

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

**June 26, 2006**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., June 26, 2006 at City Hall, 77 Fair Drive, 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: R. Michael Robinson, Secretary  
Costa Mesa Planning Commission  
Christian Bettenhausen, Deputy City Attorney  
Ernesto Munoz, City Engineer  
Kimberly Brandt, Principal Planner  
Mel Lee, Senior Planner  
Wendy Shih, Associate Planner  
Rebecca Robbins, Assistant Planner

**MINUTES:**

The minutes for the meeting of June 12, 2006 were accepted as corrected.

**PUBLIC COMMENTS:**

Martin Millard, 2970 Harbor Boulevard, Costa Mesa, expressed his objections to the Commissions votes' regarding the Mendoza property at the last public hearing and expressed his disappointment in the absence of two commissioners and that meeting.

Mike Berry, 2064 Meadow View Lane, Costa Mesa, was of the opinion that there are so many criminals in Costa Mesa partly because the Planning Commission permits CUP's to motels that allows them to operate as apartments. He said the Commission is supposed to receive monthly reports of who stays in these motels, for how long they stay and what their business is. He said the City is not following up.

In response to Mr. Berry's remarks, Mr. Robinson explained that the Commission is not responsible for monitoring the motels, but the City has an active Motel Task Force that involves Code Enforcement staff, the Police Department, Fire Department, and Orange County Health Care Agency, that meets on a regular basis and addresses the problems associated with motels that Mr. Berry identified.

Commissioner Garlich added that, for the record he has been on several police "ride alongs" and the first thing to be done is to visit every one of the motels. They review the registration log book and go through the parking lot and run license plates; they even knock on doors. He said he knows they are keeping track of who is there, who they are, where they've been, and taking whatever action the law allows.

Beth Refakas, 320 Magnolia Street, Costa Mesa, advised that someone had removed the memorial plaque placed to the two children that were killed at their preschool a few years ago and the neighborhood is very upset about it. She asked that the City look into it. Planning Commission Secretary R. Michael Robinson said he would get back to Ms. Refakas with a report.

**PLANNING COMMISSION  
COMMENTS/SUGGESTIONS:**

Commissioner Fisler expressed his best wishes to Chief Hensley who will soon retire from the City of Costa Mesa.

**PUBLIC HEARINGS:**

REZONE PETITION R-06-01  
AND SPECIFIC PLAN AMEND-  
MENT SP-06-03

The Chair opened the public hearing for consideration of Rezone Petition R-06-01 and Specific Plan Amendment SP-06-03 for inclusion of seven additional parcels into the 19<sup>th</sup> West Urban Plan Area as follows:

City

**(a) REZONE PETITION R-06-01 FOR MIXED USE OVERLAY ZONING DISTRICT:** An ordinance of the City Council of the City of Costa Mesa, California amending the Zoning Map to include the following seven parcels in the 19 West Mixed-Use Overlay District: 2115,

2121, 2131, 2139, and 2145 Placentia Avenue, and 811 and 817 Victoria Street. Environmental determination: Addendum to adopted Initial Study/Mitigated Negative Declaration (SCH#2006021045).

**(b) SPECIFIC PLAN AMENDMENT SP-06-03 FOR 19 WEST URBAN PLAN (SP-05-07):** Resolution of the City Council amending the 19 West Urban Plan (SP-05-07) to include the following seven parcels: 2115, 2121, 2131, 2139, and 2145 Placentia Avenue and 811 and 817 Victoria Street. Addendum to adopted Initial Study/Mitigated Negative Declaration: (SCH#2006021045).

Assistant Planner Rebecca Robbins reviewed the information in the staff report and gave a presentation. She said staff was recommending that Planning Commission recommend to City Council: (1) Approval of addendum to Initial Study/Mitigated Negative Declaration for Westside Urban Plans (State Clearinghouse No. 2006021045); (2) Approval of Rezone Petition R-06-01; and (3) Approval of Specific Plan Amendment SP-06-03 for the amended project area, by adoption of Planning Commission resolution.

Commissioner Egan confirmed with staff her understanding that these amendments are entirely within parameters of the General Plan as far as traffic is concerned.

In response to a question from Allen Jaras, Costa Mesa businessman, regarding the flexibility of properties, Ms. Robbins explained that properties can stay as they are developed currently; this is an option for the property owners. They would have to apply through a master plan process to redevelop the property under the 19 West Urban Plan.

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

MOTION:  
R-06-01/SP-06-03  
Recommended approval

A motion was made by Commissioner Fisler, seconded by Vice Chair Hall and carried 5-0, to recommend to City Council: (1) Approval of addendum to Initial Study/Mitigated Negative Declaration for Westside Urban Plans (State Clearinghouse No. 2006021045); (2) Approval of Rezone Petition R-06-01; and (3) Approval of Specific Plan Amendment SP-06-03 for the amended project area, by adoption of Planning Commission Resolution PC-06-40, based on information and analysis contained in the Planning Division staff report and public testimony.

Principal Planner Kimberly Brandt stated that this item would go forward to the City Council agenda of July 18, 2006.

REQUEST FOR REVIEW OF  
PLANNING STAFF'S  
APPROVAL OF BO5-02486

The Chair opened the public hearing for consideration of Planning staff's approval of building plans (B05-02486) to allow a 1,725 square-foot, second-story addition to an existing single-family residence, located at 2264 Meyer Place. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He 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 resolution, subject to conditions.

In response to a question from the Chair, Mr. Lee confirmed the photographs of an illegal shed recently constructed by the property owner on the subject property were taken by a Code Enforcement Officer.

In response to another question from the Chair, Mr. Lee said the photographs of the "shed" on the property, were exterior only.

In response to a question from the Chair regarding a decision by Commission to reverse staff's decision and deny this application, Deputy City Attorney Chris Bettenhausen explained that if Commission decided to approve it, they could condition the approval upon the removal of the shed, or any other nonconforming use; or, Commission could deny it because the zoning (R1) allows one structure on a 6,000 square-foot lot.

There was discussion among the Commissioners and staff regarding the size, and purpose of the shed. They also discussed a "sign in the front yard of the property at 2264 Meyer Place advertising a duplex for sale,

apparently referring to the 2264 Meyer Place property.

There was discussion between Vice Chair Hall and Mr. Lee concerning the privacy issues surrounding the placement of the windows. Issues of compatibility and harmony were also discussed with reference to the surrounding neighborhood and this property.

In response to a question from the Chair, Mr. Perez, through a translator, said he had not read the staff report. Deputy City Attorney Bettenhausen said that the hearing could proceed because he assumes the applicant has had the opportunity to read the report; it has been advertised to the public and he is at this meeting because he is aware there is a hearing tonight.

In response to the Chair's question regarding the conditions of approval, Mr. Perez stated that he is willing to meet any conditions that have been imposed on the development for his application of a second story.

In response to Commissioner Fisler, Mr. Perez explained that the shed was built to accommodate his barbeque. Commissioner Fisler said he believed if the structure is 120 square feet or less and a permit is not required. However, the setbacks from the rear and the side are another problem, and the height is very tall. Mr. Perez said he was willing to remove the structure if it is a condition of his second-story addition.

*PUBLIC COMMENT:*

The following neighbors: Diana Todd, 2270 Meyer Place (south side of subject property); Edward Ambrose, 2276 Meyer Place (submitted photographs of the entire street to Planning Commission); Maureen Guyot, 2282 Meyer Place, (submitted photographs of the surrounding block to this proposed project that includes across West Wilson Street, and the other single-story family residences); Judith Ambrose, 2276 Meyer Place, Carol Coffin, 624 West Wilson; Judy Grumwald, 632 Darrell Street; Rae Larson, 631 Darrell; Ursala Vitansia (is not a resident of the neighborhood but a very close friend of several residents in the neighborhood for 11 years); Clea Placynthia, 2288 Meyer Place, Costa Mesa, opposed the project because: (1) They have had to tolerate noise; the presence of many people; tenants next door; parking problems, and littering. (2) The scale and size of this home is not in character with a neighborhood that contains compact, single-story family homes. (3) Several errors were found on the site plan involving garages for the condos; wrong street names, etc., and it was felt the drawings should be checked and corrected before any decision is made. (4) Some neighbors have been awakened by moving trucks seen backing into the rear of the home via a double gate at 2:30 a.m. and unloading furniture and cots. (5) The "for sale" sign as previously discussed by Vice Chair Hall, refers to 2 properties for sale. Another speaker said they looked up the property on a website and according to the information, there are 2 units described for sale at 2264 Meyer Place. (6) Additional photographs were shown which depicted the shed going up and according to the neighbors; the noise lasted from dawn until dusk as it was being built. (7) The traffic problems are unabated and within the last few days there have been numerous occurrences of males around the same age as the applicant, going in and out of the residence regularly. (8) The plans do not show where the second floor addition ends up looking into the condo next door, and regardless of where the windows are placed there will still be a full view of that neighbor's courtyard (624 West Wilson Street). (9) They did not understand the applicant's behavior of going on rooftops and taking video clips of people in their own private yards.

Juan Perez returned to the podium and said the comments made by the neighbors were not truthful. With regard to the "for sale" sign, Mr. Perez explained that the sign advertises a 3-bedroom house and a duplex; however, they are located elsewhere and has nothing to do with the subject property. He said his guests have never parked in front of some of these properties that the neighbors have brought to the Commissions' attention. With regard to the testimony concerning the moving trucks, he said there is a person living directly across the street who is in the business of moving furniture. Mr. Perez said he was not familiar

with any of the people who spoke from 2282 Meyer Place and they have never asked to discuss his property with him. With regard to allegations regarding video taping, he said he did that as a precaution to make sure there was no misrepresentation on what he was doing and his neighbors were also video taping his property as well. He said the property owner of 614 West Wilson was taking video tape of his property as well.

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

MOTION:  
2264 Meyer Place  
Reversed Staff's Approval

A motion was made by Chair Perkins, seconded by Commissioner Fisler and carried 5-0 to reverse staff's approval to allow a 1,725 square-foot, second-story addition to an existing single-family residence located at 2264 Meyer Place, by adoption of Planning Commission resolution PC-06-41, based on information and analysis in the Planning Division staff report, and public testimony, with the following modified findings:

Findings

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because: (Replace #1 with the following)
  - 1. The proposed development and use is not compatible and harmonious with uses on surrounding properties in that there is an accumulation of evidence showing a lack of regard to comply with code requirements on the part of the owner/applicant. Specifically, a "structure" built by the owner was not permitted and does not comply with code-required setbacks; instead of a shed for an outdoor barbeque as the owner has said it appears to be some form of dwelling unit. Additionally, evidence was presented that the owner was representing via a "For Sale" sign on the property that the site has multiple dwelling units. There is also concern with regard to the addition for the number of bedrooms and that it will be massive and inconsistent with the surrounding neighborhood.
  - 2. Same.
  - 3. Delete.
  - 4. Delete.
- B. Same.
- C. Same.

During discussion on the motion the Chair said he cares about the fact that this is a smaller street with very old-style homes, early to mid- 50's, and none of which are as large as this structure. He expressed his disapproval of the video taping on the part of the applicant and the neighbors. He said his move to reverse this was because of the shed, and he believed it was probably going to be used to house more people; he said it looks as though the garage, or the game room has been turned into a place to live and he believed it would continue to happen. He said this application meets all City code requirements, but he felt the applicant was missing the spirit of the law because he built a shed without City approval. With that much mass, it is not a 5' by 14' structure but much larger and was done in disregard of City guidelines.

Commissioner Garlich said he would support the motion but not for many of the reasons cited by the Chair; particularly, he did not want to create the impression that he is supporting a motion to deny based upon noncompliance with the City's Design Guidelines. He said the Commission has approved several dozen second-story additions that were smaller, larger second story coverage, less open space, etc., but for the reasons and findings as cited by the City Attorney's Office previously, but does have to do with Mr. Perez's total lack of regard for even attempting to comply with the code, or perhaps understand it and is the reason he is supporting this motion.

Commissioner Egan said she would be supporting the motion, but for different reasons also. She said it is true that in the past the Commission has approved second-story additions that have not quite met the Design Guidelines, but did meet the spirit. She felt the plan was too massive and is more in the nature of a dormitory. She said she is very concerned about the accumulation of evidence, no one piece of which would be enough to persuade her that this was not going to be a proper use. However, there are a number of neighbors who came and testified before the Commission and opposed this project for various reasons and Mr. Perez explained away each of those reasons. This evening, she finally heard Mr. Perez accuse all of his neighbors of lying, and she understood it when he said it in his language and before the translation was made. She could not believe an entire neighborhood would come out and make up tales like this. She said her conclusion is that the applicant has something else in mind than what he is telling the Commission, i.e., the sign advertising a 3-bedroom house and a duplex; and the building of an unpermitted shed that is a much larger than he says it is, and is certainly larger than a barbeque. She feels this project does not meet the intent, code, or guidelines, and if approved, the Commission would be aiding a very real misuse of this single-family neighborhood.

Vice Chair Hall discussed the Samoa Street home and other homes in Costa Mesa, including one on the street where he resides. He shared their similarities and all are massive in size. He said because the majority of these residences are home to so many more people, they create problems such as noise and parking. In each case the impacts have been devastating to immediate and surrounding neighbors and he detailed how that was so. He made the point that although this project meets all requirements of the code, it is not compatible and harmonious with the surrounding neighborhood because it is not in character with the neighborhood and the structure is too massive. Vice Chair Hall requested that the Chair modify the findings (as shown above in the motion).

The Chair explained the appeal process.

The Chair called a recess and the meeting resumed at 8:12 p.m.

The Chair opened the public hearing for consideration of a request for review of Planning staff's denial of Development Review DR-06-01 to legalize the installation of a mobilehome on a lot with an existing home; and 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.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending approval of the revised development review, subject to the recommended conditions of approval.

In reviewing the applicants' plans, he said the proposal is to remodel the mobilehome by combining it with a stick-built residential structure and the end result would be that the entire structure would be a new single-family residence with no architectural remnants of the original mobilehome. Because of these modifications, the structure will be subject to all Building and Safety code requirements. Mr. Lee pointed out that condition of approval #8 states that if this application is approved it would require the applicant to provide those plans to the Building Division no later than 30 days from the date the application is approved by the Planning Commission and would also require the applicant to work diligently with City staff to obtain the necessary permits and construction and complete the project in a timely manner.

Mr. Lee said the issue of ownership also arose at the last meeting because the property is contained in a trust. The applicant provided documents that were reviewed by the City Attorney's Office and the trustees are the applicants' brother and sister and all three new property owners have submitted their approval in writing to allow this project to proceed

***BREAK:***

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

as it is proposed this evening.

He said a minor modification is also included in this request for a 10' wide common driveway that staff is recommending approval of because the reduction in width will allow for additional landscaping on either side of the proposed drive approach.

In response to a question from Vice Chair Hall regarding the description of what the house will ultimately look like, Mr. Lee confirmed that it would not have any resemblance to a mobilehome. Commissioner Garlich added that at the last hearing the applicant said it was his intent to remove the exterior sheet metal structure of the existing trailer as a part of that remodel.

In response to a question from Commissioner Garlich regarding condition of approval #5, Mr. Lee confirmed that condition would require the existing structure at the rear of the building to be upgraded as well, and it is his understanding that the various entities of the trust have agreed to those requirements.

In response to the Chair, Mr. Lee confirmed the final date would be 7 days from the date the decision is made. Mr. Lee also explained what is meant by a "timely matter" as requested by the Chair.

Susan Bollinger, 2233 Martin, Irvine, agreed to the conditions of approval. She said the architect has worked closely with the Planning Division in coming up with the proposed plan. She assured the Commission that they wanted to move into their new home too and were not trying to drag it out.

Commissioner Garlich asked Mrs. Bollinger if she was in agreement and comfortable with the 30 days to go through the permitting process in order to be compliant. He explained that he wanted to make sure she understood that the mobilehome is the source of unrest. If it is not done in 30 days, it has to be moved. Mrs. Bollinger said they fully understand and agree.

*PUBLIC COMMENT:*

- Bill Brown, Elden and Wilson Streets, felt everyone has been "duped" by the applicants and did not like that the mobilehome is sitting on the subject property.
- Dana Lavin, 2637 Elden Avenue, said the trailer has been parked on the property since January and they are very unhappy with it being there because it was placed there without a permit.
- Gregg Horter, 2335 Elden Avenue, said the request to put a mobile home on the subject property does not constitute a "special circumstance."

Commissioner Garlich referencing the last speaker, who used the term, "special circumstances" said he could not find anything that relied on special circumstances and asked staff to explain if he had overlooked something. Mr. Lee explained that typically, the finding for "special circumstances" pertain to variances; there is no variance request associated with this application.

*PUBLIC COMMENT:*  
*Continued...*

- Linda Mink, neighbor to the subject project, also believed a trailer is inappropriate in that area and said she was astounded that it even got this far.
- Doug Karamoto, 2665 Elden Avenue, requested that the Commission deny this project, however, if granted, a condition of approval could be added since it is a construction site, it should not be occupied before or after construction hours, until it is habitable because he is concerned the construction will drag on in an untimely manner.

Mrs. Bollinger returned to the podium to address the issues stated by the previous speakers. She said they are trying to construct/design their home to be in compliance with what the neighbors are saying needs to look exactly like the existing house. She said the roof line and colors will match; they are willing to do what is necessary to make that their home. She said the Planning staff has put stipulations on this project and it means they must meet certain deadlines. Mrs. Bollinger said comments about dragging this on for months and years is not a consideration.

She said they could not understand what the gain would be in doing that because their goal is to live there. She reviewed condition of approval #11 which states that they cannot occupy the residence until it has been inspected and approved by Planning and the Building and Safety Divisions to confirm that the conditions of approval have been met and code requirements are satisfied.

Commissioner Garlich confirmed with Mrs. Bollinger that their intent in remodeling this mobilehome and incorporating it into a traditional residential design is to remove the exterior shell of the mobilehome and to build that new structure around the basic interior elements. Commissioner Garlich also confirmed Mrs. Bollinger's comments regarding occupancy of the home and asked Mr. Lee if it was necessary to add a condition to address the concern that someone will live in while it's being built. Mr. Lee felt it was a good idea to add condition of approval #14 stating that the mobilehome will not be occupied until all improvements are completed. Mrs. Bollinger agreed to the condition.

Commissioner Fisler asked about the prohibition of this mobilehome from being on the land if it was manufactured over 10 years before from the date of application. Mr. Robinson read from of the Planning Division staff report, which contains a section of the State Planning and Zoning Law that states, "At the discretion of the local legislative body, the city or county may preclude installation of a manufactured home in zones specified in this section if more than ten (10) years have elapsed between the date of manufacture of the manufactured home and the date of the application for the issuance of a permit to install the manufactured home in the affected zone." He explained that because the mobile home is well over 10 years, the Commission has the discretion to deny it.

In response to another question from Commissioner Fisler, Mr. Robinson said the Development Review was denied by staff and was then called up for review. Commissioner Fisler said last month when this came before the Commission, he made a motion to give the applicant 30 days to remove the mobilehome from the site because it was placed there illegally. He also felt it was a safety hazard and had an adverse impact on the adjacent areas. He did not receive a second for that motion. He felt it should never have been brought to the City and now they are going to transform it with basically new construction and he would rather it just leave and have new construction brought forward.

The Chair asked if he wanted to make that a motion.

MOTION:  
DR-06-01  
Vote was not called

A motion was made by Commissioner Fisler, seconded by Chair Perkins to deny Development Review DR-06-01.

A substitute motion was later made and the above vote was never called.

Commissioner Egan said she sees this matter differently from Commissioner Fisler and differently from Item #2 on our agenda tonight. She said she didn't think it was the Commissions' role to punish people and is not what Planning Commissioners are here for. She said they are here to apply the applicable law and guidelines, and to do what's right. She said the problem with Item #2 was that she lost faith in the credibility of the applicant and had doubts as to how he intended to use the property. She did not have doubts about how this applicant intends to use the property. The intent appears to be, from all the evidence, to build a home, and to incorporate certain portions of the mobilehome into a single-family house. She said they've got bathrooms and a kitchen that they would have to build all over again and it makes sense to preserve what they have—that's what they want to do. Staff is okay with it and if it's going to have all the features and appearance of a regular single-family home, meets all the code requirements, setbacks, safety inspections, etc., she did not see why it should matter to anyone whether portions of the interior came from a mobilehome. She was in favor of upholding staff's recommendation.

SUBSTITUTE MOTION:  
DR-06-01

A substitute motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 3-2 (Fisler and Perkins voted no), to

Approved

approve the revised Development Review DR-06-01, by adoption of Planning Commission Resolution PC-06-42, based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following modification:

Conditions of Approval:

14. The mobilehome shall not be occupied until all the improvements have been completed.

During discussion on the motion, Commissioner Garlich stated that Commissioner Egan has stated much of what needs to be said. He said he has faith the applicants will follow through and will look very nice; it will not be a detriment to the neighborhood.

Vice Chair Hall said the findings state, "a compatible and harmonious relationship will exist between the building and the site development..." He quoted the first speaker who said he would hope their architect would do a little more work on the design because he held up a piece of paper with very little on it. Vice Chair Hall explained that at this hearing, there is a lot of documentation that includes elevations, drawings, and the final structure doesn't even come close to looking like a mobile home—and appears to have no relationship to a mobilehome. If they comply with the statements that it will be compatible and harmonious; if their architect does a good job; if all is done as stated in the conditions, within 37 days from today, they can go ahead, if not, they will have lost their chance. The Commission would have no trouble at all in denying a request if it doesn't fit within those parameters and the neighborhood. Vice Chair Hall suggested that condition of approval #14 be added (shown above in the substitute motion).

The Chair explained the appeal process.

PLANNING APPLICATION  
PA-06-11

Andalibian/ISC

The Chair opened the public hearing for consideration of Planning Application PA-06-11 for Javad Andalibian, for a conditional use permit to allow ISC/lecture hall, with a minor conditional use permit for a deviation from shared parking due to off-set hours of operation, located at 3198 Airport Loop Drive, #J, in an MP 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.

Javad Andalibian, I.S.C., Inc., 3198 Airport Loop Drive #J, Costa Mesa, agreed to the conditions of approval. Mr. Andalibian stated that there was a possibility of a weekday lecture and he wanted to leave that open if possible.

There was discussion between the Commissioners and Mr. Lee regarding the management company position on the hours of operation.

Dave Hasan, 3191-D Airport Loop Drive, Costa Mesa, was asked to clarify the discrepancy between the correspondence and condition of approval #4. Mr. Hasan confirmed with the Commission and staff that the association's original approval was for after 7 p.m. on weekdays and then on weekends. Condition of approval #4 would remain as it is.

Mr. Hasan wished to clarify condition of approval #7 because although he was told by Mr. Andalibian there should be no more than 80 to 100 people; he felt it should be limited to no more than 100. There was further discussion between the Commission, staff, the applicant and management. It was clarified to read as "maximum occupancy of 100" as shown below in the motion. Mr. Hasan also requested that the CUP be renewable after one year and the subsequent years.

Bruce Corzine owner of building 3198-K, Airport Loop Drive, read the use restrictions from the CC&R's and discussed how the owners were governed by them.

Frank Hannerhan, owner of building 3198-L, Airport Loop Drive, was

opposed to applicant's use after 7 p.m. because all buildings do not cease from operating on those premises. He was concerned about the number of cars that may be parked in the lot. He said there are 2 other religious facilities in the complex and one has caused a great deal of anguish because of the number of cars on special holidays and events they conduct.

Sheldon Fleming, 655 Palmetory Drive West, Newport Beach, said he was present to represent the owners of 3194-C Airport Loop Drive, adjacent to the subject property. He said the CC&R's specifically state that this is an industrial complex and the permitted uses, it references light manufacturing—nothing about an office lecture hall for 200 people. Mr. Fleming further discussed the CC&R's in relation to voting by members, and the conditions of approval previously discussed and clarified. He said his client takes issue with a "weekday" and wants to know where they will park.

Chris Louis, 3191-D Airport Loop Drive, clarified that there are not 27 buildings on the property, there are 109 buildings. It is the second largest commercial property in Costa Mesa with 109 owners and it is a condominium association. He discussed his permitting process with the City. He said they have 3.4 parking spaces per 1,000 square feet of the 600,000 square feet.

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

Commissioner Garlich wished to clarify with regard to the renewable CUP, and said the CUP runs with the land, however, any CUP can be recalled for review by any party who may feel they have an issue with the compliance, and that recall can lead to revocation of the CUP, or revision. Secondly, many of the comments that have been made sound like they are issues between current tenants and users and the CC&R's of the association in which the City would have no jurisdiction. Commissioner Garlich said he presumed that staff's recommendation, based on parking in the "off hours" excludes the requirement for business hour parking, and that the shared parking in the after hours is adequate based upon City standards and analysis of those factors. Mr. Lee confirmed.

Mr. Andalibian returned to the podium and said he would like to add that he is not affiliated with any other companies that are in that community, and their own seminars and lectures relate to trips they will be arranging. They would like to have the option of a weekday, even though they have never had a circumstance that required a weekday. Mr. Adalibian said he bought the building for the purpose of saving rent, or having to use the Neighborhood Community Center. He said even though they have an occupant load of 196 people on the drafts given to the city, he only requested 80 to 100 because they have never had any attendance over 100. He said there is a lot of parking in front of the unit he has, and the surrounding units. Saturday and Sunday many spaces are not used. As someone said, there is a church on the other side of the complex; he saw one of their ceremonies and noticed the parking day-use was very limited in that area, however, they would never need to use any parking spaces where he is. The number of cars in his own area is not anything close to the parking that is available.

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

In response to a question from Commissioner Egan regarding whether the City is a party to the CC&R's, Mr. Lee confirmed, it is not.

In response to a question from Commissioner Egan regarding Mr. Lee's calculation of the parking requirement for this use, he said the calculation is based upon the number of seats (places of assembly such as auditoriums), which is 2 parking spaces for every 6 seats. Because the proposed parking takes place during off-set hours, staff presumed it would be adequate for on-site parking.

A motion was made by Commissioner Garlich, seconded by Commissioner Egan and carried 5-0 to approve Planning Application PA-06-11, by adoption of Planning Commission Resolution PC-06-43, based on

MOTION:  
PA-06-11  
Approved

information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following modification and addition:

Conditions of Approval

- 7. *Delete paragraph and replace with, "The maximum occupancy shall be 100."*

Vice Chair Hall requested that this CUP be watched closely if approved.

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-06-14/Parcel Map PM-06-142 for Tim De Cinces, for a design review to construct a four-unit, small-lot, common interest development; and a parcel map for a four-lot subdivision with one common lot to facilitate the project, located at 2463 Elden Avenue in a R2-MD zone. Environmental determination: exempt.

Chairman Perkins abstained from this item because of a conflict of interest and turned the meeting over to Vice Chair Hall.

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, subject to conditions.

In response to a question from Commissioner Egan regarding building setback from the street, Ms. Shih said it would be 27 feet from the front property line. In response to another question from Commissioner Egan, Ms. Shih said for Plan 1A (Lot 1), the elevation would be the left side elevation.

Tim DeCinces, Home Plate Development, LLC, 711 West 17<sup>th</sup> Street, Costa Mesa, agreed to the conditions of approval.

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

Mr. DeCinces offered that this project is similar to a project they did at 2441 Elden Avenue and they needed a variance because many of these properties are very long and narrow. In this case, the lot is 305' x 72' and they were able to give the driveway 2 additional feet in the front yards and 4 feet in the back yards. It also enabled them to stagger the driveway, making the project more desirable.

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

A motion was made by Commissioner Garlich, seconded by Commissioner Fisler, and carried 4-0 (Perkins abstained), to approve Planning Application PA-06-14 and Parcel Map PM-06-12, by adoption of Planning Commission Resolution PC-06-44 based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

Acting Chair Hall explained the appeal process and wished the applicant well with his project.

The Chair returned to the chambers, resumed the meeting, and opened the public hearing for consideration of Planning Application PA-06-21 for Ali Sedghi, for a residential common interest development conversion of 2 apartment units into condominiums, located at 134 East Wilson Street, 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, subject to conditions.

There was discussion between Commissioner Fisler and Ms. Shih regarding open space requirements and it was established that 10' x 10' was required and the open space is actually 14' x 16'.

Ali Sedghi, 134 East Wilson Street, Unit A, Costa Mesa, agreed to the

PLANNING APPLICATION  
PA-06-14 AND PARCEL MAP  
PM-06-142

Home Plate Development

MOTION:  
PA-06-14/PM-06-142  
Approved

PLANNING APPLICATION  
PA-06-21

Sedghi

conditions of approval.

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

MOTION:  
PA-06-21  
Approved

A motion was made by Commissioner Fisler, seconded by Vice Chair Hall, and carried 5-0 to approve Planning Application PA-06-21, by adoption of Planning Commission Resolution PC-06-45, based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

**BREAK:**

The Chair called a recess and the meeting resumed at 9:45 p.m.

PLANNING APPLICATION  
PA-06-22

Locker/Cefalia

The Chair opened the public hearing for consideration of Planning Application PA-06-22 for Jared Cefalia, authorized agent for John Locker, for a variance from minimum lot width requirements (50 ft. required; 49.5 ft. proposed) for two parcels of a future four-lot subdivision to facilitate the construction of four, single-family residences on the separate lots, located at 227 Monte Vista in an R1 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, subject to conditions.

Jared Cefalia, 228 Del Mar Avenue, Costa Mesa, agreed to the conditions of approval.

David Douglas, 245 Brentwood Street, Costa Mesa, said he was asked by a friend in the neighborhood to read a letter from Chuck Swain who opposed to the project because of privacy issues, parking, and density and construction nuisances. Mr. Douglas questioned whether there would be privacy issues because there is an elevation change from that property to the homes that are on Fairway, and the Monte Vista property is higher and the applicant is asking for a variance of 6 inches. He asked how that would affect the setback.

The Chair responded that the City does conduct traffic studies and density studies; sometimes environment studies are required, etc. He said he did not feel comfortable addressing the market and how things sell, however, he believed these homes would sell.

Regita Sculchris, 2483 Fairway Drive, Costa Mesa, said this project is going to be 10 feet from her fence in the back yard and because the elevation is higher, it's going to be a giant. She would rather see a 1-story home that would blend in with the existing homes on that street, and she would like it to be situated further from her property line.

Commissioner Garlich confirmed with Ms. Shih that the request is for a 6-inch variance only. Ms. Shih stated that the design review and parcel map will be reviewed under separate application.

Marissa Swain, who lives on Fairway Drive in Costa Mesa, stated that dirt was removed from this property last year and was very disruptive to her family. The noise went on all week right through Sundays. She understood that work would be permitted from 10 a.m. to 6 p.m. on Sundays and wanted to confirm that along with the 7 a.m. to 8 p.m., Monday through Saturday operating times.

Ms. Shih responded that the condition of approval #7 for new construction, states that construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. on Saturday. Construction is prohibited on Sundays and federal holidays.

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

Commissioner Garlich confirmed that all the Commission would see is the parcel map to divide the property.

MOTION:  
PA-06-22

A motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 5-0 to approve Planning Application PA-06-22, by

Approved

adoption of Planning Commission Resolution PC-06-46, based on information and analysis 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 she wanted to emphasize that what the Commission is looking at here is a "6-inch deviation" from the required lot width and nothing more. The proposed construction is going to be reviewed by staff and notice will be given of the Zoning Administrator's decision. If anyone is unhappy with that, they can appeal or contact one of the Planning Commissioners and if there is a basis for calling it up, a Commissioner would likely do that.

Deputy City Attorney advised that the site plan indicates a new proposed second story and construction times; those times are incorrect and the correct times are stated in the attached condition of approval #7 as stated previously by Ms. Shih.

The Chair explained the appeal process.

PLANNING APPLICATION  
PA-06-23

Kelley/Sham

The Chair opened the public hearing for consideration of Planning Application PA-06-23 for Zachary Sham, authorized agent for Dawnielle Kelley, for variances to allow a second-floor deck to encroach into the rear setback (20 feet required; 10 feet 7 inches proposed); and to deviate from rear lot coverage (approximately 410 square feet permitted; approximately 700 square feet proposed), located at 193 The Masters Circle in an R1 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, subject to conditions.

Dawnielle Kelley, 193 The Masters Circle, Costa Mesa, agreed to the conditions of approval.

Commissioner Garlich said he visited the site and thought a new house had been on the property and Ms. Kelley confirmed that was true, but most of it was gone now. He said in looking at the drawing, the 10' 7" setback to the front edge of the deck, it doesn't look like the whole house is 10' back from the property line. He asked if the property line is where the wrought-iron fence is. Ms. Kelly said there is a 10' setback to the downstairs and a 20' setback on the upstairs, but the deck goes only to the very end of the downstairs. Commissioner Garlich confirmed that the deck on the right side facing the golf course aligns with the first floor.

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

MOTION:  
PA-06-23  
Approved

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 5-0, to approve Planning Application PA-06-23, by adoption of Planning Commission Resolution PC-06-47, based on information and analysis 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-06-25

Harrison/Custer

The Chair opened the public hearing for consideration of Planning Application PA-06-25 for Frank L. Custer, authorized agent for Leigh Harrison, to modify hours of operation for the preschool at the Lighthouse Coastal Community Church, originally approved under Master Plan PA-00-56, located at 300 and 301 Magnolia Street in an I&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, subject to conditions.

Mr. Lee said the correspondence the Commission received this evening, also makes reference to several violations to some of the church-related activities. He did check Code Enforcement records and their files contain no recent complaints related to the church and pointed out that a lot of the information that was provided in the handouts, makes reference to

issues related to the church and its ancillary operations, as well as the operation of the Kline School, none of which is the subject of the application before the Commission this evening. The application this evening applies specifically to the modifications of the preschool is to allow afternoon sessions with the morning sessions having been previously approved by City Council.

Commissioner Garlich confirmed that there were 2 very large packages of correspondence the Commission received 10 minutes before the public hearing. He wanted to be sure that everyone understands that the only thing the Commission is looking at tonight, is whether the applicant can operate the preschools in an afternoon session. Even if denied, they can continue to run the morning session and everything else that was previously approved.

Frank Custer, authorized agent for Lighthouse Community Church, 1845 Anaheim Avenue, Costa Mesa, agreed to the condition of approval.

*PUBLIC COMMENT:*

•Don Dickey, 431 Lenwood Drive, Costa Mesa, supported afternoon classes for the children. •Rebecca Miltenberger owns the property adjacent to the parking lot of the church. She said her major concern was traffic flow and based on the morning class already in existence, if you were to do the same thing in the afternoon you would tie up traffic with 60 children being dropped off and 60 being picked up a few hours later, just as it happens in the morning hours; she felt that was too much traffic (another 60 cars) for those streets to accommodate. •Karen Omarsh, 9108 Maler Avenue, Fountain Valley, requested the Commission consider that this is a safe and nurturing environment for children and she would be taking some of the children to the school. •Paul Wilbur, 312 Magnolia Street, Costa Mesa, said in answer to Mr. Dickey, he felt a lot of the issues have been resolved in sense because they never opened the preschool. •Ruby Wilbur, 312 Magnolia Street, said the preschool was never established under these conditions so she does not know how it will be run, and what kind of traffic it will generate. She said she would like to see how the church is going to do for the three hours, before asking for more hours in the day because the traffic really is more of a problem 5 years later. •Beth Refakas, 320 Magnolia Street, Costa Mesa, opposed the addition of an afternoon session that will add an additional 60 students. She said the church should not be granted any further privileges until the traffic, noise and safety issues they have created in our neighborhood have been resolved. Ms. Refakas maintained that the church has not been a good neighbor, and the City has failed to address the traffic, noise, and safety issues that concern the residents. •Howard Denghausen, 343 Magnolia Street, Costa Mesa, said he submitted a petition with 29 neighborhood signatures and all are opposed to this preschool. He asked the Commission to deny the request. He and all other petitioners take exception to Finding B. a., in that this statement is false, based on previous preschools that have operated at this facility. He said there are errors on pages, 2, 13, 14, and 15 that need to be corrected so that the City deals with the true scope of the problem and the correct property. He discussed traffic impacts should the preschool be allowed to operate.

Commissioner Garlich asked Mr. Lee to respond to the 180 days and whether the CUP was still valid. Mr. Lee explained the actual application was a master plan because of the I&R zoning of the property, so when City Council approved PA-00-56 in September of 2001, it governed all of the uses on the property. He noted the master plan governs the use of the property for as long as the church operates and is in existence on the property, and that is separate from conditional use permit time limits.

Commissioner Egan asked that Mr. Lee elaborate upon condition of approval #13 of Exhibit B-2, as it reads "...Approval of the early childhood development center and Kline School's use of the church parking lot for play area shall expire upon discontinuance of a period of 180 days or more..." She said 5 years ago there was an approval that hasn't been

acted upon, so how would this 180 days affect that. Mr. Lee stated it would affect it if the use was established and then discontinued.

*PUBLIC COMMENT:*  
(continued)

•D. Renfro, 2139 Iris Place, Costa Mesa, said he attends this church and has seen the Jay walking going on for 120 some days in his tenure there. It's not a traffic hazard as some people have suggested. It is simply a normal use of the facility and is done in a very safe manner. As far as the proposed 3 hours of additional use are concerned, he understands that is what we are here to discuss. He said they respect the Commission's serious consideration to the safety record, and they have enjoyed the absence of complaints by the broader community, with the exception of one or two neighbors.

Pastor Custer, 1845 Anaheim Avenue, Costa Mesa, returned to the podium and added that he had contacted 23 other preschools in the City and 17 have longer hours than they are requesting, or have essentially the same hours, and that two are co-operatives operating only in the morning. He stated that under the Rluipa Act, they are a religious-based preschool; they will be educating their children in biblical studies, as well as some academic studies, and they look forward to serving their families in the church and those around the community that have chosen to come on board with the school. They look forward to its opening in September of this year.

In response to a question from Vice Chair Hall regarding the relationship between the church and Kline School, Mr. Custer said Mrs. Kline has been a wonderful tenant. The Kline School opened 20 years ago and there has been a lease agreement. Pastor Custer said they had worked with Kline School to make sure they did not interfere with their drop off and pick up times. They made it very clear that they would stay out of her way while dropping kids off in the morning. The school operates from 8:30 a.m. to 3:30 p.m.

Commissioner Garlich asked Pastor Custer if he knows what happened to the plaque, and if so, did they plan to restore it. He said there is a plan to restore it.

Chair Perkins said he recalled this project as comparable to the time spent on Home Ranch over the past six years. He said he can foreseeably see a traffic problem there and asked Pastor Custer if he honestly feels that there would not be a traffic flow problem. Pastor Custer said he is there every day and can say there will not be a traffic flow problem. Chair Perkins asked about any occurrences close to the one that happened 7 years ago, or any close calls in the last 5-1/2 years that you don't want to admit to us, but you are being asked now? Pastor Custer said absolutely not; not even on Sunday. The Chair asked why the preschool hasn't proceeded for all these years. Pastor Custer said the church has been through some very difficult times and at one point lost the senior pastor, and the entire staff; he is a remnant. He introduced the new senior pastor, Pastor Leigh Harrison for the church, and he deferred to him. Pastor Leigh Harrison said he felt the community was so against that preschool and the idea of it that he felt it was better to hold off and wait for a period of time until the emotional settling took place. They feel they are now ready to take on the ministry that they are here to do.

The Chair said he respects the fact that the church needs a good director for the preschool. The Chair asked Pastor Custer if he would be amenable to adding a condition of approval, stating that they will return for a review in 12 months. He said this will provide time to evaluate the request and for the church to dialogue with the neighbors. Pastor Harrison conferred with some people who were there from the church and they agreed it would be acceptable.

Commissioner Garlich asked Deputy City Attorney Christian Bettenhausen if in light of condition of approval #13, the action the Commission is taking tonight is appropriate. Mr. Bettenhausen explained that condition of approval is not entirely clear. However, the first statement is very clear in that the master plan is approved and shall be valid until it

is revoked. Mr. Bettenhausen confirmed Commissioner Garlich's question that they could go ahead.

There was discussion between Commissioner Egan, staff, and Pastor Custer regarding the operating hours in the letter dated April 25, 2006 from Lighthouse Community Church and discrepancies were adjusted, restated, and confirmed in the motion below.

In response to a question from the Chair regarding a case where a child might be there for both sessions, Pastor Custer said that would not happen.

In response to a question from Commissioner Fisler, Pastor Custer said that state licensing is pending and they are hoping that a state official will be in their facility sometime between the 1<sup>st</sup> and 7<sup>th</sup> of July to do the final approval of the facility. At this moment, that license has not been approved.

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

In response to a question from Vice Chair Hall, Mr. Lee said state licensing must be approved prior to commencement of the preschool and could be added as a condition of approval.

MOTION:  
PA-06-25  
Denial/Not called

A motion was made by Commissioner Egan, and seconded by Vice Chair Hall to deny because she felt there were too many unresolved issues. She said the Council raised concerns about the safety of crossing the street and with some reluctance, approved this under directive from the City Attorney. The state license is still pending and the old conditions of approval had the leaving time at 12:30 p.m. which would overlap with the beginning of the second session and it was her belief that an afternoon session was not contemplated at the time of that approval. She thought it should be left as it is now and see how it goes. If everything goes well, in six months or so when the school has actually been operating, the Commission could take another look.

SUBSTITUTE MOTION:  
PA-06-25  
Approved

A substitute motion was made by Chair Perkins, seconded by Commissioner Garlich, and carried 3-2 (Egan and Hall voted no) to approve Planning Application PA-06-25, by adoption of Planning Commission Resolution PC-06-48, based on information and analysis in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B." with the following modifications and addition:

Conditions of Approval

*Replace conditions #1 and #2 as follows:*

1. All conditions of approval for PA-00-56 (attached as Exhibit "B-2") shall be complied with, with the following modifications:
  - A. The church preschool shall be limited to Monday through Friday from 8:30 AM to 11:30 AM for the morning sessions, and 12:30 PM to 3:30 PM for the afternoon sessions.
  - B. Students shall not be permitted to arrive earlier than 8:30 AM and shall depart no later than 3:30 PM.
  - C. A maximum enrollment of 60 children shall be permitted for the church preschool for each session.
  - D. The operators shall provide proof that they have received the necessary State licensing to operate the church preschool prior to commencement of the preschool.
2. The applicant is hereby notified that the Planning Commission will review the CUP in 12 months to determine if the conditions of approval are being complied with.

During discussion on the motion, the Chair said they need to get their state licensing, that his major concerns were traffic flow, and issues in the petition submitted by Mr. Denghausen. He said he would like to add a condition of approval to have this application returned to the Planning Commission in 12 months for a progress report.

Commissioner Garlich said that on the assumption that all we're looking

at is the afternoon session and everything that was approved before is still in place; the issue for him comes down to the issue of the traffic and the number of people involved. He reminded everyone that 8:30 a.m. is a peak traffic hour, but 5:30 p.m. is not. If it is going to work at 8:30 a.m., the traffic at that hour should be heavier than it would be in the early afternoon when the afternoon session would adjourn. He is not concerned that this is going to be a problem any greater than morning, but probably less than the morning.

Commissioner Fisler requested that wording be added for state licensing approval prior to commencement of the preschool (see motion above).

The Chair restated the proposed conditions of approval.

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-06-27 for Farhad Edward Khosravi, for a variance to legalize a 29.5-foot building height for two single-family houses (27 feet permitted), located at 258 and 260 Santa Isabel 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 has noted that the affected units are the two units at the rear of the property which should minimize the building mass impact from Santa Isabel Avenue. He said the roof peaks at the 29.5-foot point which is set back approximately 35 feet from the rear property line, therefore, minimizing the impacts to the rear property. Based upon these two factors he said he believed there was justification for a variance and staff is recommending approval, by adoption of Planning Commission resolution, subject to conditions.

Commissioner Garlich asked for a history of variances where common errors were made that were unintentional and a variance was necessary. Mr. Lee said approximately 4 years ago, a second-story extension was proposed on a cul-de-sac off of Riverside Place and the existing structure was already at a height that exceeded the 27' allowed under code; and was actually built when code was 30 feet maximum. They had basically extended the second story to the same height as the existing second-story addition. The Planning Commission approved that variance based upon the fact that there was an existing circumstance where the roof peak was already at that height. There was further discussion regarding this subject between Commissioner Garlich, Mr. Robinson, and Mr. Lee related to required additional height approved for the residential parties of the Home Ranch development.

In this case, the additional height was justified to accommodate the different architectural styles of the homes and the fact that the development was a self-contained and designed neighborhood.

In response to a question from Commissioner Garlich, Mr. Lee confirmed the height errors were made on the two rear units and not the front units. He also confirmed that Planning Division received 6 letters (1 in support of the request, and 5 expressing concerns with the request). In further response, Mr. Lee confirmed that no one objected to the height before they knew the height was incorrect via the noticing of the project.

Farhad Edward Khosravi, 264 Santa Isabel Avenue, Costa Mesa, agreed to the conditions of approval. Mr. Khosravi briefly reviewed his plans of the homes on the subject property and described the attributes of the project.

Mr. Khosravi said when he arrived this evening, Mr. Lee gave him copies of letters and a petition which he said was initiated by his neighbor Leigh Knudsen. Mr. Khosravi said it was important for him to address these issues to the Commission. He said the signatures on the petition are from addresses on the cul-de-sac at 24<sup>th</sup> Place/Hill Street; he noted that his property is on Santa Isabel Avenue. He commented that they evidently have a different view and they are entitled to it and none of the names are within a 500 foot radius of his Santa Isabel project. He said

PLANNING APPLICATION  
PA-06-27

Khosravi

his next door neighbor has sent a letter stating her support for the project.

In response to the Chair regarding the building height, Mr. Khosravi stated that when the framer was putting up the pitch, the sheathing subcontractor made an error and caused it to be higher than planned. The actual building height is at 28.5. The Chair pointed out it was still over 27 feet. He asked Mr. Khosravi to tell him how the Commission could justify it. Mr. Khosravi said when the roofing was signed off by the inspector, this subcontractor finished the sheathing work and when he was done and the nailing was checked by the inspector, he basically demanded full payment from the framing contractor. Since then, they have not been able to conduct legal action because the costs would put this project in jeopardy and the framer would have to file for bankruptcy and/or would be unable to perform his work.

Commissioner Garlich stated that he met with the applicants at their request prior to this hearing. He said he wanted to confirm Mr. Khosravi's previous statement that the building of the two rear units that are 29.5 feet was not intentional or directed, and was a mistake. Mr. Khosravi confirmed this was so.

In response to a question from Vice Chair Hall, Mr. Khosravi explained the pitch again. Vice Chair Hall commented that because a lot of the heating ducts are located in that area they would all have to be relocated. Mr. Khosravi explained that a lot of the work has already been completed for the two homes in the rear. He said there has been almost an 8-week delay in the project because of this error and the costs would be prohibitive to take it down and start over again. In response to another question from Vice Chair Hall, Mr. Khosravi stated that the company responsible for the error is Unique Homes by Caspian.

The following neighbors: Leigh Knudsen, 270 Santa Isabel; Richard Schmidt, 1911 Port Province, Newport Beach (at the meeting on behalf of his brother Michael Schmidt, who's working directly behind the property); Eli Wendell; 251 24<sup>th</sup> Place, Mike Schmidt, 249 24<sup>th</sup> Place, Larry Koh, 248 24<sup>th</sup> Place; Frank Hernandez (project faces his front door); opposed the project and made the following comments: Some said it was the developer's fault for not discovering it sooner; he planned it that way because he wanted a higher pitch in the roof and he got caught; it doesn't appear to be an unintentional violation because in Newport Beach the volume of the structure increases property values; a 10% height increase is a pretty big mistake; financial hardship isn't a good reason for a variance; 29.5 feet is not that much, but assuming they knew they were framing it was too high, the neighborhood feels they were thinking it was better to get their hands slapped later than to ask for a variance up front and they have to stick together and stop these things from happening in their neighborhoods.

Fariba Fordabi, 256 Santa Isabel, said she was hoping this project would soon be finished so their family could move in. She said these homes have beautified the neighborhood compared to the shacks that there were there before.

Siede Ascari, 258 Santa Isabel, in answer to a question that was raised about seeking counsel to litigate the framer, he said they did seek counsel and were told it would take 9 to 18 months to complete litigation and even if they were successful, there was no guarantee that this man will not file for bankruptcy. Mr. Ascari said he was glad the neighbors said they first heard the information from Gary Hook that the building was too high. What he didn't understand was if the City knew about it, why they didn't come to the applicant first, because according to the neighbors who spoke this evening, Mr. Hook told them first. Had it not been for the notice that was sent to these gentlemen, they would never have known the difference.

Albert Lundene, representing Michael Schmidt, attorney with Baker,

Burton & Lundene said he was asked by Michael Schmidt to analyze the legal ramifications in terms of the overbuilding this property. He also said Michael Schmidt stated the property has been raised 5 feet. The attorney then surmised there was another 2-1/2 feet that would be added to that. Mr. Lundene said they don't meet condition of approval #1 and they don't qualify for a variance. He said the applicant also does not qualify for condition of approval #2.

The Chair requested that Mr. Lee explain the 5 feet Mr. Lundene spoke about. Mr. Lee explained that he knows the property was raised in order to provide drainage to Santa Isabel, but without checking the grading plans, he could not confirm how high it was raised. Mr. Lee said the standard condition of approval says it cannot exceed 30 inches over abutting property.

City Engineer Ernesto Munoz, having checked the grading plans, said the applicant raised the property approximately 3 feet.

Mr. Khosravi said that with respect to the 2 conditions of approval, his lot is close to 30,000 square feet and is within the City's guidelines. He said the grading plans called for 2.8 feet of fill.

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

MOTION:  
PA-06-27  
Denied

A motion was made by Vice Chair Hall, seconded by Egan and carried 4-1 (Garlich voted no) to deny Planning Application PA-06-27, by adoption of Planning Commission Resolution PC-06-49, based on information and analysis in the Planning Division staff report, public testimony, and findings contained in exhibit "A" as follows:

*Replace Findings as follows:*

- A. The variance does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
- The development is not compatible and harmonious with uses on surrounding properties.
  - Safety and compatibility of the design of the buildings and other site features have been considered.
  - The development is not consistent with the General Plan.
  - The cumulative effects of all planning applications have been considered.
- B. The information presented does not comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist to justify granting of the variance from building height. Specifically, the site is rectangular and relatively flat, so there are no special circumstances applicable to the property to justify the variance. Additionally, based on the evidence and testimony presented at the hearing, the increased building height will be intrusive to surrounding residential properties, which are predominately one-story single-family homes.
- C. Same.
- D. Same.

During discussion on the motion, Commissioner Garlich said he would not support the motion because he believed there are grounds for granting a variance, and staff did find grounds or they would not have been suggested. He also did not believe the error was intentional on the part of the applicant.

Commissioner Egan said she doubted that it was intentional; however, just as it's not the Commission's job to punish people, it's not their job to rescue people from their mistakes, especially at the expense of the neighborhood. She said she did not see a basis for the variance. In response to examples cited by Commissioner Garlich, she stated that the project on Riverside Place had an existing, legal, nonconforming condition, and that was the reason for that variance. As for the Home Ranch building height variance, the key finding there was that it was a totally self-contained development. All of the houses were isolated from any

surrounding residential development; nobody was going to be impacted by it, which is just the opposite of what we have here -- neighbors who are tremendously impacted by it – and there is no basis for a variance.

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 12:53 a.m. to the meeting of Monday, July 10, 2006.

Submitted by:

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R. MICHAEL ROBINSON, SECRETARY  
COSTA MESA PLANNING COMMISSION