

**REGULAR MEETING OF THE CITY OF  
COSTA MESA PLANNING COMMISSION**

**June 28, 2004**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., June 28, 2004 at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Garlich, followed by the Pledge of Allegiance to the Flag.

**ROLL CALL:**

Commissioners Present:

Chairman Bruce Garlich  
Vice Chair Bill Perkins  
Katrina Foley, and Eric Bever

Commissioner Absent:

Dennis DeMaio

Also Present: Perry L. Valantine, Secretary

Costa Mesa Planning Commission  
Marianne Milligan, Sr. Deputy City Attorney  
Fariba Fazeli, Senior Engineer  
Willa Bouwens-Killeen, Senior Planner  
Wendy Shih, Associate Planner

**MINUTES:**

The minutes for the meeting of June 14, 2004 were held over to the Planning Commission meeting of July 12, 2004.

**PUBLIC COMMENTS:**

Tim Lewis, 2050 Charle Street, Costa Mesa, stated that no improvements had yet been made at the Beacon Bay/Robbins project site and he was troubled because there has been no response from the Planning Division. He said immediate area businesses are adversely affected by the unkempt appearance of the site. Mr. Valantine reported that the Planning Division has an approved landscape plan for the property and he expects the landscaping to be installed over the next few of weeks. He said the planter area has been prepared on Charle Street, and the owners have also said they will repair or upgrade the screening along the fence.

Igal Israel, 2280 Newport Boulevard, Costa Mesa, announced that he is in litigation with the City and briefly expressed his opposing views. Commissioner Foley requested that Sr. Deputy Attorney Marianne Milligan provide a confidential update on the status of what the real issues are at the next study session.

Gary Brown, 2309 Westminster Avenue, Costa Mesa, stated his opposition to the recently approved Olson Company project and said the City, as a whole, needs less density.

**PLANNING COMMISSION  
COMMENTS/SUGGESTIONS:**

In response to a question from Commissioner Foley regarding consideration of the auto dealer standards, Mr. Valantine explained that City Council asked the Planning Division to look further into specific items which he expected to come forward to Planning Commission within the next 2 months. Commissioner Foley said she attended the community picnic hosted by the Human Relations Committee this weekend and she commended their efforts. She said the "free community opera" in the Pacific Amphitheater was a wonderful, well-attended event. She also invited the public to help out the Orange Coast College Summer Camp by going to the carwash on June 30<sup>th</sup> for a \$3 donation and have your car washed by youngsters.

Vice Chair Perkins thanked Police Officer Eugene Kim for a ride-along this past week and commended his efforts.

Chairman Garlich commented on the end of a yearlong celebration of the City's first fifty years, namely, "CostAmazing." He particularly thanked the Recreation staff for their hard work and efforts over the past year in making this program successful with a multitude of events in many venues, including making it available to as many

people as possible. He announced the final ceremony would be held on June 30<sup>th</sup>.

Chairman Garlich also wished his wife a happy 29<sup>th</sup> wedding anniversary.

**CONSENT CALENDAR:**

None.

**PUBLIC HEARINGS:**

PLANNING APPLICATION  
PA-04-15

Darkjian

The Chair opened the public hearing for consideration of Planning Application PA-04-15 for Bedros Darkjian, for a conditional use permit for a 1,484 sq. ft. car wash, in conjunction with a development review for a 2,905 square-foot auto repair building, located at 2015 Harbor Boulevard in a C1 zone. Environmental determination: exempt.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a brief presentation. She stated that staff is recommending approval by adoption of Planning Commission resolution, subject to conditions. In response to a question from the Chair regarding public communications, Ms. Shih said there had been no correspondence received for this application.

Bedros Darkjian, 52710 Canyon Road, Duarte, California, agreed to the conditions of approval including additional condition of approval #12.

No one else wished to speak.

MOTION:  
PA-04-15  
Recommend approval

A motion was made by Vice Chair Perkins, seconded by Chairman Garlich and carried 4-0 (DeMaio absent), to approve by adoption of Planning Commission Resolution PC-04-44, based on analysis and information in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following addition:

Conditions of Approval

- 12. Outdoor parking of vehicles overnight shall be permitted only within the parking spaces along the western and northern property lines.

PLANNING APPLICATION  
PA-04-20 AND TENTATIVE  
PARCEL MAP PM-04-173

Kerry Smith

The Chair opened the public hearing for consideration of Planning Application PA-04-20 and Tentative Parcel Map PM-04-173 for Kerry Smith, for a variance from minimum lot width requirements (100' required; 44.5' proposed) and lot area requirements (12,000 sq. ft. required; 4,539 sq. ft. proposed) to subdivide an existing lot into two parcels; with a minor conditional use permit for shared access between the two properties, located at 120 and 122 Monte Vista Avenue in an R2-MD zone. Environmental determination: exempt.

Senior Planner Willa Bouwens-Killeen reviewed the information in the staff report and gave a brief presentation. She stated that staff is recommending approval by adoption of Planning Commission resolution, subject to conditions. Ms. Bouwens-Killeen noted that Planning Division received two phone calls in favor of the request.

The Chair confirmed with Ms. Bouwens-Killeen that if the Planning Commission denies the parcel map, the units would become rentals, and if the map is approved, they could be sold as ownership units.

Kerry Smith, 2728 17<sup>th</sup> Street, Huntington Beach, agreed to the conditions of approval.

No one else wished to speak, and the Chair closed the public hearing.

MOTION:  
PA-04-20/PM-04-173  
Approved

A motion was made by Vice Chair Perkins, seconded by Commissioner Foley and carried 4-0 (Dennis DeMaio absent), to approve by adoption of Planning Commission Resolution PC-04-45, based on analysis and information in the Planning Division staff report, and

findings contained in exhibit "A", subject to conditions in exhibit "B."

CONDITIONAL USE PERMIT  
PA-04-21

Reinhart/Carlton

The Chair opened the public hearing for consideration of Conditional Use Permit PA-04-21 for Daniel C. Carlton, Attorney, authorized agent for Carl Reinhart/El Camino Partners, to modify an existing conditional use permit for a former gasoline service station to discontinue sales of gasoline to become solely an auto repair facility, located at 1045 El Camino Drive in an R2-MD zone. Environmental determination: exempt.

Commissioner Foley excused herself from this item due to a conflict of interest since her home is within 500 feet of the subject property.

Associate Planner Wendy Shih reviewed the information in the staff report and gave a brief presentation. She stated that staff is recommending approval by adoption of Planning Commission resolution, subject to conditions.

In response to an inquiry from the Chair regarding parked vehicles on the street possibly belonging to the subject business, Ms. Shih stated that staff had spoken with Code Enforcement, as well as the Police Department regarding concerns about vehicles parked on the street and whether they are related to the business; she said there was no evidence that the vehicles parked on the street are from this repair facility. In further response, she said they also conducted a noise level measurement study from across Mendoza Drive, Coronado Drive, and El Camino Drive and other directions with the service door open while the dynamometer was operating. The noise level was below 50 dBA, which is below what the City's noise ordinance allows for exterior residential noise levels.

In further response to the Chair regarding the proposed automotive service use, Ms. Shih confirmed that it operates the same as it has in the past including the dynamometer operation, but without the gas pumping and car wash.

The Chair confirmed with staff that conditions of approval #4 and #5 dealing with the landscape planter and closing of the driveways, are the obligation of the property owner(s), not the business owner. In further response to the Chair regarding contacting the owner(s), Ms. Shih stated that staff has made several attempts to call the property owners regarding these conditions, with no success.

Jack Sakzylan, the owner of "Your Neighborhood Service Station", 1045 El Camino Drive, Costa Mesa, agreed to the conditions of approval except condition of approval #14 having to do with keeping the door closed during testing, and condition of approval #5 having to do with landscaping. He said regulations would prohibit him from closing the door during testing and that landscaping was not affordable or anticipated. There was discussion between Vice Chair Perkins, Chairman Garlich and Mr. Valentine concerning these items. Mr. Valentine stated that condition of approval #14 could be removed because a noise level test was taken during testing and it was below the level set by the ordinance. Condition of approval #5 was included because at the time this use was approved (1964), there was gasoline dispensing as a part of that application. By removing the gasoline sales, the CUP was brought back for reconsideration of the conditions to determine their appropriateness for auto repair only, as opposed to in conjunction with gasoline sales. Mr. Valentine elaborated that the site design, as well as the operational conditions of approval, should be tailored to reflect the modified use. He said staff feels it is appropriate for the type of use being proposed at this site.

Mr. Sakzylan stated that complaints about cars on the street that were parked or towed, were not vehicles from his business or his custom-

ers. He said he has always tried to keep the parking lot clean and does not store or park “junky” vehicles outside, and, that no police officers have come by the business because someone complained.

Vice Chair Perkins asked if any of the owners of the property were present at the meeting. There were not.

The following persons: Igal Isreal, 2280 Newport Boulevard; Ed Urbina, 2838 Velasco Lane; Mark Hanlon, 2839 Velasco Lane; Joe Howard Gresham, 957 Sonora Road, Costa Mesa, made the following comments. They generally supported the application but some felt it should not be located in the center; some did not feel additional landscaping was necessary; it was also felt the business was being hassled by complaints regarding parking on the street, that the complaints were false and the residents who live at the north end of the property are the real problem because they not only park on the street, but double park so they are closer to their doorstep; most residents said they were happy with their long relationship with this business because the business provides a superior, honest service at a fair price. A comment was made indicating that many area businesses and residents count on this business for repair services. One speaker pointed out that there is also an auto dealer who works out of his home 2 doors down from the subject service station; he uses Coronado Drive on both sides to park and store his cars and the white van referred to previously, with a tow trailer behind it, belongs to him. He said City records will show that Code Enforcement and Police have cited him numerous times.

There were several Mesa del Mar Homeowners Association members (Terri Breer, 956 Magellan Street; Mike D’alessandro, 2784 Cibola Avenue; Michael Dilsisian, 2761 Lorenzo Avenue; Paul Kelly, 2736 Mendoza Drive; Lisa Reedy, 2747 San Carlos Lane; Maureen DeDeminico, 941 Coronado Drive, Costa Mesa), who made the following comments: Generally, they felt that the people living in this community have been significantly impacted by Council’s decision to rezone the area of this site to residential approximately 2+ years ago—they accepted that decision and looked forward to seeing housing on the site and believed the blighted shopping center would disappear with the new development. The developer who went before Council, and initiated the rezone, has yet to implement his plan to build those homes. He is now allowing another lease term for a tenant that was thought to be leaving when the lease expired. The ownership has not kept their word with either the City Council or the surrounding residents to improve this neighborhood with a planned residential development. As a result, they feel their property values are diminishing, and the property owners have refused to communicate with anyone, including the City. The majority of the Mesa del Mar homeowners complained about the proposed use and felt the City should step in and live up to the rezone they approved. Most agreed that this use will not be compatible with the developments in the general area because it is noxious, and approval of a new CUP would continue to delay the building of single-family homes. To leave the center as it is, would be a tremendous disservice to the community. Although some believed the applicant is a good business man, the appearance of the corner is an eyesore and not what they would like their community to look like.

During testimony by surrounding residents, the Chair said that staff’s finding of compatibility is intended to relay that “it is less use” than a service station use providing gasoline in terms of trips in and out of the business. He said he would personally like to see the homes built as well, but he is not able to compel that to happen.

In response to a question from the Chair regarding the denial of this application and what the owner could do under the authority of the existing conditional use permit (CUP), Mr. Valentine said the exist-

ing CUP has a condition that says approval is for a service station use only, which included both gasoline dispensing and auto repair. The tanks have been removed so gasoline dispensing has been discontinued. If the use permit is denied, discussions with the City Attorney's Office would be necessary, to determine what action the City could take. The Chair asked if the property owner could reinstall the gas tanks and car wash and continue under the CUP. Senior Deputy City Attorney Marianne Milligan explained that the use is considered right now, as a "legal nonconforming" use, and there may be issues as to whether he can continue those uses. She said she has conferred with Mr. Valentine and they believe that the proposed use is a less intensive use than that existing under the original CUP.

There was discussion between the Chair and Vice Chair regarding a continuance to allow the ownership of the property an opportunity to attend the next public hearing to speak to the issues.

There was discussion between the Chair, Vice Chair and Counsel concerning the allowable "nonconforming" uses under the CUP.

The Commission along with some of the speakers, and Counsel, discussed the absence of the ownership representation at this hearing. In response to a question from the Chair regarding either code enforcement and/or police records/responses to calls dealing with the applicant's business, Mr. Valentine stated that staff checked with those divisions, and although there have been some citations and vehicle tows from the area, they do not have any information that show a relationship to the service station or other businesses, or even residents. Further, he said they have not had the time to research the citations to assess that type of information.

In response to a question from the Chair regarding a continuance to have one or more of the property owners attend a public hearing and the ability to compel that to happen, Mr. Valentine said he did not know whether the Commission could compel that to happen, but they could strongly suggest that the application might fare better if they were present. He said staff has tried to reach the property owners by phone, but has not been successful, however, if this item is continued for 2 weeks, staff will have an opportunity to do that, both in writing and by telephone.

Katrina Foley, Mesa de Mar resident, Costa Mesa, speaking as a resident urged the Commission to deny the conditional use permit. She said this is a discretionary approval and is not "required" to be approved. She said this is a single-family residential neighborhood with some homes selling for more than \$800,000. She felt the auto repair is much more intense than it was 3 years ago and there will be no buffering of impact of the cars parked in the parking lot by the landscape strip. She didn't feel the request complies with the municipal code because it is not harmonious and compatible and would be detrimental to the health, safety and general welfare of the public, primarily because it is situated on a route to school, and it should be a safe and clean route. The use is not in conformance with the current general plan and by allowing the nonconforming use to continue, it would provide for a degree of nonconformity that would increase the use. It would also delay the ultimate rezone and rebuilding of that site to residential. In response to a question from Ms. Foley asking if the carwash goes away, and the conditional use permit is approved, would car washing be allowed on the premises. Mr. Valentine said no. She said she would like to add to the record, that on the weekend, there is car washing that occurs on the site in the parking lot. She also asked if watering down and/or cleaning the site is allowed so that it spills out into the gutter. Senior Engineer Fariba Fazeli stated that this is a violation of NPDES; they are not allowed to wash cars and drain it to the gutter. She said it has to go through filtration and, if reported to the City, they will be cited. She also

asked if the current signage had to be improved if the application is approved. Mr. Valentine explained that the sign ordinance has a time limit for the maintenance of signs that are inoperative. He said this is something staff could pursue. He said it could also be added as a condition. She said if a continuance is granted, she is requesting that the property owners be present because it is unknown whether Mr. Pratt is the owner. She said it is unfortunate that the auto center has been caught in the middle of what is really a property owner's failure to act in good faith with the neighbors and with the tenants.

Mr. Sakzylan returned to address the comments of previous speakers. He said those cars the speakers complained about being parked on the street do not belong to his business; he stated that cars are not being washed at this business as Katrina Foley had stated, however, they do have a mobile detailer that sometimes stops by and does detailing. He said if that is a violation, its something that can be removed. He felt her comments regarding the sign were well-founded and he would like to see the sign changed providing the CUP is approved.

MOTION:  
PA-04-21  
Continued

A motion was made by Vice Chair Perkins, seconded by Chairman Garlich and carried 3-0 (Katrina Foley abstained, Dennis DeMaio absent), to continue this item to the Planning Commission meeting of July 26, 2004.

During the motion, Chairman Garlich requested that staff and the City Attorney's Office provide feedback and options that the Commission can review to include unanswered legal questions, the sign issues, deletion of condition #14, mobile detailing, and hours of operation, etc.

Dan Milsteen, a Mesa Del Mar resident returned to the podium before the vote was taken and asked that Mr. Sakzylan be allowed to return to speak about his relationship with the owner. The Chair agreed.

Mr. Sakzylan said it seems many people are angry about the landlord because he changed the zoning to residential. He said this is not the business of the current small business owners (tenants). He said it is Mr. Pratt's error and the people want him to build those homes now. He said Mr. Pratt has actually extended his lease another 5 years. He said he feels he is basically between the landlord and the City.

Vice Chair Perkins confirmed with Sr. Deputy City Attorney Marianne Milligan that she would obtain past police records for the immediate and surrounding area. He said he is unwilling to proceed with the next hearing on this application if Mr. Pratt does not show up. He encouraged Mr. Sakzylan to speak with him regarding this matter, and assured him that he had no problem with the business and was sorry that he has been placed in such unfortunate circumstances.

There was a discussion between Commissioner Bever, the Chair and Mr. Valentine regarding conditioning the continuance. Mr. Valentine assured Commissioner Bever that the issues brought up this evening would be addressed in the next staff report.

Chairman Garlich stated that although Commissioner Foley will have to excuse herself throughout the hearings on this application, the Commission is missing another Commissioner and the nature of this issue is best served by having at least 4 of the 5 present.

There was discussion between the Chair, Mr. Valentine, Vice Chair Perkins and Commissioner Bever regarding the hearing date and the continuance of the business in the interim. The Chair called the question as shown above in the motion.

PLANNING APPLICATION  
PA-04-23

Planning Application PA-04-23 for Dan Judge, authorized agent for Trico Rents, for a personal fitness and rehabilitation center with a

Trico Rents/Judge minor conditional use permit to deviate from shared parking requirements due to unusual operational characteristics, located at 1637 Monrovia Avenue in an MG zone. Environmental determination: exempt.

Withdrawn: The applicant withdrew the application.

CONDITIONAL USE PERMIT  
PA-04-24

Islamic Educational Ctr/Ghiassi

Conditional Use Permit PA-04-24 for Mohammed Ghiassi, authorized agent for the Islamic Educational Center of Orange County, to expand the existing Islamic Educational Center by expanding the assembly (worship) area and to add an elementary school in two existing industrial buildings, located at 3194 Airport Loop Drive in an MP zone. Environmental determination: exempt.

MOTION  
ZA-04-15  
Continued

A motion was made by Chairman Garlich, seconded by Vice Chair Perkins and carried 4-0 (Dennis DeMaio absent), to continue this item to the Planning Commission meeting of July 12, 2004.

**REPORT OF THE DEVELOPMENT SVS. DEPARTMENT**

None.

**REPORT OF THE SENIOR DEPUTY CITY ATTORNEY**

None.

**ADJOURNMENT:**

There being no further business, Chairman Garlich adjourned the meeting at 8:00 p.m., to the study session of Tuesday, July 6, 2004.

Submitted by:

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PERRY L. VALANTINE, SECRETARY  
COSTA MESA PLANNING COMMISSION