

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
July 13, 2009**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:00 p.m., July 13, 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: Assistant Planning Commission Secy. Claire Flynn
Deputy City Attorney Ivy Tsai
City Engineer Ernesto Munoz
Senior Planner Mel Lee
Senior Planner Minoo Ashabi
Assistant Planner Rebecca Robbins

III. PUBLIC COMMENTS:

John Hawley, Costa Mesa, expressed concern regarding the lack of work space requirements for live/work in the amendment to the Mesa West Bluffs Urban Plan. He mentioned there were many people who spent a great deal of time in the preparation of the Mesa West Bluffs Urban Plan and asked the Commissioners to comment on high density disguised as live/work or mixed use and their personal visions for Westside improvement.

IV. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner McCarthy mentioned that live/work units can succeed with good planning, good projects, and good gatekeeping by the Commission and staff. He also said the last thing the Commission wants on the Westside is high density housing.

Commissioner Clark agreed with Commissioner McCarthy and said his vision for the Westside is to see an improvement without high density housing. He also said he does not know what projects developers will bring in the future and reiterated he is not looking for high density development.

Vice Chair Fisler mentioned there should be minimum live/work standards; expressed concern regarding traffic impact; and hopes the Council will place standards for minimum work space or maximum live space in the amendment to the Mesa West Bluffs Urban Plan.

Commissioner Mensinger stated high density concerns can be managed once developers bring in their projects.

The Chair explained that the Commission made a recommendation and the City Council will look at this amendment and make a decision. He also said the Police Department asked for a moratorium on massage parlors, and discussed the commercial sex trade problem.

V. CONSENT CALENDAR:

1. Minutes for the meeting of June 8, 2009

MOTION: Approve.

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

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. **Regular Planning Commission meetings scheduled for once a month.**

MOTION: Approve by adoption of Planning Commission Resolution PC-09-33.

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

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.

VI. PUBLIC HEARINGS:

1. **From the meeting of June 8, 2009, Appeal of Zoning Administrator's denial of Zoning Application ZA-09-16, for David Cabrinah, authorized agent for Shahram Rahimian, for a minor conditional use permit to legalize four beverage dispensers and other miscellaneous items outside the cashier booth at the Costa Mesa Oil Company Gas Station, located at 2281 Newport Boulevard, in a C2 zone. Environmental determination: exempt.**

Assistant Planner Rebecca Robbins reviewed the information in the staff report and responded to questions from the Commission regarding the inadequacy of the drawing.

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Kambiz Ebrahim, employee of the property owner and speaking on behalf of the applicant David Cabrinah, came to the podium. A discussion ensued between the Chair, Deputy City Attorney Ivy Tsai, and Assistant Planning Commission Secretary Claire Flynn concerning if Mr. Ebrahim could speak for Mr. Cabrinah since the City received no letter or phone call from Mr. Cabrinah prior to this meeting. Ms. Tsai stated that

Mr. Ebrahim could speak, but no agreement can be made with regard to conditions of approval.

Mr. Ebrahim asked for an extension of time on this item and agreed to contact the contractor and provide a different type of drawing. He also replied to Commissioner Mensinger that he was willing to remove the beverage dispensers, but asked for time to redesign the drawing.

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

Commissioner McCarthy noted that he had some big concerns regarding the applicant not being in compliance and the time factor involved.

Ms. Robbins explained to Vice Chair Fisler that a continuance of this item could be made subject to a condition requiring removal of the four outdoor beverage dispensers within five days.

The Chair voiced a concern that this item has already been continued once to tonight's meeting.

Assistant Planning Commission Secretary Claire Flynn explained that if the Zoning Administrator's denial is upheld, the applicant must wait six months before resubmitting a minor conditional use permit.

Commissioner Clark stated he did not want the applicant to pay again for resubmittal of the permit and suggested that the applicant remove the beverage dispensers. He proceeded to make a motion.

**MOTION: Continue to the Planning Commission meeting of September 14, 2009 to allow the applicant time to prepare proper plans, subject to the condition that the four outdoor beverage dispensers are removed from the property within five days.
Moved by Commissioner Sam Clark, seconded by Vice Chair James Fisler.**

During discussion on the motion, Vice Chair Fislser suggested adding a condition to the motion for removal of the beverage dispensers within five days. Commissioner Clark agreed.

The Chair and Ms. Flynn discussed allowing the applicant enough time to submit plans by changing the continuance date to September 14, 2009 instead of August 10, 2009. The maker and seconder of the motion agreed.

Commissioner McCarthy stated there was no positive momentum relating to this item and it was a continued waste of staff time.

Commissioner Clark said he was giving the applicant the benefit of the doubt and noted he wants to make sure he is in compliance.

Vice Chair Fislser reiterated that the applicant has five days to remove the beverage dispensers.

Commissioner Mensinger stated he shares Commissioner McCarthy's concerns.

The Chair, Ms. Tsai, and Ms. Robbins discussed requiring the applicant to be in compliance and requesting a continuance.

Commissioner McCarthy commented that with this motion, the applicant is mandated to comply with what was already required. He also pointed out that the applicant did not attend this public hearing and therefore does not support the motion.

Ms. Robbins explained to Commissioner Mensinger that if the application is denied, the applicant still needs to bring the site into compliance. Commissioner Mensinger agreed with Commissioner McCarthy.

Vice Chair Fislser suggested a substitute motion be made or call for the question. The Chair proceeded to call for the question.

The motion carried by the following roll call vote:

Ayes: Chair James Rigeimer, Vice Chair James Fislser, and

Commissioner Sam Clark

Noes: Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Absent: None.

2. **Extension of time for Planning Application PA-07-19, for Waterpointe Development, authorized agent for Richard and John Dick, for a Design Review for a 7-unit, two-story, single-family detached, small-lot residential common-interest development including: (a) administrative adjustment from the front setback requirement (20 ft. required; 13 ft. proposed); (b) minor modification from 2nd floor rear setback (20 ft. required; 16 ft. proposed) and minor modification for 8-foot tall block wall along front property line (6 ft. allowed; 8 ft. proposed); and (c) deviation from Residential Design Guidelines for second-to-first floor ratio (80% maximum recommended; 92% proposed) and second floor left side setback (10 ft. average recommended; 5 ft. average proposed); located at 351 W. Bay Street, in an R2-MD zone. Environmental Determination: exempt.**

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

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Garrett Calacci of Waterpointe Development, authorized agent for the property owners, said the intent is to start construction on this project at the end of September. Mr. Calacci agreed to all the conditions of approval.

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

MOTION: Approve a time extension to January 2, 2011 for Planning Application PA-07-19, by adoption of Planning Commission Resolution PC-09-28, based on the evidence in the record.

Moved by Vice Chair James Fidler, 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. **Extension of time for Final Master Plan PA-02-33 and Vesting Tentative Parcel Map PM-03-250, for Maguire Properties, LP, authorized agent for Maguire Properties-Pacific Arts Plaza LLC. The time extension will apply to the following applications: (1) Final Master Plan PA-02-33, for the construction of an 18-story, 400,000 sq. ft. office building located at 3201 Park Center Drive and a 5-level, 770-space parking structure, inclusive of a previously-approved variance to the street setback requirement for the parking structure located at 3200 Bristol Street; and (2) Vesting Tentative Parcel Map PM-03-250 to subdivide approximately 20 acres into 14 parcels (10 for building footprints and 4 for common areas) for Pacific Arts Plaza Development (3200 Bristol Street; 3199, 3200, 3201, and 3210 Park Center Drive; 601, 611, 633, 655, and 675 Anton Boulevard), in a TC zone. Environmental determination: Final Program EIR No. 1047 (certified in February 2001) and Mitigated Negative Declaration for the 18-story high-rise building (approved in October 2002).**

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

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Karen Graham, authorized agent for Maguire Properties, agreed to all the conditions of approval and requested an extension due to the economic downturn. She said she wants to preserve the opportunity to go forward with this development.

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

MOTION: Approve a two-year time extension for the time period beginning on July 12, 2009 to July 12, 2011 for Vesting Tentative Parcel Map VPM-03-250 and Final Master Plan PA-02-33, by adoption of Planning Commission Resolution PC-09-29, based on the evidence in the record. 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.

The Chair explained the appeal process.

4. **Extension of time for PA-07-02, for Erick Van Wechel, authorized agent for Harmony Way of Costa Mesa LLC, for a Master Plan for a 30-unit single-family, detached common-interest development, located at 372, 378, and 382 Victoria Street, in a PDR-HD zone. Environmental determination: exempt.**

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

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Erick Van Wechel, representing Harmony Way of Costa Mesa, LLC, agreed to all the conditions of approval and explained that the site has already been demolished and graded, but they are looking for construction financing.

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

MOTION: Approve a time extension to July 3, 2010 for Planning Application PA-07-02, by adoption of Planning Commission Resolution PC-09-30, based on the evidence

in the record.

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

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.

5. **Parcel Map PM-09-106, for Pascal Apotheloz/DRC, authorized agent for South Coast Trade Center 1 LP, for a tentative parcel map to facilitate four additional ownership units within an existing commercial condominium development (South Coast Home Furnishings Center), located at 3033 Hyland Avenue, in a PDI zone. Environmental determination: exempt.**

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

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Steve Thorp of Burnham USA Equities, Inc., property owner, explained that they are repositioning and improving the aesthetics of the property to try to entice higher end retailers to the project. He said they would be bringing back extensive plans.

Ambica Hana, Costa Mesa, expressed concern regarding the number of condominium units that would be created by this project.

Commissioner Clark pointed out these are business condominium units, not for people to live in.

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

MOTION: Approve Parcel Map PM-09-106, by adoption of Planning Commission Resolution PC-09-31, 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, Vice Chair James Fidler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

The Chair explained the appeal process.

6. **Zoning Application ZA-09-24, for Vicki Green/The Sheldon Group, authorized agent for Trinity Christian Center, to modify previously-approved conditions of residential use permit PA-98-24 to allow special events and on-site food preparation no earlier than 7:00 a.m., and to remove the requirement for continuous noise monitoring in conjunction with outdoor filming activities, located at 3150 Bear Street, in an AP zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and said the applicant requests removal of Condition No. 12 for ZA-08-10. Mr. Lee also noted there was a revised Exhibit "B" (Conditions of Approval) and read each modified condition and added condition, and read the proposed additional Condition No. 20 for ZA-08-10.

Mr. Lee responded to questions from the Commission regarding the zoning area of the site, normal dining room hours of operation and hours of operation for special events, and on-site food preparation.

Regarding ex parte communications, Vice Chair Fidler met with the agent, the applicant, and also talked on the phone with the agent; Commissioner Mensinger met with the agent and the

applicant; Commissioner McCarthy met with the applicant's agent; and the Chair met with the applicant and concerned residents. Commissioner Clark had no ex parte communications with the applicant.

Steve Sheldon of the Sheldon Group, authorized agent for Trinity Christian Center (TCC), agreed to all the conditions of approval except for Condition No. 20. He said TCC operates in a quiet manner, and he would be willing to submit an on-site noise environment report.

The Chair, Commissioner Mensinger, and Mr. Lee discussed deleting Condition No. 12 of ZA-08-10 and Mr. Sheldon agreed.

Mr. Sheldon responded to Commissioner McCarthy's comment that TCC was "not a good neighbor" according to public comments at the January 12 City Council meeting by stating there has been a community outreach meeting, and TCC has coordinated their maintenance with the homeowners association's landscape maintenance.

Commissioner Clark and Mr. Sheldon discussed the dining room operating hours and included discussion with the Chair and Commissioner Mensinger ending with Mr. Sheldon agreeing to the operating hours beginning at 9:00 a.m. instead of 7:00 a.m.

There was another discussion concerning deleting Condition No. 20 relating to noise monitoring and Deputy City Attorney Ivy Tsai said the condition could be removed with a review date set.

Ms. Hana, Costa Mesa, stated she lives nearby to the project site and noted the noise monitoring should be kept, but was glad there would be no Saturday landscaping work. A discussion ensued regarding if Ms. Hana ever heard noise from the site.

Steve Schofro, Costa Mesa, thanked John Casoria, Mr. Sheldon, Mayor Pro Tem Wendy Leece, the Planning Commission, and staff for their help. He noted a concern

regarding the language in Condition No. 15 as it relates to the perimeter of the site. He asked if the site plan's Exhibit "A" could be used for the area in question instead of the word "perimeter."

Beth Refakes, Costa Mesa, expressed concern regarding no delivery hours being mentioned in Condition No. 33, maintaining noise monitoring (Condition No. 20), and the special event starting hours on weekends and holidays. She stated that food preparation hours should be changed and noted the neighbors' right to the quiet and peaceful enjoyment of their homes.

Mr. Sheldon explained to Commissioner Clark that there is no food service outside, it is quiet outside, and has been like this for several months. He said he would advise Commissioner Clark when the next taping is so he can attend.

Vice Chair Fisler said that since the Mr. Schofro seems to be satisfied with the improvements made by TCC, he thought it was time to proceed with a motion.

MOTION: Approve Zoning Application ZA-09-24 based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in the revised Exhibit "B", with the following modifications:

CONDITIONS OF APPROVAL

2. Condition of Approval No. 6 for Planning Application PA-98-24 shall be modified as follows: The hours of operation for the dining room shall be limited to 9:00AM to 5:30 PM.

5.15. The property owner shall utilize the gas powered lift to provide maintenance to the main building only. Gas lifts shall not be used around the perimeter of the property of attached site plan, Exhibit "A", or at the entrance to the site from Bear Street. Electric lifts shall only be used for the site perimeter of Exhibit "A" and entrance maintenance.

Moved by Vice Chair Fisler, seconded by Commissioner Colin McCarthy.

Commissioner Mensinger proceeded to make a substitute motion.

MOTION: Approve Zoning Application ZA-09-24, by adoption of Planning Commission Resolution PC-09-32, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the modified conditions in Exhibit "B" and addition of Exhibit "B1", adopted as follows:

CONDITIONS OF APPROVAL

Plng.

1. Except where indicated below, all applicable conditions of approval, code requirements, and special district requirements for Planning Application PA-96-19, Planning Application PA-98-24, and Zoning Application ZA-08-10, shall be complied with.

2. Condition of approval No. 6 for Planning Application PA-98-24 shall be modified as follows: The hours of operation for the dining room shall be limited to 9:00AM to 5:30PM.

3. New Condition of approval No. 11 for Planning Application PA-98-24 shall be added as follows: The food service restrictions as described in Conditions Nos. 4, 5, 6, 8, and 9 shall not apply to the four indoor-only special events (i.e., morning breakfasts) occurring on the property four times a year at 7AM to 9AM, as described in the staff report and the applicant's letter dated July 1, 2009 for ZA-09-24.

4. The following conditions of approval shall be added to Planning Application PA-96-19:

28. Special events shall not occur more than four times per year.

29. Special events shall not be open to the general public.

30. Special events shall not commence earlier than 7:00 a.m. However, food or other advance event preparation activity may occur as early as 5:00 a.m.

31. During special events, TCC shall employ a parking attendant during special events to direct traffic and make sure that no one is parking along southerly and easterly portions of the parking lot.

32. No alcohol shall be served at any event.

33. Any food deliveries for special events shall occur the day before the event. Should the property owner cater an event, food delivery vehicles shall be limited to catering vans or small trucks.

5. The following conditions of approval shall be modified and/or added to Zoning Application ZA-08-10:

12. Deleted.

13. No changes to this condition.

14. The property owner shall replace gas leaf blowers with the HUSQVARNA 356BF or equivalent.

15. The property owner shall utilize the gas powered lift to provide maintenance to the main building only. Gas lifts shall not be used around the perimeter of the property or at the entrance to the site from Bear Street. Electric lifts shall only be used for the site perimeter and entrance maintenance as shown in Exhibit "B1".

16. No changes to this condition.

17. Chipping of branches or other greenery shall only be done next to the main building at the northwest corner of the property adjacent to the I-405 Freeway and Bear Street.

18. The property owner shall notify neighbors 48 hours in advance in writing (via e-mail or US mail) of any landscape or other maintenance with the scope of work longer than two days and utilizing gas powered equipment.

19. Music shall not be played by maintenance crews.

20. Property owner's compliance with the above conditions shall be reviewed by staff six months from the effective date of this decision and an additional 12 months thereafter.

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

During discussion on the motion, Commissioner Mensinger explained that he removed Condition No. 20 since the issues seem solved, but if problems arise, the condition could be reinstated later.

Ms. Tsai said that since Condition No. 20 is being deleted, Condition No. 12 of ZA-08-10 should be removed reserving the right to reinstate the condition after setting a review period.

Mr. Lee offered for clarification another alternative that Condition No. 12 be deleted and the language in Condition No. 20 be modified.

The Chair said he was very impressed with the work done by TCC. He noted that he wanted the sound monitoring, but TCC solved the noise problems. He clarified the substitute motion stating that Condition No. 5.12 is removed and Condition No. 5.20 will include a staff review in six months and an additional 12 months thereafter. Both the maker and the seconder of the substitute motion agreed.

Assistant Planning Commission Secretary Claire Flynn confirmed the hours noted in Condition Nos. 2 and 3 with the Chair.

Mr. Lee made one more clarification for Condition No. 5.15 that the diagram named as Exhibit "A" be renamed to Exhibit "B-1".

Commissioner Clark suggested that the applicant be asked if he agrees to the substitute motion, and Mr. Sheldon returned to the podium and said he did.

Vice Chair Fisler stated he was happy to support the substitute motion.

The Chair closed the public hearing.

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.

VII. NEW BUSINESS

1. Discussion of Planning Commission Member Fees (Stipend) for FY 2009-2010.

Commissioner McCarthy discussed the significant cuts to the budget and also discussed the \$24,000 a year stipend that the Planning Commissioners receive. He pointed out that the mobile recreational vehicle has been cut from the budget and said he would like to see the Commissioners forego their stipend for benefiting Recreation programs.

Commissioner Mensinger said all the Commissioners give back to the community and preferred a benevolence fund be set up for the benefit of the community. He made a comment regarding the stipend he receives and said Commissioner McCarthy was the largest donor at the Estancia High School fireworks booth.

Commissioner McCarthy mentioned he would donate his stipend to the Costa Mesa Community Foundation and made a comment regarding the stipend amount.

Commissioner Mensinger noted the large sum of money he donates each year to the Pop Warner organization.

Vice Chair Fisler said what he donates is private and we should be free to choose what percentage to give to certain organizations.

The Chair explained that the City Council determines how to spend the City's large budget. He noted the \$30,000 concert figure is the direct cost, not the true cost including staff. He said he is very impressed and supportive of the private sector in their giving but with respect to the public sector, he said the City Council needs to decide.

VIII. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.

None.

IX. REPORT OF THE CITY ATTORNEY'S OFFICE.

None.

X. ADJOURNMENT TO THE MEETING OF MONDAY, AUGUST 10, 2009.

There being no further business, Chairman Righeimer adjourned the meeting at 7:57 p.m. to the Joint Study Session meeting of tomorrow, July 14, 2009, at 4:30 p.m., and then to the next regular meeting of Monday, August 10, 2009.

Submitted by: _____
CLAIRE FLYNN, ASSISTANT SECRETARY
COSTA MESA PLANNING COMMISSION