

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

**January 9, 2006**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., January 9, 2006 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Perkins, followed by the Pledge of Allegiance to the Flag.

**ROLL CALL:**

Commissioners Present:

Chairman Bill Perkins

Vice Chair Donn Hall

Eleanor Egan, James Fisler, and Bruce Garlich

Also Present: R. Michael Robinson, Secretary

Costa Mesa Planning Commission

Tom Duarte, Deputy City Attorney

Ernesto Munoz, City Engineer

Mel Lee, Senior Planner

Wendy Shih, Associate Planner

**MINUTES:**

The minutes for the meeting of December 12, 2005 were accepted as corrected.

**PUBLIC COMMENTS:**

None.

**PLANNING COMMISSION  
COMMENTS/SUGGESTIONS:**

Commissioner Egan said she hoped everyone had a great holiday and she was looking forward to the new year to tackle all the new challenges. Commissioner Garlich agreed.

Commissioner Fisler said he felt the Commission has made decision concerning quality of life and community values in a effort to make this a better city. He said the Commission does not get to deal much with public safety issues except as they relate to items on the agenda such as an ABC license. He said there was a recent public safety item on the City Council agenda to train selected officers in the Police Department (detectives and jailers) to be immigration officers and identify aggravated felon illegal aliens and insure that after they served their sentences they are no paroled back into the community. He asked Deputy City Attorney Tom Duarte if it was possible to Planning Commission, after taking a vote, to issue a proclamation or resolution saying they support City Council's decision concerning this item. Mr. Duarte responded that generally, those items are left to City Council and the Planning Commission primarily deals with land use decisions.

Chair Perkins wished everyone a Happy new Year. He also wished Jim Watson who recently retired from the Police Department, a very happy retirement and said he was grateful for his service to the community.

**CONSENT CALENDAR:**

None.

**PUBLIC HEARINGS:**

PARCEL MAP PM-05-282

Young

The Chair opened the public hearing for consideration of Parcel Map PM-05-282 for David Young – HY 297 Ogle Street LLC for a one-lot residential common interest subdivision (airspace) to accommodate a previously approved condominium conversion, located at 297 Ogle Street in an R3 zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. She said staff was recommending approval, by adoption of Planning Commission resolution.

The applicant and owners of the property, David Young, 1301 Dove Street, Newport Beach, agreed to the conditions of approval.

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

**MOTION:**

A motion was made by Commissioner Garlich, seconded by Vice Chair

PM-05-282  
Approved

Hall and carried 5-0 to approve Parcel Map PM-05-282, by adoption of Planning Commission Resolution PC-06-01, based on analysis and information 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.

ONE-YEAR EXTENSION OF  
TIME FOR PLANNING  
APPLICATION PA-03-42

ABCO Realty/Mozayeni

The Chair opened the public hearing for consideration of a one-year extension of time for Planning Application PA-03-42 for Al Mozayeni, authorized agent for ABCO Realty for a design review to construct a 26-unit residential townhouse project with a minor modification to encroach into the front building setback, located at 2013-2029 Anaheim Avenue in an R# zone. Environmental determination: exempt.

Senior 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.

Al Mozayeni, representing ABCO Realty & Investments, Inc., 18552 MacArthur Boulevard, Irvine, agreed to the conditions of approval. He said they are requesting an extension because they are waiting to see what happens with the overlay zoning having to do with the urban plans for the City, so they can modify their plans accordingly.

Mr. Mozayeni detailed many aspects they have had to reconsider since the project was first approved. He said they are optimistic regarding the overlay zoning.

In response to a question from Commissioner Garlich to confirm if this property is in the MG zone, Mr. Lee stated that the property is located in the West 19<sup>th</sup> Street overlay district, but he did not recall its designation. He said the overlay zone does extend that far north and includes this property. Mr. Robinson clarified that this is the portion of the property that is covered by the Mesa West Residential Ownership Urban Plan containing ownership incentives in the overlay zone.

Commissioner Egan said she would like to clarify that if the Commission extends the time on this project, and it's going through a process of re-design, what is the Commission approving? Mr. Lee explained that if the applicant were to modify the project as originally approved, the modification would come back to Planning Commission. If the project expires entirely, then the applicant would have to come back and submit a new development application.

Steve Deck, 1900 Anaheim Avenue, Costa Mesa, said he hasn't seen the plans for this project, but noted that there weren't any environmental concerns raised with the property. He said he would like the Commission to be aware there are some very large, mature trees on the property that would be a loss to the street, as well as the City, if they were to be removed or destroyed. He said other than that, he fully supports the conversion. Commissioner Garlich pointed out that condition of approval #17 addresses and establishes criteria the applicant is required to follow regarding the retention of trees.

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

MOTION:  
Extension of Time (PA-03-42)  
Granted

A motion was made by Commissioner Fisler, seconded by Vice Chair Hall, and carried 5-0 to approve a one-year extension of time to expire on September 12, 2007 for Planning Application PA-03-42, by adoption of Planning Commission Resolution PC-06-02, based on analysis and information 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.

PLANNING APPLICATION  
PA-05-14 AND  
PARCEL MAP PM-04-290

Compas

The Chair opened the public hearing for consideration of Planning Application PA-05-14 and Parcel Map PM-04-290 for Michael Compas for a parcel map to divide an existing lot into two; with a variance from minimum lot width requirements; and a minor conditional use permit for shared driveway access located at 2003 Republic Avenue in an R1 zone. Environmental determination: exempt.

Senior 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. Mr. Lee noted there were several written communications from surrounding neighbors who opposed the project and a letter received this evening from the applicant responding to the issues that were raised.

Commissioner Garlich disagreed with an aspect in the supplemental memo having to do with the code requirement that states, "all newly subdivided lots shall have frontage on a dedicated street equal to, or in excess of, the requirement for minimum lot width." He felt the intent is that for a typically rectangular lot, you would not want a 30-foot lot that was 150 feet deep being developed for an R1 use. He said he understand that with a trapezoidal shaped lot, one would get with a cul-de-sac of this sort and this size, that the adequacy of the lot can arguably be in support of the findings. However, he said it was not clear to him that the findings for support of the variance as it relates to this other requirement was discussed, or that those same findings apply. It is his understanding that the basis for creating this code change, came after a discussion of an application of a similar situation where someone wanted to build multiple R1 residences on a large lot. He said the change in this requirement was created to require a frontage, not just a lot with a setback, but at the street, basically to insure there would adequate on street parking for guests, or for whatever reason. He said its not clear to him that applying the argument of the shape of the lot as its applied to the lot width as measured at the setback; that it's the same argument as would come into play with regard to the frontage requirement. He asked if it was staff's view that the same findings support the variance for both of these requirements.

Mr. Lee said, "yes." He explained that Commissioner Garlich is correct in that the staff report analysis evaluated the lot width at the 20-foot setback line (lot widths shown in the table on page), 28 feet for parcel #1 and 34 feet for parcel #2. As indicated, a few years ago the code was amended to clarify that newly subdivided lots should also take into consideration the actual frontage adjacent to the street, which in this case is about 44 feet. By applying the lot width at the 20-foot setback line, or the lot width at the actual street frontage, it would be deficient by either of those standards because the minimum established by code is 50 feet.

In response to a question from the Chair regarding alternatives, should this request be denied, Mr. Lee explained that under state law, a single-family residence could have a second residential unit either in the form of a granny unit or an accessory apartment. A granny unit is considered to be a second living quarters for someone 62 years of age or older with restrictions on size, and imposed parking requirements. The other alternative is an accessory apartment. The distinction between the two is that the accessory apartment does not have an age limit and as long as it complies with certain standards (size, setbacks and parking requirements), it is permitted. He said this could be done without necessarily having to split the lot, or apply for a variance as the applicant is proposing this evening.

The Chair confirmed that the applicant could create one of these extra units or, he could demolish the unit he has; rebuild it with a second unit attached as long as it meets all requirements, but without opportunity for home ownership.

Commissioner Garlich confirmed with Mr. Lee that state code preempts the local zoning code in the alternative of the accessory unit just described.

Commissioner Egan questioned Mr. Lee regarding accessory units and confirmed that the existing house could be demolished and a new one built, and, in addition, a detached accessory unit of up to 1,200 square

feet could be built on the lot.

Michael Sonpian representing the applicant, Michael Compas, said he became involved as an architect with this property last summer. He said Mr. Compas has lived in Costa Mesa since 1966 and has resided at this property for 25 years and plans to live there after the projects are built. He said he spent considerable time with the Planning Division to assure a good project and has responded to concerns regarding the neighbors and neighborhood to the City's satisfaction. He said having the shared driveway means the least amount of impact to the cul-de-sac, and it is exactly the same. It has also created the opportunity to establish more landscaping near the front or near the street. Existing street parking should remain the same because there is still only one driveway. He felt that because the property owner is the owner of a landscaping business that the landscaping he would do for this project would enhance the appearance of the neighborhood and increase the property values in the immediate area. He said one of the letters received discusses ecological impacts, which have been addressed by the soils report and was incorporated into the design. The requirement is that the house be a certain minimum distance from the edge of the bluff. He believed the minimum lot size of the area is 5,000 or 6,000 square feet and for these two homes, the lots are 7,500 square feet and 7,800 square feet; well above the minimum. He said concerns have also been expressed that the new homes are smaller than some of the neighboring properties. He believed it should be appreciated that the owner is not trying to cram in a big box on either side.

Chair Perkins asked Mr. Sonpian if he or the other architect has spoken with Mr. Compas about the other alternatives previously mentioned. Mr. Sonpian said he had not.

Former Planning Commissioner Chris Fewel, 2000 Republic Avenue, Costa Mesa, opposed the project because the design is not compatible with the neighboring homes in that there is only one driveway to accommodate 2 residences and he asked who would be responsible for the maintenance for that common driveway. Mr. Fewel said if the Commission approves this project based on the lot size and shape, they would be setting a precedent. He maintained that properties on a cul-de-sac are normally pie-shaped, and therefore, the applicant would be enjoying privileges not provided to the other residents on that street.

Alfred Kirsch, 2019 Republic Avenue, Costa Mesa, agreed with Mr. Fewel's assessment. He was concerned about the shared driveway because he felt a 26' wide driveway does not leave much room for guest parking. He asked where cars would park because this lot width is less than 50 feet. He also said that with only a 5-foot setback on each side, and the fact that these homes will have two stories, the neighbors on both sides would lose their privacy. He said that this is not the quality of life they expect in Costa Mesa and it has no community value to the surrounding property owners. He felt if this did get approved, that every corner lot would expand as the applicant is proposing for his lot.

Steven Van Wagoner, 1009 Grove Place, Costa Mesa, said that cul-de-sac properties are typically worth more, neighbors are normally closer in that configuration because they all face each other. He said the cul-de-sacs in this neighborhood are generally quiet and pleasant. Allowing this lot division will take away what has been a harmonious configuration for the past 50 years. Cul-de-sac lots are pie-shaped, creating less curb in front of the house and each dwelling needs 2 covered and 2 uncovered spaces and it is impossible with the proposed property split, unless the residents park in the middle of the common driveway. There are no properties that share driveways in the neighborhood. Mr. Van Wagoner gave a brief outline of what the consequences might be for future growth and parking impacts, should this proposal be approved.

Howard McVicker, 1015 Grove Place, Costa Mesa, discussed compatibility issues surrounding this project, and the impacts on the neighborhood.



Mark McIlroy, 2039 Republic Avenue, Costa Mesa, said he did not know how one driveway could satisfy the parking needs of two homes and that most people use their garages for storage. He said the parking is tight and there is a fire hydrant on the cul-de-sac. He said he could not support this request.

Dennis Repoza, 2004 Republic Avenue, Costa Mesa, said perhaps everyone should be told what the applicant is proposing. In response to Commissioner Garlich, Mr. Lee explained that the Planning Division has received copies of the plans for both of the proposed homes and as indicated earlier, they do comply with all applicable City standards. Commissioner Garlich confirmed with Mr. Lee that those plans are not before the Commission tonight so no action would be taken this evening. In response to a question from the Chair regarding the public's access to the plans, Mr. Lee explained that because both homes are proposed to be two-story, the adjacent neighbors would receive notification if the lot split is approved this evening, and then the building plan check goes forward.

Marc Loehren, 2001 Republic Avenue, Costa Mesa said his residence is next door to the applicant and he has an equally sized lot. He said the benefit of this area is that these lots are large with large separations between neighbors. He said this proposed project puts the applicant's property right next to his; it obscures his view and creates a fire hazard for the City because it has to be maintained on a regular basis. He said Mr. Compas runs a business out of his house; he grows plants on his property for sale. Over the years, he hasn't kept up his property and Mr. Loehren said he has no expectations that it is going to get better. He felt Mr. Compas wanted two homes so that one could pay for the other. Mr. Loehren said he felt that rental property would not do anything good for the neighborhood.

Rosy Tomasek, 907 Grove Place, Costa Mesa, said she hoped Planning Commission was in receipt of her husband's email in opposition to this project. She said this plan does not work for their neighborhood. She said Mike Compas' reasons for doing this are inconsistent in that Finding "E" says, the proposed use is for residential home ownership, while his back-up plan is for a "granny unit" rental property. Mrs. Tomasek argued that Mr. Sonpian said that this project did not affect available parking, but a single driveway with two additional occupants to the same property does not indicate where their guests are going to park when they visit.

Andrew King, 1017 Grove Place, Costa Mesa, said he opposed the lot split and wanted to reiterate the 3 major issues which are (1) parking, (2) the similarities (these two homes face each other and everyone in the cul-de-sac faces each other); and (3) a precedent may be set this evening. He urged the Commission to deny this project.

Peter Hanes, 943 Dogwood Street, Costa Mesa, said he agreed with the arguments on parking and opposed the project. In this case, we're looking at a change in minimum width to half of the standard. If there is a variance granted, it would be tantamount to rezoning this parcel R2 in the middle of an R1 neighborhood and setting a precedent.

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

Mr. Sonpian returned to the podium to address the issues. He stated that many of the speakers were concerned about the parking and he was surprised that they hadn't seen any plans before. He said he had a site plan if anyone wanted to look at it, that shows the required on-site parking very clearly and very comfortably. He said there is also a two-car garage and two driveway parking spaces totaling 4 parking spaces per house which is the City's requirement.

MOTION:  
PA-05-14/PM-04-290  
Denied

A motion was made by Commissioner Garlich, seconded by Commissioner Egan to deny Planning Application PA-05-14 and Parcel Map PM-04-290, by adoption of Planning Commission Resolution PC-06-03

based on public testimony, analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A" modified as follows.

Findings – Replace as follows:

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
  - (a) The proposed development and use are not compatible and harmonious with uses on surrounding properties.
  - (b) The subdivision of the lot would divide a conforming lot to create two substandard lots, each having substantially less street frontage than the 50 feet minimum required by Costa Mesa Municipal Code Section 13-32 and Table 13-32.
  - (c) The project is inconsistent with the General Plan, specifically Policy LU-1C-5, which favors development standards which tie density to lot width as well as area.
- B. The information presented does not substantially comply with Costa Mesa Municipal Code Section 13-29(g)(1) as it applies to the requested variance. Specifically, the property is zoned R1 and is developed with a single-family residence, as are all the surrounding properties. Consequently, strict application of the zoning ordinance would not deprive the owner of privileges enjoyed by owners of other properties in the vicinity under the R1 zoning classification. Rather, granting the requested variance would constitute a grant of special privilege by permitting two residences in place of one while creating two substandard lots.
- C. The creation of the subdivision and related improvements is inconsistent with the General Plan and the Zoning Code.

During discussion on the motion, Commissioner Garlich said he agreed with the arguments that this application is not compatible with the surrounding neighborhood; it does set a precedent in that if granted, other lots adjacent to this could come in and ask for the same privileges; and the Commission would be hard-pressed not to grant it. In particular, he did not think the findings support granting a variance to the frontage-parking requirement and it is different from the general requirement for lot width to assure that's a reasonably useable lot than this one that was crafted to address the specific parking issue. He said most of the people he talked to, are more concerned and frustrated with parking problems (because they happen in front of their homes and in their neighborhoods), than they are with the general traffic problems that we have in some places throughout the City, so for those reasons he was moving for denial of this application.

SUBSTITUTE MOTION:  
PA-05-14/PM-04-290  
Failed to Carry

A substitute motion was made by Chair Perkins, seconded by Vice Chair Donn Hall and failed to carry on a 3-2 vote (Garlich, Egan, and Fisler voted no), to continue this item to give the applicant and homeowners time to resolve issues.

During discussion on the substitute motion, the Chair said he did not disagree with Commissioner Garlich, but he was a little concerned, and although its not part of the project, one of the speakers suggested that the plan for the homes be shown to everyone. He said he met with the applicant this afternoon and he didn't do all that well about reaching out to his neighbors to let them know what was going on. He said he was sorry the applicant's original architect was not here to answer questions this evening. He said this motion would provide an opportunity for the neighbors and applicant to get together to resolve some issues, and is the reason he made the motion for a continuance.

Commissioner Egan said she was not in favor of a continuance for the reasons the Chair has stated because it is not the opposition of the neighbors that influences her decision. She did not believe the findings exist for a variance and she felt it would be a grant of special privilege; she believed it is incompatible with the neighborhood, and that it's bad

for Costa Mesa. Even if the neighbors did not object, or withdrew their objections, she would still feel the same about it.

Commissioner Garlich said he could not support the substitute motion either because it does not change the facts before the Commission as they relate to the application, which is simply to split the lot. Having not seen plans for the proposed homes, he said they are not material to the issue that is before the Commission.

Commissioner Fisler said he would not support the motion because it sets a bad precedent and has a negative impact on the quality of life. He felt it was almost like putting an R2 zone into the R1, and it is incompatible with the neighborhood. He said as a realtor he gets calls weekly from people asking for lots that could be split. He felt if the Commission did approve this lot split, there would be a deluge of people coming in and buying the lots and it would ruin the neighborhood.

Vice Chair Hall felt this was a problem for the Commission because the lot split divides a 15,000 square foot parcel into 2 lots which are far larger in square-footage than the standard 6,000 square-foot lots in the City. He felt that to deny someone his or her right to do something when it meets the code is difficult. The fact that Commission is supposed to also recognize the needs of the community and the community in this case, says they do not like it. Vice Chair Hall said he saw this as a decision to either accommodate the property owner and his rights to do with his property, as he would like to; or, the rights of the community in imposing something on them that they are not happy with. He said he supported the Chair's motion to give Mr. Compas an opportunity to meet with and talk to his neighbors.

Commissioner Egan said she would like to point out that if the lot split did take place, each owner would then acquire the right to build not only a single-family home, but an additional rental unit (a granny unit or an accessory apartment). So, instead of the possibility of one single-family home, and a small accessory unit, you would then have 2 single-family homes and possibly 2 accessory units. However, she said the crux of her decision is not that the lot isn't big enough, but that the street frontage isn't there and the findings aren't there for a variance to make that happen.

The Chair called for the vote on the substitute motion which failed to carry with a 3-2 vote (Garlich, Egan, and Fisler voted no) as shown above, and then called for the vote on the original motion which carried 5-0 as shown above.

The Chair explained the appeal process.

The Chair called a recess and the meeting resumed at 8:04 p.m.

The Chair opened the public hearing for consideration of Planning Application PA-05-38 and Parcel Map PM-05-208 for Bettyann Grout to convert 3 apartment units into airspace condominiums in conjunction with a parcel map to accommodate the project, located at 2690 Orange Avenue in an R2-MD zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. She said staff was recommending approval, by adoption of Planning Commission resolution.

In response to the Chair regarding what the income ratio is for renting these homes, Ms. Shih said she did not have the numbers with her but that there are income limits to qualify for very low, low and/or moderate income households. He confirmed with Ms. Shih that the landlord pays for the upgrade. In further response to another question from the Chair concerning the increase of rents to cover the cost of upgrades, Ms. Shih explained that conversion of these units, will not diminish affordable rental housing, based on the current rates that the owner is charging, which is already above the low, and very low household incomes. Responding to dialogue in the staff report as questioned by the Chair, Ms. Shih said typically, the term "more favorable" refers to the pricing and

*BREAK:*

PLANNING APPLICATION  
PA-05-38 AND PARCEL MAP  
PM-05-208

when it gets to the point they are ready to sell, staff will have to review the terms being offered tenants versus others.

Commissioner Garlich reviewed information in the staff report during the previous dinner session regarding a 2.97% vacancy rate and requested that in the future, he would appreciate it if staff could write a simple memo telling the Commission how this number is calculated, who calculates it and how often its updated.

Commissioner Egan said she brought up at the dinner meeting, that she is torn between competing interests as far as condominium conversions in general are concerned, and would appreciate a set of standards or guidelines, whether they come from within the Commission or from the Council. She said we have a policy to encourage homeownership because we have a larger than average ratio of rental units to ownership units. When you have no new construction, but conversion of apartments to condominiums, if those apartments fall short of condominium standards in several ways (if they are legal nonconforming and cannot be brought up to current code), then changes that would prolong the life of the nonconforming developments should not be allowed. She asked how nonconforming does an apartment development need to be before you say “no, this is not eligible for a condominium conversion and should remain apartments until its redeveloped.” Commissioner Egan said the City had no guidelines on this perspective and she would like some help.

The applicant, Bettyann Grout, 3633 Buena Visa Street, San Diego, agreed to the conditions of approval. She explained that to address Mr. Fisler’s concerns about parking, that whether or not this application is approved, the parking would remain the same. If it is approved for condos, there may be less parking concerns because there will be families there with children instead of excessive roommates. She said the property as it exists is nonconforming, however, if they do not convert and sell the lot, it will end up with many homes on it and the opportunity to own a home at about \$450,000 for these families will be lost. She said these are all detached small homes. She said 2 of the tenants want to buy their units.

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

Commissioner Fisler commented that this project will increase the level of nonconformity, but he believed for the quality of life in this City that if something is going to be converted, we need to raise the bar towards conformity and not prolong the nonconformity. He believed there might be a way that these tenants could buy these units together as joint tenants or tenants in common; they could be owners and free to sell their share and they wouldn’t have to be converted to condos.

MOTION:  
PA-05-38/PM-05-208  
Approved

A motion was made by Vice Chair Hall, seconded by Commissioner Garlich, and carried 4-1 (Fisler voted no) to approve Planning Application PA-05-38 and Parcel Map PM-05-208, by adoption of Planning Commission Resolution PC-06-04 based on analysis and information 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.

PLANNING APPLICATION PA-05-43 AND TENTATIVE TRACT MAP T-16946

Operon Group/Walden & Assoc.

The Chair opened the public hearing for consideration of Planning Application PA-05-43 and Tentative Tract Map T-16946 for Walden Associates, authorized agent for Operon Group to convert an 18-unit apartment complex into airspace condominiums; with a tentative tract map to accommodate the conversion located at 2233 Fairview Road in an R3 zone. Environmental determination: exempt.

Senior 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.

In response to a question from the Chair regarding how these units may



be sold, Mr. Lee said it was his understanding that these units can be sold at market rate and the very low, low, and moderate income levels will no longer apply because they would not be utilized as rental units.

In response to a question from Commissioner Egan regarding whether the open space figure includes the swimming pool, and utilitarian areas such as where the trash dumpster is kept, Mr. Lee confirmed that open space area per code definition of open space, includes all areas except areas covered by the building, and open parking and driveway areas.

Commissioner Garlich said he wanted to follow up on a comment made by the Chair regarding affordable housing rental rates for the three categories sited in the last application. He said there is no evidence that these units are currently being rented at those affordable rates. Mr. Lee confirmed and said the applicant has indicated that these units are being rented at approximately \$1,700 to \$1,800 per month.

Chris Kwasizur, 4 Upper Newport Plaza, Newport Beach, representing the owner, agreed to the conditions of approval. Mr. Kwasizur felt this would be a good conversion property. He said these units would go beyond fresh paint in that each exterior unit will have it's own color palate, bringing out the architectural features of each unit. The apartments are not in the affordable category with rents ranging from \$1,675-\$1,800 per unit. They are 3-bedroom, 2-1/2 bath, are stacked having a 2-car garage with direct access into the unit. He said they are raising rents to cover the costs while the renters are in there and they would prefer to have them stay because vacancies don't help them and some may buy their units when it's completed.

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

MOTION:  
PA-05-43/T-16946  
Approved

A motion was made by Commissioner Garlich, seconded by Chairman Perkins, and carried 3-2 (Egan and Fisler voted no), to approve Planning Application PA-05-43 and Tentative Tract Map T-16946, by adoption of Planning Commission Resolution PC-06-05 based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B."

During discussion on the motion, Commissioner Egan said this was a close one, but she could not support the motion because this project is under parked. The day she was there, 3 cars were parked in an area that was clearly marked "No Parking". The open space is minimal; there is no place for children to play. There is one tiny grassy area with a couple of trees. She said she could not see this project as condominiums—this not a place for families; its okay for the transiency of apartments.

Commissioner Fisler said he also could not support the motion because the parking is an issue and noted that this project is under parked and is a problem from that standpoint.

The Chair said although he agreed with those comments, he would support the motion because he would like to see more ownership and Council has set the direction in which Commission needs to travel.

The Chair explained the appeal process.

PLANNING APPLICATION  
PA-05-46

Lund and Peckenpaugh/Trieu

The Chair opened the public hearing for consideration of Planning Application PA-05-46 for Johnny Trieu, authorized agent for Lund & Peckenpaugh, for a conditional use permit to upgrade the beer and wine ABC license (type 20) to a full liquor license (type 21) for the California Stop Food Store located at 600 West 19<sup>th</sup> Street, Unit #A and B in a C1 zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. She said staff was recommending denial of the project because the property is located in an area where there is high crime, and the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio.

Vice Chair Hall verified several statistics common to the high-crime area

where the food store is located. He said he was trying to establish the nexus between the Commission denying this because there are some weird calls for service in the area with no relationship to alcoholic beverage dispensing; or the homeless being able to afford port wine and cheap wines, but he did not believe they could afford to buy high end scotch or vodka; he noted on the map that Beverages & More is located on almost an entire block and the location of Trader Joe's is covering almost a block. He said he was having trouble believing that changing from beer and wine to scotch and vodka is going to increase the crime rate.

Vivian Trieu, representing her husband who is owner of the California Stop Food Store, 600 West 19<sup>th</sup> Street, Suites A and B, agreed to the conditions of approval. Ms. Trieu advised that their major intent of this liquor license to bring in additional convenience to their customers, and increase liquor sales. She said, they have a business need for additional office space and their rent is going to be raised double at the end of this year. They had to find a way to be able to cover that cost and a Type 21 license would enable them to increase their sales, make improvements and pay their rent. She said they close their business every night at 11 p.m. and do not play music. Most importantly, they ask for and check I.D. before they sell liquor to possible minors, and they do not sell alcohol to a customer who appears to be intoxicated.

Steve Deck said he resides at the 1900 block of Anaheim Avenue, which is about 200 feet from the food store. He said he patronizes the food store and appreciates it as a family-run business. He said he is opposed to selling hard liquor at this location because the west side of Costa Mesa already has a big problem with vagrant alcoholics, especially near the intersection of 19<sup>th</sup> Street and Anaheim Avenue. He believes they are selling hard alcohol in more locations, and it will only get worse if the Commission adds this license. He gave many examples of drunkenness, vagrancy, harassment, intimidation for money (if not paid, obscenities are voiced), and urination in public. He asked the Commission to deny the request to avoid exacerbating present conditions and problems. He also suggested the grassy area in front of the store be landscaped to inhibit public drinking and publicly passed out, inebriated persons who are sleeping and loitering there.

Beth Refakas, 320 Magnolia Street, Costa Mesa, encouraged the Commission to deny this request as recommended by staff. She said there is an over concentration of liquor licenses not only in this area, but also throughout the City and detailed recent accident statistics related to drunk driving in the City.

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

MOTION:  
PA-05-46  
Denied

A motion was made by Commissioner Egan, seconded by Chairman Perkins, and carried 5-0 to deny by adoption of Planning Commission Resolution PC-06-06.

During discussion on the motion, Commissioner Egan said she had no doubt at all that the applicant is a law-abiding business owner, however, this is a thoroughly alcohol-saturated area. The Commission cannot make a finding that the public convenience and necessity finding requires another liquor store on West 19<sup>th</sup> Street because it is not true. As to the relationship between alcohol and criminal activity, when she was in law practice, she represented a municipal court judge who commented to her that 85% of the cases that came before him, had alcohol as an element to the crime (DUI's, public drunkenness, etc.).

The Chair agreed with Commissioner Egan's assessment.

Commissioner Garlich said he supported the motion because he believed Commissioner Egan rightly stated she could not make findings to justify convenience and necessity for this application. He said the comments about the rent going up and needing additional profit is not something the Commission can take into consideration in making land use decisions. He commented it is interesting that there may be the first signs of some unintended consequences of the urban plans with property owners

along 19<sup>th</sup> Street and other places, beginning to revalue their land based on future use. He felt it would be a good idea to keep an eye on this going forward if it does become relevant to the urban plan issues. He said he is sympathetic to the owners if they have that problem and need to increase their revenues. He said he also visited the store and had never seen so much beer in one place in his life; it was stacked so high he asked the Fire Marshall to go out there and find out if it was legal. As it turns out, it was legal.

The Chair explained the appeal process.

**REPORT OF THE DEVELOPMENT SVS. DEPARTMENT:**

None.

**REPORT OF THE CITY ATTORNEY'S OFFICE:**

None.

**ADJOURNMENT:**

There being no further business, Chairman Perkins adjourned the meeting at 8:50 p.m. to the study session of Tuesday, January 17, 2006.

Submitted by:

---

R. MICHAEL ROBINSON, SECRETARY  
COSTA MESA PLANNING COMMISSION