



# **CITY COUNCIL AGENDA REPORT**

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**MEETING DATE:** MAY 3, 2005

**ITEM NO:**

**SUBJECT:** APPEAL OF PLANNING APPLICATION PA-04-48  
191 EAST 23<sup>RD</sup> STREET, COSTA MESA

**DATE:** APRIL 21, 2005

**FROM:** DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

**PRESENTATION BY:** WENDY SHIH, ASSOCIATE PLANNER

**FOR FURTHER INFORMATION CONTACT:** WENDY SHIH, ASSOCIATE PLANNER (714)754-5136

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## **RECOMMENDED ACTION**

Conduct public hearing and adopt a resolution either upholding, reversing, or modifying Planning Commission's decision.

## **BACKGROUND**

At their meeting of April 11, 2005, by a vote of 5 to 0, the Planning Commission denied Planning Application PA-04-48 for a 5,370 square foot (including garage), two-story, maximum 16-bed residential care facility for the elderly. The Planning Commission determined that the proposal is not compatible with existing residential uses and development in the area due to the size and scale of the proposed structure and the over concentration of group homes in the City. On April 15, 2005, the applicant (James Sutherland) appealed their decision on the basis that the project complies with the City's residential development standards and will not be out of character in the neighborhood, nor will it create parking problems in the area.

## **ANALYSIS**

The applicant proposes to build a home for 16 or fewer elderly residents with live-in caretakers. The facility will be an assisted living home licensed by the State of California Department of Social Services for seniors 60 years of age or older. The seniors will need assistance in their daily activities like bathing, dressing, and food preparation. The facility will have a total of 3 or 4 caretakers and a licensed nurse. Visiting hours will be from 10:30 a.m. to 4:30 p.m.

The facility is designed as a single housekeeping unit and to resemble a single-family residence. The Zoning Code does not include a specific parking ratio for this type of use. Parking for residential care facilities are determined on a case-by-case basis. The applicant does not anticipate parking impacts because the seniors who reside on the

property will not be allowed to drive or park at the facility. According to the applicant, the maximum number of staff vehicles on the premises should not exceed 3 (2 caretakers and 1 nurse) at any given time because the caretakers work different shifts throughout the day. No more than 2 caretakers will stay at the facility overnight. A total of 6 parking spaces are proposed on-site (3 in the garage 3 on the driveway leading to the garage), which provides a minimum of 3 parking spaces for visitors at all times (staff will be required to park in the garage so the open driveway parking is available for guests).

The Planning Commission denied the application because they felt the proposed 16-bed elderly care facility is not compatible with other homes in the neighborhood. They were concerned about inadequate on-site parking to accommodate visitors, over concentration of group homes in the City, and felt that approval of the application would encourage further concentration of similar facilities and undermine the residential character of the neighborhood.

There are currently two group homes on East 23<sup>rd</sup> Street (270 and 273 East 23<sup>rd</sup> Street), both of which contain 6 or fewer residents and are located more than 700 feet away from the subject site. Per Costa Mesa Municipal Code Section 13-30, group homes for 6 or fewer persons are permitted by right in any residential zone. Facilities accommodating 7 or more persons require approval of a conditional use permit. Neither the State nor the City has any regulation on the number and concentration of group homes in an area. During the Planning Commission's discussion of the proposal and their concern about the number of group homes in Costa Mesa, they requested that the City Council review and consider revising the City's regulations on the number and concentration of group homes.

### **ALTERNATIVES CONSIDERED**

If the City Council upholds Planning Commission's denial of Planning Application PA-04-48 by adoption of the resolution in attachment no. 3, a residential care facility for the elderly could not be established and the 5,370 square foot, two-story residence could not be built on this property. An application for substantially the same project could not be submitted for 6 months. The existing residence can remain on the property or another residence be constructed under a separate Planning approval.

If the City Council overturns the Planning Commission's denial by adoption of the resolution in attachment no. 4, the property can be developed and used as proposed. A number of conditions are included to mitigate potential impacts on the neighborhood, such as limiting the number of staff members on-site at any given time, keeping all on-site parking spaces available for vehicle parking, requiring a land use restriction limiting the age of residents to 60 years or older, etc.

### **FISCAL REVIEW**

Fiscal review is not required.

### **LEGAL REVIEW**

Legal review is not required.

**ENVIRONMENTAL REVIEW**

Pursuant to Section 15303 (New Construction) of the California Environmental Quality Act (CEQA) Guidelines, this project is exempt from CEQA.

**CONCLUSION**

The Planning Commission found that the proposal is not compatible with uses and developments in the general area since there are already two group homes in the area and that approval of the application would encourage further concentration of similar facilities and undermine the residential character of the neighborhood. The applicant feels that the project was designed to fit into the neighborhood, and would not negatively impact parking or the residential character of the neighborhood.

  
WENDY SHIH  
Associate Planner

  
DONALD D. LAMM  
Deputy City Mgr. – Dev. Svs. Director

- Attachments:
1. Appeal Application
  2. Location Maps and Plans
  3. Draft City Council Denial Resolution and Findings
  4. Draft City Council Approval Resolution, Findings, and Conditions of Approval
  5. Minutes of Planning Commission Meeting of April 11, 2005
  6. Planning Division Staff Report and Memo
  7. Planning Commission Resolution and Findings
  8. Correspondence

Distribution:

- City Manager
- City Attorney
- Assistant City Attorney
- Public Services Director
- City Clerk (2)
- Staff (4)
- File (2)

James Sutherland  
26882 Highwood Circle  
Laguna Hills, CA 92653

Percy Torres  
249 E. Wilson St.  
Costa Mesa, CA 92627

**ATTACHMENT NO. 1**

**Appeal Application**

Mike R

CITY OF COSTA MESA  
P.O. BOX 1200  
COSTA MESA, CALIFORNIA 92626

APPLICATION FOR APPEAL OR REHEARING RECEIVED  
FEE: \$  
CITY CLERK

Applicant Name Jim Sutherland (James)

Address 26882 Highwood Laguna Hills, CA 92653 05 APR 15 PM 3:45

Phone 949-831-3353 Representing 191 East 23rd Street CITY OF COSTA MESA  
BY

Decision upon which appeal or rehearing is requested: (Give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) April 11<sup>th</sup>, 2005 @ 7:30 p.m. Planning Commission  
denied application for a Residential Care Home For The Elderly.  
Licensed Capacity for 16 Elderly Residents. Decision by: Planning Commission

Reason(s) for requesting appeal or rehearing:  
Please see letter attached. Application - PA-04-48

Date: 4-15-05 Signature: Jim Sutherland

For Office Use Only — Do Not Write Below This Line  
SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

**To the City Council  
Planning Application PA-04-48**

We submitted our plan to the City of Costa Mesa Building and Planning on 12/23/04. At this time we filed for a conditional use permit because we were planning to build a two story 16 bed residential board and care on a R2-MD residential area. This lot was 60 x 135 ft. in size. We submitted the architectural plans to Ms. Wendy Shih on or about this same date.

This went in for plan check and on Jan. 20, 2005. I received a letter and phone call from Ms. Shih indicating that our building was too large and needed more on-site parking and a reduction in size to 60% or less as coverage for building. We changed our architectural plans so our building coverage is presently 51%. We also added more parking places. We submitted our plans again on about February 25th.

This time we heard back from planning with every indication from planning this was a project which had value and was conforming with the standards of a R2-MD lot. We received a report from Planning Commission on March 31, 2005 that showed our property was approved subject to 16 conditions. We first attended the preliminary hearing on April 4, 2005 and no objections or changes were brought forth.

On April 11, there was some opposition where one neighbor thought the buiding had too few spaces for parking, and also one had an objection stating this was a commercial enterprise and shouldn't be allowed within family residences. The opposition was just as adamant about the project across the street where new large sized homes will be built. Our objections were based on over 60 sixty years of educated study; our seniors in our residential home are prohibited from driving. And this was also a condition in the Commissions Report. The staff parks in the garage (only two live-in staff and no night time or week-end curb site parking). The garage door is closed at all times.

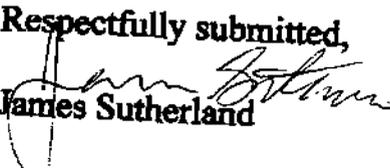
The voting changed when Ms. Egan read her own letter aloud about the fact the city had not been able to control, in her mind, the over abundance of 6-bed board and care homes (she stated 68 homes) because the state mandate prohibits their discrimination. She accidentally misled all present by grouping all types of homes together, alcohol rehab homes, drug

rehabilitation homes, mentally challenged homes and telling everyone this was the current number of board and care homes. The other homes are totally separate and under different agencies, so the actual number of homes is approximately 35-36 residential care homes in Costa Mesa and not 68 homes as she stated.

The Commission Report indicates two other residential care home were approved in 1992 and 1997, one for 14 bed and one for 15-bed; one has 5 parking and one has 4. Clearly a medium size board and care like we have proposed in not out of character for the area. As Ms. Egan unjustifiably stated, she thought it was high time to slow down this type of care home growth. We respectfully submit, there are very few people in this industry who will buy a piece of property, wait for a conditional use permit from the city, take a year to build, and then fill the home with seniors at a reasonable rate. This kind of building is clearly an exception and, in opposition to what Ms. Egan is saying, it maybe another 10 or 15 years for someone to take on this task. Is hard work, but we feel is vital. The ratio of seniors in 5 years is close to 1 in 5; so yes maybe our landscape for housing seniors will change a little. But with these types as Ms. Egan is stating is overwhelming our cities is not true. You have the evidence about how often these types of structures, (14 to 15 bed) are approved.

The building size was cut back according to the city guidelines so we went by your regulations; we didn't believe there was any need for further downsizing or modification, and we weren't offered any suggestions. With all respect, we believe we have a project which warrants approval or at least some modification in bed number. This is a home not a commercial structure; this structure will not be out of character to the neighborhood and certainly will not offer any additional parking problems to 23rd Street.

Respectfully submitted,

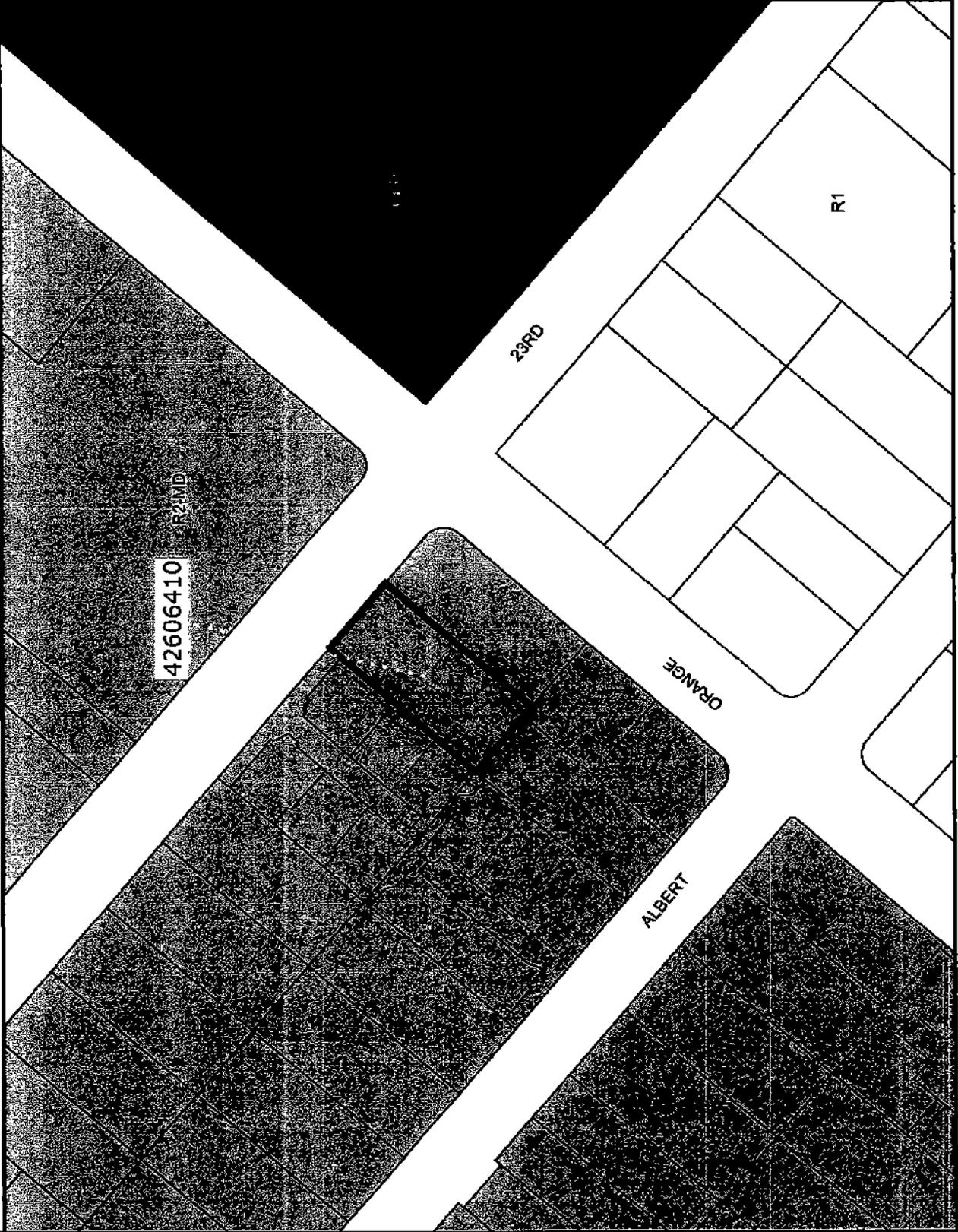
  
James Sutherland

## **ATTACHMENT NO. 2**

### **Location Maps and Plans**

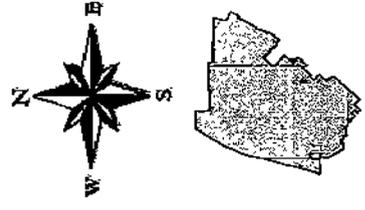
# ZONING/LOCATION MAP

191 East 23rd Street



## Legend

- Selected Features
  - Street Names
  - Parcel Lines
  - City Boundary
  - Zoning
- AP C1 C1-S C2 CL IAK IAK-S MG MP P PDC PDI PDR-HD PDR-LD PDR-MD PDR-NCM R1 R2-HD R2-MD R3 TC Dwelling General
- General Plan Specific Land



# AERIAL PHOTOGRAPH

191 East 23rd Street



## Legend

- Selected Features
- Street Names
- Parcel Lines
- City Boundary
- Dwelling General
- General Plan Specific Land
- Ortho Photography
- Parcels



191 23<sup>rd</sup> STREET





# **CITY OF COSTA MESA**

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

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DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS  
REPORT, PLEASE CONTACT THE CITY CLERK'S  
OFFICE AT (714) 754-5121**