

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
November 24, 2008**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., November 24, 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.

Vice Chair Fisler 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
Deputy City Attorney Tom Duarte
City Engineer Ernesto Munoz
Transportation Services Manager Raja Sethuraman
Principal Planner Willa Bouwens-Killeen
Senior Planner Minoo Ashabi

III. MINUTES: Minutes for the meeting of November 10, 2008

The Chair approved the minutes as distributed.

IV. PUBLIC COMMENTS:

There were no public comments.

V. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Clark wished his wife a happy birthday.

Commissioner Egan wished everyone a happy Thanksgiving.

VI. CONSENT CALENDAR:

1. Development Phasing and Performance Monitoring Program 2007

The Chair asked if anyone wished to pull this item from the Consent Calendar to discuss it separately and no one wished to do so.

**MOTION: Approve report.
Moved by Commissioner James Righeimer, seconded by
Commissioner Sam Clark.**

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.

2. A Resolution of the Planning Commission of the City of Costa Mesa finding that the proposed habitat restoration in Talbert Nature Preserve performed by the Orange County Flood Control District is in conformity with the City of Costa Mesa 2000 General Plan.

The Chair asked if anyone wished to pull this item from the Consent Calendar to discuss it separately and no one wished to do so.

**MOTION: Determine and find that Orange County Flood Control District's proposed habitat restoration project at Talbert Nature Reserve is in conformance with the City of Costa Mesa 2000 General Plan, by adoption of Planning Commission Resolution PC-08-82.
Moved by Commissioner James Righeimer, seconded by
Commissioner Sam Clark.**

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. PUBLIC HEARINGS:

1. **Development Agreement Annual Review DA-08-03, for Chase J. McLaughlin, authorized agent for C.J. Segerstrom and Sons, for the annual review of the Segerstrom Town Center Development Agreement, located at 600 and 686 Anton Boulevard; 3300, 3400, and 3420 Bristol Street; and 650 and 695 Town Center Drive. Environmental determination: exempt.**

Senior Planner Mino Ashabi reviewed the information in the staff report, and there were no questions of staff.

Chase McLaughlin, authorized agent for South Coast Plaza, agreed to all the comments made in the staff report. He stated that they are still moving forward during this slow economy and have been in compliance with the development agreement and will continue to do so.

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

MOTION: Determine and find that South Coast Plaza has demonstrated good faith compliance with the terms and conditions of Development Agreement DA-00-02. Moved by Commissioner James Righeimer, seconded by Commissioner Sam Clark.

During discussion on the motion, Commissioner Egan pointed out that she thought the motion was stated incorrectly, referring to a consent calendar item. Commissioner Righeimer and Commissioner Clark agreed.

The Chair asked Commissioner Righeimer to restate the motion.

Commissioner Righeimer restated the motion.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

2. **Appeal of Planning Division's approval of Minor Modification MM-08-21, for Randal Ressel, which permitted the legalization of a 4.18-foot, right side setback for a 44-foot long garage addition to a single family residence, located at 2083 State Street, in a R1 zone. Environmental determination: exempt.**

Principal Planner Willa Bouwens-Killeen reviewed the information in the staff report, and there were no questions of staff.

Robin Akers, appellant, provided photographs and stated that she is concerned with the neighbor's building proximity, especially as it pertains to ventilation, privacy, open space, and safety. Ms. Akers said she and Ms. Ressel have come to some resolution relating to drainage. Ms. Akers requested that there be no windows on the north side of the house.

Commissioner Egan pointed out that she thought the minor modification from which the appeal was made refers only to the encroachment of the garage into the side setback, and believes nothing else can be considered. The Chair and Deputy City Attorney Tom Duarte agreed that the appeal relates to what was published and posted for this meeting.

Commissioner Righeimer and Ms. Akers discussed the documents presented to the Commission from her surveyor.

Ms. Bouwens-Killeen explained to Commissioner Righeimer that the Ressels' survey was performed in late October 2008, and Ms. Akers' survey conducted in early October 2008 was received by Planning staff last week.

The Chair noted that there was a conflict of statements in the

two surveys relating to the dates and distances and asked staff to clarify.

Planning Commission Secretary Kimberly Brandt explained that Ms. Akers' survey was not officially given to the City until last week, and the Ressels had their property surveyed to officially determine the "as-built" conditions related to the property line. She noted according to the Zoning Code, the setback is the distance from the foundation to the property line. She also said that when the stop work order was issued in early October 2008, the Building Official allowed the Ressels to secure their property allowing the windows and roof layer to be installed since they were living in the house.

The Chair, City Engineer Ernesto Munoz, and Ms. Bouwens-Killeen discussed the two conflicting surveys performed by licensed surveyors.

Vice Chair Fisler and Ms. Brandt discussed that if there is an addition to an existing home, the measurement is usually taken from the fence line which is assumed to be the property line.

Ron Sterry, representative for Ms. Akers, remarked he is a building designer with over 30 years of experience, and noted that Ms. Akers is losing her privacy, and the building is not cohesive with the neighborhood. He also stated that the building design does not address the sensitivity to neighbors and the safety issue.

The Chair commented that the Commission will determine compliance.

Commissioner Clark and Ms. Bouwens-Killeen discussed the garage size, consistency with the Code, and the stop work order. Ms. Brandt pointed out that the property was being framed when the stop work order was issued and everything was secured. In addition, she said the property has been watched daily by City inspectors for the last couple of months.

Ms. Brandt explained to Commissioner Clark that the property was substantially in compliance with the stop work order since it was issued.

Richard Higbie, attorney representing the Ressels, stated that notices were sent out relating to the Ressels' addition and Ms. Akers was present when the trenches were dug. He said this small encroachment should be overlooked and the garage does not constitute an invasion of privacy or an intrusion.

Debra Ressel, applicant, replied to Vice Chair Fisler that they have owned their house since 1983 and the fence was there. Also, she said she thought the shed was there at that time, but she is planning on taking out a building permit for it. She stated the garage windows are at 6.4 feet tall to appease the neighbors, and the clerestory windows on the second floor do not open. She noted that she hopes to move forward on this project.

Len Bekemeyer, Ressels' architect, mentioned that the top of the windows is 7.8 feet to the header and 5.10 feet from the finished floor, and the windows are 2 feet by 2 feet.

Ms. Akers returned to the podium and stated that the shed is an illegal building. She also said the 5-foot setback has been encroached by choice and it affects all her concerns: mold, health, safety, etc. She reiterated to the Chair that she would be happy if the building was 5 feet from the property line.

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

Vice Chair Fisler sympathized with Ms. Akers and explained some situations he has experienced, but said this does happen.

Commissioner Righeimer and Vice Chair Fisler noted that for new buildings there could be a larger setback and for a remodeled building it could be 5 feet.

Ms. Brandt explained that for second story additions the setback can be as close as 5 feet, but on new buildings the average setback is 10 feet.

Vice Chair Fisler made a comment about measuring from the

fence line and proceeded to make a motion.

**MOTION: Uphold Planning Division’s approval of Minor Modification MM-08-21, by adoption of Planning Commission Resolution PC-08-83, based on the evidence in the record and the finding contained in Exhibit “A”.
Moved by Vice Chair James Fisler, seconded by Commissioner Sam Clark.**

Commissioner Clark said he understood the situation and the minor encroachment is allowed as long as the official property line is within the minor modification zone. He also said the windows are sufficiently high. He supported the motion.

Ms. Brandt asked for a clarification on the motion as to whether the minor modification is based on 4.18 feet or 4.0 feet. A discussion ensued between the Chair and Vice Chair Fisler ending with the Chair pointing out that the staff report notes 4.18 feet and that is the measurement to use. Mr. Duarte agreed.

Commissioner Righeimer also agreed that we need to follow what the documents show. He noted that he understood the appellant’s concerns relating to light and shadow, but residents have the right to build additions to their homes. He supported the motion.

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.

The Chair explained the appeal process.

3. **Extension of time for Planning Application PA-07-15, for David Musser/Musser Architects, authorized agent for ABCO Realty and Investment Inc., for a master plan consisting of the following: (1) 26-unit, three-story attached, residential common-interest development; and (2) deviations from open space requirements (40% required; 37% proposed), driveway parkway landscaping**

requirements (10 ft. required; 0 ft. proposed), front setback requirements for covered, accessory entry gate (20 ft. required; 8 ft. proposed), and 2nd story rear setback requirements (20 ft. required; 15 ft. proposed) for the property located at 2013-2029 Anaheim Avenue, in the Mesa West Residential Ownership Urban Plan area and R3 zone. Environmental Determination: exempt.

Principal Planner Willa Bouwens-Killeen reviewed the information in the staff report, and there were no questions of staff.

The applicant was not in attendance.

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

MOTION: Approve an extension of time for Planning Application PA-07-15 to October 8, 2010, by adoption of Planning Commission Resolution PC-08-84, based on the evidence in the record.

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

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.

VIII. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.

Ms. Brandt indicated there were no items scheduled for the meeting of December 8, 2008, and by City Council policy there is not a second meeting in December. She said the next regularly scheduled meeting will be on January 12, 2009. She wished everyone a happy holiday season.

IX. REPORT OF THE CITY ATTORNEY'S OFFICE.

None. He wished everyone a happy Thanksgiving and happy holidays.

X. ADJOURNMENT TO THE MEETING OF MONDAY, DECEMBER 8, 2008.

There being no further business, Chairman Hall adjourned the meeting at 7:37 p.m. to the Planning Commission meeting of Monday, January 12, 2009. He wished everyone a happy Thanksgiving and a merry Christmas.

Submitted by: _____
KIMBERLY BRANDT, SECRETARY
COSTA MESA PLANNING COMMISSION