

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
March 9, 2009**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., March 9, 2009, at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Righeimer.

I. PLEDGE OF ALLEGIANCE TO THE FLAG.

Commissioner Clark led the Pledge of Allegiance.

II. ROLL CALL: Chair: James Righeimer
Vice Chair: James Fisler
Commissioners: Sam Clark, Colin McCarthy, and Stephen Mensinger

Present: Chair James Righeimer
Vice Chair James Fisler
Commissioner Sam Clark
Commissioner Colin McCarthy
Commissioner Stephen Mensinger

Absent: None.

Also present: Planning Commission Secy. Kimberly Brandt
Deputy City Attorney Tom Duarte
City Engineer Ernesto Munoz
Senior Planner Mel Lee
Senior Planner Minoo Ashabi

III. MINUTES: Minutes for the meeting of February 23, 2009

The Chair approved the minutes as corrected.

IV. PUBLIC COMMENTS:

Chris McEvoy, Costa Mesa, asked that the City reconsider the Overlay Zone stating that existing industrial base zoning is an asset to the community. He also made a comment that he hopes the Commissioners put the residents of Costa Mesa first when making their decisions.

V. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Vice Chair Fisler commented on Donn Hall's passing and said his sympathy and prayers are with his wife, Trudy, and their family, and that he will be missed.

Commissioner Mensinger stated that he has known Donn Hall for many years and he will be sorely missed. He gave his condolences to his family.

Commissioner Clark expressed his condolences and prayers for Trudy and the family and noted that in response to the public comments a few moments ago, his fellow Commissioners' hearts and interests are in the citizens of Costa Mesa and they are men of great integrity and will vouch for them.

Commissioner McCarthy stated that Donn Hall was his neighbor and he welcomed him and his wife when they moved in. He said Donn Hall was instrumental in getting him involved in the community and the City.

The Chair said he would adjourn tonight's meeting in honor of Donn Hall. He pointed out that communities do not have Donn Hall's, who gave his service to the community since 1974.

The Chair asked that Public Hearing Item No. 4 be moved in front of the first item because it is an extension of time and would be finished quickly.

VI. PUBLIC HEARINGS:

4. Extension of time for Planning Application PA-07-37, for Newport Balboa Partners, LLC, for a design review to construct a four-unit, two-story, residential common interest development, located at 178 and 180 E. 19th Street, in an R2-MD zone. Environmental determination: exempt.

John Snedegar of Newport Balboa Partners, LLC, was present and gave no presentation.

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

**MOTION: Approve an extension of time for Planning Application PA-07-37 to July 28, 2011, by adoption of Planning Commission Resolution PC-09-08, based on the evidence in the record.
Moved by Vice Chair James Fisler, seconded by Commissioner Sam Clark.**

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

1. **Zoning Code Amendment CO-09-01 for an ordinance to amend Sections 13-6 and 13-85 of Title 13 of the Costa Mesa Municipal Code related to off-street parking standards for single-family detached units with five or more bedrooms in R1 zones and small lot, detached, single-family common interest developments. Environmental determination: exempt.**

Senior Planner Mino Ashabi reviewed the information in the staff report and noted that an amended ordinance had been provided to the Commission. She responded to questions from the Commission regarding rewording of Section 1(a)'s "Room, Home Office" definition; the impact on new construction; building industry's input; and including "and/or" in the definition.

Deputy City Attorney Tom Duarte commented that he understands the intent of this section of the ordinance and it can be reworded.

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

MOTION: Recommend that City Council give first reading to the ordinance with the appropriate changes in language to Section 1(a) related to definition of "Room, Home Office."

Moved by Commissioner Sam Clark, seconded by Commissioner Colin McCarthy.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

2. **Zoning Code Amendment CO-09-02 for an ordinance to amend Section 13-6 and Table 13-32 of Title 13 of the Costa Mesa Municipal Code related to maximum driveway-width standards for residential developments. Environmental determination: exempt.**

Senior Planner Mino Ashabi reviewed the information in the staff report and responded to a question from the Commission regarding adding missing words to Section 1(a)'s definition of "Driveway, individual."

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

MOTION: Recommend that City Council give first reading to the ordinance, as amended, adding the words "for the" on Page 5, Section 1(a), after the word "necessary," related to definition of "Driveway, individual."

Moved by Vice Chair James Fisler, seconded by Commissioner Sam Clark.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

3. **Zoning Code Amendment CO-09-03 for an ordinance to amend Table 20-6(c) of Title 20 of the Costa Mesa Municipal Code related to vehicle parking on residential driveways. Environmental determination: exempt.**

Senior Planner Mino Ashabi reviewed the information in the staff report and the supplemental memorandum dated March 4, 2009. She responded to questions from the Commission regarding Council's previous concerns; enforcement upon adoption of the ordinance; and parking perpendicular to the street.

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

MOTION: Recommend that City Council give first reading to the ordinance as provided in the supplemental memo dated March 4, 2009.

Moved by Commissioner Stephen Mensinger, seconded by Commissioner Colin McCarthy.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

Planning Commission Secretary Kimberly Brandt stated that these three code amendments would be scheduled for the City Council meeting of April 7, 2009.

5. **Planning Application PA-09-02, for Willard Chilcott, for a design review for a two-unit, two-story, common interest development with less than a 10-foot average side setback for one of the units (8 ft. proposed), rear unit previously approved under DR-06-06, located at 2160 Myran Drive, in an R2-MD zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed Planning Application PA-09-02 and Planning Application PA-09-03 together, because the proposed projects are identical. He responded to questions from the Commission regarding drainage; grading; meeting the average 10-foot side setback requirement for the second floor for Building "B"; pavers; and the landscape strip.

Brad Smith, architect, agreed to all the conditions and said there was a sewer lateral for all four parcels. He said he is willing to shift Building "B" to the right to meet the average 10-foot setback on the second floor.

The Chair, Commissioner McCarthy, Commissioner Mensinger, and Mr. Smith discussed 2160 Myran Drive and the right side open space; the five-foot first floor offset; and the start date of constructing Building "A".

Mr. Lee pointed out that the owner will be constructing both projects at the same time.

City Engineer Ernesto Munoz noted that regarding sewer capacity, the manhole is in front of 2172 Myran Drive, the sewer line extends out to Victoria Street, and capacity is adequate.

The Chair, Mr. Munoz, and Mr. Smith continued to discuss the sewer and Mr. Munoz added that there is capacity according to the grading plans.

Donna Magrina expressed concern regarding protection of Pamela Frankel's quiet enjoyment of her next door property and the large tree. She was also concerned about the number of cars and people coming in and out and encroaching on her friend's property.

Pamela Frankel, neighbor, expressed concern regarding the impact this project will bring to her life; parking in turn-around area; and her quiet enjoyment being affected.

Linda O'Connell, a friend of Ms. Frankel, noted her concern for her friend's quiet place.

A discussion ensued and Ms. Frankel was allowed to return to the podium and added that the driveway is a prime vehicle turn-around area.

Mr. Smith returned to the podium and stated the large tree will stay and pointed out that the owner has rights to build in this zone.

The Commissioners discussed the general area, and the length of construction time to build the project.

Willard Chilcott, owner, explained to Commissioner Mensinger that he cannot guarantee the exact start date of construction because of the economy and financing. He said he intends to build both homes at the same time on each property.

Mr. Smith returned to the podium and explained to Commissioner Mensinger that the homeowner association will maintain the common area.

The Commissioners, Mr. Munoz, and Mr. Lee discussed the width of the easement and the public street; the zoning history; water runoff; and drainage.

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

Commissioner Clark stated these two units are inappropriate for the area. He proceeded to make a motion.

MOTION: Deny Planning Application PA-09-02 based on the denial findings contained in Exhibit "A".
Motion made by Commissioner Sam Clark, seconded by Vice Chair James Fisler.

During discussion on the motion, Vice Chair Fisler commented that he was torn on this project and would not support it.

The Chair noted the uniqueness of the project and said he would not support the motion.

Commissioner Mensinger stated that the architect needs to address the neighbors' concerns better.

Commissioner Clark added that the two units are overbearing and greatly impact the street.

Commissioner Mensinger began to make a substitute motion including both projects and Planning Commission Secretary Kimberly Brandt asked that a separate motion be made for each project.

MOTION: Approve Planning Application PA-09-02, by adoption of Planning Commission Resolution PC-09-09, based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in Exhibit "B".

Moved by Commissioner Stephen Mensinger, seconded by Commissioner Colin McCarthy.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: Vice Chair James Fisler, and Commissioner Sam Clark

Absent: None.

6. **Planning Application PA-09-03, for Willard Chilcott, for a design review for a two-unit, two-story, common interest development with less than a 10-foot average side setback for one of the units (8 ft. proposed), rear unit previously approved under ZA-04-15, located at 2172 Myran Drive, in an R2-MD zone. Environmental determination: exempt.**

MOTION: Approve Planning Application PA-09-03, by adoption of Planning Commission Resolution PC-09-10, based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in Exhibit "B".

Moved by Commissioner Stephen Mensinger, seconded by Commissioner Colin McCarthy.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: Vice Chair James Fisler, and Commissioner Sam Clark

Absent: None.

The Chair explained the appeal process.

7. **Zoning Application ZA-09-05, for Scott Mitchum, authorized agent for Murrey Seidner, for an amendment to the conditions of approval for PA-08-24 to permit the use of the word "loan" in signage and to reduce the minimum amount for customer loans, located at 1860 Newport Boulevard, in a C2 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and responded to a question from the Commission regarding the dollar amount submitted by the applicant.

Jim Caviola, attorney for property owner Murrey Seidner, stated that this is a beautiful property and is exactly what you want to see in Costa Mesa. He said that Mr. Seidner has a pawnbroker's license and is entitled to advertise, and wants to place a loan sign because of the economic times. Mr. Caviola agreed to all the conditions of approval and emphasized that Mr. Seidner needs to lower his loan amount to do business in this City with this economy.

Beth Refakes, Costa Mesa, expressed concern that this would downgrade the downtown area; objected to this type of business; and asked that this request be denied and the conditional use permit be revoked.

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

Planning Commission Secretary Kimberly Brandt explained to Vice Chair Fisler that once the conditional use permit is approved and activated, it runs with the land.

Vice Chair Fisler commented on the non-conforming use ordinance.

Ms. Brandt explained to Commissioner Mensinger that the City requires a conditional use permit when anyone requests a pawnbroker's license, and the primary use at this business is jewelry and watch repair. She added that each conditional use permit is handled on a case-by-case basis and development standards could be adopted relating to use.

MOTION: Approve Zoning Application ZA-09-05.

Moved by Vice Chair James Fisler, but the motion died for lack of a second.

Vice Chair Fisler said these establishments are there, they are legal, and some people need to use their services. He noted it was still a high limit.

The Chair stated he had major concerns for pawn shops and ancillary uses and proceeded to make a motion.

MOTION: Approve Zoning Application ZA-09-05 as it pertains to allowing the word "loan" to be used in exterior signage and deny Zoning Application ZA-09-05 as it pertains to decreasing the minimum loan amount from \$2,500 to \$500, by adoption of Planning Commission Resolution PC-09-11, based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in Exhibit "B", with the revised Findings and the revised Condition No. 1, adopted as follows:

FINDINGS

A. The proposed amendment to PA-08-24 as it pertains to allowing the word "loan" to be used in exterior signage complies with Costa Mesa Municipal Code Section 13-29(e) because:

- 1. The proposal is compatible and harmonious with uses on surrounding properties.**
- 2. The proposal is consistent with the General Plan and Redevelopment Plan.**
- 3. The zoning application is for a project-specific case and does not establish a precedent for future development.**

B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) as it pertains to allowing the word "loan" to be used in exterior signage in that the proposal is substantially compatible with developments in the same general area. Granting the amendment to Conditional Use Permit PA-08-24 as it pertains to allowing the word "loan" to be used in exterior signage will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate

vicinity.

C. The information presented substantially does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) as it pertains to decreasing the minimum loan amount from \$2,500 to \$500, in that the proposal is not compatible with uses in the same general area. Granting the amendment to Conditional Use Permit PA-08-24 as it pertains to decreasing the minimum loan amount from \$2,500 to \$500 will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the requested amendment is inconsistent with the intent of the approval of PA-08-24 because it would promote pawnbroker services to a primary component of the use, which is contrary to the conditional use permit approval which allows only ancillary pawnbroker services at a watch and jewelry store, and could contribute to a negative impression of the general area.

D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301.

E. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

1. The use shall comply with conditions and Code requirements of PA-08-24 with the following modification:

Condition 5 - No exterior signs stating "pawn" shall be permitted.

Moved by Chair James Righeimer, seconded by Commissioner Colin McCarthy.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

The Chair explained the appeal process.

In response to Commissioner Clark's question concerning revoking a pawnbroker's license, Ms. Brandt replied that to start the revocation process she would defer to the City Attorney's office.

Deputy City Attorney Tom Duarte said it should be made by making a motion.

MOTION: Direct staff to initiate the review of the conditional use permit for ancillary pawnbroker services in conjunction with a jewelry and watch repair business for possible modification or revocation located at 1808 Newport Boulevard.

Moved by Commissioner Sam Clark, seconded by Commissioner Stephen Mensinger.

During discussion on the motion, Ms. Brandt confirmed the address as being 1808 Newport Boulevard.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

Commissioner Mensinger asked staff to expand the development standards as they relate to pawn brokers.

Ms. Brandt said a City-wide ordinance could be brought before the Commission in 45 to 60 days.

MOTION: Direct staff to study the use of pawn brokers for additional development standards and/or processing requirements.

Moved by Commissioner Stephen Mensinger, seconded by Commissioner Sam Clark.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

VII. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.

Planning Commission Secretary Kimberly Brandt said that on behalf of the Planning Division our thoughts and prayers are with Donn Hall's wife, Trudy, and the family. She noted that Donn Hall's death is like losing a member of the family.

VIII. REPORT OF THE CITY ATTORNEY'S OFFICE.

None.

IX. ADJOURNMENT TO THE MEETING OF MONDAY, MARCH 23, 2009.

There being no further business, the Chair asked for a three-minute moment of silence for Donn Hall.

Chairman Righeimer adjourned the meeting at 8:24 p.m. to the Planning Commission meeting of Monday, March 23, 2009.

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