

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
March 27, 2006**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., March 27, 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
Fariba Fazeli, Senior Engineer
Mel Lee, Senior Planner
Wendy Shih, Associate Planner

MINUTES:

The minutes for the meeting of March 13, 2006 were accepted as distributed.

PUBLIC COMMENTS:

Dorothy McNiff, 1672 Tustin Avenue, spoke about the Beach Pit Barbeque Restaurant that has been addressed several times at both Planning Commission and City Council meetings in the recent past. She questioned whether there is a conflict of interest since Chairman Perkins is both an owner and investor in the Beach Pit Barbeque; she asked who authorized a television on the patio; she asked what the penalties for this violation are; and wanted to know why the minutes for the City Council meeting regarding she and her husband's appeal of the Beach Pit Barbeque were never posted. Deputy City Attorney Tom Duarte stated that since the Commission does not take any action on "Public Comments", the Chair could remain seated while Mrs. McNiff made her comments. In answer to Mrs. McNiff's questions, Mr. Duarte stated there was no preferential treatment of Bill Perkins by anyone, and further that Mr. Perkins excused himself for conflict of interest during the public hearing and the Commission acted as a 4-member body. It then went to City Council. He suggested that Mrs. McNiff contact staff for any unanswered questions, or for additional information. Vice Chair Hall asked what time of day the television was on and Mrs. McNiff responded, "Evenings." Commissioner Garlich said if any written communications are generated by the City in this matter, he would like to have a copy.

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

Planning Commissioners Bill Perkins, Donn Hall, Eleanor Egan and James Fisler attended the Planners Institute in Monterey, California this past weekend. Generally, they felt it was a good learning experience and was useful in terms of having a better sense of clarity when they left there. Chair Perkins thanked Development Services Director Don Lamm and Assistant Development Services Director R. Michael Robinson for their participation in moderating some of the sessions at the seminar and felt they did a great job.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

ONE-YEAR EXTENSION OF
TIME FOR PA-04-18

Fiock/Burger & Associates

The Chair opened the public hearing for consideration of a one-year extension of time for Planning Application PA-04-18 for Burger & Associates, authorized agent for Richard Fiock, to convert a triplex to a common interest (airspace condominium) development, located at 151 Albert Place, 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.

Tom Burger, architect representing the applicant, 20331 Irvine Avenue,

Santa Ana Heights, agreed to the conditions of approval. He also thanked Ms. Shih for her efforts in bringing this hearing about for the Commission’s consideration.

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

MOTION:
Extension of Time (PA-04-18)
Approved

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 5-0 to approve a one-year extension of time for Planning Application PA-04-18, to expire on March 14, 2007, by adoption of Planning Commission Resolution PC-06-20, 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.

PLANNING APPLICATION
PA-05-45

Negrette/Ringo

The Chair opened the public hearing for consideration of Planning Application PA-05-45 for Ralph Ringo, authorized agent for Ryan Negrette, for a variance from driveway landscape parkway requirements (10 ft. combined required; 4 ft. proposed) with a minor design review for a second story addition above a new, three-car garage, located at 369 Rochester Street in an R2-MD zone. Environmental determination: exempt.

Staff recommended a continuance of this item to the Planning Commission meeting of April 10, 2006, so the applicant can resolve design issues.

MOTION:
PA-05-45
Continued

A motion was made by Chairman Perkins, seconded by Commissioner Garlich and carried 5-0, to continue this item to the Planning Commission meeting of April 10, 2006.

PARCEL MAP PM-06-107

Cefalia

The Chair opened the public hearing for consideration of Planning Application PM-06-107 for Jim Cefalia, to subdivide one lot into two lots to facilitate a two-unit residential project approved under PA-05-07, located at 147 23rd Street in an R2-MD 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.

Jim Cefalia, applicant and owner, 930 West Oceanfront, Newport Beach, agreed to the conditions of approval.

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

MOTION:
PM-06-107
Approved

A motion was made by Commissioner Garlich, seconded by Commissioner Egan, and carried 5-0 to approve Parcel Map PM-06-107, by adoption of Planning Commission Resolution PC-06-21, based on information and analysis contained in the Planning Division staff report, and findings in exhibit “A”, subject to conditions in exhibit “B.”

During discussion on the motion, Commissioner Egan said although she would be supporting the motion, her reason for doing so is that the Commission has already approved the project. She said she voted for it the last time with some reluctance and she still has the same concerns about creating substandard lots. She said now that City Council has removed the prohibition against 2-unit condominiums, if this were to come before us, she may have opposed it, however, she did not believe the Commission could approve the project and then “pull the rug out from under the developer”, especially after he’s under construction.

The Chair explained the appeal process.

PLANNING APPLICATION
PA-06-01

Harty and Trestik

The Chair opened the public hearing for consideration of Planning Application PA-06-01 for Matt Harty & Scott Trestik, for variances from front building setback requirements, street landscape/fence/wall setback requirements, private open space requirements, minimum and average lot size requirements in conjunction with a design review for a 4-unit, two-story, common interest development, located at 2378 and 2380 Norse Avenue in an R2-MD zone. Environmental determination: exempt.

Senior 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.

In response to a request from Commissioner Garlich regarding parking data on the bottom of page 2 of the staff report, Mr. Lee explained that the parking tabulation indicates that 4 parking spaces are required for the development and 4 parking spaces are proposed. He said this is a *per lot* breakdown and the total number of parking spaces the project is required to provide complies with the 4 parking spaces per lot.

In response to a question from Commissioner Egan regarding the unit located on the cul-de-sac, Mr. Lee explained that if you were to rotate the unit, the driveway that is there, would now be coming off of Norse Avenue. Commissioner Egan said she had not considered that.

In response to a question from Vice Chair Hall regarding the square-footage of the lot and getting 4 units in place with less than 3,000 square feet each, Mr. Lee explained there was an amendment to the zoning code in early 2004. It states that when calculations are figured for the minimum and average lot sizes for common interest developments, all common areas are now subtracted out of that calculation. In response to another question from Vice Chair Hall regarding moving back Plan 2 to the fence directly behind the unit, Mr. Lee stated that this would probably address the setback issue, however, there would still be an issue meeting the minimum and average lots sizes for the overall development. He said even if the houses were reduced in size and were setback further from the street, this would not resolve the problem. Mr. Robinson added a clarification that the driveway in front of the garage is counted as part of the lot area, however, the common driveway providing access to that driveway is not counted.

Commissioner Garlich said that concerning the way the minimum and average lot sizes are calculated; common areas were not included in that calculation. Originally, staff made calculations of this sort on that same assumption; this code change was made simply to memorialize that process and to make applicants aware of it up front.

In response to a question from Commissioner Fisler regarding the driveway, Mr. Lee explained that the driveway is at the required width in order to provide back out and circulation per Transportation Services and it is not over the requirement.

In response to a question from Chair Perkins regarding deduction of open space in the calculations, Mr. Lee explained that they deduct the common area from the lot sizes (shaded areas as shown on the site plan).

In response to a question from Commissioner Egan regarding the private yard areas at the back of the property, Mr. Lee explained that those areas are required for this type of development.

There was discussion between Commissioners Garlich and Egan, and Mr. Lee regarding moving things around in the space available including overage of the common area, in an effort to make it work.

Scott Trestik, 240 East 22nd Street, Costa Mesa, agreed to the conditions of approval. Mr. Trestik gave a brief history of the project.

Dennis Wilkinson, architect for the project, 17500 Red Hill Avenue, Irvine, stated that when they first approached the project, they took the interior driveway as a lettered lot. The lettered lot is not a part of the Map Act and is something the City has layered in so that they have the right to lien properties, and then can lien one lot, which is owned in common by all participants. He felt the architecture works in terms of design guidelines, etc., and they made the effort to make it work for the City. He noted that after the revision of the 2004 Zoning Code, a project at 120 Monte Vista had a map and did a lot split, and a shared easement. Therefore, there is precedence for not doing exactly what the ordinance says. He said they want to do a nice project and he believed this project

would be a major improvement to the neighborhood.

He said as Mr. Trestik pointed out, they meet the parking, building coverage, and open space requirements and the only deficiency is the common driveway as a lettered-lot; it that diminishes the lot size of all the other lots. Secondly, because of the cul-de-sac, they are asking for some forgiveness in fencing, low setback at one point on the property, and the private open space.

In response to questions from Commissioner Garlich regarding a new plan, Mr. Wilkinson said he was not saying they had intentions of changing the plan, he was asking the Commission to consider approval of the project for the reasons he gave. Commissioner Garlich said one reason he spoke about the 2004 change when Council adopted the code amendment, was to verify the calculations were made the same way.

Jerome Blackman, 2379 Norse Avenue, directly across the street from the proposed project, felt that this looked like a fairly reasonable plan. He said parking is a constant concern on the street because the property south of this project is multiple-family dwellings as well, with a lot of renters to the north. He said this project appears to account for it's parking. It sounds like it does not currently meet the code requirements for minimum lot size and there was not much that could be done about it, but as a neighbor across the street, as long as they've accounted for as much as they have already, this looks like a reasonable plan using common sense. In response to the Chair, Mr. Blackman noted that the residents received notices from the City and the property was also posted.

Scott Trestik, applicant, returned to the podium and asked if staff could display the aerial photograph of the property. He pointed out that in terms of the setback to the street, that the building at its closest point is 10 feet, and in all probability, 80% of that frontage complies with code having 20' setbacks. He showed other homes 6 to 7 feet off the street and he felt there was precedent on the street, and it is not outside the "norm" for that area; he said many homes are in that proximity.

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

MOTION:

PA-06-01

Motion to deny was not called
(see substitute motion below)

A motion was made by Commissioner Garlich, seconded by Chair Perkins, to deny by adoption of Planning Commission resolution, based on information and analysis contained in the Planning Division staff report, and findings in exhibit "A."

During discussion on the motion, Commissioner Garlich said this was very tough and he felt the arguments regarding the variance and the way it might mitigate a number of the issues that staff raised with regard to minimum dimensions for the open space and the setbacks and the wall setback, etc., probably have merit, but they don't change the basic conclusion that even without the cul-de-sac, the average lot size requirements are significantly not met. He recalled when those small lot standards were debated and put into place some years ago and he felt these numbers of 3,000-3,500 square feet, were not big enough for some of the members on Council. In terms of providing opportunity for these kinds of developments, these standards are pretty accommodating and he did not feel he was ready to start nibbling away at them. He said they have had other applications that have come in that almost fit but not quite. For the most part, Commission has abided by the standards that were there and this is his reasoning. For him it's the average lot size requirement, the origin of those requirements. He said the issue of the cul-de-sac does not relate to that.

Vice Chair Hall commented that if we are going to go by the book on everything, then why are we here if we can't make some subjective decisions; decisions that are based on the quality of a project. If it's all by the book, staff can handle it and we are not needed and that's a true statement. He said he feels this is a nice project and as he read in the staff report, variances allow for special circumstances applicable to how the property exists, such as an unusual lot size, or lot shape. This *is* an unusual lot shape.

SUBSTITUTE MOTION:
PA-06-01
Approved

A substitute motion was made by Vice Chair Hall, seconded by Commissioner Fisler, to approve Planning Application PA-06-01, by adoption of Planning Commission Resolution PC-06-22, based on public testimony and information and analysis contained in the Planning Division staff report, and findings in exhibit “A” with the following modifications, subject to conditions in exhibit “B.”

Findings (Exhibit A)

- A. The proposed project ~~does not comply~~ complies with Costa Mesa Municipal Code Section 13-29(d) because:
- The proposed development is ~~not~~ compatible and harmonious with uses on surrounding properties.
 - Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - The proposed project ~~does not~~ complies with applicable performance standards prescribed in the Zoning Code.
 - The project is ~~not~~ consistent with the General Plan.
 - The cumulative effect of all ~~of~~ the planning applications have been considered.

Replace “B” as follows:

- B. The information presented complies with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exist to justify granting of the variances from front building setback, front street landscape/common area lot width and 6 foot high fence setback, private open space minimum dimension, and minimum and average lot size requirements. Specifically, approval of the variance is justified due to the cul-de-sac, which results in a loss of buildable area for the project site. The cul-de-sac creates an unusual lot shape for the subject property, as well as subtracting approximately 480 square feet of buildable lot area from the project site. Additionally, the project provides 4 small lot single-family units with home ownership opportunities.
- C. The information presented substantially complies with Section 13-29(g)(14) of the Costa Municipal Code Costa mesa Municipal Code with regard to the design review in that the project complies with the City of Costa Mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, ~~however, because the findings for the approval of the variances discussed earlier cannot be made, the units themselves cannot be approved.~~
- D. *Same.*
- E. *Same.*

During discussion on the substitute motion, Commissioner Egan said she was inclined to support this motion as well. She said staff is right to recommend denial because they are the “technicians” here. However, if you look at Lot #4 (southerly) as it exists, prior to combination, you have an R2 lot that seems to meet the standards for an R2 lot, but the average lot size doesn’t quite make it because of the cul-de-sac. She felt that doesn’t work because if it’s an R2 lot, and just that little loop is going to take away from its development as an R2 lot. She believed the developer has made really good use of the area and she believed the Commission would be doing a disservice to the neighborhood and the City to be such a stickler for 180 square feet on Lot #4, so she supported the substitute motion.

Commissioner Fisler said he would support Vice Chair Hall’s motion because the developer is very close on many of the elements in the project, and because this is a common-interest development with that large driveway; they meet the parking requirements, the building coverage and the open space, and the fact that the one unit is a little short on its dimen-

sion (13' 8"), rather than the 15 feet. That is something he felt a buyer would go into with open eyes and know what they are buying and he did not see that as an issue.

Commissioner Garlich stated he wished to clarify he heard it was the cul-de-sac that was causing the project to not meet the average lot size requirements and it is not.

Vice Chair Hall said that Commissioner Egan noted that staff should have recommended denial and he agreed with her. He said staff does not have the freedom or the prerogatives that the Commission has to grant variances where they don't comply with the code. As far as the cul-de-sac taking away property, Section 1329(g)(1), "lot shape" is a reason for a variance. Vice Chair Hall then presented his findings as shown above.

Chair Perkins, although he read Section 1329 (g)(1) regarding "lot shape", he said unfortunately in his mind, he did not think that exists here, though he did recognize it is a good project and wished the applicants the best. The Chair then called for the vote on the above substitute motion.

The Chair explained the appeal process.

PLANNING APPLICATION
PA-06-07

Fung

The Chair opened the public hearing for consideration of Planning Application PA-06-07 for Anthony & Jeannie Fung, for a conditional use permit to allow a fitness center in an industrial building with a minor conditional use permit to deviate from shared parking requirements due to offset hours of operation, located at 3195 Red Hill Avenue, in an MP 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 a question from the Chair regarding whether there would be enough security to cover the hours of operation, Ms. Shih deferred to the applicant.

Anthony Fung, 27076 Ironwood Drive, Laguna Hills, agreed to the conditions of approval and thanked staff for their efforts. With regard to security previously noted by the Chair, Mr. Fung stated there are usually 20-25 people at a time, and there will be enough teachers and office staff (they expect 6-7) to handle those types of problems.

In response to a question from Commissioner Egan concerning lighting in the parking lot, Mr. Fung stated that every unit in the building has outside lighting on the parking lot. He said their intention was also to install floodlights at the top of the building. He said it is a concern for them because they understand how important it is.

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

MOTION:
PA-06-07
Approved

A motion was made by Chair Garlich, seconded by Commissioner Egan, and carried 5-0 to approve Planning Application PA-06-07, by adoption of Planning Commission Resolution PC-06-23, 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. Robinson corrected an error on this evening's agenda, which stated "Adjournment to the study session of Monday, April 10, 2006," that should have read, "meeting" instead of study session.

REPORT OF THE CITY ATTORNEY'S OFFICE:

None.

ADJOURNMENT:

There being no further business, Chairman Perkins adjourned the meeting at 7:40 p.m. to the meeting of Monday, April 10, 2006.

Submitted by:

R. MICHAEL ROBINSON, SECRETARY
COSTA MESA PLANNING COMMISSION