

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

**December 9, 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 5:59 PM.

Commissioner Perkins led the Pledge of Allegiance.

**ROLL CALL**

Present: Chair Byron de Arakal  
Vice Chair Jeffrey Harlan  
Commissioner Kedarious Colbert  
Commissioner Marc Perkins  
Commissioner Dianne Russell  
Commissioner Jon Zich

Absent: Commissioner Jenna Tourje

Staff: Barry Curtis, Director of Economic and Development Services  
Jennifer Le, Assistant Director of Development Services  
Tarquin Preziosi, Assistant City Attorney  
Scott Porter, Deputy City Attorney  
Jennifer Rosales, Transportation Services Manager  
Mino Ashabi, Principal Planner  
Johnwilly Aglupos, Assistant Planner  
Katelyn Walsh, Assistant Planner  
Julie Colgan, Recording Secretary

**ANNOUNCEMENTS AND PRESENTATIONS:**

None.

**PUBLIC COMMENTS:**

Flo Martin, Costa Mesa resident (Bikeway and Walkability Committee member), spoke on bike lanes missing from newly resurfaced areas and asked that staff provide information to the Bikeway and Walkability Committee on all streets that will be resurfaced.

Chair de Arakal asked Jennifer Rosales, Transportation Services Manager, to provide that information to the Bikeway and Walkability Committee.

Ann Parker, Costa Mesa resident, stated concerns with a Zoning Administrator Decision on a property 413 East 20<sup>th</sup> Street; she stated that she is not sure if the Planning Commission is aware that 413 East 20<sup>th</sup> Street property had a sober living situation going on; she stated the property has a number of variances and stated her concerns with the work that was done to the

house to make it a sober living facility; she asked that the Planning Commission pull it up for review so the residents do not have to pay the fee; and stated concerns with the timing of having the cell tower item right before Christmas because people are busy and they not paying attention to what is on the agenda.

The Chair closed public comments.

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

Commissioner Zich asked staff about the Zoning Administrator item that Ms. Parker mentioned. Jennifer Le, Assistant Director of Development Services, responded that the request for 413 East 20<sup>th</sup> Street will be decided on by Zoning Administrator on December 12 and there is a seven-day appeal period after December 12.

Commissioner Perkins spoke on the groundbreaking event he took place in for the Language and Arts, Behavioral Science and Social Science Building at Orange Coast College; the City of Costa Mesa monthly third Sunday bike ride; and on a bike ride he took on Black Friday to observe parking lot capacity in the City.

Commissioner Russell spoke on the Strong Towns conference she attended in Santa Ana.

Chair de Arakai asked that as the City gets into development of the Housing Element for the next cycle that they include the Bikeway and Walkability Committee.

#### **CONSENT CALENDAR:**

None.

#### **PUBLIC HEARINGS**

- 1. A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE (CODE AMENDMENT CO-19-04) AMENDING TITLE 19 AND TITLE 13 OF THE COSTA MESA MUNICIPAL CODE (FRANCHISES AND PLANNING, ZONING, AND DEVELOPMENT), RELATING TO WIRELESS TELECOMMUNICATIONS FACILITIES AND RELATED INFRASTRUCTURE WITHIN THE PUBLIC RIGHT-OF-WAY**

**Project Description:** Code Amendment CO-19-04 would amend Title 19 and Title 13 of the Costa Mesa Municipal Code to modify and establish standards and procedures for wireless telecommunications facilities in the public right-of-way. This item was continued from the November 25, 2019 Planning Commission meeting.

**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).

Scott Porter, Deputy City Attorney, explained what the Commission can and cannot consider when deciding upon wireless telecommunications facilities and encouraged the public to talk about the items that the Commission does have jurisdiction over and to talk about items that the City can regulate versus what they cannot regulate.

Jennifer Le, Assistant Director of Development Services, presented the staff report.

Discussion ensued regarding whether ministerial approvals would be noticed; the discretionary review public notice procedure; macro cells; that a change from 4G to 5G technology would require an encroachment permit; that ministerial approvals would only ever be approved by the director not the Zoning Administrator; the required replacement size of a landscape tree; that no above-ground equipment is allowed in the public right-of-way; pole licensing agreements; that the City does not own any streetlight poles in the City; who will be in charge of monitoring when the permit term expires; and the justification in the time increase of when the wireless telecommunications use permit will automatically expire during build-out period.

Jennifer Rosales, Transportation Services Manager, clarified that the City does own decorative streetlight poles in the Triangle area.

Discussion ensued regarding the City Council's approval of the Design Guidelines by resolution; whether the Design Guidelines could be included in the proposed resolution with the ordinance; and the volume of applications anticipated.

The Chair opened the public hearing and the public comment portion of the public hearing.

## **PUBLIC COMMENTS**

Chair de Arakal reminded the public and the Commission that the job tonight is to review only the draft ordinance that is being presented and that radio frequency emissions are not being considered tonight.

Ray Walls, a property owner along Wintergreen Place, asked if the new ordinance would eliminate or include a small cell pole that is planned to be placed in front of his house; stated concerns with the 25-foot distance requirement from a building structure; asked about the application process and the shot-clocks; asked what mitigation will occur when poles are replaced and the impact to the neighborhood during that time; stated that the cell companies should not be able to trade locations; spoke on ADA and environmental impact study that is being waved; and stated concerns that the rights-of-way would not be fixed back to the way they were before equipment went in.

Jennifer Smith, Costa Mesa resident, spoke on the health effects of the wireless telecommunication facilities and on finding reasons to not approve a pole.

A Huntington Beach resident spoke about a wireless telecommunication facility near her house that is affecting her and how fiber optics should be used.

Flo Martin, Costa Mesa resident, spoke about a small cell facility near her home and how she was not informed that it was going to be installed; stated that she wants all neighbors to be notified within 500 feet when a proposed facility will be installed; and spoke about a Time magazine article that everyone should read.

Marsha Hoist, Huntington Beach, spoke about the health effects and ask to keep the wireless telecommunication facilities out of neighborhoods.

Alison Burchette spoke about the slides she provided regarding health affects; examples of wireless telecommunication facilities that are too close to schools and a resident's home;

setback requirements for Costa Mesa and other cities; what the current ordinance lacks; what cities can control; and asked to incorporate her suggested changes.

Ann Parker, Costa Mesa resident, spoke on how the Commission does not care about the residents; asked why Vice Chair Harlan and Chair de Arakal did not recuse themselves tonight because they have in the past; and stated concerns about staff not having expert knowledge on the wireless telecommunication facilities.

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

Discussion ensued on whether trading poles between providers is possible; submittal appointment process; voluntary pre-submittal process; additional location preferences near property lines; what happens if the City does not meet the shot clock; how larger setback requirements (e.g. 1,000 feet) would comply with 47 U.S.C. §332(c)(7)(B)(i)(II); the difference between the City's ordinance on wireless telecommunication facilities versus other cities; what was stated in a letter received this afternoon from AT&T; and continuing this item to address the comments by AT&T and the public.

**MOTION: Continue the item to January 13.**

**Moved by Commissioner Zich, seconded by Commissioner Russell.**

Commissioner Zich and Chair de Arakal provided comments on the motion.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Perkins, Russell, Zich  
Noes: None  
Absent: Tourje  
Abstain: None

The Commission called for a break at 7:42 PM.

The Commission reconvened at 7:48 PM.

## **2. DEVELOPMENT AGREEMENT 19-02, AN AMENDMENT TO PACIFIC ARTS PLAZA DEVELOPMENT AGREEMENT DA-00-04**

**Project Description:** Development Agreement (DA) 19-02 (as adopted by Ordinance) is a request to amend the Pacific Arts Plaza DA (DA-00-04) to extend its term for two years to expire on August 15, 2023. Pacific Arts Plaza is a 6.26-acre subarea of the South Coast Plaza Town Center area and is bounded by Anton Boulevard, I-405 Freeway, Bristol Street and Avenue of the Arts.

**Environmental Determination:** The Project was evaluated under Environmental Impact Report No. 1047 (SCH No. 2000041100) certified in February 2001 and Mitigated Negative Declaration for the high-rise building (approved in October 2002). In addition, the proposed ordinance for the DA time extension is not a "project" and further is exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

One ex-parte communication to report: Chair de Arakal had a telephone call today with Dan Miller from the Irvine Company and nothing specific was discussed in detail about the application.

Minoo Ashabi, Principal Planner, presented the staff report.

## **PUBLIC COMMENTS**

Jeff Davis, Irvine Company, stated he has seen the staff report and supplemental memo and agrees to the revisions.

No public comments.

The Chair closed the public comment and closed the public hearing.

Discussion ensued on affordable housing not being a part of the proposed development agreement that is being decided on tonight.

**MOTION: Move staff recommendation that the Planning Commission adopt a Resolution to recommend the following actions to City Council find that pursuant to the provisions of the California Environmental Quality Act (“CEQA”) (California Public Resources Code Sections 21000 et seq.) and; secondly give a reading to Ordinance 19-XX approving an amendment to Development Agreement 00-04 extending the term of the agreement for 24 months to August 15, 2023.**

**Moved by Commissioner Colbert, seconded by Vice Chair Harlan.**

Commissioner Zich asked if the motion included the minor revisions to the agreement that staff prepared. Commissioner Colbert and Vice Chair Harlan agreed that the motion included it.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Perkins, Russell, Zich

Noes: None

Absent: Tourje

Abstain: None

### **RESOLUTION PC-19-51 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING THAT CITY COUNCIL ADOPT AN ORDINANCE TO AMEND PACIFIC ARTS PLAZA DEVELOPMENT AGREEMENT DA-00-04**

The Chair explained the appeal process.

### **3. PLANNING APPLICATION 19-14 FOR A VARIANCE TO ALLOW A TEMPORARY MULTI-PHASE REMEDIATION SYSTEM IN THE SIDE SETBACK AT 3599 HARBOR BOULEVARD**

**Project Description:** Planning Application 19-14 is a request for a variance to allow installation of a temporary multi-phase remediation system within the required side setback

of an existing automobile service station located at 3599 Harbor Boulevard. Once remediation is complete, the treatment system would be removed and the 20-foot landscaped setback would be re-established.

**Environmental Determination:** The project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Class 1), Existing Facilities, Section 15303 (Class 3), New Construction, and Section 15311 (Class 11), Accessory Structures.

One ex-parte communication to report: Commissioner Perkins had a conversation with an employee of the facility while on an onsite visit.

Minoo Ashabi, Principal Planner, presented the staff report.

Discussion ensued on how long the vapor extraction process would take; whether the location of the equipment is the same as what was approved before; whether the dispute with the property owner has been resolved; how the project is exempt from CEQA; what steps will take place to ensure that the equipment will be installed this time; how noise from the vapor extraction equipment will be buffered; and whether there was mitigation made on the impact to the people waiting at the nearby bus stop.

## **PUBLIC COMMENTS**

Zack Mason, applicant, stated that he has seen the revisions and agrees to them.

Discussion ensued on when the applicant become involved in the project; that the access agreement issued with the property owner has been resolved; that the permit for discharge would be given by the Sanitation District; how loud the noise will be from the vapor extractor and what mitigation measures have occurred to address the noise impact; when the machine will be in operation; additional environmental impacts that could occur; and landscaping.

No public comments.

The Chair closed the public comment and the public hearing.

**MOTION: Move that the Planning Commission adopt staff's recommendation to find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, 15303 and 15311; and approve Planning Application 19-14, subject to conditions of approval.**

**Moved by Commissioner Zich, seconded by Commissioner Perkins.**

Commissioner Zich commented on the motion.

Discussion ensued on how a temporary variance works and whether it would set a precedent.

Chair de Arakal commented on the motion.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Perkins, Russell, Zich

Noes: None

Absent: Tourje  
Abstain: None

**RESOLUTION PC-19-52 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 19-14 FOR A VARIANCE TO ALLOW A TEMPORARY MULTI-PHASE REMEDIATION SYSTEM IN THE SIDE SETBACK AT 3599 HARBOR BOULEVARD**

The Chair explained the appeal process.

4. **PLANNING APPLICATION 19-21 AND ZONING APPLICATION 19-90 FOR A CONDITIONAL USE PERMIT FOR ISSUANCE OF A STATE ALCOHOL BEVERAGE CONTROL (ABC) LICENSE TYPE 20 (OFF-SALE BEER AND WINE) TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION; MINOR CONDITIONAL USE PERMIT FOR A WINE BAR WITH LESS THAN 300 SQUARE FEET OF PUBLIC AREA IN A MULTI-TENANT CENTER; A DEVIATION FROM PARKING REQUIREMENTS BASED ON UNUSUAL OPERATING CHARACTERISTICS; A FINDING OF PUBLIC CONVENIENCE OR NECESSITY FOR ISSUANCE OF A STATE ABC LICENSE TYPE 42 (ON-SALE BEER AND WINE); AND AN AMENDMENT TO ZONING APPLICATION 09-42 TO MODIFY THE HOURS OF OPERATION OF AN ADJACENT BAR AT 816 WEST 19TH STREET**

**Project Description:** Planning Application 19-21 and Zoning Application 19-90 is a request for a Conditional Use Permit (CUP) and Minor Conditional Use Permit (MCUP) to allow a wine bar and associated wine shop, Semi Tropic Wines, within a 1,118-square-foot tenant space in an existing multi-tenant commercial building at 816 West 19th Street.

**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.

One ex-parte communication to report: Commissioner Perkins met with Kyle (applicant) to discuss the proposal and had a short discussion with Council Member Reynolds.

Katelyn Walsh, Assistant Planner, presented the staff report.

Discussion ensued on the proposed hours of operation on Sundays; how alcohol consumption will be controlled in Condition of Approval No. 7; whether discussions with the applicant on alternative parking strategies occurred; whether there will be an identified space for ridesharing; the legal non-conforming driveway to the property; that the Zoning Code allows one parking space credit for a bike rack; that Zoning Application 03-11 approved seven parking stalls for the Casa tenant space; how parking standards are calculated; how Condition of Approval No. 12 addresses parking concerns in the surrounding residential neighborhood; that lighting in the parking lot will be addressed through conditions of approval during the Building permit process; and that a minimum of two hoop bike racks are required in Condition of Approval No. 18.

#### **PUBLIC COMMENTS**

Rebecca Mantei, applicant, stated that they have they read the staff report and conditions of approval and agree to them.

Kyle Kennely and Ms. Mantei presented a slideshow on their proposed business.

Discussion ensued that the applicants will continue to look for additional parking options in the surrounding area; location for a rideshare drop off; that a conditional use permit is required for off-site parking; that discounts will be given to anyone that did not drive to the location; that the applicants are amendable to adding language to encourage the use of non-personal vehicle transportation to alleviate potential parking problems.

Jason Pharrell, employee at the applicants' surf shop, spoke in support of the item.

Eric Keilman spoke in support of the item.

Alley Garvin spoke in support of the item.

Jason Woodside spoke in support of this item.

The Chair closed public comments.

Discussion ensued on installing external security cameras for the rear parking area and Casa's hours of operation.

**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 15301, Existing Facilities; and approve Planning Application 19-21, Zoning Application 19-90 and Zoning Application 19-95 (ZA-09-42 A1), subject to conditions of approval.**

**Moved by Vice Chair Harlan, seconded by Commissioner Colbert.**

Discussion ensued whether the removal of the second bathroom in Code Requirement No. 8 was included in the motion. Vice Chair Harlan and Commissioner Colbert responded yes.

**Code Requirement No. 8 to read:** "The applicant shall submit to the City's Building Division a building permit application for a tenant improvement".

Vice Chair Harlan, Commissioner Colbert, Commissioner Zich, Commissioner Perkins, and Chair de Arakal commented on the motion.

Discussion ensued that Commissioner Perkins suggested modification to Condition of Approval No. 13 does not need to be added to the motion.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Perkins, Russell, Zich

Noes: None

Absent: Tourje

Abstain: None

**RESOLUTION PC-19-53 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 19-21 AND ZONING APPLICATION 19-90 FOR A CONDITIONAL USE PERMIT FOR ISSUANCE OF A STATE ALCOHOL BEVERAGE CONTROL (ABC) LICENSE TYPE 20 (OFF-SALE**



BEER AND WINE) TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION; A DEVIATION FROM PARKING REQUIREMENTS BASED ON UNUSUAL OPERATING CHARACTERISTICS; A FINDING OF PUBLIC CONVENIENCE OR NECESSITY FOR ISSUANCE OF A NEW STATE ABC TYPE 42 LICENSE (ON-SALE BEER AND WINE, PUBLIC PREMISES); AND AN AMENDMENT TO ZONING APPLICATION 09-42 TO MODIFY THE HOURS OF OPERATION OF AN ADJACENT BAR AT 816 WEST 19TH STREET

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 – Tarquin Preziosi, Assistant City Attorney, spoke on the final housing memo of the year from his office.

**ADJOURNMENT AT 9:13 PM**

Submitted by:



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BARRY CURTIS, SECRETARY  
COSTA MESA PLANNING COMMISSION