

**REGULAR MEETING OF THE CITY OF
COSTA MESA PLANNING COMMISSION
May 11, 2009**

The Planning Commission of the City of Costa Mesa, California, met in regular session at 6:30 p.m., May 11, 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 Mensinger 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: Acting Planning Commission Secy. Khanh Nguyen
Deputy City Attorney Tom Duarte
Acting City Engineer Fariba Fazeli
Transportation Services Mgr. Raja Sethuraman
Principal Planner Willa Bouwens-Killeen
Principal Plnr./Plng. Administrator Claire Flynn
Senior Planner Mel Lee
Assistant Planner Rebecca Robbins

III. MINUTES: Minutes for the meeting of April 27, 2009

The Chair approved the minutes as distributed.

IV. PUBLIC COMMENTS:

None.

V. PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Mensinger announced that Costa Mesa Pop Warner sign-ups are this weekend at Costa Mesa High School from 9:00 a.m. to 12:00 p.m., and said it is a great organization and encouraged kids to sign up. He also mentioned he attended the Civil War re-enactment last weekend and commented on how real looking the re-enactment was.

Commissioner McCarthy thanked the Chair and said he appreciated his efforts relating to the Orange County Marathon.

The Chair appreciated Commissioner McCarthy's sentiment and noted there were thousands of volunteers for the Orange County Marathon. He said it was a huge success and good for the City.

VI. PUBLIC HEARINGS:

- 1. From the meeting of April 13, 2009, Amendment No. 1 to the Mesa West Bluffs Urban Plan SP-05-08 related to mixed-use, live/work, and residential loft development standards, in the Mixed-use Overlay zone. Environmental determination: exempt.**

The Chair commented that he wanted to open the public hearing, but noted more work was needed on this amendment.

Principal Planner/Planning Administrator Claire Flynn reviewed the information in the staff report. She said the Mesa West Bluffs Urban Plan is one of three urban plans for the Westside. There were no questions of staff.

Chris McEvoy, Costa Mesa, expressed concern regarding the Westside Overlay Zone and the Banning Ranch's proposed 1,400 residences, and the resulting traffic. He also was concerned about the industrial area being replaced with houses and stated we need places to work. He pointed out that the overlay zone should be kept industrial.

No one else wished to speak and the Chair closed the public hearing. The Chair said the Planning Commission is not

changing the policy of the overlay zone, but looking at clarification and definition. He reiterated this was not a discussion to get rid of the overlay zone.

MOTION: Continue to the Planning Commission meeting of June 8, 2009.

Moved by Commissioner Colin McCarthy, seconded by Commissioner Stephen Mensinger.

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 mentioned that changes would be made to the language of the amendment.

The Chair announced that Public Hearing Item Nos. 2 and 3 would be discussed together. The public hearing items were then taken out of order.

3. **From the meeting of April 27, 2009, 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.**

Principal Planner Willa Bouwens-Killeen reviewed the information in the staff report for Zoning Application ZA-09-12 and said that she and Transportation Services Manager Raja Sethuraman were available to answer any questions and Mr. Sethuraman would answer any traffic-related questions. Assistant Planner Rebecca Robbins reviewed the information in the staff report for Zoning Application ZA-09-13.

Mr. Sethuraman and Ms. Bouwens-Killeen responded to questions from the Commission regarding circulation of the site, drive-through lanes, turning radius, queuing, spillage onto Harbor Boulevard, Condition No. 3 and the northerly fence

along I-405, and signage.

The Chair pointed out that he and Commissioner Mensinger both met with IN-N-OUT representatives.

Doug Couper of Greenberg Farrow, Architect, made a presentation and stated that he would like Condition No. 3 removed. He expressed concern regarding working with Caltrans, needing a variance, sidewalk access, allowable landscaping, and the uncertainty of costs involved. He also spoke about the 30' diameter turning radius and the queuing for traffic concerns.

Mr. Couper explained that he stands behind the Traffic Impact Assessment by Overland Traffic Consultants and said there will be no spillage of vehicles waiting for the drive-through onto public streets.

In reply to Commissioner Mensinger's question as to what his position is relating to the fence, Mr. Couper responded there are unknown costs involved. A discussion ensued between them, and including Mr. Sethuraman, regarding building a fence with pilaster supports and reciprocal maintenance agreements with Caltrans. John Puente, with IN-N-OUT, added that he could probably research and build that type of fence.

Vice Chair Fisler and Mr. Couper discussed the Harbor Boulevard entrance, the Gisler Avenue entrance, queuing, eliminating the Harbor Boulevard entrance, Vagabond Inn access, and concerns about the intersection.

Jason Piazza, Costa Mesa, said he is a huge fan of IN-N-OUT, but expressed concern regarding the location of the proposed restaurant and the resulting traffic on Harbor Boulevard. He stated he sent four letters to the owner and suggested that Vagabond Inn buy this property. He pointed out there should be no drive-through at this location and made some comments about the current traffic problems at the Harbor Boulevard/Gisler Avenue intersection/I-405 freeway.

Kellie Newcombe, granddaughter of owner June O'Connor,

read a letter from June O'Connor and said she believes IN-N-OUT will be an excellent tenant, but is concerned about moving forward based on the conditions. The Chair stated he has spoken with Ms. Newcombe.

Jim Kiech, June O'Connor's son-in-law, expressed concern regarding the additional financial responsibilities placed on the owner/family relating to fencing and landscaping on Caltrans property. Also, he said this vacancy has been a burden to the family. He emphasized that the 26 residences within 1/4 mile of the proposed restaurant are closer to the freeway than to the restaurant.

The Chair asked Mr. Couper to return to the podium to discuss Condition No. 3. Mr. Couper said he could not commit to that condition because of the hidden costs involved, but agreed to the remainder of the conditions.

The Chair pointed out that this project location is the entrance and gateway to the City and the applicant needs to pay for this development.

Mr. Couper said he could not accept Condition No. 3.

Ms. Newcombe noted the costs were too vague and said this would be a burden placed on the applicant and the owner's family.

Commissioner Mensinger stated the burden is on the applicant; the owner and applicant will need to negotiate this matter as well as Caltrans and the developer noting that Harbor Boulevard is a very important asset.

Commissioner Clark mentioned there were quite a few public correspondence items received; noted his concern regarding the number of cars in the queue; and agreed with the Chair and Commissioner Mensinger regarding Condition No. 3. He also noted his concerns with the long-term aesthetic impacts this project could have on this important gateway to the City.

Commissioner McCarthy mentioned that most of the comments were regarding the spillage of vehicles onto Harbor

Boulevard and said the major obstacle is the queuing.

Commissioner Mensinger, Ms. Bouwens-Killeen, and Mr. Couper discussed the landscaping and proposed screening wall along the east interior property line. Mr. Couper noted he needs to talk to IN-N-OUT concerning these issues.

The Chair pointed out that he has met with IN-N-OUT and discussed signage, stating he sees no reason to have the 65' sign on the I-405, and the Gisler Avenue sign concerns him. He also said he was not in favor of these signs. He suggested the sign be similar in size to the 7-11 sign across the street.

The Commissioners discussed the signage issue, specifically the project being over-signed; the 65' sign proposed for the I-405; and the large sign proposed for Gisler Avenue, on what they considered a residential street. They also discussed having a smaller sign for Gisler Avenue to direct customers.

MOTION: Approve Zoning Application ZA-09-13, a planned signing program, removing Sign A1, and bringing Sign A3 down to the approximate size of 6' tall by 5' wide, similar to the 7-11 sign.

Moved by Chair James Righeimer, seconded by Commissioner Colin McCarthy.

During discussion on the motion, the Chair said the 65' freeway sign will not be allowed for that type of business.

Ms. Bouwens-Killeen pointed out that if the 65' freeway sign located less than 150' from the other sign on Harbor Boulevard is denied, the need for the signing program is removed and the applicant can obtain sign permits to build the 10' sign on Gisler Avenue because it is permitted by right. She explained that normally if the applicant wanted a 65'-high sign on the frontage, then an exchange could be that another sign might be reduced in size. She also explained the sign code information.

The Chair withdrew his motion and proceeded to make a new motion.

MOTION: Continue ZA-09-12 and ZA-09-13 to the Planning Commission meeting of June 8, 2009.

Moved by Chair James Righeimer.

During discussion on the motion, the Chair explained his reasons for continuing both items. A discussion ensued regarding the continued date and Ms. Bouwens-Killeen stated June 8 would be the continued date.

Commissioner McCarthy expressed his concerns with holding the project because of the sign issues. A discussion ensued regarding the project, sign entitlement, and a continuance.

Commissioner McCarthy stated he would not support the continuance.

Ms. Newcombe asked if she could return to the podium and pointed out that this was not fair to push back this project.

Commissioner Mensinger mentioned that this is the approval process; administrative adjustments are based on conditions; and you may not get the outcome you want. Mr. Couper agreed to the continued date of June 8.

A discussion ensued about asking if the smaller sign on Gisler Avenue would be agreeable to the applicant and the applicant did not agree. Commissioner McCarthy mentioned that he thought the applicant was being severely prejudiced.

Vice Chair Fidler agreed with Commissioner McCarthy and proceeded to make a motion. The Chair said he withdrew his motion to continue the items.

MOTION: Reverse Zoning Administrator's decision and denied Zoning Application ZA-09-13, by adoption of Planning Commission Resolution PC-09-20, based on the evidence in the record and the denial findings contained in Exhibit "A".

Moved by Vice Chair James Fidler, seconded by Commissioner Colin McCarthy.

Commissioner Clark inquired about the reverse signage request and there was a discussion.

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.

2. **From the meeting of April 27, 2009, 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.**

MOTION: Uphold Zoning Administrator's approval of Zoning Application ZA-09-12, by adoption of Planning Commission Resolution PC-09-21, based on the findings contained in Exhibit "A", subject to conditions in Exhibit "B", with additional Condition No. 21, adopted as follows:

CONDITIONS OF APPROVAL

**21. To screen the ARCO station from off-site views, construct a 5- to 6-foot high decorative block wall along the interior east and south property lines, where permitted, under the direction of Planning staff.
Moved by Commissioner Colin McCarthy, seconded by Vice Chair James Fisler.**

During discussion on the motion, Commissioner McCarthy

invited Commissioner Mensinger to make a substitute motion relating to the conditions and Vice Chair Fisler suggested using City staff's wording. Vice Chair Fisler also expressed concern about the freeway exiting at that intersection.

In response to Commissioner Mensinger's question about the process for adding conditions to a motion, Deputy City Attorney Tom Duarte replied that the maker of the motion and the seconder need to agree.

Commissioner Mensinger discussed the area between IN-N-OUT and the Arco gas station, and placing a wall and landscaping as a visual separation. Both the maker of the motion and the seconder agreed.

As concerns the proposal to require a wall along the interior south and east property lines, the Chair, Commissioner Mensinger, Ms. Bouwens-Killeen, and Mr. Couper discussed maintaining the 2-way driveway; and referenced the Arco gas station property and the access agreement with the Arco gas station and the Vagabond Inn.

John Puente asked the Commissioners if landscaping could be used instead of a wall. He also brought up the issue of graffiti. Commissioner Mensinger commented on the advantages of having a wall and the Chair said he appreciates everyone working together on this project.

Vice Chair Fisler and Commissioner Mensinger discussed the placement of a wall and the softening effect of landscaping.

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.

4. **Review, modification, and/or revocation of two previously approved conditional use permits: a) Zone Exception**

Permit ZE-83-86 to allow retail sales and service of motor scooters; and b) Planning Application PA-85-216 to allow a 680 sq. ft. storage building within a parking lot. The property is located at 1880 Newport Boulevard. Environmental determination: exempt.

Senior Planner Mel Lee confirmed that the property owner did not wish to have the conditional use permits revoked at this time and therefore staff is withdrawing the request.

The Chair called a recess at 8:13 p.m. and resumed the meeting at 8:22 p.m.

5. **Planning Application PA-09-07, for Inayat Bergum, authorized agent for Ted Rischard, for a conditional use permit to allow an elementary school at 2950 McClintock Way (previously approved as a preschool) and to expand the school onto the adjacent property at 2980 McClintock Way, Suite H, 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 the original approved use, open space, and parking.

The Chair confirmed with the other Commissioners that there were no communications with the applicant or neighbors.

Inayat Bergum, applicant, gave a presentation explaining she began her first Montessori school in Costa Mesa in 1964. She said she would like to continue this school in an elementary setting to raise the bar with an educational environment. She agreed to all the conditions of approval.

Tamara Bostwick, mother of student attending Christian Montessori School, praised the school stating that it is a wonderful environment. She also noted that her son is doing very well at this school.

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

Ms. Bergum returned to the podium and said it is an honor to be doing business in Costa Mesa and on behalf of the teachers and children of Christian Montessori School, she welcomes approval of this project.

MOTION: Approve Planning Application PA-09-07, by adoption of Planning Commission Resolution PC-09-22, based on the evidence in the record and the findings contained in Exhibit "A", subject to conditions in Exhibit "B".

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

During discussion on the motion, the Chair mentioned that this is a phenomenal school and his four daughters attended there. He gave his support for the motion.

Commissioner Clark also gave his support for this motion, but encouraged the applicant to pay attention to what has been approved for this site.

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.

VII. REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT.

Acting Planning Commission Secretary Khanh Nguyen said he had no report, but pointed out that it is an honor to serve in this capacity.

VIII. REPORT OF THE CITY ATTORNEY'S OFFICE.

None.

IX. ADJOURNMENT TO THE MEETING OF TUESDAY, MAY 26, 2009.

There being no further business, Chairman Righeimer adjourned the meeting at 8:37 p.m. to the Planning Commission meeting of Tuesday, May 26, 2009.

Submitted by: _____
KHANH NGUYEN, ACTING SECRETARY
COSTA MESA PLANNING COMMISSION