

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
January 11, 2010**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:00 p.m., January 11, 2010, 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.

Vice Chair Clark led the Pledge of Allegiance.

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

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

Absent: None.

Also Present: Acting Development Svs. Director Kimberly Brandt
Assistant Planning Commission Secy. Claire Flynn
Deputy City Attorney Tom Duarte
City Engineer Ernesto Munoz
Associate Planner Wendy Shih

III. PUBLIC COMMENTS:

There were no public comments.

IV. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Fitzpatrick announced that he is a certified Green Building professional; recognized the Graffiti Hotline; and spoke on urban mushing at Fairview Park. He said he had an opportunity to explore Fairview Park, Talbert Nature Reserve, and the Orange

Coast River Park. He noticed that Talbert Reserve had a lot of new trees planted. He commented on the creative opportunity to plant some trees in little pockets of the City. In addition, he noted the City of Newport Beach's Task Force on cycling safety.

Commissioner McCarthy wished everyone a happy New Year. He expressed excitement that the Alabama Crimson Tide Football Team is staying in Costa Mesa, as well as their fans, and hopes Costa Mesa can continue to pursue this in the next four years. He announced that the Mesa North newsletter is on line at mesanorth.org and commented on the Costa Mesa Community Run. He also said the Mesa Verde Classic is on January 18 and raises money for Costa Mesa athletics and there is a dinner event afterwards honoring Ed Fawcett of the Chamber of Commerce.

Vice Chair Clark wished everyone a happy New Year and commented that he sees many new projects and is looking forward to a prosperous year.

Commissioner Mensinger wished everyone a happy New Year.

The Chair wished everyone a happy New Year and stated that Thursday, January 14, is the auction for the Department of Government Services' sale of the Fairgrounds and is taking place at the Fairgrounds. He noted that the City of Costa Mesa/County of Orange have a bid in and the event can be viewed in the City Council Chambers.

V. CONSENT CALENDAR:

1. Minutes for the meeting of December 14, 2009.

The Vice Chair requested that the item be pulled from the Consent Calendar for discussion. He stated that there are some amendments that need to be incorporated in the minutes.

Commissioner McCarthy noted that while reviewing the revised minutes in the supplemental memo dated January 5, 2010, the last page under Fee Waiver Programs, for the discussion regarding drainage impact fees, the comment/question from the Chair was missing in which he asked staff to see what the

other cities are doing. He said it was important because a lot of other cities are deferring impact fees in total and the fees could include drainage impact fees.

There was a discussion concerning the need for a motion and a second.

MOTION: Approve with the changes noted in the supplemental memorandum dated January 5, 2010, relating to New Business Item VII.2, Fee Waiver Programs, and reflecting the comments made by the Chair regarding staff looking into what other cities are doing in reference to the drainage impact fee issue.

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

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

VI. PUBLIC HEARINGS:

- 1. Application No.: CO-09-16
Site Address: Citywide
Applicant: City of Costa Mesa
Environmental
Determination: Exempt**

Description:

An ordinance of the City Council of Costa Mesa, California adopting Zoning Code Amendment CO-09-16 to amend Title 13, Chapter XIII, of the Costa Mesa Municipal Code to modify the days and hours in which construction activity is exempt from the City's noise regulations and to establish a procedure to seek relief from the proposed restrictions.

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

regarding noise regulations.

Chris McEvoy, Costa Mesa, advised against the ordinance stating there is too much government. He asked Commissioner McCarthy to explain why this recommendation was brought forward.

Commissioner McCarthy pointed out that Costa Mesa is the only city allowing construction on Sundays and holidays and said the residents deserve one day of quiet a week. He also noted that construction work can be accomplished working Monday through Saturday and he hopes this ordinance can go forward to the City Council.

**MOTION: Recommend that City Council introduce and give first reading of the ordinance.
Moved by Vice Chair Sam Clark, seconded by
Commissioner Colin McCarthy.**

During discussion on the motion, Commission McCarthy and Ms. Shih discussed the official federal holidays.

Ms. Shih explained the Code Enforcement process for responding to noise complaints to Commissioner Fitzpatrick.

The Chair suggested removing federal holidays from the motion and both the Vice Chair and Commissioner McCarthy accepted the amendment.

Ms. Shih explained that this ordinance would apply to all construction activities and explained the Code Enforcement process when a complaint is received.

A discussion ensued between the Chair and Vice Chair Clark regarding holidays and the ordinance. Vice Chair Clark withdrew his acceptance of the amendment to the motion. The Chair called for the vote on the original motion.

The motion carried by the following roll call vote:

Ayes: Vice Chair Sam Clark, Commissioner Jim Fitzpatrick,
Commissioner Colin McCarthy, and Commissioner
Stephen Mensinger

Noes: Chair James Righeimer

Absent: None.

2. **Application No.: GP-09-01**
Site Address: 88 Fair Drive
Applicant: City of Costa Mesa
Zone: I & R
Environmental
Determination: Previously certified Final Program
Environmental Impact Report No. 1049 (January 22, 2002).

Description:

General Plan Amendment to amend the Land Use Element of the 2000 General Plan for the 150-acre Orange County Fair and Event Center property at 88 Fair Drive. The site has a Fairgrounds land use designation and is zoned Institutional & Recreational (I&R zone). The proposed General Plan Amendment describes the existing land use/traffic context, involves expanded text description for the Fairgrounds land use designation, and provides discussion on permitted and prohibited land uses. No change to the maximum allowable floor-area-ratio of .10 is proposed.

The Chair recused himself from this item and asked Vice Chair Clark to take over in his absence. The Chair left the dais.

Vice Chair Clark continued on with the item and asked Ms. Flynn to review the report.

Assistant Planning Commission Secretary Claire Flynn reviewed the information in the staff report and highlighted the key milestones pertaining to the Orange County Fairgrounds in 2009.

In response to Commissioner McCarthy's question regarding the legal, non-conforming status of the Fairgrounds and the impact on the land, Acting Development Services Director Kimberly Brandt replied that the State currently owns the property and governs the use of the property, and the State has a Master Plan that was adopted in 2003. She said the City has no authority to adopt the Master Plan. She also said at

such time the property's ownership is transferred to a non-state entity, that master plan approval is vacated and does not carry forward to the new property owner. The property would be considered by the City as legal, non-conforming. She commented that the Fairgrounds can continue to operate as it is today, but no expansion of use or change in operation can occur until the new property owner seeks a master plan approval from the City. That property would become conforming after the master plan approval.

Commissioner McCarthy noted that the City's legal, non-conforming status gives them control through the Master Plan.

Vice Chair Clark confirmed with the other Commissioners that there were no ex parte communications.

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

MOTION: Recommend that City Council adopt General Plan Amendment GP-09-01, amending the Land Use Element as set forth in Exhibit "A", by adoption of Planning Commission Resolution PC-10-1, based on the evidence in the record and the supplemental memorandum dated January 5, 2010. Moved by Commissioner Colin McCarthy, seconded by Commissioner Stephen Mensinger.

The motion carried by the following roll call vote:

Ayes: Vice Chair Sam Clark, Commissioner Jim Fitzpatrick, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

Recuse: Chair James Righeimer

Ms. Brandt announced that this item would be reviewed by City Council at their meeting of February 2, 2010.

The Chair returned to the dais.

3. Application No.: PA-07-30 & PM-07-174

Site Address: 300 23rd Street
Applicant: Mike Czajkowski
Zone: R2-MD
Environmental
Determination: Exempt

Description:

Design review to construct two, two-story detached condominium units with a parcel map to facilitate the subdivision.

Associate Planner Wendy Shih reviewed the information in the staff report and responded to questions from the Commission regarding the Residential Design Guidelines, setback requirements, type of development, receipt of public comment letters, and the public notice radius area.

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

Mike Czajkowski, applicant, noted that he tried to fit in the two structures according to the Residential Design Guidelines. He agreed to all the conditions of approval and the revised condition relating to construction hours.

Ray Davies, Costa Mesa, pointed out that there are no buildings like this, and they are very narrow condominiums. He expressed concern regarding parking on 23rd Street and the project's impact on traffic. Mr. Davies did not support the project.

Kelly Black, Costa Mesa, who lives directly behind the property, also noted there is no parking on 23rd Street and this will add to the problem. She said there are no condominiums or apartments like this in the area and asked what the distance is from the fence. She also asked if the applicant will own this property or sell it.

Henry Weber, Costa Mesa, stated that he and his daughter live directly behind the property and agrees with the two previous speakers. He liked the architecture, but asked how close the property is from the back wall. He agreed about the parking

concerns and also noted privacy concerns in relation to trees being removed.

Commissioner McCarthy and Ms. Shih discussed the setback being a minor deviation from the design guidelines, the proposed 8-1/2 ft. setback along Santa Ana Avenue, the right side second story setback, and the separation between the units.

The Chair and Ms. Shih discussed the front setback of 20 ft. and there being no deviation.

The Chair asked Mr. Czajkowski to return to the podium and they discussed the property's first story compliance. Mr. Czajkowski noted the second story is a little closer. The Chair explained to the audience that the design guideline for the second story is 80% of the first story because it gives the structure depth, instead of a square box look.

The Chair and Ms. Shih discussed the windows to the east, and Ms. Shih stated that the windows have been re-arranged to minimize view impact and noted the main view windows from the second floor plan are the bathroom and office windows facing the backyard.

In response to Commissioner Mensinger's question if the condominiums will be for sale or rent, Mr. Czajkowski replied that he will live in one of them, but does not know presently. Mr. Czajkowski also explained that in his project's layout opaque windows are included, and the existing house has a wood fence but the project shows a block wall. He mentioned that he did not talk to the neighbors regarding this project because he was not required to do so and made a comment concerning a previous experience he had with neighbors and trees.

Laura Johnson, Costa Mesa, asked that the trees not be removed and said that trees give a beautiful hedge and privacy.

Mr. Davies asked about the ratio of the second floor to the first floor of the building and a setback.

The Chair explained that the standard refers to the second floor feature being 20% smaller than the first floor.

Mr. Czajkowski apologized and said he wants to keep as many trees as possible.

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

MOTION: Approve Planning Application PA-07-30 and Parcel Map PM-07-174 by adoption of Planning Commission Resolution PC-10-2, based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in Exhibit "B", with the revised Condition No. 13 and additional Condition No. 17, adopted as follows:

CONDITIONS OF APPROVAL

13. Grading, materials delivery, equipment operation, and other construction-related activity shall be limited to the hours of 7:00 a.m. through 7:00 p.m., Monday through Friday, and 9:00 a.m. through 6:00 p.m., Saturdays. Construction is prohibited all hours on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.

17. The applicant shall install a perimeter block wall along the north and east side property lines per City's Walls, Fences, and Landscaping Standards and Specifications. Moved by Vice Chair Sam Clark, seconded by Commissioner Colin McCarthy.

During discussion on the motion, Commissioner McCarthy noted his concern with the Residential Design Guidelines, but said this project is not mansionizing and he will support this motion. He encouraged the applicant to work with his neighbors regarding the trees and the fence/block wall issue.

Commissioner Mensinger commented that it is important to talk

with your neighbors when you are remodeling or rebuilding. He asked that a condition of approval be added to the motion requiring the homeowner to build a block wall on the northeast side of the property. The maker of the motion, Vice Chair Clark, agreed and the applicant agreed.

Vice Chair Clark pointed out that the parking is adequate for this project and the property owner does have rights.

Commissioner Fitzpatrick and Ms. Shih discussed parking compliance and Ms. Shih noted that Condition No. 8 states that the residents shall park in their garages.

The Chair commented that this is a fine project, adds value to the area, and the parking is adequate. He supported the motion.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

The Chair encouraged the applicant to talk to his neighbors.

- 4. Application No.: PA-09-11**
Site Address: 3003 Newport Blvd.
Applicant: Iann Marr/Mk Design
Zone: C1
Environmental
Determination: Exempt

Description:

Conditional use permit for the following:

*** 24-hour convenience store**

*** Car Wash**

*** Motor Vehicle Service Station with concurrent sale of alcoholic beverages (requiring a finding of Public Convenience or Necessity)**

Variances and administrative adjustments from front/side/rear setback requirements for the new

convenience store, car wash building, and fuel canopies are also requested.

Associate Planner Wendy Shih reviewed the information in the staff report and provided a slide show presentation. She noted that the Police Department has concerns with an additional liquor license in the census tract and the property's proximity to the freeways and requires a transfer of license. Ms. Shih responded to questions from the Commission regarding the proposed landscape plans, and the specific findings for a liquor license.

Regarding ex parte communications, Commissioner Fitzpatrick stated that he had spoken to Mr. Marr, one of the applicants.

Iann Marr, applicant, and Bahman Bakhtar, owner, introduced themselves and Mr. Bakhtar stated that his business has been serving the community for about 12 years and providing beer and wine to neighbors and customers is their way they can survive in this economic market. Mr. Marr and Mr. Bakhtar agreed to the conditions of approval with and without the sale of alcoholic beverages.

Mr. Marr stated that the main item of this project is the sale of beer and wine. He mentioned the landscaping has doubled and 17% of the entire site is landscaping. Commissioner Mensinger said he appreciated the increase.

Mr. Marr noted that he had worked with Ms. Shih and will use medium high bushes and is working with GHF on the streetscape. He said he is very confident that the City will be proud of the improved site. Commissioner Mensinger and Mr. Marr discussed draft tolerant landscaping.

Mr. Marr explained that he is in contact with ABC and with Lt. Cizek of the Police Department. He noted that the Police Department is more concerned with the proximity to the freeway and the potential of robbery. Mr. Marr also said the property is brightly lit and is seven times brighter than street lighting.

The Chair and Mr. Marr discussed the hours of the car wash

and Mr. Marr noted more clients are coming in the early morning and in the evening.

The Vice Chair suggested changing the hours of the car wash to 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturdays. Mr. Marr agreed to the change.

Ken Kang, MK Design, said this project is an opportunity for a corner business to survive in the community.

Mr. Marr added that this project is an opportunity to hire more people and give back to the community. He said that he is trying to do everything he can as the gas prices are going up.

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

Commissioner McCarthy noted his concerns regarding the gas station, and the number of existing liquor licenses in the area.

Commissioner Mensinger stated he was familiar with the area and strongly encouraged the landscaping and maintenance of the site to improve the market window as seen entering the City.

MOTION: Approve Planning Application PA-09-11, based on the evidence in the record and the findings contained in Exhibit "A", subject to the conditions contained in Exhibit "B", excluding the concurrent sale of alcoholic beverages.
Moved by Vice Chair Sam Clark, seconded by Commissioner Colin McCarthy.

During comments on the motion, Vice Chair Clark noted that this site is a gateway to the City and landscaping can improve its appearance. He also said another liquor store cannot be placed in this area when there are already five or six liquor stores within a 1/4 or 1/2 mile.

Commissioner Fitzpatrick appreciated Commissioner Mensinger's comments on market windows, but said he would not be supporting the motion. He noted that he was not aware

of any Police Department complaints relating to the site and stated the benefits of a commercial car wash business. He asked the applicant if a water filtration system would be installed and the costs involved.

Mr. Marr returned to the podium and replied there is a fair amount of latitude on this and Mr. Kang said the approximate cost is \$70,000 with 70-80% saved/reclaimed water. Commissioner Fitzpatrick and Mr. Marr and Mr. Kang discussed dryers, the gallons of water per wash, using reclaimed water, and noise abatement of the dryers.

Mr. Marr noted that sound walls are already present and described the tunnel and equipment room. There was continued discussion regarding smog, dryers, and blowers.

Commissioner Fitzpatrick suggested longer car wash hours and Mr. Bakhtar replied 6:00 a.m. to 11:00 p.m. and monitoring the business after six months.

The Chair noted the location is next to the freeways, and is in a residential area. He said the business owner has been in business for 12 years and mentioned the amount of money involved in this business. He commented on the car wash and suggested the car wash hours of 7:00 a.m. to 9:00 p.m. for convenience of use. He also noted Condition No. 10 on Page 20. The Chair stated that he is against the motion if the liquor license is not included.

Commissioner Mensinger agreed with the liquor license issue, but stated there is no great advantage to being open to 9:00 p.m. The Chair suggested the hours of 7:00 a.m. to 8:00 p.m. and Vice Chair Clark and Commissioner McCarthy agreed to the car wash hours as the maker and seconder of the motion with no liquor license. Commissioner Mensinger agreed to the new car wash hours.

The Chair proceeded to make a substitute motion.

MOTION: Approve Planning Application PA-09-11 and make a finding of public convenience or necessity for beer and wine sales (type 20 ABC license), including approval

of requested deviations from specified development standards, by adoption of Planning Commission Resolution PC-10-3, based on the evidence in the record and the findings contained in Exhibit "A", subject to the conditions contained in Exhibit "B", with the revised Condition Nos. 7 and 9 and additional Condition No. 31, adopted as follows:

CONDITIONS OF APPROVAL

7. All construction-related activity shall be limited to the hours of 7:00 a.m. through 7:00 p.m., Monday through Friday, and 9:00 a.m. through 6:00 p.m., Saturdays. Construction is prohibited all hours on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.

9. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The car wash hours of operation shall be limited to 7:00 a.m. to 8:00 p.m., seven days a week. In addition, the car wash design features (including all noise attenuation measures) and laser wash system technology shall be implemented as described in the Planning Commission staff report, to the satisfaction of the Development Services Director.

31. The applicant shall install a reclaimed water system in the car wash facility to promote water conservation. Moved by Chair James Righeimer, seconded by Commissioner Jim Fitzpatrick.

During discussion on the substitute motion, Vice Chair Clark confirmed with the Chair that the construction hours would be revised in Condition No. 7 to coincide with the noise ordinance hours.

Commissioner Fitzpatrick asked for a condition of approval be added requiring the installation of a reclaimed water system for the car wash and the Chair accepted the additional condition to the substitute motion. The applicant also agreed to the

additional condition.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Commissioner Jim Fitzpatrick, and Commissioner Stephen Mensinger

Noes: Vice Chair Sam Clark, and Commissioner Colin McCarthy

Absent: None.

VII. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.

Assistant Planning Commission Secretary Claire Flynn announced that both the construction hours ordinance and the General Plan Amendment will be brought before the City Council at their meeting of February 2, 2010.

VIII. REPORT OF THE CITY ATTORNEY'S OFFICE.

None.

Commissioner Fitzpatrick acknowledged the Newport Harbor High School students in the audience.

IX. ADJOURNMENT: ADJOURN TO STUDY SESSION OF JANUARY 25, 2010, AT 5:30 P.M. NEXT REGULAR PLANNING COMMISSION MEETING FEBRUARY 8, 2010, AT 6:00 P.M.

There being no further business, Chairman Righeimer adjourned the meeting at 8:21 p.m. to the Planning Commission Study Session of January 25, 2010, at 5:30 p.m. The next regular Planning Commission meeting is at 6:00 p.m. on February 8, 2010.

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