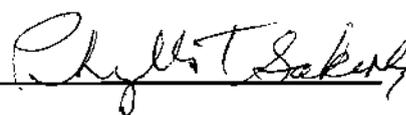
The above actions increased the City's potential housing stock by 4,458 units beyond the future inventory assumed in the City's current Housing Element. Therefore, staff believes that the City may approve the reduced density for this project without violating State law.

# CITY OF COSTA MESA PLANNING APPLICATION

## PROJECT DESCRIPTION AND JUSTIFICATION

1. **Project Address:** Sakioka Lot 1 - SWC Sunflower Ave. and Anton Blvd.
  
2. **Fully describe your request:** Master Plan approval of 890-unit rental apartment community.
  
3. **Justification:**
  - A. **For a Conditional Use Permit or Minor Conditional Use Permit:** On a separate sheet, describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.
  
  - B. **For a variance or Administrative Adjustment:** On a separate sheet, describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.
  
4. **This project is: (check where appropriate)**

<input type="checkbox"/> In a flood zone.	<input type="checkbox"/> In the Redevelopment Area.
<input type="checkbox"/> Subject to future street widening.	<input checked="" type="checkbox"/> In a Specific Plan Area.
<input type="checkbox"/> Includes a drive-through facility. (Special notice requirements, pursuant to GC Section 65091 (d))	
  
5. **I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST reproduced on the rear of this page and have determined the project:**  
 Is not included in the publication indicated above.  
 Is included in the publication indicated above.

   
Signature

11-14-05  
Date

**Letter of Justification  
Sakioka Lot 1  
Revised February 24, 2006**

This project is a Master Plan for a multi-family residential development, which together with other approvals (including a sign permit, relief from the 100 s.f. minimum requirement for private open space and a reduction to the landscape lot easement along Sakioka Drive and Anton Boulevard from 25 feet to 20 feet), implement the City of Costa Mesa-2000 General Plan and the North Costa Mesa Specific Plan. Comprised of 890 one and two bedroom units in three-story buildings on approximately 40.3 acres, the proposed project's density is approximately 22 dwelling units per acre, consistent with the land's designation for high density residential, 25 dwelling units per acre (35 du/acre with an affordable housing density bonus). A total of 1,739 parking spaces are proposed on the current plan, resulting in a ratio of approximately 1.95 spaces per unit, which exceeds the current City parking requirements.

The theme for the community will incorporate elements of traditional California architectural style. The target market for this project will be young single and married entry-level professionals. The common area amenities are planned to fit the needs of this renter profile. The main recreation center will contain a leasing office, clubroom, theater, fitness center, business/conference center, swimming pool, heated spa, outdoor fireplace, barbecue area and restrooms, in addition to a large park area. The secondary recreation area will include a pool, heated spa and restrooms.

### **General Plan Consistency**

Because the project falls within the land use parameters previously approved through the City's long-term planning and zoning efforts, the Master Plan and related approvals are consistent with the City's General Plan. The project specifically furthers goals of the City's housing element, including policy HOU-2.7 which provides: "Recognizing the effect of supply and demand on prices for housing and other commodities . . . [the City should] encourage development of residential uses on vacant parcels where appropriate," and General Plan goal HOU-3 which is to "provide adequate, suitable sites for residential use and development or maintenance of a range of housing that varies sufficiently in terms of cost, design, location, and tenure to meet the housing needs of all segments of the community at a level no greater than that which can be supported by the infrastructure."

Approval of this project is also consistent with the land use element of the General Plan, specifically providing housing opportunities within plan development areas (LU-1A.5) and building at densities and intensities in accordance with the trip budget for the applicable land use classification (LU-1E.1). Because the project implements a long-standing planning designation, the project can be fully accommodated by the City's existing utility systems and infrastructure. (LU-1D.1)

Housing Element Goal HOU-2 sets forth the objective of the City to preserve affordability by "provid[ing] its citizens with reasonably priced housing opportunities within the

financial capacity of all social and economic segments of the community." By providing rental housing, the proposed project meets the housing needs of segments of the community that would not be served by for-sale housing. In addition, Land Use Element Objective LU-1A.1 sets forth the related goal of "provid[ing] for the *development of a mix and balance of housing opportunities* (emphasis added)." Thus, the General Plan specifically encourages the development of a variety of housing products, which would include rental housing.

The project is located adjacent to the area where a significant amount of for-sale condominium high-rise residential development is currently in the planning stages. Were only ownership housing to be offered in the proposed project, the City would fail to meet its goal of providing a mixed balance of housing opportunities in the area. By providing a rental housing development, the proposed project complies with and advances the City's goals for balanced housing development.

General Plan Land Use Element Objective LU-1A.4 sets forth the following goal of the City of Costa Mesa: "*encourage* the development of low-density residential uses and owner-occupied housing *where feasible* to improve the balance between rental and ownership housing opportunities (emphasis added)." This General Plan Objective does not mandate that proposed projects be ownership projects; it only recommends that projects provide owner-occupied housing "where feasible," in order to have a balance between rental and owner-occupied housing. This Objective must also be read in concert with the other General Plan policies calling for a mix of housing opportunities. Here, the project's location adjacent to mostly commercial uses and other high density housing, the separation from existing single-family uses by a four-lane road,

and the long-standing General Plan designation for higher density, lend themselves to rental as opposed to owner occupancy.

**Specific Plan Consistency**

The North Costa Mesa Specific Plan designates the property (Sakioka Lot 1) for high density residential development in multiple story buildings. The Master Plan is consistent with that designation. The site-specific policies in the North Costa Specific Plan are as follows:

**Policy: 48.** Future residents shall be made aware of the fire station and the nearby heliport through either rental or lease agreements for rental units or seller disclosures for for-sale units.

**Response:** This policy to be implemented as part of project approvals.

**Policy: 49.** Open space, recreational uses and/or parking areas should be located adjacent to the fire station to serve as a buffer

**Response:** The fire station is buffered by open parking and garages.

**Policy: 50.** Residential buildings should be oriented away from Sunflower Avenue to the maximum degree possible.

**Response:** Residential buildings along Sunflower are oriented away from the street and are buffered by open parking and garages.

**Policy: 51.** Internal pedestrian access to Anton Boulevard and Sakioka Drive should be provided; although mid-block crossings of Sakioka Drive are to be discouraged

**Response:** Pedestrian access has been provided to Anton, Sakioka and Sunflower. Mid-block crossings of Sakioka will be discouraged via signage and the absence of a crosswalk.

**Policy: 52.** Neighborhood commercial uses considered for this property are encouraged to be located at the intersection of Sakioka Drive and Anton Boulevard and be easily accessible to pedestrians. Encroachment into the building setback areas on both street frontages for commercial and mixed-use developments may be allowed based on how well the project design accommodates pedestrians and if the parking areas and/or structures are located behind the retail or mixed-use buildings. Parking areas shall not be allowed to encroach into the street setback, unless they are tucked under the retail or mixed-use development.

**Response:** No commercial uses are proposed at this time. However, we are designing the North East corner of Anton and Sakioka to compliment the retail center across Anton and encourage pedestrian access between the two sites.

**Policy: 53.** Commercial components of a mixed-use development shall be limited to the first two stories of any building.

**Response:** No commercial development is proposed.

**Policy: 54.** If Sakioka Lot 1 is developed as a mixed-use development, each 1,000 square feet of commercial development shall result in one less market rate dwelling unit

subtracted from the total number of dwelling units allowed on the site, including any density bonuses for affordable units.

**Response:** No commercial development is proposed.

**Policy: 55.** Any development proposal that includes a commercial component shall require a traffic analysis to ensure that the affected circulation system will continue to operate pursuant to General Plan standards, both at the time of project completion and at build-out of the General Plan.

**Response:** No commercial developed is included.

**Policy: 56.** Density bonuses for Sakioka Lot 1 shall be allocated in conformance with the standards indicated in Table 7 of the Specific Plan. All affordable housing provisions shall be for a minimum of 30 years.

**Response:** The project does not involve any density bonus.

**Policy: 57.** Preservation of the 154 Low-Income units at The Lakes for the additional 30 years beyond 1997 shall be counted towards the Low-Income unit requirements for Sakioka Lot 1, pursuant to Option 2 in Table 7.

**Response:** The project does not involve a density bonus.

**Policy: 58.** Development of Sakioka Farm Lot 1 for residential uses shall include dedication of a 5-acre public neighborhood park or a privately developed, owned and maintained

open space that is credited to the park dedication requirement pursuant to the Park and Recreation Dedication Article of the Costa Mesa Municipal Code.

**Response:** The Development Agreement for Sakioka Lot 1 supplements and supersedes the more general policy in the Specific Plan. The Development Agreement specifically provides for the developer to pay a park fee with reference to any residential development of the project (whether condo or apartments.) In accordance with the Development Agreement, the fee would be the lesser of the park fees calculated in accordance with the City's land use regulations as of 1999, or the park fee calculated in accordance with the City's land use regulations at the time that a building permit is obtained. Moreover, the developer "shall be given full 100% credit against such park fee for developer's (a) dedication of public open space, (b) improvements to public land dedicated for parks, open space or recreation purposes, (c) privately developed, owned and maintained open space, and (d) improvements to such privately developed, owned and maintained open space." It is expected that this project will satisfy its entire park requirement either through the payment of fees or through the direct provision of improved private open space in the project.

In summary, the proposed project will create new housing which will help balance the City's job/housing ratio. The new project is completely consistent with and in furtherance of the North Costa Mesa Specific Plan, originally adopted in July 1994, and the City's General Plan.

**Consistency with the Development Agreement**

The most recent annual review of the Development Agreement took place at the City Council meeting on January 3, 2005. At that time, the Council found the Developer to be in compliance with the Development Agreement, and further found that a formal review would be undertaken by the Planning Commission every other year, with the staff conducting the required annual review in the "off" years. Thus the next formal review would take place in January 2007. The following sets forth a brief description of the Developer's current compliance with the terms of the Development Agreement, in the context of the pending Project applications:

- Section 1.0: Definitions – Not applicable.
- Section 2.1: Agreement and Assurances on the Part of Developer -- Developer has complied with all conditions imposed by City on the Existing Development Approvals and all valid conditions consistent with the Development Agreement that the City has imposed on Future Development Approvals.
- 2.1(i): Dedication Agreement – Developer has executed and delivered to the City a Dedication Agreement.
- 2.1(ii): Ramp Deed – Developer has executed and delivered to the City the Ramp Deed, dedicating to the City the Developer's fee interest in those portions of the South Coast Metro Center Property, the Property (defined as Sakioka Lot 1 and Sakioka Lot 2), and the 555 Parcels needed for the Ramps.

- 2.1(iii): Private Road Deed – Developer has executed and delivered the Private Road Deed, granting to the City a perpetual easement and right-of-way in, on, under, across, and through the Private Road.
- 2.1(iv): Bus Turnouts –Provision only applies if South Coast Metro Center Lessee is required to dedicate any leasehold interest to City for Bus Turnout(s), which it has not. Nonetheless, Developer intends to comply with OCTA requirements for dedication of bus turnouts for Sakioka Farm Lot 1.
- 2.1(v): Urban Rail Station Easement – Not applicable. Provision required Developer to dedicate land for a future urban rail station on the Project. The urban rail project, the CenterLine light-rail system, has been abandoned, and therefore, no easement is necessary and this provision is inapplicable.
- 2.1(vi): Urban Rail Track Reservation – Not applicable. As noted above, the urban rail project has been abandoned and therefore, no future reservation is necessary.
- 2.1(vii): No Compensation – Neither the City nor Caltrans has been required to pay compensation for the Developer's fee interest in the Property, the South Coast Metro Property or the 555 Parcels offered for dedication pursuant to the Development Agreement or for any alleged diminution in value of the Developer's fee interest in the remainder of the above parcels.
- Section 2.2: Agreement and Assurances on the Part of City:

- 2.2(i): General – The uses and all other matters affecting land use and development of the Project are as set forth in the express provisions of the Development Agreement, the Existing Land Use Regulations, the Existing Development Approvals, and the Future Development Approvals. The use of the Project is consistent with the Existing Land Use Regulations, including the General Plan, Specific Plan, Municipal Code and all other ordinances and regulations governing land use development and building construction in effect as of the Effective Date of the Development Agreement. Developer's applications for Future Development Approvals and any changes to the Project are being reviewed as permitted by City's Existing Land Use Regulations.
- 2.2(ii): City's Consideration and Approval of Requested Changes in the Project – Developer may modify or expand the precise location, configuration, size and height of buildings and mix of proposed uses based on changes in market demand, development in the vicinity and other similar factors. The Developer has the right to seek additional density, intensity or uses on the Property if it fully complies with procedures in the Existing Land Use Regulations. Developer is seeking other approvals for this project (including a sign permit, relief from the 100 s.f. minimum requirement for private open space and a reduction to the landscape lot easement along Sakioka Drive and Anton Boulevard from 25 feet to 20 feet), all of which are being processed as permitted by City's Existing Land Use Regulations.

- 2.2(iii): Timing of Development – The timing, sequencing and phasing of the Project has been as determined by Developer in its sole discretion unless it is a condition to a discretionary decision for a Future Development Approval reasonably related to mitigation of Project impacts or to a Project change which Developer has consented to. The Developer plans to develop the project in one or two phases.
- 2.2(iv): Reservations and Dedication of Lands for Public Purposes – Developer cannot be required to dedicate or transfer any interest in land or construct public improvements in conjunction with the Project, except as expressly provided in the Existing Development Approvals and the Development Agreement, as lawfully and reasonably required in connection with changes to the Existing Development Approvals sought by Developer, or as directly necessary in connection with the Future Development Approvals, to mitigate site specific impacts of the Project which were not and could not have been anticipated at the time the City approved the Development Agreement. We are awaiting the results of the traffic study to determine whether there are any site-specific impacts of the project.
- 2.2(v): Monetary Development Exactions –The Development Agreement provides for the Developer to receive a a credit against the park fee it is required to pay, based on its dedication of public open space, improvements to public land for park, open space or recreation purposes, and its privately developed and maintained open space and improvements to such privately developed open space.

The Developer is expecting to receive a credit in the amount of approximately \$2.6 million, as against the approximately \$4.3 million in park fees it is required to pay, based on planned improvements to privately developed open space.

- 2.2(vi): Traffic Impact Fee – The traffic impact fee will be assessed in accordance with the formulas set forth in Development Agreement and the Project.
- 2.2(vii): City Cooperation – City Council and staff have taken all reasonable actions to assist Developer in completion of the Project.
- 2.2(viii): City Review of Applications for Future Development Approvals:  
Developer has provided City with all documents and other information necessary for City to carry out its obligations, and has caused its planners, engineers and other consultants to submit in a timely manner all materials requested.
- 2.2(ix): Tentative Subdivision and Parcel Maps: Developer can file and process vesting tentative maps in accordance with Chapter 4.5 of Division 2 of Title 7 of the California Government Code and applicable provisions of the City's subdivision ordinance. If final maps have not been recorded for the entire Property before such tentative maps would otherwise expire, the term of such tentative maps is automatically extended for the term of the Development Agreement.
- 2.2(x): Other Governmental Permits – After City has approved development of any portion of the property, City has cooperated with Developer in its efforts to

obtain such additional permits and approvals required by other agencies having jurisdiction over such portion of the Property which permits and approvals are consistent with City's approval and the Development Agreement.

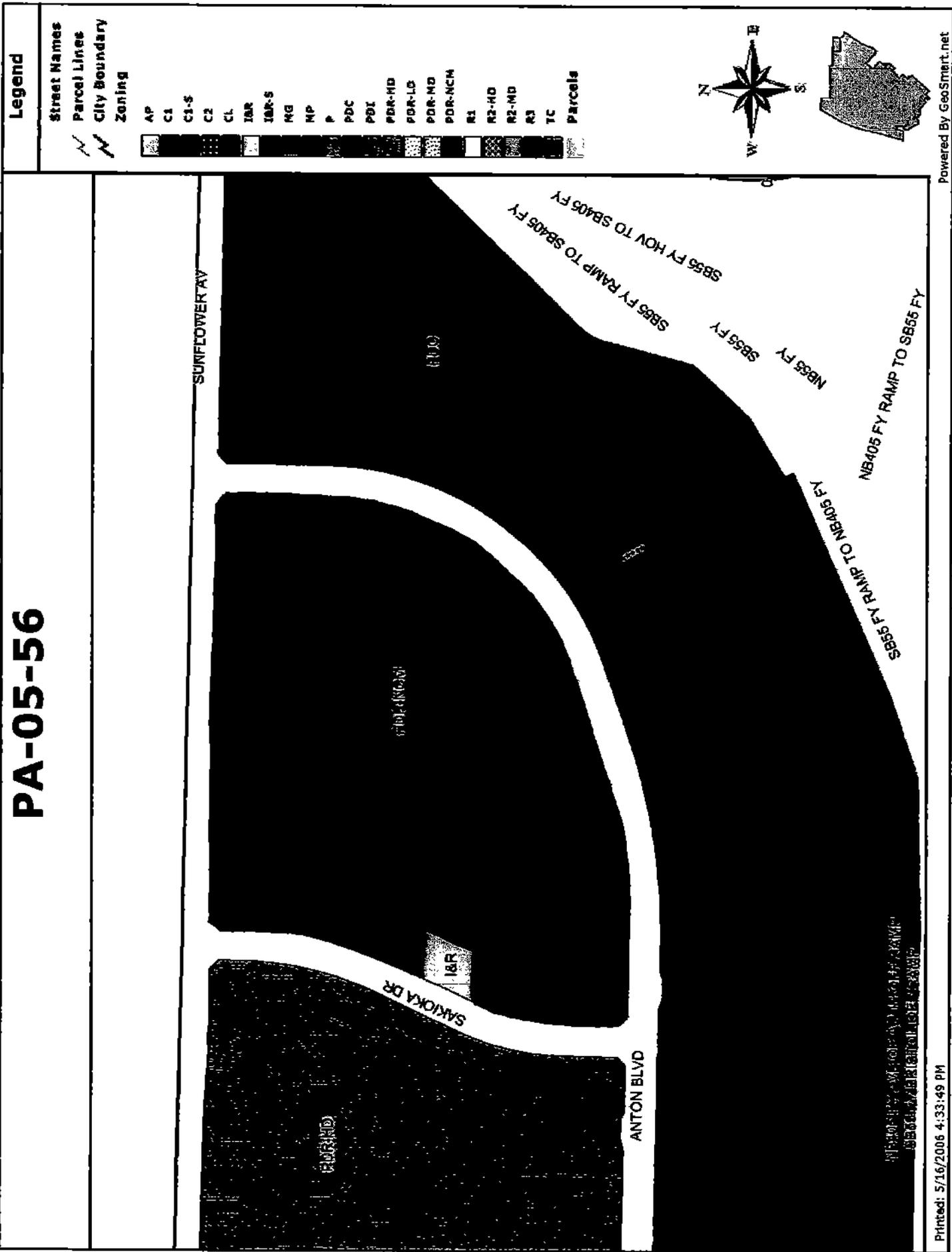
- 2.2(xi): Repair and Restoration – Not applicable
- 2.2(xii): Other Rights – Developer is not responsible for obtaining any property interest of any other party.
- Section 2.3: Reservations of Authority – Not applicable.
- Section 3.1: Effective Date of Agreement – Not applicable.
- Section 3.2: Duration of Agreement – Not applicable.
- Section 3.3: Periodic Review – As noted above, the most recent review took place in January, 2005.
- Section 3.4: Defaults and Remedies – Not applicable.
- Section 3.5: Mortgage Rights – Not applicable.
- Section 3.6: Notices – Not applicable.
- Section 3.7: Severability – Not applicable.
- Section 3.8: Time of Essence – Not applicable.
- Section 3.9: Successor and Assigns – Not applicable

- Section 3.10: Litigation Expenses -- Not applicable.
- Section 3.11: Parties in Interest – Not applicable.
- Section 3.12: Further Actions and Instruments – Developer has cooperated with and provided reasonable assistance to City to extent necessary to implement the Development Agreement. Upon the request of City, Developer has promptly executed and recorded such required instruments and taken such actions as reasonably necessary to implement the Development Agreement or evidence or consummate transactions contemplated by the Development Agreement.
- Section 3.13: Estoppel Certificates – If Developer has received a request for an estoppel certificate, it has executed and returned such certificate within 30 days following receipt thereof.
- Section 3.14: Recordation – Not applicable.
- Section 3.15: Applicable Law – Not applicable.
- Section 3.16: Approvals; Reasonableness – Except where the Development Agreement has specifically authorized that approval or consent may be withheld in a party's sole and absolute discretion, when City has required Developer's approval or consent, such consent has not been unreasonably withheld, conditioned or delayed.
- Section 3.17: Amendments and Waivers – Not applicable.

**Section 3.18: Entire Agreement – Not applicable**

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# PA-05-56







# **CITY OF COSTA MESA**

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

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DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,  
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**