

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
March 26, 2007**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., March 26, 2007, at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Hall.

I. **PLEDGE OF ALLEGIANCE TO THE FLAG.**

II. **ROLL CALL: Chair: Donn Hall**
Vice Chair: James Fisler
Commissioners: Sam Clark, Eleanor Egan, and James Righeimer

Present: Chair Donn Hall
Vice Chair James Fisler
Commissioner Sam Clark
Commissioner Eleanor Egan
Commissioner James Righeimer

Absent: None.

Also Present: Planning Commission Secy. R. Michael Robinson
Deputy City Attorney Christian Bettenhausen
City Engineer Ernesto Munoz
Principal Planner Kimberly Brandt
Senior Planner Mel Lee
Associate Engineer Raja Sethuraman

IV. **MINUTES: Minutes for the meeting of March 12, 2007**

The Chair approved the minutes as distributed.

III. **PLANNING COMMISSION 2006 DESIGN AWARDS PRESENTATION**

(a) Volcom Skate Park of Costa Mesa

Award certificates were presented to Bart Mejia, City of Costa Mesa Parks Project Manager; Stephan Rose, President, Purkiss-Rose; Terry Valles, Skate Park Designer, Purkiss-Rose; Doug Collier, Volcom, Chief Financial Officer; and Marty Jimenez, Volcom. Mr. Mejia, Mr. Rose, Mr. Collier, and Mr. Jimenez spoke in acceptance of the award.

(b) Renée and Henry Segerstrom Concert Hall

Award certificates were presented to Terry Dwyer, President, Orange County Performing Arts Center; Ellery Brown, Vice President of Theater Operations, Orange County Performing Arts Center; and Paul Freeman, C.J. Segerstrom & Sons. Mr. Dwyer and Mr. Freeman both spoke in acceptance of the award.

(c) Richmond American's Cornerstone Residential Community

Award certificates were presented to Leonard Miller, Regional President, Richmond American Homes; Sandra Netzer, Vice President of Planning, Richmond American Homes; and Michelle Saad, Assistant Project Manager, Richmond American Homes. Ms. Netzer spoke in acceptance of the award. The Chair thanked those that received the award and made a comment about the Concert Hall.

V. **PUBLIC COMMENTS:**

The Chair asked those who wished to speak to please fill out the green register cards so that we will have the correct spelling of their names and no mistakes will be made as in a previous meeting.

Michael Berry, Costa Mesa, made a few comments about code enforcement and variances.

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

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

Commissioner Clark said that he attended the League of Cities Planners Institute in San Diego and learned more about group homes and their purpose.

Vice Chair Fisler said he attended the same conference and took a tour of the Gas Lamp district and other areas.

Commissioner Egan asked Commissioner Clark to discuss the group home information with her later.

The Chair noted that he also went to the group home presentation provided by the City of Riverside Attorney's office. He commented that cities and the League of Cities need to get involved to change the laws relating to group homes.

VII. **PUBLIC HEARINGS:**

1. **From the meeting of February 26, 2007, Conditional Use Permit PA-06-63, for Corrie Kates, authorized agent for Hope Leon, for a conditional use permit for off-site parking and outdoor storage on a property containing two non-conforming dwelling units, in conjunction with the review, modification, or possible revocation of a prior conditional use permit (ZE-79-119) also for outdoor storage and a storage tank located on a property containing two nonconforming residential units, located at 843 W. 17th Street, in an MG zone. Environmental Determination:**

Exempt.

Senior Planner Mel Lee reviewed the information in the staff report and made a presentation. He said staff's recommendation was to deny the proposed conditional use permit PA-06-63. Mr. Lee noted the lack of compliance with the conditions of approval. He said the prior conditional use permit (ZE-79-119) needs to be revoked per the recommended findings.

Corrie Kates, representing Hope Leon, gave the history of the property. He said his client was not aware of the conditions of approval for ZE-79-119 and would have complied if she knew. Mr. Kates noted regarding the Code violations that the shed structure was not on the property, the vehicle was removed, and he was not sure of the noise complaints. Mr. Kates mentioned the block wall, landscaping, and a retaining wall as the improvements that the applicant is proposing. He showed historical photos to the Planning Commissioners, but was not sure of the dates of the photos.

Mr. Kates said he was in agreement with the conditions of approval. He also noted that others were here to speak for the applicant.

Mr. Kates responded to a question from Commissioner Egan about the site improvements being vegetation, a hedge, incorporating a solid electronic gate, and that no structures are proposed.

In response to a question from Commissioner Clark about the 10-year lease with Oliver Mahon Asphalt, Mr. Kates replied that it would be another 9 years.

Mr. Kates noted that others were available to answer any questions. In response to Vice Chair Fisler's question about wall height and shrub height, Mr. Kates replied 2' shrub and 8' hedge and wall.

Judy Berry, Costa Mesa, spoke about "CUP" to allow storage forever, and concerns about code enforcement relating to another site. The Chair stated there are conditions of approval for this planning application, but he is not sure of the future.

Michael Berry, Costa Mesa, made comments about property owners, conditions of approval not being met, and code enforcement concerns.

Martin Millard, Costa Mesa, spoke about the asphalt business and said it does not seem like a good transition for the Westside. He noted there should be a transition to residential on the Westside. He said it is up to this body and the City Council to make a transition to be a better City. He supported staff's recommendation on this item.

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

The Chair asked Mr. Kates to return to the podium. Mr. Kates stated that the Leons were here, and concerning the asphalt paving company, there are not a lot of alternative uses for this property. He said this is the main income of the property. Oliver Mahon has been the new tenant for 5 years, and will bring the property into compliance. Mr. Kates said that this upgrade is important to the property and the community and Oliver Mahon will be a beneficial tenant.

MOTION: Revoke Zone Exception Permit ZE-79-119, by adoption of Planning Commission Resolution PC-07-28, based on evidence in the record and on finding that the applicant failed to comply with the conditions of approval.

Moved by Commissioner Eleanor Egan, seconded by Vice Chair James Fisler.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler, Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer

Noes: None.

Absent: None.

Commissioner Egan spoke about Planning Application PA06-63 and provided a listing of findings.

MOTION: Approve Planning Application PA-06-63, by adoption of Planning Commission Resolution PC-07-29, based on evidence in the record and subject to the conditions set forth in Exhibit "B", with the addition of

the following conditions, and based on the following revised findings contained in Exhibit “A”:

Conditions of Approval

17. The property shall be inspected by staff no later than three (3) months and six (6) months from the date of approval to determine compliance with the conditions of approval and Code requirements. The results of the inspections shall be reported back to the Planning Commission. If there is not substantial progress after three months, or substantial compliance after six months, a public hearing shall be scheduled for the revocation of PA-06-63.

18. At the applicant’s expense, a sidewalk shall be installed along the Babcock Street frontage, subject to the requirements of the Public Services Department.

19. PA-06-63 shall be reviewed in five (5) years to determine compliance with the conditions of approval.

Findings

A. The project proposed under PA-06-63 complies with Costa Mesa Municipal Code Section 13-29(e) because:

1. The proposed use, as properly conditioned, is compatible and harmonious with uses on surrounding properties. Specifically, the use for off-site parking and storage is conditionally permitted under the existing industrial zoning designation, while the two existing residences are legal nonconforming, appear to be well-maintained and in good condition, and do not create any problems for the industrial use on the site or surrounding properties.

2. The project is consistent with the General Plan and existing zoning on the site.

B. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the use proposed under PA-06-63 is compatible with properties in the same general area, which are industrially zoned and developed. Although the business that used the property under ZE-79-119 was located on an abutting property, while the business using the property under PA-06-63 is located in a different area, the land use impacts of the proposed use should not be significantly different on that account. The proposed use does not need to conform to the Mesa West Bluffs Urban Plan or the Mixed Use Overlay District because the industrial use is not a

proposed new use, the property is industrially zoned, and the residences are legal nonconforming.

C. Granting the conditional use permit will not be detrimental to the health, safety, and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the history of code enforcement complaints was associated with a tenant that no longer occupies the property, and the property owner has undertaken efforts to comply with the Code requirements concerning screening and landscaping, Further, this approval is subject to a condition of approval that requires staff monitoring and reporting on compliance with the conditions of approval and Code requirements, and in the absence of compliance, the entitlement may be revoked.

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

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

Moved by Commissioner Eleanor Egan, seconded by Vice Chair James Fisler.

Commissioner Righeimer said he had an amendment to the motion to add two (2) conditions of approval: sidewalk placement on Babcock Street and a five-year review to determine compliance with the conditions of approval.

Mr. Kates agreed to the sidewalk placement and five-year review, but wanted the length of time increased for the initial compliance inspection to three (3) and six (6) months in Condition No. 17. Commissioner Egan and Vice Chair Fisler agreed to the amendments.

Commissioner Clark stated his opposition to the motion, noting that it is not in the best interest of the City. Commissioner Egan and Commissioner Clark discussed their concerns and so did Commissioner Righeimer.

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler, Commissioner Eleanor Egan, and
Commissioner James Righeimer

Noes: Commissioner Sam Clark

Absent: None.

The Chair explained the appeal process.

Mr. Kates thanked the Planning Commission and Mrs. Leon said thank you.

2. [General Plan Amendment GP-07-01, to amend the Circulation Element to downgrade the future Gisler Bridge crossing of the Santa Ana River on the Master Plan of Highways to "Right-of-way Reserved." Environmental determination: Final Program Environmental Impact Report No. 1049 for the 2000 Costa Mesa General Plan.](#)

Associate Engineer Raja Sethuraman reviewed the information in the staff report and made a presentation.

Cindy Brennerman, Costa Mesa, stated her support of strategy "A" and asked about the time frame and mitigation. She hopes that everyone is in favor of this General Plan Amendment.

Associate Engineer Raja Sethuraman discussed with the Chair the Wilson Street crossing being removed from the Master Plan of Highways, unilaterally, without going through the process and jeopardizing the funding.

Robert Robinson, Costa Mesa, long-time resident on State Street since 1961, expressed his concerns about the schools nearby, backed-up traffic from Harbor Boulevard to California Street on Gisler Avenue, and traffic in the evening.

MOTION: Recommend to City Council approval of General Plan Amendment GP-07-01, amending the 2000 General Plan, as set forth in Exhibit "A", by adoption of Planning Commission Resolution PC-07-30.

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

The motion carried by the following roll call vote:

Ayes: Chair Donn Hall, Vice Chair James Fisler, Commissioner Sam Clark,
Commissioner Eleanor Egan, and Commissioner James Righeimer
Noes: None.
Absent: None.

3. [Planning Application PA-07-04, for The Saywitz Company, to allow a common interest development conversion of four apartment units to condominiums with a variance from private open space requirements for two second-floor balconies \(10 ft. minimum dimension required; 5 ft., 10 in. and 8 ft., 6 in. minimum dimensions existing\), located at 679 W. 18th Street, in an R3 zone. Environmental determination: exempt.](#)

Senior Planner Mel Lee reviewed the information in the staff report and made a presentation.

Vice Chair Fisler and Mr. Lee discussed the 40% required open space for new development and that the open space is not applied because the project is nonconforming.

Barry Saywitz, applicant, property owner, thanked the Planning Commission and handed them information to review on this project. He made a presentation, discussing the project timing and his intent to work with the current tenants and give adequate notice.

In response to Vice Chair Fisler's question about combining this property with an abutting development he owns and making the parking better with one lot, Mr. Saywitz replied that there would be difficulty with the driveway setup and the current parking. He said it would be a significant disruption and a lot more effort.

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

**MOTION: Deny Planning Application PA-07-04, by
adoption of Planning Commission Resolution PC-07-31,**

based on the evidence in the record and the findings contained in Exhibit "A".

Moved by Commissioner James Righeimer, seconded by Vice Chair James Fisler.

During discussion on the motion, Commissioner Righeimer explained his motion.

Commissioner Clark stated he could not support the variance in light of only 38% open space and will support the motion.

Vice Chair Fisler gave his support for the motion noting inadequate parking.

Commissioner Egan shared everyone's sentiments, but mentioned that the building is built the way it is and the parking is the way it is, and opposes the motion. She said that she may make a substitute motion.

Commissioner Righeimer restated his motion and the Chair asked Mr. Lee to explain the overall open space provision.

SUBSTITUTE MOTION: Approve variance and Planning Application PA-07-04, based on evidence in the record and findings contained in Exhibit "A", subject to conditions in Exhibit "B", with the deletion of Condition No. 21.
Moved by Commissioner Egan, seconded by Chair Hall.

Commissioner Egan's substitute motion did not carry; Vice Chair Fisler, Commissioner Clark, and Commissioner Righeimer voting no.

Chair Hall called for a vote on the original motion.

The motion carried by the following roll call vote:

Ayes: Vice Chair James Fisler, Commissioner Sam Clark, and Commissioner James Righeimer

Noes: Chair Donn Hall, and Commissioner Eleanor Egan

Absent: None.

Mr. Saywitz asked if he could come forward to make some comments.

Deputy City Attorney Christian Bettenhausen said that the public hearing was closed and the vote was already taken, but Chair Hall allowed Mr. Saywitz to speak.

Mr. Saywitz noted his disappointment in the decision made.

The Chair explained the appeal process.

VIII. **REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.**

No report.

IX. **REPORT OF THE CITY ATTORNEY'S OFFICE.**

No report.

X. **ADJOURNMENT TO THE MEETING OF MONDAY, APRIL 9, 2007.**

There being no further business, Chairman Hall adjourned the meeting at 8:15 p.m. to the Planning Commission meeting of April 9, 2007.

Submitted by: _____
R. MICHAEL ROBINSON, SECRETARY
COSTA MESA PLANNING COMMISSION