

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

May 22, 2006

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., May 22, 2006 at City Hall, 77 Fair Dr., Costa Mesa, California. The meeting was called to order by Chairman Bill 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: Kimberly Brandt, Acting Secretary
Costa Mesa Planning Commission
Kimberly-Hall Barlow, City Attorney
Ernesto Munoz, City Engineer
Wendy Shih, Associate Planner
Hanh Tran, Assistant Planner

MINUTES:

The minutes for the meeting of April 24, 2006 and May 8, 2006 were accepted as corrected.

PUBLIC COMMENTS:

None.

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

Commissioner Garlich announced that real estate Attorney Wesley Taylor who appeared often before the Planning Commission passed away. He said he was highly respected among his peers and he would be missed.

Commissioner Garlich congratulated the Costa Mesa Chamber of Commerce for their Annual Student Awards Breakfast last Friday at the Hilton Hotel, which recognizes student achievement at both Costa Mesa high schools, continuation schools, middle schools, Vanguard University and Orange Coast College.

Commissioner Garlich also announced the Annual Fish Fry at Lion's Park, June 3rd and 4th. He announced the activities and encouraged everyone to attend.

The Chair discussed sending a card to the Taylor family.

CONSENT CALENDAR:

On a motion made by Commissioner Garlich, seconded by Vice Chair Hall and carried 5-0, the following item on the Consent Calendar received the action below.

VACATION OF EXCESS RIGHT-
OF-WAY

Vacation of excess right-of-way for Alley No. 84 at 164 Magnolia Avenue. Environmental determination: exempt.

City

Acting Secretary Kimberly Brandt pointed out that the staff report inadvertently omitted one of the utilities listed on page 2 of the Planning Division staff report (Mesa Consolidated Water District), and noted it would be corrected in the report to City Council.

The Planning Commission unanimously adopted Planning Commission Resolution PC-06-33 finding that the location of the excess public right-of-way is in conformity with the City of Costa Mesa 2000 General Plan, and added "water" to the list of utilities on page 2 of the Planning Division staff report, under *Future public utilities are preserved by an easement.*, line 2 "...utilities (sewer, electricity, water, telephone, and cable) located within the right-of-way..."

PUBLIC HEARINGS:

The item below was called second in order and Planning Application PA- 06-20 and Parcel Map PM-06-157 was first to be heard due to the possible length of the other two hearings.

AN ORDINANCE REGARDING
DEFINITION, REVIEW PROCEDURE
AND REGULATION OF
"ASSEMBLY USE"

The Chair opened the public hearing for consideration of an ordinance of the City Council of the City of Costa Mesa, California, amending Title 13 of the Costa Mesa Municipal Code regarding the definition, review procedure, and regulation of "Assembly Use." Environmental determination: exempt.

City

Acting Secretary Kimberly Brandt reviewed the information in the staff

report and gave a presentation. She said staff was recommending Planning Commission recommend to City Council, first reading be given to the draft ordinance.

Ms. Brandt explained that the intent of this zoning code amendment is to create an even treatment of assembly uses, particularly those types of assembly uses that are protected by the first amendment of the United States Constitution.

Commissioner Egan commended staff on the alternative ordinance and said she was very happy with it.

Commissioner Garlich also thanked staff for an outstanding job in creating an alternative ordinance. He said both ordinances meet the requirement of consistent treatment, however, the original one did that by making every type of assembly use conditional. The alternative ordinance goes back to making things permitted; particularly, those that were previously permitted will remain permitted. It also provides a definition of "religious assembly use" that was missing in the proposed ordinance and allows the City to treat primary uses separately from ancillary uses.

Commissioner Egan added her concern about the prior draft ordinance because it would make all assembly uses "conditional" uses. While it would satisfy the "non-discrimination" requirements, there still might be a first amendment issue in requiring a discretionary permit. This alternative ordinance takes care of that concern, and she is very happy with the legal aspects.

Commissioner Fislser said he liked the alternative amendment and he commended staff. He said his primary objection was that he thought it was a "back doorway" to reopen a job center in this community that he did not believe would enhance the quality of life. He is satisfied that if a job center is an ancillary use of a church, it must be conducted totally indoors including any waiting area.

There was discussion between the Chair, Ms. Brandt and Ms. Barlow regarding a minor change in wording related to item (b) of the Supplemental Information Memo dated May 16th under Sec.13-51.52 General Development Standards (see motion below).

The Chair felt staff did an excellent job on this alternative amendment.

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

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 5-0 to recommend City Council, first reading be given to the alternative draft ordinance with the following addition: Include the language contained in the Supplemental Information Memo dated May 16, 2006, Sec.13-51 General Development Standards, with the following modifications: Item (b) "Accessory facilities in the same or separate building are permitted, including classrooms, assembly rooms, rest-rooms, kitchen, library, and a single-family dwelling unit. Should a single-family dwelling unit be included, its occupancy shall be limited to a person(s) and/or a family that is directly affiliated with the operation of ~~the~~ that church or other place of religious assembly. The single-family unit shall not be rented and/or leased to persons that are not affiliated with ~~the~~ that church or other place of religious assembly, nor shall it be used as either a small or large boarding house."

Ms. Brandt stated that this ordinance would go forward to the City Council meeting of Tuesday, June 20, 2006.

The Chair opened the public hearing for consideration of a review of staff zoning approval to allow a 1,725 square-foot, second-story addition to an existing single-family residence, located at 2264 Meyer Place. Environmental determination: exempt.

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

MOTION:
CO-06-04
Definition, Review Procedure, and
Regulation of Assembly Use
Recommended to City Council

REVIEW OF STAFF ZONING
APPROVAL

2264 Meyer Place

resolution.

In response to questions from Commissioner Fisler regarding garage size, Ms. Tran stated that the maximum permitted size is 700 square feet. The proposed garage is 520 square feet.

Vice Chair Hall called up this item, because he received several calls from the immediate neighbors. He said people should have the right to do whatever they see fit with their own property but not to infringe on other people's rights.

As a matter of public record, all Commissioners noted that he/she received phone calls, correspondence, and e-mails from neighbors.

Property owner, Juan Perez, 2013 Placentia Avenue, Unit B-3, Costa Mesa, through translator, City Engineer Ernesto Munoz, agreed to the conditions of approval.

Mr. Perez stated that the excessive number of cars along Meyer Place belong to the apartment complex. Mr. Perez said he owns and operates a towing service with 2 tow trucks. He was given a citation for parking the tow vehicles on the street and he has since rented a location where he now keeps them. He also stated that he leased another place to park other vehicles associated with his business. Ms. Barlow requested that staff make copies of the documents the applicant had for the Commission.

In response to the Chair, Mr. Perez stated that he originally did not have a business license for his towing business, but has since obtained one. In response to further questions from the Chair regarding rental of the property and the number of tenants, Mr. Perez explained that his large family resides at the property; they come and go at his home giving the appearance of a lot of people.

Commissioner Egan asked the applicant to respond to a neighbor's allegation that a second kitchen has been added to the residence. Mr. Perez said that the second kitchen was already at the property when he purchased the home. The only improvement he has made was to replace a plastic patio roof with a regular roof and enclose it.

Commissioner Egan asked about the permits that were issued for a screened porch and game room. Mr. Perez said that his predecessor applied for those permits.

In response to the Chair, Mr. Perez said he has owned the property since 1998.

PUBLIC COMMENT:

The following people: Carol Coffin, 624 West Wilson Street; Judith Ambros, 2276 Meyer Place; Calita Placinthia, 2288 Meyer Place; Edward Ambros, 2276 Meyer Place; Moreen Dio, 2282 Meyer Place; and David Coffin, 614 West Wilson Street, Costa Mesa, opposed the project because, (1) They have concerns for violation of privacy with direct views by the applicant from his home into their homes. (2) The two-story home will block natural air and light to some of the homes. (3) Traffic will echo off the proposed two-story house. (4) The trucks for Mr. Perez's business come every morning at 5 a.m. to 6 a.m. and neighbors can hear them load up, talk on the their Walkie Talkie's, and listen to their radios—they come back in the evening and the process starts again. (5) Mr. Perez takes up far more parking than anyone else on the street. (6) He has up to a dozen males presently living there, going in and out, loitering on the sidewalk, and some are on the street working on the cars. There is not enough parking anymore because of his tow truck business and the number of residents he currently houses. The problem will become worse when the second-story addition is completed. (7) Cots have been observed in the garage inside by several neighbors. (8) When asked to move the cars, they said they do not understand English then they said the cars don't belong to them.

(9) Some of these cars have "for sale" signs on them. (10) The proposed house will be too big and not fit in with the neighborhood.

No one else wished to speak.

Commissioner Garlich said he was disturbed by some of the testimony about this addition allowing people to look right into kitchens, dining rooms, bedrooms, bathrooms, etc.

Ms. Tran displayed the second-story floor plan and explained that there is a small second-story window on the southerly side of the south neighbor. Staff felt confident that the privacy impact to the neighbors was minimized because of the clerestory windows.

Commissioner Egan asked Ms. Tran for the minimum height of the bottom of a clerestory window. Ms. Tran answered 5 feet. In response to the Chair regarding eliminating the windows altogether, Ms. Tran explained that it is possible to eliminate the windows because emergency egress windows are provided.

Commissioner Garlich said there have been contradicting comments on both sides and he felt the only way to find out, is to inspect the premises. City Attorney Kim Barlow responded: (1) If the property owner consented, and (2) if there is sufficient evidence to get an inspection for it. She said code violations are separate from building application and should be given to Code Enforcement. She reminded the Commission that when the building permit is issued, City inspectors would be on the premises.

In response to a question from the Chair regarding a condition of approval to allow inspection of the property, Ms. Barlow explained that if the applicant declines, that would not be a legal basis for refusing the application.

Commissioner Egan felt Ms. Barlow's statements present a dilemma because the project complies with code; but evidence indicates that it may be used for illegal purposes. She is concerned the second-story addition will become a boarding house. She felt until the issues are resolved with Code Enforcement, the Commission should not proceed to grant approval of an application that would facilitate an illegal purpose.

Vice Chair Hall disagreed with Ms. Barlow's conclusions and recommendations.

In response to a question from Commissioner Fidler regarding property inspection, Ms. Tran stated that Code Enforcement sent the property owner a formal letter requesting an inspection of the property. Commissioner Fidler felt this was a tough issue in that the applicant meets all the code requirements, but there are credibility issues.

Mr. Perez responded to the Chair's question if he speaks and understands English. He said he understood a little bit. In response to the Chair, Mr. Perez was agreeable to move the second-story windows to more appropriate locations, and to allow Code Enforcement to inspect for violations.

In response to the Chair regarding his questions to the applicant, Ms. Barlow said that would be fine. However, if the Chair was making a proposal to continue the item pending that inspection, she was not sure that is necessarily appropriate, but it does sound like he is willing to have Code Enforcement come in voluntarily.

MOTION:
2264 Meyer Place
Continued

A motion was made by Chairman Perkins, seconded by Commissioner Egan and carried 5-0 to continue this item to the Planning Commission meeting of June 26, 2006 to allow additional time to relocate the second-story windows to mitigate privacy issues expressed by neighbors.

Vice Chair Hall commented that over two months ago, the Commission asked City Council to authorize study time for Planning staff to look into all the aspects of second-story additions. Much to his dismay, the City Council has said nothing.

Commissioner Garlich asked staff to prepared a summary of the second-story studies.

Mr. Munoz explained to Mr. Perez that the meeting was continued to the

The following item was called first under Public Hearings.

PLANNING APPLICATION
PA-06-20 AND
PARCEL MAP PM-06-157

Randle

Planning Commission meeting of June 26, 2006.

Vice Chair Donn Hall suggested that the following item be heard first before the other two public hearings. It was his feeling that the other two would be lengthy and it would be appropriate to hear this item first. The Planning Commissioners agreed.

The Chair opened the public hearing for consideration of Planning Application PA-06-20 and Parcel Map PM-06-157, for Keith Randle, for a design review to convert 2 apartments to a residential common interest development (condominiums) with a parcel map to facilitate the conversion, located at 165 East Wilson Street, in an R2-MD zone. Environmental determination: exempt.

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

Commissioner Egan asked if staff would have any objection to a condition requiring an arbitration agreement in the event the two owners cannot agree on an issue. Ms. Brandt felt there could be something in the CC&R's, which would govern such circumstances and felt it would be appropriate to add a condition.

There was discussion between Commissioner Garlich and City Attorney Kim Barlow regarding arbitration. It was concluded in that Ms. Barlow agreed with staff that a condition could be made mandating disputes between the parties be addressed via arbitration in the CC& R's. Commissioner Garlich requested the information be investigated to find out whether that is necessary at all. Ms. Barlow agreed.

Keith Randle, 1320 Antigua Way, Newport Beach, agreed to the conditions of approval.

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

MOTION:
PA-06-20/PM-06-157
Approved

A motion was made by Commissioner Garlich, seconded by Commissioner Egan and carried 5-0, to approve by adoption of Planning Commission Resolution PC-06-34, based on information and analysis contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following condition of approval:

Conditions of Approval

- 5. The CC&R's shall include a provision mandating arbitration in the event of any dispute between the two property owners relating to the homeowner's association.

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 8:15 p.m. to the meeting of Monday, June 12, 2006.

Submitted by:

KIMBERLY BRANDT, ACTING SECRETARY
COSTA MESA PLANNING COMMISSION