

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

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**June 12, 2006**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., June 12, 2006 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Bill Perkins, followed by the Pledge of Allegiance to the Flag.

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**ROLL CALL:**

Commissioners Present:

Chairman Bill Perkins  
James Fisler  
Bruce Garlich

Commissioners Absent:

Vice Chair Donn Hall  
Eleanor Egan

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

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Senior Planner¶

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**MINUTES:**

The minutes for the meeting of May 22, 2006 were accepted as distributed.

**PUBLIC COMMENTS:**

Martin Millard, 2730 Harbor Boulevard, Costa Mesa, expressed that although the City needs additional athletic fields, it downsize the golf course as suggested by a member of the City Council.

**PLANNING COMMISSION  
COMMENTS/SUGGESTIONS:**

Commissioner Fisler announced that he just completed 13 weeks at the Citizens Police Academy, which he felt, was both valuable and enlightening. He encouraged people to sign up for the annual classes.

Commissioner Garlich agreed with Commissioner Fisler and congratulated him on his graduation and reminisced about his own participation and graduation in the 17<sup>th</sup> class. Commissioner Garlich also announced that he participated in the Annual Fish Fry over the past weekend, which he said was a huge success. He also announced the "Reading by Nine" program at area elementary schools where he tutors approximately 5 students. Having worked in this program for six years, he said students have increased their reading level by at least one grade level, and most by two grade levels. He explained the program and encouraged the public to volunteer.

Chair Perkins wished the two absent Commissioners well. With regard to the 13-week course at the Citizens Police Academy, he believed that October was the date set for that course. He said over the past week, he was able to watch Little League baseball at TeWinkle. He congratulated Mason Taphooga whom he thought was an outstanding team player.

**PUBLIC HEARINGS:**

*The following item was pulled from the agenda before public comments were made, and rescheduled for a later meeting.*

APPEAL OF ZONING ADMINISTRATOR'S DENIAL OF ZONING APPLICATION ZA-06-18

Appeal of Zoning Administrator's denial of Zoning Application ZA-06-18 for Tim DeCinces, authorized agent for Mike Simonian, for a minor conditional use permit to allow an outdoor television behind the Beach Pit Barbeque Restaurant, located at 1676 Tustin Avenue, in a C1 zone. Environmental determination: exempt.

Planning Commission Secretary, R. Michael Robinson pulled this item from the agenda and rescheduled it for the meeting of July 10, 2006.

APPEAL OF ZONING ADMINISTRATOR'S DENIAL OF

The Chair opened the public hearing for consideration of an appeal of the Zoning Administrator's denial for a request to rebuild a noncon-

1913 SANTA ANA AVENUE

forming, single-family residence (inadequate side setbacks), the majority of which has been demolished; located at 1913 Santa Ana Avenue in an R1 zone. Environmental determination: exempt.

Principal Planner Willa Bouwens-Killeen reviewed the information in the staff report and gave a presentation. She said staff was recommending that the Planning Commission either uphold, reverse, or modify the Zoning Administrator's denial, by adoption of Planning Commission resolution.

In response to a question from Commissioner Garlich regarding the definition or the criteria for how much structure has to be kept in order to maintain the nonconforming status, Ms. Bouwens Killeen explained that there is nothing specifically stated in the code for residential nonconforming structures. She said they are reviewed and resolved on a case-by-case basis by Planning staff.

Allan Ashari (applicant), 9 Belleview, Newport Coast, explained the circumstances surrounding the demolition, including an explanation that he obtained a second, expanded permit for demolition. However, Ms. Bouwens-Killeen explained that staff issued the second demolition permit based on the plans submitted by Mr. Ashari.

In response to a question from the Chair regarding the confusion of the permit, Ms. Bouwens-Killeen explained the history behind the two demolition permits that had been issued. She said her understanding was that the work was per the demolition plan shown on the submitted plan check. She believed Mr. Ashari believed everything was all right, and again there was probably a misunderstanding; he proceeded onward with the demolition with what he understood had been approved by the City.

In response to comments by Commissioner Garlich regarding the time line and the sequence of events, Ms. Bouwens-Killeen said she felt everyone was working in a good faith effort, and there was a misunderstanding on everyone's part about what exactly had been approved.

There was discussion by the Chair and Ms. Bouwens Killeen about findings should the Commission choose to reverse the denial.

Dale Amburgey, 1919 Santa Ana Avenue, Costa Mesa, said he lives adjacent to the subject property and wanted to clarify the dates given by Mr. Ashari this evening. He said the builder, under a drywall permit, did approximately 90% of the demolition. He said he was concerned because the Planning Division had not even approved the project and the builder had already dug footings and the walls were almost completely demolished under a drywall permit. His major concern was that it was planned to be a foot off of his property wall and over the years, he has received the runoff from that roof because the rafter tails are longer than a foot. He was also concerned that Mr. Ashari is changing a garage into a livable area. Mr. Amburgey said that the property with the reduced side setbacks would cause problems for the Fire Department or other emergency personnel.

In response to a question from Commissioner Garlich regarding the project be conditioned for gutters, Ms. Bouwens-Killeen stated that the Building Department will automatically require the new roof, and rafters to comply so that the drainage will only occur on Mr. Ashari's property.

Bunny Amburgey, 1919 Santa Ana Avenue, Costa Mesa, also said she was very concerned with this building because the garage was being turned into a bedroom. She said she is not trying to stop Mr. Ashari from building and would like to see a nice house there. She felt he could still build a very large property on the site without retaining the old setbacks. She asked that the current code be followed.

Martin Millard, 2730 Harbor Boulevard, Costa Mesa, felt that whatever Mr. Ashari builds on this site would probably be very nice, however, he did not agree with the demolition standards because he felt termite damage should always be assessed on nonconforming homes in order

to clearly determine the extent of the damage. He felt preventing this kind of situation from happening so often, would be much more plausible.

Mr. Ashari returned to the podium to address the speakers concerns stating that a bathroom and closet are proposed next to the nonconforming wall to buffer the Amburgeys from the bedroom and that drainage issues will be resolved.

There was discussion between Commissioner Fisler and Ms. Bouwens-Killeen regarding current setback requirements. There was further discussion regarding the garage, the footings, and the new plans.

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

MOTION:  
1913 Santa Ana Avenue  
Upheld denial

A motion was made by Chair Perkins, seconded by Commissioner Fisler and carried 2-1 (Garlich voted no, Hall and Egan absent), to uphold the Zoning Administrator’s denial, by adoption of Planning Commission Resolution PC-06-35 and requested that staff review the fact if applicants are allowed to refurbish under a “nonconformity” status; that garages should not be allowed to be turned into bedrooms and to keep “like uses” if they are going to continue under a nonconforming designation.

During discussion on the motion Commissioner Fisler commented that nonconforming land uses need to be made conforming as they age and replacement should be the goal of the City. He felt there was good faith by all parties, but he also believed that replacement of the garage with living area, in his opinion, allows a change of use in an already nonconforming area.

Commissioner Garlich said he would not support the motion, because as was established early on in discussions, that wall would have remained if the original demolition plan had been followed. He believes that the process definitely needs to be reviewed, and that some attempt should be made to arrive at some objective criteria. In addition, the process also needs to address increased communication between the Planning and Building Divisions, so that there is no confusion as to what can and cannot be demolished.

The Chair felt Commissioner Garlich’s points were well founded and those of Commissioner Fisler were also well taken. He felt all parties attempted to act in good faith.

PLANNING APPLICATION  
PA-05-56

MARJACK, LLC/The Irvine Company Apartment Communities

The Chair opened the public hearing for consideration of Planning Application PA-05-56 for The Irvine Company Apartment Communities, authorized agent for MARJACK, LLC, for a master plan to construct an 890-unit, three-story, multiple family rental apartment complex (The Enclave); with a variance from perimeter open space requirements; and a request for a park fee credit, for property located at 450 Anton Boulevard (south side of Sunflower Avenue between Sakioka Drive and Anton Boulevard) in a Planned Development Residential – North Costa Mesa Specific Plan (PDR-NCM) zone. Environmental determination: Mitigated Negative Declaration.

Senior Planner Mel Lee reviewed the information in the staff report and gave a brief presentation. He said staff was recommending that Planning Commission recommend to City Council, adoption of the Mitigated Negative Declaration and approval of PA-05-56.

Commissioner Garlich noted that the Planning Commission was not taking final action on the master plan due to the property’s development agreement. Commissioner Garlich asked if there was any other way around this. Deputy City Attorney confirmed that in this case, this procedure would be followed as planned.

In response to a question from the Chair regarding ownership units instead of rental units, Mr. Lee explained that the developer is leasing from the property owner, and as a result, it would not be possible to incorporate ownership units as part of this development.

In response to the Chair regarding the proposed traffic signal at Saki-

oka Drive, City Engineer Ernesto Munoz, said this traffic signal is being placed at that location to comply with Transportation Services staff requirements.

Rick Lamprecht, authorized agent for MARJACK, LLC, with The Irvine Company Apartment Communities, 110 Innovation Drive, Irvine, gave a presentation covering the history and operations of The Irvine Company Apartment Communities. He said they are on schedule to start construction in early 2007 and he believed that should put Commissioner Fislser's concerns about the use changing, or the park fees not being paid right away, to rest.

Mr. Lamprecht described the project and submitted photographs of other communities they have developed, and detailed each.

In response to a question from Commissioner Garlich, Mr. Lamprecht explained that this type of community operates at about 95% occupancy and they have about a 50% turnover.

Jean Forbath, 2880 Clubhouse Road, Costa Mesa, said this sounds like a wonderful project but asked about any requirements for affordable housing. In response, Mr. Lee stated that these units would be market rate units and there are no units that have been set aside for low or moderate income families. Commissioner Garlich referred to the recent discussion in the General Plan Annual Report regarding how the City is doing with their housing element, affordable housing goals, and performance. He requested that a copy be given to Ms. Forbath and Mr. Robinson confirmed. In addition, Mr. Robinson explained that there is an affordable requirement for this property if they develop above that base density of 25 units per acre, which would be 1,008 units. However, since they are developing below the 25-unit acre trigger, there is no affordable housing requirement for this project.

Martin Millard, 2730 Harbor Boulevard, Costa Mesa, felt this was a good project but there is confusion about the 75-year ground lease because it could also be home purchase housing even though it has a ground lease. He felt Costa Mesa is already upside down with homeowners versus renters with a 40/60 ratio and explained that cities are sounder and stronger, and they have less crime when more people actually own their properties. Mr. Millard said with regard to the park fee credit, this is a gated community and the parks and pools and everything inside that community is for those tenants. These residents however, will be using soccer, baseball fields, etc., all over the City and he did not believe there should be any credit given for the amenities given to the tenants who actually live there which benefits the developer, land-owner, and tenants, but does not have any benefit to the City.

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

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 3-0 (Hall and Egan absent), to recommend approval to City Council, by adoption of Planning Commission Resolution PC-06-36 based on information and analysis contained in the Planning Commission staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

During discussion of the motion, the Chair said he felt this was a good project. The Chair discussed many of the amenities as previously detailed.

Commissioner Garlich said he was impressed by the fact that it could have maxed out to 1,410 units but is planned for 890 units and parking is adequate and exceeds the requirements. He said the issue of ownership versus rental in this City has been talked about for many years. He noted that the City has a policy that when rental occupancy vacancies factor is less than 3%, the City must review the impacts of a condo conversion because of the potential loss of affordable housing in the City. It has been level for some time at 2.98% and in the last many years, it has become 2.8% which means that in spite of the fact that the ownership to rental ratio is upside down, there are a lot of people who want to live in Costa Mesa under any circumstances, because even the

MOTION:  
PA-05-06  
Recommended approval  
to City Council

rental housing opportunities are over-subscribed. He said if there was ever a place where rentals are appropriate, the South Coast Metro area is it.

Commissioner Fisler agreed with the Commissioner Garlich's statements and felt that people who watch the Planning Commission meetings, know what a "stickler" he is about adequate parking and underparked projects. He was glad to see there will be adequate parking for this project and that the density is lower than what is allowed. He explained that as a rental project, by its location, it will help offset the Housing Element so that homeownership can occur more easily. He did not believe it would be the norm for these rental units because the Irvine Company will keep it a quality project with the highest standards.

Mr. Robinson announced that this item would go forward to the City Council on their agenda of Wednesday, July 5<sup>th</sup>, because of the holiday.

**BREAK:**

A recess was called by the Chair and the meeting resumed at 8:17 p.m.

PLANNING APPLICATION  
PA-06-03

The Chair opened the public hearing for consideration of Planning Application PA-06-03 for Jirka Batlik, for a variance to allow a 10-foot front setback (20 feet required) for a single-story addition to an existing two-story residence, located at 2440 Duke Place, in an R1 zone. Environmental determination: exempt.

Jirka Batlik

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

In response to a question from Commissioner Fisler regarding setbacks, Ms. Shih explained that the existing home is nonconforming with its existing setbacks.

Jirka Batlik, 2440 Duke Place, Costa Mesa, agreed to the conditions of approval.

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

MOTION:  
PA-06-03  
Approved

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 3-0 (Hall and Egan absent), to approve Planning application PA-06-03, by adoption of Planning Commission Resolution PC-06-37, based on information and analysis contained in the Planning Commission staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

PLANNING APPLICATION  
PA-06-10 AND VESTING TENTATIVE TRACT MAP VTT-16945

The Chair opened the public hearing for consideration of Planning Application PA-06-10 and Vesting Tentative Tract Map VTT-16945 for Garrett Calacci/2453 Orange Avenue LLC, for a design review to construct a 9-unit, 2-story, small lot, residential common interest development; with variances from average lot size requirements (3,500 square feet average required; 3,345 square feet average proposed); and driveway parkway landscaping (10 ft. combined with 3-foot minimum on one side required; 8 ft. combined with 0 ft. on one side proposed), located at 2453 Orange Avenue, in an R2-MD zone. Environmental determination: exempt.

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

In response to the Chair regarding the open and covered parking spaces, Ms. Shih confirmed that it would be the 2 garage parking spaces and the two spaces in front of the garage. In response to another question from the Chair regarding "guest" parking, Ms. Shih stated that guests would park in the driveways leading to the individual homes and if those were not available, there would be street parking. In response

to the Chair about reducing the number of units in order to meet code and remove the variances for average lot size and landscaping on the driveway parkway, Ms. Shih said the parkway variance is difficult because the lot has a nonconforming width of 70 feet so in order to provide the required width for fire truck access, the building setback, and the private open space, there is little room left for parkway landscaping and the structure for the homes. She pointed out that the density allows up to 10 units and the applicant proposed 9.

Commissioner Garlich asked about condition of approval #22 regarding dedication, City Engineer Ernesto Munoz said because it is part of the code requirements, it's not necessary to also condition the project.

Garrett Calacci, 190 Newport Coast Drive, Newport Beach, agreed to the conditions of approval. He said in designing this project, they did review 8, 9, and 10 units and felt the layout that best suited the site was for 9 units. Mr. Calacci explained that all other projects they have built in this City, they have donated \$1,000/per house toward the Costa Mesa United at the close of escrow for each home.

In response to a question from Commissioner Garlich regarding CC&Rs inclusion to condition cars to be parked in garages, it was noted that condition of approval #16, covered this issue.

Melanie Hohman, 2450 Orange Avenue, Costa Mesa, said she was very excited about the project and it would be a wonderful addition to their street. She said the neighbors got together and discussed this project and there are 2 issues. She said even though the parking is included in the CC&R's, she would like to know how it can be enforced to make sure people actually park in their garages. Secondly, the view from Orange Avenue is an issue because many "cluster" projects tend to place the first unit or first house up against the street and the view is of the side of the house rather than the front of the house. Ms. Hohman said she is a civil engineer and most of the projects they do, they are actually required to show the front entry from the street to enhance the view from the street scene.

On the subject of enforcement of garages being used to park cars, Deputy City Attorney Tom Duarte stated that since it is a part of the CC&R's, the homeowners association is responsible for enforcement of this condition as called for in those CC&R's.

Mr. Calacci returned to the podium to address the issue, about which direction the first house should face. He felt that by enhancing the architecture on that side of the house, they would not have any problem implementing it, if it is an issue. He said because of the narrow width on this site, it was felt not to be a good idea to have 2 driveways in 70 feet of frontage. There is also a very large Sycamore tree and by having the house front on that, as well as a driveway, the tree would probably have to go. During construction, he said they would do their best to save the tree. He also confirmed that the CC&R's do include a condition for parking the cars in the garages and they will enforce it.

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

A motion was made by Commissioner Fisler, seconded by Commissioner Garlich and carried 3-0 (Hall and Egan absent), to approve Planning Application PA-06-10 and Vesting Tentative Tract Map VTT-16945, by adoption of Planning Commission Resolution PC-06-38, based on information and analysis contained in the Planning Commission staff report and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following addition:

Conditions of Approval

- 23. Applicant to work with staff to enhance the architecture on the Street side of Lot 1 building.

The Chair said because of the lot shape, he would support the motion.

Commissioner Garlich asked that a condition be added for the owner of the property to work with staff to enhance the architecture on the street

MOTION:  
PA-06-10 & VTT-16945  
Approved

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side of Lot 1 building (as shown in the motion above). Commissioner Fisler concurred.

The Chair explained the appeal process.

The Chair opened the public hearing for consideration of Planning Application PA-06-24 for Blair Ballard Architecture, authorized agent for Brad Prescott, for a design review to construct a 995 square-foot bachelor unit, (for a total of five units on the property) above a new 1,092 square-foot, 5-car garage, located at 2884 La Salle Avenue, in an R3 Zone. Environmental determination: exempt.

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

Tamir Haim, authorized agent, Blair Ballard Architecture, 1590 South Coast Highway, Laguna Beach, agreed to the conditions of approval.

Martin Millard, 2730 Harbor Boulevard, Costa Mesa, felt that this was probably a nice project if it were to be located somewhere else. He said the problem is that it sits in the middle, of what he termed, a slum area where murders, shootings, fire by arson, and the presence of active gangs have all occurred and it continues to be plagued by those circumstances. Mr. Millard said he would prefer to see soccer fields in those areas with the buildings torn down.

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

A motion was made by Chair Perkins to deny Planning Application PA-06-24. The motion died for lack of a second.

A motion was made by Commissioner Garlich, seconded by Commissioner Fisler and carried 2-1 (Perkins voted no, Hall and Egan absent) to approve Planning Application PA-06-39, by adoption of Planning Commission Resolution PC-06-39, based on information and analysis contained in the Planning Commission staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair explained the appeal process.

None.

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None.

There being no further business, Chairman Perkins adjourned the meeting at 8:53 p.m. to the meeting of ~~Monday~~, June 26, 2006.

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Submitted by:

R. MICHAEL ROBINSON, SECRETARY  
COSTA MESA PLANNING COMMISSION

PLANNING APPLICATION  
PA-06-24

Prescott/Ballard Architecture

MOTION:  
PA-06-24/Failed

MOTION:  
PA-06-24  
Approved

**REPORT OF THE DEVELOP-**  
**MENT SVS. DEPARTMENT:**

**REPORT OF THE CITY**  
**ATTORNEY'S OFFICE:**

**ADJOURNMENT:**