

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
August 25, 2008**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., August 25, 2008, 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.

Commissioner Egan led the Pledge of Allegiance.

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. Kimberly Brandt
Deputy City Attorney Tom Duarte
City Engineer Ernesto Munoz
Senior Planner Minoo Ashabi
Associate Planner Wendy Shih
Assistant Planner Rebecca Robbins

III. MINUTES: Minutes for the meeting of August 11, 2008

The Chair approved the minutes as distributed.

IV. PUBLIC COMMENTS:

There were no public comments.

V. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Righeimer complimented the Halecrest Homeowners Association and Mike Brumbaugh for putting on an impressive Chili Cook-off.

VI. PUBLIC HEARINGS:

- 1. Planning Application PA-08-10, for Ronald Talmo, authorized agent for Maurice Lavoie, to modify Condition of Approval No. 1 requiring removal of the roof of the parking structure, to allow the roof to remain, located at 947 West 18th Street, in an MG zone. Environmental determination: exempt.**

Associate Planner Wendy Shih reviewed the information in the staff report, and there were no questions of staff.

Ronald Talmo, representing the property owner, Maurice Lavoie, stated he was seeking permission for the roof to remain on the structure.

Mr. Lavoie pointed out that the structure is only being used for parking.

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

In response to Commissioner Egan's question as to why staff would change their recommendation on this request, especially considering the Code, Ms. Shih replied that the approval is based on the Planning Commission's prior approval of the variance, and staff's belief that retention of the roof will not increase the mass of the structure.

Commissioner Egan commented that the Planning Commission does not normally grant a variance with a land use restriction, and stated that the Commission tried very hard to retain the enclosure for the vehicles without creating a new building.

MOTION: Deny an amendment to Planning Application PA-08-10, by adoption of Planning Commission Resolution PC-08-67, based on the evidence in the record and the

denial findings contained in Exhibit “A”.
Moved by Commissioner Eleanor Egan, seconded by
Commissioner James Righeimer.

During discussion on the motion, Commissioner Egan replied to the Chair that the land use is for parking and they tried to keep the enclosure.

The motion carried by the following roll call vote:
Ayes: Commissioner Sam Clark, Commissioner Eleanor Egan, and Commissioner James Righeimer
Noes: Chair Donn Hall, and Vice Chair James Fisler
Absent: None.

The Chair explained the appeal process.

2. **Appeal of the Zoning Administrator’s approval of Zoning Application ZA-08-23, for Cindy Tom, authorized agent for Tempest Equities/Sid Crossley, for a minor conditional use permit to deviate from shared parking requirements to legalize the expansion of indoor public area to exceed 300 sq. ft., and to allow outdoor seating for Swirls Yogurt, located at 1799 Newport Boulevard, Suite A101, in a C2 zone. Environmental determination: exempt.**

Assistant Planner Rebecca Robbins reviewed the information in the staff report, and there were no questions of staff.

Katherine Young, appellant, distributed a handout to the Commissioners, and expressed her concern relating to the increased parking Swirls Yogurt will generate if their expansion is approved. She explained that she has studied this area and wants the Planning Commission to be aware of the parking shortage now and that when the Aloha Grill opens, it will be even worse.

Debra Young, appellant’s daughter, noted she was against any increase in seating area for Swirls Yogurt. She discussed the available parking spaces for each lot area; passed out exhibits for the Commissioners; and explained the possible impacts to parking when the Aloha Grill opens.

Ms. Katherine Young replied to the Chair that she leases her property to Roman Cucina.

Planning Commission Secretary Kimberly Brandt explained that when Newport Boulevard is widened, the landscaped area next to the front parking lot will be made narrower.

The Chair pointed out that even if Swirls Yogurt does not expand, the area will still be short in parking.

Ms. Debra Young asked if the item could be continued until after Aloha Grill has opened.

The Chair and Ms. Brandt discussed the parking shortage situation as not being unusual; people using alternative ways to get to the business; and looking at the businesses in the area as being very successful.

Ms. Katherine Young mentioned that she believes when Aloha Grill opens, there will be more parking violations and more citations.

Cindy Ton, representing the property owner of Swirls Yogurt, agreed that there is a parking problem, but noted they are just trying to add a few more seats for the kids' room, and outdoor patio seating with 6 chairs and 2 tables with umbrellas.

Mathew Tsai, Cindy Ton's brother, agreed there is a parking problem but noted this business does not make the parking situation worse. He mentioned that Ms. Katherine Young made general statements relating to dates and the number of customers. He said Swirls Yogurt is rarely at full capacity, and the additional seating is an alternative for its customers.

Kathy Wren, Swirls Yogurt's manager, pointed out that their receipts show the business is slow and no complaints have been received by their customers. She explained that the busiest time of the day is between 8:00 p.m. and 10:00 p.m. and they have 6 employees, with 2 working a shift. She noted that 2 of the 6 employees drive to work and park in the back. She also noted it takes approximately 3 minutes to purchase yogurt.

The Chair suggested that they get together with all the other nearby owners to determine where their employees should park.

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

The Chair, Commissioner Clark, and Ms. Robbins discussed the Police Substation parking area and the 18 parking spaces and possibly using some of those spaces.

City Engineer Ernesto Munoz stated he was not sure if the Police Substation parking lot is specifically assigned to the Police.

The Commissioners discussed the west side of the alley for parking; the placement of a bike rack for customers arriving by bicycle; and using parking meters.

MOTION: Uphold the Zoning Administrator’s approval, by adoption of Planning Commission Resolution PC-08-68, based on the evidence in the record and the findings contained in Exhibit “A”, subject to conditions in Exhibit “B”, with the deletion of Condition No. 4. Moved by Commissioner James Righeimer, seconded by Commissioner Sam Clark.

Commissioner Clark stated that he would like Condition of Approval No. 4 deleted and the maker of the motion agreed.

Commissioner Righeimer expressed his support for this motion and said he understands the parking issue and parking is a problem.

Planning Commission Secretary Kimberly Brandt replied to the Chair that the parking lot behind Petco could possibly be used for off-site parking if an agreement was made with the property owner. She said she would look into this possibility.

Commissioner Clark offered his help to attend a future meeting with the nearby business owners.

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.

The Chair explained the appeal process.

3. **Review and modification of conditions of approval for Zoning Application ZA-07-36, an application filed by Alec Tenace, authorized agent for SoBECA Partners, LLC, for a minor conditional use permit to establish a commercial photography studio and to allow outdoor private events, located at 2991 Randolph Avenue, in an MG zone. Environmental determination: exempt.**

Associate Planner Wendy Shih reviewed the information in the staff report, and responded to questions from the Commission regarding why this item was initiated, and the barrier (fencing) around the entire perimeter of the property.

Ross Cornell and Alec Tenace, both representing Gods and Heros, read the report but did not agree to all the conditions of approval. Mr. Cornell noted Condition No. 1 was a little contradictory because these outdoor events are an incidental support function.

The Chair and Mr. Cornell discussed the noise complaints against Gods and Heros, and Mr. Cornell agreed to no amplified music outside.

Mr. Tenace noted there would be no outdoor activity past 10:00 p.m. and a disk jockey would play amplified music indoors.

Mr. Cornell also did not agree with Condition No. 3. He said there would be no blaring music. Relating to Condition No. 5, he noted these industry events are catered and everything is prepaid with no money collected.

Commissioner Clark and Ms. Shih discussed the complaints specific to this establishment and Mr. Cornell said he has 2-3 events a year and he is pretty diligent dealing with the parking.

Commissioner Clark and Mr. Cornell discussed the 27 parking places, and moving indoors at 10:00 p.m.

Commissioner Egan discussed with Mr. Tenace concerning their largest event with 300 people and their art opening event with 25 people. Mr. Cornell added that they work with the neighbors and there is parking on the street.

Commissioner Egan, Commissioner Righeimer, Commissioner Clark, and Mr. Cornell discussed valet parking and patrons parking in Pentridge Cove. Mr. Cornell agreed to having only 4 outdoor events a year.

The Chair and Mr. Cornell discussed the smaller events, such as an art opening to promote their business, and expecting 25-30 people. Mr. Cornell commented on the statements contained in the Pentridge Cove homeowners association's letter.

David Smith, representing Pentridge Cove Homeowners Association, expressed his concern with this conditional use permit; events lasting after midnight and occurring more than twice a month; noise with no sound barriers; and patrons parking in his neighborhood. He also noted the recommended conditions are appropriate.

The Chair and Commissioner Clark discussed similar concerns associated with the Shark Club, and methods to address Gods and Heros' noise level, outdoor activities, and parking in non-permitted areas.

Mr. Smith continued to express concerns relating to noise and mentioned there is no off-site parking plan in place.

Marshall Topping, owner of a building on Randolph Avenue, pointed out that during a Gods and Heros' outdoor event, his parking lot was used without his permission for valet parking. He mentioned that trash and debris littered his property. He

also mentioned that he opposes outdoor events.

Jack Flynn, a tenant of Mr. Topping's building, confirmed that he did not allow Gods and Heros to use his parking lot for valet parking. He also commented on the trash problem.

Mr. Cornell returned to the podium and stated they have a specific plan for valet parking and felt it was not his business' patrons that littered the streets and parking areas.

The Chair suggested that Gods and Heros work with the community on these concerns.

The Chair and the Commissioners made modifications to Condition No. 6, including deleting the words "indoor" and "or"; limiting the number of outdoor events to 4 per year; no amplified music or outdoor activities allowed after 10:00 p.m.; requiring trash pickup; exterior doors closed after 10:00 p.m.; and requiring a "special event permit" for each of the 4 outdoor events. Mr. Cornell agreed to the changes.

The Chair reviewed the conditions of approval confirming eliminating the last sentence of Condition No. 1; deleting Condition Nos. 3 and 4; and modifying Condition No. 6.

Commissioner Egan, Commissioner Clark, and Mr. Cornell discussed the special event permit.

Mr. Smith returned to the podium and made a comment regarding restricting special event permits to indoor events.

Commissioner Righeimer noted that the valet parking will need to be free of charge to the patrons.

MOTION: Approve the modification of the conditions of approval for Zoning Application ZA-07-36, by adoption of Planning Commission Resolution PC-08-69, based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in Exhibit "B", with the deletion of the last sentence of Condition No.1, deletion of Condition Nos. 3 and 4, and the modifications of Condition No. 6, adopted as follows:

6. No more than four (4) outdoor events shall be allowed per year, from the effective date of this approval, and each event shall be subject to the review and approval of a “special event permit”, as provided for in Title 9, Chapter II, Article 11 ½ of the Costa Mesa Municipal Code. Application for a special event shall be submitted at least 30 days prior to the event and shall provide a plan for parking including off-site locations, if necessary. Additionally, any valet parking service shall be free to patrons; no amplified music or outdoor activities shall be allowed after 10:00 p.m.; and all of the building’s exterior doors must remain closed after 10:00 p.m. for noise attenuation purposes. The applicant shall also remove all trash and litter from nearby public streets immediately following the special event.
Moved by Commissioner Sam Clark, seconded by Commissioner James Righeimer.

Planning Commission Secretary Kimberly Brandt read into the record all the conditions of approval and confirmed that trash pickup would begin immediately after the event.

Commissioner Clark encouraged the business owner to work with the neighbors, and if issues arise, this permit will be reviewed again.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

The Chair called a recess at 8:45 p.m. and resumed the meeting at 8:54 p.m.

- 4. Zoning Code Amendment CO-08-001 for an ordinance to amend Chapters III, V, and VI of Title 13 of the Costa Mesa Municipal Code related to the R1 Single Family District, including:
* Off-street parking requirements for new single family**

residences and room additions with five or more bedrooms;

*** Establishing criteria for minor modifications related to off-street parking requirements; and**

*** Establishing minimum front yard landscape and maximum hardscape requirements.**

Environmental determination: exempt.

Senior Planner Minoo Ashabi reviewed the information in the staff report, noting the four (4) recommended changes to Alternative 4. Ms. Ashabi responded to questions from the Commission regarding the Minor Modification Table and the decreased number of garage spaces; and a 10% minor addition.

Beth Refakes, Costa Mesa, discussed Eastside mansionization, and said she was glad the off-street parking standards are being reviewed and hopes this will improve the parking situation.

MOTION: Recommend that City Council give first reading of the ordinance by minute order, with the following modifications:

- 1. Delete minor modification (3)b. on handwritten Page 4.**
 - 2. Direct staff to add additional language to Title 20 related to location and direction of parking on residential driveways to prohibit perpendicular parking in front of two garage spaces and parking on side yard setbacks in the front yard.**
 - 3. Delete the second to the last standard listed on the Minor Modification Table 13-28(j)(1) on handwritten Page 8 and modify the footnote below same table.**
- Moved by Commissioner James Righeimer, seconded by Vice Chair James Fisler.**

During discussion on the motion, Commissioner Egan suggested limiting the total square footage in Minor Modification (3)b. on Page 4.

The Chair said he opposed the motion noting homeowners cannot ask for a minor modification; Commissioner Righeimer mentioned that the fifth bedroom is the trigger for the parking requirements; and Vice Chair Fisler gave his support for the motion stating the whole issue is the fifth bedroom and applicants can ask the Planning Commission for a minor modification. Commissioner Righeimer added that as recommended, staff can approve a minor modification.

Planning Commission Secretary Kimberly Brandt noted for technical consistency, deletion of Minor Modification (3)b. on Page 4 was necessary in addition to the deletion of the second to the last row on Table 13-28(j)(1) on Page 8.

The motion carried by the following roll call vote:

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

Noes: Chair Donn Hall

Absent: None.

Ms. Brandt confirmed with Commissioner Egan that the footnote below Table 13-28(j)(1) would be changed as well. She also mentioned that this ordinance would be going forward to the City Council meeting of September 16, 2008.

VII. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.

None.

VIII. REPORT OF THE CITY ATTORNEY'S OFFICE.

None.

IX. ADJOURNMENT TO THE MEETING OF MONDAY, SEPTEMBER 8, 2008.

The Chair mentioned there are no items for the meeting of September 8, 2008.

Planning Commission Secretary Kimberly Brandt confirmed that there were no public hearing items scheduled for September 8, 2008

and recommended adjourning to the meeting of September 22, 2008.

MOTION: Cancel the meeting of September 8, 2008 and adjourn to the meeting of September 22, 2008.

Moved by Commissioner Sam Clark, seconded by Commissioner Eleanor Egan.

The motion carried by the following roll call vote:

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

Noes: None.

Absent: None.

There being no further business, Chairman Hall adjourned the meeting at 9:13 p.m. to the Planning Commission meeting of Monday, September 22, 2008.

Submitted by: _____
KIMBERLY BRANDT, SECRETARY
COSTA MESA PLANNING COMMISSION