

UNOFFICIAL UNTIL APPROVED

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

**December 12, 2022**

**CALL TO ORDER**

The Chair called the meeting to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Commissioner Russell led the Pledge of Allegiance.

**ROLL CALL**

Present: Chair Byron de Arakal, Vice Chair Jon Zich, Commissioner Adam Ereth, Commissioner Dianne Russell, Commissioner Johnny Rojas, Commissioner Russell Toler, Commissioner Jimmy Vivar

Absent: None

Officials Present: Assistant Development Services Director Scott Drapkin, Assistant City Attorney Tarquin Preziosi, Assistant Planner Gabriel Villalobos, Contract Planner Michelle Halligan, City Engineer Seung Yang and Recording Secretary Anna Partida

**ANNOUNCEMENTS AND PRESENTATIONS:**

None

**PUBLIC COMMENTS:**

None

**COMMISSIONER COMMENTS AND SUGGESTIONS:**

Commissioner Vivar thanked the public for attending the meeting and wished everyone a Happy Holiday. He thanked his fellow Commissioners for a great year serving on the Commission.

Commissioner Rojas thanked staff for the past year.

Commissioner Toler shared some interesting news items dealing with public transportation planning issues in Seattle and San Jose.

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Commissioner Russell expressed her appreciation to staff for their hard work this past year, she thanked the public for attending the Commission meetings and wished everyone a Happy Holiday.

Vice Chair Zich expressed his appreciation to staff and wished everyone a Merry Christmas.

Chair de Arakal thanked his fellow Commissioners and appreciated the commitment they have shown, as he comes to end of his tenure he wanted to express his appreciation to staff for all their hard work. He also wished everyone a Happy Holiday.

**CONSENT CALENDAR:**

None.

**PUBLIC HEARINGS:**

- 1. PLANNING APPLICATION 21-32 FOR A CONDITIONAL USE PERMIT TO ALLOW THE USE OF A VETERINARY CLINIC (“MODERN ANIMAL”) WITH OFF-SITE EMPLOYEE PARKING, AND MINOR CONDITIONAL USE PERMIT FOR A REDUCTION IN PARKING BASED ON UNIQUE OPERATING CHARACTERISTICS IN THE C1 ZONE LOCATED AT 462 E. 17<sup>TH</sup> STREET**

**Project Description:** Planning Application 21-32 is a request for a Conditional Use Permit to operate a veterinary clinic (Modern Animal) within a 3,250-square-foot tenant space located at 462 E. 17<sup>th</sup> Street and a Minor Conditional Use Permit to allow for a deviation in parking requirements due to unique operating characteristics. The proposal will include interior tenant improvements to establish exam and surgery areas, as well as, office space and other incidental uses for the proposed veterinary clinic. Modern Animal will provide veterinary services to cats and dogs on an appointment-only basis for those subscribed to their membership program and there will be no overnight boarding of pets.

**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.

No ex-parte communications to report.

Assistant Planner Gabriel Villalobos, presented the staff report.

**Commission and Staff:**

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Commissioner Vivar asked why the vacant bank use was factored into the parking demand calculations and whether that establishment would be coming back into that unit.

Mr. Villalobos noted the bank still leases the unit, but has no plans to return. The bank's higher parking use was factored into calculations to show parking demand for a future use would not impact the veterinary site.

Discussion ensued regarding possible other future uses at the vacant suite, parking concerns and the vet clinics proposed partnership with a local animal hospital.

Vice Chair Zich asked whether the five-foot site setback was for the western edge of the building to the edge of the driveway as noted on page two of the staff report.

Mr. Villalobos noted there are two separate properties sharing the parking, so the site setback is counted at the western edge of the building.

Discussion ensued regarding the CUP request, off site parking request and parking impacts.

Vice Chair Zich asked whether the City would be notified if the off-site parking agreement is terminated.

Mr. Villalobos noted the project is conditioned that they have a yearly lease, but there is not a mechanism in place to notify the City if the off-site parking is terminated.

**The Chair opened Public Hearing.**

Joseph Pentano, authorized agent for the applicant, stated he read and agreed to the conditions of approval.

**Commission, Applicant and Staff:**

Mr. Pentano thanked staff and provided an overview of the application.

**The Chair opened Public comments.****PUBLIC COMMENT:**

None.

**The Chair closed public comment.**

Chair de Arakal commented on the parking code requirements.

**The Chair closed the Public Hearing.**

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Vice Chair Zich made a motion, seconded by Commissioner Vivar.

Vice Chair Zich, Commissioner Vivar, and Chair de Arakal all spoke in favor of the motion.

**MOVED/SECOND:** Zich/Vivar

**MOTION:** Move staff's recommendation with additional language to Condition of Approval No. 13.

The motion carried by the following roll call vote:

Ayes: de Arakal, Zich, Ereth, Rojas, Russell, Toler, Vivar

Nays: None

Absent: None

Recused: None

Motion carried: 7-0

**ACTION:** The Planning Commission adopted a resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15301 (Class 1), Existing Facilities and;
2. Approve Planning Application 21-32, subject to conditions of approval and additional language to Condition of Approval No. 13.

**MODIFIED CONDITION:**

**Conditions of Approval No. 13 to read:** Once operational, the business operators shall subsequently submit yearly on January 1<sup>st</sup>, written and documented confirmation to the Planning division that said lease is still in effect.

**RESOLUTION PC-2022-34 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-32 FOR A CONDITIONAL USE PERMIT TO ALLOW THE USE OF A VETERINARY CLINIC (“MODERN ANIMAL”) WITH OFF-SITE EMPLOYEE PARKING, AND A MINOR CONDITIONAL USE PERMIT FOR A REDUCTION IN PARKING BASED ON UNIQUE OPERATING CHARACTERISTICS IN THE C1 ZONE LOCATED AT 462 E. 17<sup>TH</sup> STREET**

The Chair explained the appeal process.

The Commission took a break at 6:56 PM.

The Commission reconvened at 7:05 PM

2. **PLANNING APPLICATION 21-40 FOR A RETAIL CANNABIS STOREFRONT BUSINESS WITH DELIVERY LOCATED AT 2664 NEWPORT BOULEVARD (SECRET GARDEN)**

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**Project Description:** Planning Application 21-40 is a request for a Conditional Use Permit to operate a storefront retail cannabis business with delivery within an existing 3,403-square-foot suite within an existing commercial building located at 2664 Newport Boulevard. The business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite and via delivery subject to conditions of approval and other City and State requirements.

**Environmental Determination:** The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities.

Three ex-parte communications to report:

Commissioner Ereth exchanged emails and had a call with the authorized agent, Christopher Kopitch.

Vice Chair Zich had a telephone call with one of the consultants for the applicant.

Chair de Arakal received an email from the applicant's representative.

Contract Planner Michelle Halligan, presented the staff report.

**Commission and Staff:**

Commissioner Ereth asked how long the previous uses were in business.

Ms. Halligan noted the building was approved in 1999 and a business license history back to 2008.

Discussion ensued regarding the prior uses and hours of operation at the site.

Commissioner Ereth asked staff what may be the probable compatibility issues with the adjacent property that were noted in the staff report.

Ms. Halligan noted the proposed use would have extended hours of operation and have a higher turnover rate (customer traffic) at the site than prior uses.

Discussion ensued regarding the peak hours of customer traffic that would visit the site.

Commissioner Vivar asked whether the rolling gate on the property would only be open during the scheduled hours of operation for the business.

Ms. Halligan answered that the vehicle gate is existing and the Planning Commission can condition the hours of operation for the business and the gate.

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Discussion ensued regarding the previous business operations and hours of operation at the site, and how proposed parking at the site would be enforced so that employees would only park in the back after 5 p.m.

Commissioner Rojas noted mention of the multi-family units located on Lisa Lane at the back of the property and asked whether the City was contacted by any of the residents for any privacy concerns or requested any noise abatement at the site.

Ms. Halligan stated they had not, but received two letters of support for the applicant from the tenants at an address on Lisa Lane.

Commissioner Toler asked whether staff had received any correspondence in opposition to this application.

Ms. Halligan stated staff had not received any opposition comments to date.

Commissioner Russell asked how far the back wall of the property is located from the residential building.

Ms. Halligan noted it appears between five to seven feet from the residential building and that the second story is visible from the property.

Vice Chair Zich asked what the operating hours will be for the business.

Ms. Halligan noted the hours listed in the business plan are 7:00 a.m. to 10:00 p.m., which are the maximum hours allowed open per the City's municipal code. The use can be conditioned to have more restricted hours.

Discussion ensued regarding when the development on the Lisa Lane was built and hours of operation for the masonry business which is adjacent to the property.

**The Chair opened the Public Hearing.**

Mr. Jim Fitzpatrick, authorized agent for the applicant, stated he read and agreed to the conditions of approval.

**Commission, Applicant and Staff:**

Mr. Fitzpatrick introduced Mike Feldman to the Commission who gave a brief overview of the application.

Mr. Fitzpatrick continued the presentation on the application.

Commissioner Ereth asked whether the applicant had reached out to the property owners behind them in versus the renters at the properties.

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Mr. Fitzpatrick stated they had reached out to both and sent invitations to the open houses.

Commissioner Vivar asked for clarification the hours of operation for the business.

Mr. Fitzpatrick noted the business will be open from 7:00 a.m. to 10:00 p.m.

Discussion ensued regarding resident comments at the Open House and outreach efforts to the adjoining businesses and neighboring residential properties.

Commissioner Vivar asked whether the applicant had spoken to the neighbors whose windows overlook the back-parking area of the property.

Mr. Fitzpatrick spoke on the window placement and stated they did receive a letter of support from the neighbors.

Discussion ensued regarding private security patrolling on public rights of way and security in and around the property.

Commissioner Toler asked whether the security gate was already in place on the property and not installed by the applicant.

Mr. Fitzpatrick answered that the gate was already in place on the property.

Discussion ensued regarding potential conditions of approval that the Commission may consider to ensure compatibility with nearby residential developments, as listed on page 13 of the staff report.

Commissioner Russell asked whether the business will be applying for a “M” license for cannabis.

Mr. Fitzpatrick answered in the affirmative.

Commissioner Russell asked the number of staff on site at any given time during business hours.

Mr. Fitzpatrick noted four staff on site with a security guard.

Discussion ensued regarding the customer peak hour visits to the business, customer counts per hour and lighting of the back-parking area.

Discussion also ensued regarding the security guard and the area of patrol in and around the business.

Vice Chair Zich asked for clarification on the mention of Measure X in one of the applicant’s presentation slides, which Mr. Fitzpatrick was able to answer.

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Chair de Arakal asked if all of the rear parking area will be within the view of security cameras.

Mr. Fitzpatrick answered in the affirmative.

The Chair opened Public Comments.

**PUBLIC COMMENT:**

Dr. Joseph Zappala, property owner, supported the application and affirmed that he had installed the gates on the property prior to this application and that the gates would be opened manually by staff during the open and close of business hours. He also noted that his prior business at the location was open seven days a week.

Neil Aher, representing the Star Inn, spoke on their support of the application and spoke in favor of the upgrades to the property and the implementation of a Neighborhood Watch program that the applicant is proposing.

Speaker 1, resident of Costa Mesa, spoke in favor of the application.

Speaker 2, resident of Costa Mesa, spoke in favor of the application.

Rose Liu, resident of Costa Mesa, spoke in favor of the application.

Speaker 4, resident of Costa Mesa, spoke in favor of the application.

Speaker 5, resident of Costa Mesa, spoke in favor of the application.

**The Chair closed Public Comment.**

The Chair closed the Public Hearing.

**The Chair re-opened the Public Hearing.**

Commissioner Ereth asked whether the support letters received from the neighbors behind the property were from the tenants or property owners.

Ms. Halligan received three support letters, two from tenants and she is unsure if the other was from a property owner.

**The Chair closed the Public Hearing.**

Chair de Arakal made a motion, seconded by Vice Chair Zich.

Chair de Arakal spoke on his motion and support of the application.



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Vice Chair Zich also spoke in favor of the motion.

Commissioner Ereth asked the maker of the motion if he would support augmenting the conditions of approval by replacing the landscaping in the back with mature trees.

Chair de Arakal declined the request.

Commissioner Vivar spoke on the application and the reasons he will not support the motion.

Commissioner Toler spoke in favor of the motion.

Vice Chair Zich commented on one of the concerns spoken by Commissioner Vivar.

Assistant City Attorney Tarquin Preziosi suggested the language for Condition of Approval No. 8 be modified to reflect more recent language used for Measure Q projects.

Chair de Arakal asked the applicant and property owner to affirm this modification in the language to Condition of Approval No. 8.

Both the applicant and property owner both affirmed the modification of the language in Condition of Approval No. 8.

The maker of the motion and second both affirmed the modification.

**MOVED/SECOND:** de Arakal/Zich

**MOTION:** Move staff's recommendation with modified language to Condition of Approval No. 8.

The motion carried by the following roll call vote:

Ayes: de Arakal, Zich, Ereth, Rojas, Russell, Toler

Nays: Vivar

Absent: None

Recused: None

Motion carried: 6-1

**ACTION:** The Planning Commission adopted a resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 21-40, subject to conditions of approval, with modified language to Condition of Approval No. 8.

**MODIFIED CONDITION:**

**Condition of Approval No. 8 to read:** The applicant, the property owner and the operator (collectively referred to as "indemnitors") shall each jointly and severally

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defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, legal action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of the City's approval of the project, including but not limited to any proceeding under the California Environmental Quality Act. The indemnification shall include, but not limited to, damages, fees and/or costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the indemnitors' joint and several obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section.

**RESOLUTION PC-2022-35– A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-40 FOR A STOREFRONT RETAIL CANNABIS BUSINESS WITH DELIVERY (SECRET GARDEN) IN THE C1 ZONE AT 2664 NEWPORT BOULEVARD**

The Chair explained the appeal process.

**OLD BUSINESS:** None.

**NEW BUSINESS:** None.

**DEPARTMENTAL REPORT(S)**

1. Public Services Report – Mr. Yang reported the public works department has continued the construction on Wilson Street with pavement construction between Newport Boulevard and Placentia Avenue starting on December 13. In addition, construction of the new Wilson Park monument sign is in progress with the foundation of the sign being set.
2. Development Services Report – Mr. Drapkin extended a Happy Holiday to the Commission on behalf of the department.

**CITY ATTORNEY'S OFFICE REPORT(S)**

1. City Attorney – None.

**ADJOURNMENT AT 8:30 P.M.**

Submitted by:

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SCOTT DRAPKIN, SECRETARY  
COSTA MESA PLANNING COMMISSION