

**REGULAR MEETING OF THE CITY OF  
COSTA MESA PLANNING COMMISSION  
June 23, 2008**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., June 23, 2008, at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Hall.

**I. PLEDGE OF ALLEGIANCE TO THE FLAG.**

Commissioner Righeimer led the Pledge of Allegiance.

**II. ROLL CALL:** Chair: Donn Hall  
Vice Chair: James Fisler  
Commissioners: Sam Clark, Eleanor Egan, and James Righeimer

Present: Chair Donn Hall  
Vice Chair James Fisler  
Commissioner Sam Clark  
Commissioner Eleanor Egan  
Commissioner James Righeimer

Absent: None.

Also Present: Planning Commission Secy. Kimberly Brandt  
Police Chief Christopher Shawkey  
Deputy City Attorney Tom Duarte  
City Engineer Ernesto Munoz  
Police Lieutenant Paul Dondero  
Principal Planner Claire Flynn  
Senior Planner Mel Lee  
Senior Planner Minoo Ashabi  
Associate Planner Wendy Shih

**III. MINUTES: Minutes for the meeting of June 9, 2008**

Planning Commission Secretary Kimberly Brandt read the correction to the minutes provided by Commissioner Egan.

The Chair approved the corrected minutes as distributed.

#### **IV. PUBLIC COMMENTS:**

There were no public comments.

#### **V. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:**

Commissioner Righeimer encouraged the public to use safe and sane fireworks this July 4, and to keep pool gates closed, especially this summer.

Commissioner Clark reminded the public concerning the hands-free cell phone law that becomes effective July 1.

Commissioner Egan thanked the Urban Land Institute of Orange County for their brochure on the definitions of acronyms and technical terms.

#### **VI. PUBLIC HEARINGS:**

- 1. From the meeting of June 9, 2008, Review, modification, and/or revocation of Zoning Application ZA-02-55, a minor conditional use permit allowing a restaurant (Sutra Lounge) with sale of alcoholic beverages after 11:00 p.m., live entertainment, and dancing located at 1870 Harbor Boulevard, Suite A200, in a PDC (Planned Development Commercial) zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and responded to questions from the Commission regarding Sutra Lounge's operating hours and the date management changed.

Police Lieutenant Paul Dondero also responded to questions from the Commission regarding comparing the frequency of calls to the Police Department before and after management changed, and comparing Sutra Lounge to the Shark Club and the calls they receive.

Chris Pike, Managing Member of Sutra Lounge, said that since he has taken over this establishment, he has been working hard and has brought in an outside security firm. He mentioned that Sutra Lounge is in compliance with the City

Manager's letter for the public entertainment permit dated September 25, 2007.

Mr. Pike replied to the Commission that he has implemented bottle service in which a locking bottle cap is used. He noted that this restricts the customer's access and it is a financial benefit to the business.

A discussion ensued regarding the locking bottle caps and the Police Chief asked to speak.

Police Chief Christopher Shawkey stated the locking device on the bottles is not as secure as no bottle service. Chief Shawkey noted that it was decided, after speaking with the City Manager, that there would be no bottle service.

Mr. Pike commented that he understands the Chief's concerns, but the chance of self-pouring with the locking cap on is minimal, and no bottle service would be a hardship to his business.

The Chair and Chief Shawkey discussed having the patrons removed from the business if they tampered with the cap device, and the need to view the bottles.

Mr. Pike explained that the servers have been trained and they would know if the device has been tampered with.

Commissioner Righeimer and Mr. Pike discussed bottle service and reserving tables.

Mr. Pike replied to Commissioner Clark that they are in compliance with the conditions of the public entertainment permit, but a few security staff members need their identification cards. He also noted that three weeks ago they started using locking bottle caps.

Commissioner Righeimer and Mr. Pike discussed staff's recommendation of suspending live entertainment and dancing until the business can demonstrate compliance with all the conditions of approval. Mr. Pike pointed out that he did not want the business closed on Thursday when the new cameras

are being put in place.

Mr. Pike replied to Commissioner Righeimer that the previous operations manager did not follow up after a previous incident requiring a search warrant for a video and there was no video of the incident. He said he was putting in a new system with 90-days of memory.

Mr. Pike explained to Vice Chair Fidler that with a locking bottle cap there is a greater ability to catch and stop problems from occurring. Also, he said that a patron could get a preferred table by buying a high-end bottle.

Chief Shawkey explained to the Chair when the Police Department has verified that all the conditions of the public entertainment permit have been met, the suspension will be released. Chief Shawkey said they would inspect this establishment this Thursday and noted this is the first he has heard of the video system being in place. He also mentioned to the Chair that a 60-day (not 30-day) review of the bottle service would be acceptable to him and Mr. Pike agreed.

Justin Waldrop, patron, supported bottle service with locking caps, noting that it works.

Sa Dao, patron, pointed out that the bottle service with locking caps is a tremendous improvement to this establishment.

David Bailey, patron, supported the bottle service and noted that everyone is kept in check due to this service.

Mr. Pike replied to the Chair that he will comply with all the conditions of the public entertainment permit and minor conditional use permit; confirmed Condition Nos. 6 and 7 of the minor conditional use permit are deleted; and agreed to an inspection on Thursday. Chief Shawkey also agreed to the inspection on Thursday.

The Chair and Chief Shawkey discussed beverage training and the Chief said Mr. Pike followed their suggestion of using the Responsible Beverage Service (RBS) training. He said he is pleased with the steps that Mr. Pike has taken and agreed to

the 60-day review.

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

**MOTION: Modify the minor conditional use permit, by adoption of Planning Commission Resolution PC-08-52, based on the evidence in the record and findings contained in Exhibit “A”, subject to the following adopted conditions of approval in Exhibit “B”:**

**CONDITIONS OF APPROVAL (AS A NIGHTCLUB)**

**Plng. The following conditions of approval for ZA-02-55 shall continue to be complied with as modified herein:**

- 1. Hours for customer service shall not extend beyond 2:00 a.m. Any change to the operational characteristics including, but not limited to, hours of operation, sales of alcoholic beverages or provision of live entertainment, shall require approval of an amendment to the minor conditional use permit, subject to Zoning Administrator approval.**
- 2. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. For purposes of calculation of occupant load, any open patio areas shall be considered to be part of the enclosed building area.**
- 3. There shall be no room or designated area reserved for the exclusive use of designated persons or “private club members.”**
- 4. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.**

5. There shall be no sales of alcoholic beverages for off-site consumption.
6. ~~At all times the premises is open for business, the sale and service of alcoholic beverages shall be made only in conjunction with the sale and service of food. Deleted~~
7. ~~The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period. The applicant shall at all times maintain records, which reflect separately the gross sales of food and gross sales of alcoholic beverages of the business. The records shall be kept no less frequently than on a quarterly basis and shall be made available to the development services director or his/her designee on demand. Deleted~~
8. The restaurant shall remain a “bona fide eating place” as defined by section 23038 of the California Business and Professions Code.
9. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
10. Valet parking shall comply with the requirements of Planning Application PA-93-14.
11. A copy of the conditions of approval shall be kept on the 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.

The following new conditions of approval shall be complied with:

12. Live entertainment and dancing shall be suspended at the establishment no later than two weeks from the effective date of this resolution, until such time the business owner has demonstrated to the City Manager and Police Chief that the establishment shall operate in

**compliance with the conditions of approval of the existing public entertainment permit, as stated in the City Manager's letter dated September 25, 2007. The live entertainment and dancing activities shall not recommence until such time the City Manager provides written acknowledgement that the conditions of approval of the public entertainment permit have been met and authorizes the live entertainment and dancing activities. The Planning Commission shall review the minor conditional use permit six months after the live entertainment and dancing activities recommence.**

**13. Prior to the recommencement of live entertainment and dancing activities, all management personnel and employees that serve alcoholic beverages shall receive Responsible Beverage Service (RBS) training. Documentation of the RBS training shall be provided to the Development Services Director. In addition, all future management personnel and employees that serve alcoholic beverages shall receive RBS training prior to serving any alcoholic beverages.**

**14. The minor conditional use permit may be referred to the Planning Commission for modification or revocation 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 Development Services Director's opinion, any of the findings upon which the approval was based are no longer applicable.**

**15. In respect to the bottle service as outlined in condition of approval number one of the public entertainment permit, the prohibition of said service shall be suspended for 60 days from the effective date of this resolution. After 60 days, the Police Chief and City Manager shall evaluate the effectiveness of the locking cap mechanism for the bottle service. If the Police Chief and City Manager determine that the locking cap mechanism is ineffective, bottle service shall cease immediately. If the locking cap mechanism is deemed to be effective, bottle service may continue with the locking cap mechanism.  
Moved by Commissioner James Righeimer, seconded by**

**Commissioner Sam Clark.**

During discussion on the motion, the Chair, Vice Chair Fisler, Commissioner Righeimer, and Planning Commission Secretary Kimberly Brandt discussed the 60-day bottle service review and adding a specific condition of approval, No. 15, relating to that review. Ms. Brandt read the condition, and both the maker of the motion and the seconder agreed.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler,  
Commissioner Sam Clark, Commissioner Eleanor  
Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

2. **From the meeting of April 28, 2008, Planning Application PA-08-03, for Bert Tarayao, authorized agent for Daniel and Jani Judge, for construction of a two-story single-family residence with a variance from building height requirements (27 feet permitted; 29 feet, 10 inches proposed); an administrative adjustment for a reduced side setback for the first floor (5 feet required; 3 feet proposed); and a minor conditional use permit for excess garage area (700 sq. ft. maximum allowed; 843 sq. ft. proposed); with a minor design review to deviate from the recommended 80% second-to-first floor ratio (82% proposed) and 10-foot average side setback (7 feet, 8 inches proposed), located at 231 Flower Street, in an R1 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report, noting that the applicant had redesigned the project to eliminate most of the requested code deviations. There were no questions of staff.

Bert Tarayao, applicant and architect, agreed to all the conditions of approval and provided a letter to the Commission from the property owners, Daniel and Jani Judge. Mr. Tarayao read the letter out loud.

Commissioner Righeimer and Mr. Tarayao discussed the



outside staircase and the two desks in the office.

Mike McKay, Costa Mesa, opposed this project and handed a letter to the Commission signed by 24 neighbors opposing the project. He stated that his major concerns were the 843 square-foot garage; side open stairway, and the second-story setback.

Bryan Dauk, neighbor directly to the east, Costa Mesa, noted concerns that his afternoon sun would be drastically reduced; quality of life being changed; and primarily that the building would be within 2 feet of his house. Vice Chair Fisler and Mr. Dauk discussed his legal, non-conforming structure.

Harold Raiz opposed the project expressing concern regarding its size.

Carlos Schmidt was also concerned about the structure's size and asked that this project be built within the already established building codes.

Mr. Tarayao replied to the Chair that he would enclose the stairway if the project was conditioned that way. He compared the structure at 220 Flower to this project's structure; mentioned that a sun study was performed; discussed elevations; and explained the roof line to Commissioner Righeimer.

Mr. Raiz returned to the podium and requested that the outside stairway be deleted.

Denise McKay, Costa Mesa, mentioned that this project would ruin the feel of the neighborhood, and asked that it be designed within the regulations.

Mr. Tarayao noted he wanted to keep the profile lower.

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

Vice Chair Fisler commented that he was not comfortable with the external stairway.

**MOTION: Approve Planning Application PA-08-03, by adoption of Planning Commission Resolution PC-08-53, based on the evidence in the record and the findings contained in Exhibit “A”, subject to conditions in Exhibit “B”, with the following modification to Condition No. 6:**

**CONDITIONS OF APPROVAL**

**6. Exterior stairway access to the second floor, the first floor closet (labeled beach “stuff”), and the outdoor shower on the left (east side) of the residence shall be eliminated.**

**Moved by Vice Chair James Fidler, seconded by Commissioner Eleanor Egan.**

Commissioner Egan stated that the project meets all the regulations.

Mr. Lee explained to Commissioner Egan that open space and the overall bulk size of the project meets the City's Residential Guidelines.

Commissioner Righeimer spoke in favor of the motion and said there was no reason to have an outdoor shower. He asked to make an amendment to the motion for a 5-foot setback.

Commissioner Righeimer and Mr. Tarayao discussed the 5-foot setback, and removing the outside stairs. Commissioner Righeimer pointed out that this change fits the guidelines and supports the motion.

Commissioner Egan supported the motion as amended and hoped that the trees would be retained.

Mr. Tarayao said that he hopes the City will allow the trees to remain in the parkway, as planned.

Commissioner Clark reluctantly supported the project, as it falls within the guidelines.

The Chair and Commissioner Righeimer discussed

the amendment to the motion, changing Condition No. 6 to eliminate the closet and to cut back into alignment with the garage, and the removal of the shower in the side yard, besides removal of the exterior stairway.

Mr. Tarayao agreed to the changes.

The Chair reviewed the motion with the modification to Condition No. 6.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler,  
Commissioner Sam Clark, Commissioner Eleanor  
Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

3. **From the meeting of May 27, 2008, Planning Application PA-08-05, for Tim Johnson, authorized agent for Brent Adams, for a design review to construct a 2-story, 3-bedroom unit that exceeds the recommended 80% 2nd-to-1st floor ratio (81% proposed) on a lot containing 2 units, located at 544 Bernard Street, in an R2-HD zone. Environmental determination: exempt.**

Associate Planner Wendy Shih reviewed the information in the staff report and responded to a question from the Commission regarding a particular requirement.

Brent Adams, property owner, agreed to all the conditions of approval.

In response to Commissioner Righeimer's question as to the height of the roll-up doors in the back, Mr. Adams replied 12 feet.

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

**MOTION: Approve Planning Application PA-08-05, by adoption of Planning Commission Resolution PC-08-54, based on the evidence in the record and findings**

contained in Exhibit “A”, subject to conditions in Exhibit “B”, with the following additional condition:

**CONDITIONS OF APPROVAL**

**13. A land use restriction executed by and between the applicant and the City of Costa Mesa shall be recorded prior to the issuance of building permits, to inform future property owners that the structure is for one dwelling unit above a four-car garage only and that it may not be converted to separate units. Applicant shall submit to the Planning Division a copy of the legal description for the property, and either a lot book report or current title report identifying the current legal property owner so that the document may be prepared.**

**Moved by Commissioner Sam Clark, seconded by Commissioner Eleanor Egan.**

During discussion on the motion, Commissioner Righeimer emphasized that there should only be one unit for this building.

Ms. Brandt noted to the Chair that a standard condition could be added requiring a land use restriction. The maker and seconder of the motion agreed to this additional condition and Mr. Adams was in agreement.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fidler,  
Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

- 4. Parcel Map PM-08-122, for J.D. Kapp, authorized agent for Newport Balboa Partners/John Snedeger, for a tentative parcel map to facilitate a four-unit residential common interest development (approved under PA-07-37), located at 178-180 E. 19th Street, in an R2-MD zone. Environmental determination: exempt.**

Planning Commission Secretary Kimberly Brandt stated that

she had driven by the property and noted code violations and the applicant was contacted on Friday, June 20, to make the corrections. Ms. Brandt pointed out that since that time, the applicant put up construction fencing and paid the outstanding civil citation fees; however, code violations still exist and she recommended continuing this item 30 days so all code violations can be cleared.

The Chair asked if anyone wished to speak on this item that would not be able to attend the continued meeting, and no one wished to speak.

**MOTION: Continue to the Planning Commission meeting of July 28, 2008.**

**Moved by Commissioner James Righeimer, seconded by Commissioner Sam Clark.**

Ms. Brandt announced that July 28, 2008 would be the meeting the item is continued to in response to Deputy City Attorney Tom Duarte's question.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler,  
Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

5. **Zoning Application ZA-08-17, for Cynthia J. Nelson, authorized agent for Nexus Development Corporation, amendment to Final Master Plan PA-07-20, for the Westside Lofts Mixed-Use Project. The proposed request is to modify a condition of approval that would allow the 151 condominium units to be initially offered as rental units as opposed to "for-sale" units. No density or design changes are proposed. The project is located at 1640 Monrovia Avenue, in an MG zone and Mesa West Bluffs Urban Plan area. Environmental determination: exempt.**

Principal Planner Claire Flynn reviewed the information in the staff report and then Senior Planner Minoo Ashabi reviewed the information in the amendment to the Final Master Plan for

the project, including the modifications to Condition Nos. 4, 6, and 17. Ms. Flynn responded to questions from the Commission regarding the condominium units now being initially offered as rental units instead of "for sale" units, and the CC&R's being in effect when a unit is sold.

Cory Alder, President, Nexus Development, said that the project is exactly the same, and he understands the concerns of the neighbors and wants to be a good neighbor. Mr. Alder provided a Power Point presentation and stated that financing is needed and this will be a quality project with amenities, long-term maintenance, and CC&R's. He also agreed to all the conditions of approval.

Mr. Alder explained to Commissioner Righeimer that if the project is approved, he hopes to break ground early next year and finish the project 16-18 months after that. Mr. Alder also suggested the maximum number of people for a studio apartment would be 2 people; 3 people for a 1 bedroom unit; and 4 people for a 2 bedroom unit; and these limits would be recorded against the property.

Roger MacGregor, Costa Mesa, expressed his concern that there are far too many rentals and far too many people. Also he said that CC&R's do not apply to rentals.

Deputy City Attorney Tom Duarte replied to the Chair that the density is regulated by the State, and the apartment owner would be responsible.

Lea Harris, Costa Mesa, representing 40 tenants at a mobile home park, opposed the request. She said the area is already overloaded with rentals. She provided a petition to the Commission signed by the mobile home owners opposing the apartments.

John Hawley, Costa Mesa, asked that we not disregard 8 years of planning and the Westside Plan. He said he is against high density rentals and requested that the Commission deny this application.

Rosalie McCracken, lives in the Playport Mobile Home Park,

Costa Mesa, expressed her concerns with the traffic and needing peace and quiet. She opposed the project.

Mike Harrison, Trico Realty, Inc., Costa Mesa, said he provided a letter and was concerned that the project may be sold to another developer, and is against rentals.

Martin Millard, Costa Mesa, gave his support for the project and sees it changing the Westside bluffs for the better.

Tom Hamilton, Costa Mesa, noted that he has seen other Nexus projects and this company is an above-average company.

Brian Malliet, developer, Costa Mesa, said this is a three-year project and this project will positively change the Westside. He supported the request.

Mr. Alder replied to the Chair that this project will take approximately 45 million dollars to complete. He believed this is a significant investment in the Westside.

Louis Matteson, Playport resident, Costa Mesa, made some remarks relating to the financial figures of the project.

Mr. Alder pointed out that they will take pride in ownership and will provide a good product.

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

**MOTION: Approve Zoning Application ZA-08-17 amending Planning Commission Resolution PC-07-79, approving the Final Master Plan PA-07-20, based on the evidence in the record, with modifications requested by the applicant to Condition Nos. 4, 6, and 17, adopted as follows:**

**CONDITIONS OF APPROVAL**

**4. Prior to issuance of building permits, the developer shall provide the Conditions, Covenants, and Restrictions (CC&Rs) to the Development Services Director and City**

Attorney's office for review. The CC&Rs must be in a form and substance acceptable to, and shall be approved by the Development Services Director and City Attorney's office. With respect to the residential condominiums, the CC&Rs shall contain provisions that effectively implement the following requirements: (1) require that the homeowner's association (HOA) manage tenant and guest parking onsite and have the authority to employ necessary measures (e.g. valet parking, mechanical lift parking, tandem parking) as needed; if onsite parking is not appropriately managed by the HOA, the Development Services Director shall require implementation of corrective measure(s) to address onsite parking problems in the future; (2) require that the HOA contract with a towing service to enforce the parking regulations; (3) require that the HOA prohibit any clothing, beach towels, banners, textiles, or any other items deemed as visual clutter to be hung from private balconies; and (4) occupancy limits applicable to the residential units. With respect to the live/work units, the CC&Rs shall contain provisions requiring that the homeowner's association (HOA) require that the enclosed garages are to be used solely for their intended use of parking of two vehicles and shall not be used for any other purpose (e.g. storage). The CC&Rs, as applicable, shall contain a provision that any subsequent revisions to the CC&Rs related to the above provisions must be reviewed and approved by the City Attorney's office and the Development Services Director before they become effective. The requirements of this section shall apply to the residential component and the live/work units only (revised June 23, 2008 per ZA-08-17).

6. Applicant shall provide proof of establishment of a homeowner's association with respect to the residential condominiums prior to release of any utilities (revised June 23, 2008 per ZA-08-17).

17. All live/work shall be initially offered as "for sale" units. With respect to the residential condominiums, prior to recordation of the final subdivision map, the applicant shall provide evidence obtained from the State of



**California Department of Real Estate that it has received a substantially completed subdivision public report application. Prior to receipt of a certificate of occupancy for the residential condominiums, the applicant shall provide evidence that CC&Rs (in substantial conformance with the CC&Rs previously approved by the Development Services Director and City Attorney's office with respect to the provisions set forth in condition 4 above (only)) have been recorded and that a homeowner's association has been established. Subject to compliance with the above conditions, all 151 residential condominiums may be initially offered as rental units and applicant may continue to rent and/or lease the units for an indefinite period of time. Notwithstanding the foregoing, (1) the subdivision map shall be final and recorded prior to issuance of building permits; (2) park fees currently estimated at approximately \$1.6 million dollars shall be remitted to the City prior to approval of the final map; and (3) the residential condominium units shall be constructed to condominium building standards (e.g. advanced noise attenuated walls, increased firewall standards). If, at any time after completion of the residential condominiums, the Developer decides to sell the individual units, provided Developer has a valid Final Public Report from the Department of Real Estate, no further approval from the City shall be required (revised June 23, 2008 per ZA-08-17).**

**Moved by Commissioner James Righeimer, seconded by Vice Chair James Fisler.**

During discussion on the motion, Commissioner Righeimer stated this will be a first class project, and in three years, they could be condominiums. He reiterated that they should move forward.

Ms. Flynn asked that the motion include the minor text changes to Condition Nos. 4, 6, and 17, and the maker of the motion and the seconder agreed.

Vice Chair Fisler said he likes the project and it will be built to condominium standards. He noted they may have to rent them for financing.

Commissioner Egan mentioned that she sent an e-mail to staff and said we are losing sight of what is being approved. She stated this is for a high density apartment building, and the existing 80% renter rate is not good for the Westside. Commissioner Egan said it is too big of a risk.

Commissioner Clark supported the motion and mentioned that we need redevelopment on the Westside and believes Nexus will eventually sell the units as condominiums.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fislser,  
Commissioner Sam Clark, and Commissioner James  
Righeimer

Noes: Commissioner Eleanor Egan

Absent: None.

**6. Appeal of Zoning Administrator's decision, by Brian K. Malliet, bkm Development, regarding a business license application for Advantage Rent a Car, proposed for 325 Baker Street, in a MP (Industrial Park) zone.**

Planning Commission Secretary Kimberly Brandt reviewed the information in the staff report and provided overhead pictures. She explained why a conditional use permit is required for the proposed rental car agency, as opposed to being a "permitted" use.

Commissioner Egan said she was inclined to agree with staff's interpretation of this business due to its distinct size and the potential of impact to the surrounding businesses.

Brian Malliet, owner, read Zoning Code Section 13-30; described the site; and explained of his difficulties working with staff on this item.

Ms. Brandt explained to the Chair that six weeks may be needed from the completion of the conditional use permit application and that formal public notice is required.

Mr. Malliet read an e-mail he received from the City and noted

he had been working on this item since February 15. In response to the Chair's question if the owner came in during the month of February, Ms. Brandt discussed that the owner had discussed a variety of uses for the site; the various aspects of conditional use permits; and the need for additional information from the owner. Ms. Brandt explained to the Chair that she believed this item could be brought back to the Commission for their first meeting in August.

The Chair and Commissioner Egan discussed the setting of a precedent and interpreting the code.

Mr. Malliet provided aerial photos of the area for the Commission; discussed the 17 different sites and their uses; and said he would like to be treated fairly.

Ms. Brandt pointed out that she had not reviewed the information that Mr. Malliet provided this evening.

Vice Chair Fidler and Mr. Malliet discussed the Toyota Racing Division, adjacent to the property, that does not have a conditional use permit. Mr. Malliet asked for the same consideration for his property.

The Chair asked Mr. Malliet if having this item brought back to the first meeting in August would be acceptable to him and he replied that he would like to keep his client. Mr. Malliet hoped the item could be brought back to one of the meetings in July.

The Chair assured Mr. Malliet that every effort would be made for this item to at least be brought back for the first meeting in August.

**MOTION: Uphold the Zoning Administrator's decision to require a conditional use permit for the proposed rental car agency.**

**Moved by Commissioner James Righeimer, seconded by Commissioner Eleanor Egan.**

During discussion on the motion, Commissioner Righeimer stated that the application needs to be complete so that the

process can start quickly and possibly the item could be placed on the meeting agenda of July 28.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fidler,  
Commissioner Sam Clark, Commissioner Eleanor  
Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

**VII. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.**

None.

**VIII. REPORT OF THE CITY ATTORNEY'S OFFICE.**

None.

**IX. ADJOURNMENT TO THE MEETING OF MONDAY, JULY 14, 2008.**

There being no further business, Chairman Hall adjourned the meeting at 10:25 p.m. to the Planning Commission meeting of Monday, July 14, 2008.

Submitted by: \_\_\_\_\_  
KIMBERLY BRANDT, SECRETARY  
COSTA MESA PLANNING COMMISSION