

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

**August 12, 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](http://www.costamesaca.gov) or purchased on DVD upon request.*

The Chair called the meeting to order at 6:00 p.m.

Commissioner Zich led the Pledge of Allegiance.

**ROLL CALL**

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

Absent: Commissioner Kedarious Colbert  
Commissioner Jenna Tourje

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  
Captain Bryan Glass, Police Department  
Justin Martin, Acting Assistant City Manager  
Willa Bouwens-Killeen, Zoning Administrator  
Mel Lee, Senior Planner  
Tom Holm, ECORP Consulting, Inc.  
Julie Colgan, Recording Secretary

**ANNOUNCEMENTS AND PRESENTATIONS:**

None.

**PUBLIC COMMENTS:**

Ann Parker, Costa Mesa resident, stated that the residents of Costa Mesa now know the routine, they skip the Planning Commission meeting because they hope the Planning Commission will not uphold the staff's recommendation but the Commission blindly follows the staff. The Commission never listen to the residents, no offensive but something could have been done about this ten years ago. Okay, so now we are at the stage we are at so we know the routine, we didn't bother coming tonight but I am letting you know why because we know someone will appeal it to the City Council and hopefully the City Council will uphold the ordinance and then they will sue us and that is how it goes. We know how it goes and I want you to know that I sat in that courtroom almost every day last November and at the end of that hearing the judge said, he was surprised because he felt that our ordinance actually favored the operators. So actually

the residents of Costa Mesa are being discriminated against by our ordinance. So I don't get why all these people have been allowed to operate all these years. No one ever did anything until Katrina Foley became Mayor. I am really upset about it. If you listen time after time after time they have been running five and six and nobody has done anything, no code enforcement, nothing.

Igal Israel stated concerns with the tasks he saw code enforcement doing today; asked to do the right thing and stop passing the buck; and stated everything is the exception and let's fix that.

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

Commissioner Navarro Woods announced the study session/open house that the City Council is having tomorrow night on small cell facilities.

#### **CONSENT CALENDAR:**

None.

#### **PUBLIC HEARINGS**

- 1. CONDITIONAL USE PERMIT PA-16-63 TO OPERATE A RESIDENTIAL FACILITY SERVING MENTALLY DISABLED PERSONS IN SIX UNITS HOUSING UP TO 30 RESIDENTS AND APPEAL OF DENIAL OF REASONABLE ACCOMMODATION RA-19-06 FOR RELIEF FROM CERTAIN REQUIREMENTS OF THE ZONING CODE; OPERATED BY NSIGHT PSYCHOLOGY AND ADDICTION AT 2641 SANTA ANA AVENUE, UNITS A THROUGH F**

**Project Description:** Planning Application 16-63 is a request for a Conditional Use Permit (CUP) to operate a group home housing up to 30 residents in six units with two house managers onsite at any one time. The applicant also submitted a request for reasonable accommodation to allow this facility to be located within 650 feet of other properties that contain state-licensed drug and alcohol treatment facilities, or to be considered a single housekeeping unit and therefore, exempt from the requirements of the Zoning Code. The application for reasonable accommodation was denied by the Development Services Director. 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.

Commissioners, Ms. Bouwens-Killeen, and Jennifer Le, Assistant Director of Development Services, discussed hypothetical situations where the separation conflict with the nearby state license facility did not exist and conditional use permits for group homes would not run with the land; that the applicant is not claiming or trying to represent that they operating as a single housing keeping unit; that the City average per residential unit is 2.2 adults over the age 18 and the proposed application is for five adults per unit; that the property is legal non-

conforming; whether unpermitted construction needs to be completed before an application on the property is considered; calls for service; that all of the findings for a reasonable accommodation must be made; and whether there is institutional zoning in the City were a group home could operate.

## **PUBLIC COMMENTS**

The Chair opened the public hearing and 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.”

Mary Helen Beatificato, the applicant’s representative, described what NSight does; when the change in operation from sober living to mental health occurred; the documents she submitted to the City explaining the project description; spoke about the recent calls for service on the property; asked that the public hearing be continued so she can look into the calls for service if the Commission was going to base their decision to uphold the Director’s denial on the recent calls for service; spoke on how the facility operates; what health issues the residents of the home are dealing with; explained why toxicology tests are performed on the residents; stated that the applicant is willing to reduce the number of beds to twenty five; the applicant is also willing to reduce the number of parking spaces for staff and residents to twelve total which are available on-site; and stated concerns with the staff’s findings for denial.

Commissioners and Ms. Beatificato discussed how the word radius is absent from the 650-foot separation rule; how this facility is transitional housing for people with mental health issues not substance abuse; why there was a call for service for an overdose; how the need for transitional housing is being met; average stay of the residents; residents that have returned to facility; number of beds per number of rooms; that the applicant had been operating as a sober living facility up until late 2016; what constitutes a substantial change in the characteristics of the individuals accepted for treatment that changed the facility to transitional housing for mentally disabled; what kind of counselors NSight employs; whether the residents at the facility are responsible for their own medications; visitor policy; whether NSight today operates as a group home; why the applicant is going through the process of seeking a reasonable accommodation if they do not consider themselves a group home under the City’s group home ordinance; whether the facility operates as a group home defined in the City’s group home ordinance; and the radius that the 650-foot separation rule can be measured by.

Commissioner Zich and Jennifer Le, Assistant Director of Development Services discussed whether a group home applicant has to establish that they are a single housekeeping unit in order to get a conditional use permit.

Commissioner Zich and Ms. Beatificato discussed whether she considers NSight a group home.

A client of NSight spoke in support of the item and how NSight has helped them.

A Costa Mesa resident, who lives near NSight on Westminster Place, spoke about measuring the distance of the 650-foot separation requirement; asked why the City has so many group homes; stated there are a lot of children in the neighborhood; stated concerns with the facility being a for-profit business; the facility's location in a residential zone; and the high level of traffic on Santa Ana Avenue.

A client of NSight spoke in support of the item and how NSight has helped them.

A speaker that lives across the street from NSight stated concerns with the resident density; residents smoking outside on the curb affecting the character of the neighborhood; trash; parking and crowding issues that occur on the street from the facility; whether the residential character will be kept; whether the on-site managers are invested in the community; and with the application changing from sober living to mental health.

A speaker stated concerns with the quality of care and the management of the facility; stated concerns with it being business driven; spoke about the CEO of NSight, Ms. Beatificato, having a state license in Newport Beach revoked; stated concerns with loitering, the safety of the community, and residents not being managed properly.

A speaker who lives near the facility spoke about a park that will be installed near the facility; spoke about the challenges on the street: speeding, traffic, and overcrowding; spoke in support of having people invested in the community in the area and spoke in opposition to this item.

Mark Binder, property owner, stated that NSight has been a good tenant; wants to work with the community and be good neighbors; and to provide services to people that need it.

A speaker that lives near the facility asked how much the rent is in the facility per resident and what the comparison is to rent in the surrounding area for City residents; stated concerns with how the residents in the community are benefiting if the facility's residents are from out of state; discussed the facility's switch to mental health from sober living; stated issues with negative interactions she has had with the residents of the facility; mail theft; increase in car break ins; and increase in parking issues.

Ann Parker, Costa Mesa resident, stated it is the worst smoke and mirrors, double speak that she has heard since she has been at this...which is a lot longer Chair de Arakal. First of all, her heart goes out to anyone dealing with this problem and if anyone knows about addiction and recovery and everything. How many times have the public heard that there is frequently an underlining diagnosis? You have all heard this one hundred times. She hoped the Commission was listening. She asked if the property was on a triple net lease, how much is the owner of the property making off this business. She indicated she has been by this place many times, she have spoken to the neighbors around there and this is not a well-run house. She stated concerns with what the facility requires for a house manager and asked how they are qualified to handle the difficult situation the facility's residents are in. She liked how they require a live scan; stated concerns with the vans backing out of the long driveway of the facility and not seeing the oncoming traffic; and the over concentration.

Igal Israel spoke about how he and the last speaker have been at this for a while; stated concerns with having a group home on every street and it affecting the style of the City; spoke on how the group home ordinance was constructed to have a 650-foot separation no matter what; stated concerns with the applicant's attorney being misleading regarding operation of the facility; with group homes impacting the City's traffic, services provided, and the people not vested in the community; and asked the Commission to do the right thing.

The Chair closed public comments.

Ms. Beatificato responded to public comments.

The Chair closed the public hearing.

Commissioners, Ms. Le, and Ms. Bouwens-Killeen discussed whether the City's Ordinance states that it favors the treatment of Costa Mesa residents versus any other population; whether the conditional use permit requirement would still apply if the separation requirement was waived; whether the City has other applications within 650-foot radius of the proposed facility; that a state licensed facility would still create a separation conflict if another group home application was applied for; that there could be a concentration of state license group homes with six or fewer residents in one area of the City; whether there is a requirement in the Group Home Ordinance about for-profit versus not-for-profit; whether the City has a process to verify specific medical licenses for group home facilities; whether group homes are allowed to operate in institutional zones in the City; and how the process would work.

**MOTION: Move that the Planning Commission adopt a Resolution upholding the Director's denial of the request for reasonable accommodation RA-19-06 and denying Conditional Use Permit PA-16-63.**

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

Commissioner Zich commented that the applicant was interested in modifying its operation to come into compliance with several of the requirements; as a result, he motioned a substitute motion.

**SUBSTITUTE MOTION: Continue the item to give staff an opportunity to work with the applicant to resolve several outstanding conflicts which the applicant appears amendable to address including the occupancy load of the property with regard to beds and parking; the code requirements that relate to landscaping; and construction permitting.**

**Moved by Commissioner Zich.**

The motion died due to a lack of a second and reverted to the original motion.

Commissioner Navarro Woods thanked staff for a great job with providing supporting facts for its findings.

Commissioner Russell spoke in support of the motion.

Vice Chair Harlan thanked the public speakers that spoke about their mental health issues and stated it is a land use issue and spoke in support of the motion.

Chair de Arakal commented on his motion.

**RESOLUTION PC-19-39 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA UPHOLDING THE DIRECTOR'S DENIAL OF REASONABLE ACCOMMODATION RA-19-06 TO DEVIATE FROM VARIOUS REQUIREMENTS OF THE ZONING CODE; AND TO DENY CONDITIONAL USE PERMIT PA-16-63 TO ALLOW A GROUP HOME WITH SEVEN OR MORE OCCUPANTS OPERATED BY NSIGHT HOUSING UP TO 30 OCCUPANTS AT 2641 SANTA ANA AVENUE, UNITS A THROUGH F**

The motion carried by the following roll call vote:

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

Noes: None

Absent: Colbert, Tourje

Abstain: None

The Chair explained the appeal process.

The Commission called for a break at 8:20 PM.

The Commission reconvened at 8:31 PM.

**2. PLANNING APPLICATION 19-10 FOR AUDI FLETCHER JONES AUTOMOBILE DEALERSHIP AT 1275 BRISTOL STREET**

**Project Description:** Planning Application 19-10 involves demolition of the former Ganahl Lumber retail and storage buildings and construction and operation of a new two-story 50,971-square-foot Audi Fletcher Jones automotive dealership and sales and service center. The proposed project would be located at 1275 Bristol Street on a 4.896-acre site zoned C-2 (General Business District). The request includes:

1. Conditional Use Permit (CUP) for an automobile dealership;
2. Variance for building height from 30 feet (maximum permitted) to 39 to 44 feet (proposed); and
3. Variance for landscape street setbacks from 20 feet (minimum required) to 10 feet (proposed).

**Environmental Determination:** An Initial Study/Mitigated Negative Declaration has been prepared in accordance with the California Environmental Quality Act (CEQA). The Initial Study/Mitigated Negative Declaration evaluates the potential environmental effects of the proposed project and concludes that impacts to biological resources, cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources would be reduced to a less-than-significant level with the incorporation of mitigation measures, standard conditions of approval, and code compliance.

No ex-parte communications to report.

Mel Lee, Senior Planner, presented the staff report.

Commissioners, Mr. Lee, and Ms. Le discussed that the site is 4.896-acres in area; location of the realignment of the sidewalk; the 15 trees the applicant was required to provide to the Public Services Department; that a conditional use permit is required for an auto dealership

in all zones; the height variance requested and whether the special circumstance justification that is applicable to this application could be applied to another property; whether there is a restriction on the sign height limit; that the Santa Ana-Delhi Water Channel is covered; whether a test drive circulation plan was submitted; why Condition of Approval No. 13 does not articulate what the reduction of parking deck lighting should be; that the auto dealership is 50,971 square feet in area; the zone change for this parcel; configuration of the two stop signs on site; light standards measured from the parking surface; where the building debris ends up; and the truck route for the debris hauling.

Chair de Arakal and Tom Holm, ECORP Consulting, discussed how the traffic analysis daily trips were configured.

Chair de Arakal, Mr. Lee, and Mr. Holm discussed OCTA's response comment letter on the IS/MND for the project and whether the property line adjustment was not necessary to create the project due to future potential bikeway improvements along Bristol Street; whether the air quality analysis was based on certain construction equipment usage; the timeline of the debris hauling trips; whether the traffic study counted test drives; and whether the traffic study counted the use of courtesy vehicles.

## **PUBLIC COMMENTS**

Don Lamm, applicant's representative, provided a background on the dealership; explained how the design of the building occurred; spoke on the Santa Ana-Delhi Water Channel easement area; floor plans; variances; responded to the Commissioners comments; and the positive aspects that the project will bring to the City.

Commissioners, Mr. Lamm, and James Spence, project's architect, discussed the location of the rooftop parking deck and the elevation above finished grade; lighting regulations for the second floor deck; how the future building expansion mentioned on the project plans could take place; ADA parking spaces required and the location of them; that they will have electrical vehicle charging stations; whether the draining into the bioswale was handled by a civil engineer; that the Peruvian pepper trees will be removed; how much the lighting will be reduced, so the residents across the street will not be affected; and how many employee parking spaces will be provided.

Chair de Arakal asked Mr. Lamm if he has read the conditions of approval and agrees to them. Mr. Lamm responded yes including the mitigation measures.

The Chair opened public comments.

Ann Parker, Costa Mesa resident, spoke on the vans that are used by the sober living homes and the companies that sell them contributing to certain Councilmembers' campaigns and suggested looking at the campaign contributions and who has made money off of sober living. She stated issues she has with Mr. Lamm.

Igal Israel asked if the site is a historic building; provided comments on what he believes is going on around here; asked why there is not a window in the back of the building facing the freeway; thinks the window will be an added bonus; stated that Ganahl Lumber was not able to renovate their building because of its historic value and stated concerns with the Commissioners concern about where the trash is going to go.

The Chair closed public comments.

Mr. Lamm responded to public comments.

Commissioner Navarro Woods and Mr. Lamm discussed whether there will be signage in the back of the building.

Chair de Arakal asked Mr. Lamm whether he would be in agreement to add to the conditions of approval a requirement of Tier 3 and Tier 4 construction equipment be used and a modification to Condition of Approval No. 6 to add verbiage that test driving shall not occur on residential streets or within residential neighborhood and the applicant shall submit to the City a test drive circulation plan. Mr. Lamm was in agreement to both.

The Chair closed the public hearing.

**MOTION: Move that the Planning Commission adopt a Resolution to adopt the Initial Study/Mitigated Negative Declaration (IS/MND) for the project including the Mitigation Monitoring and Reporting Program; and approve Planning Application 19-10, subject to conditions of approval and mitigation measures CUL1 archeological monitoring and accidental recovery provided in the supplemental memo dated August 12 and to also include:**

**Condition of Approval No. 6: “Test driving of vehicles shall not occur on residential streets or within residential neighborhoods. Prior to issuance of building permit final/certificate of occupancy, the applicant shall submit a circulation plan showing the test driving routes for approval by the Development Services Director, in coordination with the Public Services Director, or their designee(s). Test drives shall be limited to those routes shown in the approved circulation plan”.**

**Condition of Approval No. 22 to read: “Condition of Approval No. 22: During construction and to the extent possible, the applicant shall use Tier 3 or Tier 4 construction equipment as recommended by the South Coast Air Quality Management District”.**

**Moved by Chair de Arakal, seconded by Commissioner Russell.**

Commissioner Zich, Chair de Arakal, and staff discussed that it is clear that thirty-nine feet is the maximum building height and forty-four feet height is the maximum with the equipment on the roof.

**RESOLUTION PC-19-40 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA, CALIFORNIA MESA ADOPTING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION INCLUDING THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING PLANNING APPLICATION 19-10 FOR AUDI FLETCHER JONES AUTOMOBILE DEALERSHIP AT 1275 BRISTOL STREET**

The motion carried by the following roll call vote:

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

Noes: None

Absent: Colbert, Tourje

Abstain: None

The Chair explained the appeal process.



**3. CODE AMENDMENT CO-19-01 TO AMEND THE CITYWIDE LAND USE MATRIX TO ALLOW EMERGENCY SHELTERS TO BE LOCATED IN THE INDUSTRIAL PARK (MP) ZONE AND THE EMERGENCY SHELTER DEVELOPMENT STANDARDS IN THE SPECIAL LAND USE REGULATIONS IN TITLE 13 OF THE COSTA MESA MUNICIPAL CODE AND APPROVAL OF AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE PROPOSED EMERGENCY SHELTER AT 3175 AIRWAY AVENUE**

**Project Description:** Code Amendment CO-19-01 is a City-initiated request to modify and revise the Citywide Land Use Matrix and the Special Land Use Regulations for Emergency Shelters in Title 13 (Planning, Zoning and Development) of the Costa Mesa Municipal Code. The proposed Code Amendment would:

1. Amend the Citywide Land Use Matrix to allow an emergency shelter to locate in the Industrial Park (MP) zone subject to approval of a conditional use permit. (Shelters are currently allowed only in the Planned Development Industrial/PDI zone)
2. Add Footnote 10 to the Citywide Land Use Matrix stating that shelters located on sites owned, controlled, and/or operated by the City in the MP or the PDI zones would be a permitted use and not subject to certain Emergency Shelter standards.
3. Revise the Special Land Use Regulations for Emergency Shelters to include minor revisions to four existing standards to clarify intent and add one new standard to require shelter operators to patrol the area within one-half mile of a shelter site.

Approval of the Code Amendment would allow the City to begin development of a 50-bed Permanent Bridge Shelter on a City-owned parcel located at 3175 Airway Avenue.

**Environmental Determination:** An Initial Study/Mitigated Negative Declaration has been prepared in accordance with the California Environmental Quality Act (CEQA). . The Initial Study/Mitigated Negative Declaration evaluates the potential environmental effects of the proposed project and concludes that the environmental effects from the project would be less than significant with the incorporation of standard conditions of approval and compliance with Code requirements and mitigation measures related to biological resources, cultural resources, tribal cultural resources, and hazards and hazardous materials.

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

Justin Martin, Acting Assistant City Manager, presented the programming and operations of the permanent bridge shelter.

Mr. Curtis continued his presentation.

Commissioners, Mr. Martin, and Mr. Curtis discussed the minimum age requirement of the permanent bridge shelter residents; space can be provided for people that identify as non-binary; that couples will sleep in separate dorms; how many people there would be in a dorm; whether the beds available can change with the need; the zones related to shelter use illustrated in Attachment 4; the shuttle bus stops; that transportation is the only way to leave the shelter; the patrolling that will occur and what the security guards are in charge of; whether non City organizations are anticipated to establish emergency shelters in any of the properties subject to the rezone; why a conditional use permit is being proposed in the MP zone; the number of City employees operating the shelter; whether there are SB-2 shelters in the City; the Airport Land Use Commission concern that the shelter is located within 65

dBA CNEL noise contour from John Wayne Airport; Judge Carter's order that the City must provide shelter to 60 percent of the City's point in time homeless count and when that count occurs; and the conversations that occurred to remind other agencies and colleagues of the specific procedures on how an individual can enter the City shelter.

## **PUBLIC COMMENTS**

Wade Strauss, family owns the building directly across the street, acknowledged the lengths that the City has taken to address its homeless population; stated concerns with the effect on their property value and the safety of the tenants; asked how the City plans to follow through with implementing the budget plan, transportation plan, and operation plan; and stated concerns with the amended language for the Code because it does not appear to allow for the proposed shelter based on the size, number of beds, and hours of operation.

The Chair closed public comments.

Mr. Martin addressed Mr. Strauss' questions about how the operation plan will be implemented and whether ride sharing was another acceptable means of transportation in and out of the shelter.

Commissioners and Mr. Martin discussed whether there is a protocol in place that gives the surrounding community a way to communicate questions or concerns; whether there will be an outreach before the shelter is established to address local business owners concerns; and how long the budget contract is for.

The Chair closed the public hearing.

**MOTION: Move that the Planning Commission recommend that the City Council adopt a Resolution to adopt the Initial Study/Mitigated Negative Declaration (IS/MND), including the Mitigation Monitoring and Reporting Program, for the proposed project at 3175 Airway Avenue and recommend that the City Council approve Code Amendment CO-19-01 to introduce Ordinance 19-xx in order to: amend Table 13-30 of Chapter IV (Citywide Land Use Matrix) and Article 18 (Emergency Shelters) of Chapter IX (Special Land Use Regulations) of Title 13 (Planning, Zoning And Development) of the Costa Mesa Municipal Code.**

**Moved by Chair de Arakal, seconded by Vice Chair Harlan.**

Vice Chair Harlan and Chair de Arakal provided comments on the motion.

**RESOLUTION PC-19-41 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF CODE AMENDMENT CO-19-01 AND AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE CODE AMENDMENT AND THE PROPOSED EMERGENCY SHELTER AT 3175 AIRWAY AVENUE**

The motion carried by the following roll call vote:

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

Noes: None

Absent: Colbert, Tourje

Abstain: None

**DEPARTMENTAL REPORT(S)**

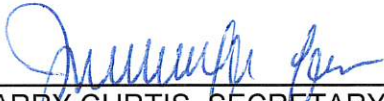
2. Development Services Report – Mr. Curtis reminded everyone of the City Council's Study Session on small cells.
1. Public Services Report – none.

**CITY ATTORNEY'S OFFICE REPORT(S)**

1. City Attorney – none.

**ADJOURNMENT AT 10:57 PM**

Submitted by:



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BARRY CURTIS, SECRETARY  
COSTA MESA PLANNING COMMISSION