



# PLANNING COMMISSION

## AGENDA REPORT VI. 1

MEETING DATE: March 26, 2012

ITEM NUMBER:

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

**DATE:** MARCH 16, 2012

**FROM:** PLANNING DEPARTMENT/DEVELOPMENT SERVICES DIVISION

**PRESENTATION BY:** MINOO ASHABI, SENIOR PLANNER

**FOR FURTHER INFORMATION CONTACT:** MINOO ASHABI, AIA SENIOR PLANNER (714) 754-5610 [minoo.ashabi@costamesaca.gov](mailto:minoo.ashabi@costamesaca.gov)

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### DESCRIPTION

The proposed project involves development of 113 luxury-style apartments at 421 Bernard Street. The original Master Plan for 145 condominium units was approved in January 2004, and 32 units have been constructed/occupied. The project includes the following:

- **Addendum** to Final Environmental Impact Report (FEIR) No. 1050.
- **Amendment to Master Plan PA-02-11A** to allow development of 113 for-rent residential units as the final phase of a 145-unit residential development approved in 2005 and a five-level (four-above grade) parking structure. The master plan amendment includes the following:
  - Change of the housing type for 421 Bernard site from condominiums to for-rent residential units;
  - Change of unit type from townhomes to single-story flats and a five-level (four-level above grade / 1 level subterranean) parking structure containing 283 parking spaces in accordance with the Zoning Code requirements. The original approval included 40 additional parking spaces.
  - **Minor Modification** to allow a 16-foot setback along Bernard Street instead of required 20 feet perimeter setback.
  - **Variance** from the noise standards to identify private outdoor patios/balconies as exempt from the City's Noise regulations.

### APPLICANT

The applicant is Ed McCoy, authorized agent of property owner Fairfield Residential Company LLC.

### RECOMMENDATION

Adopt resolution recommending City Council approval of the addendum to Final Environmental Impact Report (FEIR) No. 1050 and amendment to Master Plan PA-02-11A subject to conditions.

**PLANNING APPLICATION SUMMARY**

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

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:**

**SURROUNDING 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

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

**DEVELOPMENT STANDARD COMPARISON**

<b><u>Development Standard</u></b>	<b><u>Required/Allowed</u></b>	<b><u>Proposed/Provided</u></b>
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)
<b><u>Building Setbacks</u></b>		
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***
<b><u>Parking:</u></b>		
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	

## **BACKGROUND**

### ***Previous Entitlement***

The original project approval containing the residential and commercial site located at 1901 Newport Boulevard 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 4-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 (40 du/ac) and site-specific FAR of 0.70.

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 4 separate 3- to 4-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.

If recommended for approval by the Planning Commission, this item is scheduled for City Council consideration at their April 17, 2012 meeting.

<b>Project Comparison</b>		
	<b>Original Entitlement</b>	<b>Proposed Amendment to Master Plan</b>
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
Amenities	Common lounge Pool and spa	Resident lounge Pool and spa Passive open space

## **ANALYSIS**

### ***Project Location***

The overall 7.79-acre site is generally bound by Bernard Street to the north, West 19<sup>th</sup> 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 and the following is the distribution of the types of units proposed for a total of 113 units:

**FOR-RENT UNITS  
BEDROOM MIX**

Building	1 Bedroom	2 Bedroom	3 Bedroom	Total Units
1	10	14	2	26
2	12	19	2	33
3	12	20	2	34
4	7	11	2	20
<b>Total Units</b>	<b>41</b>	<b>64</b>	<b>8</b>	<b>113</b>

***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 along 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.

Landscaping is proposed along the perimeter of the project site as well as within the open space areas (Attachment 2). A four-foot-wide concrete walkway is proposed along the eastern and southern edges of the site. A six-foot-high wall is proposed along the project's western and southwestern perimeters, adjacent to the existing commercial development along Harbor Boulevard.

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. The original traffic analysis applied the Costa Mesa Traffic Model (CMTM) High Density Residential trip rates to the condominium Project. The same CMTM High Density Residential trip rates would have been applied if the original Project had been apartments instead of condominiums, and the resulting trip generation would have been the same.

In comparison to the original proposal, application of the most recent Institute of Transportation Engineers (ITE) Trip Generation (8<sup>th</sup> 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.

Access to the proposed apartments would be provided by a single driveway on Bernard Street east of Harbor Boulevard. The total driveway volume is estimated to be 57 AM peak hour trips (11 inbound, 46 outbound), 70 PM peak hour trips (45 inbound, 25 outbound), and 751 daily trips. Approximately 75 percent of the trips are estimated to travel on Bernard Street to/from Harbor Boulevard, and approximately 25 percent are estimated to travel on Parsons Street. The driveway is slightly offset to the west from the existing Toyota dealership service department driveway, creating a potential conflict between left turns into

and out of the car dealership driveway and the project driveway. However, the expected traffic volumes from the proposed Project are low enough not to create a significant problem on this low volume, low speed street.

### ***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. Construction of the proposed project is expected to occur over a 28-month period. In addition, since the project doesn't include a subterranean parking, import or export of soil will no longer be needed, reducing construction traffic to the site. In addition, soil excavation would be far less than what was originally analyzed and approved for FEIR 1050.

### ***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 have 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 Blvd. and Bernard Street (refer to Mitigation Measure NOI-3).

A detailed acoustical study shall be required to include sound attenuation measures for the parking structure as well as the building construction assembly to ensure the interior noise levels will meet the City's Noise Standards. These requirements are included as conditions of approval and Mitigation Measures NOI-1 and 2.

### ***Affordable Housing Requirement***

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.

Therefore, any modification to the Affordable Housing Agreement is not subject to the Planning Commission's purview. The Agreement shall be considered separately by the RDA's successor agency or Housing Authority, as applicable.

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. A condition of approval requires that final action on the Affordable Housing Agreement occurs prior to issuance of building permits for this project.

### ***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 in 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 4.

- 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 can be done 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 provides 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. Fencing 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.

- 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.

## **GENERAL PLAN CONFORMITY**

The project is consistent with the previously approved density and Floor Area Ratio for the project site (high-density residential uses - 40 du/ac and site-specific FAR of 0.70).

## **ENVIRONMENTAL DETERMINATION**

The Plaza Residences Final Environmental Impact Report (FEIR) No. 1050 was certified by the Costa Mesa City Council on January 20, 2004, as adequately addressing the potential environmental impacts associated with the proposed project.

The scope of the proposed Pacific Gateway Apartments Project is consistent with the concept presented in FEIR 1050. The FEIR provides for development of 7.79 acres in the City of Costa Mesa (City) to be developed with the 1901 Newport Plaza office/commercial building; 145 residential condominiums; a two-level, subterranean parking structure; and a five-level, above-grade parking structure. The 7.79-acre site is partially developed with the 1901 Newport Plaza office/commercial building, 32 condominium units, and the five-level above-grade parking structure. The proposed project would be implemented on 2.46 acres of the 7.79-acre site

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.

Approval of the projects requires adoption of the Addendum to FEIR that has been prepared in accordance with the CEQA and the State CEQA Guidelines. The analysis contained in the Addendum determined that the scope of the proposed for-rent units is consistent with the concept presented in FEIR 1050 and no new mitigation is required.

### ***Responses to Comments***

The public comment period for the addendum is from March 7, 2012 to March 26, 2012.

At the time of publication of this report, no public comments have been submitted. Any comments received during this period and the responses will be provided to the Planning Commission by separate cover. Planning Commission's recommendation to City Council will be based on information received to date.

## **LEGAL REVIEW**

The City Attorney's office has approved the attached resolutions and rezone ordinance as to form.

## **ALTERNATIVES**

The Planning Commission may make the following recommendations to City Council to:

- Approve the project by adopting resolution approving the addendum to FEIR No. 1050 and amendment to Master Plan PA-02-11A allowing development of 113 for-rent residential units and a five-level (four-levels above grade) parking structure with

283 parking spaces and a variance exempting the private open spaces from compliance with the City's Noise regulations. .

- Deny the proposed project. The existing entitlement will remain in place for use/development of this property with 113 condominium units and 318 parking spaces.

## **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.

Attachments:     1. Planning Commission Resolution (Addendum to FEIR and Master Plan Amendment)  
                      2. Submitted Letter  
                      3. Submitted Plans  
                      4. Submitted Building Standards

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MINOO ASHABI, AIA  
Senior Planner

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CLAIRE FLYNN  
Acting Asst. Development Svs. Director

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

Ed McCoy  
Fairfield Residential Company LLC  
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## **ATTACHMENT 1**

Please note that at the time of printing this report, staff was still working with the applicant finalizing the conditions of approval.

The draft resolutions and related exhibits will be provided under separate cover.

## RESOLUTION NO. PC-12-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ADDENDUM TO FEIR NO. 1050 AND AMENDMENT TO MASTER PLAN PA-02-11AA FOR DEVELOPMENT OF 113-UNIT FOR-RENT RESIDENTIAL PROJECT AT 421 BERNARD STREET IN A PDC ZONE.**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Fairfield Residential Company LLC, requesting approval of the following;

- **Addendum** to Final Environmental Impact Report (FEIR) No. 1050.
- **Master plan amendment** PA-02-11A to allow construction of 113 residential units as the final phase of a 145-unit residential development approved in 2005 with the following modifications:
  - Change of the housing type for 421 Bernard site from condominiums to for-rent residential units built to condominium standards;
  - Change of unit type from townhomes to single story flats and a five-level (four-level above ground) parking structure containing 283 parking spaces in accordance with the Zoning Code requirements. The original approval included 40 additional parking spaces.
- **Minor Modification** to allow a 16-foot setback along Bernard Street and Harbor Boulevard for patios, walls, and balconies (20-foot perimeter setback required, 16-foot setback proposed).
- **Variance** from the noise standards to identify private outdoor patios/balconies as exempt from the City's Noise regulations.

WHEREAS, an amendment to the master plan is proposed to allow for development of the proposed 113 for-rent residential units and a five-level (four above grade) parking structure as the final phase of a 145-unit residential development approved in 2005;

WHEREAS, a duly noticed public hearing were held by the Planning Commission on March 26, 2012 with all persons provided an opportunity to speak for and against the proposed project;

WHEREAS, the addendum to FEIR was prepared and determined that, there are no new significant impacts resulting from the proposed amendment, nor are there any substantial increases in the severity of any previously identified environmental impacts. Therefore, in accordance with Section 15164 of the State CEQA Guidelines, this Addendum to the previously certified FEIR 1050 is the appropriate environmental documentation for the project. There are no new mitigation measures that were not adopted at the time the FEIR was certified that would further reduce the project impacts;

WHEREAS, the Planning Commission finds that the environmental review for the project was processed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, the Council on Environmental Quality Regulations implementing the National Environmental Policy Act, and the City of Costa Mesa Environmental Guidelines, and the Addendum to FEIR No. 1050 was available for public review from March 7, 2012 to March 26, 2012;

WHEREAS, the Costa Mesa Planning Commission hereby recommends that the City Council find that proposed residential project will not have a significant negative impact on the environment with the incorporation of the mitigation measures identified in the Addendum;

WHEREAS, the Costa Mesa Planning Commission has considered responses to comments received during the public review period on the Addendum to the FEIR;

THEREFORE, BE IT RESOLVED that based on the evidence in the record, the findings contained in Exhibit" A", and subject to conditions of approvals/mitigation measures indicated in the Mitigation Monitoring Program contained in Exhibits "B" and "C", the Planning Commission does hereby recommends **CITY COUNCIL APPROVAL of the Addendum to FEIR No. 1050 and Amendment to Master Plan PA-02-11A** with respect to the property described above.

**PASSED AND ADOPTED this 26<sup>th</sup> day of March, 2012.**

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Colin McCarthy, Chair  
Costa Mesa Planning Commission



## RESOLUTION NO. PC-12-

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA RECOMMENDING THAT THE CITY COUNCIL DENY AMENDMENT TO MASTER PLAN (PA-02-11AA) FOR 113-UNIT FOR-RENT RESIDENTIAL PROJECT LOCATED AT 421 BERNARD STREET

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Fairfield Residential Company LLC, the property owner, requesting approval of the following;

- **Addendum** to Final Environmental Impact Report (FEIR) No. 1050.
- **Master plan amendment** PA-02-11A to allow construction of 113 residential units as the final phase of a 145-unit residential development approved in 2005 with the following modifications:
  - Change of the housing type for 421 Bernard site from condominiums to for-rent residential units built to condominium standards;
  - Change of unit type from townhomes to single story flats and a five-level (four-level above ground) parking structure containing 283 parking spaces in accordance with the Zoning Code requirements. The original approval included 40 additional parking spaces.
- **Minor Modification** to allow a 16-foot setback along Bernard Street instead of required 20 feet perimeter setback.
- **Variance** from the noise standards to identify private outdoor patios/balconies as exempt from the City's Noise regulations.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on March 26, 2012, with all persons provided an opportunity to speak for and against the proposed project;

BE IT RESOLVED that, Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out;

BE IT FURTHER RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A, the Planning Commission hereby recommends that the

City Council **DENY** Planning Amendment to Master Plan PA-02-11A with respect to the property described above.

**PASSED AND ADOPTED this 26th day of March, 2012.**

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Colin McCarthy, Chair  
Costa Mesa Planning Commission

## EXHIBIT "A"

### FINDINGS – DENIAL

- The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
  1. A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.
  2. The proposed project does not comply with the performance standards as prescribed in the Zoning Code.
  3. The proposed project is not consistent with the General Plan or Zoning Code.
- Granting the amendment to master plan for development of 113 for-rent units will be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.
- The Costa Mesa Planning Commission has denied Amendment to Planning Application PA-02-11A, Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.
- The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## EXHIBIT "A"

### **FINDINGS [include all the relevant findings from the original approval.]**

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The proposed use is compatible and harmonious with uses on surrounding properties.
  - 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.
  - The project is consistent with the General Plan and Zoning approval for the original project that allowed a site specific density of 40 du/acre.
  - The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that:
- a. The project complies with the City of Costa Mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features.
- b. The visual prominence associated with the construction of three and four-story buildings has been reduced through appropriate transitions between the three story and four story structures along Bernard Street and inclusion of balconies and offsets.
- C. The proposed development plan and subdivision meets the broader goals of the General Plan, and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures and protection of the integrity of neighboring development.
- C. The proposed variance to identify private outdoor patios/balconies as exempt from the City's Noise Ordinance from the exterior noise standards will not allow a use, density, or intensity which is not in accordance with the general plan designation and the zoning code. The requested deviation will be subject to such conditions as will assure that the deviation authorized shall not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is located. Specifically, the patio walls and balconies will be designed with solid stucco walls and wrought iron accents providing privacy and partial sound attenuation without the maintenance and aesthetic impacts of a glass railing.

- D. The discharge of sewage from this subdivision into the public sewer system will not violate the requirements of the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000 of the Water Code).
- E. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures.
- F. Mitigation Measures from the Addendum have been included as conditions of approval. If any of these conditions are removed, the Planning Commission must make a finding that the project will not result in significant environmental impacts, that the condition(s) are within the responsibility and jurisdiction of another public agency, or that specific economic, social, or other considerations make the mitigation measures infeasible.
- G. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(6) in that:
  - a. The improvement will not be materially detrimental to the health, safety and general welfare of persons residing or working within the immediate vicinity of the project or to property and improvements within the neighborhood.
  - b. With a minor modification to reduce the landscape setback along Bernard Street, the proposed development is considered compatible with the neighboring condominiums and residential uses with regard to privacy (20-foot setback required; 16-foot setback proposed).
  - c. The improvement is compatible and enhances the architecture and design of the existing and anticipated development in the vicinity.
- H. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## EXHIBIT "B"

### CONDITIONS OF APPROVAL

- Plng.
1. The conditions of approval for Amendment to Master Plan PA-02-11A shall be blueprinted on the face of the site plan as part of the plan check submittal package.
  2. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc, shall be blueprinted on the site plan and on all floor plans in the working drawings.
  3. Prior to issuance of building permits, applicant shall provide a tenant Notice for review/approval to the Development Services Director. It will serve as written notice of the then-existing noise environment and commercial operations of neighboring properties. Prospective tenants must sign a disclosure to acknowledge that they have read and understand the existing land use conditions. The disclosure notice shall be kept on file by the facility operator and shall be approved in form and substance by the City Attorney's office prior to use. For example, the disclosure can be an exhibit within the lease agreement.
  4. Design of the perimeter wall along the south side shall incorporate landscape elements to soften the appearance of the block wall and incorporate materials, color, and texture that will be compatible with the surrounding community.
  5. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts are permitted. This condition relates to visually prominent features of scuppers or downspouts that not only detract from the architecture but may be spilling water from overhead without an integrated gutter system which would typically channel the rainwater from the scupper/downspout to the ground. An integrated downspout/gutter system which is painted to match the building would comply with the condition. This condition shall be completed under the direction of the Planning Division.
  6. Development shall 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 and applicable condominium standards.
  7. Prior to issuance of grading permits, developer shall identify to the Development Services Director a construction relations officer to act as a community liaison concerning on-site activity, including resolution of issues related to dust generation from grading/paving activities.
  8. Prior to issuance of grading permits, developer shall submit for review and approval a Construction Management Plan. This plan features methods to minimize disruption to the neighboring residential uses to the fullest extent that is reasonable and practicable. The plan shall include construction parking and vehicle access and specifying staging areas and delivery and hauling truck routes. The plan should mitigate disruption to residents and also businesses during construction.

The truck route plan shall preclude truck routes through residential areas and major truck traffic during peak hours. The total truck trips to the site shall not exceed 200 trucks per day (i.e., 100 truck trips to the site plus 100 truck trips from the site) unless approved by the Development Services Director or Transportation Services Manager.
  9. The subject property's ultimate finished grade level may not be filled/raised in excess of 30 inches above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable on-site storm water flow to a

public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public storm water facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties. Applicant is advised that recordation of a drainage easement across the private street may be required to fulfill this requirement.

10. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
11. No modification(s) of the approved building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or in the requirement to modify the construction to reflect the approved plans.
12. Transformers, backflow preventers, and any other approved above-ground utility improvement shall be located outside of the required street setback area and shall be screened upon view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
13. Street trees in the landscape parkway shall be selected from Appendix D of the Streetscape and Median Development Standards and appropriately sized and spaced (e.g. 15-gallon size planted at 30' on centers), or as determined by the Development Services Director once the determination of parkway size is made. The final landscape concept plan shall indicate the design and material of these areas, and the landscape/hardscape plan shall be approved by the Planning Division prior to issuance of building permits.
14. Prior to issuance of building permits, the building plans shall demonstrate that all residences are equipped with a mechanical ventilation system that will properly filter the indoor air. The ventilation system can be a component of the air conditioning system, with the distinction being that clean, ventilated air flow does not necessarily need coolant. The ventilation system shall be effective with all doors and windows closed. It shall be required to have a filtration efficiency of at least 90 percent and the ability to remove particulate matter with diameters equal to or greater than 0.5 micron.
15. Applicant shall provide proof of establishment of a homeowners association prior to release of any utilities prior to selling any of the units as condominiums.
16. In the event that archeological resources are unearthed during project subsurface activities, all earth-disturbing work within a 100-ft radius shall be temporarily suspended or redirected until an archeologist has evaluated the nature and significance of the find.
17. In the event that paleontological resources are unearthed during subsurface construction activities, all earth-disturbing work within a 100-ft radius of the find shall be temporarily suspended or redirected until a paleontologist has evaluated the nature and significance of the find.
18. Design, grading, and construction shall be performed in accordance with the requirements of the California Building Code applicable at the time of grading

as well as the appropriate local grading regulations, and the recommendations of the project geotechnical consultant as summarized in a final written report, subject to review by the City of Costa Mesa Building official prior to issuance of grading permits.

19. Prior to issuance of building permits, developer shall contact the U.S. Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.
20. If the project is constructed in phases, the perimeter wall, landscaping along the frontages, and irrigation shall be installed prior to completion of the first phase.
21. All construction contractors shall comply with South Coast Air Quality Management District (SCAQMD) regulations, including Rule 403, Fugitive Dust. All grading (regardless of acreage) shall apply best available control measures for fugitive dust in accordance with Rule 403. To ensure that the project is in full compliance with applicable SCAQMD dust regulations and that there is no nuisance impact off the site, the contractor would implement each of the following:
  - a. Moisten soil not more than 15 minutes prior to moving soil or conduct whatever watering is necessary to prevent visible dust emissions from exceeding 100 feet in any direction.
  - b. Apply chemical stabilizers to disturbed surface areas (completed grading areas) within five days of completing grading or apply dust suppressants or vegetation sufficient to maintain a stabilized surface.
  - c. Water excavated soil piles hourly or cover with temporary coverings.
  - d. Water exposed surfaces at least twice a day under calm conditions. Water as often as needed on windy days when winds are less than 25 miles per day or during very dry weather in order to maintain a surface crust and prevent the release of visible emissions from the construction site.
  - e. Wash mud-covered tires and under-carriages of trucks leaving construction sites.
  - f. Provide for street sweeping, as needed, on adjacent roadways to remove dirt dropped by construction vehicles or mud which would otherwise be carried off by trucks departing project sites.
  - g. Securely cover loads with a tight fitting tarp on any truck leaving the construction sites to dispose of debris.
  - h. Cease grading during period when winds exceed 25 miles per hour.Turn equipment off when not in use for more than five minutes.
22. The proposed project would be subject to all applicable regulations of the City's General Plan, zoning ordinance, and all requirements and enactments of Federal, County, City authorities, and any other governmental entities, and all such requirements and enactments would, by reference, become conditions of project implementation.
23. Construction of structural BMPs as required by the NPDES Stormwater Permit issued to the project site by the County of Orange/City of Costa Mesa to capture urban runoff contaminants from developed areas prior to discharge to on-site storm drain facilities.
24. Prior to issuance of a grading permit, the applicant shall develop a Storm Water Pollution Prevention Plan (SWPPP) that contains structural and non-structural BMPs that comply with NPDES Program requirements. BMPs shall be implemented as required by the NPDES Permit issued to the site.

25. Prior to issuance of a grading permit, the applicant shall obtain an NPDES Permit from the County of Orange. Applicable BMP provisions shall be incorporated into the NPDES Permit.
26. Compliance with California Building Code provisions and standard subdivision engineering requirements, as specified in the City's conditions of approval will satisfactorily address geotechnical issues related to seismic hazards.
27. The proposed 113-unit development shall be designed to comply with all applicable geological and seismic safety requirements of the California Building Code and mitigation as defined in the Public Resources Code Section 2693(c). Verification of such compliance will be confirmed during the City's plan review and building permit issuance processes.
28. Grading and foundation plans, including foundation loads, shall be reviewed by a registered soils engineer, and approved by the City of Costa Mesa Building Safety Division.
29. All grading and earthwork shall be performed under the observation of a registered geotechnical engineer and engineering geologist in accordance with the recommendations contained within the Leighton and Associates reports, dated October 2, 2006 and May 24, 2011, and in accordance with the General Earthwork and Grading Specifications included in the reports by Leighton and Associates.
30. All grading shall be accomplished under the observation and testing of the project geotechnical engineer, the engineering geologist and their representatives.
31. Prior to approval of each grading plan by the City of Costa Mesa, the property owner/developer shall submit a soils and geological report for the area to be graded, based on proposed grading and prepared by registered soils engineer and approved by the City of Costa Mesa Building Safety Division.
32. Prior to issuance of each building permit by the City of Costa Mesa, the property owner/developer shall submit for review and approval by the City of Costa Mesa Building Safety Division, a detailed foundation design information for the subject building(s), prepared by a registered civil engineer, based on recommendations by a geotechnical engineer.
33. Prior to issuance of each building permit by the City of Costa Mesa, the property owner/developer shall submit plans showing that the proposed structure has been analyzed by a registered civil engineer for earthquake loading and designed according to the most recent standards in the California Building Code adopted by the City of Costa Mesa.
34. Additional geotechnical review of plans shall be performed upon completion of the following: Grading and Precise Grading Plans; Foundation Plans; and Shoring Plans.
35. Geotechnical observation and testing shall be conducted during the following stages:
  - Upon completion of clearing and grubbing.
  - During all phases of grading, including removals, fill operations, over excavation, temporary slope excavation, and installation of shoring and dewatering systems.
  - During fill placement.
  - When any unusual conditions are encountered.
36. Concrete, in contact with the on-site earth materials, shall be designed in accordance with the negligible category for exposure to sulfate containing solutions of Table 19-A-4 of the 1997 Uniform Building Code.
37. Should dewatering be required for the discharge of perched groundwater during excavation for site improvements, the applicant shall acquire either a National

- Pollutant Discharge Elimination System (NPDES) permit for the discharge of wastes to surface waters or a Waste Discharge Requirements (WDR) permit for the discharge of wastes to land, as required, from the Santa Ana Regional Water Quality Control Board and provide evidence of permit issuance to the Costa Mesa Building Safety Division prior to initiating any such discharge.
38. Mesa Consolidated's Water Efficiency Specialist shall be consulted with during landscape planning to ensure that appropriate water conservation measures are used.
39. The project shall comply with the project design features, conditions, and mitigation measures of Final Environmental Impact Report No. 1050 prepared for this project, as listed in the attached Mitigation Measure Monitoring Program.
- PA-2-11 40. The east commercial driveway located on Bernard shall be closed to all nonemergency vehicle traffic and shall be accessible to emergency vehicles through a Knox Box, or other method deemed appropriate by the Planning Division.
- PA-2-11 41. Light standards located on the fifth level of the parking structure shall not extend more than six feet above the parapet of the fifth level, or roof.
- PA-2-11 42. The applicant is required to disclose commercial uses at 1901 Newport Plaza, including all night-time activities, to all prospective buyers. This notice shall be reviewed and approved by the Planning Division and City Attorney's office.
- PA-2-11 43. Applicant shall contact AT&T Broadband at 200 Paularino, Costa Mesa, (888.255.5789) prior to issuance of building permits to arrange for pre-wiring for future cable communication service.
- PA-2-11 44. There shall be no nighttime lighting, except for security purposes, of common outdoor recreational areas. Any lighting under the control of the applicant shall be directed in such a manner so as to not unreasonably interfere with the quiet enjoyment of nearby residences.
- PA-2-11 45. Pursuant to Section 33413(b) of the California Community Redevelopment Law, the developer entered into an Inclusionary Housing Agreement with the Costa Mesa Redevelopment Agency to ensure compliance and fulfillment of the inclusionary housing obligation. This obligation is for a total of twelve (12) affordable housing units in the Redevelopment Project Area: seven (7) units affordable to low- to moderate-income households and five (5) units affordable to very-low income households. Pursuant to the approved Agreement and as described under Alternative C, the developer shall provide seven (7) of the twelve (12) affordable housing units to low to moderate-income households on the project site. The remaining five (5) units affordable to very-low income households has been provided by the Redevelopment Agency. This condition shall fulfill the developer's share of the inclusionary housing obligation triggered by the 1901 Newport Plaza Residences condominium project. Should the developer fail to provide the seven (7) affordable housing units on the project site to the satisfaction of the Development Services Director and pursuant to the Inclusionary Housing Agreement, the developer shall be responsible for the entire inclusionary housing obligation triggered by the proposed project. The Developer shall satisfy this obligation by constructing twenty-four (24) affordable housing units outside the Redevelopment Project Area within the jurisdiction of the City of Costa Mesa. Of these 24 affordable units, ten (10) units must be affordable to very low income households and the remaining fourteen (14) units must be affordable to low- and moderate-income households.
- PA-2-11 46. Developer shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its

elected and appointed officials, agents, officers or employees arising out of (1) City's approval of the project, including but not limited to any proceeding under the California Environmental Quality Act. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section.

- Bldg. 47. Submit grading plans including a hydrology report and soils report.
48. Water conservation measures, as required by the State of California, shall be incorporated into building plans for the project. These may include, but are not limited to, the following:
- Health and Safety Code Section 17921.3 which requires low-flush toilets and urinals in all new construction;
  - Title 24, California Administrative Code Sections 2-5352(I) and (j) which require insulation of water-heating systems and pipe insulation to reduce water used before hot water reaches equipment or fixtures;
- and,
- Government Code Section 7800 which specifies that lavatories in all public facilities be equipped with self-closing faucets.
49. Structures on the site shall be required to meet the Energy Building Regulations adopted by the California Energy Commission (Title 24). Meeting these specifications would conserve non-renewable natural resources to levels acceptable to the State.
- Eng. 50. Provide an erosion control plan.
51. Submit for approval by the Engineering Division plans that show the repair/repavement of the alley adjacent to the property per City standards from Harbor Boulevard to 19th Street.
52. Dedicate ingress-egress easement for emergency and public security vehicle purposes along the alley.
53. Submit required cash deposit or surety bond to guarantee construction of off-site street improvements at time of permit per Section 15-32, C.C.M.M.C. and as approved by City Engineer. Cash deposit or surety bond amount to be determined by City Engineer.
54. Comply with previous conditions of approval for PA-02-11A as applicable.
55. Construction Access Permit and deposit of \$1500 will be required by City of Costa Mesa, Engineering Division prior to start of any on-site work, necessary during construction for street sweeping and to guarantee replacement costs in case of damage to existing public improvements
56. Maintain the public Right-of-Way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public Right-of-Way by sweeping or sprinkling.
57. Haul routes must be approved by the City of Costa Mesa, Transportation & Engineering Division.
58. Submit subdivision application and comply with conditions of approval and code requirements.
59. Applicant/Developer is hereby advised that no removal of trees from the public right-of-way will be permitted without specific approval from the Parks and Recreation Commission and compliance with mitigation measures as

determined by the Commission to relocate the trees and/or to compensate the City for the loss of trees from the public right-of-way. Conditions of the Commission must be incorporated onto the plans prior to plan approval. The approval process may take up to three months, therefore, the applicant/developer is advised to identify all tree affected by the proposed project and make timely application to the Parks and Recreation Commission to avoid possible delays

60. Obtain a permit from the City of Costa Mesa, Engineering Division, at the time of development and then construct P.C.C. driveway approach per City of Costa Mesa Standards as shown on the Offsite Plan. Location and dimensions are subject to the approval of the Transportation Services Manager. ADA compliance required for all new driveway approaches
61. Obtain a permit from the City of Costa Mesa, Engineering Division, at the time of development and then remove any existing driveways and/or curb depressions that will not be used and replace with full height curb and sidewalk at applicant's expense.
62. Fulfill City of Costa Mesa Drainage Ordinance No. 06-19 requirements prior to approval of Final Map.
- PA-2-11 63. Private on-site drainage facilities and parkway culverts or drains will not be maintained by the City of Costa Mesa; they shall be maintained by the owner or developer of the property. Private lateral connections to City storm drains will require a hold harmless agreement prior to issuance of permit.
- PA-2-11 64. Applicant shall ensure that the project is compliant with the American Disability Act (ADA) for the entire property frontage within the public right-of-way,
- PA-2-11 65. The applicant shall ensure that street setback landscape areas adjacent to Harbor Boulevard and Bernard be bermed a minimum 18" in height. The setback area shall maximize the landscape area in order to minimize the runoff to the public system. The runoff from all parking areas shall be directed to a landscape area to provide groundwater recharge and pollutant removal during dry periods and lower duration storms. All landscape areas shall retain the irrigation water and lower duration storms within their boundaries. The City Engineer recommends the use of evapotranspiration irrigation equipment to minimize the irrigation water use and irrigation runoff.
- Fire 66. A Fire Alarm system with public address capabilities shall be required.
67. A portion of Bernard Street east of the "project entrance" will be designated as a Fire Lane (no parking).
68. All buildings will require a Combined Fire Sprinkler and Standpipe system. All stairs will be equipped with class I standpipes.
69. Provide (5) class A fire hydrants: a) 3 along alley, b) 1 additional on Bernard, c) 1 additional on the arterial access road (19th thru Bernard).
70. Vehicular access must be provided and maintained serviceable throughout construction to all required fire hydrants. Additional fire hydrants must be provided in the alley serving the interior units subject to approval by Fire Prevention Division.
71. The five-level parking structure must be equipped with automatic fire sprinklers.
- PA-2-11 72. Applicant shall obtain approval from the Fire Department for the proposed fencing to ensure that fire department access gates are located at specific intervals with Fire Department Knox Boxes to the satisfaction of the Fire Marshal.

- Trans. PA-2-11 73. Prior to issuance of building permits, the applicant shall submit to the Transportation Services Division the detailed operation of all gates (residential and commercial). This gate plan shall also include how visitors will gain access to residential visitor parking. The site plan shall indicate sufficient drive aisle width at the gated entrance in from Bernard to allow for visitor call box or other method of contact with residents while not obstructing the residents' personal access.
- PA-2-11 74. Prior to issuance of building permits, applicant shall deposit the sum of \$150,000, in cash, bond, or other security as approved by the City's Finance Director and approved as to form by the City Attorney, for the cost of a traffic signal at Harbor Boulevard/Bernard. The Transportation Services Division shall monitor the intersection for traffic signal warrants on an annual basis for a period of five years. This monitoring period shall commence when the final certificate of occupancy for the last constructed condominium is issued. If a traffic signal is warranted, these funds shall provide for a traffic signal at this location. If a traffic signal is not warranted, the \$150,000 shall be returned to the applicant at the end of the five year period.
- Utilities 75. Prior to the issuance of a connection permit, the applicant shall pay the applicable water connection fees.
76. Prior to issuance of building permits, a letter shall be obtained from the Costa Mesa Sanitary District and the Orange County Sanitation District verifying that there is sufficient capacity in the receiving trunk lines to serve the project.
77. The applicant shall comply with guidelines provided by Southern California Edison Company with respect to easement restrictions, construction guidelines, and potential amendments to right-of-way in the areas of any existing Southern California Edison Company easements.
78. Prior to the issuance of building permits, the project applicant shall pay the applicable connection fees charged to new development by the Mesa Consolidated Water District.

## **CODE REQUIREMENTS (Master Plan Amendment PA-02-11A)**

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- PIng.
1. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.
  2. Approval of the planning application is valid for one (1) year from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by obtaining building permits for the authorized construction and initiates construction. If the applicant is unable to establish the use/obtain building permits within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the planning application.
  3. Trash enclosure or other acceptable means of trash disposal shall be provided. Design of trash enclosure(s) shall conform to City standards. Standard drawings are available from the Planning Division.
  4. All on-site utility services shall be installed underground.
  5. Installation of all new utility meters shall be performed in a manner so as to obscure the installation from view from any place on or off the property. The installation shall be in a manner acceptable to the public utility and shall be in the form of a vault, wall cabinet, or wall box under the direction of the Planning Division.
  6. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
  7. Two (2) sets of detailed landscape and irrigation plans, which meet the requirements set forth in Costa Mesa Municipal Code Sections 13-101 through 13-108 and the City's Water Efficient Landscape Guidelines, shall be required as part of the project plan check review and approval process. Plans shall be forwarded to the Planning Division for final approval prior to issuance of building permits.
  8. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
  9. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets.
  10. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
  11. If present and/or projected exterior noise exceeds 60 CNEL, California Noise Insulation Standards, Title 25, California Code of Regulations require a maximum interior noise level of 45 CNEL for residential structures. If required interior noise levels are achieved by requiring that windows be unopenable or closed, the design for the structure must also specify the means that will be employed to provide ventilation, and cooling if necessary, to provide a habitable interior environment.
  12. The City of Costa Mesa has adopted a Noise Ordinance that excludes control of construction activities. All noise generating construction activities should be limited to these hours.
- Bldg.
13. Prior to or concurrent with the submittal of plans for plan check, the applicant shall prepare and submit documentation for compliance with the State Water

Resources Control Board (SWRCB) Water Quality Order 99-08-DWQ; National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000002 for Storm Water Discharges Associated with Construction Activity (General Permit); the California Regional Water Quality Control Board (RWQCB) Santa Ana Region Order No. R8-2002-0010 and NPDES Permit No. CAS618030; and, the City of Costa Mesa Ordinance No. 97-20 for compliance with NPDES Permit for the City of Costa Mesa. Such documentation shall include a Water Quality Management Plan (WQMP) identifying and detailing the implementation of the applicable Best Management Practices (BMPs).

14. Comply with the requirements of the 2010 California Residential Code, California Electrical code, California Mechanical code , California Plumbing code , and 2010 California Energy Code (or the applicable adopted California Residential code, California Electrical code, California Mechanical code California Plumbing Code, and California Energy Code at the time of plan submittal) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa.
15. The project applicant shall contact the Southern California Air Quality Management District (SCAQMD) at 800-288-7664 for potential additional conditions of development or required permits by SCAQMD.
16. Submit a soils report for the projects, Recommendation of the Soils Report shall be printed on the architectural and grading plans.
17. Submit a grading plan and hydrology report.
18. Submit an erosion controls plan with the grading submittal.
19. Refer to attached letter date July 5, 2011.
20. Provide an automatic fire sprinkler system according to NFPA 13D.
21. Street addresses shall be visible from the public street and may be displayed either on the front door, on the fascia adjacent to the main entrance, or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum six (6) inches in height with not less than one-half-inch stroke and shall contrast sharply with the background.

Eng.  
Fire

## **SPECIAL DISTRICT REQUIREMENTS (Master Plan Amendment PA-02-11A )**

The requirements of the following special districts are hereby forwarded to the applicant:

- |        |   |
|--------|---|
| Sani   | <ol style="list-style-type: none"><li>1. Applicant will be required to construct sewers to serve this project, at his own expense, meeting the approval of the Costa Mesa Sanitary District.</li><li>2. County Sanitation District fees, fixture fees, inspection fees, and sewer permit are required prior to installation of sewer. To receive credit for buildings to be demolished, call (714) 754-5307.</li><li>3. Applicant shall submit a plan showing sewer improvements that meets the District Engineer's approval to the Building Division as part of the plans submitted for plan check.</li><li>4. The applicant is required to contact the Costa Mesa Sanitary District at (714) 754-5307 to arrange final sign-off prior to certificate of occupancy being released.</li><li>5. Unless an off-site trash hauler is being used, applicant shall contact the Costa Mesa Sanitary District at (714) 754-5043 to pay trash collection program fees and arrange for service for all new residences. Residences using bin or dumpster services are exempt from this requirement.</li><li>6. Applicant shall contact Costa Mesa Sanitary District at 9949) 654-8400 for any additional district requirements.</li></ol> |
| AQMD   | <ol style="list-style-type: none"><li>7. Applicant shall contact Costa Mesa Sanitary District at 9949) 654-8400 for any additional district requirements.</li></ol>   |
| School | <ol style="list-style-type: none"><li>8. Pay applicable Newport Mesa Unified School District fees to the Building Division prior is issuance of building permits.</li><li>9. Prior to issuance of a building permit, the project applicant shall pay developer fees to the Newport-Mesa Unified School District pursuant to the requirements established in SB 50. The amount of fees to be paid will be determined based on the established State formula for determining construction costs.</li></ol>  |
| State  | <ol style="list-style-type: none"><li>10. Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants (RIFA) exist on the property prior to any soil movement or excavation. Call CDFA at (714) 708-1910 for information.</li></ol>   |

**EXHIBIT "C" [There's more mitigation measures than this.]**

**MITIGATION MONITORING PROGRAM (PA-11-06, TTM 17423)**

**AIR QUALITY**

- AQ-1 During construction activities, the contractor shall implement the following measures to reduce construction equipment emissions.
- a. Maintain construction equipment engines by keeping them tuned.
  - b. Use low sulfur fuel for stationary construction equipment. This is required by SCAQMD Rules 431.1 and 431.2.
  - c. Use existing power sources (i.e., power poles) when feasible. This measure would minimize the use of higher polluting gas or diesel generators.
  - d. Configure construction parking to minimize traffic interference.
  - e. Minimize obstruction of through-traffic lanes. When feasible, construction should be planned so that lane closures on existing streets are kept to a minimum.
  - f. Schedule construction operations affecting traffic for off-peak hours.
  - g. Develop a traffic plan to minimize traffic flow interference from construction activities (the plan may include advance public notice of routing, use of public transportation and satellite parking areas with a shuttle service).

**CULTURAL RESOURCES**

- CR-1 An Orange County-certified archaeologist shall be retained at the expense of the Project Applicant to attend pre-grade meetings and to monitor earth moving activities, including clearing, excavation, and grading of site. The archaeologist shall carefully inspect the property to assess the potential for significant prehistoric or historic remains. If a site or resource is uncovered, then a subsurface evaluation may be needed to assess the resource. Further subsurface investigation may be needed if the site or resource is determined to be unique/important for its prehistoric information.
- CR-2 During construction activities, the archaeologist shall have the authority to temporarily divert or redirect grading to allow time to evaluate any exposed prehistoric or historic material. In accordance with Public Resources Code 5097.94, if human remains are found, the Orange County coroner must be notified within 24 hours of the discovery. If the coroner determines that the remains are not recent, the coroner will notify the Native American Heritage Commission in Sacramento to determine the most likely descendent for the area. The designated Native American representative would then determine, in consultation with the property owner, the disposition of the human remains.

- CR-3 A final survey and monitoring report, including an itemized inventory and pertinent field data, shall be sent to the property owner and filed with the South Central Coastal Information Center at the University of California, Fullerton.
- CR-4 Any recovered prehistoric and historic artifacts shall be offered, on a first right of refusal basis, to a repository with a retrievable collection system and an educational and research interest in the materials such as the Fowler Museum of Cultural History (UCLA) and California State University, Fullerton.
- CR-5 An Orange County-certified paleontologist shall be retained at the expense of the Project Applicant to attend pre-grade meetings to discuss the monitoring, collecting, and safety procedures for the Project, and shall supervise the monitoring of earthmoving activities, including clearing, excavation, and grading of site. Particular attention shall be paid to areas of the site where excavations below three feet would occur. The paleontologist shall carefully inspect these areas to assess the potential for significant fossil localities. The paleontologist shall tailor the monitoring schedule to the lithologies present, the rate of fossil recovery, the numbers of spreads working simultaneously, and the cubic foot amounts of rock being excavated or disturbed. Monitoring shall occur under the supervision of an Orange County-certified paleontologist.
- CR-6 The paleontological monitor shall have the authority to temporarily divert or redirect grading to allow time to evaluate any exposed fossil material.
- CR-7 During monitoring, any scientifically significant specimens shall be properly salvaged after evaluation by, and under the supervision of, the paleontologist. Screening of sediments shall routinely be conducted during monitoring under the supervision of the paleontologist to sample significant small vertebrate remains. During fossil salvage, contextual stratigraphic data shall also be collected. This would include lithologic descriptions, localities plotted on a USGS 7.5' Series topographic quadrangle, photographs, and field notes.
- CR-8 Specimens shall be prepared to the point of identification, identified, and curated on a long-term loan basis in a suitable repository that has a retrievable storage system. Fees for curation shall be the responsibility of the applicant.
- CR-9 A final report shall be prepared at the end of earth moving activities, and shall include an itemized inventory of recovered fossils and appropriate stratigraphic and locality data. This report shall be sent to the City of Costa Mesa to signify the end of mitigation. Another copy shall accompany any recovered fossils, along with field logs and photographs, to the designated repository.

## NOISE

- NOI-1 The Project Applicant shall submit detailed plans for all the parking structures prior to the issuance of a building permit for the residential structures. Said plans shall be accompanied by an acoustical study prepared by a qualified acoustical City-approved expert to the satisfaction of the City of Costa Mesa Planning Division. The acoustical study shall demonstrate that all feasible sound attenuation in compliance with Costa Mesa Municipal Code (Chapter XIII Noise Control) has been incorporated into parking structure design, including but not limited to brushed driving surfaces (textured), limited openings oriented toward sensitive noise sources, etc.
- NOI-2 The project applicant shall submit detailed plans for all parking structures prior to the issuance of a grading or building permit for the structure. Said plans shall be accompanied by a acoustical study prepared by a City-approved acoustical expert to the satisfaction of the Costa Mesa Planning Division. The acoustical study shall demonstrate that all feasible sound attenuation in compliance with the City's Noise Ordinance has been incorporated into parking structure design, including but not limited to brushed driving surfaces (textured), limited openings oriented toward sensitive noise sources, etc.
- NOI-3 Prior to the issuance of precise grading permits for the residential development, ~~a detailed exterior acoustical engineering study shall be prepared by a qualified acoustical engineer and the Applicant shall submitted final project plans~~ to the City of Costa Mesa ~~to determine showing~~ the final heights and locations of noise barriers required to meet the City's noise standards for exterior private residential living areas. ~~Both the City's 65 CNEL exterior noise standard and the Costa Mesa Noise Ordinance (Municipal Code Chapter XIII Noise Control) standards shall be addressed. The 65 CNEL noise standard shall be addressed for exterior residential living areas exposed to noise levels in excess of 65 CNEL as shown in Exhibit 3.7-4. Exhibits 3.7-5 and 3.7-6 12 shows preliminary locations and heights of barriers that will be required to meet the standards based on preliminary calculations, including a minimum 6-foot high patio wall and 5-foot-high balcony enclosures (as applicable) along Bernard Street and Harbor Boulevard. The acoustical engineering study shall finalize these barrier heights and locations based on precise grading and final building plans. To be effective, noise barriers will be required to have a surface density of at least 3.5 pounds per square foot, and have no openings or cracks. They may be a solid wall, an earthen berm, or a combination of the two. They may be constructed of wood studs with stucco exterior, any masonry material, or a material that is less visually intrusive such as 1/4-inch plate glass or 5/8-inch plexiglass. The acoustical engineering study, including calculations, final site plans shall be submitted to the City of Costa Mesa prior to the issuance of a precise grading permit. The applicant shall implement the recommendations of the acoustical engineering study into the project's plans prior to the issuance of a precise grading permit for free standing noise barriers and a building permit for barriers incorporated into the buildings.~~

## **PUBLIC SERVICES**

- PUB-1 Prior to the initiation of grading, a construction security service shall be established at the construction site. Initially, the service shall ensure that no unauthorized entry is made into the construction area. For the duration of each phase of construction, the project applicant shall provide sufficient on-site security personnel on a 24-hour, 7 days per week basis, to patrol all areas of construction and prohibit unauthorized entry. Evidence of compliance with these requirements is subject to periodic site inspections by City staff.

## **UTILITIES AND SERVICES**

- UTIL-1 All sewer flows originating from the residential portion of the project site shall be connected to the Costa Mesa Sanitary District's sewer system at Manhole No. 4 in Newport Boulevard.
- UTIL-2 In accordance with the requirements of AB 939, construction contractors shall reuse construction forms where practicable or applicable, attempt to balance soils on the site, minimize over cutting of lumber and polyvinyl chloride (PVC) piping where feasible, and reuse landscape containers to the extent feasible.
- UTIL-3 Recycling bins for glass, metals, paper, wood, plastic, green waste, and cardboard shall be placed on the construction sites for use by construction workers.
- UTIL-4 In construction specifications and bid packages, require building materials made of recycled materials, to the extent feasible and economically practical.
- UTIL-5 Prior to the initiation of demolition and construction activities, the Project Applicant shall prepare a waste reduction plan for acceptance by the City of Costa Mesa. The waste reduction plan shall be included in all construction bud packages. During the term of the demolition and construction, the goal is to recycle or divert 50 percent of construction and demolition wastes and keep records thereof in tonnage or in other measures deemed acceptable to the City of Costa Mesa. To the maximum extent feasible, on-site separation of scrap wood and clean green waste shall occur to permit chipping and mulching for soil enhancement of land cover purposes.