



PLANNING COMMISSION AGENDA REPORT

VII. I

MEETING DATE: MARCH 26, 2007

ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-06-63
843 W. 17TH STREET

DATE: MARCH 15, 2007

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to allow a portion of the subject property to be used for off-site parking and storage. The review, modification, or possible revocation of a prior Zone Exception Permit (ZE-79-119), also for outdoor storage as well as a storage tank, is also included.

APPLICANT

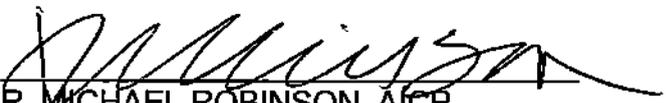
The applicant is Corrie Kates, representing the property owner, Hope Leon.

RECOMMENDATION

1. Revoke ZE-79-119;
2. Deny PA-06-63 by adoption of Planning Commission resolution; and
3. Direct applicant to vacate site no later than 30 days from final action.



MEL LEE, AICP
Senior Planner



R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The subject property is located at the southeast corner of West 17th Street and Babcock Street and is zoned MG (General Industrial). The front portion of the site (towards West 17th Street) contains 2 one-story single family detached residences that are existing nonconforming. According to City records, the homes were constructed in 1959. According to the applicant, the property owner's family has owned the property since 1915.

On August 13, 1979, Planning Commission approved Zone Exception Permit ZE-79-119 to allow a 10-foot high outdoor asphalt storage tank and outdoor storage of materials on the rear half of the subject property in conjunction with the operation of a roofing business (Mesa Roofing) on the abutting property (837 W. 17th Street). Conditions of approval required Mesa Roofing to renew the permit on an annual basis, keeping items stored at the site below the height of the perimeter screen fence (with the exception of the storage tank), and the installation and maintenance of landscaping along the Babcock Street frontage. The approval was renewed by the Planning Commission on August 25, 1980 as ZE-79-119R for a period of two years. There is no record of ZE-79-119 being renewed or a new application being filed after that point, until the current application was submitted.

According to the applicant, Mesa Roofing vacated the property in 2001. After Mesa Roofing vacated the site, the property owner leased the property to Oliver Mahon Asphalt Maintenance, Inc., a paving contractor, which uses the property for off-site storage of vehicles and materials related to their business (the company headquarters is located at 182 Wells Place). Items currently stored off-site include the original asphalt storage tank approved under ZE-79-119, a large asphalt truck, various structures and storage containers, and other assorted smaller vehicles and trailers. There have been several Code Enforcement complaints related to the use, which are described later in this report.

The applicant is requesting approval of a conditional use permit to allow the site to continue to be used for off-site parking and storage for the paving contracting business. This item was continued from the January 22, 2007 and February 12, 2007, Planning Commission meetings at the applicant's request. However, after additional review, it was determined that in addition to the new CUP request, the original ZE needed to be brought back before the Commission for review and possible modification or revocation, requiring the hearing to be re-noticed.

ANALYSIS

Modification or Revocation of ZE-79-119

Code Section 13-29(o) (Enforcement Authority) allows the Planning Commission to modify or revoke a planning application if the following conditions are found to apply:

1. The use constitutes a public nuisance; or
2. The use does not comply with the conditions of approval.

The below table summarizes the status of the conditions of approval as approved for ZE-79-119 and ZE-79-119R:

CONDITIONS OF APPROVAL FOR ZE-79-119	STATUS AS OF 3/15/07
Applicant shall provide opaque fencing and landscaping to screen the tank and outdoor storage area, and landscaping in the front setback along W. 17 th Street, under the direction of the Planning Division.	Opaque fencing in place but not maintained; no landscaping provided adjacent to storage area along Babcock Street frontage.
Approval shall be for a period of one year. Prior to expiration, applicant may request renewal, subject to reevaluation at that time.	Renewal request submitted by applicant and approved by Planning Commission as ZE-79-119R.
Construct PCC commercial sidewalk on W. 17 th Street per City of Costa Mesa Standard Drawings at applicant's expense.	Completed.
CONDITIONS OF APPROVAL FOR ZE-79-119R (1-YEAR RENEWAL)	
Approval shall be for a period of two years. Prior to expiration, applicant may request renewal, subject to reevaluation at that time. The Development Services Director may extend the zone exception permit for a period not to exceed two (2) years if all conditions of approval have been satisfied, no complaints have been received, and the site inspection reveals compliance with the applicable ordinance requirements.	2-year approval lapsed 8/25/82. No further action was taken by the applicant to either renew the existing ZE or apply for a new until the current application (PA-06-63) was filed.
The dumpster kept on Babcock Street shall be relocated inside the fence under the direction of the Planning Division.	Completed.
Outside storage on subject property shall be kept below the height of the perimeter fence.	Several items, including trucks and materials, visible above fence height.

It is staff's opinion that, regardless of the Planning Commission's action with regard to PA-06-63, there is a basis to revoke ZE-79-119 as a result of noncompliance with the conditions of approval for landscaping and lack of screening of stored items on the site. Additionally, revocation would also be consistent with the City Attorney's determination that, despite the abandonment of the ZE when Mesa Roofing ceased to use the property for its outdoor storage and parking, the approval runs with the land and should be revoked to avoid having multiple entitlements on a property for essentially the same type of use.

Conditional Use Permit PA-06-63

As part of the CUP request, the applicant is proposing the following site improvements:

1. Replace the existing screen fence along the Babcock Street frontage with an 8-foot high decorative block wall;
2. Install landscaping along the street frontage;

3. Remove a large aluminum structure and the 10-foot high storage tank approved under ZE-79-119, which are visible above the existing screen fence from the street.

According to the applicant, hours of operation are limited to 7:00 a.m. to 5:00 p.m., weekdays and Saturdays (the storage yard is closed on Sundays).

Code Issues

The following is a summary of Code issues brought to the attention of Code Enforcement:

- 8-9-99 – complaint received from a Babcock Street business operator for vehicles for the subject property parking on surrounding properties and on public streets.
- 4-25-02 – complaint received from a W. 17th Street business operator regarding the construction of a shed on the rear property line.
- 9-13-02 – an inoperative vehicle parked on the driveway was observed by a Code Enforcement officer, which was removed.
- 7-25-06 – complaint received from a Babcock Street business operator regarding noise from delivery trucks and the operation of “heavy equipment”. This case is currently under investigation, which resulted in the filing of the current application.

On November 27, 2006, Planning Commission approved Conditional Use Permit PA-06-28 to allow the expansion of a roofing contracting business with outdoor storage at 2620 through 2626 Newport Boulevard. There is a difference between the two applications in that even though the Newport Boulevard site abuts residentially-zoned properties, there was no history of Code Enforcement complaints regarding the use. For this property, as noted above, there have been several Code Enforcement complaints related to the use of the site. Also, the operation of a storage yard allowed under ZE-79-119 was associated with a business operated from an abutting property (837 W. 17th Street), rather than from off-site, as the current use is. Because of these factors, and also because a portion of the property is used for residential purposes, even though it is nonconforming under the current zoning, it is staff's opinion the use is incompatible not only with the abutting nonconforming residences, but also with the surrounding industrial uses.

Urban Plan

The property is located within the Mesa West Bluffs Urban Plan area, which encourages residential ownership developments and mixed use live/work developments. The applicant states in their letter (a copy of which is attached to this report) that the current residential uses and storage yard should be considered a “mixed use development”. Also, the applicant has provided several letters from surrounding property and business owners supporting the use. However, staff notes the existence of this mix of uses predates the adoption of the code requirements for the Mixed Use Overlay District under Code Section 13-83.53 and the urban plans, and is therefore nonconforming.

Additionally, the property is an example of the mix of incompatible uses that has evolved on the Westside over the years and was the target of the previous Westside planning efforts, including the Westside Community Plan, Westside Specific Plan, and the current

urban plan. Code Section 13-83.53(c)(3) for the Mixed Use Overlay District prohibits single family detached residences in mixed use districts, and outdoor storage is not one of the permitted uses under the urban plan. It is staff's opinion the project does not represent a modern, well planned, and integrated mixed use project as envisioned by the urban plan.

Although the urban plan does acknowledge that existing and permitted industrial uses can continue to operate and expand within the urban plan area, the current request is a discretionary action that should be viewed in the larger context of the intent and purpose of the urban plan. As a discretionary action, Planning Commission may use a higher standard of review to determine if the proposed use is appropriate given the existing and planned uses within the area. For example, it should be noted the storage yard portion of the site is within 300 feet of a proposed mixed use office/retail/condominium development located at 1640 Monrovia Avenue, which the City Council recently reviewed through a master plan screening on January 2, 2007. Although the applicant has proposed several upgrades to improve the appearance and use of the site, it is staff's opinion the use is not consistent with the overall goals and objectives of the Mesa West Bluffs Urban Plan to revitalize the Westside, nor is it compatible with existing and planned uses and projects envisioned by the plan.

Summary

Due to the current condition of the property and the past Code Enforcement complaints, staff recommends that if the request is denied, the applicant be directed to vacate the off-site parking and storage portion of the site no later than 30 days from final action. If the Commission were to approve the project, staff has included recommended conditions of approval, including the site upgrades proposed by the applicant, listed earlier in this report.

Should the Commission wish to approve the current CUP request, staff would still recommend revocation of ZE-79-119. This action would prevent future confusion and discrepancies regarding the approved use of the site and any previous approvals.

GENERAL PLAN CONFORMITY

Although the outdoor storage yard may be considered to be consistent with the Light Industrial General Plan land use designation for the property, it is staff's opinion that the use as presently operated is not consistent with General Plan goals and objectives which seek to improve the quality of developments within the community. Specifically, the use is not consistent with Land Use Element Policy LU-1F.5 and Community Design Element Objectives CD-9A and CD-9B which encourages well planned, high quality, mixed use developments and integrated housing with other compatible uses.

ALTERNATIVES

If the conditional use permit were denied, it would prevent the use from operating as proposed. The applicant could not submit substantially the same type of application for

six months. If the prior ZE is revoked, it would prevent a similar use from establishing on the property by assuming that prior approval.

ENVIRONMENTAL DETERMINATION

The project, if approved, is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.

CONCLUSION

Although the applicant has proposed several upgrades to improve the appearance and use of the site, the use is not consistent with existing and proposed uses on this and surrounding properties. With regard to the prior ZE, there is substantial evidence that the use has not been operated in accordance with the original conditions of approval. Therefore, staff recommends denial of the current CUP request and revocation of the prior ZE.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Staff Reports for ZE-79-119 and ZE-70-119R
 Applicant's Project Description and Justification
 Neighbor Correspondence
 Site Photos
 Zoning/Location Map
 Plans

cc: Deputy City Manager - Dev. Svs. Director
 Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Corrie Kates
Foothill Development
P.O. Box 4403
Costa Mesa, CA 92626-4403

Hope Leon
843 West 17th Street
Costa Mesa, CA 92627

RESOLUTION NO. PC-07-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVOKING ZONE EXCEPTION PERMIT ZE-79-119 AND DENYING PLANNING APPLICATION PA-06-63

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Corrie Kates, representing the property owner, Hope Leon, with respect to the real property located at 843 W. 17th Street, to permit to allow a portion of the subject property to be used for off-site parking and storage; and

WHEREAS, the review, modification, or possible revocation of a prior Zone Exception Permit (ZE-79-119), also for outdoor storage, as well as a storage tank located on the property, was also included; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on March 26, 2007;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **REVOKES** Zone Exception Permit ZE-79-119 and **DENIES** Conditional Use Permit PA-06-63 with respect to the property described above, and hereby directs that the off-site parking and storage portion of use be vacated from the site no later than **30 days** from final action.

PASSED AND ADOPTED this 26th day of March, 2007.

Donn Hall, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. The project proposed under PA-06-63 does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed use is not compatible or harmonious with uses on surrounding properties.
 2. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 3. The project is not consistent with the General Plan, the Mesa West Bluffs Urban Plan, or the Mixed Use Overlay District.
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the use proposed under PA-06-63 is not compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the use has had a history of code enforcement complaints related to noise, storage of inoperative vehicles, and the lack of property maintenance. Additionally, the property is an example of the mix of incompatible uses that has evolved on the Westside over the years and was the target of the previous Westside planning efforts, including the current urban plan. The project does not represent a modern, well planned, and integrated mixed use project as envisioned by the Mesa West Bluffs Urban Plan. The storage yard portion of the site is within 300 feet of a proposed mixed use office/retail/condominium development recently reviewed through a master plan screening. Also, the operation of a storage yard allowed under a prior Zone Exception Permit (ZE-79-119) was associated with a business operated from the abutting property, rather than from off-site, as the current use is. Granting the conditional use permit will allow a use, density or intensity, which is not in accordance with the general plan designation for the property and is not consistent with the General Plan or the intent of the Mesa West Bluffs Urban Plan and the Mixed Use Overlay District. The use is not consistent with the overall goals and objectives of the Mesa West Bluffs Urban Plan to revitalize the Westside, nor is it compatible with existing and planned uses and projects envisioned by the plan. The use is not consistent with Land Use Element Policy LU-1F.5 and Community Design Element Objectives CD-9A and CD-9B which encourages well planned, high quality, mixed use developments and integrated housing with other compatible uses.
- C. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(o) with regard to grounds for revocation of Zone Exception Permit ZE-79-119 as a result of noncompliance with the conditions of approval for landscaping and lack of screening of stored items on the site. Additionally, revocation would also be consistent with the determination that, despite the abandonment of the ZE when the original applicant ceased to use the property for outdoor storage and parking, the approval runs with the land and should be revoked

to avoid having multiple entitlements on a property for essentially the same type of use.

- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- E. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (If Project is Approved)**

- Plng.
1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 2. The use shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 3. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
 4. Demolition permits for existing structures shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
 5. Hours of operation shall be limited to the hours between 7:00 a.m. to 5:00 p.m., weekdays and Saturdays.
 6. Street addresses shall be displayed in a manner visible from the street. Street address numerals shall be a minimum 12 inches in height with not less than 3/4-inch stroke and shall contrast sharply with the background.
 7. The use shall be for the off-site storage and parking of vehicles and materials for Oliver Mahon Asphalt Maintenance, Inc., a paving contracting business. Storage of other commercial trucks, trailers, recreational vehicles, motor homes, boats, motorcycles, or similar vehicles shall be prohibited. No storage of vehicles in a wrecked or dismantled condition shall be permitted.
 8. Commercial servicing, inspection, repair, or dismantling of any motor vehicles, commercial trucks, trailers, recreational vehicles, motor homes, boats, motorcycles, or similar vehicles shall be prohibited. Outdoor work, including vehicle washing and/or detailing, shall also be prohibited.
 9. The street setback landscape planter shall have approved turf and/or ground cover on the street side front half of the planter and shrubbery plantings and trees on the back half. The number of trees and shrubs shall comply with Costa Mesa Municipal Code Section 13-106 for required landscaping materials.
 10. The applicant shall provide an 8-foot high, decorative block wall along the frontage for the outdoor storage portion of the site. Wall material

shall be consistent with the City's Streetscape and Median Standards; specifically, Orco slumpstone block in the "La Paz" color with a brick trim cap. Vines (Creeping Fig and Boston Ivy) shall be grown on the wall to discourage graffiti. Other perimeter fencing shall be repaired or replaced where needed, subject to the approval of the Planning Division.

11. Backflow prevention devices and other utility equipment shall be screened from view in a manner approved by the Planning Division.
12. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the commencement of the use. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
13. Gates shall be solid opaque fencing matching the color of the block wall. The gates shall remain closed when not in use.
14. Outdoor storage of materials shall not exceed the height of the screen walls.
15. Any change in the operational characteristics including, but not limited to, hours of operation, shall require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
16. The applicant shall contact the Planning Division to arrange a Planning inspection of the site to confirm that the conditions of approval and code requirements have been satisfied.



CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**