

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

January 26, 2004

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., January 26, 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
Vice Chair Bill Perkins
Katrina Foley, Dennis DeMaio and Eric Bever

Also Present: Perry L. Valantine, Secretary
Costa Mesa Planning Commission
Marianne Milligan, Sr. Deputy City Attorney
Ernesto Munoz, City Engineer
Mel Lee, Associate Planner
Wendy Shih, Associate Planner

MINUTES:

The minutes for the meeting of January 12th were carried over to the meeting of February 9, 2003.

PUBLIC COMMENTS:

Martin Millard, 2973 Harbor Boulevard, Costa Mesa, noting recent news articles and having visited open house sites, stated that Costa Mesa direly needs more housing. He felt the City has too much land devoted to industrial uses. Commissioner Foley asked Mr. Valantine for the status of the Westside Bluffs study. Mr. Valantine said this item would be going to the Westside Revitalization Oversight Committee next, and that he would give her an update and schedule of the process. She requested copies of the minutes from the WROC meeting for that item.

**PLANNING COMMISSIONERS
COMMENTS/SUGGESTIONS:**

Commissioner Foley announced that the City's Website now has on its home page, a place for people to sign up for automatic e-mail notification for agendas, hearings, study sessions, committee meetings, and other items.

The Chair reminded everyone that the local Costa Mesa television channel has changed to channel 24.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

APPEAL OF ZONING APPLICATION ZA-03-94

Hartzell

The Chair opened the public hearing for consideration of an Appeal of Zoning Application ZA-03-94 for Andrew K. Hartzell, for a minor design review and minor conditional use permit to construct an office with a full bathroom above a new detached garage, located at 440 E. 19th Street in an R1 zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a visual presentation of the site characteristics. She said staff recommended that Planning Commission uphold the Zoning Administrator's approval, by adoption of Planning Commission resolution, subject to conditions. Ms. Shih noted 2 letters were received from neighbors in proximity to the project, who are in favor of the project.

The appellant, Morris Berger, 436 East 19th Street, Costa Mesa, submitted photographs of his back yard showing the project site in the background. He believed the proposed building would have a direct view into his yard, and would be a nuisance and liability to him. He pointed out the Cypress trees, which he said were now somewhat of a buffer. He showed photographs of the adjacent alleyway both north and south, where all the homes had single-story garages. He main-

tained that the neighborhood itself does have 2-story additions, but second story garages are not yet the “norm.” He said he did not want to impede Mr. Hartzell in improving his property, or from adding a second story onto his garage if that’s his choice, but he felt the Commission should try to mitigate the exposure. He would rather see the stairway within the structure, or relocated to another side; minimize the exposure from the balcony; and minimize the windows. He said all of these elements could remain but they should be reduced.

Mr. Berger also said that Mr. Hartzell indicated he may be removing the Cypress trees, which would further impact him. Mr. Hartzell has made no provisions for replacing them with anything as mature, or extending them further toward the alley, which would break up the “line of sight.”

Commissioner Foley asked Mr. Berger if extending the landscaping screen to the end of the fence line would satisfy his concerns about the view into his property. He said yes, if he can be sure that they will still be there 10 years from now. Commissioner Foley explained to him that there is no way to build anything on this site without having a view into his back yard, or unless he does some kind of landscape screening on his own property.

Commissioner Bever asked Mr. Berger if there was anything precluding him from putting in a landscape barrier to ensure his own privacy. He said if Mr. Berger takes responsibility for maintaining that visual barrier, then he can ensure that it will always be there. Mr. Berger said he did not plan to replace the fence and although the pictures don’t show it, he has done extensive landscaping.

The Chair said that even though there is a statement in the Zoning Administrator’s letter to Mr. Hartzell stating that the Cypress trees will remain, there is no condition of approval regarding these trees, and he asked if that would hold up. Sr. Deputy City Attorney Marianne Milligan recommended that a condition be added. Mr. Valentine stated that the comment in the letter was simply reflective of what staff understood the situation to be and there was no intent to make that a condition of approval.

After confirming the 20-foot alley width, Vice Chair Perkins confirmed that the windows Mr. Berger wanted to be minimized were not actually in the photographs because the Cypress trees covered them. Ms. Shih offered that there were pictures showing another view taken from the top of the garage into Mr. Berger’s rear yard. Mr. Berger stated that the windows in question wrap around the northeast corner, and there is a glass entry door, landing, and stairway that are all in his direct “line-of-sight.” Vice Chair Perkins confirmed with Mr. Berger that he had conversations with Mr. Hartzell concerning locating the stairwell within the building structure.

There was discussion between Commissioner Foley, Mr. Lee, and Mr. Valentine about recent landscape requirements concerning another residence on the eastside.

Commissioner Bever said he has reservations about the landscape screening because he believed, that traditionally, for those seeking privacy, it has been incumbent upon them to provide some kind of a barrier. For instance, one can provide screening on his window to keep neighbors from looking in. The need for privacy varies from neighbor-to-neighbor and providing for privacy is incumbent upon those would desire additional privacy.

In response to a question from Vice Chair Perkins regarding the average setback on second-story additions, Mr. Valentine stated that the required setback from the rear property line for a second story would be 20 feet; side property line, a minimum of 5 feet; the guidelines revised in October of last year, provide for an average second-story

setback of 10 feet.

The applicant, Andrew Hartzell, 440 East 19th Street, Costa Mesa, felt that he was proposing a very modest second-story addition relative to what the code would allow. He said he understands he could build something much larger, but did not do so in order to minimize impacts on the neighbors and at the same time, provide for his needs. He said he has addressed the issues and completely satisfied two of the three surrounding neighbors, but is not yet there with the Bergers. He said he placed the second-story addition as far away from the appellant's property as he could, and it would be virtually impossible to design something any farther away from their common property boundary. He said the final design attempted to balance his needs with the concerns of the neighbors. The design was intended to integrate the second-floor library with the main house by placing windows so they would look down into his own backyard and the stairway is designed to work into the middle of the backyard so it flows from the main house.

Mr. Hartzell said photographs are on record with the Commission showing other 2-story homes in the neighborhood with similar features. He said he also intended to continue screening the side of the yard, which is his preference. However, he did not believe a condition that screening be maintained for all time, is the right approach. He said he strongly objected to this idea. He said it is very difficult to deal with future circumstances and it diminishes future flexibility and constitutes a taking of the land. Further, he said a plant is a living organism and subject to disease, irrigation, and the elements, and he will have to adjust to the circumstances as they come up. He said he wished he could have successfully gotten all three of the adjoining neighbors fully satisfied on the design and privacy issues. He said he would continue to work with the Bergers because he wants to be sensitive to their needs, and to resolve the issues.

In response to Chair Garlich regarding a condition for the door, Mr. Hartzell said he was amenable to making the door to the second-story library opaque, which he understands to be frosted glass, or a solid door.

In response to a question from Commissioner Foley regarding the legality of a condition of approval requiring trees or landscaping in between the two properties, Ms. Milligan said she disagreed with that assessment—that the Commission has the right and it is within their jurisdiction to impose those types of conditions as it has done on numerous occasions. Commissioner Foley questioned maintenance for those trees and landscaping; she said under Title 20, the City requires property owners, even on private residential properties, to maintain and remove dead trees, for example. Ms. Milligan said that was correct, but that refers only to landscaping visible from the public right-of-way.

There was discussion between Commissioner Foley, staff, Mr. Hartzell, regarding what is involved in relocating the stairway internally.

In response to a question from Vice Chair Perkins regarding plans to remove the trees, Mr. Hartzell said it is his hope that the first three trees will be removed for a wall with a fireplace.

Terry Shaw, 420 Bernard Street, Costa Mesa, voiced his concerns about the windows on the left side and placing them so they don't overlook the neighbor's yard and maybe they could use frosted glass on the lower portions and also on the French doors on the balcony.

Beth Refakas, 320 Magnolia Street, Costa Mesa, said the windows should be raised. She discussed parking, floor area ratio, open space, and opaquing the French doors to ensure privacy. She objected to

the stairway and she felt the trees should be under a condition of approval as a privacy buffer.

Barbara Beck, 443 Flower Street, Costa Mesa, opposed the project because it increases the density in her R1 neighborhood. She said in her opinion, even though a land use restriction could be placed on this project, and she is sure that this homeowner has no intention of renting out that space. She said land use restrictions are not enforceable.

The Chair requested that Ms. Milligan respond to Ms. Beck's comment about land use restrictions being unenforceable. Ms. Milligan said she disagreed with Ms. Beck's assessment and that land use restrictions are legal documents and are enforceable in a court of law. Ms. Beck commented that she finds LUR's rely on neighbors spying on neighbors and reporting illegal uses. She said you still have to live with these people so you don't really want to report them to the authorities when they are your neighbors.

Kate Kaylor, 446 East 19th Street, Costa Mesa, said she and her husband live on the other side of the site and they have no objections to the addition; that it is very nice and a good addition to the neighborhood. She said he has been a very courteous and thoughtful neighbor to work with. She realizes his balcony will look directly into their backyard.

There was discussion between Commissioner Foley and staff regarding photographs showing Ms. Kaylor's property.

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

MOTION:
ZA-03-94
Upheld Zoning Administrator's
Decision

A motion was made by Vice Chair Perkins, seconded by Commissioner Bever and carried 5-0 to uphold Zoning Administrator's approval, by adoption of Planning Commission Resolution PC-04-09, based on information and analysis contained in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B", with the following addition:

Condition of Approval

7. The door leading from the second floor to the outside stairwell shall be of frosted glass, or opaque material.

Vice Chair Perkins said he visited this project and felt it was a good project with great screening. He felt the windows look directly on to the buffering Cypress trees; the stairway door is set far enough back, and Mr. Hartzell's willingness to opaque the door reasonably diminishes previous concerns. He said he would like to see this project happen and agrees with Commissioner Bever's points about privacy.

Chairman Garlich said he also supports the project. The location, setbacks, and efforts that have been made to take privacy into consideration, are fully compliant with what is required in this City. He pointed out there have been similar kinds of 2nd story garage additions, and his personal view is that a requirement for landscape screening in perpetuity is excessive. He felt it should be stated that under the code, Mr. Hartzell could have added on to the first story of his house and could have added a second-story onto that, which would have been compliant with the setback requirements passed in October. It would have had a much more severe impact on his neighbors, but he has chosen not to do that. He has done his best to be considerate of his neighbors and has satisfied code.

Commissioner Foley wished to add a condition of approval to maintain trees sufficient to provide the same screening that the present trees provide at the time of approval of this application. The maker of the motion declined the request. Vice Chair Perkins said he did not think there was that much of an invasion of privacy, but if it is,

the appellant can add sufficient screening. Commissioner Foley said she would still support the motion because there is no way that a second story could be built on this property anywhere without it having some view into someone's backyard. Even on properties that don't have alley access this occurs, and she gave examples in her own neighborhood. She believed that the landscape screening provides mitigation because this second-story is being located on the detached garage of the property and looks at the back of the lot going forward. This creates a unique situation with respect to requiring landscaping, and she might not have supported this motion if she hadn't viewed the property with all the Cypress trees and hedging that clearly provide a nice screening to the residential neighbors.

Commissioner Bever said he supported the motion. He said the Commission and staff have spent quite a bit of time reviewing privacy issues. He said he also believes it is entirely unrealistic for a neighbor to have an expectation that there would be zero visibility into any neighboring properties in the case of the second story addition, or a new 2-story house. For this reason, he expressed a desire to agendaize for a study session, a review and reevaluation of the Residential Design Guidelines in respect to privacy issues because the current language is vague and it opens up issues that consume a great deal of Planning Commission and staff time.

Commissioner DeMaio said he also supported the motion and finds that it is a good project with minimal intrusion. However, if those trees weren't there, he would probably reconsider.

The Chair explained the appeal process.

There was discussion between the Commission and staff regarding Commissioner Bever's request to agendaize for a study session to review privacy issues. Mr. Valentine suggested this be included as part of the Planning Commission's training program.

Chairman Garlich stated Mr. Valentine's offer as a motion, which was seconded by Commissioner Foley and carried 5-0 to direct staff to agendaize for study session, discussion/training session regarding the Residential Design Guidelines, particularly, the privacy issue.

The Chair opened the public hearing for consideration of Minor Conditional Use Permit ZA-03-107 for Jack Baringer, authorized agent for Reverend Michael Bankhead/First United Methodist Church, for a wireless antenna facility on the existing bell tower of First United Methodist Church, located at 420 West 19th Street in a C2 zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a visual presentation of the site characteristics. She said staff recommended approval, by adoption of Planning Commission resolution, subject to conditions.

Jack Baringer, 10 Via Majorca, Rolling Hills, authorized agent for AT&T Wireless explained that they had initially proposed to locate the antennas inside the tower and then use radio transparent material textured to match the stucco to hide the antennas. During the review process, the State Historic Preservation Office intervened and their position was that AT&T Wireless was removing too much of the historic fabric of the building. So the design before the Commission, mounts the antennas on the surface of the building, which will have a deminimis impact on the actual stucco, and will then be enclosed with a radio transparent composite or fiberglass material painted and textured to match the stucco. All equipment is located inside the building and all of the associated cabling is either underground or inside the building so it will not be visible.

In response to the Chair, Mr. Baringer agreed to the conditions of

MOTION:
Training /Res. Design Guidelines
Approved

MINOR CONDITIONAL USE
PERMIT ZA-03-107

First United Methodist
Church/Baringer

approval.

In response to a question from Commissioner Foley regarding consideration for putting the antennas on top of the bell tower so that they would not be exposed. Mr. Baringer stated that it is a clay tile roof and to do that they would affect the structure of the building and the architectural character.

Mr. Bever asked Mr. Baringer if they considered mounting the antenna on Bethel Tower, a half-mile west, which has 16 stories. Mr. Baringer stated that the building is too tall; they are looking for a 50 to 60-foot height.

There was a further detailed discussion between Commissioner Bever and Mr. Baringer regarding the technological aspects of materials, applications being used, placement of those materials and other possible configurations. There was also discussion between the Commission and Mr. Baringer regarding the future of more compact antennas.

There was discussion between Commissioner Bever and Mr. Baringer concerning a return visit to the Commission. Mr. Valentine clarified that the conditions on the permit indicate that if they make significant changes, they may be required to come back for a subsequent review. But if technology changes, and they wanted to stay with the same antenna, they would not automatically come back.

Reverend Michael Bankhead, First United Methodist Church, 429 West 19th Street, Costa Mesa, said they are very much in favor of this installation and that it was discussed with the Board of Trustees over 1-1/2 years ago. Since they have signed the lease agreement, they expected this project to move along faster, and without receiving these resources, it has caused the church to be financially strapped affecting what they are able to do in the community. He asked that Planning Commission approve this permit.

MOTION:
ZA-03-107
Approved

A motion was made by Commissioner Foley, seconded by Chairman Garlich and carried 5-0 to approve by adoption of Planning Commission Resolution PC-04-10, based on information and analysis contained in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

EXTENSION OF TIME FOR
PA-01-03/PA-01-04

Beacon Bay/Taylor

The Chair opened the public hearing for consideration of an extension of time for PA-01-03/PA-01-04 for Wesley Taylor, authorized agent for Beacon Bay Enterprises, Inc./Robins Properties and Nancy Mostaan, to allow motor vehicle sales with an administrative adjustment to deviate from front landscape setbacks for auto display purposes on the front half, and establish outdoor storage of vehicles on the rear half of a commercial property formerly containing a car wash at 2059 Harbor Boulevard in a C2 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics.

In response to a question from Commissioner Foley, Mr. Lee stated that the agency overseeing remediation is the Orange County Environmental Health Agency. She asked if staff could call them about the progress and Mr. Lee confirmed. There was further discussion between Commissioner Foley and Mr. Lee regarding the length of time it takes for soil remediation. On the same subject, and in response to a request from the Chair, City Engineer Ernesto Munoz explained how the process of remediation is accomplished.

In response to Commissioner Foley, Mr. Lee explained that code has restrictions in that barbed wire cannot be visible from the public

rights-of-way and it appears the site is not in compliance with this requirement. Commissioner Foley confirmed with Mr. Lee that the Commission could add a condition of approval that the applicant comply with Title 20 and remove all the trash, leaves, and other debris on the property within a certain period of time. Commissioner Foley also confirmed other conditions could be added that require posting operator and emergency phone number and permits, and require a status report on compliance be submitted to Planning Commission and agendized on the Consent Calendar.

In response to a question from Commissioner Foley regarding repair of the freestanding sign on Harbor Boulevard, and whether the sign copy be removed if a business no longer exists, Mr. Lee stated that the sign appears to be structurally sound, but might need repainting. He said the applicant has indicated that the face would be changed and this sign would be utilized for the auto sales portion of the business on Harbor Boulevard. In the interim, Mr. Lee suggested that the current sign face be removed and replaced with a blank face.

In response to Commissioner Bever, Mr. Lee explained that the sign was not projecting into the public right-of-way, but it is considered to be a "legal nonconforming" structure and could be used by the future operator.

Wesley N. Taylor, 2001 Sabrina Terrace, Corona del Mar, representing Beacon Bay Enterprises (owner of the property), explained the history of the remediation process. He agreed to get the debris and weeds cleaned up. He said there is one sign on the fence that belongs to the fence company; the only other sign is the sign the applicant would like to keep. He said Mr. Robbins would do everything the City has asked, but it has to be done at the right time, or he would have to leave. Mr. Taylor said the major problem is Beacon Bay's housekeeping on the front of the lot and he assured the Commission it would be taken care of.

Mr. Taylor explained that the last extension expired on December 16, 2003 and the new extension is proposed to expire on September 14, 2004. He said they would like to have a one-year extension from the expiration of the last extension, December 16, 2003.

Commissioner Foley asked Mr. Taylor if he and his client would be agreeable to an added condition of approval for the front part of the site to be in full compliance with Title 20, removal of trash and weeds and other items that do not need to be there. He agreed. She also asked if he would be agreeable to a condition that requires the operating permits and emergency phone numbers to be posted on site. Mr. Taylor agreed. She asked if he would be agreeable to providing to the Planning Division, a 6-month progress report so they can tell where everything is going. Mr. Taylor said he would provide that report from C. James & Associates, the environmental engineers that are doing the work.

In response to Commissioner Bever regarding the piles of soil that could become airborne, as shown in the photographs, Mr. Taylor stated that his client would have no problem in mitigating that by covering the loose soil with tarps.

The Chair confirmed with Mr. Taylor that he was agreeable to have condition of approval #18 of PA-01-04 deleted, which requires the vehicles to be removed from the back half of the property.

Mr. Valentine pointed out that condition #21 of PC-01-03, is a new condition of approval pertaining to providing a 15' landscaped setback along Harbor Boulevard at completion of the project. Mr. Taylor agreed with condition of approval #21.

Tim Lewis, 2050 Charle Street, Costa Mesa, stated that he felt Mr. Taylor has not been honest about this project from the beginning. He

felt the City was misinformed. He said the property is 360' deep from Harbor Boulevard to Charle Street and is only contaminated about 100 feet in the center of the property; it is not contaminated on Charle Street and is not contaminated on Harbor Boulevard. Mr. Lewis said he is very familiar with this because he owns the adjacent property and their contamination is under his property and he would like to see it cleaned up. He said that the contamination was at the ground water level, not in the soil near the surface, so there is no reason not to clean up the surface of the site. At the corner of Harbor Boulevard and Adams Avenue, they built the entire shopping center on top of it and have been doing the cleanup accordingly; there is also a development on the opposite corner with the same situation. Mr. Lewis said he has a business on Harbor Boulevard too, and he has to live with this mess everyday. He said there isn't any reason the front of the property couldn't be landscaped. The City did require that the cleanup mechanism, pipes and all, had to be located underground. The environmental company dug trenches, they have never been backfilled; the pipes are all in those trenches connected to the wells that have been developed. He said the portion of the property used by Mr. Robbins in the back, is where some of the trenches were filled in and paved over. Mr. Lewis said there is no excuse for the site's appearance. He said Mr. Robbins does not have control, and Mr. Shea of Beacon Bay Enterprises, is responsible for the property. Mr. Lewis said he did not believe the Commission has the information they need to give Beacon Bay another year on this site. He felt the Commission needs to explore why they refuse to clean it up; or, if they want to leave it like it is, the property should be entirely screened with the vinyl green canvas (as screened on every other environmental site with contamination); the portion of the property that is in the front and exposes dirt, requires sandbagging that is required to be installed within 5 days before a rain; it has never been enforced at this site. He believed the City should take a firm stand and review this again before they allow it to go on.

There was discussion between the Chair, Mr. Lewis and Commissioner Foley regarding Mr. Lewis' testimony.

Commissioner Foley said she has had trouble with this application for some time and she agreed with Mr. Lewis' assessment of the situation. She believed the City is not doing its due diligence because there aren't any independent consultations with any of the agencies in charge of this remediation program. She said she knows there are other developers that are held to a much higher standard in this City.

MOTION:
PA-01-03/PA-01-04
Continued

Failed for lack of a second

A motion was made by Commissioner Foley to continue this item to the Planning Commission meeting of February 9, 2004, and directed staff to: (1) contact the appropriate agencies responsible for the remediation program; (2) ask that the owner of the property come to the hearing; and (3) that we receive an accurate, detailed report of the status, what can be done, and why it is not. The motion failed for a lack of a second.

Commissioner Foley said one of the issues that concerns her is that the Commission doesn't know if the site can be remediated in a different manner to allow for the improvements because the City has no independent knowledge of the accuracy of what has been presented. She said the Commission has the duty to find out. She did not believe the extra conditions are going to address that issue.

In response to the Chair's request for background on remediation and third-party verification of progress, Mr. Valentine stated that staff can and will verify the situation with the County.

In response to question from Vice Chair Perkins regarding Mr. Lewis' wish for 100% screening, Mr. Taylor stated he didn't know

because he never asked the question of Mr. Shea. There was discussion between Vice Chair Perkins, the Chair, and Mr. Taylor regarding the signs. Commissioner Bever reminded Mr. Lewis that there are requirements regarding screening of the property while it is in remediation, and asked if he knew where the “sandbagging” came from. Mr. Lewis said the issue of the sandbags is state code and he was sure the Building Division, or Mr. Valentine could verify his claim.

The Chair asked for clarity regarding Mr. Valentine’s comment on what exactly he would verify with the County. Mr. Valentine stated that staff would verify with the County, some of the time-line issues that were discussed, what the approved remediation program is and whether it is possible to build a block wall, install paving, and install landscaping over the area that’s being remediated. Staff will also follow up on the NPDES requirements, which are federal requirements with regard to ensuring that any rainwater runoff from this site, does not get into the gutters and carry contaminated soil with it. At this time he does not know whether the results would affect the Commission’s decision this evening. He added that to the extent that there are code violations, staff would also take care of those.

There was further discussion between Chairman Garlich and Mr. Valentine regarding the Commission’s options this evening.

The Chair was concerned that the Commission did not have sufficient information to extend this conditional use permit for a period of a year, and he said in fact, some of these improvements could be made in a shorter period than that.

MOTION:
PA-01-03/PA-01-04
Continued

A motion was made by Chairman Garlich, seconded by Commission Foley, and carried 4-1 (Perkins voted no), to continue this item to the Planning Commission meeting of February 23rd, to allow staff to research and bring back information concerning the questions raised this evening.

BREAK:

The Chair called a recess and resumed the meeting at 9:27 p.m.

TENTATIVE PARCEL MAP
PM-03-194

Ellis/Simon

The Chair opened the public hearing for consideration of Tentative Parcel Map PM-03-194 for Mike Simon/Tait & Associates, authorized agent for Donald Ellis, to legalize a previous subdivision, located at 2850 Mesa Verde Drive East in a C1 zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a visual presentation of the site characteristics. She said staff recommended approval by adoption of Planning Commission resolution, subject to conditions, with an added condition from the Engineering, which she read into the record (see below).

Mike Simon, authorized agent for the applicant, Tait & Associates, 701 North Park Center Drive, Santa Ana, agreed to the first condition of approval.

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

MOTION
PM-03-194
Approved

A motion was made by Commissioner Foley, seconded by Vice Chair Perkins, and carried 5-0 to approve by adoption of Planning Commission Resolution PC-04-11, based on information and analysis contained in the Planning Division staff report and findings in exhibit “A”, subject to the condition of approval in exhibit “B” as follows: 1. Release and relinquish all vehicular and pedestrian access rights to Mesa Verde Drive East and Andros Street, except at approved access locations.

The Chair explained the appeal process.

PLANNING APPLICATION

Planning Application PA-03-20 for Southern Sun Construction, au-

PA-03-20

Eberhard/Southern Sun Construc.

thorized agent for Orange North Apartments, LLC/Vern Eberhard, for a Master Plan to replace six legal, nonconforming residential units with 2-story, 6-unit detached apartment units, located at 2653 Orange Avenue in an R2-MD zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed a letter from the applicant requesting that this item be continued to the next available Planning Commission meeting to allow additional review of the revised plan for the project. Mr. Lee stated the continuation would be to the Planning Commission meeting of February 23, 2004.

No one else wished to speak.

MOTION:
PA-03-20
Continued

A motion was made by Chairman Garlich, seconded by Commissioner Foley and carried 5-0 to continue this item to the Planning Commission meeting of February 23, 2004.

PLANNING APPLICATION

PA-03-52

Lu

The Chair opened the public hearing for consideration of Planning Application PA-03-52 for Johnny Lu, for a variance from required parkway landscape width (10 ft. combined width, 5 ft. on house side required; 3 ft. width, 0 ft. on house side proposed) with a minor modification from minimum driveway width (16 ft. required, 12 ft. proposed) in conjunction with the construction of a one story 2,202 sq. ft. residence, located at 178 Santa Isabel Avenue in an R2-MD zone. Environmental determination: exempt.

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

Commissioner Foley confirmed with staff that the carport is covered on top with all sides open. In further response to Commissioner Foley, regarding the need for a setback, Mr. Lee explained that the carport is considered an accessory structure and the Zoning Code requires a 6-foot separation between main structures and accessory structures.

Mr. Valantine pointed out that the issue of vehicle turn-around was discussed with the Transportation Services Division because staff normally prefers to have cars exiting the site in a forward direction. They felt that Santa Isabel is not as great a concern as some streets in that area, because it is a lower volume street; and they have asked for a condition requiring that the driveway as it approaches the street, be widened to a minimum of 10 feet from the 9 feet currently shown, to assist in that. Lastly, he said there is an opportunity to increase the ability for some of the vehicles to turn around by moving the carport and open parking spaces closer to the side property line.

Johnny Lu, property owner, 178 Santa Isabel Avenue, agreed to the conditions of approval. Mr. Lu reiterated Mr. Valantine's comments.

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

MOTION
PA-03-52
Approved

A motion was made by Commissioner Foley, seconded by Chairman Garlich and carried 5-0 to approve by adoption of Planning Commission Resolution PC-04-12, based on information and analysis contained in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

CONDITIONAL USE PERMIT

PA-03-55

SDCO CM Commerce Prk./Metteer

The Chair opened the public hearing for consideration of Conditional Use Permit PA-03-55 for Lillian Metteer, authorized agent for SDCO Costa Mesa Commerce Park, to legalize a canine therapeutic business located at 3303 Harbor Blvd, Suite K-11 in a PDI zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics. He said staff recommended denial by adoption of Planning Commission resolution.

Lillian Metteer, owner of Canine Therapeutics, 3303 Harbor Boulevard, Suite K-11, Costa Mesa, described her business and why she felt she was compatible with the surrounding tenants in the industrial park. She also detailed possible financial dilemmas she will face should she lose her space and business. She asked the Commission to consider some suggested alternatives if they decide to deny her application.

Ms. Metteer agreed to the conditions of approval.

In response to a question from the Chair regarding an opportunity for a longer lease, Mr. Metteer stated that are no options in her lease.

Terry Shaw, Bernard Street, Costa Mesa, said having reviewed the staff report, he felt the Commission should allow Ms. Metteer to stay there at least through her lease, and possibly for the additional year she requested because she is not creating traffic problems and the use seems to be compatible, the property owner has no problem with her moving in there.

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

MOTION:
PA-03-55
Approved

A motion was made by Commissioner Foley, seconded by Chairman Garlich and carried 5-0 to approve by adoption of Planning Commission Resolution PC-04-13, based on information presented at the Planning Commission meeting and the following findings in exhibit "A", subject to conditions in exhibit "B."

Findings:

- A. The information presented ~~does not comply~~ complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the use is ~~not~~ compatible with developments in the same general area. Specifically, the Industrial Park designation is intended to apply to large districts that contain a variety of industrial and compatible office and support commercial uses. This is not a typical commercial use in that it would not generate additional traffic; it is a very small space. The use is conducted entirely within the building, occupies only 864 square feet of area, is staffed by only 2 employees, and is by appointment only. All of the parking requirements are met and there is no impact on the industrial or other commercial uses in the area. Most of the customers arrive later than 4 p.m. and the other tenants in the area would either be leaving or would have already left by that time. There is no overnight kenneling and it is a concrete structure, which would provide for a buffer for noise that would not be appropriate in a normal commercial center. It is not a typical medical use that would be considered incompatible because a medical use generates higher customer traffic and this use is more consistent with an office type use. (delete "Commercial uses complementary to...and commercial uses within the complex.") Granting the minor conditional use permit would allow a use, density or intensity which is ~~not~~ in accordance with the general plan designation for the property.
- B. The proposed project ~~does not comply~~ complies with Costa Mesa Municipal Code Section 13-29 (e) because:
 - a. The proposed use is ~~not~~...
 - b. Same.
 - c. The proposed use is ~~not~~...
 - d. Same.

C. Same.

D. Same.

Vice Chair Perkins said he supports this motion because it is a unique business. He said he still has concerns about the chiropractic business in this same complex and he felt a review of the uses might be in order.

Commissioner Foley said she believed this application is distinguishable from the chiropractic office, in that the chiropractic office is more of a typical medical use.

Chairman Garlich stated that he supports the motion and seconded it because he agreed with Commissioner Foley’s assessment and findings. He said it should also be noted that this is an allowed conditional use and the only question is the interpretation of the type of use within a wide range of what medical uses might be anticipated. He questioned that 20 years ago when this list was made whether anyone even contemplated a “canine therapy” business of this sort. He said this use is well within the intent and the letter of the zoning code.

In response to a question from Commissioner Bever regarding the possibility of this use being done in a nontransferable manner, Commissioner Foley stated that it is limited by condition of approval #4.

The Chair explained the appeal process.

In response to Vice Chair Perkins’ inquiry about the Commission considering possibly amending the list of permitted uses for this PDI development, Mr. Valantine stated that if the Commission considers taking action on it, it would have to be a noticed public hearing and with the property owner’s knowledge, and preferably, with their consent. If there is a desire to just discuss it at a study session, it can be done less formally.

MOTION:
Land Use Matrix Review
Approved

A motion was made by Vice Chair Perkins, seconded by Commissioner Bever and carried 5-0 to agendaize the list of uses for discussion at a future study session.

CONDITIONAL USE PERMIT
PA-03-58

Hill/Wilson

The Chair opened the public hearing for consideration of Conditional Use Permit PA-03-58 for Tony Wilson, authorized agent for Kelly Hill, to allow coffee roasting, located at 1651 Placentia Avenue, Suite L, in an MG zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics. He said staff recommended approval by adoption of Planning Commission resolution, subject to conditions. He noted that the applicant is moving from the Monrovia address to the site on Placentia Avenue.

Tony Wilson, authorized agent for the applicant, 1651 Placentia Avenue, Costa Mesa, agreed to the conditions of approval.

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

MOTION:
PA-03-58
Approved

A motion was made by Vice Chair Perkins, seconded by Commissioner Foley, and carried 5-0 to approve by adoption of Planning Commission Resolution PC-04-14, based on information and analysis contained in the Planning Division staff report and findings in exhibit “A”, subject to conditions in exhibit “B.”

The Chair explained the appeal process.

REPORT OF THE DEVELOPMENT SVS. DEPARTMENT

Mr. Valantine announced that this evening is designated for nominations for the Planning Commission’s biannual Design Awards Program. Mr. Valantine suggested that in addition to the list provided, the Planning Commission could also consider other eligible projects:

the model homes at Standard Pacific at Sunflower and Susan Streets; the Emulex Project also at Sunflower and Susan Streets; and the 3 office buildings at 1122 Bristol Street.

MOTION
Design Awards Program
Continued

Commissioner Foley stated that because of the outstanding inquiries for eligible properties submitted at the study session, she felt the Commission would like to continue the item. She made a motion to continue this item to Planning Commission meeting of February 9, 2004, it was seconded by Vice Chair Perkins and carried 5-0 to allow the Commission ample time to consider their choice(s).

**REPORT OF THE SR. DEPUTY
CITY ATTORNEY** None.

ADJOURNMENT:

There being no further business, Chairman Garlich adjourned the meeting at 10:07 p.m., to the study session of Monday, February 2, 2004.

Submitted by:

PERRY L. VALANTINE, SECRETARY
COSTA MESA PLANNING COMMISSION