

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION**

November 8, 2004

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., November 8, 2004 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Garlich, followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

Commissioners Present:

Chairman Bruce Garlich
Katrina Foley, Dennis DeMaio and Eric Bever

Commissioners Absent:

Vice Chair Bill Perkins

Also Present: R. Michael Robinson, Secretary

Costa Mesa Planning Commission

Kimberly Brandt, Acting Plng. & Redev. Mgr.

Marianne Milligan, Sr. Deputy City Attorney

Ernesto Munoz, City Engineer

Mel Lee, Associate Planner

**PRESENTATION OF
RESOLUTION AWARD TO
PERRY L. VALANTINE:**

The Chair presented a City Resolution award to Perry Valantine on this date of his retirement, in honor of his 32 years of service to the City of Costa Mesa. Mr. Valantine thanked staff and both present and former Commissioners. He reminisced about his good relationship with staff and commissions through the years and felt this was a significant and vital source for his success during his tenure at the City. He said he could not have done it alone.

MINUTES:

The minutes for the meeting of October 25, 2004 were accepted as distributed.

**INTRODUCTION OF NEW
ATTORNEYS:**

Kimberly Hall Barlow and Thomas Duarte, attorneys with the firm of Jones & Mayer of Fullerton, California, introduced themselves as the new contract City Attorneys who will begin attending Planning Commission and City Council meetings on behalf of the City of Costa Mesa at their regularly scheduled study sessions and public hearings. Ms. Barlow said they were pleased to be present this evening and they look forward to working with staff, City Council, and Planning Commission.

PUBLIC COMMENTS:

Tiny Hyder and Pamela Frankel, both residing on Myran Drive in Costa Mesa, stated their concerns and problems with the property owner of two adjacent lots on their street, who has just begun clearing the lots for construction. Their primary concerns were: (1) to protect the Pine tree; (2) adequate fencing, and (3) the removal shrubberies and plants common to all areas on all lots. In response to questions from Commissioner Foley and the Chair regarding their testimony, Associate Planner Mel Lee stated that Willard Chilcott, developer of the property at 2172 Myran Drive, was granted approval to remove the trees that were on his property. The arborist's report he provided was reviewed by staff and outlined several guidelines for the process of removal of trees and plants, and instructions to protect existing vegetation on surrounding properties. Mr. Lee said he sent a copy of the approval letter and a copy of the report to Ms. Hyder and Ms. Frankel. He also explained to the Commission that Mr. Chilcott is using 2160 Myran Drive as the staging area for the operations and heavy equipment was not going across the easement where the Ponderosa Pine is located. Mr. Lee said the common hedge and trees

between the two properties (Chilcott/Frankel) that were being removed are the trees and hedges that were entirely on Mr. Chilcott's property as documented and confirmed by the arborist. The City made it explicit in the written approval to Mr. Chilcott, that he had no authorization from the City to remove any trees other than those on his property. Mr. Lee offered that he will require Mr. Chilcott to repair the fence that was damaged and install security that would be necessary to contain Ms. Frankel's pets on her own property. It was ultimately requested by the Chair that Mr. Robinson, Mr. Lee, and Code Enforcement follow up on what was thought to be a situation that needed to be handled immediately. The Chair asked that staff provide a status report the following day. Commissioner Foley said she would also like a status report. She asked that the City look into why there was no response when Ms. Frankel was calling Code Enforcement in the first place. In response to her question, Sr. Deputy City Attorney Marianne Milligan said that Code Enforcement typically tries to respond within 24 hours of a complaint. Mr. Lee reminded Commissioner Foley that Ms. Frankel, in addition to calling Code Enforcement, contacted him this morning and he followed up with the site inspection and also brought the issues to his attention. The Chair and Commissioner Foley insisted that the fence must be mended or replaced immediately to keep the dogs inside Ms. Frankel's property.

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

Chairman Garlich welcomed Michael Robinson to the Planning Commission as Secretary.

CONSENT CALENDAR:

On a motion made by Chairman Garlich, seconded by Commissioner Bever and carried 4-0 (Perkins absent), the items on the Consent Calendar were read into the record by Acting Planning & Redevelopment Manager Kimberly Brandt, and received the action below.

DEVELOPMENT AGREEMENT
DA-04-03 (DA-00-04)

Two Town Center/Krappman

Development Agreement DA-04-03 for John Krappman, authorized agent for FSP Two Town Center, LLP, for the Annual Review of the Two Town Center Development Agreement (DA-00-04), located at 655 Anton Boulevard. Environmental determination: exempt.

Planning Commission recommended to City Council: (1) that based on the evidence in the record, they determine and find that FSP Two Town Center, LLP has demonstrated good faith compliance with the terms and conditions of Development Agreement DA-00-04; and (2) that future periodic reviews be delegated to Planning Commission and allow formal periodic review to be conducted every two years.

DEVELOPMENT AGREEMENT
DA-04-04 (DA-99-01)

BRE-South Coast LLC-McCarthy
Cook/Schwartz

Development Agreement DA-04-04 for Philip Schwartz, authorized agent for BRE/South Coast LLC/ McCarthy Cook, for the Annual Review of the South Coast Metro Center Development Agreement (DA-99-01), located at 475-595 (odd numbers only) Anton Boulevard. Environmental determination: exempt.

Planning Commission recommended to City Council: (1) that based on evidence in the record, they determine and find that McCarthy Cook has demonstrated good faith compliance with the terms and conditions of Development Agreement DA-99-01; and (2) that future reviews be delegated to Planning Commission and the next formal review to occur when hotel development activity begins.

PUBLIC HEARINGS:

REVIEW, REVOCATION, AND/OR
MODIFICATION OF CONDI-
TIONAL USE PERMIT PA-03-26

The Chair opened the public hearing for consideration of a review, revocation, and/or modification of Conditional Use Permit PA-03-26 for C&D Properties, for non-compliance with condi-

C&D Properties

tions of approval, for a motor vehicle rental/leasing business, located at 1192 Bristol Street in a C1 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation illustrating that the site has come into compliance with the conditions of approval. As a result, he said he was recommending that Planning Commission receive and file the information.

Kent Crawford representing C&D Properties, 20151 SW Birch Street, Newport Beach, agreed to stay in compliance with the conditions of approval.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-03-26
Received and filed

A motion was made by Chairman Garlich, seconded by Commissioner Foley and carried 4-0 to receive and file the report.

PLANNING APPLICATION
PA-03-27

D'Alessio Investments/DeFrenza

The Chair opened the public hearing for consideration of Planning Application PA-03-27 for John DeFrenza, authorized agent for D'Alessio Investments, for a one-year extension of time and possible modification to conditions of approval for a variance to allow a second-floor deck to encroach into the front setback (20' required; 0' proposed), located at 1777 Newport Boulevard in a C2 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending approval, by adoption of Planning Commission resolution, subject to conditions.

John DeFrenza, architect for the project and representing the owner, 20301 SW Birch Street, Newport Beach, agreed to the conditions of approval.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-04-27
Approved

A motion was made by Commissioner Foley, seconded by Commissioner DeMaio and carried 4-0 (Perkins absent), to approve by adoption of Planning Commission Resolution PC-04-74, based on information and analysis contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

CONDITIONAL USE PERMIT
PA-04-33

D'Alessio Investments/DeFrenza

The Chair opened the public hearing for consideration of Conditional Use Permit PA-04-33 for John De Frenza, authorized agent for D'Alessio Investments, for a proposed 4,245 square-foot restaurant within 200' of residential property to have live entertainment and dancing, to operate past 11:00 p.m. (2:00 a.m. closing, 7 days a week proposed), and to allow offsite valet parking at 1764 Anaheim Avenue in an R2-HD zone, located at 1777 Newport Boulevard in a C2 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending denial, by adoption of Planning Commission resolution.

Tom Yelemick, a partner in the restaurant/nightclub ("Ami Beaucoup"), described the project as being an extremely, "upscale" restaurant project patronized by the 35 and over age group. He explained that the music would be acoustical music (i.e., a guitarist on Sundays for brunch) integrated through a system and of a level consistent throughout the club wherein people will be able to hear each other when carrying on conversations. He said there are 40 other limited partners (professionals with none under 40

years of age).

Mr. Yelemick stated that the valet parking would operate during hours of operation of the restaurant, and establish constant communication between valets and their locations in conjunction with the restaurant patrons, such as when patrons are finished with their meal, the captain will be alerted via wireless and their car will be brought back to the restaurant immediately to avoid congestion.

Mr. Yelemick stated that he would be residing in the house immediately abutting the parking lot and would be there to address any problems that might arise. He said they are also willing and happy to compromise on the hours of operation—instead of open every night until 2 a.m., they would operate Sunday, Monday, Tuesday, and Wednesday until 11 p.m. and Thursday, Friday, and Saturday, they respectfully request operating until 2 a.m.

In response to a previous question from Commissioner Bever concerning how the valet parkers would get back-and-forth from the establishment to the parking lots, Mr. Yelemick explained that they would be using an electric shuttle, i.e., a golf cart.

In response to a question from Commission Foley regarding other parking alternatives, Mr. Yelemick stated that they are presently in negotiations with PetsMart to use their lot and they have just begun to negotiate with others.

In response to another question from Commissioner Foley regarding meetings with neighbors, Mr. Yelemick stated that the primary issue for most was the noise. He said they explained to the neighbors that the kitchen and bathrooms are located at the back of the building and there will no longer be any windows.

Mr. Yelemick stated that they were asking for “dancing” because, for example, there may be patron celebrating a birthday or some other event, and might want to dance to the music with a partner; he noted that it is not something they will showcase, but rather so they don’t have to tell someone who wants to dance, that they could not.

Commissioner Bever asked the applicant if he would be willing to agree to beautify the rear elevations of the building, and he agreed.

There was discussion between Commissioner Foley, Chairman Garlich, and Mr. Yelemick regarding the possibility that the business is not successful. Mr. Yelemick was willing to be conditioned that this property would not retain its right to become another restaurant should the business fail and agreed to be conditioned as such.

The following people were opposed to the project: Cherie Korando, 582 Park Drive; Mark Korando, 592 Park Drive; Sid Crossley, owner of a mixed use property at the corner of Newport Boulevard and West 18th Street and seven residential units; Kerry Fleming, 1762 Anaheim Avenue; Jeff Martin, 589 Park Drive; Derrick Yeager, 591 Park Drive; Sandi Johnson, Cabrillo Street resident; Brad Martin, 1789 Kenwood Place; Marty Tollpen, 564 Park Drive; Mark Korando Jr., 592 Park Drive; Jamie Korando, 592 Park Drive; Beth Refakas, 320 Magnolia Street; Natalie Avar, 591 Park Drive; and Deborah Young, part-owner of the Bamboo Terrace; Jean Walker, 1776 Anaheim Avenue, Costa Mesa.

Those people made the following comments in opposition to the project: (1) Noise is a concern and potential parking problems may become a reality; (2) History has shown that this kind of use in proximity to residential uses whether multi-family or single-

family, has repeatedly failed; this makes the use incompatible with the neighborhood and interferes with the quiet enjoyment of the residential uses after 11 p.m.; (3) use of the parking at PetsMart is not readily accessible; (4) the use is incompatible with an office-type building which is what this building was originally; (5) generally, most speakers who opposed this restaurant believed it would be no better than the previously mentioned restaurants that are plaguing the residents now; (6) Even without the proposed establishment, the parking is limited and there is already a lot of traffic congestion. The site of the proposed business faces the only entrance into the strip making it difficult for people to get in and out with one small lane in operation.

The following people were in favor of the project: Matt Bays, 362 LaPerle Lane; David Weisman, 2039 Irvine Avenue, property owner in Costa Mesa; Tony Orcurio, 16-year Costa Mesa resident and business owner; Brent Brewer on Board of Directors for Newport Towers representing the residents and 28 homeowners; Alan Freeman, a resident of Irvine and the owner of Diamond Productions (charity and publicity events throughout Orange County); Jeff Gasper, a 40-year resident and business owner of 20 years; and Doug Jardean, a general partner with a vested interest in the restaurant who was raised in Costa Mesa, and is a Costa Mesa homeowner and business owner as well.

Those people made the following comments in favor of the project: (1) Supported the restaurant because it's a great opportunity and improvement for the City to bring an upscale restaurant to that area; (2) this is not a bar, nightclub or disco, but a restaurant in proximity to residential; (3) Costa Mesa needs something like this and although the references were made to the Empire Ballroom, Hoagie Barmichael's, and Pierce Street Annex, etc., this is something that caters to the 35 and above age group. (6) there is an existing problem in this neighborhood with restaurants that create the loitering, loud voices, and some of the undesirables hanging out at late hours and doing the things that one resident has already pointed out. (7) The subject restaurant is an effort to clean up the area to make it better place. (8) Everyone involved in this project is 40 years of age and up and are solid business people. (9) Some speakers felt that the City is in a state of "resurgence" and residents are seeing some new things popping up that are great for the City, but at the same time, it is playing second fiddle to surrounding areas such as Newport Beach and Corona Del Mar, Laguna Beach, etc., and a lot of people in this area have few options but to go to other cities' venues.

Mark Korando, 592 Park Drive, Costa Mesa confirmed with the Commission that they did receive his letter with several requests for information because he said should this project be approved, the ABC license is going to be very important if he has to appeal the project. Mr. Lee said the information Mr. Korando requested, is still being put together. Mr. Robinson reminded Mr. Korando that the issue of over concentration does not apply to a bonafide-eating establishment, which this is proposed here.

Commissioner Foley asked that with Mr. Korando's request, and other numerous issues regarding the parking that are unresolved, would any of the Commissioners be agreeable to a continuance of this item to further discuss with the residents and attempt some further resolution.

Commissioner Bever concurred with Commissioner Foley's summation of the outstanding issues of the hearing. He did not believe there was sufficient evidence with the parking and program to consider the item this evening.

Commissioner DeMaio said that he would also like to see the Po-

lice Report that is being compiled.

Commissioner Foley stated that no matter how the voting went on this item, she suspected it would be appealed in any case and that it would be better to fully review the information before making a final decision.

In response to the Chair, Mr. Bever clarified that there is no evidence as to how the valet service will work when the people are arriving at this restaurant. He said it is his understanding that the Anaheim parking lot is a public parking lot. There was some discussion of using the PetsMart lot, which may eliminate the need to use the Anaheim Avenue parking lot.

Commissioner Foley said they do not have a plan in place and she would like to see them work more with residents to create a better plan with more thorough information from the Police Department. She believed it would be to the benefit of the next reviewing body to have further discussion.

Commissioner Foley asked Mr. Yelemick how long it would take to present an alternative parking plan; the valet service in writing with a diagram. Mr. Yelemick said he did not have that answer; that it would depend upon the corporate individuals who make these decisions specifically; PetsMart for one, as well as others. Mr. Yelemick offered 2 weeks. Commissioner Foley stated that the Commission would like to see what the plan is, and that the applicant address Ms. Young's comment about the entry and exit and how it will work because it is a small lane with cars coming and going. Mr. Robinson stated that should this item be continued this evening, because of the PetsMart negotiations, it must be renoticed and republished because it involves a new off-site location. The earliest meeting would be the Planning Commission meeting of December 13th. The Chair asked the applicant if that was agreeable and Mr. Yelemick confirmed.

Mark Korando suggested that the Transportation Services Division look at the plan that will be put forth by the applicant.

A motion was made by Commissioner Foley, seconded by Commissioner Bever and carried 4-0 (Perkins absent), to continue this item to the Planning Commission meeting of December 13, 2004.

The Chair opened the public hearing for consideration of existing Zoning Permit Processing regulations and alternatives for permit streamlining. Environmental determination: exempt.

Acting Planning and Redevelopment Manager Kimberly Brandt reviewed the information in the staff report and gave a presentation. She said staff is recommending that Planning Commission provide staff with direction regarding the proposed amendment to the permit processing regulations, and preparation of a draft ordinance for same.

Chairman Garlich stated that the Commission would like to have more time to study and review the material submitted by staff. After receiving comments to support a continuance, the Chair made the motion below.

A motion was made by Chairman Garlich, seconded by Commissioner Foley and carried 4-0 (Perkins absent), to continue this item to the Planning Commission meeting of November 22, 2004.

The Chair opened the public hearing for consideration of a review of possible Zoning Code amendments to clarify existing zoning definitions and standards, including a revision to the definition of "mobilehome park conversion" to include a mobilehome park closure. Environmental determination: exempt.

MOTION:
PA-04-33
Continued

REVIEW ZONING PERMIT
PROCESSING REGULATIONS.

City

MOTION:
Zoning Permit Processing Regulations
Continued

REVIEW OF ZONING CODE
AMENDMENTS (DEFINITIONS,
STANDARDS, REVISIONS)

City

Ms. Brandt reviewed the information in the staff report and gave a presentation. She said staff is recommending that Planning Commission provide staff with direction regarding the proposed clarifications to existing regulations and the preparation of a draft ordinance.

Chairman Garlich stated that the Commission would also like to have more time to study and review the material submitted by staff on this item. After receiving comments to support a continuance, the Chair made the motion below.

MOTION:
Zoning Code Amendments
Continued

A motion was made by Chairman Garlich, seconded by Commissioner Foley and carried 4-0 (Perkins absent), to continue this item to the Planning Commission meeting of November 22, 2004.

REPORT OF THE DEVELOPMENT SVS. DEPARTMENT

None.

REPORT OF THE SENIOR DEPUTY CITY ATTORNEY:

None.

ADJOURNMENT:

There being no further business, Chairman Garlich adjourned the meeting at 9:33 p.m. to the study session of November 15, 2004.

Submitted by:

R. MICHAEL ROBINSON, SECRETARY
COSTA MESA PLANNING COMMISSION