



# **CITY COUNCIL AGENDA REPORT**

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MEETING DATE: JULY 19, 2004

ITEM NO:

**SUBJECT: APPEAL OF MINOR DESIGN REVIEW ZA-04-15  
2172 MYRAN DRIVE**

**DATE: JULY 8, 2004**

**FROM: DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: MEL LEE, ASSOCIATE PLANNER**

**FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER (714) 754-5611**

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## **RECOMMENDATION:**

Conduct a public hearing and either uphold, reverse, or modify Planning Commission's decision.

## **BACKGROUND:**

On May 6, 2004, the Zoning Administrator approved a minor design review to construct a two-story, 2,376 square-foot residence on a 7,920 square-foot lot. The lot is one of four parcels addressed as: 2156, 2160, 2166, and 2172 Myran Drive; a 25-foot wide private easement accessed from Victoria Street. The subject property is at the far end of the easement from Victoria Street and contains a one-story residence and detached garage.

The proposed residence for 2172 Myran Drive is identical to the one approved by the Zoning Administrator for 2160 Myran Drive under ZA-03-76. The Zoning Administrator's approval for ZA-03-76 was upheld on appeal by Planning Commission and City Council. The applicant has not yet submitted plans to the Building Division for plan check for the approved project.

In response to privacy concerns for the second-story deck proposed for 2160 Myran Drive, no second-floor decks are proposed for this residence. Exterior materials will be the same as the approved structure, i.e., a standing-seam metal roof, decorative window and door trims, and exterior plaster finishes.

Planning Commissioner Foley appealed the Zoning Administrator's decision for ZA-04-15 on May 13, 2004, to review issues and conditions regarding: removal of trees and other existing landscaping; concerns about drainage and plumbing; concerns about the amount of turnaround area at the end of Myran Drive; and other concerns raised by Pamela Frankel, a neighbor who resides at 2166 Myran Drive (abutting the subject property to the south).

Planning Commission considered the appeal at their June 14, 2004 meeting and upheld the approval on a 3-1 vote (Commissioner Foley voting no, Commissioner DeMaio absent). On June 21, 2004, Council Member Steel filed an appeal of the Planning Commission approval on behalf of area residents.

## **ANALYSIS:**

### **APELLANT'S ISSUE I**

#### Drainage

- *Specific Drainage Plan? Drainage (2X bigger: plans not inclusive of the two buildings he plans to construct)(applicant's property to be elevated 30")*
- *Piecemeal submission of plans gives incomplete picture of final impact*

### **STAFF RESPONSE**

#### Drainage

All four properties along the private easement slope from south to north from a high point of approximately 100 feet in elevation at Victoria Street, to a low point of 98 feet at the subject property; a difference of two feet (24 inches). Applicant is required to provide adequate site drainage as part of the project approval. Condition of approval no. 3 requires that grade level of subject property cannot exceed 30 inches above finished grade of any abutting property. Applicant is required to submit grading and drainage plans to provide adequate site drainage. The plans are required to be reviewed by the Building Division to ensure that drainage of surrounding properties is not impacted.

#### Plan Submission

Applicant has indicated an intention to build a second unit on the property, but has not yet submitted plans for that unit. Such a proposal, if the structure were two stories in height, would be subject to a separate minor design review application, residential development standards, residential design guidelines, and public notification. Condition of approval no. 10 specifies that design and location of the subject residence cannot provide a basis to support any requests for deviation from residential development standards and residential design guidelines including, but not limited to, setbacks, open space, or parking requirements for a future unit.

### **APELLANT'S ISSUE II**

#### *Character & Continuity C.D.-7A.1, C.D.-7A.2*

- *Privacy rights (the completed structure including intended 2<sup>nd</sup> house will be 2X bigger than plan approval)*
- *Wall – 8 ft. wall up first before construction begins to mitigate:*
  - *Noise from construction*
  - *Protection from flooding, drainage, and debris from destruction and*

- construction – grading 30” up*
  - *Pet protection and safety*
- *Parking during construction - narrow road = construction vehicles to park off private road*
- *Tree protection and preservation of shared landscape, including 200 year old Pine tree, privacy foliage, Palm trees and other existing trees*
- *Piecemeal submission of plans = incomplete picture of final impact*

## STAFF RESPONSE

### Privacy

Privacy impacts on adjoining properties will be reduced due to size and placement of second-story windows to minimize visibility into abutting yards per condition of approval no. 9 (which was carried over from the previously approved project), and elimination of proposed second-story deck from the previously approved project.

### Wall

At the Commission meeting, an attorney representing Ms. Frankel requested an additional condition of approval requiring construction of a new block wall prior to demolition of the existing structure. Staff pointed out that such a wall would normally be constructed after demolition of the house, following rough grading, when the pad elevation for the new structure is set. Planning Commission added a condition of approval (condition no. 15) requiring that property line walls or fences, be constructed at completion of rough grading.

### Parking

At the Commission meeting, the attorney requested an additional condition of approval prohibiting construction-related parking on Myran Drive. Staff pointed out that parking of construction vehicles is not typically addressed through conditions of approval, especially when the concern involves use of a private easement. Construction vehicles could be staged on Myran Drive property owned by the applicant (2160 Myran Drive), to ensure access is provided to other residences during construction.

### Trees

There are several trees existing on the site of various species, sizes, and conditions. A condition of approval was incorporated (condition no. 13) stating that existing mature vegetation shall be retained wherever possible. Should it be necessary to remove existing vegetation for any reason, the applicant is required to submit a written request and justification to the Planning Division. A report from a California licensed arborist may be required as part of the justification. If trees are removed, replacement trees are required to be of a size consistent with those to be removed,

and replaced on a 1-to-1 basis. The Planning Division may require minor revisions to location of the proposed building or driveway to preserve any existing trees in place. Applicant has agreed to comply with this requirement. As was pointed out to Planning Commission, construction of property line walls or fences, and raising the grade to provide adequate site drainage, may make it impractical to retain some, or all of the trees.

### Plan Submission

Refer to staff's response under Issue I.

### APPELLANT'S ISSUE III

#### *Easement*

- *Encroachment in easement for Myran Drive (private easement)*
- *Improper use of easement for private/inconsistent purposes*
- *Improper denial of access to easement area by other easement owners*
- *Use of road as parking lot &/or landscaping for exclusive use of one owner*
- *Use of easement area will improperly allow a larger development on owners lot and create unequal rights for all easement owners*
- *Use of easement for purposes other than that of the legal description on the deed (i.e. for road purposes)*
- *Protection for intended turn around (see fence – four foot extension) obvious intended turn around*

### STAFF RESPONSE

#### Encroachment in easement

Staff is not aware of any proposed encroachments into the easement as a result of the project. Required parking (2 spaces within the garage and 2 spaces within the driveway leading to the garage) will be provided on-site and no parking is proposed within the private easement.

#### Use of easement

The only persons that utilize the easement are the residents and their visitors. Condition of approval number 12 requires that the applicant provide a minimum 16-foot wide, paved driveway surface, within the easement that extends from the subject property to Victoria Street. This would be subject to approval by the Planning Division. The applicant has agreed to comply with this requirement.

Issues related to resident's use and access of the easement do not fall under the jurisdiction of the City because it is a private easement. As a result, these issues need to be resolved between the individual property owners.

Turnaround area

As indicated earlier, Myran Drive is a 25-foot wide, private easement that provides vehicle access from Victoria Street. The easement crosses the west end of all four lots on Myran Drive, and terminates at the north side of the subject property. A turnaround area 16 feet wide and 23 feet deep is proposed for this area, and connects to the driveway leading to the proposed residence. The proposed turnaround area has been reviewed by Transportation Services Division and satisfies all code requirements.

**ALTERNATIVES CONSIDERED:**

The available alternatives are:

- (1) Uphold Planning Commission’s decision to approve the request;
- (2) Reverse Planning Commission’s decision and deny request. If City Council wishes to deny request, modifications to findings will need to be made.

**FISCAL REVIEW:**

There is no fiscal impact as a result of this project.

**LEGAL REVIEW:**

Legal review is not required for this project.

**CONCLUSION:**

Despite the issues raised by area residents, Planning Commission upheld the Zoning Administrator’s approval of the proposed residence because it complies with all applicable development standards and residential design guidelines.



MEL LEE  
Associate Planner



DONALD D. LAMM  
Dep. City Mgr.-Dev. Svs. Director

- DISTRIBUTION:**
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**ATTACHMENTS:** Location Map  
Plans and Photos  
Draft City Council Resolution  
Exhibit "A" Draft Findings  
Exhibit "B" Conditions of Approval  
Appeal  
Minutes from Planning Commission Meeting of June 14, 2004  
Planning Staff Report  
Planning Commission Resolution  
Zoning Administrator Letter dated May 6, 2004  
Public Comments for ZA-04-15

File Name: 071904ZA0415APPEAL

Date: 070604

Time: pm



# **CITY OF COSTA MESA**

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DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,  
PLEASE CONTACT THE CITY CLERK AT (714) 754-5223**