

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

August 22, 2005

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., August 22, 2005 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Perkins, followed by the Pledge of Allegiance to the Flag.

ROLL CALL:

Commissioners Present:

Chairman Bill Perkins
Vice Chair Donn Hall
Eleanor Egan, James Fisler, and Bruce Garlich

Also Present: R. Michael Robinson, Secretary
Costa Mesa Planning Commission
Tom Duarte, Deputy City Attorney
Ernesto Munoz, City Engineer
Kimberly Brandt, Principal Planner
Mel Lee, Senior Planner
Wendy Shih, Associate Planner

MINUTES:

The minutes for the meeting of August 8, 2005 were accepted as corrected.

PUBLIC COMMENTS:

Martin Millard, 2973 Harbor Boulevard, Costa Mesa spoke about the role of the Planning Commission to improve Costa Mesa.

The following people: Fred Davis, 2226 Miner Street; Craig Hendershot, 2238 Minor Street; and Rene' Zecua, 2242 Miner Street, Costa Mesa, discussed the City's failure to act upon their request to address concerns about a second story window recently installed at 543 West Wilson (abutting the back of residences on the east side of Miner Street), because it has hindered their right to privacy on a day-to-day basis and impeded their ability to have a smoke free environment inside their homes unless doors and windows are closed.

Planning Commission Secretary R. Michael Robinson reported that having reviewed the codes and during discussions with the City Attorney's Office, it appears that this a "ministerial" building permit and the City has no discretion to deny or alter its action in approving the building permit. He said even given this information, they remained optimistic and felt they might be able to meet with the property owner who installed the window to find a solution to offer more privacy, but they have indicated they are not interested in doing that. In this situation, a building permit has been issued, and there is a requirement that before the permit is finalized, that they get approval from the homeowners' association for the building modification, since it is modifying the structure owned by the association. It appears there is nothing more the City can do. Deputy City Attorney Tom Duarte confirmed Mr. Robinson's explanation. Vice Chair Hall felt the suggestion by Mr. Hendershot to agendize this matter for a public hearing was reasonable. Mr. Duarte stated that it is being publicly discussed at this time, however, he said the Commission could direct staff to bring back a status report at the next meeting on this matter. He said the questions asked by the residents were for information purposes only.

MOTION:

543 Wilson Street
Agendize Informational Report

Vice Chair Hall made a motion to agendize a public hearing for this matter, seconded by Chair Perkins and carried 5-0 to agendize an informational report.

Mr. Duarte explained that a public hearing and at this point may not be appropriate. Vice Chair Hall amended his motion to agendize an informational report that would respond to questions and address complaints made by the residents who spoke this evening. Commissioner Garlich suggested a study session, however, Mr. Duarte explained that the study session is feasible, but only for discussion of an ordinance,

and the Commission could not discuss any specifics of this situation. Mr. Duarte pointed out that it does not need to be a public hearing because the citizens will have the right, as always, to speak on the topic. The item was set for the September 12, 2005 Planning Commission meeting. Commissioner Egan suggested that the property owner be specifically invited to the meeting; staff confirmed. Vice Chair Hall amended his motion to include the date of the meeting. The Chair then called the vote as shown above.

Mary J. Hollingshead, 2323 Elden Avenue, Costa Mesa, who manages a 40-unit apartment complex at this address, stated that there has been an ongoing problem for the past 13 years with the alleyway situated between 23rd and Wilson Streets (one side of the alley is commercial and the other is residential). Five homes are now being built in this alley starting at \$950,000 and they have paved that portion of the alley in the area where the homes are going up; the remainder is unpaved and tenants and businesses have been told that it is an "improved" alley; that the City will not be working on "improved" alleys for several years until they get "unimproved" alleys fixed. She said she believes, along with the homeowners, tenants, and businesspeople, that this is no longer an alleyway, but rather a "street" thoroughfare (6 homes on the south side; 5 million dollar homes on the north side). Ms. Hollingshead, stated that because there are both a mixture of homes and businesses, they believe it should be drained properly and should be made into a street. She also discussed the many efforts they have made over the years to try and get the City to take action on this alley. She displayed several photographs depicting the condition of the alley. Her assistant (unnamed) stated that the City has told them to be patient but she said she did not know how long being "patient" takes since it has been 10 years.

City Engineer Ernesto Munoz stated that this is one of the City's public alleys. He explained that City Council, some years ago, requested that staff look at the alleys citywide. From the resulting report, City Council selected 13 alleys as their priority for improvements; they are *dirt* alleys (unimproved). Since then, staff has been requesting funding towards the improvement of these alleys annually, over the years. He said they are approaching the end of construction and/or repair of these unimproved alleys and within the next 12 to 18 months, they anticipate the alley issue going back to City Council to again reprioritize the alleys that were at some point improved, but are in very poor shape at this time. Mr. Munoz said they are well aware that this alley is problematic. He said the new developer would be helping with some of the drainage problems by redirecting some of the water from that area that was going through that alley. Vice Chair Hall asked if there are alleys actually "worse" than this one in reference to the photographs he was viewing. The Chair requested that Mr. Munoz give these ladies his card so they could keep up on Council meetings that would include this subject on the agenda, and to have his staff provide the status of the alley to them when asked.

Igal Israel, 2200 Newport Boulevard, Costa Mesa, asked if a business could legally operate in an R2 Medium Density zone. The Chair deferred to Planning Commission Secretary R. Michael Robinson who stated that it depends, but normally no. He said if there is a preexisting, nonconforming commercial use, then yes, by extending that nonconforming use, a business could legally operate in that zone.

Jim Hoover, 2324 Newport Boulevard, said his business, Hoover Printing, backs up to the alley that was previously discussed; it is located about mid-block. He said when the rains come, the water lifts the asphalt from the surface and has become one of the primary problems in the alley. The drainage has always been a problem because he has been there for 43 years and as more development takes

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

place, the problem is exacerbated.

Commissioner Garlich noted that the President signed the Transportation Bill that Congress finally processed within the last two weeks. He said in Costa Mesa that bill was the means to eventually obtain approval for the Susan Street off ramp which will service the Home Ranch project and was something discussed during the Home Ranch hearings but was not a mitigation measure or an element of the development agreement; it was the developer's private funding that was going to do that. In this particular case, this was the mechanism by which the private sector would get to build an off-ramp that will take a lot of the incoming traffic off the arterials in that area of Costa Mesa.

Vice Chair Hall stated that yesterday's Orange County Register printed and evaluation of the police agencies throughout Orange County and were divided into small, medium and large cities with different populations. He announced that the City of Costa Mesa is number one in the County for cities with more than 100,000 population (response time, solving crimes, etc.) with a 5-star rating for Chief John Hensley.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

AN ORDINANCE
AMENDMENTS REGARDING PLACES OF
RELIGIOUS ASSEMBLY IN COMMERCIAL
ZONES, INCIDENTAL RETAIL SALES IN
INDUSTRIAL ZONES, MASTER PLAN
REVIEW PROCESS IN PLANNED
DEVELOPMENT ZONES AND CHAIN LINK
FENCING IN NONRESIDENTIAL ZONES

CITY

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 churches/places of religious assembly in commercial zones, incidental retail sales in industrial zones, the master plan review process in planned development zones, and chain link fencing in non-residential zones. Environmental determination: exempt.

Principal Planner Kimberly Brandt reviewed the information in the staff report and gave a brief overview of each of the four amendments in the ordinance. She said staff was recommending that Planning Commission recommend to City Council to give ordinance first reading.

In response to a question from Commissioner Fisler concerning applications for churches in commercial zones, Ms. Brandt stated that in recent history, the churches reviewed by Planning Commission have been located in industrial zones and she knew of none recently that were within a commercial zone, and none pending at this time.

In response to a question from the Chair, Ms. Brandt explained that these amendments came from Planning Division staff in consultation with the City Attorney's Office regarding the permitting of churches within the City's Zoning Code Matrix. Deputy City Attorney Tom Duarte stated that this was his understanding as well. He stated that City Attorney Kim Barlow generated the first part of the ordinance. He said if the Chair needs additional background as to the reasons, the City Attorney's Office would be happy to bring back a memo in addition to the staff report. The Chair asked Mr. Duarte if he knew of any other cities in Orange County that have something similar in relation to religious activities or churches. Mr. Duarte did not know of any at this time, however, he said they do represent a few other cities but he did not have those code sections memorized. Vice Chair Hall asked the Chair if he was specifically talking about the churches or the full ordinance. Chair Perkins said he was speaking about all items and asked Mr. Duarte if they were doing all four at once because it would go more smoothly. Mr. Duarte explained that it was being reviewed as presented since it was noticed that way, but he said the Commission has the right to break it up if they so desire.

Mike Berry, commented that he did not understand why the City is "streamlining" a process. He said one of the problems in Costa

Mesa is that the City is built out and there is no place left to put anything, yet every time we take a piece of property and move it into a “non-taxed” use, we take money out of our own pockets. He felt there should be a public hearing.

Martin Millard, 2973 Harbor Boulevard; Costa Mesa, felt it was a mistake to recommend this ordinance to City Council and agreed that CUP process should be instituted to review the applicants. He also felt this action would allow “store front” churches. He said most give out food or other benefits and attracts a population that may need churches, but also needs food and other things and the churches become that kind of place. He also felt the words “final authority” should be changed in item #3 under Description; 3.; “To designate the Planning Commission as the final review authority in the master plan review process” and should instead read “primary review authority.”

Christian Eric, a Placentia Avenue resident, Costa Mesa, felt it was wrong for the City to be putting churches into storefront properties. He asked the Commission not to allow this kind of thing to come about.

Beth Refakas, 320 Magnolia Street, Costa Mesa, agreed with the previous speakers regarding the churches. She also felt chain link fencing should be phased out completely and more expediently than is called for in the ordinance.

Council Member Eric Bever stated that in reviewing the staff report for this item, he felt it was lacking in certain regards. He said generally, when something of this nature is brought forward, there is some basis for the change. He said his understanding is that the City has not addressed a storefront church issue in a commercial C1 or C2 zone in the last 5 years. Council Member Bever said he did not know if the Commission had received a memorandum from Mayor Monsoor concerning this issue and urging the Planning Commission to set this aside. He said he concurs with the Mayor’s request and they have been unable to find the basis of this suggested change, and without that, he did not know how it was possible for the Planning Commission to deliberate. He pointed out what he believed to be an error in the report and wished to clarify. The Chair confirmed that the Planning Commission received the Mayor’s memorandum.

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

MOTION 1: PLACES OF RELIGIOUS ASSEMBLY IN COMMERCIAL ZONES; INCIDENTAL RETAIL SALES IN INDUSTRIAL ZONES; MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES; AND CHAIN LINK FENCING IN NONRESIDENTIAL ZONES

FAILED FOR LACK OF A SECOND

MOTION 2: PLACES OF RELIGIOUS ASSEMBLY IN COMMERCIAL ZONES; INCIDENTAL RETAIL SALES IN INDUSTRIAL ZONES; MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES; AND CHAIN LINK FENCING IN NONRESIDENTIAL ZONES

MOTION WAS NOT CALLED

SUBSTITUTE MOTION: PLACES OF RELIGIOUS ASSEMBLY IN COMMERCIAL ZONES; INCIDENTAL RETAIL SALES IN INDUSTRIAL ZONES; MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES; AND CHAIN LINK FENCING IN NONRESIDENTIAL ZONES

CONTINUED

A motion was made by Vice Chair Hall, to continue this item to the meeting of September 26, 2003 with the ordinance divided into 4 separate items.

A motion was made by Chairman Perkins, seconded by Vice Chair Hall, to take each individual item and vote on each separately to continue to the Planning Commission meeting of September 26, 2005 and directed staff to separate into four action items. *This motion was not called before a substitute motion was made.*

Commissioner Egan said she thought the Chair had seconded Vice Chair Hall’s motion and had she known it had not been seconded, she would have done so. She said she would like to see the entire public hearing for item #1 be continued to September 26, 2005, because they could be discussed and voted on individually. She was asked if that was a motion and she agreed. The motion was seconded by Vice Chair Hall and carried 3 to 2 (Perkins and Fisler

voted no).

During discussion on the motion, Commissioner Garlich felt this motion was the appropriate action. He said whether they are brought back separately, or in any other variation, they can be discussed independently of each other as has been done in the past; each one can be called for on a separate vote regardless of how they are packaged. He said he supported the motion.

Chair Perkins said he was not going to support the substitute motion this evening because he would like to take care of this item this evening. He commented on how easy it is to start a church and he did not want to see storefront churches in Costa Mesa. He maintained there was not enough background on the church item.

Commissioner Fislser said that previously he had asked Ms. Brandt how many people have applied for a church in the commercial zone because in order to find out the reason why this item is before the Commission. He said personally, he would like to reject this part of the ordinance this evening.

Commissioner Garlich stated that with regard to the item concerning churches, the issue the Commission is dealing with is whether they are permitted or whether they are a conditioned use. One of the things he would like to find out when more information is provided, under the heading of "background", is whether any of the things just said can be legally considered under a conditional use permit. He felt it would be better to have additional information to make a more informed decision on what the Commission is doing and why.

The Chair clarified with Ms. Brandt, a scenario of a church that would meet all requirements and standards to this point and as a result is permitted and would not have to come before the Commission.

Commissioner Egan explained that there are many things that could be done other than this ordinance and other than continuing with the current process. For example, as Mr. Millard suggested, concentrate churches by having an overlay zone where they would be permitted. She felt that when Kim Barlow returns, she may send the Commission a memo saying that an amendment to the current ordinance is legally required; if that is the case, the Commission needs to look at amending it.

The Chair said he appreciated Commissioner Egan's comments, but he would rather vote on it now, and if Ms. Barlow brings it back and says it's constitutionally incorrect and the Commission needs to make some changes, then it will make changes. He said Mr. Millard mentioned different areas of concentration and he agreed, but he said those are "spread out" areas; they're not right on top of each other. He said he felt the same way. He then called for the vote (3-2, as shown above).

The Chair opened the public hearing for consideration of an ordinance of the City Council of the City of Costa Mesa, California, amending Title 20 of the Costa Mesa Municipal Code regarding trash dumpsters/bins and trash enclosures. Environmental determination: Exempt.

Principal Planner Kimberly Brandt reviewed the information in the staff report and gave a presentation. She said staff was recommending that Planning Commission recommend to City Council to give ordinance first reading.

In response to a question from Commissioner Egan regarding a provision for a property owner who has an unusual hardship and to

AN ORDINANCE:
AMENDMENTS REGARDING TRASH
DUMPSTERS/BINS AND TRASH
ENCLOSURES

CITY

whom he would apply, Ms. Brandt explained that there is not a specific provision included in the ordinance and could be something the Commission could recommend with language and forward on to City Council.

In response to a follow-up question from Commissioner Egan to Deputy City Attorney Tom Duarte regarding a property owner (referencing one or more on the Center Street alley) who would lose all of his parking as a result of having to enclose the trash dumpster, Mr. Duarte suggested that should that happen, at a point in time, he would apply for a variance. In response to Commissioner Egan if he would lose his parking, Mr. Duarte said this is something he could research and get back to her. He also offered to send the results on to City Council for their review. Commissioner Garlich agreed that some provision should be made in any event because it could mean someone might even lose his or her home.

Commissioner Garlich also asked why this is not a citywide ordinance and is only limited to the Westside, and what would staff's recommendation be on how to deal with that this evening. Ms. Brandt explained that the genesis of this ordinance was from the City Council's Westside Revitalization Plan and a particular strategy that was just limited to the Westside, however, if the Planning Commission is interested in having this applied citywide, it can be a part of the Commission's recommendation to City Council. Staff would also provide in the staff report, some fiscal implications of that recommendation.

Val Skoro, owner of 19 units located at 859 West 19th Street, stated that he is a "Keep Costa Mesa Beautiful Committee" member with Commissioner Egan and has owned this property for over 20 years and well-versed with the situation as far as dumpsters are concerned. He stated that he has an enclosure in the back of his units and a continuing problem with the units on Center Street as previously mentioned by Commissioner Egan. He did not feel that variances should be granted because it takes people off the hook to keep the area cleaned up. He said they can claim there is an economic hardship involved with building an enclosure, but in these times with rentals what they are, if you can't make money it could be there is not a good understanding of the business. He felt the Commission should recommend approval to City Council without further delay.

No one else wished to speak.

A motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 5-0 to recommend to City Council to give ordinance first reading to include the following recommendations:

- (1) Consider hardship language in cases where trash enclosures/bins may require the use of existing, on-site parking spaces and could cause commercial/industrial/multifamily areas to lose parking already accounted for.
- (2) Consider an additional ordinance to apply citywide.

During discussion of the motion, the Chair agreed with Commissioner Egan's reasoning and said he would support the motion. Commissioner Fisler also agreed and favored it going citywide.

The Chair called a recess and the meeting resumed at 8:10 p.m.

The Chair opened the public hearing for consideration of an appeal of the Zoning Administrator's denial of Minor Conditional Use Permit ZA-05-25 for Robert Lawrence, authorized agent for Fisher/Shiffman Properties, to legalize four, 8-foot by 20-foot containers covering 7 required parking spaces, located at 345 Fischer Avenue, in an MP zone. Environmental determination: exempt.

MOTION:
TRASH DUMPSTERS/BINS AND TRASH ENCLOSURES
RECOMMENDED TO CITY COUNCIL

BREAK:
APPEAL OF ZONING ADMINISTRATOR'S DENIAL OF MINOR CONDITIONAL USE PERMIT ZA-05-25

Fisher-Shiffman Properties/Lawrence

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending that the Planning Commission deny the application, by adoption of Planning Commission resolution.

Robert Lawrence agreed to the conditions of approval. Mr. Lawrence addressed a method for the screening of the storage containers. He pointed out that it matched the design of a patio screen around the patio in the rear area of the facility that would be just high enough to screen the storage containers from view from the street. He said this would screen the end facing Airway Avenue and the side for the church as well.

A representative of Rock Harbor church stated that they hold services on Saturday nights and Sunday mornings. With regard to parking, he said there are 73 parking spaces currently and they would use 8 for staffing. He said parking at this time is more than adequate.

In response to a question from Commissioner Garlich regarding his expectations of growth, he stated that he did not believe they would have much more growth than his current level of storage or capacity in the building. They hold a service at the Shark Club on Sunday mornings at 11 a.m., which omits any growth realized on the property. Commissioner Garlich said he visited the site and complimented Rock Harbor on the building. He said it was quite a visible change from its original condition. He also asked if there was any available storage space inside the building because of its large size. The representative said the building is occupied with offices; a youth area; some children ministries areas; and the main sanctuary. In response to another question from Commissioner Garlich regarding the screening proposal Mr. Lawrence provided. He said they would increase the screening by 6 inches to cover the storage altogether making it 8' 6" in height.

In response to a question from the Chair regarding what was in storage, the representative stated there were some seasonal materials for vacation bible school which goes on during the summer months for children 4 years of age through 8th grade; curriculum which are being taught and used during children's ministries, which rotate in and out seasonally. The Chair and Mr. Scott reconfirmed condition of approval #4 regarding operational measures to minimize or eliminate growth problems.

Commissioner Fidler also visited the site and felt it was a beautiful facility, but he said as you come around the corner to the entry, there are about 4 to 5 tires stacked up on the ground and asked for an explanation. The representative said they just finished vacation bible school for kids, including Westside kids who are not able to attend a church service for a weekday or weekend for camp. On Friday afternoon it is being torn down and everything is being stored back to its original location. He said "Just Tires" helped out by allowing them to borrow some tires for an obstacle course and those tires are being returned to them and is not something they are keeping on site.

In response to a question from Commissioner Egan regarding a large van she saw on site when she visited, the representative explained that is the van they use to take their equipment from Rock Harbor over to the Shark Club for Sunday morning services. In response to another question from Commissioner Egan regarding changing the location of the storage containers to the west side of the building, the representative stated they have discussed this idea and it was initially their intent to put those containers on that side, however, the problem has to do with the fire wall and does not leave ample access for fire trucks and such.

There was discussion between Commissioner Garlich and Mr. Lee concerning the number of parking spaces and the finding to allow off-site parking because of an insufficiency of on-site parking.

There was discussion between Commissioner Egan and Mr. Lee regarding other industrial areas within this area that have storage containers on site and the issues of aesthetics and parking.

Martin Millard, 2973 Harbor Boulevard, Costa Mesa, requested that the Commission uphold the Zoning Administrator's decision and deny this application because he felt the church knew before they rented the space that they would need other space for storage.

Beth Refakas, 320 Magnolia Street, Costa Mesa, objected to the storage containers and said she was concerned about the church storing hazardous materials.

The representative returned to the podium to address Ms. Refakas' concern regarding hazardous materials. He said they have some gas-powered blowers and maintenance products to keep the building clean and maintained and these things cannot be kept inside the building.

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

A motion was made by Commissioner Garlich, seconded by Vice Chair Hall, and carried 4-1 (Egan voted no) to approve by adoption of Planning Commission Resolution PC-05-53, based on information and analysis contained in the Planning Division staff report and findings in exhibit "A" as follows; and, subject to conditions in exhibit "B."

Findings (Replace as follows)

- A. The information presented complies with Costa Municipal Code Section 13-29(g)(2) in that the proposed use is compatible with developments in the same general area. Specifically, the number of parking spaces for the existing church (254 spaces are required; 285 spaces are provided with the containers, including the off-site parking spaces) is adequate to support the request. Additionally, the containers will be screened from Airway Avenue and are consistent and compatible with improvements to the subject or surrounding properties.
- B. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
 - The proposed use complies with the performance standards as they pertain to parking as prescribed in the Zoning Code.
- C. Same.
- D. Same.

During discussion of the motion, Commissioner Egan felt that a wall was fine, but in her opinion, the lattice on top never looks good; that the maintenance materials and equipment should be stored in a much smaller shed and she did not feel that these very large containers were necessary because seasonal items could be stored off site.

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-05-30 for the County of Orange/Bristol Street Mini Storage, LLC, for the outdoor storage of recreational vehicles and a mini-storage facility (originally approved under PA-94-24 and PA-04-12) from September 1, 2005 to March 1, 2006, located at 1100 Bristol Street in a C1 zone. Environmental determination: exempt.

MOTION:
ZA-05-25
Approved

SIX-MONTH EXTENSION OF TIME FOR CONIDITIONAL USE PERMIT PA-05-30 (ORIGINALLY APPROVED UNDER PA-04-12)

McCray/Dever

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

In response to a question from Commissioner Garlich regarding the original discussions (as referenced in the public hearing minutes from approximately 1 year ago) regarding the County's RFP process and the fact that the current tenant would like an opportunity to bid on that, Ms. Shih explained that the applicant would have to apply for a conditional use permit to request permanent usage of this property for storage facilities and staff would then take a look at whether the use is compatible with the area. Further, she clarified that the City's code would not allow "cargo containers" for a storage site and the City would most likely require permanent buildings and improvements such as paving, and perhaps parking which would be looked at when the conditional use permit is considered.

Commissioner Garlich explained that even if the applicant were to be a successful bidder and wanted to continue his business, he would still have to remove those containers and the people now using them would have to find some alternate means of storing materials for some period of time while all that change is being made. He pointed out that the City is not just looking in the long term as just a continuation of this use but something that would become, by ordinance, a different kind of use and require changes in the configuration and use of those containers.

In response to the Chair regarding the Supplemental Memo dated August 17th and the RFP schedule, Ms. Shih explained that there was no breakdown at the public hearing a year ago, although during the meeting, there was verbal discussion of proposed dates. In further response to the Chair, Ms. Shih said the RFP schedule is a "tentative" schedule from the County.

In response to a question from Commissioner Fisler regarding staff's recommendation, Ms. Shih confirmed that the applicant should vacate the site by September 1, 2005; as the original CUP permit states, however, Planning Commission has the option to grant additional time to vacate the site. She confirmed with Commissioner Fisler that this property is zoned commercial (local business) and is approximately 1-1/2 acres in size.

There was discussion between the Chair and Ms. Shih as to sufficient time for the applicant to vacate the premises.

Peter Buffa, Nevis Circle, Costa Mesa, agreed to the conditions of approval should the project be approved and requested the Commission ask the same of the applicant. He reviewed what transpired at the Planning Commission meeting for this item on August 24, 2004 (1 year ago). Mr. Buffa did not feel that this item should be denied due to delays by the County during the past year, and as a result, Mr. Jamieson was unable to follow through with his own time line of either vacating the property, or approaching the Planning Division for a conditional use permit for the property. Mr. Buffa also addressed staff's other reasons for denial, including site improvements, landscaping, trip end activity, and disagreed with their assessment of the maintenance and condition of the business as it stands today. He also reminded staff that even from their aerial view of the property, one side belongs to CalTrans and another side is the lumber yard and that Mr. Jamieson has done very well with maintaining this property and that it has remained somewhat obscure from vehicular and foot traffic. He made an effort to convince the Commission that the flood control easement would always be a problem with this property and the Commission would only accom-

plish turning the property into a vacant lot if they denied the applicant's request.

Lee Jamieson, 3101 State Road, Bakersville, owner of Bristol Street Mini Storage, stated that they did receive the bid schedule from the County until 4 to 5 days after they had submitted the application to the City. He said he would have asked for a 9 to 12-month extension had he known about the schedule earlier. In response to the Chair, Mr. Jamieson agreed to the conditions of approval.

Mr. Jamieson stated that last week they sent out a mailer to their customers about the CUP. He said they have approximately 780 customers with 900 spaces total (some customers have more than one space). He submitted approximately 359 responses in favor of the application. Mr. Jamieson also apologized to the Planning Commission because when they were here last year, he was confident in his ability, *and* the County's commitment at that time to bring this to an expedient RFP process that was slowed down by the need for them to consider this property for their own internal use. He said the County has now given them the schedule and they are moving forward with that. He said if they were the successful bidder on this property, they would come back and ask the City to allow them to continue their business. He said at the meeting a year ago he did say he would do whatever it took, within reason, to comply with conditions imposed by staff. He said he has asked a dozen times over the past 2 years what they would be and just recently Mr. Robinson said that "there is no way we will support your application and there are no conditions we will put on." He said this was new information to him and he never knew until now. He explained that this is his livelihood and this business has been serving the community of Costa Mesa for over 10 years. Mr. Jamieson said if the Commission denies this application, it would be the first time in the City's history an extension has been denied to someone who has followed each and every condition imposed upon their business.

Mr. Jamieson confirmed with the Chair that he asked for 6 months in his request a year ago and the Planning Commission gave him 12. The Chair explained that the Commission was under the impression that in 12 months if we couldn't deal with the County, that this was not a use that Costa Mesa was looking to continue. Mr. Jamieson said at that time, he told Commission that to the best of his knowledge, that this process would be concluded very shortly in a 6 to 9-month window. The Commission was gracious enough to allow him 12 months and he again apologized for the County's delays. In response to a question from the Chair regarding his reason for blaming the City in his correspondence to the tenants of his business, Mr. Jamieson explained that when you spend 2 years as a business

owner asking, begging and pleading with Planning Division staff to tell you what you can do in order to continue your business that you've had for 10 years so you can continue to make your livelihood and the answer is continually, "there's nothing you can do, there's nothing you can change that will support you." He said the level of frustration obviously reaches a very high peak. He felt that if staff had given him a list of things that he would have to do in order to stay in business, at least he would have known what he had to do and would have been able to at least talk about those things but the answer was always the same. The Chair insisted that the City is not the bad guy and pointed out that the County is the one who has held up things. Further, he said nothing was even done on the part of the County to even begin the process of RFP's for the past year.

Commissioner Garlich requested that Ms. Shih explain the "10 years" so that everyone could understand because he did not believe there was a "sunset" clause on that period of time. Ms. Shih explained that the City does not normally grant conditional use permits with time limitations and they usually "run with the land." In this case, in 1994, Planning Commission granted a 10-year period for mobile storage containers on this property. At that time, the County also had a 10-year lease and the decision by Planning Commission for a 10-year period was made to blend with the lease period and was a matter of developments in the area and compatibility of uses.

Commissioner Garlich had several questions regarding a difference between extending this conditional use permit for 6 months versus not extending it at all, but giving the tenant 6 more months to vacate the property. In response, Deputy City Attorney Tom Duarte explained that in this situation, if the application is denied, then the Commission gives him 6 months to vacate, he would be in violation of the zoning code for those 6 months, but it would not come back to Planning Commission because the Commission has made their decision. This would turn into a "grace period" and then it would be turned over to Code Enforcement at the time 6 months expires, if he has not vacated.

There was discussion between the Commission, Mr. Duarte, and Mr. Robinson concerning this alternative which would leave no doubt regarding another extension because the applicant and the tenants would know that they must vacate the property within the next 6 months, and if not, it would go directly to Code Enforcement.

Mr. Jamieson wished to point out that not one resident has ever called or written against the extension.

Martin Millard spoke against this project because he felt Bristol Street was in transition for additional shopping such as artist's lofts, and other various businesses. He said he is troubled that some people think it's a plus when there are only 20 visits a day to this site because the plan is revitalize the area. He felt the Commission should approve staff's decision and allow the applicant a reasonable time period to vacate the premises; no longer than 3 months in his estimation. The County would then have an incentive to begin making changes and do something to change this over for the City's benefit. The fact that the County owns the property should not detour the City's plans to improve the area. The County collects the rent and the City has no benefit from this business or property. If it switches over to "office or retail uses", the City will be able to collect sales tax and there will be other benefits to the community. He felt the easement could be used for parking in the back.

The following people: Fred Sandrate, 17 Cortez Street; Michael Heil, 3131 Lincoln Way; Tom Wilkins, 88 Ward Court, Lakewood,

Colorado; Judith Gielow, 469 East 18th Street; Sam Scott, 269 East 22nd Street; Michael Phillips, 16562 Lucia Lane, Huntington Beach; and Patricia Magee, Newport Boulevard resident, Costa Mesa, commented as follows. (1) They were unanimously in favor of extending the CUP for this site and continuing with the current tenant; (2) most believed Mr. Jamieson should be allowed more than six months and felt that a year was more reasonable to vacate the property in hopes that the County would expedite the RFP's; (3) they also commented on the unfairness of the situation and judgment by the Planning Division that the business is not compatible with the other businesses in the neighborhood; (4) this facility has aided many businesses around the City who pay their taxes to the City and are dependent upon the facility to keep their businesses going; (5) pavement on highways is fine, but the gravel utilized at this particular facility is "earth-friendly" and absorbs rainwater; (6) gravel is also ideal for low use and slow use driving with infrequent traffic and it works; (7) this storage facility with "day use only" is situated so as to allow access to the Delhi Channel without obstruction by tree roots, permanent surfaces, and permanent structures; (8) many speakers pointed out that the City has more shopping centers and strip malls than it can handle which already causes parking, traffic and noise problems especially in this area; (9) some of the speakers live in small efficiency apartments (some temporarily, and some on fixed incomes), and they are using this facility for storage because it is reasonable by comparison to other storage facilities, and is what they can afford, and lastly, (10) one speaker said that the Chair was "offensive" in his remarks to Mr. Jamieson with regard to the correspondence sent to the tenants of Bristol Street Storage and that Mr. Jamieson is upset because he's about to lose his successful business and livelihood as he was trying to explain.

Mr. Jamieson returned to the podium and explained that in answer to the Chair's previous question, they could not breakdown exactly the amount of businesses versus individuals because many of them conduct business under their own names. He said they believe it's somewhere between 25% and 30% businesses but could be higher. There was also a question of how many are in the City of Costa Mesa and about 40% are Costa Mesa residents/businesses; that figure goes significantly higher if you check alternate addresses on the required forms. The secondary address would add significantly to Costa Mesa addresses.

Mr. Jamieson thanked the Commission for their time. He commented on the hundreds of people who don't have storage in their homes, or for their small businesses and explained that's what mini-storage facilities are designed for. Finally, he asked the Commission if this is such a bad use, and it's so offensive, why is there not the turnout of citizens and businesses, or a list of people who want this use to go away? He pointed out that there is a long list of citizens and businesses that do want this business to stay.

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

Commissioner Garlich said that the issue this evening was not aesthetics, but an issue of what's the highest and best use for that land on Bristol Street, and Bristol Street is changing. He said he believed the County's RFP process, when it comes out, will shed some light on what these uses might be, including whatever Mr. Jamieson's proposals might be to use for that land. He said whatever those proposals are, they are going to be disruptive to the people that are there now. The people who use that storage in any event, will have to be inconvenienced by that change. He said look-

ing into the future, the City of Costa Mesa has a casual interest in the possible use of that land for open space uses. The issue of fairness was also brought up and he believed a 6-month period of time to vacate the property from the September 1st deadline is more than fair and may motivate the County to continue its RFP process the same time line as they have suggested to Mr. Jamieson.

MOTION:
PA-05-30
Denied w/direction

A motion was made by Commissioner Garlich, seconded by Commissioner Egan and carried 3-2 (Hall and Fisler voted no) to deny, by adoption of Planning Commission Resolution PC-05-54, based on information and analysis contained in the Planning Division staff report and findings in exhibit "A", and directed applicant to vacate the property during a six-month period, beginning on September 1, 2005 and ending on March 1, 2006.

Commissioner Egan thanked all the people who took the time and trouble to come out, and pointed out that whether they succeeded in persuading the Commission or not, the Commission had the benefit of their thoughts and ideas. She advised them that if the County's RFP process continues along its current path, along about March, Mr. Jamieson may not win the bid; there may be other bidders who have a proposal that pleases the County more and regardless of what is done, they may have to vacate. She said what is happening here in Orange County right now, is that residential development is becoming denser and denser and people are living in smaller units. In Costa Mesa, people are not building single-family homes on 6,000 square foot lots and so people have a lot of stuff to store. Businesses have always needed storage. She believed the demand for storage facilities is infinite, but they don't all have to be located convenient to Bristol Street. She said the Commissions' job is to plan for the future, it is not to maintain consistency with the surroundings; something that would be disruptive to the surroundings would be something to consider. She said you don't look at something and say that's a noisy, nasty use, and then put the same thing in because it would be consistent—that would mean nothing ever gets better. The Bristol Street Specific Plan is carrying the retail and arts district southward to the freeway and stops at the freeway. There is the hope that it will influence development south of the freeway. She said she could not see this as a permanent business on Bristol Street even though there is an infinite need for storage.

Vice Chair Hall felt all the theoretical comments about what might happen in the future are bothersome. Aesthetics, as Commissioner Garlich pointed out, is not the issue, because aesthetically, it's a very pleasing establishment. As far as the view from the freeway, he has never had time to look down when he's driving because he's more interested in the traffic. He said consider the "free market" which built this country and continues make this country prosper and in turn continues to make the City of Costa Mesa prosper. As soon as government gets involved and says, "well we don't think that's the right use because we know what's best", but the fact is, it isn't our money we're spending, it's someone else's money we're talking about. In this case, we're saying we'll give Mr. Jamieson six months to clear out; that's fine if all he had to do was just move some containers, but how about the people who have paid for a year in advance? What will happen to them? Vice Chair Hall gave several scenarios of how he thought the next six months would go for the owner and the tenants, including legal entanglements on both sides. He said even after everything is said and done in six months and the County continues on its present course with the RFP's, the property and maintenance of the property would deteriorate until the County actually decided to do something. He said the original concept in moving this by September 1, 2005 is basically a physical impossibility, and to arbitrarily say that all those tenants' materials

will be out of the containers so Mr. Jamieson can move the storage units off site in the next six months doesn't quite fit, and the suggestion that was made that at such time as the County finally does something and the property is transferred to a new owner, at that time, the Commission can address the issue of what's going to be there, and whether this business is going to leave or stay now, is jumping the gun as far as he is concerned. He said he did not know how to put that into a motion but wanted it on record that the Commission should leave it alone until the County comes up with their final decision.

Commissioner Fisler said he agreed with Vice Chair Hall's feelings on this matter. He felt it is true that it is totally aesthetically pleasing when you pass by on Bristol Street. He also agreed with Commissioner Garlich that it may not be highest and best use of the land, but for this land to sit empty and to have the landscaping deteriorate, with padlocks on their gates, is not a good thing to do for either Costa Mesa, or the business. He said personally, he is not a fan of mini-storage, but when he visited the site he found it to be very unique and very nice. He said he was taken by the manager via golf cart and toured throughout the property; it was very clean and well managed. He said some people in Costa Mesa want to see Bristol Street improvements continue down that street, and quite possibly he does too, but his feeling is that it will happen in the not-so-distant future. He believed that this business needs to go through the process of the RFP, the winning of the bid, and then a determination of what is going there. In a set amount of time at that point, if it's not going to be a mini-storage, then give people time to vacate, rather than just saying "you're leaving on this date" and having an empty piece of property just sitting there. He said he just couldn't see the "up" side of that.

Commissioner Egan commented that no matter when the day comes to vacate, there's always going to be somebody who just paid for a year's use. There has to be a cutoff date, otherwise it never ends.

Chair Perkins said he believed Vice Chair Hall and Mr. Buffa can relate to how he feels right now. He said this is a difficult decision because he appreciates what Mr. Jamieson has done and Mr. Buffa's comments. He said he respects all the comments made by the Commission, as well as those of the individual speakers. He said he has some friends that rent there and didn't know after tonight if they would still be his friends, but he'll run that risk. He said he was a little bit discouraged when he saw the letter and he apologized to Mr. Jamieson for taking it out on him. He said there was a comment made by the last speaker, Mrs. Magee he believed it was who mentioned about being a senior and having a place to store things. He said he appreciated that. He just had a family member pass away and they were elderly and they lived alone. He said he understood where she was coming from. He said he disagreed with a couple things that have been said about us wanting to follow the money. He said he's sat up here for 5 years with Commissioner Garlich and he couldn't remember a time when he thought money was more important than lives. He said the County collects a big paycheck from this and as long as its here, they're going to continue to do that. He felt the 6 months was very reasonable and feasible. He said he ultimately realized that this will probably get appealed to City Council so Planning Commission will not be the final authority. He said he would support Commissioner Garlich's motion.

Vice Chair Hall said he wanted to make one final comment to get the Chair to change his mind as the "swing vote." He said after 10 years, what's another 6 months—give these people a chance and don't put their feet to the fire today.

The Chair said he appreciated that but he had said that very same thing 12 months ago, “lets give them 12 months instead of 6 months.” The Chair then called for the question as shown above.

The Chair explained the appeal process.

VESTING TENTATIVE TRACT
MAP T-16897

Zehnder

The Chair opened the public hearing for consideration of Vesting Tentative Tract Map T-16897 for Peter Zehnder, for a one-lot air-space condominium to facilitate the 12-unit condominium conversion approved under PA-04-44, located at 535-545 Bernard Street, in an R2-HD zone. Environmental determination: exempt.

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

In response to a question from Commissioner Egan regarding the period of approval for the vesting tentative map and what is the next step, Ms. Shih explained that the approval for any map including a vesting map is for 2 years which means they would have to get final approval and recordation within 2 years. Once its recorded then the individual units are allowed to be sold independent of one another.

Peter Zehnder, owner and applicant for this application, agreed to the conditions of approval.

Vince Wetherbee, owner of a property at 519 Bernard Street said he was new to this process. He said he has questions about parking on this street because there are some problems with parking at this time, most recently due to a restaurant nearby named “Taco Surf”. He said he encourages the aesthetic improvements of these homes and agrees with improvements in this area. He asked what the owner planned on doing. The Chair explained the map and its purpose and asked that he call Ms. Shih regarding any other questions he had regarding this property. Commissioner Garlich explained that we held a public hearing on approving this project in the past and issues as the speaker was raising were brought up and considered and the project has been approved. Tonight, this is strictly a hearing on the map, which allows him to divide the units up for sale. Commissioner Egan offered that there is no major construction planned for the site. The buildings are going to stay and the parking will not change. There are going to be both exterior and interior improvements, but they are not going to level the site and start over. The owner offered that they were adding 6 additional parking spaces on site, not on the street.

In response to Commissioner Fislser regarding what would happen if the tract map was denied, the Chair explained that it couldn’t be sold individually, or as Mr. Garlich indicated, it could be rented. He said he remembers this project and said it was grossly under parked; and it’s going to cause a lot of parking problems for Bernard Street in his opinion. As a realtor, he sells condos and has had open houses in condo projects that have much better parking ratios and it’s a nightmare on weekends to park his own vehicle to hold an open house.

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

MOTION
T-16897
Approved

A motion was made by Chairman Perkins, seconded by Commissioner Hall, and carried 4-1 (Fislser voted no) to approve by adoption of Planning Commission Resolution PC-05-55, based on information and analysis contained in the Planning Division staff report and findings in exhibit “A”, subject to conditions in exhibit “B.

The Chair explained the appeal process.

REPORT OF THE DEVELOPMENT SVS. DEPARTMENT:

Planning Commission secretary R. Michael Robinson reminded the Commission that a tentative meeting has been planned for a Joint Planning Commission/City Council meeting on the mixed use overlay zone and urban plans for Bristol Street, West 19th Street, Southwest Industrial Area; and the Residential Overlay Zone for the Westside. He said it looks like it will be tentatively scheduled for October 11th, 2005.

REPORT OF THE CITY ATTORNEY'S OFFICE:

None.

ADJOURNMENT:

There being no further business, Chairman Perkins adjourned the meeting at 10:10 p.m. to the Planning Commission meeting of Monday, September 12, 2005.

Submitted by:

R. MICHAEL ROBINSON, SECRETARY
COSTA MESA PLANNING COMMISSION