

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA TO UPHOLD THE PLANNING COMMISSION'S DECISION AND APPROVE PLANNING APPLICATION PA-14-41 FOR ESTABLISHMENT OF AN OUTDOOR FARMERS MARKET AT 183 E. BAY STREET (ST. JOHN THE DIVINE EPISCOPAL CHURCH)

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by The Reverend Paul DeVaul, Rector, representing the Bishop the Episcopal Church of Los Angeles for the Saint John the Divine Episcopal Church located at 183 E. Bay Street, requesting approval of the following:

A Conditional Use Permit for the operation of a farmers market at an existing church (St. John the Divine Episcopal Church) from 9:00 a.m. to 3:00 p.m. on Saturday mornings. The parking lot area would be reconfigured and enlarged into the front lawn area, which is approximately 17,000 square feet, to add 34 more parking spaces. On farmers market days, a maximum of 15 vendor stalls would be located in the new parking area;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on June 8, 2015, with all persons provided an opportunity to speak for and against the proposed project;

WHEREAS, the Planning Commission, based on the evidence and testimony presented during the hearing, voted to approve the project by a 3-1-1 vote (Ayes: Chair Dickson, Vice-Chair Mathews, Commissioner McCarthy; Nay: Commissioner Andranian; Recused: Commissioner Sesler);

WHEREAS, on June 12, 2015, an appeal of the decision of the Planning Commission's approval of the project was filed by Carrie Renfro;

WHEREAS, a duly noticed public hearing was held by the City Council on August 4, 2015 with all persons having the opportunity to speak for and against the proposal.

WHEREAS, the project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15311 for Accessory Structures. Class 11 consists of construction, or placement of minor structures accessory to existing facilities, including but not limited to placement of temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in facilities designed for public use.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA FINDS AND RESOLVES AS FOLLOWS:

BE IT RESOLVED, that based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibits B, the City Council **UPHOLDS** the Planning Commission's decision and hereby **APPROVES** Planning Application PA-14-41 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Planning Application PA-14-41 and upon the applicant's compliance with each and all of the conditions in Exhibits B, and 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.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

The City Clerk shall attest to the adoption of this resolution and shall forward a copy to the applicant, and any person requesting the same.

EXHIBIT A

FINDINGS (APPROVAL)

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the conditional use permit because:

Finding: The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

Facts in Support of Finding: The site is located in a residential area characterized by variety of single-family and multiple-family residential uses. Complementary uses are permitted in the PRD-HD zone provided that adequate parking exists to support the use and there are no land use incompatibility issues. The proposed farmers market is a use that can operate in harmony with the existing Church during their non-operating hours on Saturdays and is compatible with the surrounding residential uses. The location of the farmers market would be along a visible collector street with ample parking but also readily accessible via alternate modes of transportation, including walking, biking and a transit line. The farmers market provides a venue for exchange of goods while educating the public about the benefits of locally sourced products.

Finding: Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Facts in Support of Finding: The farmers market would take place on Saturdays when no other church activities are being held. Since the farmers market would take place during regular daytime hours, no additional lighting would be necessary. The Planning Commission has required through a condition of approval, a maximum of 15 vendors that offer only farm products and value added farm products and restricted amplified or live music, as well as sales of alcoholic beverages. Church restroom facilities would be available for vendors and patrons. Based on a parking ratio of two parking spaces per vendor booth, 30 parking spaces are required. A minimum of 46 on-site customer parking spaces and 30 vendor parking spaces would be provided. The Planning Commission has required parking attendants to direct traffic and an on-site manager to prevent spill over parking onto the adjacent streets and in front of neighboring residents, specifically along E. Bay Street.

Required Finding: Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

Facts in Support of Finding: Although the property is designated as High Density Residential in the Land Use Element, nonresidential uses are allowed in the Planned Development Residential – High Density zone, subject to the maximum for Floor Area Ratio of the Neighborhood Commercial General Plan land use designation. Since the primary use of the site is a church and no additional facilities are proposed at this time, the existing total building area remains unchanged. The Planned Development Residential High Density designation of the site encourages the incorporation of complementary uses that are supportive of and in harmony with the allowed residential uses. The Planning Commission has determined that, as conditioned, the farmers market conducted within the Church parking lot would be an amenity for the nearby resident and senior citizens living in the abutting residential complex.

- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15311 for Accessory Structures. Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing institutional facilities, including but not limited to: (a) On-premise signs; (b) Small parking lots; and/or (c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in facilities designed for public use.
- C. 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

- Plng. 1. The use shall be limited to the type of operation described in the staff report, subject to conditions. Any change in the operational characteristics including, but not limited to, type of service provided, hours of operation, number of patrons, size of the restaurant/event venue, and lease terms for off-site parking, shall be subject to Planning Division review and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
2. 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.
 3. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance
 4. A minimum of 14 trees shall be provided on site, half of which shall be 24-inch box *Agonis flexuosa* trees.
 5. The applicant shall install a low wall or hedge along Bay Street frontage to minimize light and glare to neighboring properties.
 6. Farmers Market hours shall not coincide with any other operations of the church property for assembly use, classrooms, dance halls, or other events so that the available parking shall be strictly provided to the Farmer's Market.
 7. A minimum of two parking spaces per booth shall be provided; one parking space per vendor and one space for customers.
 8. If parking shortages or other parking-related problems arise on- or off-site, the applicant or operator shall institute whatever operational measures are necessary to minimize or eliminate the problem, including, but not limited to, revision of operating hours, reduction of the vendor area, under the direction of the Planning Division.
 9. Hours of operation shall be during a window between 10:00 a.m. and 2:00 p.m. Commencement of market operations including but not limited to vendor set up, shall begin no earlier than 9:00 a.m. and take-down shall end no later than 3:00 p.m.
 10. Motor vehicles shall not be allowed to idle in the parking lot during set up or breakdown of the farmers market.
 11. Amplified sound and/or use of outdoor speakers shall be prohibited during operations of the farmers market.
 12. A Farmers Market Manager shall be present during all hours of operation who shall direct the operations of all vendors participating in the market

- and verify that the requisite number of individual booth are operated by local, independent and small-scale farmers and artisans.
13. The Farmers Market manager shall obtain and have on site all operating and health permits during the hours of operation.
 14. The name and contact information of each vendor shall be prominently displayed at their booth.
 15. The vendors shall be dedicated to the sale of farm products such as fruits, vegetables, nuts, herbs, eggs, honey, livestock food products (meat, milk, cheese, etc.), or flowers and value added farm products such as baked goods, jams, and jellies. Sale of alcoholic beverages and non-food related items (unless otherwise previously specified) shall be prohibited.
 16. Access to adequate sanitary facilities, including restrooms, shall be provided.
 17. A minimum of 42 percent of the total lot area (both the Church and St. John Manor parcels) shall be provided as required open space, per the development standards of the PRD-HD zone.
 18. The applicant shall maintain free of litter all areas of the premises under which applicant has control The farmers market manager shall provide containers for recycling, composting and waste removal in accordance with all applicable codes. Refuse not contained within the trash enclosure shall be removed from the property at the close of the farmers market.
 19. The conditions of approval and Code requirements of Planning Application PA-14-41 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 20. The use shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 21. The applicant shall provide attendants to direct customers to the parking lot to ensure that street parking is minimized and shall post temporary signs to discourage customers from parking along the north side of Bay Street.
 22. A maximum of six portable signs may be posted during farmers market time periods on Friday, Saturday, and Sunday. All portable signs shall be removed at the close of the day of the Farmers Market.
 23. A-frame signs shall be located on private property and not within the City's parkway or public right-of-way.
 24. The application shall install bicycle racks prior to the opening of the farmers market for full operations.
 25. Applicant/operator shall promote the use of eco-friendly / reusable bags as opposed to plastic bags to the extent possible. For example, natural fiber bags may be offered for sale at the Farmer's Market to promote their use and minimize the need for plastic bags.
 26. The applicant shall not commence operations of the farmers market until the Transportation Division completes a study to determine if an all-way stop and addition of a new crosswalk across Orange Avenue are

warranted.

27. Within 60 days of commencement of the farmers market, or full operation of eight market events, whichever comes first, the applicant shall provide a letter report to the City indicating how resident concerns (as applicable), including but not limited to the residents of the St. John's Manor senior housing complex, were resolved and how parking issues were managed to the Development Services Director for review and approval.
28. The applicant shall submit an emergency access plan approved by the Fire Chief to ensure that direct access for emergency fire response/paramedic vehicles to St. John's Manor remains unrestricted at all times.
29. The City grants this conditional use permit for a period of two (2) years from effective date of the approval, June 15, 2015 to June 15, 2017. On June 15, 2017, the approvals set forth herein shall have no further force or effect nor shall it require additional notice and/or hearing to terminate. Any operation beyond this period shall require a new application for conditional use permit.

CODE REQUIREMENTS

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. Approval of the planning application is valid for one (1) year from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) obtains building permits for the authorized construction and initiates construction; and/or 2) obtains a business license and/or legally establishes the business. If the applicant is unable to establish the use/obtain building permits within the one-year time period, the applicant may request an extension of time. The Planning Division must receive a written request for the time extension prior to the expiration of the planning application.
2. Once the use is legally established, the planning application herein approved shall be valid until revoked. The Development Services Director or his/her designee may refer the planning application to the Planning Commission for modification or revocation at any time if, in his opinion, any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.
3. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
4. Street addresses shall be displayed on the freestanding sign or, if there is no freestanding sign, on the fascia or store front adjacent to the main entrance of the building, in a manner visible to the public street. Numerals shall be a minimum 12" in height with not less than 3/4" stroke and shall contrast sharply with the background.
5. A business license shall be obtained prior to the initiation of the business approved under this application.
6. All noise-generating construction activities shall be limited to 7 a.m. to 7 p.m. Monday through Friday and 9 a.m. to 6 p.m. Saturday. Noise-generating construction activities shall be prohibited on Sunday and the following Federal holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
7. Two (2) sets of detailed landscape and irrigation plans, which meet the requirements set forth in Costa Mesa Municipal Code Sections 13-101 through 13-108, 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. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
- Parks 8. Street trees in the front setback shall meet with the approval of the parks and parkways division. Street trees shall be Arbutus 'Marina', 15-gallon minimum size, spaced at 30' on center along East Bay Street and Pyrus Pkwys.

- calleryana 'Chanticleer' 15-gallon minimum size, spaced at 30' on center along Orange Avenue.
- Bldg. 9. Comply with the requirements of the 2013 California Building Code, 2013 California Electrical Code, 2013 California Energy Code (or the applicable adopted California Building Code, California Electrical Code, and California Energy Code at the time of plan submittal or permit issuance), and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa.
10. Provide a plan to the County of Orange Health Dept. for review and approval.
- WQMP 11. Prior to or concurrent with submittal of plans for grading/building plan check/submittal of the final subdivision map for engineering plan check, applicant shall prepare and submit documentation for compliance with the state Water Resources Control Board (SWRCB) Water quality Order 99-08-DWQ; National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000002 for Storm Water Discharges Associated with Construction Activity (General Permit); the California Regional Water Quality Control Board (RWQCB) Santa Ana Region Order No. R8-2002-0010 and NPDES Permit No. CAS618030; and the City of Costa mesa Ordinance No. 97-20 for compliance with NPDES Permit for the City of Costa mesa. Such documentation shall include a Storm Water Pollution Prevention Plan if over 1 acre and a Water Quality Management Plan (WQMP) identifying and detailing the implementation of the applicable Best Management Practices (BMPs).

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- AQMD 1. Applicant shall contact the Air Quality Management District (AQMD) at (800) 288-7664 for potential additional conditions of development or for additional permits required by AQMD.
- CDFA 2. Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants exist on the property prior to any soil movement or excavation. Call CDFA at (714) 708-1910 for information.

RESOLUTION NO. 15-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA REVERSING THE PLANNING COMMISSION'S APPROVAL OF PLANNING APPLICATION PA-14-41 FOR ESTABLISHMENT OF AN OUTDOOR FARMERS MARKET AT 183 E. BAY STREET (ST. JOHN THE DIVINE EPISCOPAL CHURCH)

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by The Reverend Paul DeVaul, Rector, representing the Bishop the Episcopal Church of Los Angeles for the Saint John the Divine Episcopal Church located at 183 E. Bay Street, requesting approval of the following: A Conditional Use Permit for the operation of a farmers market at an existing church (St. John the Divine Episcopal Church) from 9:00 a.m. to 3:00 p.m. on Saturday mornings. The parking lot area would be reconfigured and enlarged into the front lawn area, which is approximately 17,000 square feet, to add 34 more parking spaces. On farmers market days, a maximum of 15 vendor stalls would be located in the new parking area;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on June 8, 2015, with all persons provided an opportunity to speak for and against the proposed project;

WHEREAS, the Planning Commission, based on the evidence and testimony presented during the hearing, voted to approve the project by a 3-1-1 vote (Ayes: Chair Dickson, Vice-Chair Mathews, Commissioner, McCarthy; Nay: Commissioner Andranian; Recused: Commissioner Sesler);

WHEREAS, on June 12, 2015, an appeal of the decision of the Planning Commission's approval of the project was filed by Carrie Renfro;

WHEREAS, a duly noticed public hearing was held by the City Council on August 4, 2015 with all persons having the opportunity to speak for and against the proposal.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA FINDS AND RESOLVES AS FOLLOWS:

BE IT RESOLVED, therefore, that based on the evidence in the record and the findings contained in this resolution, the City Council hereby reverses the approval of the Planning Commission and **DENIES** PA-14-41 with respect to the property described above.

The City Clerk shall attest to the adoption of this resolution and shall forward a copy to the applicant, and any person requesting the same.

PASSED AND ADOPTED on this 4th day of August, 2015.

STEPHEN M. MENSINGER
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

CITY CLERK OF THE
CITY OF COSTA MESA

CITY ATTORNEY

EXHIBIT A

FINDINGS (DENIAL)

- A. The requested conditional use permit does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) because:

Finding: The proposed development is not compatible with developments in the same general area and would be materially detrimental to other properties within the area.

Finding: Granting the conditional use permit will be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Finding: 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.

- B. The Costa Mesa City Council has denied Planning Application PA-14-41. 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.
- C. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.