

**MEETING MINUTES OF THE CITY OF
COSTA MESA PLANNING COMMISSION**

April 8, 2019

These meeting minutes represent an "action minute" format with a concise summary of the meeting. A video of the meeting may be viewed on the City's website at www.costamesaca.gov or purchased on DVD upon request.

Chair de Arakal called the meeting to order at 5:57 p.m.

Chair de Arakal led the Pledge of Allegiance.

ROLL CALL

Present: Chair Byron de Arakal
Vice Chair Jeffrey Harlan
Commissioner Kedarious Colbert
Commissioner Carla Navarro Woods
Commissioner Jon Zich

Staff: Barry Curtis, Director of Economic and Development Services
Jennifer Le, Assistant Director of Development Services
Tarquin Preziosi, Assistant City Attorney
Jennifer Rosales, Transportation Services Manager
Willa Bouwens-Killeen, Zoning Administrator
Mel Lee, Senior Planner
Justin Arios, Assistant Planner
Julie Colgan, Recording Secretary

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS:

Ann Parker, Costa Mesa resident, stated concerns with 645 and 647 West 19th Street property operating a business, expressed concerns regarding parking issues and with sober living home operators being favored over residents.

Steve Grungal, Costa Mesa resident, started to give a comment on Public Hearing Item No. 1 and Chair de Arakal asked that he wait until the specific item was presented to speak on the item.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Zich asked that the parking question raised during public comments be followed up on. Mr. Curtis responded that staff would be happy to provide that information at the next meeting.

Commissioner Colbert dedicated his public comments to the life and memory of Nipsey Hussle who was an artist that was killed last week in Crenshaw.

Commissioner Navarro Woods stated that the General Plan, Zoning Code, and Urban Plans are now available at the meetings for residents to refer to; that according to the Office of Environment Health and Hazard Assessment website in the CalEnviroScreen section the west side of Costa Mesa has a low score for pollution burden; and that this would be a good tool to use when evaluating a project.

CONSENT CALENDAR:

- 1. MINUTES FOR THE MEETING OF MARCH 11, 2019**
- 2. MINUTES FOR THE MEETING OF FEBRUARY 25, 2019**

MOTION: Move that the Planning Commission accept the consent calendar items.

Moved by Vice Chair Harlan, seconded by Commissioner Colbert.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich

Noes: None

Absent: None

Abstain: None

PUBLIC HEARINGS (00:08:52)

- 1. APPEAL OF THE DIRECTOR'S DENIAL OF REASONABLE ACCOMMODATION 19-02 AND 19-03 TO OPERATE A SOBER LIVING FACILITY HOUSING UP TO 12 ADULTS IN TWO UNITS WITH RELIEF FROM CERTAIN LAND USE REQUIREMENTS OF THE ZONING CODE; OPERATED BY THE OHIO HOUSE AT 2175 TUSTIN AVENUE, UNITS A AND B**

Project Description: Reasonable Accommodation 19-02 and 19-03 is a request for relief from certain requirements of the City's Zoning Code to allow a sober living facility serving 12 adults within two residential units located on a single parcel without a conditional use permit. The application for Reasonable Accommodation was denied by the Director of Development Services. The applicant has appealed that decision to the Planning Commission.

Environmental Determination: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Class 1), Existing Facilities.

Two ex-parte communications to report: Commissioner Zich met with the applicant after the February 11th meeting and Chair de Arakal received an email from the applicant requesting a meeting but he did not meet with them.

Willa Bouwens-Killeen, Zoning Administrator, presented the staff report.

Commissioner Navarro Woods and Ms. Bouwens-Killeen discussed whether the applicant provided a copy of the Group Home Rules and Regulations, copy of the Intake Procedures, copy of the Relapse Policy, and the blank forms that all residents and potential residents are required to complete.

PUBLIC COMMENTS

Chair de Arakal read this statement into the record: "People recovering from alcoholism or drug addiction are considered disabled under federal law so long as they are not currently using. They are protected under the law, and they should be treated with the same respect we all want to be treated with. People in recovery have a right to live in residential neighborhoods and we are serious about protecting that right. We also know that poorly run group homes can be damaging to the community and dangerous to their residents. If an operation is having a negative impact on your community because of nuisance behaviors, or if you believe it is endangering its residents, please tell us about specific problems. But we will not entertain comments that people in recovery do not belong in our community. We do not condone and will not take part in discrimination".

Garrett Prybylo, counsel for Ohio House, introduced himself.

Ryan Stump, Chief Operations Officer of Ohio House, thanked Commissioner Zich for his time; he stated that he can review the paperwork that was submitted and answer any questions; and wants to have a conversation with the City to get a better understanding of how Ohio House can support the City's goals.

Mr. Prybylo stated issues he had with the required findings numbers 2, 4, 7, and 8 in the staff report; he asked what applicants could submit that would result in a finding in the positive for required finding number 7; clarified that Ohio House is a sober living home and does not provide any treatment; stated concerns with the Director's reasonable accommodation required finding for number 7 being vague; asked how many sober living homes would there have to be to demonstrate that the supply of the facilities is ever sufficient; required finding number 8 – stating that the property is in character with the rest of the neighborhood; required finding number 4 – have been defined out of proving that the applicant is a single housekeeping unit; required finding number 2 – challenged that this is the standard for requesting a reasonable accommodation; concluded that the entire process is designed so the applicant does not engage in a good faith open dialogue; and asked if Unit A was denied then the separation conflict is no longer an issue, what would the basis be to deny both.

Brian Stump, co-founder of Ohio House, spoke on the common misconception between sober living homes and treatment facilities; stated concerns with the fairness of the application process; and addressed retaining the integrity of the neighborhood concerns.

Commissioner Zich, Mr. Prybylo, and Ryan Stump discussed the letter written on May 31 by Steven Polin and whether the applicant applied for a conditional use permit for this location. The applicant confirmed they did not apply for a conditional use permit.

Commissioner Navarro Woods and Mr. Preziosi discussed that a residential treatment facility for drug and alcohol dependency with six or fewer residents obtains their license from the Department of Health Care Services and clarified that a state license is not required to operate a sober living home.

Steve Grungal, Costa Mesa resident, questioned how the applicant can run a business if they have not completed the appeal process properly or filled out the paperwork properly or done everything that needs to be done; stated concerns with this sober living facility location being within a 100 to 150 feet from a Boys and Girls Club, from communities with small children,

and from a school; spoke on doing what is right for the community; stated concerns with the parking; and spoke in opposition of this proposal.

Mike Stieger, Costa Mesa resident, provided a petition to the Commission at the meeting that included 25 signatures of homeowners within 500 feet of the subject property supporting the denial of the application for reasonable accommodation at 2175 Tustin Avenue and they believe that the facts and findings support the denial. He stated concerns with housing 14 adults in two small structures; inconsistency with the surrounding uses (park, elementary school, and a Boys and Girls Club); the accommodation is not consistent with the surrounding uses in scale, intensity and density; that it will alter the character of the neighborhood; increase traffic; contribute to the existing parking problems; and add to the existing issues of loitering, second hand smoke, and noise.

Mark Buchanan, Costa Mesa resident, stated issues that have occurred in the neighborhood since Ohio House moved in and hoped that the Commission supports staff's recommendation to uphold the Director's denial.

Ann Parker, Costa Mesa resident, Indicated she has lived in this neighborhood since 1974 and this house sticks out like a sore thumb. The minute they opened she knew it was a sober living house. She had called code enforcement because the guys were hanging out on the porch smoking and vaping. There are teenagers in the neighborhood, but they don't all sit around, they don't sit out in the cars across the street screaming on their cell phones, they don't tear down the driveway when they backup really fast, and they do not look out for the little people that are walking along, the young mothers and dog walkers. They don't even stop. She finds it interesting that the City of Dana Point, in its ordinance you cannot have a sober living house in that city unless you are state licensed. Why can't Costa Mesa do something like that. Why doesn't the applicant want a state license? Because then there would be oversight and someone might look into their finances. There is no oversight for these operators like Keith Randle and the Ohio House. Nobody knows who is getting paid what. Over the weekend there were a lot of young men curbed all over Costa Mesa, passed out on the sidewalks. She isn't saying these were from this property. The use does not fit in this particular neighborhood. These two gentlemen that are running this house they are not there all the time. She never sees them at the house.

A speaker stated that the Ohio House operators need to engage with the community; that she has not seen the sober living home owners build a coalition and invite the public to come and talk and build a community to support sober living homes or to hear where the residents stand; and stated that the applicants have not followed the rules and should not be allowed to have this use.

Attilio Jovanatto, Costa Mesa resident, spoke in support of the director's denial and in opposition to increasing the occupancy in the two houses; stated concerns with the congestion in the area; and the location being near a school, Boys and Girls Club and a park.

Roger Alfred, Costa Mesa resident, stated that he stands by the petition submitted by Mike Stieger and that the gentlemen have to follow the rules and there are laws and the Planning Commission will operate by the rules and laws that they have made.

A speaker stated concerns with sober living home people that are brought into the community not having ties to the area; with behaviors that the occupants of this home have demonstrated like curfews not being followed, management of the Ohio House not being involved, people

sitting in their vehicles right outside the house till 2 AM to 3 AM, children not being able to walk outside because cursing is occurring outside the house; people from the house walking the neighborhood looking inside car windows; and questioned the intention of the Ohio House operators.

Jeremy Kingero, with the Ohio House, he clarified that the Ohio House is not adding anything new because the residents are already there; that no additional parking problems will be added to Tustin Avenue; the house occupancy is usually below the requested 12 adults; they do have stated curfews and have live-in house managers in both houses; stated that he was the previous house manager for five and half years; and that sober living homes do not get state licensed.

Commissioner Zich and Mr. Kingero discussed that he was a former house manager of the Ohio House for five and half years and is currently a CFO of another treatment center.

Ryan Stump responded to a question that Commissioner Navarro Woods had regarding the submittal process.

Vice Chair Harlan and Jennifer Le, Assistant Director of Development Services, discussed that the reasonable accommodation process is a request that the applicant makes to deviate from the Zoning Code standards versus the conditional use permit process which is required by the Zoning Code in order to allow for the use.

Chair de Arakal and Ms. Bouwens-Killeen discussed that the applicant submitted applications for special use permits for two separate units; that the reasonable accommodation request was filed concurrently with the SUP; and why the reasonable accommodation request was filed.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission uphold the Director's decision and deny the request for Reasonable Accommodation 19-02 and 19-03 based on the findings in the record.

Moved by Commissioner Zich, seconded by Commissioner Navarro Woods.

All Commissioners provided comments on the motion.

RESOLUTION PC-19-16 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA UPHOLDING THE DIRECTOR'S DENIAL OF REASONABLE ACCOMMODATION 19-02 AND 19-03 TO DEVIATE FROM VARIOUS REQUIREMENTS OF THE ZONING CODE TO ALLOW A SOBER LIVING FACILITY OPERATED BY OHIO HOUSE HOUSING UP TO 12 OCCUPANTS AT 2175 TUSTIN AVENUE, UNITS A AND B

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich
Noes: None
Absent: None
Abstain: None

The Chair explained the appeal process.

2. DEVELOPMENT REVIEW 19-02, PLANNING APPLICATION 18-18, MINOR MODIFICATION 19-02 AND ZONING APPLICATION 19-12 FOR THE CONSTRUCTION OF A NEW BUILDING TO BE USED FOR STORAGE FOR A GENERAL CONTRACTOR USE IN THE COMMERCIAL LIMITED (CL) ZONE LOCATED AT 792 CENTER STREET

Project Description: The proposed project involves construction of a new, one-story, 1,917-square-foot building to accommodate a general contractor use at 792 Center Street. The site was previously used for auto sales and contains an existing 400-square-foot building. The applicant is requesting the following:

1. **Development Review 19-02** is a request for the construction of a new building in the Commercial Limited (CL) zone;
2. **Planning Application 18-18** is a request for approval of a Conditional Use Permit (CUP) for a general contractor use in the CL zone;
3. **Minor Modification 19-02** is a request for a reduction in the required front landscaped setback (20 feet required, 16 feet proposed); and
4. **Zoning Application 19-12** is a request for approval of a Minor Conditional Use Permit (MCUP) to provide required parking spaces in the form of enclosed garage spaces and a request to deviate from parking requirements due to unique operating characteristics.

Environmental Determination: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (Class 3), New Construction.

No ex-parte communications to report.

Justin Arios, Assistant Planner, presented the staff report.

Commissioners, Mr. Arios, and Ms. Le discussed that the CUP and MCUP run with the land; the three options for locating the vehicle gate described in Condition of Approval No. 20; what staff believes the intent of the front landscaping setback is for a commercial business; whether the current property, as configured, met the landscape requirement; why the ADA space is inside the garage; the turnaround space inside the garage and whether the garage be required to remain open during business hours; why the parking was based on retail parking requirements; how staff determined that the project was appropriate for the General Plan land use designation of Neighborhood Commercial; whether there was any consultation with the applicant regarding landscaping requirements prior to Code Requirement No. 7; Zoning Code requirements for outdoor storage referenced in Condition of Approval No. 3; and whether staff considered the emissions from the operation of equipment since the location abuts residential property.

PUBLIC COMMENTS

Jon Hill, applicant's architect, stated that his client has read the conditions of approval and agrees to them. He addressed the Commissioners concerns about the vehicle gate, landscaping, ADA parking stall location, turnaround location, and the property use.

Commissioners and Mr. Hill discussed what vehicles would be parked onsite; how many company vehicles will be onsite during the weekend; what kind of materials will be stored

onsite; whether any other turn around locations were considered; office location; and whether the landscape plan that was submitted is what will actually occur onsite.

Colin McCarthy, Costa Mesa resident, spoke in support of the applicant and the project; stated that the project's landscaping will be an improvement to the area; that he stands behind the application and the applicant; and that the applicant is a strong businessman and is committed to the City.

Michelle Figueredo-Wilson, Costa Mesa resident, spoke in support of this item; shared the negative impacts of the previous owner; stated that the project will be a tremendous improvement to the neighborhood; and asked to have lots of greenery and to have the gate closed.

Jay Humphrey, Costa Mesa resident, spoke in support of this project; stated concerns that if the property is sold the conditions of approval for the minor conditional use permit do not address if there is a change.

A speaker stated that the proposed project would be an enhancement to the area but stated concerns with the variances that are being requested.

Lenah Smith, property owner at 792 Center Street, stated that they support the local community; discussed the reasons behind the deviations requested for their application; and asked to approve the application so their business could stay in Costa Mesa.

Commissioner Navarro Woods and Mr. Arios discussed how much square footage of landscaping would be lost by granting a minor modification to the landscaping setback and why does staff think that a variance is required for this property.

Ms. Le clarified that the request for a reduction in the required front landscaped setback is not a variance but a minor modification, which have different criteria and requirement findings.

Mr. Hill clarified that required landscape for the property is 150 square feet and the proposed project's landscape area is at 158 square feet and that the landscape proposed will be an improvement to what currently exists.

Commissioner Zich and Ms. Le discussed whether there is a need to add a condition of approval to address the intent that if the proposed use goes away then the parking minor conditional use permit would go away as well.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission find that project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, Class 3, for New Construction; and approve the proposed project Development Review 19-02, Planning Application 18-18, Minor Modification 19-02, and Zoning Application 19-12, subject to conditions of approval with the following modification:

Condition of Approval No. 4 to read: "The garage spaces shall remain open and available for employee parking during business hours. No customer/client parking at this site is permitted. Any change in use from the use described in CoA No. 1 and in

the staff report would require approval of an amendment to the minor conditional use permit”.

Moved by Chair de Arakal, seconded by Commissioner Zich.

Vice Chair Harlan stated concerns with the landscaping palette being proposed and stated that the public should benefit in some way from enhanced landscaping if the reduced setback is granted.

Chair de Arakal and Commissioner Zich provided comments in support of the motion. Chair de Arakal expressed that although not included as a requirement, staff should consider the Commission’s comments on the landscape palette when the final landscape plan is reviewed.

Commissioner Navarro Woods provided comments on the motion and expressed concern regarding the appropriateness of the use for the Neighborhood Commercial General Plan land use designation.

RESOLUTION PC-19-17 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING DEVELOPMENT REVIEW 19-02, PLANNING APPLICATION 18-18 FOR A CONDITIONAL USE PERMIT, MINOR MODIFICATION 19-02 AND ZONING APPLICATION 19-12 FOR A MINOR CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A NEW BUILDING TO BE USED FOR STORAGE AND TO ALLOW FOR A GENERAL CONTRACTOR USE IN THE COMMERCIAL LIMITED (CL) ZONE LOCATED AT 792 CENTER STREET

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Zich
Noes: Navarro Woods
Absent: None
Abstain: None

The Chair explained the appeal process.

3. PLANNING APPLICATION 18-43 FOR THE CONSTRUCTION OF A BELOW-GRADE PARKING STRUCTURE FOR AN EXISTING AUTOMOTIVE DEALERSHIP AND RETAIL BUILDING AT 2665 HARBOR BOULEVARD AND 1505 MESA VERDE DRIVE EAST, RESPECTIVELY

Project Description: Planning Application 18-43 is a request to amend a previously-approved conditional use permit (Planning Application 03-04) in order to construct a 10,244-square-foot below-grade parking structure for an existing motor vehicle dealership (Nash Auto), located at 2665 Harbor Boulevard. The proposed parking structure would be used for the storage of surplus motor vehicle inventory for the dealership as well as to provide code-required parking spaces for an existing multi-tenant retail building located on the adjacent property at 1505 Mesa Verde Drive East. Both properties are under the same ownership. Vehicular access to the below-grade parking structure would be from the 1505 Mesa Verde Drive East property.

Environmental Determination: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15332 (Class 32), In-Fill Development Projects.

No ex-parte communications to report.

Mel Lee, Senior Planner, presented the staff report.

Commissioner Zich and Mr. Lee discussed that every owner and occupant within 500 feet of the proposed site received a notice; whether the notice was clear that excavation would be occurring; that the previously approved CUP did not include a parking structure; whether the zoning allows for a two-story or elevated level of parking behind the commercial strip; why this application had a variance request for the landscape requirement instead of a minor modification like the previous public hearing.

PUBLIC COMMENTS

Ez Salah, applicant, explained that they are a small operation; described how the cars will be transported and how the parking operates; and that the operation is minimal and pristine.

Commissioner Zich and Mr. Salah discussed how the vehicles will be brought to the facility.

Commissioner Zich and Mr. Lee discussed that vehicle unloading and loading is not allowed in the middle of the street on Mesa Verde Drive East.

Mr. Salah stated that he has read the conditions of approval and agrees to them.

Jay Humphrey, Costa Mesa resident, spoke in support of the project because it will be fixing a parking deficiency and will have enough parking onsite; asked whether the façade and the work done for the parking structure trigger ADA compliance issues for both properties; stated to make sure the conditions include a guideline that vehicles cannot be unloaded in the middle of the street on Mesa Verde Drive East or along a side street.

Stephanie Rorabouch, Costa Mesa resident, stated concerns with the regular occurrences of auto transport trucks parking in the center divider near Azulon Apartments and blocking the ingress and egress to the B Building of Azulon; stated concerns with traffic safety during the construction period; requested that a safety report be done about traffic at its current condition, during construction, and after the project is completed; and asked that the Commission not vote on this application until the safety report is finished.

Jamie Pendarvis, Costa Mesa resident, stated concerns with traffic and noise; car carriers parking in the middle of the street blocking sight lines; and the long-term effects of the business when it changes ownership.

Ray Fabian, Super 8 Motel owner, asked what the end that abuts her property will look like; stated concerns with the duration that construction will occur because she will have people staying at the motel; and whether there will be extra security in the proposed covered parking structure to monitor the homeless.

Issac Tabar, applicant's architect, and Mr. Salah responded to public comments.

Commissioner Navarro Woods, Mr. Salah, and Mr. Tabar discussed whether there will be a gate before you go down to the subterranean parking off Mesa Verde Drive. Both Mr. Tabar and Mr. Salah said they would be amicable to adding a condition to install a gate.

Commissioner Navarro Woods and Jennifer Rosales, Transportation Services Manager, discussed that the Police Department would be the contact when vehicles are parked in the center lane of Mesa Verde Drive for deliveries.

Commissioner Colbert and Mr. Salah discussed whether there would be projected growth within the business that would create more of a demand; how long the construction time frame would be; and whether they would be in agreement to modify their construction time.

Commissioner Zich and Mr. Salah discussed the logistics of construction and where all the cars will be moved to during the construction phase.

Commissioner Zich and Ms. Rosales discussed that the applicant could apply for an encroachment permit to allow parking in street right-of-way during construction.

Mr. Tabar explained that the construction pathway for vehicles would be through the driveway of Nash Auto not through Mesa Verde Drive East.

Chair de Arakal and Mr. Lee discussed that this type of project requires a construction management plan from the applicant.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, Class 32, for In-Fill Development Projects; and approve the proposed project, subject to conditions of approval.

Moved by Commissioner Navarro Woods, seconded by Chair de Arakal.

Commissioner Zich asked if the maker of the motion would add an additional condition of approval that a gate be installed at the entrance to the ramp to the subterranean level and that it be open during business hours and locked after business hours.

Commissioner Navarro Woods agreed to add it.

Chair de Arakal and Commissioner Zich discussed where the gate would exactly be located.

Chair de Arakal and Mr. Lee discussed that the Police Department reviewed the project's plans and did not have any major comments or concerns.

Chair de Arakal stated that he concurs with adding the condition.

Condition of Approval No. 30 to read: "The applicant shall provide a vehicle gate at the entry of the below grade parking structure, subject to approval by the Planning Division and Transportation Services Division. The gate shall be of sufficient strength and dimensions to prohibit both vehicles and persons from entering the parking structure when the gate is closed. The gate shall remain open during the business

hours for the businesses located at both the 1505 Mesa Verde Drive East and 2665 Harbor Boulevard properties and shall be and remain closed when the businesses at both properties are closed”.

RESOLUTION PC-19-18 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 18-43, FOR THE CONSTRUCTION OF A BELOW-GRADE PARKING STRUCTURE FOR AN EXISTING AUTOMOTIVE DEALERSHIP AND RETAIL BUILDING AT 2665 HARBOR BOULEVARD AND 1505 MESA VERDE DRIVE EAST

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich

Noes: None

Absent: None

Abstain: None

The Chair explained the appeal process.

DEPARTMENTAL REPORT(S)

1. Public Services Report – none.
2. Development Services Report – Barry Curtis, Director of Economic and Development Services, reported that the City’s temporary bridge shelter opened at the Lighthouse Church and will be there for twelve months and sleep up to 50 individuals.

CITY ATTORNEY’S OFFICE REPORT(S)

1. City Attorney – none.

ADJOURNMENT AT 9:11 PM

Submitted by:



BARRY CURTIS, SECRETARY
COSTA MESA PLANNING COMMISSION