

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
April 27, 2009**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., April 27, 2009, at City Hall, 77 Fair Drive, Costa Mesa, California. The meeting was called to order by Chairman Righeimer.

I. PLEDGE OF ALLEGIANCE TO THE FLAG.

Commissioner McCarthy led the Pledge of Allegiance.

II. ROLL CALL: Chair: James Righeimer
Vice Chair: James Fisler
Commissioners: Sam Clark, Colin McCarthy, and Stephen Mensinger

Present: Chair James Righeimer
Vice Chair James Fisler
Commissioner Sam Clark
Commissioner Colin McCarthy
Commissioner Stephen Mensinger

Absent: None.

Also present: Deputy City Mgr. - Dev. Svs. Director Don Lamm
Planning Commission Secy. Kimberly Brandt
Deputy City Attorney Tom Duarte
City Engineer Ernesto Munoz
Building Official Khanh Nguyen
Principal Planner Willa Bouwens-Killeen
Senior Planner Mel Lee
Assistant Planner Rebecca Robbins

III. MINUTES: Minutes for the meeting of April 13, 2009

The Chair approved the minutes as modified.

IV. PRESENTATION:

Planning Commission Proclamation to: Donald D. Lamm, AICP, Deputy City Manager, Development Services Director

The Chair presented Donald Lamm with a proclamation from the City of Costa Mesa Planning Commission formally commending him for his 23 years of service to the City.

Mr. Lamm spoke in acceptance of the proclamation.

Commissioner Clark noted his appreciation of Mr. Lamm's years of service and appreciated his leadership and friendship.

Commissioner Mensinger thanked Mr. Lamm for his contributions to the City and praised his department and staff.

Commissioner McCarthy said he appreciated Mr. Lamm's openness and receptiveness, and enjoyed attending his retirement luncheon.

Vice Chair Fisler said Mr. Lamm will be irreplaceable, with all his knowledge of City business. He also congratulated him on his new position.

V. PUBLIC COMMENTS:

Chris McEvoy, Costa Mesa, commented on high density in the City and on last Tuesday's City Council meeting relating to the public speaking out against the proposed parking ordinances.

Martin Millard, Costa Mesa, commented on the proposed parking ordinances, and expressed concern relating to the Westside. He pointed out that the Westside is the key to improving Costa Mesa.

VI. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner McCarthy thanked the public for participating in the Costa Mesa Community Run and said a lot of money was raised for the Costa Mesa schools. He also noted the Daily Pilot's Open House the other night and their long-term business commitment to the Newport-Mesa community.

The Chair announced the Orange County Marathon is taking place this Sunday, May 3, and certain streets in the City would be closed.

He acknowledged staff's work in this premier event with approximately 9,000 runners. The Chair explained in detail the Planning Commission's process of reviewing projects; following the General Plan, Zoning Code, California Vehicle Code, and State guidelines; commented on variances and the appeal process; and explained the ordinance process for City Council approval as it relates to group homes and parking. He encouraged the public to speak up during the Commission meetings and expressed his support for his fellow Commissioners and Planning staff on their hard work and dedication to the City.

VII. CONSENT CALENDAR:

- 1. 2000 General Plan Conformity Resolution, a resolution of the Planning Commission finding the proposed City of Costa Mesa 2009-2010 Capital Improvement Program is in conformity with the 2000 General Plan.**

At Deputy City Attorney Tom Duarte's suggestion, the Chair asked if anyone wished to pull this item from the Consent Calendar to discuss it separately, and no one wished to do so.

MOTION: Find the City's proposed 2009-10 Capital Improvement Program in conformity with the 2000 General Plan by adoption of Planning Commission Resolution PC-09-16.

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

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler,
Commissioner Sam Clark, Commissioner Colin
McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

VIII. PUBLIC HEARINGS:

- 1. Extension of time for Planning Application PA-07-03, for Keith Scheinberg/The Maximillian Group, LLC, to convert six apartment units to a one-lot airspace residential common interest development, located at 173 Broadway,**

in an R2-HD zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and responded to a question from the Commission regarding additional standards or conditions of approval being added since the project was approved by Council.

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Keith Scheinberg of The Maximillian Group, LLC, applicant, agreed to all the conditions of approval and explained that more time was needed to finish the project.

Commissioner McCarthy confirmed the applicant's name.

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

MOTION: Approve a time extension to January 15, 2011 for Planning Application PA-07-03 to coincide with the tentative tract map, by adoption of Planning Commission Resolution PC-09-17, based on the findings contained in Exhibit "A", subject to conditions in Exhibit "B". Moved by Commissioner Sam Clark, seconded by Commissioner Stephen Mensinger.

During discussion on the motion, the Chair spoke in favor of the motion.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler,
Commissioner Sam Clark, Commissioner Colin
McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

2. **Review of Zoning Administrator's approval of Zoning Application ZA-09-12, for John Puente, authorized agent for June O'Connor, for a minor conditional use permit for an IN-N-OUT Burger Restaurant open until 1:00 a.m. weekdays and 1:30 a.m. weekends with drive-through and**

outdoor seating within 10 feet of the drive-through lane; an administrative adjustment to allow a 12-foot landscape setback along Gisler Avenue (20 feet required); and a minor modification to allow a 16-foot setback along a portion of the Harbor Boulevard frontage (20 feet required), located at 3211 Harbor Boulevard, in a C1 zone. Environmental determination: exempt.

Principal Planner Willa Bouwens-Killeen stated that she received a request for a continuance to the Planning Commission meeting of May 11, 2009 from IN-N-OUT Burger.

The Chair asked if anyone wished to speak on this item that would not be able to attend the meeting of May 11.

Dennis Ashendorf, Costa Mesa, expressed concern regarding the project's severe traffic impact; the project possibly being wrong for this intersection; and the project's impact on Gisler Avenue. He asked that a very complete report from Transportation Services be prepared for this project.

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

**MOTION: Continue to the Planning Commission meeting of May 11, 2009.
Moved by Commissioner Sam Clark, seconded by Commissioner Colin McCarthy.**

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler,
Commissioner Sam Clark, Commissioner Colin
McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

- 3. Review of Zoning Administrator's approval of Zoning Application ZA-09-13, for John Puente, authorized agent for June O'Connor, for a Planned Signing Program for IN-N-OUT Burger Restaurant, located at 3211 Harbor Boulevard, in a C1 zone. Environmental determination:**

exempt.

MOTION: Continue to the Planning Commission meeting of May 11, 2009.

Moved by Commissioner Sam Clark, seconded by Commissioner Stephen Mensinger.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fidler, Commissioner Sam Clark, Commissioner Colin McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

4. **Zoning Code Amendment CO-09-04, to prohibit any type of "commercial mascots," including sign spinners. Environmental determination: exempt.**

Principal Planner Willa Bouwens-Killeen stated that Planning staff has withdrawn this code amendment item so that it can be presented at a future joint study session with the City Council to get some guidance.

5. **Zoning Code Amendment CO-09-05, to modify the definition of "landscaping" in the Zoning Code (Title 13) and add the definition to the Property Maintenance Code (Title 20). Environmental determination: exempt.**

Principal Planner Willa Bouwens-Killeen stated that Planning staff has withdrawn this code amendment item so that it can be presented at a future joint study session with the City Council to get some guidance.

6. **Conditional Use Permit PA-09-09, for Peter Buffa, authorized agent for Penjoyan Family Trust, to allow live entertainment, consisting of singers with acoustic guitars and a karaoke machine, for a restaurant (Skosh Monahan's), located at 2000 Newport Boulevard, in a C1 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and responded to questions from the Commission

regarding amending Condition No. 3 relating to the hours of live entertainment; control of the licensee as mentioned in Condition No. 5; and Condition Nos. 2 and 7 relating to "private club members" and their relevancy.

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

Peter Buffa, authorized agent for Penjoyan Family Trust, stated there is no amplification to the live entertainment; this entertainment will occur in the front of the restaurant next to Newport Boulevard; and agreed to all the conditions of approval.

Paul Fricioni, owner of the Pine Tree Villa apartment building located east of the restaurant, expressed concern regarding the noise from restaurant patrons and personnel late at night and early in the morning, and the noise from the acoustic guitars. He asked that the Commission deny this request.

Mr. Buffa returned to the podium and said the live entertainment is inside the building and there is no amplification. He noted this restaurant has a history of receiving no complaints. He also explained that the proposed entertainment is for the pleasure of existing customers and should not be a huge attraction.

MOTION: Approve Conditional Use Permit PA-09-09, by adoption of Planning Commission Resolution PC-09-18, with the revised Condition No. 3, adopted as follows:

CONDITIONS OF APPROVAL

3. Hours of operation for the live entertainment shall be limited to 4:00 p.m. to 11:00 p.m., seven days a week. Moved by Commissioner Stephen Mensinger, seconded by Vice Chair James Fisler.

Commission Clark gave his support for the project, but had some concern regarding the noise level and encouraged the neighbors to call if they have noise complaints. He asked Mr. Buffa to work with the neighbors regarding their concerns.

Planning Commission Secretary Kimberly Brandt clarified for the record that the motion included the modification to Condition No. 3, regarding the hours of operation.

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler,
Commissioner Sam Clark, Commissioner Colin
McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

The Chair explained the appeal process.

7. **Review, modification, and/or revocation of Planning Application PA-08-27-1, a conditional use permit for ancillary pawn broker services in conjunction with a watch and jewelry store, located at 1808 Newport Boulevard, in a C2 zone. Environmental determination: exempt.**

Senior Planner Mel Lee reviewed the information in the staff report and noted that the owner of the property consented in writing to the revocation of this planning application.

The Chair confirmed with the other Commissioners that there were no ex parte communications with the applicant.

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

MOTION: Revoke Planning Application PA-08-27-1, by adoption of Planning Commission Resolution PC-09-19, based on the evidence in the record and the findings contained in Exhibit "A".

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

The motion carried by the following roll call vote:

Ayes: Chair James Righeimer, Vice Chair James Fisler,
Commissioner Sam Clark, Commissioner Colin
McCarthy, and Commissioner Stephen Mensinger

Noes: None.

Absent: None.

IX. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.

None.

X. REPORT OF THE CITY ATTORNEY'S OFFICE.

None.

Commissioner Clark congratulated Ms. Brandt on her appointment as the Acting Development Services Director and said she is up to the task. The Chair agreed.

XI. ADJOURNMENT TO THE MEETING OF MONDAY, MAY 11, 2009.

There being no further business, Chairman Righeimer adjourned the meeting at 7:35 p.m. to the Planning Commission meeting of Monday, May 11, 2009.

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