

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

July 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 6:00 p.m.

Commissioner Russell led the Pledge of Allegiance.

ROLL CALL

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

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

ANNOUNCEMENTS AND PRESENTATIONS:

None.

Chair de Arakal stated that staff has asked that Public Hearing item number two, three, and four (small cell site applications) be continued to a date uncertain. The Commissioners agreed to move those items to be considered first under public hearings. The Chair further explained how public testimony will work for these items.

PUBLIC COMMENTS:

Darlene Whitsell, Costa Mesa resident, stated concerns with the parking in her neighborhood off Orange Avenue and illegally-painted red curbs on her street.

Chair de Arakal asked Bart Mejia, City Engineer, to look into the red curbs.

Ann Parker, Costa Mesa resident, stated that the previous speaker is surrounded by sober living and those people will tell you that their staff does not park on the street; she sat there for six years watching their staff park on the street; suggested looking into it; thanked the City Council for having a study session on the cell phone towers a concern of hers for five years. Ms. Parker

alleged that the Zoning Administrator was just passing cell towers and they were not coming before the Planning Commission which she finds outrageous considering the environmental impact of cell towers; she is grateful to the City Council for listening to the residents and hopes the Planning Commission will start to do that, too.

Igal Israel asked if everything works in Chambers now; spoke on how the Planning Commission is just here to enact certain stuff that come from the top; stated that we are going to be dealing with parking issues among other things; stated how Commissioner Zich and Commissioner Navarro Woods take interest; asked that everyone work together because fighting does not achieve anything and to bring things into a cohesive idea on what the City needs to do versus bringing the policy forward as it needs to be, not as a personal agenda or opinion, or if someone might be running for a higher office at this point.

The Chair closed public comments.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Vice Chair Harlan thanked the organizers and coaches of the Pilot Cup.

Chair de Arakal spoke on the July 3 community celebration at the fairgrounds and thanked everyone involved.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS

2. ZONING APPLICATION 19-15, A REQUEST FOR A MINOR CONDITIONAL USE PERMIT TO INSTALL A SMALL CELL FACILITY ON TOP OF A REPLACEMENT SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE LOCATED WITHIN THE PUBLIC STREET RIGHT-OF-WAY NEAR 1701 BAKER STREET (ON MESA VERDE DRIVE EAST)

Project Description: Zoning Application 19-15 is a request for a Minor Conditional Use Permit (MCUP) to install a small cell facility on top of a replacement Southern California Edison streetlight pole located within public street right-of-way near 1701 Baker Street (on Mesa Verde Drive East). This item was continued from the June 10, 2019 Planning Commission meeting.

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 or Conversion of Small Structures.

No ex-parte communications to report.

PUBLIC COMMENTS

Ann Parker and Chair de Arakal discussed how public comments on the small cell items would happen at this meeting and if they get appealed to the City Council. She asked why the City did nothing about this cell phone situation while other surrounding cities did. She

stated she caught the Zoning Administrator passing all these cell towers without even coming before the Planning Commission. She asked how this does not happen in Newport Beach or Huntington Beach; don't blame it on the Edison Company. That is not fair. Cota Mesa should have been on top of this and she is really mad about it.

Igal Israel stated that the cell sites have not been fully diagnosed to the possibilities of what they might cause down the road; stated concerns with not having enough data; with hearing a small cell item one by one and not having enough audience for that particular area; with the proximity of a cell tower next to residential neighborhood. Mr. Israel stated that not all the data is out about what the new cell sites can cause with their technology and the radiation level they are omitting constantly; he stated concerns with setting a precedence with approving one and then have to approval all of them; and stated concerns with lawsuits that might occur and the taxpayers paying for it.

The Chair closed this portion of the public comment of the public hearing.

MOTION: Move that the Planning Commission continue this item to a date uncertain per staff recommendation.

Moved by Chair de Arakal, seconded by Commissioner Colbert.

Commissioner Zich explained why the small cell items are being continued.

Chair de Arakal and Jennifer Le, Assistant Director of Development Services, discussed when the study session on the small cell items would occur.

The motion carried by the following roll call vote:

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

Noes: None

Absent: None

Abstain: None

3. ZONING APPLICATION 19-28, A REQUEST FOR A MINOR CONDITIONAL USE PERMIT TO INSTALL A SMALL CELL FACILITY ON TOP OF A REPLACEMENT SOUTHERN CALIFORNIA EDISON STREETLIGHT POLE LOCATED WITHIN THE PUBLIC STREET RIGHT-OF-WAY NEAR 1993 MEYER PLACE

Project Description: Zoning Application 19-28 is a request for a Minor Conditional Use Permit (MCUP) to install a small cell facility on top of a replacement Southern California Edison streetlight pole located within public street right-of-way near 1993 Meyer Place. This item was continued from the June 10, 2019 Planning Commission meeting.

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 or Conversion of Small Structures.

No ex-parte communications to report.

PUBLIC COMMENTS

No public comments.

The Chair closed public comments.

MOTION: Move that the Planning Commission continue this item per staff recommendation to a date uncertain.

Moved by Chair de Arakal, seconded by Commissioner Russell.

The motion carried by the following roll call vote:

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

Noes: None

Absent: None

Abstain: None

- 4. ZONING APPLICATIONS 19-26, 19-27, 19-29, 19-30, AND 19-32, REQUESTS FOR FIVE MINOR CONDITIONAL USE PERMITS TO INSTALL SMALL CELL FACILITIES ON TOP OF REPLACEMENT SOUTHERN CALIFORNIA EDISON STREETLIGHT POLES LOCATED WITHIN PUBLIC STREET RIGHTS-OF-WAY NEAR 3056 WARREN LANE, 1051 CHEYENNE STREET, 3045 BABB STREET, 3107 KILLYBROOKE LANE, AND 615 TOWN CENTER DRIVE (ON AVENUE OF THE ARTS), RESPECTIVELY**

Project Description: Zoning Applications 19-26, 19-27, 19-29, 19-30, and 19-32 are requests for five Minor Conditional Use Permits (MCUPs) to install small cell facilities on top of replacement Southern California Edison streetlight poles located within public street rights-of-way near 3056 Warren Lane, 1051 Cheyenne Street, 3045 Babb Street, 3107 Killybrooke Lane, and 615 Town Center Drive (on Avenue of the Arts), respectively. These items were continued from the June 10, 2019 Planning Commission meeting.

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 or Conversion of Small Structures.

No ex-parte communications to report.

PUBLIC COMMENTS

Dee L. De Vincenzi, Costa Mesa resident (3100 Monroe Way), stated concerns with the loss of property value, potential financial burden to the City, and potential health hazards. He asked where the analysis is that established that the pole at 1051 Cheyenne Street is the optimal location and questioned whether a transceiver can be placed or upgraded without notice.

Ann Parker, Costa Mesa resident, continued to read from Mr. De Vincenzi's statement about an article on a recent KNX news report about Oakland, California winning an injunction against Verizon about 5G details not provided and on an international level, Brussels, Germany placed a moratorium on 5G until facts on significant issues resolved on an apparent holistic approach to the matter; suggested that the City Attorney look into it; ongoing research on a global level found that there are potential health issues. She stated that she likes when residents come down and fight back and the City should be on the residents' side.

Igal Israel stated that the problem is that the Planning Commission and City Council is solely vested and counting on staff which none of them have a Ph.D into any particular matter. He stated concerns with relying on staff and suggested sending the information to a third party.

The Chair closed public comment.

MOTION: Move that the Planning Commission continue Public Hearing item number four to a date uncertain per staff recommendation.

Moved by Chair de Arakal, seconded by Commissioner Tourje.

The motion carried by the following roll call vote:

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

Noes: None

Absent: None

Abstain: None

1. APPEAL OF THE DIRECTOR'S DENIAL OF SPECIAL USE PERMIT SL-16-0014 TO ALLOW A SOBER LIVING FACILITY OPERATED AS THE FELLOWSHIP HOUSE, SERVING TEN PERSONS AND ONE HOUSE MANAGER, AT 2412 ORANGE AVENUE

Project Description: Special Use Permit 16-0014 is a request to allow a sober living facility serving 10 adults and one house manager to operate in a five-bedroom single-family residence. The special use permit (SUP) 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.

No ex-parte communications to report.

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

Commissioner Zich and Ms. Bouwens-Killeen discussed that six is the maximum number of residents allowed in a group home in an R1 zone and this applicant is asking for more than that; the reasons for the denial of this application; and that there is one existing treatment facility currently instead of two within 650 feet of the Fellowship House.

Ms. Le clarified that the findings in the Resolution indicate that the primary reason for denial of this application is based on the number of occupants that is proposed which is prohibited in the R1.

Chair de Arakal and Ms. Bouwens-Killeen discussed the reasons that the facility located at 2417 Orange Avenue is operating illegally.

PUBLIC COMMENTS

Mark Giddings, applicant, spoke on his sobriety and the Fellowship House.

Wendy Mauer, staff member with the Fellowship House, spoke on the reason that the Fellowship House facility has ten beds; where their residents park; that it is not always fully occupied; who is not allowed in the facility; and on the operation of the facility.

Commissioners, Ms. Mauer, Mr. Giddings, and Ms. Bouwens-Killeen discussed the amount of people they have helped in recovery over the years; whether the Fellowship House could run their program successfully with six or fewer residents; that it is a men only sober living house; whether changing the design of the house was considered so the men in the house would not live in isolation; the scholarships that are offered; whether they received a letter from the City sent out of May 23, 2019 requesting additional documents; that the house rules are written out; what action would be taken if a resident did not comply with the house rules; why they chose not to appeal the reasonable accommodation that was denied; why staff never received a confirmation that they would comply with CMMC Section 13-311 after Ordinance 17-05 went into effect; whether they signed and returned a letter dated May 23, 2019 that they would comply with CMMC Section 13-311; whether the house manager occupies one of the five bedrooms; why ten residents are being requested for the facility when the usual occupancy is five to seven; whether their residents are from Costa Mesa or from other surrounding cities; that the program has run successfully with five to seven residents; whether they would continue to operate with six or fewer if the special use permit is denied; and whether the proximity of people in recovery in one area leads to greater success.

Chair de Arakal read the following 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."

Darlene Whitsell, next door neighbor, spoke about the traffic occurring at the facility across street that is not supposed to be operating; stated concerns with the foot traffic that is currently occurring at the Fellowship House facility; and with the facility operating with ten residents without a permit.

A Costa Mesa resident off Fairway Drive stated concerns with the facility being located close to a park; its proximity to Newport Boulevard which has potential temptations; and spoke in opposition to this item.

Tom Leahy, lives off Brentwood Place, spoke about how many children live near the facility's location and the need to make sure the children are safe; stated concerns with the applicant not turning in paperwork and being responsible enough to run the facility; and spoke in opposition for this facility to have ten residents.

Alona Dauphinee, Costa Mesa resident off Norse Avenue, spoke about how they followed all the rules when they renovated their home; expects that the facilities that share the

neighborhoods follow the rules, as well; and spoke on the impacts that the facility has on the neighborhood.

Roger Steeber, Costa Mesa resident off 24th Place, asked how the City can let the facility continue if they are breaking the law and stated they should be closed down immediately.

Ernesto Morales, Costa Mesa resident off 24th Place, stated the impacts that the Fellowship House facility is having on the neighborhood and asked to not allow the facility.

Igal Israel spoke about how this item is a zoning issue and the Fellowship House is not allowed; about how another sober living house, Ohio House, is not being a good neighbor; and asked how much money the citizens of Costa Mesa have had to pay to legal firms to defend the City against sober living homes.

Ann Parker, Costa Mesa resident, stated that she can say factually that they are not a good neighbor, that she found this sober living house because they were doing construction without permits and she went to their house with a petition and when the guy opened the door there were a lot of guys in the house; stated that they have misrepresented themselves and asked to put the brakes on the Ohio House. She continued to talk about a lady that could not sell her house because she lived next to a sober living house that had twenty two guys living there and that there are health and safety issues; that if she had a sober living house that she would know if she had police calls at her house; would make sure it was up to code; would not be putting up phony construction things; and would be playing by the rules.

The Chair closed the public comment portion of the public hearing.

Ms. Mauer and Mr. Giddings responded to public comments and provided closing comments.

Commissioners, Ms. Mauer, and Mr. Gidding discussed the visitor policy, house meetings, and book study that occurs at the facility; what the garage is being used for; how many of the current residents have cars; forgetting to appeal the reasonable accommodation request; and how often a total of ten residents have stayed in the house.

Commissioners and Ms. Bouwens-Killeen discussed whether the applicant could reapply for special use permit with a different set of operating conditions if the Director's decision of denial is upheld; that the reasonable accommodation request would not be included with the special use permit if this item was appealed to City Council; that the 650-foot separation issue no longer existed, just the issue of having more than six residents in the R1 zone and; what the status is regarding the illegal facility at 2417 Orange Avenue;

Barry Curtis, Director of Economic and Development Services, clarified that this applicant could apply within six months if they submitted a new application that was determined different than what was previously submitted or if the application was denied without prejudice by the Commission, the applicant could come back within six months.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission uphold the Director's decision and deny Special Use Permit SL-16-0014.

Moved by Commissioner Zich, seconded by Commissioner Navarro Woods.

Commissioner Colbert, Commissioner Zich, Vice Chair Harlan, and Chair de Arakal provided comments on the motion.

RESOLUTION PC-19-35 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA TO UPHOLD THE DIRECTOR’S DENIAL OF SPECIAL USE PERMIT APPLICATION NO. SL-16-0014 TO OPERATE A SOBER LIVING HOME WITH TEN OCCUPANTS AND ONE LIVE-IN MANAGER AT 2412 ORANGE AVENUE

The motion carried by the following roll call vote:

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

Noes: None

Absent: None

Abstain: None

The Chair explained the appeal process.

The Commission called for a break at 8:01 p.m.

The Commission reconvened at 8:12 p.m.

5. PLANNING APPLICATION 19-12, A MASTER PLAN FOR A MIXED-USE PROJECT (THE PLANT) AT 765-767 BAKER STREET AND 2972 CENTURY PLACE

Project Description: Planning Application 19-12 is a request for a Master Plan for a mixed-use development (The Plant) at 765 - 767 Baker Street and 2972 Century Place. The project consists of the proposed renovation of three existing commercial buildings (containing the former Car Mart and Plant Stand) totaling 19,100 square feet, for retail and restaurant uses surrounding a central courtyard area. In addition, new buildings are proposed consisting of two greenhouse structures at 540 square feet and 700 square feet which will contain food stall uses, and a four-story mixed use building with 48 residential units, 14 live/work units, and 2,570 square feet of workshop/maker office space above a two-level parking structure containing 170 parking spaces. Additionally, 39 on-site open parking spaces and 34 open parking spaces accessible from Century Place are proposed, for a total of 243 proposed parking spaces.

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

One ex-parte communication to report: Chair de Arakal met with Chris Bennett and Shaheen Sadeghi prior to them filing their initial application.

Mel Lee, Senior Planner, presented the staff report.

Commissioners, Mr. Lee, Mr. Mejia, Mr. Curtis, and Ms. Le discussed whether this is the first residential/mixed-use application in the SoBECA area since the overlay district was set up in 2006; that a signal is being installed at Baker Street and Randolph Avenue; the traffic study concluded that Century Place and Baker Street did not warrant a traffic signal; whether there are guidelines for how many drive approaches are allowed for a commercial development;

what the traffic volume impact would be off Century Place because of the parking that will occur on that street; what traffic volume number would warrant the installation of a traffic signal; whether anything had changed on the project since it was denied by City Council; how parking is now met with the new parking formula; what changes were made with the project so the parking is met; why parking conditions are included if there is a parking surplus; whether Condition of Approval No. 5 is a normal parking condition; whether the parking study was peer reviewed; why distributed trips were not included in intersection study areas; questions on trips in the traffic study; what was counted in the parking calculation in the original application that is not counted in the current application; why some jurisdictions are reducing spaces or eliminate spaces that are needed to be used to calculate parking; the live/work unit conditions of approval are the only mechanism the City has to address if the work unit becomes a bedroom; justifications for a parking district; whether the City's building code requires electric vehicle charging stations; whether the electric vehicle charging stations are for only the on-site residents or for the public, as well; whether Planning staff looks at the plant palette of the landscaping plan to see if a plant is invasive; and the live/work unit parking requirements.

PUBLIC COMMENTS

Chris Bennett, applicant's representative, stated that he has read the conditions of approval except the traffic condition in the supplemental memo.

Shaheen Sadeghi, owner, stated that the project meets code; no variances are being requested. He described the project's design and vision; and explained what happened when the project went before the previous City Council.

Mr. Bennett shared the vision of the project; explained that the project is the third leg of the SoBECA District; the parking surplus; where the electric vehicle charging stations locations will be; and spoke on the project being a true mixed-use project.

Gina Sanchez, (Red Mountain Group), stated concerns with the privatizing the public parking spaces that are currently existing off Century Place and not enough parking spaces in the area.

Rick Huffman, Costa Mesa resident, stated the project will be an improvement to the SoBECA area; parking concerns are being addressed in the project; suggested metering the street parking; and hopes the project has areas for parking bikes and promotes public transportation.

Shavon Burn, Red Mountain Retail Group, stated concerns with parking, congestion, traffic, the availability of parking to the general public, and inadequate parking devaluing everything around it. She asked where the security gates will go, how the dedicated parking for the residents of the live/work units will work, and how the parking management plan will be implemented.

Cynthia McDonald spoke on the history of the project; stated that the project improves the area; provides needed housing; spoke in support of the project moving forward; parking issues can be corrected by creating a parking district; having a transit hub; and is in opposition to put in a municipal parking structure.

Greg Nylan, co-founder of Barley Forge, stated concerns with the potential impact of conducting business if the residents in the project's live/work units adjacent to his business complain about the brewing smell; asked what would happen if there was a complaint; and stated concerns with the parking plan off Randolph Avenue determining parking for the proposed project.

Mary Ann Frericks, co-founder of Barley Forge, stated that a signal light is needed at Randolph Avenue and Baker Street; that it is a bad precedent to allow a developer to take away street parking for privatize parking; would like there to be a condition that employees have to park on-site; stated concerns over whether valet parking will occur at the project site and if the parking lot gets full; with the residents at the proposed project impacting them from conducting business; and spoke in support of the project being pedestrian friendly and bike friendly.

Anna Verska, Costa Mesa resident, stated concerns with putting a burden on residents when projects are under parked.

Mary Spadoni, Costa Mesa resident, asked if the Uber driver extra trips are going to be considered on the parking study; whether there are any windows in the live/work units facing the rear setback and if so, whether the rear setback should be a 10-foot setback instead because it is a residential unit; spoke on of the work units becoming a bedroom; and stated issues with privatizing the parking.

Ann Parker, Costa Mesa resident, stated that she thinks the project is a beautiful project but stated that she does not want taxpayer dollars to go into a parking structure in that location and that Mr. Sadeghi can pay for it; stated that the four handicap parking spaces is not enough; that there should be specific live/work unit resident parking spaces; asked when the last time Randolph Street had been cleaned; that she was just there an hour ago to check to see if it had been cleaned; and the street does not get cleaned because people do not move their cars.

Igal Israel spoke on how Mr. Sadeghi stood up to former council member Jim Righeimer on The Plant project; stated that it is a great project but has concerns with parking; stated how it is hard for him to find parking at Mr. Sadeghi's other projects; and stated that there is not enough parking for the proposed project.

Mr. Bennett responded to public comments.

Commissioners, Mr. Bennett, Mr. Lee and Mr. Mejia discussed how there is a surplus of 56 parking spaces during the day; whether Mr. Bennett would be in agreement to add a new condition of approval that there will not be any signage of reservation or time limits on the eight unrestricted public parking spaces off Century Place; where the location of the security gates are; employees parking on-site; timeline for the Randolph Street and Baker Street intersection signal; how Uber trip generations are calculated in the parking study; Commissioner Navarro Woods requested that the California invasive plant council is referred to when reviewing the plant palette; and the location of the eight unrestricted public parking spaces off Century Place.

The Chair closed the public hearing.

Commissioner Zich and Mr. Lee discussed why Measure Y did not apply to this project and that there is a code requirement to have employees park on-site.

Ms. Le clarified that the SoBECA Urban Plan has definitions of live/work units that would help the work unit not become a residential use but suggested to the Commission could, if they would like stronger wording to prohibit the work unit becoming a residential use, revise Condition of Approval Nos. 16 or 17 or add a new condition.

Mr. Curtis suggested the condition below for the location of the eight unrestricted public parking spaces off Century Place.

“Parking spaces along Century Place shall be open to the general public at all times. A maximum of 26 of the 34 spaces may be time restricted with a minimum of 8 spaces being unrestricted”.

Chair de Arakal asked Mr. Bennett if he agreed with Mr. Curtis’ suggested condition. Mr. Bennett agreed.

Commissioner Zich and Mr. Lee discussed the parking requirement for the live/work units.

MOTION: Move that the Planning Commission find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15332, urban infield; and approve Planning Application 19-12 subject to conditions of approval including those that were made with regards to the Century Place parking.

Condition of Approval No. 22 to read: “Parking spaces along Century Place shall be open to the general public at all times. A maximum of 26 of the 34 spaces may be time restricted; a minimum of 8 spaces shall be unrestricted”.

Moved by Vice Chair Harlan, seconded by Commissioner Colbert.

Commissioner Zich stated concerns with the parking.

Commissioner Tourje and Commissioner Navarro Woods spoke in support of the project.

Vice Chair Harlan and Chair de Arakal spoke on the project and addressed the parking issue.

Ms. Le asked for a clarification on the motion whether it included the modified condition in the July 8 supplemental memo and whether it included any conditions discussed during the hearing.

Vice Chair Harlan stated that the intent of the motion was to include the condition about parking off Century Place and the July 8 supplemental memo condition about the traffic impact fee. Commissioner Colbert concurred with adding the conditions to the motion.

Condition of Approval No. 43 to read: “At the time of issuance of issuance of building permits, submit to the Transportation Services Division the required traffic impact fee pursuant to the prevailing schedule of charges adopted by the City Council. The traffic impact fee is calculated including credits for all existing uses. At the current rate per trip end, the traffic impact fee is estimated at \$132,775.00. NOTE: the traffic impact fee will be recalculated at the time of issuance of certificate of occupancy based upon any

changes in the prevailing schedule of charges adopted by the City Council and in effect that time”.

RESOLUTION PC-19-36 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 19-12 FOR A MIXED-USE PROJECT (THE PLANT) AT 765-767 BAKER STREET AND 2972 CENTURY PLACE

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Russell, Tourje

Noes: Zich

Absent: None

Abstain: None

The Chair explained the appeal process.

6. CODE AMENDMENT CO-19-02 ADDING ARTICLE 23 (NEEDLE AND SYRINGE EXCHANGE PROGRAMS) TO CHAPTER IX (SPECIAL LAND USE REGULATIONS) AND AMENDING TABLE 13-30 OF CHAPTER IV (CITYWIDE LAND USE MATRIX) OF TITLE 13 (PLANNING ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE, REGARDING THE OPERATION OF CLEAN NEEDLE AND SYRINGE EXCHANGE PROGRAMS IN ALL ZONING DISTRICTS IN THE CITY

Description: In 2018, the City Council adopted an urgency ordinance (Urgency Ordinances 18-07 and 18-08) as an interim measure (also known as a moratorium) prohibiting the establishment and/or operation of hypodermic needle and syringe exchange programs within all zoning districts of the City of Costa Mesa for the protection of the public health, safety and welfare pursuant to Government Code section 65858. Unless extended by the City Council for up to 12 additional months, the moratorium will expire on August 7, 2019.

Since the initial adoption of the moratorium on August 7, 2018, staff has studied the issue of whether, and if so where, a needle exchange program would be an appropriate use within the City of Costa Mesa. Staff has preliminarily determined that, due the pervasiveness of addiction recovery facilities throughout the City, the provision of easily obtainable syringes and hypodermic needles is not appropriate within Costa Mesa as it would put the recovery of hundreds of recovering addicts at risk. Accordingly, staff has initiated a code amendment which would prohibit the establishment and operation of a needle exchange program within any zoning district in the City.

Environmental Determination: The ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) (General Rule).

Barry Curtis, Economic and Development Services Director, presented the staff report.

Commissioners and Mr. Preziosi discussed what other cities in the county have adopted an ordinance moratorium on the needle exchange program; that the County of Orange does not have a moratorium against needle exchange programs; what cities the needle exchange program can legally operate in in Orange County; the summary of findings from the studies staff conducted on the needle exchange program; the state’s opinion on needle exchange

versus the City's opinion; whether an outreach to the sober living community about the needle exchange had taken place; what would have to happen for the needle exchange program to be considered in the City; whether limiting the scope of the needle exchange program was considered; and that the ordinance would preclude one-for-one needle exchange if not revised; and whether this was an accessibility issue for the disabled?

Mr. Curtis clarified that people that are using drugs are not considered disabled.

PUBLIC COMMENTS

Ann Parker, Costa Mesa resident, spoke in opposition for a needle exchange program in the City and suggested talking to the DEA and Police Department before making a decision.

The Chair closed public comments.

Commissioner Navarro Woods and Mr. Curtis discussed options to provide ways to dispose of the needles to a person that does the needle exchange.

MOTION: Move that the Planning Commission recommend to the City Council find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) of the CEQA Guidelines, which states that "the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have an effect on the environment, the activity is not subject to CEQA"; and Recommend that the City Council adopt Code Amendment CO-19-02 amending the following:

- **Adding Article 23 (Needle and Syringe Exchange Programs) to Chapter IX (Special Land Use Regulations) and amending Table 13-30 of Chapter IV (Citywide Land Use Matrix) of Title 13 (Planning Zoning and Development) of the Costa Mesa Municipal Code, regarding the operation of clean needle and exchange programs in all zoning districts in the City.**

Moved by Chair de Arakal, seconded by Commissioner Zich.

Vice Chair Harlan, Commissioner Colbert, Commissioner Tourje, and Commissioner Navarro Woods stated concerns with supporting the motion based on the analysis presented tonight.

Commissioner Russell and Commissioner Zich spoke in support of the motion.

Chair de Arakal commented on the motion.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Navarro Woods, Russell, Tourje, Zich

Noes: Colbert

Absent: None

Abstain: None

The Chair explained the appeal process.

DEPARTMENTAL REPORT(S)

1. Public Services Report – none.
2. Development Services Report – none.

CITY ATTORNEY'S OFFICE REPORT(S)

1. City Attorney – none.

ADJOURNMENT AT 10:41 PM

Submitted by:



BARRY CURTIS, SECRETARY
COSTA MESA PLANNING COMMISSION