Meeting Date: 09 09 2008

| ACTION | TYPE OF ITEM |
|---|---|
| ☐ Approved Recommendation | ☐ Info/Consent |
| ☐ Ord. No(s). _____ | ☐ Report |
| ☐ Res. No(s). _____ | ☒ Public Hearing |
| ☐ Other _____ | ☐ Other _____ |

Prepared By: Kathleen Mallory, AICP, Contract Planner K. Mallory Agenda Item No. L-1

Reviewed By: City Manager City Attorney Finance Other (Specify)

**DATE:** September 9, 2008

**TO:** City Council

**FROM:** Susan L. Martin, AICP, Planning Manager
Development Services Division

**SUBJECT:** **Appeal of Planning Commission's Action On PZ 06-500-14 (Special Use Permit for a Planned Residential Group); PZ 06-300-12 (Tentative Subdivision Map for Tract No. 5580 for Condominium Purposes); PZ 06-620-05 (General Plan Amendment); and PZ 06-570-09 (Zone Change) for the Construction of Residential Condominium Units to be Located on the Northeast Corner of South Victoria Avenue and Hemlock Street. Filed by Courtyard at Mandalay Bay, LLC., 5010 Parkway Calabasas, Suite 105, Calabasas, CA 91302.**

## RECOMMENDATION

That City Council adopt a resolution upholding the action of the Planning Commission denying PZ 06-500-14 (Special Use Permit for a Planned Residential Group) for the construction of 116 condominium units, PZ 06-300-12 (Tentative Subdivision Map) a subdivision map for Tract No. 5580 for condominium purposes, PZ 06-620-05 (General Plan Amendment) to amend the land use designation from Neighborhood Commercial to Medium Density Residential, and PZ 06-570-09 (Zone Change) to change the zoning of the subject site from C-2-PD (General Commercial, Planned Development) to R-3-PD (Garden Apartment, Planned Development).

## DISCUSSION

On June 5, 2008, the Planning Commission considered a request for the redevelopment of the Channel Island Shopping Center with the construction of 116 for sale residential condominium units with on-site recreational amenities. The proposed project involves a request for approval of a general plan amendment from Neighborhood Commercial to Medium Density Residential (13-18 DU/Acre); a zone change from C-2-PD (General Commercial, Planned Development) to R-3-PD (Garden Apartment, Planned Development); and approval of a special use permit for a planned residential group for modifications to the front and rear yard setbacks, interior yard space and building separation requirements, placement of balconies and patios, parking area design, and building heights. Approval of a tentative subdivision map for Tract No. 5580 for condominium purposes was also requested.

At the meeting, some Commissioners indicated that they felt the project was too dense; that the fiscal impact analysis report should have evaluated a range of commercial activities (including professional office uses) on the project site; mixed use should be proposed on the site to encourage pedestrian/walkability; and the architecture of the project should be revised. Concerns raised by other Commissioners included support for the proposed architecture, and support for the project as designed including the proposed density.

A motion to approve the project resulted in three affirmative votes and three negative votes (one Commissioner was absent) and the motion failed. In accordance with the Bylaws of the Planning Commission, such a vote constitutes denial of the application and, as such, recommendation for denial of the action. The Planning Commission's decision has been appealed so that the City Council may consider the proposed project concurrently with the requested general plan amendment, zone change, and tentative subdivision map.

## FINANCIAL IMPACT

If approved, the applicant would be required to pay applicable development fees such as Traffic Impact fees, Art in Public Places and other impact fees.

Attachments 1 - City Council Resolution
2 - Mitigated Negative Declaration No. 2007-07
3 – Project Plans
4 - Planning Commission Staff Report (dated June 5, 2008)
5 - Planning Commission Power Point Presentation

Note: Attachment Nos. 2, 3, and 4 have been provided to the City Council. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on the Monday prior.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD UPHOLDING THE ACTION OF PLANNING COMMISSION DENYING PLANNING AND ZONING PERMIT NOS. 06-500-14 (SPECIAL USE PERMIT FOR A PLANNED RESIDENTIAL GROUP), 06-300-12 (TENTATIVE SUBDIVISION MAP FOR TRACT NO. 5580 FOR CONDONIMIUN PURPOSES), 06-620-05 (GENERAL PLAN AMENDMENT), AND 06-570-09 (ZONE CHANGE) FOR CONSTRUCTION OF 116 FOR-SALE RESIDENTIAL CONDOMINIUM UNITS, LOCATED ON THE NORTHEAST CORNER OF SOUTH VICTORIA AVENUE AND HEMLOCK STREET (APNs 187-0-060-105 AND 187-0-060-095). FILED BY COURTYARD AT MANDALAY BAY, LLC., 5010 PARKWAY CALABASAS, SUITE 105, CALABASAS, CA 91302.

WHEREAS, the Planning Commission held a public hearing for a special use permit (PZ 06-500-14) for construction of 116 for-sale residential condominium units; and

WHEREAS, the Planning Commission considered a request for a tentative subdivision map (PZ 06-300-12) for Tract No. 5580 for condominium purposes; and

WHEREAS, the Planning Commission considered a request for a general plan amendment (PZ 06-620-05) to amend the land use designation from Neighborhood Commercial to Medium Density Residential; and

WHEREAS, the Planning Commission considered a request for a zone change (PZ 06-570-09) to change the zoning of the subject site from C-2-PD, General Commercial Planned Development, to R-3-PD, Garden Apartment Planned Development; and

WHEREAS, a motion at the Planning Commission was made to approve the project and all associated entitlements, and the motion of the Planning Commission failed; and

WHEREAS, in accordance with the Bylaws of the Planning Commission, failure of a motion constitutes denial of the application or recommendation for denial of the item under consideration; and

WHEREAS, the City Council has considered the appeal filed by the Courtyard at Mandalay Bay, LLC, and has carefully reviewed the decision of the Planning Commission and has considered an application for Planning and Zoning Permit No. 06-500-14, filed by Courtyard at Mandalay Bay, LLC, in accordance with Section 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, section 15270(a) of the State Guidelines to the California Environmental Quality Act (CEQA) provides that CEQA does not apply to projects that are disapproved; and

WHEREAS, the City Council finds, after due study, deliberation and public hearing, that the following circumstances exist:

1. That the project as proposed is inconsistent with and does not conform to the 2020 General Plan, as amended, and other adopted policies of the City of Oxnard.

2. That the site for the proposed project is not adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards.

3. The denial of this permit will not affect the preservation and enjoyment of substantial property rights of the applicant.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard upholds the action of the Planning Commission denying Special Use Permit No. PZ 06-500-14 for the reasons stated above.

BE IT FURTHER RESOLVED that the City Council denies the application for a tentative subdivision map (PZ 06-300-12) for Tract No. 5580 for condominium purposes for the reasons stated above.

BE IT FURTHER RESOLVED that the City Council denies the application for a general plan amendment (PZ 06-620-05) for the reasons stated above.

BE IT FURTHER RESOLVED that the City Council denies the application for a zone change (PZ 06-570-09) for the reasons stated above.

PASSED AND ADOPTED this 9th day of September 2008, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, Acting City Attorney

ATTACHMENT NO. 1
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**ATTACHMENT 5**

**JUNE 5, 2008 PLANNING COMMISSION POWERPOINT PRESENTATION**

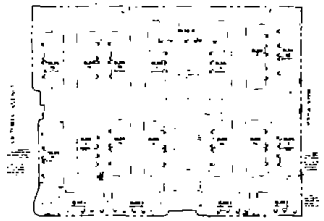
## Courtyard at Mandalay Bay Residential Development Project

June 5, 2008
*Planning Commission*
Planning and Zoning Permit Nos. 06-600-05 (GPA), 06-570-09 (ZC), 06-300-12 (TSM), and 06-500-14 (SUP/PRG)

## Project Description

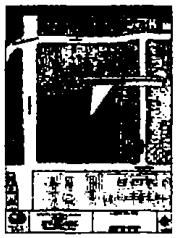
- 116 for sale condominium units, with common and private recreation areas – 6 56 net acres
- Three story complexes with a varied number of units per complex
- Enclosed two car garage; 73 visitor parking spaces throughout the project site
- GPA from Neighborhood Commercial to Medium Density Residential (13-18 du/acre); project = 17 7 du/acre
- ZC from C-2 to R-3-PD
- TSM for a one lot condo subdivision
- SUP for a PRG – code modifications discussed further on

## Site Plan – access off of Victoria Ave. and Hemlock St.



## Vicinity and Aerial Maps NE corner of Victoria Ave. and Hemlock St.

## GPA and ZC



## Site Use

- Current use Channel Islands Shopping Center, center is dilapidated and owner has had difficulty retaining commercial tenants in center, report prepared by ERA providing an assessment of retail reuse potential concluded that commercial activities on the site were difficult to support due to the proximity of newer competing commercial centers/uses. Applicant to discuss viability
- Site currently located in the Via Marina Neighborhood
- Added to the HERO district in March 2004 (Ord. 2653); redevelopment of site encouraged

## Surrounding Land Use

| LOCATION | ZONING | GENERAL PLAN | EXISTING LAND USE |
|---|---|---|---|
| Site | C-2 Commercial | Existing Neighborhood Commercial/[illegible] Redevelopment Plan | Gas Station and Commercial Shopping Center |
| North | R-3/PD Garden Apt. Planned Development | Medium Density Residential [illegible] Dwelling Units/Acre | Multifamily residential/Apts. Channel Islands Village North |
| East | R-2/PD Multi-family Residential Planned Development | Medium Density Residential [illegible] Dwelling Units/Acre | Multifamily residential/Condos |
| South | Port Hueneme zoning | [illegible] Dwelling Units/Acre (City of Port Hueneme) | Sugar Lunch |
| West | [illegible] Coastal Energy Facility and CPC Coastal Planned Unit Community | Public Utility Energy Facility Miscellaneous Visitor Serving Mandalay Bay Specific Plan area | St. Exhibition Single Family Residences and Seabridge Construction Area for Medium Density Residential |

## Site Design

- *Landscaped parkway/sidewalk parallel to* Victoria Avenue and Hemlock Street; applicant prepared cross sections
- Buildings greet sidewalk/parkways
- Vehicular access off of Hemlock St., Victoria Ave., and Newport Weigh (public alley)
- Landscape feature on northeast corner of Victoria Ave. and Hemlock St.
- Project is not gated

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## View From Victoria Ave. – architect to expand

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## View From Hemlock St. – architect to expand

5 foot sidewalk and
8 foot parkway

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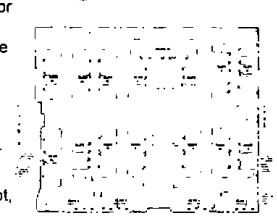
## Site Design, cont.

- *Driveway/visitor* parking along N property line
- Landscape pathways interior to project
- *9,000 sq. ft. of* common rec. area with tot lot, turf area and fountain



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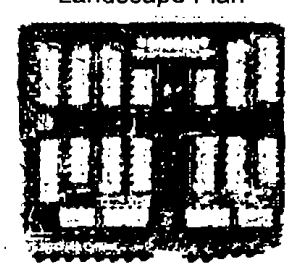
## Landscape Plan



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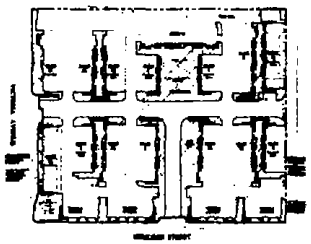
## Private Open Space



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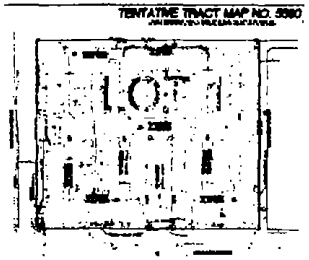
## Tentative Map

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## Land Use Compatibility

- Surrounded by similar density residential development
- Six foot tall masonry wall on northerly property line to remain
- *Lighting to be fully shielded and directed* downward to eliminate spill over and glare

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## Zoning Compliance

- Project complies with many of the R-3 zoning regulations such density (du/sq. ft.), site access, parking lot layout, number of resident and visitor parking spaces, and garage storage requirements
- Does not comply with a few code regulations and therefore approval of a special use permit for a planned residential group permit is needed

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## Zoning Compliance, PRG requests

- Front yard setback – required
  - 20 feet provided, however if access to all parking is from an *alley, the front yard may be a* minimum of 15 feet

  Explanation
  Due to dedication of land on Victoria Ave. and Hemlock St., applicant is proposing a minimum 10 foot setback from future west tract boundary (Victoria Ave.) line to face of living area. (Min. 25 foot setback from back of curb to living area). Minimum 10 foot setback from future south tract boundary line (Hemlock St.) to living area (Min. 25 foot setback from back of curb to face to living area)
- Front yard setback - provided
  - Along west (Victoria Ave.) property line: 10 feet min from property line to living area. 5 feet min. from property line to outdoor covered spaces (i.e., porches, balconies, patios, etc.)
  - Along south (Hemlock St.) property line: 10 feet minimum from property line to living area. 5 feet minimum from property line to outdoor covered spaces (i.e., porches balconies, patios, etc)

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## Zoning Compliance, PRG requests

- Rear yard setback – required
  - There shall be a rear yard of 25 feet

  Explanation
  - Per city agency's request, minimum setback along east property line from *nearest structure to* adjacent alley curb is 5 feet (3 feet at 2nd and 3rd floor projections). Minimum setback to the alley opposite curb is 30 feet
- Rear yard setback - provided
  - Along north property line 25 feet min
    Along east property line: 5 feet minimum at ground level. 3 feet minimum for projections at 2nd and 3rd floor

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## Zoning Compliance, PRG requests

- Interior yard space - required
  - Equal to 30% of the lot area, area to be open and have min dimension of 15 x 15 feet (25% of the required interior yard space may be on decks if such decks have a minimum dimension of ten feet and a minimum of 200 square feet, and are directly accessible from the units serve)
  - Explanation
  - Due to a portion of the property reserved for public dedication on South Victoria Avenue and Hemlock Street, 50,706 sq. ft. (15.1%) of site area has been dedicated to street widening
- Interior yard space - provided
  - Interior yard space provided is 30% including the 2,500 sq ft. of open lawn area (29% excluding the 2,500 sq. ft. open lawn area) of the lot and each interior yard space area has a minimum dimension of 10 feet x 10 feet Average proposed interior yard space per individual lot is 140 square feet



## Zoning Compliance, PRG requests

- Building separation - required
  - Building separation between two buildings shall be a distance equal to the height of the taller structure (35 feet)
  - Explanation
  - Proposed minimum building separation is 20 feet, except as noted. Areas between buildings were reduced in order to increase the common open space such as the recreation area and corner landscape plaza
- Building separation - provided
  - Two locations @ 13.8 feet and 14 feet)



## Zoning Compliance, PRG requests

- Balconies and Patios – required
  - All second story dwelling units shall have at least one patio or balcony, having a minimum dimension of ten feet
  - Explanation
    - In lieu of providing 10 feet x 10 feet ground level patios for units fronting Victoria Ave, private open spaces are proposed on the second floor to provide security and privacy for the occupants
- Balconies and Patios - provided
  - For Victoria Avenue
    - 2nd floor patios or 2nd floor sunroom and shall be a min. of 5 feet x 8 feet wide for either sunroom or patios
  - For Hemlock Street
    - 2nd floor patios shall be provided and shall be a min. 5 feet x 8 feet (sunrooms are not an option along Hemlock St.)



## Zoning Compliance, PRG requests

- Parking Area/Landscaping - required
  - A minimum ten-foot wide landscape strip shall be provided along the property line parallel to any public or private street and alley (except within the approved exit and entrance ways) when the parking or circulation area abuts such street or alley
  - Explanation
    - A 5-foot minimum wide landscape planter is proposed along the north property line, northern property line has a wall. A 10-foot wide landscape planter along the eastern boundary does not apply since the project has ingress and egress driveways off of this alley
- Parking Area/Landscaping - provided
  - Along north property line 5 foot min
  - Along east property line n/a



## Zoning Compliance, PRG requests

- Location of parking spaces - required
  - All vehicle spaces required for residential uses shall be located no more than 100 feet from the residential unit
  - Explanation
    - The majority of the parking distributed is within reasonable walking distance of residential units Exception to a few of the units fronting Victoria Ave and Hemlock St
- Location of parking spaces - provided
  - Maximum 184 feet distance, however, the average distance is less than 100 feet



## Zoning Compliance, PRG requests

- Building heights - required
  - Building height shall be measured from the top of the average curb elevation of the adjacent principal public street
  - Explanation
    - In order to achieve proper drainage the buildings are stepped with the average finished floor at 13 feet The highest finished floor at 14 feet 5 inches occurs at building type 4 on the east side of the lot and lot lot and would have a maximum roof height of 39 feet above the average curb elevation of the adjacent public street
- Building heights - provided
  - Most units 35 feet max from nearest adjacent principal public street and up to 39 feet in height for a few units on the northeast side of the site



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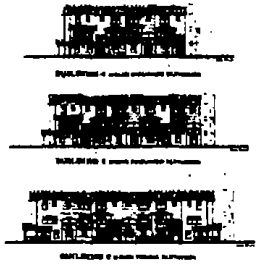
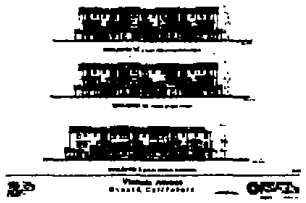
## Common Open Space and Corner Landscape Feature

## Elevations – Building Types 4 Plex



## Elevations -Victoria Ave. – 7 Plex



## Elevations –10 Plex

## 7A Plex – Interior Elevations

## Facing Alley – Newport Weigh

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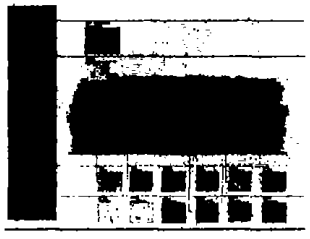
## 7B - Plex with sunroom facing Victoria Ave.

## Elevations – Hemlock Street

## Elevations – Hemlock Street

## 7 Plex - Hemlock Street

## Color and Materials Board



## Environmental Review

- An initial study was prepared Staff identified areas of potentially impact as follows: air quality, cultural resources, hazards and hazardous materials, noise and public services. Mitigation measures were included to reduce the potentially significant impacts to less than significant
- August 31st - September 20th, 2007 – public review
- ADT associated with project is lower than ADT associated with commercial use on site, thus, *traffic decreased with project*



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## Environmental Review

- Agency letters concurring with conclusion in MND
  - Calleguas Municipal Water District and Southern California Association of Governments No other agency review letters were received
- Received two public comment letters:
- Ms Terri Stalcup President of Whalers Village I Home Owners Association to the east and Jennifer Kerr, landowner to the north – concerned with vermin and rodent control

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## Environmental Review

- Mitigation measures of interest - to address former gasoline service station, dry cleaner; boat repair facility; and 1971 building materials
- Mitigation to address vermin and rodent control in response to two comment letters
- Other standard mitigation measures imposed
- Remediation to a residential development standard

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## Community Workshop

- January 28, 2008 community workshop with Via Marina neighborhood Comments pertained to traffic and interest in when project would be demolished; support for redevelopment

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## Recommendation

- Approve Planning and Zoning Permit No 06-500-14, a special use permit for a planned residential group, subject to certain findings and conditions
- Adopt a resolution recommending that the City Council approve Planning and Zoning Permit No 06-300-12, a tentative subdivision map for Tract No 5580 for condominium purposes, subject to certain findings and conditions
- Adopt a resolution recommending that the City Council approve Planning and Zoning Permit No 06-620-05 (General Plan Amendment)
- Adopt a resolution recommending that the City Council approve Planning and Zoning Permit No 06-570-09 (Zone Change)

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