



CITY COUNCIL AGENDA REPORT

MEETING DATE: SEPTEMBER 5, 2006

ITEM NUMBER:

**SUBJECT: REQUEST FOR REHEARING OF DEVELOPMENT REVIEW DR-06-01
2333 ELDEN AVENUE**

DATE: AUGUST 24, 2006

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: HANH TRAN, ASSISTANT PLANNER

FOR FURTHER INFORMATION CONTACT: HANH TRAN, ASSISTANT PLANNER (714) 754-5640

RECOMMENDED ACTION

Determine whether sufficient evidence exists to warrant conducting a rehearing of Council's denial of DR-06-01.

BACKGROUND

This item was continued from the meeting of August 15, 2006, because Council Member Foley, who requested the rehearing, was unable to attend the meeting. The original staff report is attached for reference.

Handwritten signature of Hanh Tran.

HANH TRAN
Assistant Planner

Handwritten signature of Donald D. Lamm.

DONALD D. LAMM, AICP
Deputy City Mgr./Development Svs. Dir.

Attachments: Council Report of August 15, 2006

cc: City Manager
City Attorney
City Clerk (2)
Staff (4)
File (2)

James and Susan Bollinger
2233 Martin #214
Irvine, CA 92612

Oi Wah Joe
2484 Orange Avenue
Costa Mesa, CA 92627

Herbert Yee
112 22nd Street
Newport Beach, CA 92660

Cambridge Townhomes HOA
2335 Elden Avenue
Costa Mesa, CA 92627

Douglas and Theresa Hiramoto
2335 Elden Avenue #D
Costa Mesa, CA 92627

Brian and Anastasia Winley
2335 Elden Avenue #F
Costa Mesa, CA 92627

Dana Lavi
2337 Elden Avenue #F
Costa Mesa, CA 92627

Christina Otto
2335 Elden Avenue #A
Costa Mesa, CA 92627

File: 090506DR0601Rehearing	Date: 08/25/06	Time: 10:30 a.m.
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CITY COUNCIL AGENDA REPORT

MEETING DATE: AUGUST 15, 2006

ITEM NUMBER:

**SUBJECT: REQUEST FOR REHEARING OF DEVELOPMENT REVIEW DR-06-01
2333 ELDEN AVENUE**

DATE: AUGUST 10, 2006

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: HANH TRAN, ASSISTANT PLANNER

FOR FURTHER INFORMATION CONTACT: HANH TRAN, ASSISTANT PLANNER (714) 754-5640

RECOMMENDED ACTION

Determine whether sufficient evidence exists to warrant conducting a rehearing of Council's denial of DR-06-01.

BACKGROUND

On March, 31, 2006, Planning staff denied Development Review DR-06-01 to legalize the placement of a mobile home in conjunction with the request for a minor modification to reduce the required 16-foot wide common driveway to 11-feet.

On April 7, 2006, Planning Commissioner Vice Chair Donn Hall called up the project for Planning Commission review. At the meeting of May 8, 2006, the project was continued to allow staff time to evaluate the modified plans submitted by the applicant. The Planning Commission approved the revised project at the meeting of June 26, 2006, on a three-to-two vote (Chair Perkins and Fisler voted no).

Council Member Gary Monahan called up the application on July 3, 2006, for City Council review. The Council determined that the building's architectural design would not be compatible with the surrounding residential properties and might adversely affect property values and neighborhood quality. Although the applicant proposed to reconstruct the mobile home to appear as a typical single-family residence, Council determined that remnants of the mobile home would still be apparent. Specifically, the building's relatively low pitched-roof, minimal roof eaves, and minimal vertical and horizontal articulation would be dramatically different than, and inconsistent with, the prevailing character of existing developments in the immediate vicinity. After much discussion, the Council denied the project on a four-to-one vote (Council Member Foley voted no).

A request for rehearing was filed by the project applicant on August 8, 2006, and by Council Member Foley on August 9, 2006. Since the Council's decision to deny the project occurred on August 2, 2006, Council Member Foley's request was timely.

ANALYSIS

City Code Section 2-304(3) states the following with regard to rehearings:

To justify obtaining a rehearing the applicant must show in the application that there is new, relevant evidence which, in the exercise of reasonable diligence, could not have been produced, or which was improperly excluded, at the earlier hearing, or that the person or body failed to comply with the law, which contention was not asserted at the earlier hearing. The person or body may in its discretion decide whether to hear additional evidence than what is contained in the application. The decision whether to grant a rehearing is final and may not be appealed or reheard.

In the request for rehearing, the applicant has stated the following with regard to new relevant evidence:

Applicant's Issue

The Council disregarded the Planning Commission's approval of the mobile home based upon future development opportunities for the property.

Response

The Council report included copies of the applicant's request, the applicant's revised plans, staff reports, resolutions, minutes, and findings; therefore, there is no basis for the applicant's contention that the Council disregarded the Planning Commission's approval.

One Council member was curious about the property's maximum density; however, there were no discussion about the best use of the property (i.e. that the City would prefer the property to be developed with five units rather than two units).

Applicant's Issue

The design of the mobile home was based on the Planning Commission's insistence to match the existing 50 year-old house at the rear of the property; however, the applicant desires a Southwestern, Spanish, or Mediterranean style home.

Response

Planning Commission approved the redesigned mobile home with condition of approval number two, stating the following:

All new and existing improvements (including the existing dwelling unit) shall be architecturally compatible with regard to building material, style, colors, roof form, roof pitch, etc. Specifically, the existing dwelling unit at the rear of the property shall have the same roof color and same surface finish color as the proposed dwelling unit. Plans submitted for building plan check shall indicate how this will be accomplished.

The applicant had a choice to construct their home with the same style and material as the existing residence or improve the existing house to match their desired style.

Based on the applicant's plans, it appeared that the applicant preferred the mobile home to appear similar to the existing residence. The Planning Commission did not "insist" that the new home matches the existing unit.

Applicant's Issue

The applicant claims that they have obtained permit to haul the mobile home on the property and admits that they have not obtained planning approval and building permits to install the mobile home.

Response

An application was made with the Public Services Department for an encroachment permit PS-06-00023 to haul the mobile home; however, the permit was not issued and the permit fee was not paid.

Applicant's Issue

The proposed mobile home is compatible with the surrounding neighborhood.

Response

There are a few homes in the general vicinity that were built in the 1950's and earlier. However, these homes do not exhibit excellence in architectural design. Furthermore, the neighborhood is characterized by well-designed, two-story, multi-family dwelling structures, as evident by the condominium units adjacent to the subject property and by new construction activities in the general vicinity. Consequently, the proposed mobile home, with minimal visual interest and remnants of the mobile home, does not meet Objective CD-7 of the City's General Plan Community Design Element in protecting the identity of the neighborhood and exhibiting excellence in architectural design.

ALTERNATIVES

The available alternatives are: (1) deny the request for rehearing; (2) approve the request for rehearing and set a date and time for public hearing.

CONCLUSION

It is staff's opinion that there is no new, relevant evidence that has been produced by the applicant or improperly excluded by the City, which would provide a basis for granting the applicant's request for rehearing.



HANH TRAN
Assistant Planner



R. MICHAEL ROBINSON
Assistant Development Services Dir.

Attachments: Request for Rehearing

cc: City Manager
City Attorney
City Clerk (2)
Staff (4)
File (2)

James and Susan Bollinger
2233 Martin #214
Irvine, CA 92612

Oi Wah Joe
2484 Orange Avenue
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Costa Mesa, CA 92627

Dana Lavi
2337 Elden Avenue #F
Costa Mesa, CA 92627

Christina Otto
2335 Elden Avenue #A
Costa Mesa, CA 92627

FROM : AMERICAN SOFTBALL HOUSE

PHONE NO. : 714 540 1546

Aug. 08 2006 09:57AM P3

FROM : CITY OF COSTA MESA

FAX NO. : 714 754 4856

Aug. 07 2006 03:23PM P2

CITY OF COSTA MESA
P. O. Box 1200
Costa Mesa, CA 92628-1200

FEE: \$ _____

APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name JAMES AND SUSAN BOLLINGER

Address 2733 MARTIN # 214, IRVINE CA 92612

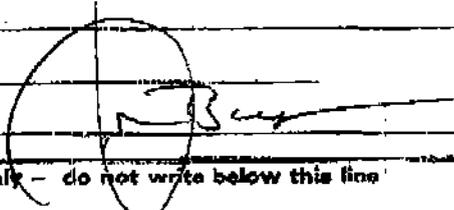
Phone 949 679 8551 Representing _____

REQUEST FOR: REVIEW** APPEAL REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezoning, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) DR-06

Decision by: _____ Reasons for requesting review, appeal or rehearing: _____

SEE LETTER TO FOLLOW

Date 8-8-06 Signature: 

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.
** Review may be requested only by City Council or City Council Member
Costa Mesa/Forms1/Application for Review-Appeal-Rehearing

RECEIVED
CITY CLERK

RECEIVED
CITY CLERK

August 8, 2006

2006 AUG -8 PM 4: 51

2006 AUG -8 AM 10: 20

CITY OF COSTA MESA
BY _____

CITY OF COSTA MESA
BY _____

City of Costa Mesa, City Council
77 Fair Drive
Costa Mesa, CA 92628
714-754-5245

Attn: City of Costa Mesa Council Members

Ref: Request for the Rehearing of Dr-06-01, located at 2333 Elden Ave, Costa Mesa

Dear Council Members,

This Letter is being written to request the rehearing of DR-06-01.

It is our belief that the City Council has acted illegally and maliciously in the rejection of this project for the following reasons:

1. The City council disregarded the Planning Commission's recommendation to approve the project, not based upon what our project was designed as, but upon how many units some future developer could build on this property. We do not own all of the property nor do we wish to go into debt to own it. We simply wish to use our assets to build a beautiful custom home in the City of Costa Mesa, on the part of the lot that we do own.

2. It was stated that the project could not nor would not look like anything but a mobile home, and never look like a custom built stick home. The design that our architect came up with was based upon the planning commission's insistence that we match a 50 year old house at the back of the property. I wanted to design and build a Southwestern, Spanish, or Mediterranean style home. We will submit new drawing with far more architectural design detail, more to our liking and apparently that of the city councils. They will include Clay or cement Tile roofs, Stucco walls and courtyards and open beam ceilings.

3. It was late into the morning, so I did not wish to argue with the City Council regarding the details of moving our mobile home onto our property. On February 27, 2006, the First Half of the Modular home arrived in Costa Mesa around 11:00 am; the second half arrived about 2:00 pm on the same day. We were charged for and paid directly to the owner /operator of Zat Trucking permit fees. Mr. Richard Zat (800) 750-0877, (951) 317-6623) assured us that he had applied for and pulled all of the transportation permits required to move the mobile units into Costa Mesa. He showed me and was in possession of a document that he said contained the permits. He also stated that he had to follow a certain route into Costa Mesa and could not deviate from it or he could be fined. His actions and the paperwork I saw confirmed my belief that he had actually had an agency that he stated that he uses to pull the necessary permits required to move the units. No, we did not have a building permit for the location of the mobile homes, but we were working diligently with the planning department to secure that item.

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4. The project was called up before the Council based upon "compatibility with the surrounding neighborhood. That neighborhood goes well beyond the 2 rows of condo's (condo's mind you, not custom homes) on the east side of our property that this council seems to be so concerned about. Numerous pictures of the neighborhood were submitted that proved that our project would far exceed the architectural detail and looks of more than the majority of single family homes along Elden Street.

We expect to be allowed to build a unique, custom designed home utilizing all the building materials at our disposal, which includes "recycling" major portions of our mobile home. By using the framing, kitchen, and existing bathrooms we will save thousands of dollars and a small forest. In this age of disposable items, I would think that we would be commended not punished for reusing valuable resources. The City has the ability to make us correct anything that is unsafe, or in Building code violation which we have agreed to (and still agree with) in the planning departments specifications. This structure will be our home, and it will be a home that we and you can be proud of.

We have the ability and finances ready to proceed. We have hired a very competent Architect, and I have been assembling a team of professional tradesmen for this project. We are anxious to start, as it is costing us nearly \$3000.00 a month for each month of delay.

Thank you for your consideration

Sincerely,

James and Susan Bollinger
2233 Martin #214
Irvine, CA 92612
949-679-8551 (h/fax)
714-865-7331 (j/cell)

Cc: file 06CMP.ltr4

*susan.bollinger@
airtransport.cc*

*8-8-06, 10:05 am
Talked to Mr. Bollinger on cell &
advised \$1,070 fee must accompany
rehearing application, per CMMC
Section 2-367.*

*Linda D. Keith
Interim City Clerk*