

**REGULAR MEETING OF THE CITY OF  
COSTA MESA PLANNING COMMISSION  
September 14, 2009**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:00 p.m., September 14, 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 Mensinger led the Pledge of Allegiance.

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

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

Absent: None.

Also Present: Assistant Planning Commission Secy. Claire Flynn  
Deputy City Attorney Tom Duarte  
City Engineer Ernesto Munoz  
Senior Planner Mel Lee  
Assistant Planner Rebecca Robbins

**III. PRESENTATION TO JAMES FISLER**

The Chair presented a proclamation to James Fisler and read it aloud. He also said it was a pleasure to work with him.

Commissioner McCarthy commented that Mesa Consolidated Water District will benefit greatly from Mr. Fisler's experience.

Commissioner Clark thanked Mr. Fisler for his dedication to the Planning Commission and congratulated him on his new appointment.

Commissioner Mensinger thanked Mr. Fisler and said our community thanks him.

James Fisler stated he thoroughly enjoyed being on the Planning Commission, and it was a pleasure to serve the City with his fellow Commissioners.

#### **IV. ELECTION AND COMMITTEE APPOINTMENT**

##### **(a) Election of Vice Chair**

The Chair asked if there were any nominations for Vice Chair.

Commissioner McCarthy nominated Sam Clark and Commissioner Mensinger nominated Colin McCarthy.

The Chair and Commissioner Clark discussed closing the nominations.

Deputy City Attorney Tom Duarte explained the voting procedure and said the vote is taken on the first person nominated.

**MOTION: Vote on the nomination of Sam Clark for Vice Chair.  
Moved by Chair James Righeimer, seconded by Commissioner Colin McCarthy.**

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Commissioner Sam Clark, and Commissioner Colin McCarthy

Noes: Commissioner Stephen Mensinger

Absent: None.

The Chair asked for a motion to make the nomination of Sam Clark for Vice Chair unanimous.

**MOTION: Vote on the unanimous nomination of Sam Clark for Vice Chair.  
Moved by Chair James Righeimer, seconded by Commissioner Stephen Mensinger.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

##### **(b) Appointment to Redevelopment and Residential Rehabilitation (3R) Committee**

Commissioner McCarthy volunteered himself for the appointment to the Redevelopment and Residential Rehabilitation (3R) Committee.

#### **V. PUBLIC COMMENTS:**

James Fisler, Costa Mesa, explained about Mesa Consolidated Water District's Breakfast /Tour and said it is scheduled for this Saturday, September 19, 2009,

from 8:30 a.m. to 1:00 p.m. He encouraged the public to log onto the website at mesawater.org for more information.

Jim Fitzpatrick, Costa Mesa, said he was interested in serving on the Planning Commission and has sent in his letter of interest.

Chris McEvoy, Costa Mesa, thanked Mr. Fidler for his dedication in serving on the Planning Commission and said he hopes to follow in his footsteps.

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

Commissioner McCarthy noted there are opportunities for good development in the City.

Vice Chair Clark thanked the Commissioners for their vote of confidence and spoke about the recent Neighbors for Neighbors event last Saturday, from 8:00 a.m. to 12:00 p.m. He said six or seven mobile homes/trailers were painted.

Commissioner Mensinger thanked Mr. Fidler for his service on the Planning Commission.

The Chair mentioned that he has had a half dozen meetings with developers in the last month, which looks very promising for the future.

## **VII. CONSENT CALENDAR:**

### **1. Minutes for the meeting of August 10, 2009.**

**MOTION: Approve.**

**Moved by Vice Chair Sam Clark, seconded by Commissioner Colin McCarthy.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

## **VIII. PUBLIC HEARINGS:**

- 1. From the meeting of July 13, 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 there were no questions of staff.

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

David Cabrinah, representing the property owner, said he would like the beverage dispensers removed.

The Chair suggested withdrawing the zoning application to legalize the beverage dispensers.

Mr. Cabrinah explained that he is the authorized agent for the property owner and agreed the owner should have removed the beverage dispensers.

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

**MOTION: Uphold the Zoning Administrator's decision and deny Zoning Application ZA-09-16, by adoption of Planning Commission Resolution PC-09-34, based on the evidence in the record and the findings contained in Exhibit "A".**

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

During discussion on the motion, Commissioner McCarthy expressed his frustration with the amount of staff time spent on this item.

Vice Chair Clark agreed 100% with Commissioner McCarthy's comments and said he was extremely disappointed. He noted he had given the owner the benefit of the doubt and was not pleased, and pointed out that it is not likely the owner will get his vote if this zoning application is brought back for consideration.

The Chair mentioned the issue of fines should be addressed.

The motion carried by the following roll call vote:

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

Noes: Commissioner Stephen Mensinger

Absent: None.

Deputy City Attorney Duarte replied to the Chair that fining is a Code Enforcement issue.

2. **Time extension for Planning Application PA-07-55, for Andrade Architects, authorized agent for Frank Di Ferdinando/Stallion Investments, for a design review for a 2-unit, 2-story, residential common interest development with a deviation from the recommended 10-foot average second-story side setback (8.6 ft. proposed), and an administrative adjustment for a 16-foot second-floor rear setback (20 ft. required), located at 2246 Elden Avenue, in an R2-MD 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.

Nancy Glass, Newport Beach, representing the applicant, said Mr. Lee did a great job as the Planner for this planning application. She did not make a presentation.

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

**MOTION: Approve a time extension to June 9, 2013 for Planning Application PA-07-55, by adoption of Planning Commission Resolution PC-09-35, based on the evidence in the record.  
Moved by Vice Chair Sam Clark, seconded by Commissioner Colin McCarthy.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

The Chair explained the appeal process.

3. **Planning Application PA-09-12, for Robert Hagopian, authorized agent for Wohl Investment Company, for a conditional use permit for a 4,677 sq. ft. specialty retail store (meat market) with sale of beer and wine for off-site consumption (Type "20" ABC License), located at 103 E. 17th Street, Suites 10-11, in a C1 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and responded to questions from the Commission regarding future business uses at

this location if the applicant's conditional use permit for a specialty retail store is approved. There also was a discussion concerning the conditions of approval.

Regarding the ex parte communications, all of the Commissioners met with the applicant and Commissioner Mensinger also met with the landlord of the property.

Robert Hagopian, Laguna Beach, applicant, thanked staff and gave a presentation stating The Meat House will have a Whole Foods quality and will be the best butcher store in Orange County. He emphasized their business' complimentary style with Grower's Direct, Trader Joe's, and Santa Monica Seafood located nearby.

Mr. Brian Smith, Laguna Beach, applicant, commented on the conditions of approval and asked for some modifications, specifically that the store hours noted in Condition No. 3 be changed to 9:00 a.m. to 9:00 p.m. to coincide with Trader Joe's store hours; Condition No. 6 be changed to read no sale of beer in single cans; and a new condition added for prohibiting exterior signs advertising the sale of alcoholic beverages. Mr. Smith pointed out that this is the first California location for The Meat House.

Vice Chair Clark and Mr. Smith discussed the selection of beer to be sold and Mr. Smith said the beer is comparable to a bottle of wine. Also Mr. Smith explained that less than 10% of the sales area would be used for the sale of alcohol.

Peter Desforges of Wohl Investment Company, property owner, explained to Commissioner Mensinger that he would address the chain-link fence issue, which is on Caltrans' property, as soon as Caltrans returns his call. He said he wants a nice landscaped area and improvements are expected in the next few months. Mr. Desforges noted that Wohl Investment Company owns Promenade and Plums and has a high standard of business. He said The Meat House is their last business opportunity in this group/area, and confirmed they also have contacted their landscape architect.

The Chair suggested adding Condition No. 15 requiring formal contact with Caltrans staff within 30 days and executing a three-party agreement.

Mr. Desforges explained that The Meat House specializes in the pairing of their foods to their wine; there will be an addition of a larger cheese area; and approximately 35% of the floor space will be used for selling meats. He also pointed out that they have no intention of using this property as a liquor store and no exterior signage will be used with respect to liquor.

Beth Refakes, Costa Mesa, said this is a great business, but noted her concerns relating to adequate parking, the sale of alcohol, and landscape improvements.

Chris McEvoy, Costa Mesa, referred to Page 3 of the staff report and said he believes no 99-cent beer bottles will be sold at this business, and there are no liquor stores nearby. He also said this business is a good fit for the area.

Jim Fitzpatrick, Costa Mesa, gave his support for the project, including the conditions of approval, and stated pairing wine with your meal is a great idea.

Commissioner McCarthy confirmed with Mr. Lee that staff has no objection to the requested change of the store hours and discussed Condition Nos. 10 and 11. He also thanked the applicants for meeting with the Commissioners and gave his support for the change to Condition No. 6 (sale of beer).

Vice Chair Clark stated he had no objection to the modification of Condition No. 3 (store hours). He also discussed his concerns regarding the language in Condition No. 6 of high-end wine as it relates to future tenants; wants no beer sold that is less than 16 ounces; and discussed Pg. 25 regarding the census tract.

Commissioner Mensinger echoed the Vice Chair's comments and said this is a great business use and it meets all the City's requirements. He asked staff to help the owner work with Caltrans. The Vice Chair agreed.

The Chair restated the modifications to Condition Nos. 2, 3, and 6, and the addition of Condition Nos. 14 and 15. The applicants returned to the podium and agreed with the changes to the conditions.

Mr. Desforges agreed with the changes to the conditions.

**MOTION: Approve Planning Application PA-09-12 with regard to the conditional use permit for a specialty retail store, with a finding of Public Convenience or Necessity for a State Alcoholic Beverage Control (ABC) License Type "20" to allow the sale of beer and wine for off-site consumption, by adoption of Planning Commission Resolution PC-09-36, based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in Exhibit "B", with modifications to Condition Nos. 2, 3, and 6, and the addition of Condition Nos. 14 and 15, adopted as follows:**

**CONDITIONS OF APPROVAL**

- 2. The use shall be limited to the type of operation described in this staff report, i.e., a specialty retail store with a minimum of 35% of sales area devoted to meat products. Any change in the operational characteristics will require approval of an amendment to the conditional use permit, subject to Planning Commission approval.**

3. **Hours of operation shall be limited to 9:00 a.m. to 9:00 p.m., seven days a week.**
6. **No sale of beer in single cans shall be permitted. No sale of beer in single bottles less than 16 ounces shall be permitted. These restrictions are not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of 2 or more gallons, which are clearly designed to dispense multiple servings.**
14. **Exterior signs advertising the availability of alcoholic beverages for sale at this establishment shall be prohibited.**
15. **Within 30 days of the effective date of approval of the conditional use permit, the property owner shall begin working with the City's Transportation Division and Caltrans to replace the chain link fence along the Newport Boulevard frontage with a Type 7 green vinyl fence or barrier acceptable to both the City and Caltrans, as well as upgrade the landscaping with additional plants within this area. The fencing and landscaping plan shall be submitted to the Planning Division for approval. The release of final occupancy or utilities for this establishment shall not be withheld pending the completion of this condition; however, the property owner shall provide documentation of the progress and estimated time of implementation of the fencing and landscape improvements prior to release of final occupancy or utilities.**

**Moved by Vice Chair Sam Clark, seconded by Commissioner Stephen Mensinger.**

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

The Chair explained the appeal process.

#### **IX. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.**

Assistant Planning Commission Secretary Claire Flynn stated there is a press release on the City's website regarding the vacancy on the Planning Commission and the deadline to submit a letter of interest and resume to the City Manager's office is 5:00 p.m. on October 2, 2009.

#### **X. REPORT OF THE CITY ATTORNEY'S OFFICE.**

None.



**XI. ADJOURNMENT: NEXT REGULAR PLANNING COMMISSION MEETING  
AT 6:00 P.M. ON OCTOBER 12, 2009.**

There being no further business, Chairman Righeimer adjourned the meeting at 7:25 p.m. to the next regular Planning Commission meeting at 6:00 p.m. on October 12, 2009.

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