

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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## RECORD PACKET COPY

Filed: 7/24/96  
49th Day: 9/11/96  
180th Day: 1/20/97  
Staff: MV-LB  
Staff Report: 9/19/96  
Hearing Date: 10/8-11/96  
Commission Action:

STAFF REPORT: PERMIT EXTENSION REQUEST

APPLICATION NO.: 5-93-179 E2

APPLICANT: Orange County Environmental Management Agency (EMA)

AGENT: Ron Tibbets &amp; Lisa Cibellis, EMA

PROJECT LOCATION: Mesa Drive (between Irvine Avenue and Birch Street) and Birch Street (between Bristol and Mesa Drive), in the City of Newport Beach, and in the Santa Ana Heights area of unincorporated Orange County

## PROJECT DESCRIPTION:

Request to extend coastal development permit 5-93-179 which allowed widening and realignment (including related improvements) of Mesa Drive and Birch Street between Irvine Avenue and Bristol Street. This is the second extension request.

## LOCAL APPROVALS RECEIVED:

Approval in Concept, County of Orange

## SUBSTANTIVE FILE DOCUMENTS:

Coastal Development Permit No. 5-93-179; Mesa Drive Alignment Study, Supplemental Environmental Impact Report 508B.

PROCEDURAL NOTE.

The Commission's regulations provide that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act.

In this case, the Executive Director determined that there were no changed circumstances which could possibly affect the consistency of the proposed development with the Coastal Act. Notice of the Executive Director's determination was mailed on August 6, 1996. Subsequently, the Commission received two letters which objected to the Executive Director's determination of consistency with the Coastal Act (See Exhibits C and D).

If three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.

#### I. STAFF RECOMMENDATION:

The staff recommends that the Commission grant the extension on the grounds that there are no changed circumstances which could cause the project, as originally approved, to be inconsistent with the Chapter 3 policies of the Coastal Act.

#### II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

##### A. Project Description

The project as approved by the Commission includes the widening and realignment of Mesa Drive and Birch Street between Irvine Avenue and Bristol Street. The project includes sidewalks on both sides of the roadway, drainage improvements, a crib wall and driveway realignments. The existing width of Mesa Drive is approximately 40 feet, a two lane roadway. The widening would result in a road width ranging from 72 to 86 feet, and 4 lanes. The Mesa Drive and Birch Street connection currently form a T-intersection. The realignment approved under coastal development permit 5-93-179 will create a continuous curve from Birch Street to Mesa Drive, northeast of the current T-intersection. The remainder of Birch, located below the curve will be converted into a cul-de-sac.

Only a portion of the total project is within the coastal zone. Mesa Drive is the coastal zone boundary in this area. Birch Street is in the coastal zone only at the intersection with Mesa Drive. A portion of the project is located in the Santa Ana Heights area of unincorporated Orange County. Mesa Drive, where it cuts through the Newport Beach Golf Course (NBGC) is within the City of Newport Beach. Where Mesa Drive is bounded by the NBGC only to the southeast, it is in the County area. The portion of the proposed project located outside the coastal zone is located in Santa Ana Heights.

##### B. Grounds for Objection

This is the second request to extend coastal development permit 5-93-179. The original expiration date for the permit was August 13, 1995. The first extension request was submitted on August 8, 1995 and granted by the Commission on November 16, 1995. The current amendment request was received on July 24, 1996. On August 6, 1996, the Executive Director determined that there were no changed circumstances which could affect the proposed development's consistency with the Coastal Act. The Executive Director's determination is consistent with the Commission's finding on August 13, 1993 which determined that the proposed project was consistent with the Coastal Act.

Two letters of objection were received within the ten working day period in which an objection could be submitted to the Commission. On August 9, 1996, the Commission received a letter of objection from Scott J. Barker, Executive Vice President of Village Investments. On August 12, 1996, the Commission received a letter of objection from Woon-Peng Chen (See Exhibits C and D).

The letter of objection from Scott Barker objects to the extension of the permit on the grounds that the project would reduce on-street parking, will create noise, additional air pollution and decrease the quality of life for residents of the area. In addition to objecting to the permit extension, the letter also includes an objection to the widening of Birch Street in general.

The letter received from Woon-Peng Chen objects to the extension and widening project for the following reasons: 1) few area residents and business persons support the project; 2) the streets are designed for local traffic and must be used by area residents and business persons to get to their residences or businesses; 3) the widening and realignment will create chaos locally as drivers will have to consider whether to stay on Irvine Avenue or change to Mesa Drive; 4) the project eliminates on street parking; 5) the County should spend money on mass transit rather than expand existing roadways; 6) the project will decrease the quality of life in the area.

### C. Issue Analysis

The criteria stated in the California Code of Regulations (Section 13169) for extending a coastal development permit is the determination of whether there area any changed circumstances which would affect the consistency of the proposed development with the Coastal Act. In this case, neither objector has specified any changed circumstances that could affect the consistency of the proposed development with the Coastal Act.

#### 1. Reduced On-Street Parking

The letters of objection state that the proposed street realignment and widening will reduce the amount of available on-street parking on Birch Street. This area of Birch Street is not located within the coastal zone. Whether the project eliminates on-street parking, in this case does not raise any Coastal Act issue. The Coastal Act protects beach goer and visitor serving parking as a means of maximizing public access. The subject area does not provide such parking. The ocean is approximately six miles from the site. Upper Newport Bay is within walking distance of the site (via a trail at the end of Birch Street), but on-street parking exists closer to the bay itself on University Drive. In addition, the Upper Newport Bay Regional Park will provide a 100 space parking lot. Access to the Bay is also available from the southwestern end of Mesa Drive. On-street parking at the southwestern end of Mesa Drive will not be effected by the street widening project.

In any case, the issue of elimination of on-street parking is not a changed circumstance. The elimination of on-street parking was part of the project at the time the Commission originally acted. These objections do not identify any changed circumstance that affect the project's consistency with the Coastal Act.

## 2. Noise

The letters of objection state that the project will increase the existing noise level. The EIR prepared for the project recognizes that the noise level due to traffic will increase significantly due to the project. However, noise is an existing issue in this area due to the proximity to John Wayne Airport. The County already offers an Acoustical Insulation Program for residences in the area to mitigate indoor noise levels. The increase in outdoor noise level will increase the combined noise level (aircraft and traffic) only slightly. Because of the existing outdoor noise level due to aircraft, the outdoor noise level cannot meet the County's noise level standards regardless of mitigation measures.

In any case, the increase in noise level is not a changed circumstance and does not affect Coastal Act consistency. The issue of increased noise was addressed in the project EIR which was part of the record at the time the Commission originally acted. This objection does not identify any changed circumstance that affects the project's consistency with the Coastal Act.

## 3. Air Pollution

The objection letters state that the project will increase air pollution. Supplemental Environmental Impact Report 508B was submitted with the original coastal development permit application. SEIR 508B states: "No significant changes in total emissions for the area are anticipated, because the project is expected to relieve congestion in the area. Therefore, if any change in emissions were to occur, it would probably be a very slight decrease in emissions in the area due to congestion relief." Consequently this objection does not appear valid. In any case, the potential for increased air pollution is not a changed circumstance, the change in the traffic pattern was part of the project at the time the Commission acted.

These objections do not identify any changed circumstance that affect the project's consistency with the Coastal Act.

## 4. Quality of Life

One of the letters of objection states that the project will "dramatically decrease the quality of life for the residents of the area." The other letter of objection also objects to adverse impacts to the quality of the life in the area due to the project.

These portions of the objection letters object generally to the project. No new issues are raised. However, an extension request can only be denied on the basis of changed circumstances that affect the project's consistency with the Coastal Act. The nature of the project was before the Commission at the time it originally acted on the project. This objection does not identify any changed circumstance that affects the project's consistency with the Coastal Act.

## 5. Local Support for Project

One of the letters of objection, states that "very few of the local residents and businessmen along the streets impacted by the project show their

approval." This objection does not identify a Coastal Act issue upon which the local residents' and businessmen's objection is based. In order to deny the extension request the objection must identify an inconsistency with the Coastal Act. In addition, the inconsistency must arise from a changed circumstance from when the Commission originally approved the project. If there is absence of local support for the project, it does not constitute a changed circumstance affecting the project's consistency with the Coastal Act.

#### 6. Streets Designed for Local Traffic

One of the objection letters states that the streets are designed mainly for local traffic, that residents and employees need to get in and out along those streets, and that non-local traffic should use Irvine Avenue. As Mesa Drive and Birch Street currently exist, it may be accurate that the streets are not designed for through traffic. However, the intent of the project is to expand the capacity of the streets to accommodate increased use. This objection does not constitute a changed circumstance as the Commission was aware at the time it acted on the original permit that the road widening project would increase the road width from two to four lanes, increasing the potential capacity. This objection does not identify any changed circumstance that affects the project's consistency with the Coastal Act.

#### 7. Widening Will Create Chaos Locally

One of the objection letters states that as drivers reach the junction of Irvine Avenue and Mesa Drive, they will consider whether to stay on Irvine Avenue or change to Mesa Drive and that this will create chaos. Typically, however, drivers choose a route prior to arriving at a certain intersection. An intersection already exists at Irvine Avenue and Mesa Drive. Drivers already need to choose which road to follow. Although with the road widening and realignment the Mesa Drive option may increase in popularity, it is unlikely that this will create chaos.

This objection does not constitute a changed circumstance as the Commission was aware at the time it acted on the original permit that the road widening project connected to Irvine Avenue. This objection does not identify any changed circumstance that affects the project's consistency with the Coastal Act.

#### 8. Money Should be Spent on Public Transportation Rather than on Road Widening

One of the letters of objection states: "Rather than spending money building more roads and encroaching on limited land resource in a city with mature road infrastructure, the city should try its efforts on mass transit or shuttle system so that the street will not be jammed with automobiles which adversely affect the coastal environment with noise and pollution."

Whether the County chooses to spend the money on road widening or mass transit is not for the Commission to dictate. The Commission must consider whether a project as proposed is consistent with the Coastal Act. In evaluating the project originally, the Commission considered whether the road widening would have any adverse impacts inconsistent with the Coastal Act. The Commission found that the road widening was consistent with the Coastal Act and specifically that it would enhance public access to the Newport Beach coastal zone area by easing traffic congestion.

This objection does not constitute a changed circumstance because the County's choice of spending money on mass transit rather than the road widening project was an option for the County at the time the Commission originally acted on the permit. This objection does not identify any changed circumstance that affects the project's consistency with the Coastal Act.

#### CONCLUSION

Staff has reviewed the applicant's extension request and the letters of objection and has determined that there are no changed circumstances which would affect the project's consistency with Chapter 3 of the Coastal Act. Therefore, staff recommends that the Commission grant the extension request on the grounds that there are no changed circumstances which could cause the project, as originally approved, to be inconsistent with the Chapter 3 policies of the Coastal Act.

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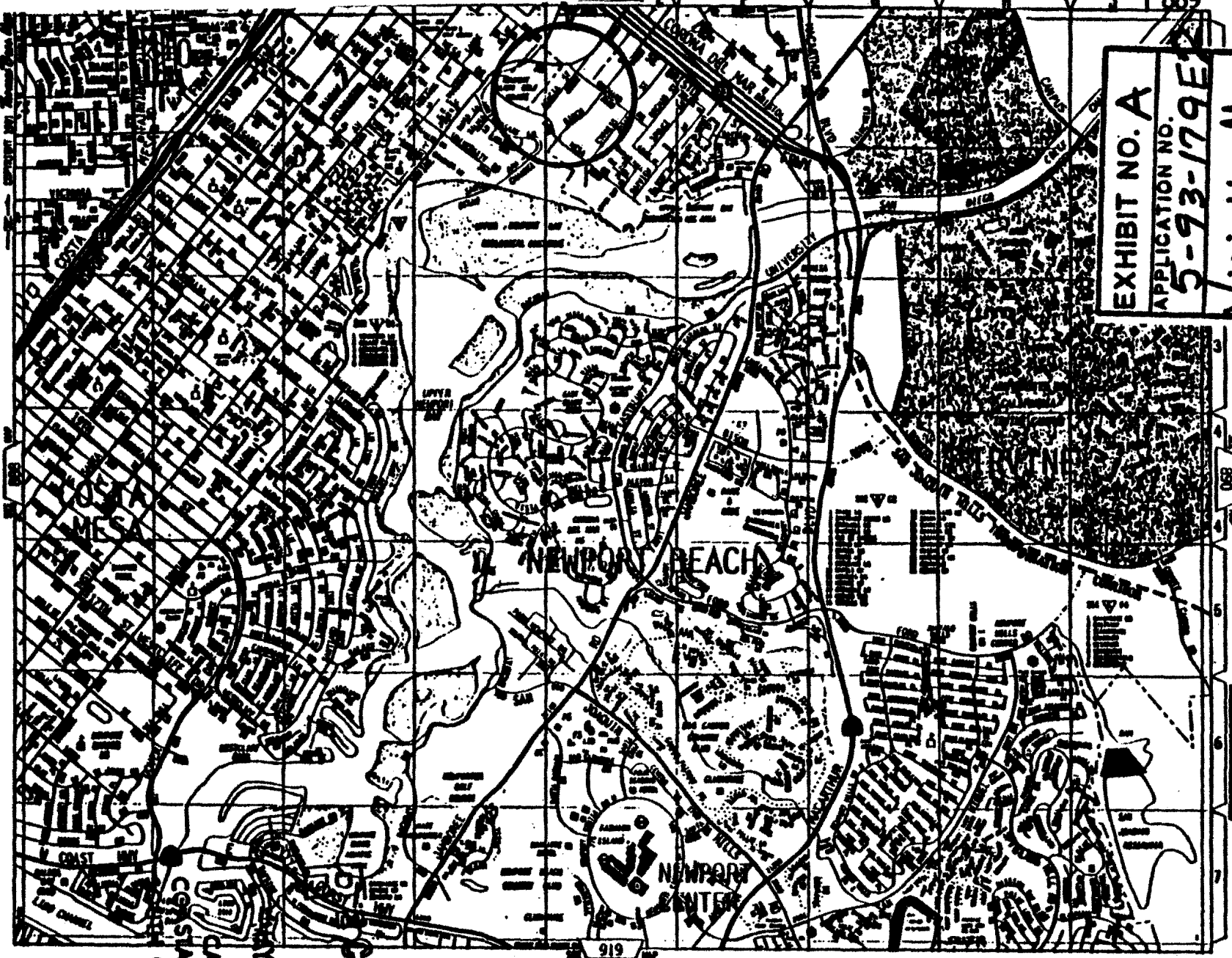


EXHIBIT NO. A
APPLICATION NO. 5-93-179E
Vicinity Map
California Coastal Commission

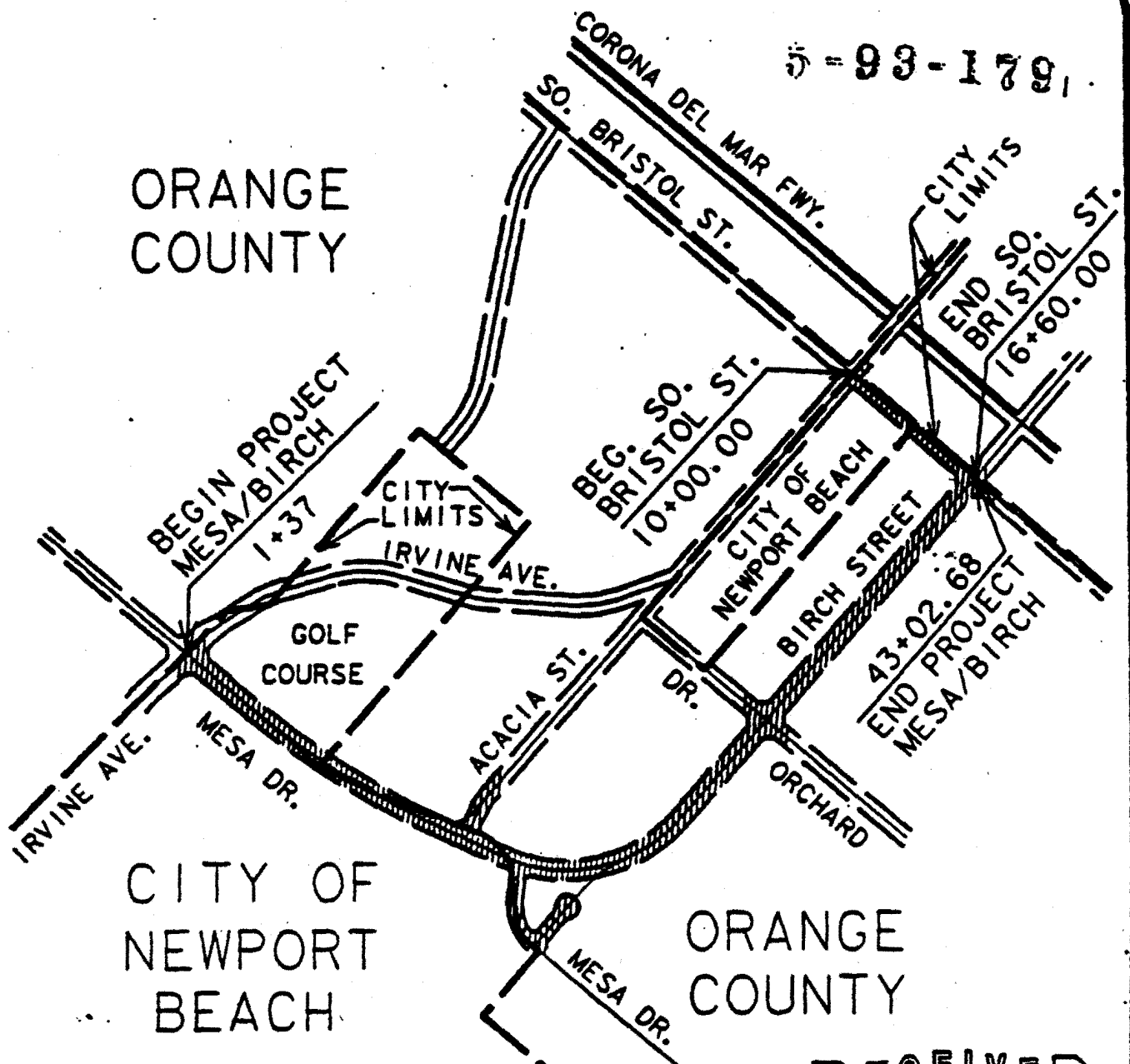
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MAY 21 1993  
CALIFORNIA  
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COAST DISTRICT

Mesa Drive/Birch Street  
Alignment Project  
Vicinity Map

5-93-179E

5-93-179

ORANGE  
COUNTY



CITY OF  
NEWPORT  
BEACH

ORANGE  
COUNTY

RECEIVED

CITY LIMITS

MAY 21 1993

CALIFORNIA  
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SOUTH COAST DISTRICT

LOCATION MAP

N.T.S

EXHIBIT NO. **B**

APPLICATION NO.

**5-93-179 E2**

**SITE PLAN**



California Coastal Commission

Mesa Drive/Birch Street  
Alignment Project





August 7, 1996

RECEIVED

AUG 9 1996

Ms. Meg Vaughn  
Coastal Program Analyst  
California Coastal Commission  
South Coast Area  
245 West Broadway - Suite 380  
Long Beach, California 90802-4416

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

Re: Extension Permit 5-93-179

Dear Ms. Vaughn:

I am in receipt of your letter dated August 6, 1996 giving notice that the Orange County Environmental Agency has applied for a one year extension of permit number 5-93-179 for the widening of Mesa Dive and Birch Street between Irvine Avenue and Bristol. As the authorized management agent for the Las Casitas Apartments, a 52 unit apartment community located at 20102 Birch Street, we strongly object to both the extension of this permit and the widening of Birch Street in general.

Las Casitas is a garden style apartment building which already suffers from the noise of the planes taking off from the Orange County Airport. There is limited parking for the 52 families living at Las Casitas. To exacerbate this situation by widening the street to within 10 feet of the living units and eliminating the street parking on Birch is totally unacceptable. Birch Street is mainly a residential area. To widen this street will create noise, additional air pollution and dramatically decrease the quality of life for the residents of the area.

We would request the extension of this permit be denied. This would be in the best interests of our residents and the neighborhood in general.

Please contact me with any questions you may have.

Very truly yours,


  
Scott J. Barker  
Executive Vice President

Exhibit C  
5-93-179E2  
Letter of Objection

RECEIVED

AUG 12 1996

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

Mr. Woon-Peng Chen  
PO Box 3296  
Tustin, CA 92705

Dear Ms. Vaughn:

I am writing you this letter to voice my opposition to the granting of extension for widening and realignment of Mesa Drive and Birch Street between Irvine Ave. and Bristol St. The reasons for my opposition are listed as follows:

1. Very few of the local residents and businessmen along the streets impacted by the project show their approval. This can be observed in the number of people sued by the County of Orange to exercise the power of eminent domain through the Superior Court of California.
2. These streets are designed mainly for local traffics. The residents need to get in and out of the local neighborhood using these streets. The employees need the streets to get to their companies along the streets. The streets are not designed for the thru traffic. Non-local traffics should use Irvine Avenue instead.
3. The widening and realignment will create chaos locally. Whenever the car drivers reach the junction on Irvine Ave and Mesa Drive, they would need to decide whether to stay on Irvine Ave or change to Mesa Drive just to save a few seconds of time.
4. The project will eliminate parkings along the streets. This creates a lot of inconvenience because people can no longer stop or park along the street. They have to keep moving in order not to block the traffic.
5. Rather than spending money building more roads and encroaching on limited land resource in a city with mature road

Exhibit D  
5-93-179 E2  
Letter of Objection  
D1

infrastructure, the city should try its efforts on mass transit or shuttle system so that the street will not be jammed with automobiles which adversely affect the coastal environment with noise and air pollution.

6. The city of Newport Beach builds its reputation as the premier livable city in the nation by incorporating humanity aspect into its blue print. A city is not just a place for industrial and commercial activity. It is a place for people to live to their best potential. In order to achieve this goal, we need to incorporate the idea of diversity into an already well planned city, such as an equestrian training center, a scenic office park, ...etc. If Santa Ana Height can manage its existing assets well, as opposed to an ugly, chaotic, and smoky transportation thruway, it will certainly be a proud neighbor located next to the city of Newport Beach.

If it is possible, please do not grant any extension to the permit to widening and realignment of Mesa Drive and Birch Street. Thank you for your considerations.

Truly Yours

A handwritten signature in black ink, appearing to read 'Woon Peng Chen', written in a cursive style.

Woon Peng Chen  
8-7-1996

5-93-179E2  
D2