



PLANNING COMMISSION AGENDA REPORT

VI. 1

MEETING DATE: AUGUST 11, 2008

ITEM NUMBER:

SUBJECT: APPEAL OF ZONING APPLICATION ZA-08-21
1030 LINDEN PLACE

DATE: JULY 29, 2008

FOR FURTHER INFORMATION CONTACT: REBECCA ROBBINS, ASSISTANT PLANNER
(714)754-5609

DESCRIPTION

The applicant is appealing the Zoning Administrator's denial of ZA-08-21, a request to amend a condition of approval for Zoning Application ZA-08-01 to allow infill of the existing bluff area.

APPLICANT/APPELLANT

The appellants are Christopher and Amelia Thompson, property owners.

RECOMMENDATION

Uphold the Zoning Administrator's decision, by adoption of Planning Commission resolution.

REBECCA ROBBINS
Assistant Planner

KIMBERLY BRANDT, AICP
Asst. Development Services Director

BACKGROUND

The property is zoned R1 (Single-Family Residential) and is a 17,686 square-foot, pie-shaped lot abutting single-family residences to the east and west, and Victoria Elementary School to the north. The property contains a 1,034 square-foot, one-story, single-family residence with a one-car garage. The rear of the property is on a bluff; there is over a 10 foot difference in grade between the property and the school.

On February 7, 2008, the Zoning Administrator approved Zoning Application ZA-08-01 for the following actions:

- 1) Minor conditional use permit for a garage and apartment above to be located within 10 feet of the bluff crest and a deck to extend 5 feet beyond the bluff crest;
- 2) Minor design review for the accessory apartment to contain a 100% second-to-first floor ratio; and
- 3) Minor modifications are for a 12-foot (16 feet required) wide common driveway and 16-foot (20 feet required) rear yard setback.

Since the justification for approval of the encroachment was due to preservation of the bluff, a condition of approval was included prohibiting the filling of the bluff slope area (condition number 15).

On July 10, 2008, the Zoning Administrator denied a request by the applicant to amend this condition. The applicants appealed the Zoning Administrator's decision on July 14, 2008.

ANALYSIS

The Zoning Administrator approved the reduced building setback from the bluff crest because, as conditioned, the visual identity and integrity of the bluff would be preserved. Subsequently, the property owner proposed to amend condition number 15 in order to allow the construction of a retaining wall in excess of 10 feet in height on the rear property line, filling the existing bluff to the height of the remainder of the lot. However, the Zoning Administrator denied the request because constructing the wall and filling the bluff would detract from the visual identity and integrity of the bluff, especially since the neighboring properties have the same bluff configuration. The proposal would result in an approximately 10-foot grade increase at the rear of the property. This grade difference would be inconsistent with the immediately adjoining properties and the character of the neighborhood.

The property is approximately three times the minimum lot size required by the R1 (Single-Family Residential) zone. Therefore, no special circumstances exist to justify the request because the property's unusually large lot size should be more than adequate to accommodate both existing and proposed construction.

ENVIRONMENTAL DETERMINATION

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 Section 15303, Class 3, New Construction of limited small new facilities, of CEQA.

GENERAL PLAN CONFORMITY

The denial of the infill of the bluff area, as originally conditioned by the Zoning Administrator, is consistent with General Plan Land Use Objectives LU-1C and LU-2.A.13 in that it promotes land use patterns and development which contribute to community and neighborhood identity and promotes site development that limits impact on and protects the natural integrity of topography.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Uphold the Zoning Administrator's decision to deny the amendment;
2. Approve the amendment, as proposed by the applicants, to condition of approval number 15 of Zoning Application ZA-08-01. However, staff notes that other conditions of approval will need to be modified or deleted as shown in the attached draft Planning Commission approval resolution.

CONCLUSION

It is the Zoning Administrator's opinion that imposing condition of approval number 15 promotes land use patterns and development which contribute to community and neighborhood identity.

- Attachments:
1. Draft Planning Commission Resolution (Denial and Approval)
Exhibit "A" - Draft Findings
Exhibit "B" - ZA-08-01 Conditions of Approval
 2. Appeal Application and Applicant's Description/Justification
 3. Location Maps and Photographs of the site
 4. Plans
 5. Zoning Administrator's letter for ZA-08-21

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

Christopher Thompson
1030 Linden Place
Costa Mesa, CA 92627

File Name: 081108ZA0821Appeal	Date: 083108	Time: 2:15 p.m.
-------------------------------	--------------	-----------------

RESOLUTION NO. PC-08-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA UPHOLDING THE ZONING
ADMINISTRATOR'S DECISION TO DENY ZONING
APPLICATION ZA-08-21**

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

WHEREAS, an application was filed by Christopher and Amelia Thompson, owners of real property located at 1030 Linden Place, requesting appeal of the Zoning Administrator's denial to allow the infill of an existing bluff area, located in an R1 zone; and

WHEREAS, on February 8, 2008, the Zoning Administrator approved Zoning Application ZA-08-01 with conditions limiting development; and

WHEREAS, on July 10, 2008, the Zoning Administrator denied ZA-08-21, an application to amend condition number 15 to allow the infill of the bluff area; and

WHEREAS, the applicants filed an appeal of the Zoning Administrator's decision on July 14, 2008, to deny ZA-08-21; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 11, 2008.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **UPHOLDS** the Zoning Administrator's denial of Zoning Application ZA-08-21. All conditions of approval, code requirements, and special district requirements for ZA-08-01 shall be complied with.

PASSED AND ADOPTED this 11th day of August, 2008.

Donn Hall Chair, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS (Denial)

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(2) and 13-34 in that the filling/raising of the bluff area will be detrimental to the health, safety, and general welfare of persons residing or working within the immediate vicinity of the project or to property and improvements within the neighborhood. Specifically, the filling/raising of the rear yard will result in a grade difference between the property and neighbors of approximately 10 feet. Additionally, the proposed elimination of the bluff slope is not compatible with the existing topography of the surrounding properties in the vicinity, detracting from the visual identity and integrity of the bluff.
- B. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
 - 1. The proposed elimination of the bluff slope area is not compatible and harmonious with development both on-site as well as those on surrounding properties.
 - 2. The zoning application would establish a precedent for future development.
- C. 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 pursuant to Section 15303, New construction of limited small new facilities.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. PC-08-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, REVERSING THE ZONING ADMINISTRATOR'S DECISION AND APPROVING ZONING APPLICATION ZA-08-21

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

WHEREAS, an application was filed by Christopher and Amelia Thompson, owners of real property located at 1030 Linden Place, requesting appeal of the Zoning Administrator's denial to allow the infill of an existing bluff area, located in an R1 zone; and

WHEREAS, on February 8, 2008, the Zoning Administrator approved Zoning Application ZA-08-01 with conditions limiting development; and

WHEREAS, on July 10, 2008, the Zoning Administrator denied the application ZA-08-21 to amend condition number 15 to allow the infill of the bluff area; and

WHEREAS, the applicants filed an appeal of the Zoning Administrator's decision on July 14, 2008; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 11, 2008.

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 **REVERSES** the Zoning Administrator's decision and **APPROVES** the deletion of conditions numbers five, six, and eight, and modification of condition numbers four and fifteen for Zoning Application ZA-08-01 to read as follows:

4. The second floor deck shall be no closer than 16 feet to the rear property line.
15. The subject property's ultimate finished grade level may only be filled/raised to the minimum level necessary to provide proper drainage from the rear of the property to the street. The drainage plan shall be approved by the City's Building Official prior to issuance of any grading or building permits. Additionally, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the appeal of Zoning Application ZA-08-21 and upon

applicant's compliance with each and all of the modified conditions and conditions contained in Exhibit "B" of Zoning Application ZA-08-01, as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification, or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 11th day of August, 2008.

Donn Hall, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented complies with Costa Mesa Municipal Code Section 13-29(2) and 13-34 in that the filling/raising of the bluff area will not be detrimental to the health, safety, and general welfare of persons residing or working within the immediate vicinity of the project or to property and improvements within the neighborhood.
- B. The proposed project does complies with Costa Mesa Municipal Code Section 13-29(e) because:
 - The proposed elimination of the bluff slope area is compatible and harmonious with development both on-site as well as those on surrounding properties.
- C. 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 pursuant to Section 15303, New construction of limited small new facilities.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

ZA-08-01 CONDITIONS OF APPROVAL – as modified by Planning Commission

- Plng.
1. The all plans submitted for building plan check shall indicate the main (front) residence as Unit A and the proposed apartment as Unit B.
 2. Green building practices and techniques, such as compliance with the United States Green Building Councils (USGBC) LEED program and low impact development (LID) shall be applied wherever possible.
 3. Submit structural engineering calculations, prepared by a professional California-certified engineer, to the Building Division at the time plans are submitted for building plan check.
 4. ~~The deck shall not extend beyond 5 feet from the bluff crest, as proposed on the site plan and modified by staff. The second floor deck shall be no closer than 16 feet to the rear property line.~~
 5. ~~Any future addition to the garage/apartment shall not project beyond the bluff crest without prior City approval.~~
 6. ~~The proposed support posts for the decks shall be located as close to the bluff edge as feasible to minimize visual impacts to the bluff.~~
 7. Except as conditioned, no modification(s) of the approved building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process such as a minor design review or a variance, or in the requirement to modify the construction to reflect the approved plans.
 8. ~~Landscaping shall be provided, to the satisfaction of the Planning Division, to screen the deck's support structures. Landscaping material shall consist of dense, evergreen plants and foliage.~~
 9. Two (2) sets of detailed landscape and irrigation plans shall be required as part of the project plan check review and approval process. Plans shall be forwarded to the Planning Division for final approval prior to issuance of building permits.
 10. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets.
 11. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
 12. Any future second-floor windows shall be reviewed and approved by the Planning Division prior to installation. The windows shall be designed and placed to minimize direct lines-of-sight into windows on adjacent neighboring properties and to minimize visibility into abutting residential side and rear yards.
 13. Demolition permits for the existing structure 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.

14. Prior to issuance of building permits, applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.
15. The subject property's ultimate finished grade level may ~~not only~~ be filled/raised ~~unless to the minimum level~~ necessary to provide proper drainage, ~~and in no case shall it be raised in excess of 30 inches above the finished grade of any abutting property.~~ If additional fill dirt is needed to provide acceptable on-site stormwater flow to a public street, ~~an alternative means of accommodating that drainage shall be approved by the~~ The drainage plan shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such ~~alternatives may include subsurface tie-in to public stormwater facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be maintained in working order. In any case~~ Additionally, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties. **Under any circumstances, the bluff area shall not be filled/raised.**
16. All construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. Saturday. Construction is prohibited on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
17. The applicant shall contact the current cable company prior to issuance of building permits to arrange for pre-wiring for future cable communication service.
18. The conditions of approval, Code provisions, and special district requirements of Zoning Application ZA-08-01 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
19. The applicant shall contact the Planning Division to arrange for Planning inspection of the site prior to the release of occupancy. This inspection is to confirm that the conditions of approval and Code requirements have been satisfied.
20. The minor conditional use permit herein approved shall be valid until revoked. The minor conditional use permit may be referred to the Zoning Administrator for modification or revocation at any time if the conditions of approval have not been complied with, if the use is 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. Nothing in this condition shall exempt the applicant from complying with any time limits applied to any construction authorized by this application.
- Eng. 21. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.

ATTACHMENT 2



City of Costa Mesa

- Appeal of Planning Commission Decision
- Appeal of Zoning Administrator/Staff Decision

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* CHRIS AND AMELIA THOMPSON
 Address 1030 LINDEN PL., COSTA MESA, CA. 92627
 Phone 714 515-1666 Representing _____

REQUEST FOR: REHEARING APPEAL REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

AMENDMENT TO ZONING APP. ZA-09-01 (ZA-08-21)

Decision by: _____

Reasons for requesting appeal, rehearing, or review:

WE DISAGREE WITH THE FINDINGS SET FORTH BY THE ZONING DEPT.

Date: 7.14.08

Signature: *C. J. Thompson*

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
 **Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only - do not write below this line

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

05/05/08

Chris and Amelia Thompson
1030 Linden Pl.
Costa Mesa, CA. 92627
949-722-9383

City of Costa Mesa
Development Services Dept.
77 Fair Dr.
Costa Mesa, CA 92628-1200

**RE: Re-Application for Minor Design Revue
1,060 sq.ft. Detached Accessory Apt.
Over new 3 car Garage.
1030 Linden Pl.**

Planning Staff,

We are re-submitting an application for "Minor Design Revue" on the above project. The project was previously approved under Zoning Application ZA-06-31. (Copy of approval letter enclosed) It was approved again under Zoning Application ZA-08-01 on 02/07/08 (Copy of approval letter enclosed) after elimination of the retaining wall. The retaining wall was dropped due to the strong suggestion of planning staff. Upon discussion of the conditions of approval with our Geotechnical Engineer, we find that we will have to over-excavate and recompact the whole slope and building site. Frankly, if we are going to have to handle this much soil we would like to proceed with our original plan of building a retaining wall. The wall has been designed, engineered and approved by Geotechnical Engineers. We would also gain approx 1200-1300sq ft of level useable yard. Without the retaining wall there would be no useable level yard directly behind the structure, only a slope. A Geo-grid reinforced keystone retaining wall would be a handsome long term solution to this unstable slope. We were never given a reason why the planning staff so opposed our retaining wall. When pressed they stated that we should not destroy any natural Topographic features. This is a manmade feature created 54 years ago on our lot.

We are proposing to build a 3 car garage with a 2 bedroom accessory apartment on the 2nd story. The 1st floor garage area would be approximately 1,064 sf. The 2nd story apartment would be approximately 1,060 sf. including a 2nd story deck.

There will be 3 covered parking spaces in the garage. 3 more uncovered spaces on concrete apron in the front of the garage. There would also be 1 uncovered RV space on concrete apron on the right (South) side of the Garage/Apartment. We propose Landscape screening to block direct view of RV space and 2nd story deck from adjacent property(s) to the South.

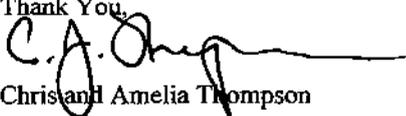
The proposed approach from the street to the concrete apron and turnabout area and adjacent parking would be via a 12' wide driveway. The proposed driveway would be constructed of a crushed stone roadbed engineered to be adequate for any anticipated loading, and the finished surface would be of "Drivable Grass" or similar product allowing percolation of drainage.

We have had a Geo-grid reinforced Keystone Retaining wall engineered for the back of the property so as to have a level building pad, and to give plenty of separation between the structures and turnabout room for vehicles. This will provide long term stability to this unstable slope.

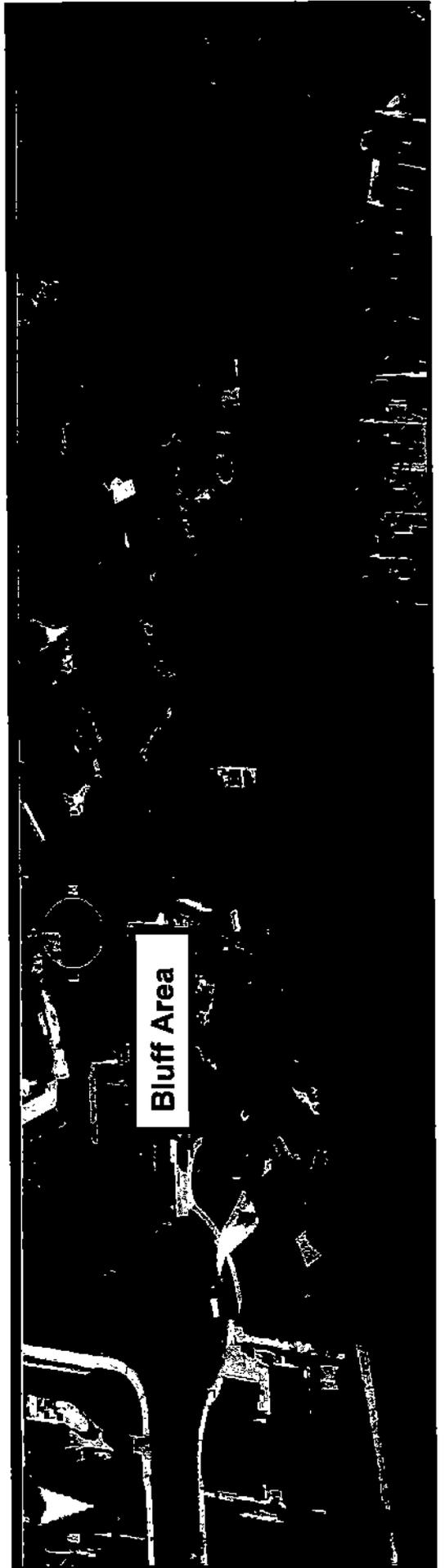
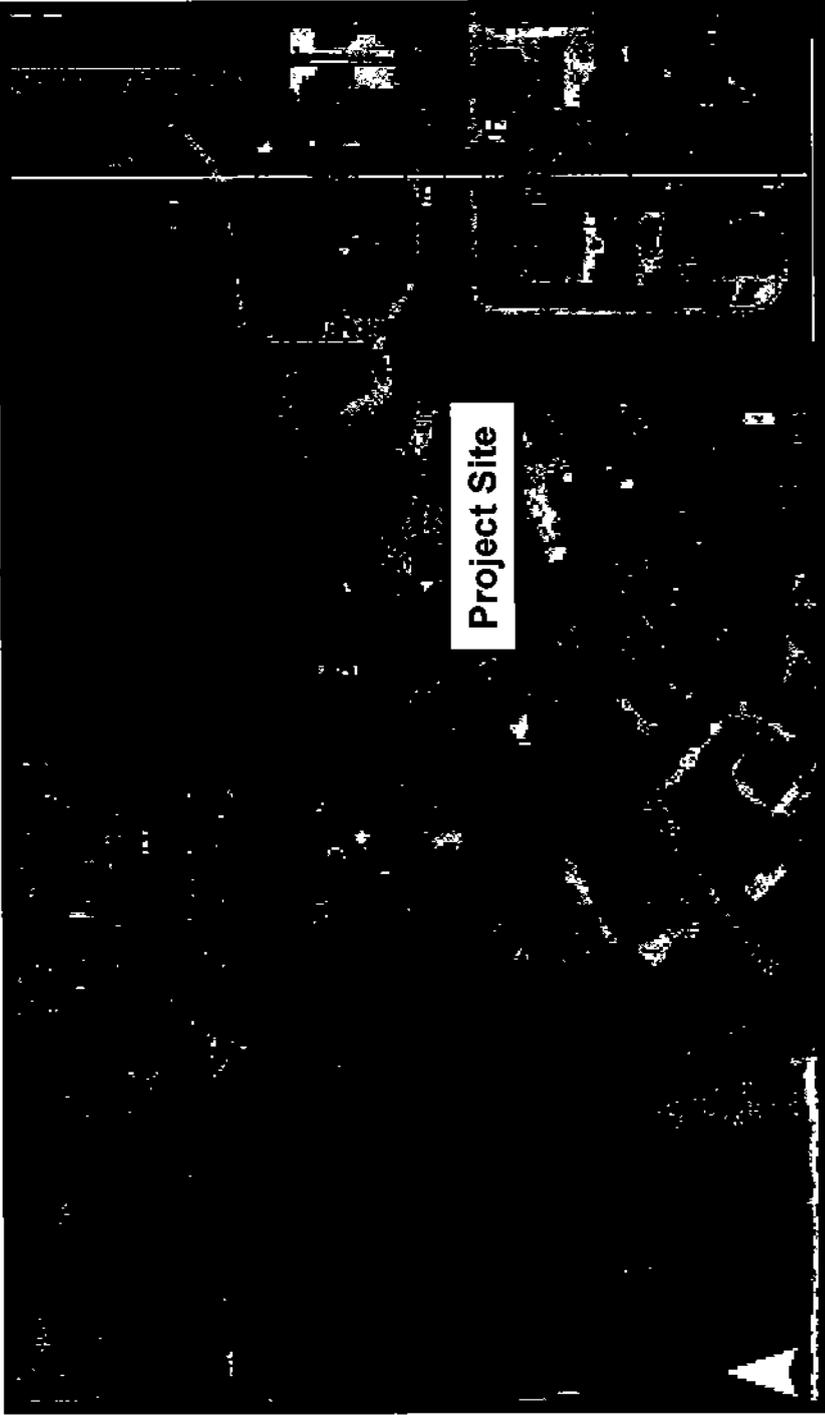
The planned second stage of this project would be the substantial renovation of the existing 1034 sf. house to match the architectural style and finish of the proposed Garage/Apartment.

We appreciate your consideration of our project, and look forward to doing our part to improving this great neighborhood.

Thank You,


Chris and Amelia Thompson

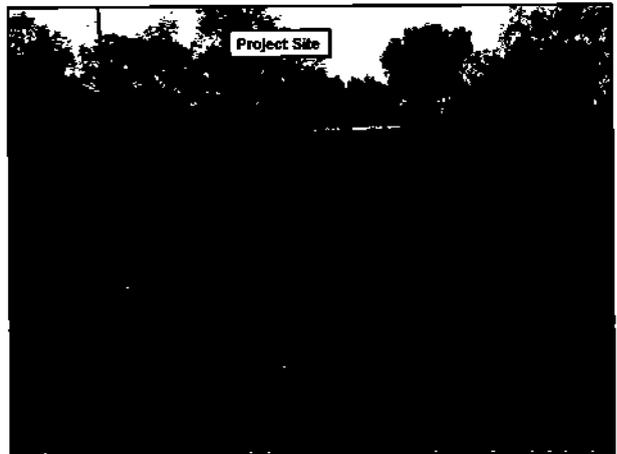
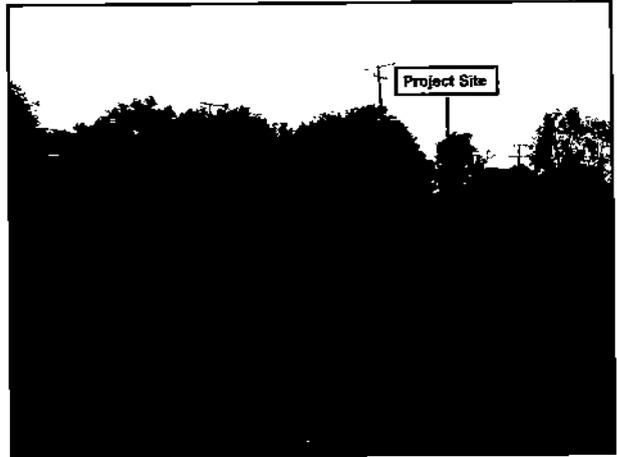
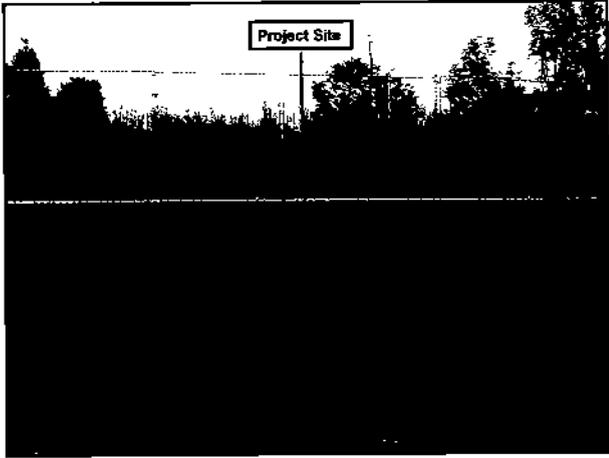
Location Map



SITE PHOTOS



NEIGHBORING PROPERTY PHOTOS





CITY OF COSTA MESA

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

DEVELOPMENT SERVICES DEPARTMENT

July 10, 2008

Christopher Thompson
1030 Linden Place
Costa Mesa, CA 92627

**RE: ZONING APPLICATION ZA-08-21
AMENDMENT TO ZONING APPLICATION ZA-08-01 TO ALLOW FILL OF
THE EXISTING BLUFF AREA
1030 LINDEN PLACE, COSTA MESA**

Dear Mr. Thompson:

Staff review of the zoning application for the above-referenced project has been completed. The amendment to application ZA-08-01, as described in the attached project description, has been **denied** based on the attached findings. The decision will become final at 5 p.m. on **July 17, 2008**, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or is called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Rebecca Robbins, at (714) 754-5609.

Sincerely,


KIMBERLY BRANDT, AICP
Zoning Administrator

Attachments: Project description
Findings

cc: Gary Wong, Engineering
Fire Protection Analyst
Building Division

PROJECT DESCRIPTION

- The subject property is zoned R1 (Single-Family Residential) and consists of a 17,686 square-foot, pie-shaped lot abutting single-family residences to the east and west and Victoria Elementary School to the north. Due to the property's configuration, the lot has two rear property lines (rear). The site presently contains a 1,034 square-foot, one-story, single-family residence with a one-car garage. With the rear of the site on a bluff, there is over a 10 foot difference in grade between the property and the school.
- On February 7, 2008, the Zoning Administrator approved zoning application ZA-08-01 for the following actions: 1) a minor conditional use permit for a garage and apartment above to be located within 10 feet (up to 0 feet proposed) of the bluff crest and a deck to extend 5 feet beyond the bluff crest; 2) a minor design review for the accessory apartment to contain a 100% second-to-first floor ratio; and 3) minor modifications are for a 12-foot (16 feet required) wide common driveway and 16-foot (20 feet required) rear yard setback. Since the encroachment was justified due to preservation of the bluff, a condition of approval was included prohibiting the filling of the bluff slope area.
- The Zoning Administrator approved the reduced building setback from the bluff crest because, as conditioned, the visual identity and integrity of the bluff would be preserved.
- The property owner proposes to amend condition of approval number 15 to allow the construction of a retaining wall in excess of 10 feet in height on his rear property line, filling the existing bluff to the height of the remainder of his lot. However, constructing the wall and filling the bluff would detract from the visual identity and integrity of the bluff especially since the neighboring properties have the same bluff configuration; the proposed configuration would not be consistent with the character of the neighborhood.
- The proposal would result in an approximately 10-foot grade increase at the rear of the property. This grade difference would be inconsistent with the immediately adjoining properties.
- The property is 17,686 square feet in size, approximately three times the minimum lot size required by the R1 (Single-Family Residential) zone. Therefore, no special circumstances exist to justify the request because the property's unusually large lot size should be more than adequate to accommodate both existing and proposed construction.

FINDINGS

- A. The information presented complies with Costa Mesa Municipal Code Section 13-29(2) and 13-34 in that the filling/raising of the bluff area will be detrimental to the health, safety, and general welfare of persons residing or working within the immediate vicinity of the project or to property and improvements within the neighborhood. Specifically, the filling/raising of the rear yard will result in a grade difference between the property and neighbors of approximately 10 feet. Additionally, the proposed elimination of the bluff slope is not compatible with the existing topography of the surrounding properties in the vicinity, detracting from the visual identity and integrity of the bluff. 23

- B. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed elimination of the bluff slope area is not compatible and harmonious with development both on-site as well as those on surrounding properties.
 2. The zoning application would establish a precedent for future development.
- C. The Costa Mesa Zoning Administrator has denied ZA-08-21. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.