

CITY OF NEWPORT BEACH

Planning Commission Minutes

June 4, 2009

Regular Meeting - 6:30 p.m.

<p>ROLL CALL Commissioners Eaton, Unsworth, Hawkins, Peotter, McDaniel, Toerge, and Hillgren– Commissioner Hillgren was excused, all others were present.</p>	
<p>STAFF PRESENT: David Lepo, Planning Director Aaron Harp, Assistant City Attorney Tony Brine, City Traffic Engineer Patrick Alford, Planning Manager James Campbell, Principal Planner Gregg Ramirez, Senior Planner Melinda Whelan, Assistant Planner Ginger Varin, Administrative Assistant</p>	
<p>PUBLIC COMMENTS:</p>	<p align="center">PUBLIC COMMENTS None</p>
<p>POSTING OF THE AGENDA: The Planning Commission Agenda was posted on May 28, 2009.</p>	<p align="center">POSTING OF THE AGENDA</p>
<p align="center">HEARING ITEMS</p>	
<p>SUBJECT: MINUTES of the regular meeting of May 21, 2009. Commissioner McDaniel noted that the minutes for the Moriarty Residence, Item 2, should reflect the date of August 20, 2009 as the ninety-day continuance date. Commissioner Hawkins stated that August 13, 2009 was staff's recommendation. Motion was made by Commissioner Hawkins and seconded by Commissioner McDaniel to approve the minutes as corrected.</p>	<p align="center">ITEM NO. 1 Approved</p>
<p>Ayes: Noes: Abstain:</p>	<p>Eaton, Unsworth, Hawkins, Peotter, McDaniel and Toerge None Hillgren</p>
<p align="center">* * *</p>	

<p>SUBJECT: AERIE Condominiums (PA2005-196) 201 & 207 Carnation Avenue and 101 Bayside Place in Corona del Mar at the corner of the intersection of Ocean Blvd. & Carnation Ave.</p> <p>The demolition of an existing 14-unit apartment building and a single-family home and the construction of a 6-level, 8-unit multiple-family residential condominium complex with subterranean parking on a 1.4 acre site located bayward of the intersection of Ocean Boulevard and Carnation Avenue. The existing General Plan, Coastal Land Use Plan and Zoning Designations of a small portion of the site (584 square feet) would be changed to be consistent with the larger portion of the site (from two-family residential to multi-family residential). The application includes a tentative tract map for the creation of eight (8) condominium units for individual sale. The Modification Permit application requests the encroachment of subterranean portions of the building within the front and side yard setbacks and above grade encroachments of portions of the proposed building, including protective guardrails into the front and side yard setbacks. Lastly, the Coastal Residential Development Permit application relates to replacement of demolished apartments occupied by low or moderate income households. No units meeting these criteria are known to exist, and therefore, no replacement of affordable housing units is required.</p> <p>A Draft Environmental Impact Report (DEIR) (SCH#2007021054) has been prepared by the City of Newport Beach in connection with the application. The DEIR concludes that the proposed project may have a significant effect on the environment on Air Quality, Land Use, Noise, Traffic/Circulation, Aesthetics, Drainage and Hydrology, Public Health and Safety, Cultural Resources, Soils and Geology, and Biological Resources.</p> <p>Principal Planner, James Campbell, gave an overview of the staff report. He then added:</p> <ul style="list-style-type: none"> ➤ There are four additional attachments that were to have been attached to the Responses to Comments that have since been transmitted and made available to the public. ➤ There is an additional memorandum regarding the Predominant Line of Development as it relates to the amendment processed by the City to the Coastal Land Use Plan in 2007. An analysis has been provided and it concludes that the project complies with the amended policies. The amendment has not been submitted to the Coastal Commission, so it is not effective at this time, but is relevant in these proceedings. ➤ The Harbor Commission meeting minutes include comments that staff felt needed to be addressed for the record as they relate to environmental review. Eighteen comments have been identified and staff has provided written response to those comments and distributed them to the Commission and the public. No new significant environmental issues or analysis is needed. ➤ The Power Point presentation made at the Harbor Commission by Commissioner Lawrenz has been made available for the public and Commission. 	<p>ITEM NO. 2 PA2005-196</p> <p>Recommended for Approval</p>
--	--

- He then clarified the role of the Harbor Commission and the Harbor Resources Manager.

Commissioner Hawkins asked if the Harbor Resources Manager can make a conditional order if the Council certifies the environmental document, then issue the harbor permit. Then they would have to go up the administrative chain? It would be better to have this whole thing unified rather than go to the Council twice.

Mr. Harp answered it would not be possible under CEQA; it would be a substantial act to approve the project and could not be done conditionally.

Mr. Campbell continued.

- There is an inaccuracy in the comparison table as it relates to the concrete trucks. He clarified that Alternative A reduces the number of concrete trucks by 150 trucks; Alternative B is a reduction of 184 concrete trucks, and the five-unit multi-family is a reduction of 234 concrete trucks; the EIR will have an Errata to reflect these changes.
- A response to Commission inquiry relating to the elimination of the caissons as depicted in Alternative A; the project engineer has provided a letter that notes the bluff stability is similar and neither concept (project of Alternative A) would adversely affect the stability of the bluff face.
- Response to Comment Number 234 on page 14, makes an incorrect reference to response to 232, it should be to 235. This correction has been made in the document.
- It was indicated that there were inaccuracies in 12th and 13th of the "Whereas" in the Alternative A resolution. Those changes are noted and distributed to the Commission and public.
- There are other alternatives that can be selected by the Commission for action that are identified in the EIR, or the Commission could develop a different option.

Commissioner Eaton inquired about his the question about the stability of the bluff face and whether there was a difference in the caissons close to the bluff face with the construction and vibration involved, and whether that would indicate the project, as proposed, would have the possibility of de-stabilizing the bluff face, whereas Alternative A would have the project further back from the bluff face.

Commissioner Hawkins noted the recommended action is to rescind three Planning Commission Resolutions, numbers 1723, 1751 and 1761. Since those are distinct Planning Commission actions, he would suggest inserting those along with the appropriate hearing dates in this new resolution. He questioned the dates.

Commissioner Hillgren noted he had not attended the last hearing on this matter; however, he has listened to the recording of the meeting provided to him by staff. He asked that the applicant give him a sense of Alternative A

and the primary application as it relates to the bluff face.

Rick Julian, applicant, noted Alternative A is not what he is requesting. He is asking that the 'down-sized' proposed project be approved. He noted that Alternative A does not have as much parking and storage as the proposed plan and the common area is not as desirable as the proposed plan. The proposed plan benefits outweigh the short-term construction inconvenience that will take place.

Brion Jeannette, architect of the project, made a Power Point presentation.

- He noted the differences between the proposed project and the Alternative A is five months longer construction, one month is noisier and the rest involve interior activities and are less noisy. The cost of the upsized catch basin and undergrounding of utilities proposed cost around \$120,000.
- He showed an aerial photograph depicting the 500-foot channel width with the site location and the proposed dock location relative to the pierhead line and bulkhead line; eel grass location; encroachments of current dock locations and vessel locations.

Commissioner Unsworth asked for the drawing of the sub-basement and storage and parking areas that would be lost with Alternative A. He noted his concern of the lack of storage space and the possible tendency to use the garage with the potential for the cars to be parked on the street.

Commissioner McDaniel asked if there were docks closer to the ocean jetty. He noted that people have discussed the potential wind damage that could and does occur.

Mr. Jeannette answered there are docks and vessels closer to the Peninsula near the Wedge on the jetty side. These people move their boats during the winter time. There is a service that will be working with the project owners of the vessels to handle the boats and move them for safety reasons.

Mr. Jeannette noted there is roughly 1,800 square-feet of storage and some of the mechanical space that would be eliminated with Alternative A, which is substantial in some cases.

Sid Neblett of Neblett and Associates, owner and geologist, referenced his letter on the stability of the bluff that was included in the packet. He went on to explain the type of equipment to be used that has little or no vibration as well as the placement of the drilling to take place. He added that the basic material of the bluff is sandstone from the Monterey Formation that is very tough and very stiff. He stated they will not have a problem with the stability of the bluff face as the sandstone dips in the optional direction (down away from the bluff face). He then described how the drilling would take place, his many years of job experience and use of similar practices and his experience with the same formations and materials on the coast as well as the engineering that will take place.

Mr. Jeannette further explained a current project that involved this type of sandstone and the excavation process with monitoring of neighbors on either side. He noted there was no damage done to either neighboring structures. He then noted a few other projects he had done with the similar excavation and drilling processes.

Commissioner Hawkins asked Mr. Neblett about his credentials. Mr. Neblett answered he was a Certified Engineering Geologist of the State of California with many years of experience and that his Geology Number was CEG252. He added that a soils engineer had looked at this project.

Commissioner McDaniel asked why a bigger setback would not be better for bluff face stability. The original plan would leave a smaller amount with a lot of piling and activity.

Mr. Neblett then explained the different techniques he would use for the drilling so there would not be lateral pressure against the bluff face. He went on to explain the bedding plains for the rock formations.

Commissioner Unsworth asked Mr. Neblett whether, in Mr. Neblett's professional opinion, there would be any difference in the structural integrity of the bluff between the proposed project and Alternative A. Mr. Neblett responded that the structural integrity of the bluff will be the same in both instances.

Mr. Jeannette added that if the bluff is stable in both scenarios, there is no negative affect on the bluff face. We have chosen two different ways of doing this project so there is no impact to the bluff with either scenario. The stability is not changed.

Public comment was opened.

Jinx Hansen read another letter from Marilyn Beck and provided it for incorporation into the record. The letter highlighted the Carnation bluff, PLOED and precedent setting if this project is approved.

Lisa Vallejo noted her opposition to the project stating bluff face failure; repair and/or replacing bluff with fake rock; extension of the balconies; and her believe that the project extended below the PLOED of 50.7 set by City Council.

Keith Dawson noted eliminating parking in the project with Alternative A is not feasible; this needs to be a workable project and supported by the City.

Public comment was closed.

Commissioner Hawkins asked staff to respond to comments made in the Power Point presentation presented to the Harbor Commission, in particular the ADA design requirements of a multi-unit development; the plan to control and repel pinnipeds; waste water management plan, and fire suppression on

the docks.

Mr. Campbell answered the pinniped issue is answered in Response to Comments 13-7; the waste water management and fire suppression are answered in Comment 13-8. The building itself will meet ADA requirements, the docks is a different question and does not have an answer.

Commissioner Hawkins indicated that the stairwell is not being modified. There are existing stairs that gain access to the docks.

Mr. Campbell answered those stairs will be repaired but will remain basically the same.

Commissioner Hillgren noted he is persuaded by the argument it is better to have more space inside the building, which leans him towards the primary application. The trade-off between Alternative A is one parking space, two miscellaneous parking such as golf carts, and one motorcycle/bicycle.

Mr. Campbell noted, from the Code standpoint, there are two spaces per unit, lifts in a variety of garages and an increase of one parking space in a lift configuration but the loss of one guest space. Alternative A provides five fewer guest spaces.

Commissioner Hillgren asked how Alternative A came about.

Mr. Campbell answered it was an alternative design to help reduce the significant impacts of the project, such as construction noise, while keeping in mind the project objectives. Shortening the duration of construction, which is the only significant unavoidable impact, was the goal and so several alternatives were devised. This is the analysis that is required by CEQA. These alternatives were a combined thinking and effort of staff, consultant and project proponent.

Commissioner Hillgren noted his concern of the bluff face excavation. He then referenced Condition 27 and asked who is watching while this gets built, and if something should happen to the bluff face during excavation. Who is responsible to assure that this condition is met?

Mr. Campbell answered the project will constantly be supervised by the Building Department. If there is anything that does not come out according to plan, a plan will have to be developed to fix it. This Condition 27 states what the end result should be. Hopefully, this will not be needed.

Mr. Jeannette noted there are many companies that are capable of re-creating the bluff should that happen. He noted this is not expected to be needed. He went on to explain excavation/reinforcement process.

Mr. Campbell noted the sub-basement of the project, about 11,000 square feet, would also be eliminated in Alternative A.

Commissioner Hawkins, referencing Section 4.9 in the Environmental Impact Report that references soils and geologies, noted he does not see the concerns in connection with potential bluff failure as a result of construction activity. Does the EIR recognize that as a potentially significant impact? If so, does it propose any mitigation measures?

Mr. Campbell answered there are two potential impacts associated with four mitigation measures on Page 4.9-13 of the EIR. One of the impacts is related to the storm waves associated with the docks, and the other related to the proposed building construction. With the mitigation measures, there will not be a significant impact.

Commissioner Hawkins asked does the DEIR recognize a potentially significant impact as a result of the construction activities and potential bluff failure and proposed mitigation.

Mr. Campbell answered the mitigation measure related to this follows the recommendation of the geologist and so the answer is it is not a significant impact and would be mitigated by following through with those recommendations and application of standards for building and grading codes.

Commissioner Eaton noted, while recognizing some negatives with Alternative A, primarily the loss of parking, it seemed there were some significant environmental impact reductions in terms of truck trips, in addition to the duration as well as the pulling away from the slope would give more protection to the bluff face, and reducing the 11,000 feet meant that the floor area ratio was reduced. The applicant had indicated it could be potentially feasible. However, there has been no support from the opposition so apparently they don't care if there are less trips or not and the applicant has indicated that Alternative A is not what he wants. Given that, Commissioner Eaton expressed his support for the proposed project.

Motion was made by Commissioner Hawkins, and seconded by Commissioner McDaniel, to recommend to the City Council approval of the proposed project, to insert in the actions in the "Whereas" clauses the rescinded resolutions (Nos. 1723, 1751 and 1761 with concurring Planning Commission dates) and adopt the attached draft resolution recommending City Council certification of the DEIR State Clearinghouse Number 2007021054, approve the General Plan Amendment No. GP2005-006, Coastal Land Use Plan Amendment No. LC2005-002, Code Amendment No. CA2005-009, Tract Map No. NT2005-004 (TT16882), Modification Permit No. MD2005-087, Coastal Residential Development Permit No. CR2005-002 for the property located at 201 – 205 and 207 Carnation Avenue and 101 Bayside Place. (PA2005-196)

Commissioner McDaniel noted he has looked at the bluff face. If this project was six blocks inland, it would be a basement and nobody would care. He is comfortable about the preservation of the bluff face. The Commission has done as much as possible to protect the views of the citizens of Newport

<p>Beach. He noted his support of the project.</p> <p>Commissioner Eaton noted the continuance from the prior meeting was valuable and we have the additional responses on the docks, and additional findings in the packet that make for a better record. In terms of the original project there was a lot of opposition, but this is a unique parcel and is multiple-family. He noted his support of the project.</p> <p>Mr. Campbell asked if the motion included the clarification of the Errata discussed during the presentation. He also asked to change Condition 59 on handwritten page 111, to include additional language that states, ...if the easement would be vacated prior to the issuance of a building permit and recordation of the final tract map if the easement is no longer needed.</p> <p>The maker and second of the motion both agreed to these changes to be included in the motion.</p> <p>Commissioner Toerge noted he could not make the necessary findings to approve the project in Chapter 4 of the Coastal Resource Protection Policy 4.4.1-3 which deals with the minimizing of alterations to significant land forms, the project does not meet this Policy; 4.4.2-2, which requires to regulate the physical mass of structures, the project does not meet that Policy; 4.4.2-3, which has to do with regulating building envelopes through a number of things including floor area, lot coverage and building bulk, the project does not meet this Policy; 4.4.3-8, 4.4.3-9 have to do with the adherence to the Predominant Line of Existing Development and the project does not do that either; 4.4.3-12, minimizing alterations to bluffs, certainly the project does not meet this Policy. With regard to the Land Use Element, there is Policy LU3.2, which requires us to enhance neighborhood development through a number of things such as elementary form and scale and character and the project does not do that. Land Use Element Policy 5.1.1 requires us to regulate development that contributes to neighborhood character and this project does not do it not because of the architecture, but because of its size and physical mass. He opined that the record does not support the statement of overriding considerations that the project benefits outweigh the impacts of the proposed project; therefore, he will not be supporting the project.</p>		
<p>Ayes: Noes:</p>	<p>Eaton, Unsworth, Hawkins, Peotter, McDaniel and Hillgren Toerge</p>	
<p>***</p>		
<p>NON-HEARING ITEMS</p>		
<p>SUBJECT: Preliminary Fiscal Year 2009-2010 Capital Improvement Program (PA2007-131)</p> <p>The annual review of the Preliminary Fiscal Year 2009-2010 Capital Improvement Program to determine consistency with the General Plan and Coastal Land Use Plan, and to make recommendations to the City Council concerning the proposed public works projects.</p>		<p>ITEM NO. 3 PA2007-131</p> <p>Approved</p>

<p>Assistant planner, Melinda Whelan gave an overview of the staff report.</p> <p>Commissioner Hawkins recommended that the projects be numbered in the staff report. He then asked for the current General Plan designation for the future site of the new City hall and asked about that.</p> <p>Mr. Lepo answered it was Open Space and the City Council changed it as a non-discretionary measure to Public Facilities to bring the General Plan designation to conformity with the will of the people as expressed in Measure M.</p> <p>Motion was made by Commissioner Hillgren and seconded by Commissioner McDaniel to affirm that the projects of the CIP are consistent with the policies of the General Plan and Coastal Land Use Plan.</p>		
<p>Ayes: Noes:</p>	<p>Eaton, Unsworth, Hawkins, Peotter, McDaniel, Toerge and Hillgren None</p>	
<p>***</p>		
<p>SUBJECT: General Plan Land Use Element Figure (Map) Corrections (PA2006-159)</p> <p>Planning Commission affirmation of several corrections to the General Plan Land Use Element Figures (Maps) pursuant to City Council Resolution No. 2006-76.</p> <p>Gregg Ramirez, Senior Planner gave an overview and explanation of the staff report.</p> <p>Motion was made by Commissioner McDaniel and seconded by Commissioner Hillgren to adopt resolution affirming the corrections to the General Plan were made pursuant to Section 8 of the City Council Resolution No. 2006-76.</p> <p>Commissioner Unsworth noted a typo in the resolution.</p>		<p>ITEM NO. 4 PA2006-159</p> <p>Approved</p>
<p>Ayes: Noes:</p>	<p>Eaton, Unsworth, Hawkins, Peotter, McDaniel, Toerge and Hillgren None</p>	
<p>***</p>		
<p>SUBJECT: Status Report of Panini Café (PA2007-063) 2421 E. Coast Highway</p> <p>Mr. Lepo noted it has been a year since the Use Permit was approved, conditioned with a twelve-month review, by the Planning Commission. There is no report to be made because the Use Permit has not been exercised.</p>		<p>ITEM NO. 5 PA2007-063</p> <p>No action taken</p>
<p>***</p>		

NEW BUSINESS:

City Council Follow-up – none.

Planning Commission reports. – Commissioner Hawkins noted the Economic Development Executive Committee met and discussed how the City could assist small local businesses in connection with the economic crises; and, it was reported there may be some delay in the occupation for Dean and Deluca and Dick's Sporting Goods tenant space.

Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report – none

Requests for excused absences - none

ADJOURNMENT: 8:20 p.m.

BARRY EATON, SECRETARY
CITY OF NEWPORT BEACH PLANNING COMMISSION