

MINUTES
HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR
Room B-8 - Civic Center
2000 Main Street
Huntington Beach California

WEDNESDAY, DECEMBER 20, 2006 - 1:30 P.M.

ZONING ADMINISTRATOR: Herb Fauland, Acting Zoning Administrator

STAFF MEMBER: Tess Nguyen, Jeanie Cutler (recording secretary)

MINUTES: November 22, 2006
November 29, 2006

APPROVED AS SUBMITTED

ORAL COMMUNICATION: **NONE**

ITEM 1: CONDITIONAL USE PERMIT NO. 2006-039 (TAHMISIAN RESIDENCE)

APPLICANT: Mickey Mehalick, 525 Main Street #A, Huntington Beach, CA 92648

PROPERTY OWNER: Steve Tahmisian, 309 18th Street, Huntington Beach, CA 92648

REQUEST: To permit a) the construction of a 3,109 sq. ft., two-story, single-family residence exceeding 30 feet in height (34 ft. 9 in.) and b) a rooftop deck above the second story. This request includes a review and analysis for compliance with the Infill Lot Ordinance. The Infill Lot Ordinance encourages adjacent property owners to review proposed development for compatibility/privacy issues, such as window alignments, building pad height, and floor plan layout.

LOCATION: 714 14th Street (east side of 14th Street, north of Palm Avenue)

PROJECT PLANNER: Tess Nguyen

Tess Nguyen, Staff Planner, displayed project plans and stated the purpose, location, zoning, and existing uses of the requested project. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary emphasizing the suggested modifications to the plans.

Staff stated that neighboring residents, John Fick and Denise Druiff of 617 Crest Avenue, submitted a letter dated December 20, 2006, in opposition to the project. Staff stated that no other verbal comments were received in response to the public notification.

Staff stated the applicant had voiced his disagreement to the recommended conditions and wished to have an opportunity to present the line-of-sight drawings to illustrate that the conditions of approval are not necessary.

Staff recommended approval of the request based upon the suggested findings and subject to the suggested conditions as presented in the executive summary.

Herb Fauland, Acting Zoning Administrator, stated he received a copy of the above mentioned letter from John Frick and Denise Druiff of 617 Crest Avenue and noted their opposition to the project based upon incompatibility with the surrounding neighborhood. Mr. Fauland also noted that he requested staff research the area for two-story development similar to the proposed project and that he had also visited the area to view the existing character and architecture of the surrounding neighborhood.

THE PUBLIC HEARING WAS OPENED.

Mickey Mehalick, applicant, spoke in response to the above mentioned letter and stated his reasons for disagreement with the conditions. Mr. Mehalick felt the CUP description was misleading because the overall height does not exceed 35 ft. but the area between the stairway up to the roof deck is 34 ft. 6 in. He noted that the actual height of the predominant second story roof of the house is at 29 ft. 6 in. Mr. Mehalick presented the Zoning Administrator with the line-of-sight drawings to address the height and privacy issues. Mr. Mehalick stated that he had been advised that a 5 ft. solid guardrail was required but staff is recommending a 6 ft. guardrail. Mr. Mehalick requested a 4 ft. 6 in. solid guardrail be considered for the second level deck off the master bedroom. Discussion ensued regarding the line-of-sight, infill and landscaping.

Dr. Stephen Marquardt, 735 13th Street, neighboring property owner, spoke in opposition to the proposed project stating his concern with the 30 ft. height limit exception to the zoning code. Dr. Marquardt voiced his concern with setting a precedent in the Wesley Park area, and therefore urged the Zoning Administrator's denial of the project.

Robert Schmeski, 739 13th Street, neighboring property owner, spoke in opposition to the proposed project stating the 30 ft. height limit should be maintained and urged the Zoning Administrator's denial of the project.

John Fick, 617 Crest Avenue, neighboring property owner, spoke in opposition to the proposed project stating his concerns as outlined in his letter of December 20, 2006. Mr. Fick also expressed concern regarding obstruction of views and setting a precedent and urged the Zoning Administrator's denial.

Holly Kruger, 706 14th Street, neighboring property owner, spoke in opposition to the proposed project and voiced her agreement with previous comments and the need to maintain the character of the Wesley Park neighborhood. Her primary concern was the 37 ft. lot width as opposed to the 50 ft. standard lot width. The narrow lot width for a two story building tends to give a narrower appearance.

Denise Druiff, 617 Crest Avenue, neighboring property owner, spoke in opposition to the project and voiced her concerns related to setting a precedent for third-story rooftop decks and the privacy issues, blocking sunlight and incompatibility with the area of Palm Avenue. She urged the Zoning Administrator's denial.

Dr. Stephen Marquardt, 735 13th Street, property owner, restated his opposition to the project and his concern about changing the rules for the roof-line and his contention that a roof-top deck would be incompatible with the surrounding neighborhood. Dr. Marquardt stated there

were no second story roof top decks in the Wesley Park neighborhood and voiced his concern with changing the rules and setting a precedent, and therefore urged the Zoning Administrator's denial of the second story deck.

John Fick, 617 Crest Avenue, property owner, restated his opposition and questioned the need for a rooftop deck. He stated that other neighbors who were not able to attend the meeting were opposed to the project and urged the Zoning Administrator's denial of the project.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Mr. Mehalick cited two Conditional Use Permits with similar design issues (CUP 2003-016 on 13th Street and CUP 2002-019 on 11th Street) which had been approved. The applicant stated he had looked at these and re-designed the deck to meet the City requirements.

Mr. Fauland questioned the applicant on the need for a deck on the third level. Mr. Mehalick responded that his client wished to have the deck for more sunlight. Mr. Fauland stated his concern is with compliance with the City's infill lot ordinance and concerns relating to privacy. Staff stated that there had been no inquiries and confirmed that the project complies with requirements of the infill lot ordinance.

Mr. Fauland asked staff the reason for different height guardrails on the second story and rooftop deck. Staff explained that the recommended conditions of approval are to prevent someone from looking into the adjacent property owner's windows

Mr. Mehalick stated he was surprised by the six foot deck requirement for the guardrail off the master bedroom because the deck complies with code. Mr. Mehalick stated the landscaping in the courtyard is to provide his client with a private yard to enjoy off the deck. The applicant stated that he was not opposed to a condition for mature trees within the courtyard.

Mr. Fauland confirmed that the two adjacent property owners were not in attendance.

Mr. Fauland stated that he had researched the neighborhood and had been provided with an exhibit of two story construction in the area. Mr. Fauland stated he was very familiar with the area and of the City's efforts to establish a conservation district for the Wesley Park area.

Mr. Fauland stated that with regard to the lot size, staff researched the history of how this lot was configured and determined that it was in compliance with the City's zoning ordinance at the time; therefore it is considered to be a legal building site. Mr. Fauland noted while driving around the neighborhood, an eclectic variety of housing styles and building sizes are present, with one, two and even three stories in the area. Mr. Fauland stated that the proposed home is in compliance with the zoning ordinance and does not ask for any variances to the zoning requirements, and as conditioned, complies with the intent of the infill lot ordinance. Mr. Fauland stated that the privacy issues had been taken into account and neither adjacent property owner had appeared today to voice their concerns.

The Zoning Administrator stated he was willing to review the need for maintaining the privacy of the adjacent property owners and the ability to have an amenity that would function properly. Therefore, he would be willing to look at a guardrail, on both decks, at a maximum height of 5 feet. Mr. Fauland stated that it was important to make sure the aspects of privacy and function be addressed to the fullest extent possible and that the five foot solid guardrail on both decks could achieve that.

In addition, Mr. Fauland stated he would include Mr. Mehalick's suggestions regarding the landscaping that is depicted on the line of sight plans and would add a condition that a minimum of five mature trees be planted in the general location as depicted on sheet # A8 of the plans.

Mr. Fauland stated that he was going to approve Conditional Use Permit 2006-039 with the suggested findings along with the suggested conditions of approval recommended by staff, with the addition of condition number 1.c with regards to the planting of the trees.

CONDITIONAL USE PERMIT NO. 2006-039 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND MODIFIED CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15303 of the CEQA Guidelines, because the project consists of the construction of a single-family residence in a residential zone.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2006-039

1. Conditional Use Permit No. 2006-039 for the construction of a 3,109 sq. ft., two-story, single-family residence with a maximum height of 34 ft. 9 in. and a rooftop deck above the second story will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The rooftop deck above the second story is setback five feet from the building exterior and is not visible from the surrounding properties. A five-foot high solid guardrail on the north and south sides of the deck is required as a condition of approval in order to maintain the privacy of the surrounding residences.
2. The conditional use permit will be compatible with surrounding uses consisting of single-family homes because the two-story residence is designed to be comparable to other two-story homes in the vicinity. The home is designed as a two-story residence with the rooftop deck above the second story which is within the height and setback limitations identified in the Zoning Code. The rooftop deck is setback five feet from the building exterior to insure privacy for adjacent properties.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The project complies with the maximum building height, maximum lot coverage, and minimum building setbacks. Rooftop decks above the second story are allowed in the base-zoning district with approval of a conditional use permit.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of RL-7 (Low Density Residential – 7 units per acre) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:
 - a. LU 9.2.1b: Use of building heights, grade elevations, orientation, and bulk that are compatible with the surrounding development;

- b. LU 9.2.1d: Maintenance of privacy on abutting residences.

The development will comply with maximum building height permitted in the RL zone. The proposed rooftop deck above the second story will be setback five feet from the building exterior as required by the HBZSO, thus minimizing the building massing. The privacy of the abutting residences will be maintained in that the rooftop deck will have a five-foot high solid guardrail on the north and south elevations.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2006-039

1. The site plan, floor plans, and elevations received and dated November 20, 2006 shall be the conceptually approved design with the following modifications:
 - a. A five-foot high solid guardrail shall be constructed along the southerly and westerly sides of the second story deck off of the master bedroom.
 - b. A five-foot high solid guardrail shall be constructed along the northerly and southerly sides of the rooftop deck above the second story.
 - c. Five mature trees shall be planted along the southern property line in the courtyard area as shown on page A8 (Line of Sight Diagram).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

THE MEETING WAS ADJOURNED AT 2:20PM BY THE ZONING ADMINISTRATOR TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR ON WEDNESDAY, DECEMBER 27, 2006 AT 1:30 PM.

Herb Fauland
Acting Zoning Administrator

HF:jc