

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

May 8, 2006

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., May 8, 2006 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Acting Chair Donn Hall, followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

Commissioners Absent:

Chairman Bill Perkins

Commissioners Present:

Vice Chair Donn Hall

Eleanor Egan, James Fisler, and Bruce Garlich

Also Present: R. Michael Robinson, Secretary

Costa Mesa Planning Commission

Christian Bettenhausen, Deputy City Attorney

Ernesto Munoz, City Engineer

Gary Hook, Building Inspector

Willa Bouwens-Killeen, Principal Planner

Hilda Veturis, Management Analyst

Mel Lee, Senior Planner

Wendy Shih, Associate Planner

Hanh Tran, Assistant Planner

MINUTES:

The minutes for the meeting of April 24, 2006 were continued to the Planning Commission meeting of May 22, 2006.

PUBLIC COMMENTS:

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

Commissioner Fisler expressed dismay at the graffiti he observed on Mesa Verde Drive West from Victoria Street forward. He commended the City for their quick response in taking care of the removal and reminded people that its important to keep their areas free of graffiti; to do their fair share in preventing it in their neighborhoods, and to call the City when they see it.

Commissioner Garlich congratulated the Police and Fire Departments for another outstanding Public Safety Exposition at Station #4 across from Estancia High School this past weekend. He reminded the public that this is an annual event and happens about the same time in May each year, and encouraged them to take their children to the event.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

APPEAL OF ZONING
ADMINISTRATOR'S DENIAL

Frink

The Acting Chair opened the public hearing for consideration of an appeal of the Zoning Administrator's denial of a request to rebuild a non-conforming duplex (inadequate parking, open space, and setbacks) that has been demolished, located at 212 Ogle Street, in an R2-HD zone. Environmental determination: exempt.

Management Analyst Hilda Veturis reviewed the information in the staff report and gave a presentation. She said staff was recommending that the Commission conduct a public hearing and either uphold, reverse, or modify, Planning staff's denial, by adoption of Planning Commission resolution.

Commissioner Garlich said for the record that he met with the applicant at the site and the impression he came away with was that the Planning Division approved the project and that they had a building permit. They were going to leave a portion of the structure to maintain the legal non-conforming status. At some point, they were advised by the Building Division that the wall they were intending to leave up, could not remain so they demolished it. He said he was led to believe that the City had circumstances like this in the past and had allowed those to go forward because of unforeseen circumstances, but it was decided that this prac-

tice had to stop.

Planning Commission Secretary R. Michael Robinson stated there have been situations that came up in the past, but the City has been fairly consistent since 2004 that any alterations to this project that would result in removal of the wall, and would require it to be brought up to current code requirements.

Commissioner Egan stated that the building permit files should show what was granted. She asked staff if the record reflects that it was for interior alterations only. Ms. Veturis confirmed this was correct.

Ms. Bouwens-Killeen clarified that since the original proposal was only an interior alteration of the duplex, and since the exterior shell was going to remain the same, issues about parking and open space did not enter into the decision process and was something that could be approved without variances as a non-conforming structure. However, once the structure was removed, the non-conformity was removed (exterior shell) and the open space, parking, and setbacks became issues. Ms. Bouwens-Killeen confirmed with Commissioner Fisler that the question before the Commission is whether the Zoning Administrator's denial of the applicant's request to rebuild the units should be allowed. There was further discussion between Commissioner Fisler and Ms. Bouwens-Killeen regarding what the applicant could build if he conforms to current standards.

Building Inspector Gary Hook of the City of Costa Mesa Building Division summarized his recollections of events surrounding this application.

Emory Frink, applicant and owner of the property, stated he has lived in Costa Mesa since 1954. He said this building was built in 1952 and the shell is okay but in most areas, the interior walls are paper-thin. He said at that time, there was no alley and it was a full lot. Pages 1 and 2 of the report he submitted showed photographs of the building's condition approximately 2 years ago. He described the events leading up to their decision to revamp the site and what changes would be made. He also described the events that led to this hearing.

Jim Taylor, general contractor for the site at 212 Ogle Street, explained that where there are existing openings in the existing structure, they are reflected on the new plan of what was proposed to be built. He said as they were working in several of the areas and filling in existing window openings which were not necessarily going to be used as window openings from the bottom sill up to headers, etc., but actually go from the bottom plate all the way up to the top plate to provide structural integrity. However, he said as they got into the demolition, you could see it looked fine in some, areas, but when they began tearing out the inner layer, they found a mismatch of materials and how they had been installed. At that time, he called Costa Mesa Building Inspector Gary Hook, because he knew he didn't have the authority to take down the wall without anyone coming by and taking a look at it. He said when he talked with Mr. Hook, he believed it was a misunderstanding, perhaps on his part, but there was a demo person who had overheard the conversation where Mr. Hook had said, "you need to fix this and do this right." At that time, Mr. Taylor said he thought Mr. Hook meant taking down all the rotted area, etc.

In response to Acting Chair Hall, concerning when Mr. Frink (applicant) started removing the existing structure, he found out that basically nothing was worth saving.

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

Mr. Frink returned to the podium to answer further questions from the Commission. In response to a question from Acting Chair Hall, he said it was his intention for he and his wife to retire at this location once it has been rebuilt.

Acting Chair Hall questioned Ms. Bouwens-Killeen regarding the crea-

tion of a nonconforming status on the property because of the alley in relationship to setbacks. She said that the one foot reduction in the setback is easily approved by Planning staff through a minor modification. She pointed out that the overriding concerns are with the parking and open space.

There was discussion between Commissioner Fisler and Principal Planner Willa Bouwens-Killeen regarding the intent of the General Plan and Zoning Code to ensure nonconforming uses are replaced over time by conforming development; the number of years parking and open space requirements have been around and the number of times they were updated; and the current requirements for open space and parking versus what exists on the property.

MOTION:
212 Ogle Street
Reversed Zoning Administrator's Decision

A motion was made by Commissioner Garlich, seconded by Commissioner Fisler and carried 3-1 (Egan voted no, Perkins absent), to reverse Zoning Administrator's denial for property located at 212 Ogle Street, by adoption of Planning Commission Resolution PC-06-30, based on testimony provided at the Planning Commission meeting of May 8, 2006.

During discussion on the motion, Commissioner Egan said that while she agrees that everyone acted in good faith it was her opinion that the applicant attempted to modify a building that was more than half a century old, and had undergone substantial deterioration over the years, in addition to not being properly constructed in the beginning. The applicable law as set forth in the Zoning Code and in the General Plan and states that once a nonconforming structure has been demolished, any further construction on that site needs to conform to code; she did not see any ambiguity in the code or General Plan.

There were discussions by Willa Bouwens-Killeen, Acting Chair Hall, Commissioner Garlich, and Eleanor Egan regarding the outcome, should the decision of the Zoning Administrator be reversed by Planning Commission. Commissioner Fisler reminded everyone that the Habitat for Humanity project was such an example and on request, Commissioner Garlich explained what had occurred with the Habitat project..

Deputy City Attorney Christian Bettenhausen clarified what issue was actually before the Planning Commission.

Acting Chair Hall called for a vote on the motion (*as shown above*).

REQUEST FOR REVIEW OF
PLANNING STAFF'S DENIAL
OF DEVELOPMENT REVIEW
DR-06-01

Bollinger

The Acting Chair opened the public hearing for consideration of a request for review of Planning staff's denial of Development Review DR-06-01 for James and Susan Bollinger to legalize the installation of a mobile home on a lot with an existing home; with a minor modification for an 11-foot wide driveway (16 feet required), located at 2333 Elden Avenue in an R2-MD zone. Environmental determination: exempt.

Assistant Planner Hanh Tran reviewed the information in the staff report and gave a presentation. She said staff was recommending that Planning Commission conduct the public hearing, and either uphold, reverse, or modify Planning staff's denial, by adoption of Planning Commission resolution, subject to condition.

Commissioner Garlich said the Commission is looking at a staff denial of an application made in January, which was to put a mobile home temporarily on the site to care for applicant's mother. The mother has since passed away, and they now wish to incorporate the mobile home into a permanent residential structure and request additional time to hire an architect, work with Planning staff, and present an amended plan. Commissioner Garlich stated that the revised plans are not before the Commission this evening. He asked staff what options the applicant would have in order for the applicant to modify the plans.

Assistant Planner Hanh Tran explained that the Planning Commission could continue this project and consider the applicant's revisions to the plans. Principal Planner Willa Bouwens-Killeen suggested the item be continued to a date certain because the mobilehome has already been

installed at the site illegally and Planning Division has received several complaints about its appearance.

James Bollinger, 137 St. Vincent, Irvine, said they have presently relocated their mobilehome from El Moro Village, Newport Beach on March 1, 2006 to its present site because his wife's mother is ill and the closing of El Moro Village.

Mr. Bollinger stated that since they moved the mobilehome onto the site, they have improved the landscaping, installed a sprinkler system, and removed a chain link fence per City requirements. The mobilehome that's not at the beach, which is where they used to live. The mobilehome will be redesigned to be an outstanding architectural asset for the community. He said they have submitted drawings for the Commission's review. He said their request is that they be allowed to go through proper steps to resubmit their building permit without relocating the mobile home.

Acting Chair Hall confirmed with Mr. Bollinger that this was to be his starting point for a residence. Mr. Bollinger said their intent is to use parts of it, much like a shoebox combined with permanent construction. He pointed out the elevations as shown on page A3 are compatible with the neighborhood.

Commissioner Garlich advised Mr. Bollinger that the Commission couldn't take action on the plans this evening because the revised plans are not on the agenda. He said one of the options they do have is to continue the item to enable the applicant to formerly prepare and he asked the applicant when he felt he could provide all the information needed. Susan Bollinger (wife) came forward and stated they were told they would have to remove their mobilehome within 30 days of this hearing date and her concern is that they would not have enough time to prepare. Commissioner Garlich explained that if the Commission were to grant a continuance, the mobilehome would not have to be removed until such time as action is taken on this matter. However, the applicant needs to submit a modified application incorporating the revised drawings.

In response to a question from Commissioner Garlich regarding the applicant's letter, which states that they wish to include the Coach in a design built home, Assistant Planner Hanh Tran stated that based on staff's conversations with the Building Safety Division, any modification to the structural integrity of the mobilehome cannot be reviewed, or inspected. She also spoke with the state agencies regarding mobilehome statutes and they relayed the same information. With the revised plans, the portion that is outside the mobilehome unit can be reviewed by City staff, however, the structure itself, cannot be reviewed. Commissioner Garlich asked if the applicants could revise their proposal and submit this kind of an architectural proposal. Staff said they could.

Ms. Bouwens-Killeen commented this is the first time staff has seen the plans and she would like to have more detail as to what's actually the mobilehome and what's new construction, so it can be run by the Building Division. In response to a question from Commissioner Garlich regarding a revised application submittal, Ms. Bouwens-Killeen confirmed that the Bollingers would need to bring a revised application for Planning staff's review before a hearing is held on the matter.

In response to a question from Commissioner Garlich regarding a date certain, Ms. Bouwens-Killeen explained that this item could be continued to June 26th. She also felt if they were able to come to an agreement between all parties with what the Bollinger's are proposing, they may be able to withdraw the appeal and approve the development review without bringing it back to Planning Commission.

In response to Acting Chair Hall, Ms. Bouwens-Killeen felt that June 26th would be sufficient since the Bollingers have already had plans prepared.

PUBLIC COMMENT:

The following speakers opposed the application and made the following

comments: Greg Horter, 2335 Elden Avenue (next door); Beth Refakas, 320 Magnolia Street; Dana Lavin, 2337 Elden Avenue; Chris (first name only), 2335 Elden Avenue; Doug (last name inaudible), 2155 Elden Avenue; Ann Kent, 2337 Elden Avenue; Anastasia Winley, 2335 Elden Avenue, Costa Mesa. •They were opposed to the mobilehome because it would take too long to resolve the issues and even if approved, it is doubtful the applicants would do what they said they would because they placed the mobilehome on the property without a permit. •It is in the wrong zone; it is an eyesore; the mobile home will bring property values down; and with the nonconformity and safety issues, the mobilehome does not fit with other housing in the community. •Different law governs inspection of mobilehomes and City personnel have no right to enter the premises in this case, which will also hold up the process. •Several speakers commented they were in favor of a denial until the issues are resolved, and further commented, they did not believe those issues would go away in the near future.

During public comments, Acting Chair Hall remarked that he has complete confidence in staff to make sure the rebuilt mobilehome complies with building codes and enhances the neighborhood.

Mr. Bollinger commented that they purchased their mobilehome in 2001. They had no idea that they were going to be in this precarious situation. When they bought mobilehome, he completely remodeled the interior and brought things up to code and this was one of the reasons they were reluctant to walk away from it. He felt once the exterior siding is opened up, any problems can be addressed by the building inspectors at that time. He said they are completely open and willing to abide by the rules.

When asked by Commissioner Fisler, Mr. Bollinger confirmed that they had a realtor when they bought the mobilehome. Mr. Bollinger explained that there was approximately 40 months left on the lease at that time; they also received information from the association that there was a very good likelihood that the lease was going to be extended again, which obviously didn't happen. Commissioner Fisler asked why Mr. Bollinger moved the mobilehome onto this property illegally. Mr. Bollinger said they submitted their paperwork and obtained permission from the trust to locate it there and they were acting on good faith they were going to be able to get it approved and did not realize they would be getting this kind of resistance.

Commissioner Garlich said he respected all of the comments the neighbors have made and many of them raise good points. He hoped that the revised application would address most, if not all of the issues, and that staff would work with the City Attorney's Office regarding the estate issues.

No one else wished to speak.

MOTION:
DR-06-01
Continued

A motion was made by Commissioner Garlich, seconded by Acting Chair Hall and carried 3-1 (Fisler voted no, Perkins absent), to continue this item to the Planning Commission meeting of June 26, 2006.

SUBSTITUTE MOTION:
DR-06-01
Failed for lack of a second.

A motion was made by Commissioner Fisler and failed for lack of a second, to deny based on the evidence in the record and findings contained in exhibit "A", and directed that the mobilehome be removed from the premises within 30 days from the date of the resolution.

The Acting Chair then called for the vote on the original motion.

PLANNING APPLICATION
PA-06-12

Bauer/Allen

The Acting Chair opened the public hearing for consideration of Planning Application PA-06-12 for Kevin Allen, authorized agent for Richard Bauer, for a conditional use permit to allow an existing church in Suite G3 (approved under PA-97-50) to expand into two adjacent suites (sanctuary to remain unchanged), located at 3505 Cadillac Avenue, #G4 and #G5, in a PDI zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. Mr. Lee said staff was recommending approval,

subject to conditions.

Kevin Allen, 3603 East Mandeville Place, Orange, representing both the seller of the G4 and G5, as well as the church. He explained that this building would essentially be used in offset hours and for multipurpose uses such as classrooms, counseling areas for clergy, and primarily for office administration. He agreed to the conditions of approval.

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

MOTION:
PA-06-12
Approved

A motion was made by Commissioner Garlich, seconded by Commissioner Fisler and carried 4-0 (Perkins absent), to approve Planning Application PA-06-12, by adoption of Planning Commission Resolution PC-06-31, based on information and analysis contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Acting Chair explained the appeal process.

PLANNING APPLICATION
PA-06-15

Boyd/Zehnder

The Acting Chair opened the public hearing for consideration of Planning Application PA-06-15 for Peter Zehnder, authorized agent for Robin Boyd, for a residential common interest development conversion of 5 apartment units to condominiums, located at 322 Ogle Street in an R2-MD zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a presentation. Ms. Shih said staff was recommending approval, subject to conditions.

In response to a question from Commissioner Egan regarding how the requirement of 21 total parking spaces for 5 units is calculated, Ms Shih said it is based on the number of bedrooms per unit. She said since all the units are 3-bedroom, they require 1 covered parking space, plus 2-1/2 open parking spaces and 1/2 guest parking space per unit, totaling 21 required parking spaces (using "rounding up" as required by code).

Peter Zehnder, authorized agent, 521 Redlands Avenue, Newport Beach, agreed to the conditions of approval.

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

MOTION:
PA-06-15
Approved

A motion was made by Commissioner Garlich, seconded by Commissioner Egan and carried 3-1 (Fisler voted no, Perkins absent), to approve Planning Application PA-06-15, by adoption of Planning Commission Resolution PC-06-32, based on information and analysis contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

PLANNING APPLICATION
PA-06-16

Schock/Burke & Dobbie

Withdrawn

Planning Application PA-06-16 for Brian Burke/Steve Dobbie, authorized agents for Marie Schock, for a conditional use permit to establish a group-counseling center in an industrial building with a minor conditional use permit to deviate from shared parking due to off-set hours of operation, located at 1040 West 17th Street in an MG zone. Environmental determination: exempt.

Withdrawn. No action required.

Commissioner Garlich wished to comment that before he left his home this evening, he received a fax stating an objection to the above item and delivered it to staff to put into the file.

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 8:27 p.m. to the study session of Monday, May 15, 2006.

Submitted by:

R. MICHAEL ROBINSON, SECRETARY
COSTA MESA PLANNING COMMISSION