

UNOFFICIAL UNTIL APPROVED

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION****December 14, 2015**

These meeting minutes represent an "action minute" format with a concise summary of the meeting. A video of the meeting may be viewed on the City's website at www.costamesaca.gov or purchased on DVD upon request.

Commissioner McCarthy led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Robert Dickson
Vice-Chair Jeff Mathews
Commissioner Colin McCarthy
Commissioner Tim Sesler
Commissioner Stephan Andranian

Staff: Claire Flynn, Assistant Development Services Director
Yolanda Summerhill, Planning Commission Counsel
Tarquin Preziosi, Planning Commission Counsel
Fariba Fazeli, City Engineer
Mino Ashabi, Principal Planner
Dan Inloes, Associate Planner
Ryan Loomis, Associate Planner
Chelsea Crager, Assistant Planner
Julie Colgan, Recording Secretary

PUBLIC COMMENTS

Chair Dickson announced that one person had to leave because of an ADA compliance issue and he will reopen public comments when they return.

Costa Mesa resident announced several dates and locations that proponents of the Smart Growth Initiative will be collecting signatures to place on the November 2016 ballot.

Chair closed the public comments.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS

Commissioner Sesler wished everyone a Merry Christmas and happy holiday.

Commissioner McCarthy wished everyone a happy holiday season and encouraged everyone to attend the City's free Snoopy House event.

Vice Chair Mathews wished everyone a Merry Christmas and happy New Year.

Chair Dickson stated how great the City's Snoopy House event is and wished everyone a happy holiday.

CONSENT CALENDAR

Chair Dickson asked if anyone wanted to pull the Consent Calendar item. No one responded.

1. Minutes for the meeting of November 23, 2015

**MOTION: Approve Consent Calendar Item number 1
Moved by Commissioner McCarthy, seconded by Commissioner Sesler.**

The motion carried by the following roll call vote:

Ayes: Dickson, Mathews, McCarthy, Sesler, Andranian
Noes: None
Absent: None
Abstained: None

PUBLIC HEARINGS

1. **Application No.:** TT-17972
Applicant: Bob Smith
Site Address: 410 Walnut Place
Zone: R1
Project Planner: Chelsea Crager
Environmental Determination:

The project is categorically exempt under Section 15332 of the State CEQA (California Environmental Quality Act Guidelines – Class 32 (In-Fill Development Projects)).

Description: Tentative Tract Map TT-17972 for the subdivision of a 0.746-acre lot into 5 (five) R1 zoned lots (minimum 6,000 sq. ft.) in accordance with the R1 zone development standards. No code deviations are requested. The proposed lot sizes are as follows:

- Lot 1: 58.58 FT x 102.43 FT (6,000 SF)
- Lot 2: 58.58 FT x 102.43 FT (6,000 SF)
- Lot 3: 58.58 FT x 102.43 FT (6,000 SF)
- Lot 4: 82.57 FT x 87.87 FT (7,255 SF)
- Lot 5: 82.57 FT x 87.87 FT (7,255 SF)

Note: This application involves the subdivision of the property; a residential development is not being proposed at this time.

Chelsea Crager, Assistant Planner, presented the staff report and noted a change to Condition of Approval No. 15 in the City's Engineer letter.

Commissioner McCarthy asked for clarification of what the Commissioners are approving. Ms. Crager responded that the project will need to meet the findings in the staff report.

Vice Chair Mathews asked if the General Plan had findings for the compatibility character of the neighborhood. Ms. Crager responded the General Plan does not, but the zoning code does. The compatibility is not a requirement when approving the tract map.

PUBLIC COMMENTS

Rob Hamers, applicant, has read the conditions of approval and does not agree with Condition of Approval No. 2 and No. 8.

Commissioner Andranian asked if there was ever an agreement or representation made to neighbors that the lots would only be divided into four. Bob Smith, owner, responded no.

Commissioner McCarthy asked for the applicant's response to the public comment letters regarding the compatibility issue. Mr. Hamers stated that the project compatibility meets the City standards.

Commissioner Sesler asked for clarification with what specifically the applicant does not agree with in the City's Engineer letter. Mr. Hamers responded requiring the soil report and time of payment for the storm drain fees during the submittal process.

Dennis Pender, Costa Mesa resident, stated concerns with the fence lines, landscape, irrigation, run off and the conformity of the neighborhood.

Gary Blockburger, Costa Mesa resident, stated concerns with the sewer line, sidewalks, curbs matching the current curbs and the conformity of the neighborhood

Ryan Fischer, Costa Mesa resident, stated concerns with affecting the density of the neighborhood, traffic and keeping the conduciveness of the neighborhood.

Patrick Fenn, Costa Mesa resident, stated concerns with keeping the consistency of the lot sizes, sewer accessibility, power line easement and the curbsides.

Louis Shapiro, Costa Mesa resident, stated concerns with the density, keeping the peaceful neighborhood and parking.

David Williams, Costa Mesa resident, stated concerns with the density, trash collection, street sweeping and parking.

Catherine Weiss, Costa Mesa resident, stated how great the neighbors are and concerns with the traffic.

William Donnell, Costa Mesa resident, stated concerns with prohibiting the property owner to develop what they are entitled to.

A Costa Mesa resident stated concerns with the future development of the lots.

Rachel and Riley Gore, Costa Mesa residents, spoke against the application.

Blake Pender, Costa Mesa resident, spoke against the application.

Rob Vandervort, Costa Mesa resident, spoke against the application.

Jay Humphrey, Costa Mesa resident, stated concerns with changing the character and quality of the neighborhood.

Mr. Hamers and Mr. Smith responded the public comments.

The Chair closed the public hearing.

Commissioner Andranian asked what about the discretion of the Commissioners in approving the project. Yolanda Summerhill, Planning Commission Counsel, responded it would depend upon the facts based on the physical suitability of the property, if it does not lend itself to the density that is being proposed.

Commissioner Andranian stated concerns with changing the character of the neighborhood and the parking impact.

Chair Dickson asked for clarification when denying the project if it is based on physical suitability not statutory suitability. Ms. Summerhill responded physical suitability. It is decided on a case by case basis.

Ms. Flynn stated there is subjectivity when approving or denying this application and it is based on consistency with the General Plan.

Commissioner McCarthy stated concerns with the project having a compatibility issue with the General Plan.

Ms. Flynn indicated that a finding of denial could be based on inconsistency with General Plan Objective LU-1C.

Commissioner Sesler stated being in favor of the application.

Vice Chair Mathews stated four lots are better for the neighborhood.

Chair Dickson stated it is fair to apply the subject standard to the application.

Commissioners discussed if the application is compatible with the neighborhood.

MOTION: Hereby move that the Planning Commission deny Tentative Tract Map TT-17972 for a five lot single family residential subdivision at 410 Walnut Place in the R1 zone without prejudice based on the findings set forth in Exhibit A with the following modifications:

FINDINGS (DENIAL) A. to read: “The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(g)(13) because:

The creation of the subdivision and related improvements is not consistent with the General Plan and the Zoning Code.

The proposed use of the subdivision is not compatible with the General Plan, specifically, General Plan Objective LU-1C.”

Moved by Commissioner McCarthy, second by Commissioner Andranian.

RESOLUTION 15-68 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DENYING TENTATIVE TRACT MAP TT-17972 FOR PROPERTY AT 410 WALNUT PLACE IN THE R1 ZONE

The motion carried by the following roll call vote:

Ayes: Dickson, Mathews, McCarthy, Andranian

Noes: Sesler

Absent: None

Abstained: None

The Chair explained the appeal process.

The Chair reopened the public comments.

A Costa Mesa resident thanked Commissioner Andranian for listening to the residents.

The Chair asked if anyone else wanted to speak for public comments. No one responded.

The Chair closed public comments.

2. **Application No.:** PA-15-39 & PM-2015-170
Applicant: Joe Kaneko / Windmill Investment LLC
Site Address: 217 Cabrillo Street
Zone: R2-MD
Project Planner: Dan Inloes

Environmental Determination:

The project is categorically exempt under Section 15303 of the State CEQA (California Environmental Quality Act) Guidelines – Class 3 (New Construction).

Description: Design review for the demolition of an existing 1300 square-foot single story residence and construction of two new 2-story condominium units in the R2-MD zone. The 4-bedroom units are proposed at 1,108 square feet, and include an attached two-car garage for each unit. In addition, the project includes a tentative parcel map, PM-2015-170, to facilitate the subdivision of the building to allow the units to be sold independent from one another.

Dan Inloes, Associate Planner, presented the staff report and stated the applicant is not in agreement with requiring a block wall in Condition of Approval No. 5. They would like a wood fence instead.

Commissioner Sesler asked if in the conditions of approval for the annual certification that the garages are being used for parking is included. Mr. Inloes responded no but it could be added.

Commissioner McCarthy stated concerns with the front of the houses facing an alley and asked if there were any policies regarding it. Ms. Flynn responded no. He also asked Fariba Fazeli, City Engineer, if engineering would have a problem with the infrastructure for a house being built on an alley versus a street. Ms. Fazeli responded no.

PUBLIC COMMENTS

Chair Dickson asked the applicant why they choose to have the front of the houses facing the alley.

Gavin Sermon, authorized agent for Windmill Investment LLC gave examples of other houses in the City that face the front of alleys, addressed overflow parking concerns from the November 23rd Planning Commission meeting, and went over the efforts they made to get the project approved.

Joe Kaneko, applicant, wished everyone a Merry Christmas and happy New Year.

Alison Aguon, Costa Mesa resident, stated concerns with the location of the garbage cans.

Chair Dickson asked Ms. Augon if she is ok with the revisions of the applications. Ms. Augon responded yes.

Jay Humphrey, Costa Mesa resident, stated concerns with setting a precedence with the front of houses facing alleys and accessibility to the front of the house in an emergency.

A Costa Mesa resident stated concerns with the proposed project being surrounded by sober living homes, setting a precedence with houses facing the front of alleys and parking.

Richard Russell, Costa Mesa resident, stated concerns with setting a precedence having the front of the houses facing an alley and the design of the project.

Mr. Sermon responded to the public comments.

The Chair closed the public hearing.

Commissioner McCarthy asked if a residential use next to a commercial use could affect the expansion of the commercial property.

Commissioner Andranian stated being opposed to the project based on the potential of of precedence be set for houses facing alleys instead of streets and this creating a non-traditional home feel.

Commissioner Sesler and Chair Dickson stated being in support of the project.

Commissioners discussed the application in length and whether to approve a project where the front of the residence faces an alley.

MOTION: Move that based on the evidence in the record and the findings contained in Exhibit A and subject to conditions of approval contained within Exhibit B, that the Planning Commission hereby approves Planning Application PA-15-39 and Tentative Parcel Map 2015-170 and that the Planning Commission find that it is exempt from the provisions of the California Environmental Quality Act under guidelines section 15303 and 15315 with the following modification:

Condition of Approval No. 4 to read: "The Homeowner's Association or Maintenance Association shall submit a signed affidavit to the City of Costa Mesa on an annual basis to certify the following:

- a. The two-car garages in the residential community are being used for vehicle parking by the resident(s).**
- b. The vehicle parking areas within the garage are not obstructed by storage items, including but not limited to, toys, clothing, tools, boxes, equipment, etc.**
- c. The resident(s) have consented to voluntary inspections of the garage to verify the parking availability, as needed.**

The form and content of the affidavit shall be provided by the City Attorney's office. Failure to file the annual affidavit is considered a violation of this condition."

Moved by Chair Dickson, seconded by Commissioner Sesler

RESOLUTION 15-69 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-15-39 AND TENTATIVE PARCEL MAP 2015-170 AT 217 CABRILLO STREET IN THE R2-MD ZONE

The motion carried by the following roll call vote:

Ayes: Dickson, Mathews, Sesler
Noes: McCarthy, Andranian
Absent: None
Abstained: None

The Chair explained the appeal process.

Commissioner McCarthy asked staff to prepare a memo on alleys.

- 3. Application No.:** CO-15-06
- Applicant:** City of Costa Mesa
- Site Address:** Citywide
- Project Planner:** Minoo Ashabi

Environmental Determination:

This project is exempt under Section 15061 (b) (3) (general rule) of the CEQA Guidelines

Description: The Costa Mesa Planning Commission will hold a public hearing to consider Code Amendment CO-15-06 to amend Title 13 of the Costa Mesa Municipal Code as follows:

- Chapter 1, adding new definitions related to marijuana and/or medical marijuana cultivation and related enforcement.
- Chapter IV, adding cultivation of marijuana and/or medical marijuana as a prohibited use in all zoning districts
- Chapter IX, adding Article 20 with specific regulations related to medical marijuana and/or marijuana cultivation.

The new state laws continue to recognize the power of local governments to regulate marijuana cultivation. However, under AB 243, the State Department of Food and Agriculture will establish a ‘Medical Cannabis Cultivation Program,’ which will be administered by the Department’s secretary unless the City adopts land use regulations or ordinances regulating or prohibiting the cultivation of marijuana by March 1, 2016.

Tarquin Preziosi, Planning Commission Counsel, presented the staff report.

Chair Dickson asked if a testing laboratory opened up in the City if it fell under the processing part of the ordinance. Mr. Preziosi responded he was not sure. It has not been defined in the State law yet.

Vice Chair Mathews asked for clarification if the City did not act now to implement their own ordinance then as of March 1, 2016 they would be prevented from doing so. Mr. Preziosi responded yes, under the current legislation scheme. Vice Chair Mathews also asked if it was possible to modify the ordinance at a future date. Mr. Preziosi responded yes.

Commissioner Sesler asked to put the Planning Commission date on handwritten page 8.

PUBLIC COMMENTS

Susan Iwamoto, Costa Mesa resident, stated concerns with penalizing the landlord and not the tenant who could be the grower of the marijuana. She also suggested having special districts to lessen the burden on the police.

The Chair closed the public hearing.

MOTION: Hereby move that the Planning Commission approve and recommend to City Council an Ordinance to adopt Code Amendment CO-15-06; an amendment to Title 13 of the Costa Mesa Municipal Code related to the cultivation marijuana and or medical marijuana.

Moved by Commissioner McCarthy, seconded by Vice Chair Mathews

Chair Dickson added a comment to City Council that they look into the definition to distinguish what processing is and recommended that the public speaker takes their comments to the City Council meeting.

Commissioner Andranian commented that he is recommending approval so that the City will be the one to regulate medical marijuana not only the State.

The motion carried by the following roll call vote:

Ayes: Dickson, Mathews, McCarthy, Sesler, Andranian
Noes: None
Absent: None
Abstained: None

4. **Application No.:** ZA-15-30
Applicant: Jason Smith/Landshark Dev. Svcs
Site Address: 3033 Bristol Street, Ste. E
Zone: C1
Project Planner: Ryan Loomis

Environmental Determination:

The project is categorically exempt under Section 15301 of the State CEQA (California Environmental Quality Act) Guidelines – Class 1 (Existing Facilities).

Description: An appeal of a minor conditional use permit for a 1,440 square-foot restaurant tenant space (Halal Guys) to extend the hours of operation from 11 a.m.-11 p.m. to 11 a.m.-12 a.m., Sunday through Wednesday, and from 11 a.m.-11 p.m. to 11 a.m.-1 a.m., Thursday through Saturday, within 200 feet of residential zoned property, in the C1 zone. No live entertainment, dancing or sales/service of alcoholic beverages is proposed. The Zoning Administrator denied ZA-15-30 on September 11, 2015, which originally requested allowance to remain open until 3 a.m., Sunday through Saturday. This appeal was heard by the Planning Commission on October 26, 2015, and was continued to December 14th hearing in order for staff to receive information from the appellant related to improved security measures and compatibility with surrounding residential areas.

Commissioner McCarthy recused himself.

Ryan Loomis, Associate Planner, presented the staff report.

Chair Dickson asked if staff observed the security patrolling and the trash situation. Mr. Loomis stated he observed no trash during the day but public comments from the neighbors stated the trash is still happening.

Commissioner Andranian asked if staff's recommendation to uphold or reverse the Zoning Administrator's denial and if the initial problems have been corrected. Ms. Flynn responded that it is a policy that the recommendation does not change after a staff report has been generated. She also responded that the trash has improved based on staff observation during the day, increase patrol has improved and the waiting lines have lessened but the public correspondence stated there are still remaining concerns.

Commissioner Sesler asked if there are other restaurants opened till 1 a.m. at the same locations. Mr. Loomis responded yes.

PUBLIC COMMENTS

Thomas Pham, owner, stated what progress has occurred with the initial problems since the October 26, 2015 Planning Commission meeting.

Commissioner Sesler asked what efforts were made with the residents since the October 26, 2015 Planning Commission meeting. Mr. Pham responded that the landlord called out to some of the people that had concerns, sent out postcards as instructed, set up an email that they respond to within 24 hours and spoke with the Home Owners Association.

Lynne Wiegandt, Costa Mesa resident, stated still having concerns with parking, noise and the impact on the neighborhood but the trash issue has improved.

Jason Ball, representative of the shopping center at 3033 Bristol Street, stated Halal Guys have been very cooperative and responded well to concerns.

Mr. Pham responded to public comments.

The Chair closed the public hearing.

Chair Dickson stated the focus should be on the extension of the proposed hours and the effect it will have on the surrounding neighborhood. He also asked what happened if the quiet enjoyment of the neighborhood had been violated in a minor conditional use permit. Ms. Flynn responded they will receive a notice of violation.

Commissioner and staff discussed if they should approve the extension of hours of operation and bring the item back for review.

MOTION: Based on the evidence in the record and findings contained in Exhibit A and subject to the conditions of approval contained in Exhibit B with the addition that the Planning Commission bring it back for review to the March 14, 2016 meeting and then determine if it will then be a modification or revocation at the next meeting after that depending on the noticing requirements and that the Planning Commission approve Zoning Administrator ZA-15-30. Moved by Chair Dickson, seconded by Vice Chair Mathews.

RESOLUTION PC-15-70 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA REVERSING THE ZONING ADMINISTRATOR'S DENIAL OF ZONING APPLICATION ZA-15-30, AND APPROVING A MINOR CONDITIONAL USE PERMIT TO ALLOW A DEVIATION FROM HOURS OF OPERATION FOR A 1,410 SQUARE-FOOT RESTAURANT AT 3033 BRISTOL STREET, SUITE E.

The motion carried by the following roll call vote:

Ayes: Dickson, Mathews, Sesler
Noes: Andranian
Absent: None
Abstained: McCarthy

The Chair explained the appeal process.

5. **Application No.:** PA-15-43
Applicant: Jason Ball
Site Address: 3033 Bristol Street
Zone: C1
Project Planner: Ryan Loomis
Environmental Determination:

The project is categorically exempt under Section 15301 of the State CEQA (California Environmental Quality Act) Guidelines – Class 1 (Existing Facilities).

Description: A conditional use permit for on-site valet parking for the commercial retail center located at 3033 Bristol Street. The valet parking service will be provided seven days a week as follows:

- Weekly daytime during peak lunch periods - 11:00 a.m. to 2:00 p.m.
- Weekly evenings - 4:30 p.m. to 11:00 p.m., as needed.

The proposed increase to parking supply will be a minimum of 17 parking spaces.

Ryan Loomis, Associate Planner, presented the staff report.

Commissioner Sesler asked if any additional options were proposed to help out with the parking issue. Mr. Loomis responded adding a bike rack.

PUBLIC COMMENTS

Jason Ball, applicant, stated he has not seen the parking lot full and the valet parking will help with the flow of the property.

Chair Dickson asked when the valet parking is being utilized. Mr. Ball responded at night and the valet company being very professional.

No public comment.

The Chair closed the public hearing.

Commissioner Sesler stated being in favor of the application and liked the pro-activeness of the owner.

MOTION: Based on the findings in Exhibit A and conditions of approval in Exhibit B, move the resolution of the Planning Commission approving Conditional Use Permit PA-15-43 for an on-site valet parking service at 3033 Bristol Street. Moved by Vice Chair Mathews, seconded by Commissioner Andranian.

RESOLUTION PC-15-71 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING CONDITIONAL USE PERMIT PA-15-43 FOR AN ON-SITE VALET PARKING SERVICE AT 3303 BRISTOL STREET

The motion carried by the following roll call vote:

Ayes: Dickson, Mathews, Sesler, Andranian
Noes: None
Absent: None
Abstained: McCarthy

The Chair explained the appeal process.

DEPARTMENTAL REPORT(S)

1. Public Services Report – none.
2. Economic and Development Services Report – Ms. Flynn stated that on behalf of the Development Services staff they expressed their thanks for the leadership and the work done by the Planning Commission and look forward to serving the great community in the New Year and wished everyone a happy holiday.

CITY ATTORNEY'S OFFICE REPORT(S)

1. City Attorney – Ms. Summerhill wished everyone a happy holiday.

ADJOURNMENT: NEXT PLANNING COMMISSION MEETING AT 6:00 P.M. ON DECEMBER 14, 2015.

Submitted by:

CLAIRE FLYNN, SECRETARY
COSTA MESA PLANNING COMMISSION