



**CITY OF NEWPORT BEACH  
ENVIRONMENTAL QUALITY AFFAIRS  
COMMITTEE**

**DATE/TIME: Monday, June 16, 2008 - 7:00 p.m.**

**LOCATION: City Council Chambers  
3300 Newport Boulevard**

**NOTE SPECIAL LOCATION**

Roll Call

1. Minutes of May 19, 2008 (*draft minutes attached*)
2. Report from subcommittee on Aerie project (101 Bayside Place and 201 and 207 Carnation Avenue), and review and approval of comments on Draft Mitigated Negative Declaration (*Attachment*)
3. Task Force on Green Development Representatives' Report
4. Coastal/Bay Water Quality Committee Representatives' Report
5. Economic Development Committee Representative's Report
6. Report from Staff on Current Projects
7. Public Comments
8. Future Agenda Items
9. Adjournment

***NEXT MEETING DATE: July 21, 2008  
Police Department Auditorium***

## AGENDA

\*Attachments can be found on the City's website <http://www.city.newport-beach.ca.us>. Once there, click on ***City Council***, then scroll to and click on ***Agendas and Minutes*** then scroll to and click on ***Environmental Quality Affairs***. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2<sup>nd</sup> Floor.



**CITY OF NEWPORT BEACH  
ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE**

**DRAFT MINUTES 5-19-08**

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach City Council Chambers, 3300 Newport Boulevard, on **Monday, May 19, 2008.**

**Members Present:**

X	Nancy Gardner, Council Member		Sandra Haskell
E	Michael Henn, Council Member	E	Barry Allen
X	Bruce Asper		Kristine Adams
X	Dolores Otting, Vice Chair		Susan Knox
	Kimberly Jameson	E	Arlene Greer
X	Kevin Kelly		Timothy Stoaks
X	Laura Dietz		Ray Halowski
	Kenneth Drellishak, Chair	E	Barbara Thibault
X	Laura Curran		Merritt Van Sant
X	Michael Smith	X	Robert Rush
X	Michael Pascale		

**Staff Representatives:**

**Guests:**

	Ass't City Mgr. Sharon Wood	
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Chairperson Ken Drellishak called the meeting to order at 7:11 p.m., without a quorum.

4. Coastal/Bay Water Quality Committee Representative's Report

Nancy Gardner reported on a tour of Buck Gully and gabion structures being installed for erosion control. She noted that the structures in Morning Canyon have been obscured by vegetation.

5. Economic Development Committee Representative's Report

Chairperson Drellishak reported on a presentation on the Newport Ensenada Race and its economic impacts on Newport Beach.

Mike Pascale arrived at 7:15 p.m., and a quorum was declared.

1. Minutes of April 21, 2008

Ray Halowski moved to approve the minutes. Bruce Asper seconded the motion.

**Motion passed unanimously**

2. Discussion of recommendation to City Council on polystyrene food packaging

Chair Drellishak reviewed the draft memorandum and recommendations. The Committee discussed changes to the memorandum. Robert Rush moved and Ray Halowski seconded that EQAC forward the memorandum and recommendations to the City Council, as amended by EQAC.

**Motion passed unanimously**

3. Review of CEQA basics and guidelines for review and comment on environmental documents

Sharon Wood reviewed material regarding CEQA from the State website, and responded to questions from committee members.

6. Report from Staff on Current Projects

Sharon Wood reported that the Mitigated Negative Declaration for the Aerie project is available for public review, and distributed copies to members of the subcommittee on this project.

7. Public Comments

None

8. Future Agenda Items

- Aerie MND
- Continuation of CEQA basics , with examples of comments and responses

9. Adjournment

Chair Drellishak adjourned the meeting at 8:50 p.m.

# DRAFT

To: James Campbell  
Planning Department  
City of Newport Beach

16 June 2008

From: Environmental Quality Affairs Citizens Advisory Committee (EQAC)

Subject: Aerie MND (PA2005-196) dated 16 May 2008

EQAC has reviewed the subject Aerie MND and is pleased to submit the following observations/comments in hopes that they will help in assuring that the project complies fully with the California Environmental Quality Act (CEQA) and other environmental regulations that govern the project. Comments are referenced to the relevant sections and pages in the subject document in the order in which they appear.

## Introduction/Program Description

On page 3 the document notes that the project will encroach into the front and side setbacks and proceeds, on page 64, to minimize the impact by stating that some are underground and that the above ground encroachment is not significant because it provides 5-75 ft. of separation at the street level. Neither of these explanations justifies granting of approval for setback violations. Some view interference results from the above ground encroachment and both encroachments imply the potential for future encroachment associated with any maintenance or repair requirements. There is no need to allow encroachments like this when minor architectural design modifications can eliminate them.

The garage and parking area numbers on pp. 3-4 do not make sense. The total project parking area is listed at 13,028 sq. ft. in Table 1. Allowing a generous 200 sq. ft per parking slot, this would allow for approximately 65 parking spaces for the project. However, the text on page 4 anticipates only 2 spaces for most units (3 maximum) plus 13 guest spots plus 1 service spot and 2 golf carts (total 32 to 40 maximum). Are the stated space allocations correct?

## I. Aesthetics

If code allows for subterranean construction, the applicant should be allowed to build. It appears all code requirements are being met and aesthetically the project appears to improve the visual quality of the area from what is currently there.

That being said, the report does not discuss the light and glare issue and the effect on the surrounding residences and at a distance. The structure appears to be glass facade, which may or may not reflect light during the day. The structure may emit substantial light in the evening both from the interior structure and the exterior lighted decks on all levels and the dock areas. Please describe and discuss the mitigation for this issue.

Pages 4 & 5: The MND shows the new dock is to house 6 boats within the Pierhead line & 2 larger boats outside of the Pierhead line. Is it permissible to dock boats outside the Pier headline? Will this require Coastal Commission approval?

Page 28: Scenic Vistas from Begonia would be improved by trimming of trees and bushes in line of view from Park to building site. The trees appear to block views more than proposed outline of design.

## III. Air Quality

It is worth noting that the project will actually reduce the number of dwelling units and therefore, reduce some source emissions upon completion, including those associated with global warming.

With respect to the construction phase, the report determines that the impact is “less than significant with mitigation incorporation”. Those mitigation measures (described in full on page 37) appear to address the constructed related emissions.

Odors created during construction from various pieces of equipment exhausts, paint and other architectural coatings are temporary in nature and therefore are not deemed to be having an impact. Post construction, there will be the normal consequences of odors from trash containers, patio BBQs, etc., but no mitigation is needed.

## **V. Cultural Resources**

Item c), page 45 states that the condominium construction project will occur well above the cove and will result in no alteration of the rocks or the cove. No consideration is given for the heavy equipment that will be used at the rock/cove level to sink the pilings and build the pier and docks. What provisions are included to preclude rock/cove damage due to these operations?

## **VI. Geology & Soils**

With such an extensive excavation activity, the potential exists for excavation debris to migrate into the beach/cove area and ultimately into Newport Bay. What mitigation is included to prevent this potential contamination?

## **VII. Hazards & Hazardous Materials**

Page 55, third paragraph: Please define the criteria used in selecting the “43 suspect asbestos bulk samples collected during site inspection.” Were the samples randomly chosen, or were they typical of the sampling protocol used for a site of this square footage? How do we know they are representative of the overall site?

Page 55, Table 8: Are these materials containing detectable amounts of asbestos above some accepted threshold or standard? If so, what is it? If not, state what the hazard is in the context of such thresholds?

Page 56, Table 9: Same question as above for the lead- based paint (LBP) samples.

They could address both the above by simply stating that all asbestos-containing materials (ACM) and LBP surveys were based on samples that were collected by standard protocols or practices, and refer us to the agency (ies) that establish the evaluation system used (or give some indication of the overall quality rating of surveys performed by P&D consultants or AEI consultants -- unless their practices are generally unimpeachable).

Also, all the LBP values in Table 9 are over the regulatory threshold. The paragraph under Table 9 discusses “proper waste disposal requirements” for LBP materials, but neither there, nor in MM VII-3 (on p. 58) is there any mention of what will happen in the process of demolition. In contrast for ACM demolition, contingencies are specifically discussed at the bottom of page 56 and in MM VII-2. Is it not necessary to similarly discuss the specific demolition plans for the LBP materials and what will happen to materials that have been in contact with LBP?

What are the plans for disposing and complete removal of all these materials from the site since there is some potential for seepage or run off into Newport Harbor in the event of prolonged rain or just long-term exposure to moisture and leaching into the area. These materials would be harmful if they entered the harbor in any significant concentration and must be eliminated by through rapid removal from the site once demolition takes place.

## **VIII. HYDROLOGY AND WATER QUALITY**

Item a), page 59: As the impervious surfaces will increase 11%, can any of these spaces use pervious materials to help reduce runoff?

Item e), page 61: The current catch basin will be upsized by the developer. Who will maintain the filters and cover the extra costs of this larger catch basin (see MMVIII-1)?

Item f), page 61: Is there eel grass under or adjacent to the proposed new marina docks? If so, how will this be mitigated?

In line 11, "disposal" should be eliminated. (Typo?)

Item i), page 61: The project's building is far enough above the mean tide-mark. However the new docks are not. How will the docks be constructed to better withstand a tsunami or other less severe ocean storm conditions that affect this part of the bay?

Item k), page 62: Will the construction of the new marina docks use fresh water pumped in to clean fish tanks, holds, etc? If so, how much will be used and what affect will this on the adjacent water and plant life?

MM VIII-4, page 63: In case the silt curtains leak or do not hold the turbid waters completely, should the adjacent eel grass have their own protecting silt curtains as a precautionary measure as well?

Since not all tenants will have a yacht (40-60 ft.), these slips will likely be available for lease. Plus these yachts will undoubtedly have guests. Where will these owners and yacht guests park?

## **IX. Land Use & Planning**

Policy 2.7-1, page 64: A diagram would be helpful to show the encroachments, and how they will or will not impact the character of the area.

Policy 2.9.3-1, page 61: A diagram would be helpful for the parking. Where are the parking spaces located and how are they allocated for residents and visitors?

Policy 3.1.1-27, page 65: Please present an analysis of the projected impacts of the new dock and how the LCUP would apply to it. The addition of 4 dock spaces is a significant change, and this is really not addressed. Please specify the sizes of the slips in the discussion of the docks on page 4.

The report potentially understates the potential impact to scenic vistas and land use, given that:

- 1) The 20-foot gangway will be replaced by a 60-foot gangway.
- 2) The impact (visual and land use) of Concrete Wave Attenuator is not discussed. The existing docks provide for a view of the natural bluff face (see page 26). Based on the Dock Replacement Plan on page 5, the Concrete Attenuator could potentially have a similar visual and physical impact as a seawall, altering the view of a natural system from the bay for passers-by in boats. These items should be analyzed and modeled in more detail.

Policies 4.1.3-1, page 69: The policy on landscaping has been expanded. Note that calling for "drought tolerant mix native to coastal California" is redundant, and in some cases could be misleading. The priority is for the plants to represent the Coastal Sage Scrub native habitat that is found on coastal bluffs, and establish them in the appropriate ecologically sensitive manner.

The fact that they are drought tolerant is a secondary item. If this were a tropical area, you would require them to establish them in the appropriate manner for that plant community. This is a fine distinction, but the point is, that the habitat should be the primary driver for the types of plants, with water requirements secondary.

## **XI Noise**

The MND discusses noise relative to demolition and construction. The noise section of the document does not provide information for the post construction relative to the living amenities at the site i.e. elevator parking structure, trash disposal mechanisms, pools spas, air conditioning, etc.? If there are to be pools and spas on each level is there a possibility that the sound will propagate due to the design? If there are pools and spas on each level, will there be a curfew instituted?

The same can be said for the dock- there are noise levels only for construction and not for post construction (operational) phase.

Page 75: "Although the document claims Noise Levels associated with construction machinery typically range from 75 to 100dB(A) at a distance of 50 feet from the source...no blasting of rock materials is anticipated and pile driving will not be required..."

There does not appear to be any information to substantiate this claim? If the blasting of rock materials becomes necessary, what mitigation measures would be instituted to deal with that eventuality?

Item b) on page 73 concludes that vibration levels during construction due to drilling of piles for building foundations are not high enough to cause damage to adjacent structures. However, the effect of continuous vibration over long periods required for the building and boat dock piling is not considered. Please analyze the long-term cumulative effects on the project vibration levels on adjacent structures.

## **XV. Transportation/Traffic**

The streets in the project area are narrow and if all parking spaces are occupied, large vehicles will have difficulty negotiating around the area. This would be a minor problem after construction is completed but it could be a major problem during construction. The proponent should submit a traffic analysis by some appropriate expert indicating that the types of vehicles that will be coming to the site during construction will be able to negotiate all the streets in the area, even assuming that all public street parking is occupied at the time of the visit of that vehicle.

The residents in Cameo Shores and Cameo Highlands should be given notice of the traffic plan as it states that trucks will be staged on Pacific Coast Highway south of Cameo Highlands. The document does not tell us what the traffic route for the trucks to the site will be for these 2300 cement trucks and dump trucks that will be traveling local streets for up to 7-1/2 months (page 80, table 16 and page 82 (Construction Staging Plan, item 3) that states: "Via the approved haul route").

The project has now grown to include building boat docks, but the proponent now indicates that the number of dump trucks needed has gone from 2700 to 1800 and from six weeks to four weeks. The 75 concrete trucks will still be needed but only for two weeks instead of three weeks. The 500 trucks to do all the caissons and concrete work have now gone from 12 months to 6 months. (See EQAC report of 5/8/07 at page 3 and compare with current MND - Table 16 at page 80.) The public should know and the decision-makers should inquire of the project proponent how it was able to achieve such lower trucks and times to build this project.

The MND states on page 81 that: "Project related traffic would have a negligible affect on traffic conditions". It should be made clear so that the decision-makers and the public don't believe this is referring to the construction period.

This project doesn't need an EIR for traffic/transportation. It needs a Construction Management Plan that will be strictly enforced to make this project one that will be constructed in a manner to make it livable in the area for other residents. This means open streets and adequate parking for the guests of residents and vehicles of service providers to existing residents.

One viable approach is to limit all construction activities of any type to the five-day workweek of Monday through Friday. This means the weekends will give some respite to the nearby residents from the noise that this project will necessarily cause by the demolition and then building activity and the increased large truck traffic that is associated with such a major construction project.

A Construction Management Plan should consider offering limited hours of work, as indicated above, as well as limitations on certain types of work that will involve large amounts of truck traffic in the area during the peak summer months or at least during the weekends in the beach summer months. The Construction Management

Plan should also set forth specifics with regard to construction workers vehicles, and the parking of those construction workers vehicles, and assure the availability of an off-site parking lot and for ferrying the construction workers from that off-site parking lot to the scene (page 84 - construction staging). Off-site parking facilities for such construction workers has generally been considered to be "not feasible" because so many of the construction trade workers arrive at work in their pickup trucks which have, and carry, many of the items that they need to work on their particular specialty in construction. Therefore, having them park their trucks at some off-site area and ferry them to the site may not be practical. However, all details of how this would be enforced should be discussed in the MND so the decision-makers and the public can comment on them.

It does appear from a review of the entire MND that traffic and parking issues in this congested area will not be made worse once the project is completed and occupied. The only problem for traffic/parking is going to be a major one for whatever time it takes to construct the project.

## **XVI. Utilities and Service Systems**

Item b, page 84: Electric power demand is not adequately analyzed. The proposed garage vehicle elevators probably will demand an abundance of electric power, especially in peak usage times (AM & PM for worker egress and ingress). Have the planners & developers of the project anticipated these demands? Does their proposed system incorporate a surge protection system to assure continued operation during such times of peak usage?

EQAC appreciates the opportunity to review and comment on this document.