

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

**January 12, 2004**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., January 12, 2004 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Garlich, followed by the Pledge of Allegiance to the Flag.

**ROLL CALL:**

Commissioners Present:

Chairman Bruce Garlich  
Vice Chair Bill Perkins  
Katrina Foley, and Eric Bever

Commissioners Absent:

Dennis DeMaio

Also Present: Perry L. Valentine, Secretary

Costa Mesa Planning Commission  
Marianne Milligan, Senior Deputy City Attorney  
Ernesto Munoz, City Engineer  
Kimberly Brandt, Senior Planner  
Willa Bouwens-Killeen, Senior Planner  
Mel Lee, Associate Planner  
Wendy Shih, Associate Planner

**MINUTES:**

The minutes for the meeting of December 8, 2003 were accepted as amended.

**PUBLIC COMMENTS:**

None.

**PLANNING COMMISSIONERS  
COMMENTS/SUGGESTIONS:**

The Planning Commission welcomed Commissioner Eric Bever. He said he would do his best to serve the people of Costa Mesa. Chairman Garlich also wished everyone a happy new year. He announced that since the last Planning Commission public hearing, he is now a proud graduate of the Costa Mesa Citizens Police Academy, Class #17. He extended his appreciation to Sergeants Larry Hicks and Tim Schennum, and Officer Andy Sepulveda for the great work they do with that program.

**CONSENT CALENDAR:**

None.

**PUBLIC HEARINGS:**

**DRAFT ORDINANCE FOR  
MOBILE HOME PARK  
CONVERSIONS**

City

The Chair opened the public hearing for consideration of a draft ordinance replacing and expanding the City's Zoning Code regarding mobile home park conversions. Environmental determination: exempt.

Senior Planner Kimberly Brandt reviewed the information in the staff report and made a visual presentation highlighting the most recent changes in the draft ordinance. She said staff recommends that Planning Commission recommend to City Council, first reading be given to the draft ordinance. She said if Planning Commission requires additional time for further analysis, staff recommends a minimum 30-day continuance to February 9<sup>th</sup>.

There was discussion between the Chair, Mr. Valentine and Ms. Milligan regarding January 20<sup>th</sup> as a reasonable cut off date to accept additional correspondence in order to include it in the review process for the hearing on the 9<sup>th</sup> of February. January 20<sup>th</sup> was confirmed.

The Chair confirmed with Ms. Brandt that the revisions made on page 2 of the supplemental report mean that park owners, over a period of time, can convert all their spaces to rental units and there is nothing in the language that would preclude that from happening.

The Chair reminded everyone that this ordinance is not intended to apply to the closure or conversion of El Nido and Snug Harbor mobile

home parks.

Mobile home park owners Tom Carson, (Green Leaf Mobile Home Park) 921 West 18<sup>th</sup> Street; Rob Burns, (College Trailer Park) 242 Walnut Drive; Richard DeLaney (Tropic Trailer Ports), 881 Sneath Lane, San Bruno; Chris Welsh, (Palms Mobile Home Park), made the following comments: the draft ordinance is much like that of the City of Carson in that it is the reason for the “no pride of ownership” appearance in the mobile home parks there. In contrast, the City of Newport Beach has no ordinance, and there are 2-story mobile homes appearing in their mobile home parks and the mobile home parks are well maintained. The Chair explained that the City is currently precluded from prohibiting the closure of a park; the City makes provisions on what kind of relocation assistance is required when that does happen. Secondly, he said on July 7, 2003, City Council directed Planning Commission to bring them an ordinance. Commissioner Foley said that Carson and Newport Beach are drastically different cities and she did not believe a comparison could be made. There was discussion between Commissioner Foley, Ms. Brandt, and Chairman Garlich regarding criteria for conversions with regard to city and state law. There was discussion between many of the mobile home park owners and the Commission and regarding RV’s; their status in mobile home parks; and why they should be obligated to give RV’s the same consideration as mobile home residences if they are classified as a residence under this new ordinance

Vickey Talley, Executive Director Manufactured Housing Educational Trust, 25241 Paseo de Alicia, Laguna Hills, representing the owners of Costa Mesa mobile home parks, distributed a handout which she said basically reiterates their position that they are opposed to the draft ordinance because the ordinance exceeds the state mandated requirements. She said also included in the information from the City of Anaheim and provided copies of the state law sections. She did not agree with the continued inclusion of the payment of in-place value. She urged the Commission to remove from the ordinance, the “payment of in-place, in-park or market value.”

In response to a question from Commissioner Foley regarding where “in-place in-park market value” in other cities is prescribed by ordinance, Ms. Talley said the City of Carson prescribes it and there are probably others but that its an anomaly to have an ordinance.

There was discussion between Vice Chair Perkins and Ms. Talley concerning her organization’s position when the Anaheim ordinance was passed. There was discussion between Commissioner Foley and Ms. Talley concerning her husband’s role as City Manager and this ordinance.

In response to a question from Commissioner Bever regarding court cases tied to a conversion ordinance with specific focus on the market value aspects for relocation, Ms. Talley said there probably are cases, but she was not aware of a case in point at this time and referred to Attorney Goldfarb. Commissioner Foley requested that the City Attorney confirm this information because as she read the description in Mr. Goldfarb’s letter, it is not quite clear. In response to a question from Commissioner Bever regarding the Anaheim ordinance and whether the park owners or MHET feel dissatisfaction when there have been park closures or conversions, Ms. Talley discussed how her firm, Talley & Associates actually prepared 2 relocation impact reports in the City of Anaheim and were very actively involved in closing 2 parks.

Public comments continued. Most park owners also argued that many parks in Costa Mesa were built as temporary interim land uses and are worth more today for other uses than they are for mobile home parks and that the ordinance creates a new empowered group of homeowners who will acquire significant new rights at the expense of park owners. Overall they did not believe RV’s should be categorized as mobile

homes, extra expenses are a burden, and this ordinance is not necessary. They felt that relative to whose rights are being discussed, the owners have made a commitment with their investment in the land, and the tenants have chosen to be tenants and that's an intrinsic difference.

Terry Shaw, 420 Bernard Street, Costa Mesa, felt this was a good ordinance and the key provision was the fair market value issue; in this case the tenants are being asked to relocate not of their own choosing, and on the open market, if they were to sell their unit, they would get market value for it. By moving it, there is an immediate drop in value and constitutes a "taking of property."

Warren Lahara, 27122 Resoto Road, Apple Valley, former homeowner of El Nido said the so-called "fair market value" of these vehicles if they cannot be moved, does not favor the homeowners. The property owners over the years, have collected a fair market value not only with long term leases on the property, but rentals as well, and have included rate hikes along the way. He also felt the 30-mile radius was too small an area of coverage.

Ann Hogan Shereshevsky, 2152 Elden Avenue, Costa Mesa, indicated interest in the City's Housing Element Program that is normally reviewed every 5 years and within the program, cities are to provide affordable housing to its citizens. Ms. Brandt confirmed. Ms. Shereshevsky offered that sometimes-affordable senior housing lands in mobile home parks because they can't afford apartment rental rates. She suggested a mobile home support committee.

Irene Shannon, 1640 Newport Boulevard, Costa Mesa, stated that she is one of the people who first began speaking about the need for a new ordinance in the City. She felt it was odd that most of the park owners have just come forward to speak when this item was on the agenda several times over the past year. She expressed her concerns about the City's intentions concerning the ordinance because she felt park owners are making it difficult to formulate the ordinance.

Dick Matherly, 1640 Newport Boulevard, stated that he has listened to the park owners and their representatives, and he finds it hard to understand their position when the tenants and homeowners are essentially their "bread and butter." He did believe Costa Mesa should change all their mobile home parks from commercial zoning and concluded that this ordinance is the only thing these 21 mobile home parks in Costa Mesa have for protection.

Jeff Goldfarb, 611 Anton Boulevard, Costa Mesa, representing Brown & Associates, discussed the following points and suggested changes: (1) would like to see that the ordinance clarifies that Brown & Associates' application is not included in the ordinance; (2) the ordinance is preempted to the extent it changes the state law definition of mobile home to include recreational vehicles in a way that it is included in the ordinance; (3) the new definition of "park closure" is still problematic because defines closure without reference to the dislocation of residents; (4) the ordinance remains preempted because it changes mitigation obligation imposed by state law which addresses the ability of displaced park residents to find adequate housing in mobile home to a mitigation measure which in effect requires paying the type of damages typically associated with condemnation proceedings; (5) the appraisal provisions in the ordinance because it requires the appraiser value a unit but it does not say anything about valuing illegal construction which is rampant in a lot of the parks in the City; (6) the ordinance fails to define "comparable mobile homes".

Chairman Garlich stated that the ordinance as proposed, does not include any provisions for making the park owners pay for the relocation of illegally constructed additions and Ms. Brandt confirmed staff added to the supplemental memorandum that if they are legally constructed

additions, they are included with the relocation.

There was discussion between Commissioner Foley and Mr. Goldfarb regarding some of his concerns as stated in his letter dated January 23, 2004 (as shown above). There was also discussion between them regarding where responsibility falls when a park manager allows a tenant/homeowner to add on to their trailer without ever saying it is against code and it cannot be done.

Commissioner Foley asked Sr. Deputy City Attorney Marianne Milligan to copy the Commission on her response to Mr. Goldfarb concerning the mobile home parks and the rules for recreational vehicles allowed to camp out in mobile home parks instead of RV parks and vice versa.

Jean Stirling-Steven , P.O. Box 7265, Newport Beach, Region 5 Manager at GSMOL (Golden State Manufactured Homeowners League), said she represents over 200 parks in Orange County, serving over 50,000 homeowners. She said she was sorry to hear repeated use of words like 'tenants' and 'vehicles' because it denigrates the position of the homeowner. She said she also heard the term "windfall" at this meeting and others in relationship to the homeowners. Conversion is only a windfall for the park owner who goes on to sell his land. It seems the park owners want rights, but they want to withhold rights from homeowners if they can just call them tenants rather than property owners. She said park owners do enforce their park rules and in fact, they are very strict in their enforcement.

Norah O'Malley, 1640 Newport Boulevard, Costa Mesa, commented that she liked the ordinance and appreciates the work staff has done on it and wished the Commission could make it effective for El Nido and Snug Harbor mobile home parks. With regard to Mr. Goldfarb and other comments regarding add-ons to mobile homes, she said she bought her home through the park and it already had an add-on and in checking through City records, she found there was a permit for the addition. She said there are many people who have legally done the same.

Irene Shannon returned for a point of clarification. She said in her previous testimony she misquoted a state senator. She said they were glad to see the cities putting through conversion ordinances. What she did not finish saying, is that they recognize that the MRL now, is unclear and incomplete and they would like to have them changed, but they can't get the legislators to do it, so they are happy that the cities are doing it.

Beth Refakas, 320 Magnolia Street; Costa Mesa, commented that to compare the City of Carson to the City of Newport Beach is ludicrous and the socio-economic standards are completely different; park owners have the ability to control any additions that homeowners would make; and she felt the ordinance was a good one and did not see that it was a problem to understand that it applies only to park conversions or closure, but it seems the park owners do not have that clear in their minds. She favored the continuation.

Commissioner Foley said she would support a continuance because there is a new commissioner and one commissioner is absent; that a full quorum is needed to make this recommendation to Council. She said she would like to give staff the opportunity to respond to information that was handed out tonight. She said she would like staff to include in the packet for the next meeting, everything that staff has put together for this ordinance into one packet (not drafts or the like), but staff reports all in one packet; etc.

Commissioner Foley said the information received this evening from Ms. Stirling-Stevens contains a summary of litigation that ensued as a result of the relocation and conversion processes through the City of Anaheim and she requested that Planning staff or the City Attorneys

look into that issue so that it is prevented from occurring as a result of this ordinance.

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

MOTION:  
Mobile Home Park Conversions  
Continued

A motion was made by Chairman Garlich, seconded by Commissioner Perkins and carried 4-0 (Dennis DeMaio absent), to continue to the Planning Commission meeting of February 9, 2004. The Chair later amended his motion to include the information cutoff date of January 20, 2004

He also directed staff to add the requests Commissioner Foley made previously and added the following direction: staff to readdress the "fair market value" definition and/or criteria for defining "fair market value" in a way that a reasonable person might consider it to be equitable to all parties under the circumstances involved with the park closures or conversion; and if possible, obtain examples that fit that situation of an appraisal and is not just a list of asking prices. Readdress, or further address the issue of the definition of a recreational vehicle and when it might be considered a mobile home for purposes of this ordinance; again, in a fashion that is equitable so that it doesn't extend to a perfectly mobile RV that can be started up and driven down the road, as opposed to one on blocks with plants growing out of the engine housing; when it is "fairly" considered a mobile home.

Commissioner Foley said she did not believe the Commission needed any more time than the 30 days. She said a lot of the information received tonight is repetitive. With respect to Mr. Goldfarb's letter, he indicated that with few exceptions, the letter is a repeat regarding state preemption for the most part and then another section applicable to the proposed ordinance, but does not include the revised proposed ordinance. She supports the continuance tonight for the reasons she has outlined and is ready to take action on this item.

Commissioner Foley said in addition to the materials staff will provide, she asked that they provide an updated summary of the different ordinances in other cities. She said she has done a little research on different cities in the state: [Lawndale](#); [Scotts Valley](#), [Morgan Hill](#), and [San Diego](#) all have conversion ordinances and in reviewing their conversion ordinances and relocations, for the most part, have more requirements on the park owners than our proposed ordinance. There are also the cities of [San Jose](#), [Huntington Beach](#), and [Monrovia](#) that have conversion ordinances, but she did not have time to review them. She said her point here is to show that this is not an "anomaly." She felt the reason other cities throughout the state decided to create an ordinance in their city, was because mobile home parks are now being converted.

Vice Chair Perkins suggested the public submit their information in a timely manner to meet the Chair's cutoff date of January 20, 2004.

*BREAK:*

The Chair called a recess and the meeting resumed at 8:55 p.m.

APPEAL OF PLANNED SIGNING PROGRAM ZA-03-65

Westport Plaza/Murdock

The Chair opened the public hearing for consideration of an appeal of Planned Signing Program ZA-03-65 for Jerry Murdock, authorized agent for Wohl Investments, for Westport Plaza, located at 369 17<sup>th</sup> Street in a C1 zone. Environmental determination: exempt.

Senior Planner Willa Bouwens-Killeen reviewed the information in the staff report and gave a visual presentation of the site characteristics. She said staff is recommending approval of the Zoning Administrator's decision by adoption of Planning Commission resolution, subject to conditions. She said the applicant has appealed because they do not agree with the conditions of approval.

Peter De Forge, one of the property owners from Wohl Investment Company, 2402 Michelson Drive, Costa Mesa, stated that the problem they have is with the ordinance in the way it is currently written. He

said the center has recently undergone an extensive facelift and because of the new look, the building signs and existing monuments had to be renovated. He maintained the signs as approved by the Zoning Administrator, would be aesthetically disproportionate due to the addition of a trim cap which enlarges the "sign band," and the signs would appear more like postage stamps than balanced elements which should complement the overall building façade. He displayed exhibits that supported his claims.

He said he would like to amend their proposal from 2.0 to 1.5 square feet per lineal foot of store front, since this is approximately the size of many of the sign displays he previously displayed.

Commissioner Bever said his background is in graphic design and he also felt 1.5 square feet per lineal foot was a reasonable figure. He said the property is an anomaly and the City's formula doesn't accommodate it.

In response to a question from Vice Chair Perkins, Ms. Bouwens-Killeen stated that the signs for the other center (250 East 17<sup>th</sup> Street) did comply with code at the time they were installed on the structures. Vice Chair Perkins requested that Mr. De Forge talk to the tenant of 1-hour Photo regarding the banners.

Beth Refakas, 320 Magnolia Street, Costa Mesa, felt the applicants' proposal was well done and should be considered by the Commission.

Terry Shaw, 420 Bernard Street, Costa Mesa, said he was opposed to the increased sign size because he did not believe there should be any exceptions made.

The Chair noted that if the Commission changes the size of the signage in the center, the findings by the Zoning Administrator would apply, however, Mr. Valantine suggested that the Commission make reference to the L-shape of the center in one of the findings to provide support for the changes. There was further discussion between the Commission and staff regarding the conditions of approval.

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

MOTION:  
ZA-03-65  
Modified Zoning Administrator's  
Decision

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins and carried 4-0 (Dennis DeMaio absent) to modify the Zoning Administrator's decision, by adoption of Planning Commission Resolution PC-04-01 as reflected in conditions of approval #1 and #2, based on analysis and information contained in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B" with the following modifications:

Findings

- A. The information presented...
  - a. same.
  - b. same.
  - c. same.
  - d. Approval does not constitute a grant of .... ~~Total sign area will not substantially exceed that permitted by Code.~~ Reduced separation between the two freestanding signs will only be permitted if a handicap access ramp is required to be constructed. Applicable requirements of...
  - e. The L-shape of the center results in greater frontage than the typical lot and that the 1.5 square feet would allow signage that is more consistent with that displayed on other similar properties in the area.
  - f. If the planned signing program was not approved, it may result in a disadvantage to this center as compared to other centers on that street given the unusual type of deep, narrow, L-shaped, mid-block lot that it is on.

B. Same.

Conditions of Approval

1. The planned signing program document shall be modified to allow no more than ~~5~~ 1.5 sq. ft. of sign area per tenant; to require channel letters for each tenant; and to maintain a maximum of ~~179.5~~ 173 sq. ft. total area for the two freestanding signs. Sign permits for new....
2. Applicant shall provide proof on a permit-by-permit basis that the total sign area for the site does not exceed ~~425~~ 818 sq. ft.

The Chair explained the appeal process.

*BREAK:*

The Chair called a recess and the meeting resumed at 8:55 p.m.

APPEAL OF MINOR DESIGN  
REVIEW ZA-03-76

Chilcott/Smith

The Chair opened the public hearing for consideration of an appeal of Minor Design Review ZA-03-76 for Brad Smith, authorized agent for Willard Chilcott, to construct a 2-story 2,376 sq. ft. residence, located at 2160 Myran Drive in an R2-MD zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics. He advised that this application was appealed to the Commission by two Council Members, and Planning Commissioner Foley, based on the amount of public comments that this project generated. He said staff is recommending approval by adoption of Planning Commission resolution, subject to conditions, based on the review criteria of the City's Zoning Code and Residential Design Guidelines, and the determination that the proposed development is consistent with those requirements.

In response to a question from the Chair regarding the future, potential use of property, Mr. Lee stated that the property is zoned R2-MD, and this particular property does have sufficient site area to accommodate 2 residences. One is proposed at this time, and there may be a future proposal for a second residence in front of this unit. It would be subject to a separate minor design review process if the structure is also proposed to be 2-story.

There was discussion between staff, Commissioner Foley, and Vice Chair Perkins regarding the reason the second unit proposal was withdrawn by the applicant and the meaning of condition of approval #10. Mr. Lee added that condition #10 says that the approval of this unit doesn't automatically guarantee the ability to build a second unit.

In response to a request from Commissioner Foley to explain the fact that Myran Drive is not a public street and to elaborate on the easement issue, Mr. Lee explained that Myran Drive is a private right-of-way for road purposes; its not a public street, and there are easements for the various utilities that serve those homes.

In response to a question from Commissioner Foley, Mr. Valentine stated that this property was zoned R2-MD some time before 1961 and has always been a private street. He believed the homes were built in the early 50's.

Brad Smith, architect and agent for the owner, 365 Old Newport Boulevard, Newport Beach, agreed to the conditions of approval. In response to a question from Vice Chair Perkins regarding the second, future unit, Mr. Smith believed they could come back with a serviceable footprint and meet the open space requirements, "within a few years."

Commissioner Bever said it is his understanding this project meets all the requirements, and that the guidelines intend to promote design excellence, which he believed this project has. However, he received a phone call from a neighbor regarding privacy issues with the front balcony and asked if the balcony was necessary, or could it be screened. There was discussion between Commissioner Bever and Brad Smith,

regarding this subject. In response to a question from the Chair, Mr. Smith was agreeable to a condition requiring him to work with staff in resolving this issue.

There was discussion between Commissioner Foley and the architect regarding ways in which he might address the “bulkiess” of the building or consider another design alternative. There was further discussion between Commissioner Bever and Commissioner Foley regarding design elements because she felt the appearance of the building was bulky and incompatible with the neighborhood.

There was discussion between Commissioner Foley and the architect regarding: (a) consideration of a design that would make the 2-story unit appear as one story; and (b) the ability to meet open space requirements while trying to put 2 homes on the site, and create a marketable product.

Tiny Hyder, 2156 Myran Drive, Costa Mesa, opposed the project because it is a 2-story home, and not in scale or in character with the existing homes. She said her objections included 6 opposition statements from other neighbors, which included no paving or laying asphalt without consent; no light structures may be fastened to the fencing temporarily or permanently, or placed in the ground (street lights). She also asked that there be no construction allowed on Sundays.

In response to a question from Commissioner Foley regarding street width, Mr. Lee stated that minimum public street width allowing 2-way traffic and parking on at least one side, is at least 36 feet in width. In further response, Mr. Valantine explained that the distinction between a street and a driveway is that a street has curbs on both sides with pavement in the middle, and is the type of development normally seen where there is a larger number of units or area involved. In this instance, it is more similar to the 5-unit project on Merrill Place the Commission approved late last year, where there was a driveway serving 3 to 5 of the units with the same concept as in the this case, and the driveway is required to be 16’ wide.

Commissioner Foley asked if all the lots on this private street (Myran Drive) were to be developed in the same manner as requested this evening, would they all fit on that street, and would everybody be able to make this same request. Mr. Valantine confirmed that all four properties are large enough for two units and the street or the driveway would be 16’ wide from Victoria Street across all 4 properties, and all 4 properties would take access to and from that driveway. There was further discussion between Commissioner Foley and Mr. Valantine regarding the ability of each property to build the same as the others.

Terry Shaw, 420 Bernard Street, Costa Mesa, opposed the project because the project seems out of context with the area and suggested a 1-1/2-story house. He felt the windows could be opaque so the residents could not see out and that the suggestion of no work on the Sabbath was appropriate.

Joelle Frankel, 2166 Myran Drive, Costa Mesa, opposed the project because she was born and raised at this address. She felt that Myran Drive is a modern day oasis and the proposed construction would have a negative effect on all the residents on Myran Drive. She said she understands that this project meets the standards and design guidelines but they were established for buildings and homes on ordinary streets and Myran Drive is anything but ordinary. No other homes have decks and the proposed deck will stick out like an eyesore; none of the homes have windows facing into each other’s yards, but the second-story at the back of the proposed unit has windows that face west taking away privacy. She asked how they would accommodate the use of a 25-foot easement for driving and passing and requested additional information



regarding any new requirements.

In response to the 25' easement road, Mr. Lee stated that theoretically, the residents could agree among themselves to preserve the trees shown in the photograph because they wouldn't want to pave the entire 25' easement.

Barbara Beck, 443 Flower Street, Costa Mesa, said one more charming, older neighborhood with detached garages, is losing their open yard space. She felt the Commission should consider rezoning the street back to R1. A two-story home in the back yard obliterates the open space feeling for everyone else that surrounds it.

Pamela Frankel, 2166 Myran Drive, Costa Mesa, said she feels boxed in by the project and her home is between the 2 properties intended for development. She said the current proposal has been opposed by 65 surrounding residents who signed a petition, and over 130 letters, all within 500 feet, which are on file with the City. It basically says the proposal is too big for the area. She said the oversized unit will ruin the character and continuity of this unique little street and the Commission's decision should be for the greater good. She said the owner has a right to build, but it should be in scale and character with the neighborhood.

Beth Refakas, 320 Magnolia Street, Costa Mesa, stated that the proposed project appears to be out of scale with the rest of the neighborhood; the deck is a problem especially since it is close to an adjoining neighbor; windows look directly into someone's back yard; and parking will be a problem.

Larry Weichman, 1525 Mesa Verde Drive East, Costa Mesa, spoke in favor of the project because he believed that everyone spends a lot of time talking about improving the Westside and this is an example of a project that would improve the area. The recent 2-story home project on Madison Street where all the neighbors came out and spoke against it, it has actually improved the street, and he felt this project would do the same. He said he was having difficulty with the applicant having to pave the entire street as a part of his approval process. It's a great project and the developer has addressed the concerns of privacy, placement of the windows, and the deck.

In response to the Chair regarding Mr. Weichman's concerns about the driveway, Mr. Lee explained that code requires that a paved surface must be provided in order to provide vehicular access to the development. It would include the area from his property out to Victoria, and will also apply to the other lot when or if an application is filed and approved to build there.

Owner of the property, Willard Chilcott, 167B Rochester Street, Costa Mesa, addressed the issues of the previous speakers. With regard to the objections about the project, he pointed out that there are 2 form letters in the report, 50 of which were signed by people who live in a 3-4 story apartment building on Harbor Boulevard and Victoria Street, and it is odd that they would be concerned about what's happening on Myran Drive, given the distance and nature of their building and the fact that they are renters. Only 11 were from the surrounding area and although the report is large, it is misleading.

Mr. Chilcott requested that the photographs he brought be displayed for the Commission and viewers. They showed instances of dilapidated conditions and debris that exist in the areas surrounding his property and some of which is on his property. He believed that developing this property would renew the vitality and appearance of the neighborhood and would increase property values within the area. He displayed photographs of the house that is to be demolished and Ms. Frankel's house. He said the fourth home along that street currently has a problem where all the drainage goes under the house, and it will have to be eventually

torn down for health reasons. When he builds, he will have to raise the grade by a couple of feet just to get the water to drain out to Victoria Street with a piping system under the easement to get it out. Mr. Chilcott pointed out that these homes were built in the late 1940's and he did not understand how he could build something like that to be compatible.

In response to question from Vice Chair Perkins, Mr. Chilcott said he purchased the property 2 years ago.

Commissioner Foley said she would not expect Mr. Chilcott to be compatible with any code enforcement problems that are on any of the properties adjacent to his own property but in looking at the pictures, she sees that this is a very "rural-type street" and that is what she believes is the character of that street. Said she would agree that there could be redevelopment improvement on this street, especially if there is a sewage problem. She said it seemed to her there is a way to build new buildings on the street similar to the one on Flower Street where you are still improving the property value, but not building a large, boxy building that doesn't really fit in with this type of a street. Obviously, these are old buildings but the character is one of a single-family, detached garage style; anyone could make a whole brand new development with that same size, type and style, with that little character feel.

In response to a question from Vice Chair Perkins regarding a condition that would allow the applicant to work with staff on the balcony issue, Mr. Chilcott said he was agreeable. He said he would also be agreeable to a condition that would include working with staff to resolve window privacy issues.

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

MOTION:  
ZA-03-76  
Upheld Zoning Administrator's  
Decision with modifications

A motion was made by Vice Chair Perkins, seconded by Chairman Garlich and carried 3-1 (Foley voted no; DeMaio absent) to uphold Zoning Administrator's decision, by adoption of Planning Commission Resolution PC-04-02, based on analysis and information contained in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B" with the following modifications:

Conditions of Approval

- 5. Construction, grading materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 7 p.m. on Saturday; there shall be no construction activity on Sunday and Federal holidays.
- 9. Applicant and staff shall work together to ensure first and second-floor front windows are designed and placed to minimize visibility into the abutting yards. Every effort...
- 14. Applicant shall work with staff to resolve privacy issues with the balcony, such as screening.

During the motion the Chair confirmed with the applicant that he was agreeable to the conditions in the motion.

Chairman Garlich commented that the people who live in areas where these changes start, often don't like them, but the people who own the property have a right to expect the City to abide by its own rules. He reminded everyone that the Commission spent the better part of last year on this subject to deal with these questions of mass, scale, privacy, and that these issues have received a lot of attention. He noted on page 2 of the supplemental report, the reference to, "the City of Costa Mesa encourages architectural diversity that considers the existing neighborhood character and anticipated trends and development" has been dealt with before as Mr. Weichman mentioned previously. He said it's difficult to make findings that deny people the right to develop their property according to the rules.

Vice Chair Perkins reiterated the Chair’s comments on the time and effort the Commission spent on working out the residential design guidelines. He felt it would be a good project for the neighborhood if approved and the applicant has been working with City consistently to address the issues. He hoped with further efforts between staff and the applicant, the balcony and privacy issues would be worked out soon and that the applicant and neighbors would work together.

In a point of clarification, Mr. Valentine confirmed that the windows in question are the front windows. Mr. Lee suggested that condition of approval #9 be modified to reflect that change.

Commissioner Foley said she would not support the motion because in looking at these projects on a case-by-case basis, applying the guidelines based on the character of that neighborhood, and taking into consideration anticipated redevelopment, she believed there is a good project that could come forward that would be consistent with the rural, tranquil street this property is located on. She summarized that the proposed project: changes forever the character of that neighborhood on this small private street to a typical tract home style development; all the homes on that street are single-story with detached garages; there would be a negative adverse impact on the neighborhood on that street; second stories as indicated by one of the speakers would be in the backyard and eliminate backyard open space; there are no other decks on Myran Drive; the guidelines were established to assess buildings and houses on typical residential streets and this is a unique street and requires a different kind of approach; there are currently no windows into each other’s yards; there’s currently no boxy architecture; the type of design proposed for that street is going to result in a precedent for big, boxy, typical tract home development—it is not a full-size street; demolishing the 616 square-foot home now on the premises and replacing it with a home 4 times the size is going to have a negative and adverse impact on that street.

The Chair explained the appeal process.

CONDITIONAL USE PERMIT  
PA-03-39

Allensworth/Strauss

The Chair opened the public hearing for consideration of Conditional Use Permit PA-03-39 for Eric Strauss, authorized agent for Barbara and Roger Allensworth/America West Properties, for live entertainment and dancing for an existing sports bar and restaurant (Corner Office), located at 580 Anton Boulevard #201 in a PDR-HD zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics. He said staff recommended approval by adoption of Planning Commission resolution, subject to conditions.

Duane Heldt, Managing Partner, Corner Office, 580 Anton Boulevard, Costa Mesa, agreed to the conditions of approval.

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

MOTION  
PA-03-39  
Approved

A motion was made by Commissioner Foley, seconded by Commissioner Perkins and carried 4-0 (Dennis DeMaio absent), to approve by adoption of Planning Commission Resolution PC-04-03, based on analysis and information in the Planning Division staff report and findings in exhibit “A”, subject to conditions in exhibit “B.”

The Chair explained the appeal process.

PLANNING APPLICATION  
PA-03-44

Gobelsberg/Rice

The Chair opened the public hearing for consideration of Planning Application PA-03-44 for Dr. Louis Rice, authorized agent for Della Gobelsberg, for a conditional use permit for a chiropractic office and a minor conditional use permit to deviate from shared parking within Commerce Park, located at 3303 Harbor Boulevard, Suite F-5, in a PDI zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a brief visual presentation of the site plans. She said the applicant was notified that this use (Atlas Wellness Center; a chiropractic office also offering nutritional therapy and exercise rehabilitation) was not allowed by right in a PDI zone and that a conditional use permit would be required prior to commencement of the business. She said the lease agreement has already been signed and the business has commenced. She said staff recommended denial, by adoption of Planning Commission resolution, subject to conditions.

Chairman Garlich inquired about the allowable list of businesses made 20 years ago by another Planning Commission and he wished to hear staff's comments about changes over time regarding this subject. Mr. Valantine said he did not believe there has been any significant change that would affect that type of decision, based on the General Plan indicating that certain complementary commercial uses could be conducted within industrial zones if they are supportive of, or complementary to the main industrial uses in the area, including similar commercial traffic patterns. He detailed some examples.

There was discussion between the Chair and Ms. Shih regarding the sequence of events that occurred in this case and the alternatives Commission could consider.

In response to a question from Vice Chair Perkins, Ms. Shih stated that the lease runs out in June 2006.

Dr. Louis Rice with Atlas Wellness Center, 3303 Harbor Boulevard, Costa Mesa, said that in the same complex where he is located, there is also a vitamin store directly adjacent to their space; a restaurant; a church; an ambulance center; and a Canine physical therapy unit. He stated that no one has ever had to park further than 30 yards from the business' front door and they are a relatively low-volume office; he has never seen the entire complex parking lot used at more than 20% to 30% capacity.

In response to a question from Vice Chair Perkins regarding the lease with an option to extend, Dr. Kosta Adamou, partner in the business, stated that if the Commission would approve this conditional use permit, they would be happy to leave once the lease is up. To leave now would ruin their business. He said once the lease is up they don't want to continue paying rent and are considering buying the building.

Chairman Garlich stated that since all of these facts have surfaced, he would like to know if the applicant has discussed with the leasing agency, or the property owner, whether they are in a position to modify the lease agreement. Dr. Adamou stated they are not because it was a different company and the building was sold mid way through the process.

In response to a question from Commissioner Bever regarding a condition of approval to limit the practice to the 2 chiropractors working there now, Mr. Adamou stated they would because they are in partnership in this business.

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

MOTION 1:  
PA-03-44  
Withdrawn

A motion was made by Commissioner Foley, seconded by Chairman Garlich, to approve PA-03-44 adding condition of approval #5 stating that the conditional use permit expires in June 2006.

The Chair stated that he had that same discussion with Mr. Valantine who felt it would be better to deny the application and allow the applicants to remain until their lease expires in June 2006.

Mr. Valantine said staff feels the appropriate findings to allow this use at the location cannot be made. If the Commission wishes to accommodate the remainder of the lease, staff would prefer they deny the ap-

plication, but allow them until June 2006 to relocate from this space.

Commissioner Foley withdrew her original motion.

MOTION 2:  
PA-03-44  
Deny and relocate at lease end

A motion was made by Commissioner Foley, seconded by Chairman Garlich and carried 4-0 (Dennis DeMaio absent), to deny by adoption of Planning Commission Resolution PC-04-04, and advised applicants that they are to vacate the premises by July 2006.

In response to a question from Vice Chair Perkins regarding the success of the business and the possibility of applying for a CUP at the end of the lease period, Mr. Valantine explained that they could file an application.

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

The Chair explained the appeal process.

CONDITIONAL USE PERMIT  
PA-03-48

Schiffman/Petros

The Chair opened the public hearing for consideration of Planning Application PA-03-48 for Tony Petros, authorized agent for Todd Schiffman, to establish Rock Harbor Church within a 34,992 sq. ft. industrial building located at 345 Fischer Avenue with off-site parking at Mariner's Christian School, located at 300 Fischer Avenue in an MP zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics. He said staff recommended approval by adoption of Planning Commission resolution, subject to conditions.

Tony Petros, 20 Executive Park, Irvine, agreed to the conditions of approval; he added that they currently own and operate a shuttle for their services as they are today.

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

MOTION:  
PA-03-48  
Approved

A motion was made by Chairman Garlich, seconded by Commissioner Perkins and carried 4-0 (Dennis DeMaio absent), to approve by adoption of Planning Commission Resolution PC-04-05, based on analysis and information in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

PLANNING APPLICATION  
PA-03-54

McCray/Schwartz

The Chair opened the public hearing for consideration of Planning Application PA-03-54 for Phillip Schwartz, authorized agent for John McCray, to use the interior of an existing building for administrative offices, detailing and storage of automobiles for Connell Chevrolet/Nissan, and to allow use of the parking lot to store cars, located at 1485 Dale Way in an MG zone. Environmental determination: exempt.

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

Phillip Schwartz, 31682 El Camino Real, San Juan Capistrano, authorized agent representing Connell Chevrolet, agreed to the conditions of approval.

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

MOTION:  
PA-03-54  
Approved

A motion was made by Vice Chair Perkins, seconded by Commissioner Foley and carried 4-0 (Dennis DeMaio absent), to approve by adoption of Planning Commission Resolution PC-04-06, based on analysis and information in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

CONDITIONAL USE PERMIT  
PA-03-56

The Chair opened the public hearing for consideration of Planning Application PA-03-56 for Ken Zielinski, authorized agent for Metlife Real

Metlife Real Estate Investments/  
Zielinski

Estate Investments, for a conditional use permit for off-site parking, located at 3070-3090 Bristol Street for University of Phoenix, located at 3100 and 3150 Bristol Street in a PDC zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics. He added that even though the on-site parking satisfies the code requirements, the applicant is proposing to enter into an off-site agreement for additional parking for the adjacent property (Office Towers at 3070-3090 Bristol Street). Mr. Lee detailed the parking plan. He said staff recommended approval by adoption of Planning Commission resolution, subject to conditions.

Ken Zielinski, 3150 Bristol Street, Costa Mesa, authorized agent for the applicants, agreed to the conditions of approval.

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

MOTION:  
PA-03-56  
Approved

A motion was made by Commissioner Foley, seconded by Commissioner Bever and carried 4-0 (Dennis DeMaio absent), to Approved by adoption of Planning Commission Resolution PC-04-07, based on analysis and information in the Planning Division staff report and findings in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

CONDITIONAL USE PERMIT  
PA-03-60

Fan/Cartwright

The Chair opened the public hearing for consideration of Conditional Use Permit PA-03-60 for Cheryl Cartwright, authorized agent for David Fan/Westar Holdings Incorporated, to locate a vitamin and nutritional supplement manufacturing company in an existing industrial building, located at 350 Paularino Avenue in a MP zone. Environmental determination: exempt.

Senior Planner Willa Bouwens-Killeen reviewed the information in the staff report and gave a visual presentation of the site characteristics. She said staff recommended approval by adoption of Planning Commission resolution, subject to conditions.

Cheryl Cartwright, representing the property owners and Westar Holdings, 1239 Victoria Street, Costa Mesa, agreed to the conditions of approval.

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

MOTION:  
PA-03-60  
Approved

A motion was made by Commissioner Foley, seconded by Vice Chair Perkins and carried 4-0 (Dennis DeMaio absent), to approve by adoption of Planning Commission Resolution PC-04-08, based on analysis and information 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**

None.

**REPORT OF THE SR. DEPUTY CITY ATTORNEY**

None.

**ADJOURNMENT:**

There being no further business, Chairman Garlich adjourned the meeting at 11:27 p.m., to the joint study session of Tuesday, January 20, 2004.

Submitted by:

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PERRY L. VALANTINE, SECRETARY  
COSTA MESA PLANNING COMMISSION