



REGULAR PLANNING COMMISSION MONDAY, FEBRUARY 24, 2025 - MINUTES

CALL TO ORDER - The Regular Planning Commission Meeting was called to order by Chair Jeffery Harlan at 6:00 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG – Commissioner Klepack led the Pledge of Allegiance

ROLL CALL

Present: Chair Jeffery Harlan, Vice Chair Jon Zich, Commissioner Angely Andrade, Commissioner Karen Klepack, Commissioner David Martinez, Commissioner Johnny Rojas

Absent: Commissioner Robert Dickson

ANNOUNCEMENTS AND PRESENTATIONS: None.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA: None.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Martinez announced that the City Council has approved a contract to begin the rezoning process, expressing hope for progress soon. He attended CicLAvia in Los Angeles, an event promoting non-vehicle transportation, and hopes Costa Mesa can host a similar event, as Irvine has already done. He highlighted upcoming events, including an Active Transportation Forum in Fullerton on February 27, the Costa Mesa Sanitary District Citizens Advisory Committee application deadline on March 4, and a Community Bike Skills Workshop on March 8 at Iglesia Harbor Church.

CONSENT CALENDAR:

1. JULY 24, 2023 UNOFFICIAL MEETING MINUTES

MOVED/SECOND: ZICH/MARTINEZ

MOTION: Approve the Regular meeting Minutes of July 24, 2023.

The motion carried by the following roll call vote:

Ayes: Chair Harlan, Vice Chair Zich, Commissioner Andrade, Commissioner Klepack, Commissioner Martinez, Commissioner Rojas, Commissioner Rojas

Nays: None

Absent: Commissioner Dickson

Abstained: None
 Motion carried: 6-0-1

-----**END OF CONSENT CALENDAR**-----

PUBLIC HEARINGS:

Chair Harlan announced that staff requested a reordering of the agenda to hear Public Hearing item number 1 last and asked the Commission to make a motion to reorder the agenda accordingly.

MOVED/SECOND: ZICH/Martinez

MOTION: Reordering of the agenda to hear Public Hearing item number 1 last.

The motion carried by the following roll call vote:

Ayes: Chair Harlan, Vice Chair Zich, Commissioner Andrade, Commissioner Klepack, Commissioner Martinez, Commissioner Rojas, Commissioner Rojas

Nays: None

Absent: Commissioner Dickson

Abstained: None

Motion carried: 6-0-1

2. APPEAL OF THE DIRECTOR OF DEVELOPMENT SERVICES DETERMINATION THAT CONDITIONAL USE PERMIT PA-21-23 TO ESTABLISH A CANNABIS STOREFRONT LOCATED AT 1687 ORANGE AVENUE (KING'S CREW) HAS EXPIRED

Two ex-parte communication reported by Vice Chair Zich and Commissioner Rojas.

Gabriel Villalobos, Assistant Planner, presented the item.

During the discussion with staff, commissioners sought clarification on various aspects of the staff report, including the date it was written, details regarding the applicant's appeal, and information on Southern California Edison, which the applicant was present to address. Questions arose about the criteria for issuing building permits, certificates of occupancy, and business licenses, with staff explaining that a certificate of occupancy could be issued without a building permit in cases where no significant tenant improvements were required. The process of assessing and collecting fees was also discussed, with staff outlining that fees are initially assessed and later collected in various subsequent permit review stages. It was confirmed that applicants are generally responsible for tracking deadlines and requesting extensions, and that significant tenant improvements require a reissued certificate of occupancy. The applicant had agreed to the conditions of approval at the initial hearing (including the expiration requirements). Additionally, commissioners inquired about requests for clean sets of plans, which were confirmed to have been made via email, and it was verified that all relevant

departments had tentatively approved the plans, pending supplemental information and final clean sets for stamping.

The Chair opened the Public Hearing.

Commissioners questioned the applicant about project delays, focusing on why a request for a clean set of plans was not addressed. The applicant explained that Southern California Edison required electrical redesigns which took about two months to complete, delaying their ability to submit updated plans. They also cited challenges with securing an encroachment permit and communication gaps with city staff, including a planner's departure, which contributed to the delays. When asked if they had requested an extension, the applicant stated they had inquired about maintaining compliance with the 2020 building code but had not specifically sought an extension for the Conditional Use Permit, as they were unaware of its pending expiration. Commissioners also sought clarity on the timeline for final city-approved plans, which the applicant estimated would have required an additional three months after Edison's changes.

The Chair Opened for Public Comment.

Public comment:

No public Comments.

The Chair Closed Public Comment.

The Chair closed the Public Hearing and called for a motion.

MOVED/SECOND: ZICH/MARTINEZ

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

Ayes: Chair Harlan, Vice Chair Zich, Commissioner Andrade, Commissioner Klepack, Commissioner Martinez, Commissioner Rojas

Nays: None

Absent: Commissioner Dickson

Abstained: None

Motion carried: 6-0-1

ACTION: The Planning Commission adopt a Resolution to:

1. Find that the appeal is not subject to the California Environmental Quality Act per California Public Resources Code Section 15268; and
2. Uphold the Director of Development Services determination that Conditional Use Permit PA-21-23 has expired pursuant to Costa Mesa Municipal Code Sections 13-29(k)(2) and Conditional Use Permit Condition of Approval No. 2.

3. CONDITIONAL USE PERMIT PCUP-24-0011 FOR A RETAIL CANNABIS STOREFRONT BUSINESS WITH DELIVERY (“GREEN MART”) LOCATED AT 1912 HARBOR BOULEVARD

Two ex-parte communications reported from Vice Chair Zich and Commissioner Andrade.

Chair Harlan recused himself due to a conflict of interest.

Michelle Halligan, Senior Planner presented the item.

Commissioners and staff discussed several aspects of the project, including floor plan accessibility, traffic/circulation, parking, cannabis delivery regulations, and broader land use policies. Concerns were raised about whether employees could move between restricted and public areas without exiting the building. Commissioners inquired about murals, with staff noting the applicant was considering a green wall at this time. Questions on traffic circulation focused on ensuring delivery vehicles would not obstruct bike lanes and whether store front deliver vehicles should have identifying markings, which staff confirmed is prohibited by state law. Parking concerns were raised regarding the placement of a bike rack, with staff clarifying that while its inclusion was required by condition of approval, bike rack design details were not specified. Bike rack design and other improvement details would be reviewed during the building permit plan check process. Commissioners also sought clarity on distinguishing between vendor deliveries and customer deliveries and concern was expressed regarding future parking impacts along Harbor boulevard due to AB 2097. The conversation shifted to broader cannabis storefront policies, such as how many additional applications are pending. Staff confirmed three additional CUP applications were pending and committed to provide updates on application statuses.

The Vice Chair opened the Public Hearing.

Commissioners sought clarification on how employees would move between the restricted access area and the retail sales area. The applicant explained that employees could access the retail space through a small pony wall with an unhinged opening near the cash registers. Additionally, a secure access door requiring a key card was located across from the restrooms, providing access to storage areas and other restricted sections. The discussion confirmed that both access points were designed to maintain security while allowing staff to assist customers as needed.

The Vice Chair opened for Public Comment.

Public comment:

Jill Welton, expressed strong opposition to the proposed dispensary, citing past negative experiences with an illegal cannabis business that operated on their property. Concerns included parking issues, littering, loitering, marijuana odor, and the presence of homeless individuals, which led to significant financial losses and tenant departures. She argued that the proposed dispensary could cause similar problems, especially given the existing cannabis businesses nearby, and emphasized concerns about the adjacent property owner's poor management and lack of maintenance, which they believed could further contribute to issues in the area.

Jane Flynn (adjacent property owner), expressed strong opposition to the proposed dispensary, citing past negative experiences with the applicant, whom they accused of repeatedly disregarding regulations in another city. She alleged that the applicant had previously misrepresented himself to secure a lease in Newport Beach, where he operated an unpermitted nightclub and adult filming studio, leading to multiple code violations and eventual eviction. Additionally, she noted that the applicant had a Conditional Use Permit revoked in Upland due to public safety concerns. Given this history and concerns over the adjacent property owner's lack of oversight, she urged the commission to deny the permit, warning of potential regulatory violations and negative impacts on the surrounding community.

Kendra Carney-Mayor, attorney representing a neighboring property owner, voiced strong opposition to the proposed dispensary, emphasizing concerns over enforcement, mitigation, and compatibility with surrounding businesses. She argued that the current conditions of approval defer mitigation until after issues arise, placing the burden on neighboring property owners and tenants to report problems. She requested additional conditions, such as a trigger for CUP review and potential revocation if multiple verified complaints are received, as well as an annual review incorporating community feedback. Concerns were also raised about parking, loading access, odor control, and inconsistencies in the project's design, including the lack of rear access and a fireplace inside the retail space. Given the applicant's alleged history of regulatory violations and concerns over the absentee landlord, they urged the commission to deny the permit or impose stricter conditions to ensure compliance and prevent future issues.

Lindsay LoBianco spoke in support of the proposed dispensary, praising the applicant's business acumen, problem-solving skills, and ability to drive growth and efficiency. She described the applicant as an innovator with a professional demeanor and emphasized their positive impact on both the company and the surrounding community.

Braley Conticcio, spoke in support of the applicant, highlighting his leadership, strategic thinking, and problem-solving abilities. She praised his ability to navigate challenges, drive business growth, and foster a positive work environment, emphasizing his integrity and professionalism.

The Vice Chair Closed Public Comment.

The Vice Chair closed the Public Hearing.

Commissioners questioned staff about security, background checks, site conditions, complaint tracking, and parking requirements. Staff confirmed that the floor plan would include a pony wall with controlled access and that applicant background checks focus on criminal and financial history but do not assess prior zoning code violations unless they resulted in criminal charges. Concerns about an existing fireplace were addressed, with staff explaining it would have to be inoperable and would be reviewed building permit during plan checks. Regarding parking, staff acknowledged that while state law AB 2097 prohibits minimum parking requirements, a condition of approval allows the city to work with businesses on mitigation strategies like delivery services and off-site employee parking if issues arise.

The Vice Chair Called for a motion.

Commissioner Martinez made the motion. Seconded by Commissioner Klepack.

Commissioner Martinez expressed support for the motion, referencing City Council's decision to allow up to 35 cannabis storefronts and noting the presence of several nearby bus routes, which minimized his concerns about parking. Commissioner Andrade opposed the motion, citing inconsistency with General Plan Land Use Policies LU-1.1 and LU-3.1. Vice Chair Zich stated he would support the motion and emphasized that the application complies with the city's ordinance. He acknowledged public concerns regarding parking, proximity to family-oriented businesses, overconcentration, safety, and clientele. He also noted that while the applicant's community involvement is appreciated, it does not influence the commission's decision under existing city policy.

MOVED/SECOND: MARTINEZ/KLEPACK

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

Ayes: Vice Chair Zich, Commissioner Klepack, Commissioner Martinez

Nays: Commissioner Andrade, Commissioner Rojas

Absent: Commissioner Dickson

Abstained: Chair Harlan

Motion carried: 3-2-1-1

Action: The Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1) Existing Facilities; and

2. Approve Conditional Use Permit PCUP-24-0011 based on findings of fact and subject to the conditions of approval as contained in the Resolution.

The Vice Chair called for a break.

The Chair called the meeting back into order.

1. A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE TO AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNITS TO CONFORM TO RECENT REVISIONS TO STATE LAW (CODE AMENDMENT PCTY-24-0002)

No ex-parte communications

Chris Yeager, Senior Planner presented the item.

Commissioners and staff discussed regulations pertaining to Accessory Dwelling Units (ADUs), deed restrictions, and the City's role in promoting ADU development. Staff explained that while deed restrictions can be applied to Junior ADUs (JADUs), they are prohibited for standard ADUs under state law. Commissioners questioned how the City could enforce short-term rental restrictions on ADUs without deed restrictions, and staff clarified that this restriction was incorporated into the municipal code instead. Further discussion touched on why the City actively promotes ADUs in its housing element, with staff explaining that ADUs provide a quick and efficient way to increase affordable housing stock. Commissioners also raised concerns about ordinance language, noting that the government code section governing ADUs is repeatedly referenced as an exception, and suggested that City Council review the structure of the ordinance for clarity. Lastly, questions arose about the ability of homeowners' associations (HOAs) to prohibit ADUs, with staff stating that HOAs cannot prohibit ADUs.

No Public Comments.

Commissioner Andrade asked how the city plans to track and ensure that future ADU rentals are considered affordable for low- or middle-income households. Staff explained that the city has conducted a survey of previously approved ADUs to gather information on rental rates and tenant income levels, including cases where units are provided to family members for free. Additionally, the new ADU on-line permit process now includes a section requesting this information to help the city count these units toward its Regional Housing Needs Assessment (RHNA) goals.

MOVED/SECOND: MARTINEZ/KLEPACK

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

Ayes: Chair Harlan, Commissioner Andrade, Commissioner Klepack,
Commissioner Martinez, Commissioner Rojas
Nays: Vice Chair Zich,
Absent: Commissioner Dickson
Abstained: None
Motion carried: 5-1-1

OLD BUSINESS: None.

NEW BUSINESS: None.

REPORT - PUBLIC WORKS - None.

REPORT - DEVELOPMENT SERVICES - None.

REPORT - ASSISTANT CITY ATTORNEY - None.

ADJOURNMENT AT 8:29 PM

Submitted by:

SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION