

UNOFFICIAL UNTIL APPROVED

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

March 28, 2022

CALL TO ORDER

The Chair called the meeting to order at 5:00 p.m.

ROLL CALL

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

Absent: None

Officials Present: Director of Development Services Jennifer Le, Assistant Director of Development Services Scott Drapkin, Assistant City Attorney Tarquin Preziosi, Senior Planner Nancy Huynh, Contract Planner Michelle Halligan, City Engineer Seung Yang, City Clerk Brenda Green and Recording Secretary Anna Partida

**PUBLIC COMMENTS – MATTERS LISTED ON THE SPECIAL CLOSED SESSION
AGENDA:**

None.

SPECIAL CLOSED SESSION ITEM(S):

- 1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54956.9 (D)(1) NAME OF CASE: RD X CATALYST - COSTA MESA LLC, A CALIFORNIA LIMITED LIABILITY COMPANY V. CITY OF COSTA MESA, ORANGE COUNTY SUPERIOR COURT OF CALIFORNIA, CASE NO. 30-2021-01214880-CU-WM-CJC**

The Planning Commission recessed for a Special Closed Session at 5:02 p.m.

The Planning Commission reconvened at 6:10 p.m.

City Attorney Report:

None.

ADJOURNMENT AT 6:11 PM

Submitted by:

SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION

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

MARCH 28, 2022

CALL TO ORDER

The Chair called the meeting to order at 6:12 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Ereth led the Pledge of Allegiance.

ROLL CALL

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

Absent: None.

Officials Present: Director of Development Services Jennifer Le, Assistant Director of Development Services Scott Drapkin, Assistant City Attorney Tarquin Preziosi, Senior Planner Nancy Huynh, Contract Planner Michelle Hallegan, City Engineer Seung Yang, City Clerk Brenda Green and Recording Secretary Anna Partida

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA:

Nicole Lockhead, addressed the Planning Commission regarding cannabis retail applications near a youth center, expressing strong opposition due to the risks posed to children. She urged the Commission to reject these applications, citing safety concerns such as impaired drivers, secondhand exposure, and the potential for cannabis products to be mistaken for candy by young children.

Speaker two urged the Planning Commission to follow the state's broad definition of youth centers, which requires a 600-foot separation between youth centers and cannabis storefronts. They are advocating for Camp Lila to be recognized as a youth center and are asking the Commission to reject the approval of cannabis retail locations

at 167 Cabrillo Street and 178 Wells Place, as these locations violate the separation distance.

Speaker three urged the city to reject the approval of cannabis dispensaries at 167 Cabrillo and 178 Wells, which are located within 600 feet of Camp Lila, a children's enrichment center. She expressed concerns about potential petty crime, exposure to secondhand marijuana fumes, increased traffic, and safety risks for children, arguing that these dangers outweigh any benefits of placing dispensaries in residential areas near children's programs.

Speaker four, urged the city not to open cannabis dispensaries at 178 Wells Place and 167 Cabrillo Street, both of which are in close proximity to homes with children. She highlights the concerns of increased traffic and the dangers of having cannabis stores so close to where children play, stressing that these locations are surrounded by residential homes and a children's enrichment program, and that there are better alternative sites away from family neighborhoods.

Speaker 5, the owner of Camp Lila, a children's art, music, and yoga center on Cabrillo Street, urged the city to deny cannabis dispensary applications for 167 Cabrillo Street and 178 Wells Place, both of which are within 600 feet of her business. She emphasized the state-mandated protection for youth centers, expressing concern for the safety of the children attending her programs and the potential negative impact on her business, asking the Planning Commission to uphold the same protective standards as the state of California.

Morgan Martin, urged the city to reconsider allowing a cannabis dispensary to share a fence with her daughter's art, yoga, and music program at Camp Lila, stressing that just because something is legal does not make it right. She expressed concerns about the negative impact on children's safety and the potential failure of Camp Lila, a unique and valuable enrichment program, if it is forced to operate next to a dispensary, highlighting the shortage of similar programs in the community.

Speaker seven, expressed concerns about the proximity of proposed cannabis dispensaries at 167 Cabrillo Street and 178 Wells to Camp Lila, where her four-year-old son attends an enrichment program. While not opposed to cannabis, she worries about potential secondhand marijuana smoke, impaired drivers, and the safety of children in a high-traffic pedestrian area, urging the city to apply the same protection principles given to schools.

Ann Mallet, urged the city not to approve cannabis dispensaries at 167 Cabrillo and 178 Wells, which would be within 600 feet of the children's enrichment program. She emphasizes concerns about secondhand smoke, increased traffic, and crime, highlighting the unique value of Camp Lila for her son and the community, and asks the city to protect this special place by rejecting the permits.

Speaker nine, stated she travels to Costa Mesa specifically for the Camp Lila program and supports local businesses while there. She expressed concerns about the potential impact of nearby cannabis shops on children due to exposure to images and smells, urging the city to prioritize the well-being the children and to keep Camp Lila open by not approving the dispensary permits.

Speaker ten, expressed her concern over the proximity of proposed cannabis retail stores to Camp Lila, a center her children love and that has been especially valuable during the pandemic. She believes it is inappropriate to place dispensaries near such a facility, highlighting concerns about increased traffic, parking issues, impaired drivers, and potential crime, urging the city to find more suitable locations for cannabis retailers in industrial or retail-dense areas instead of residential neighborhoods.

Speaker eleven asked the city to deny the approval of two cannabis dispensaries at 167 Cabrillo and 178 Wells Place due to their proximity to Camp Lila, a children's center, a church, and residential properties. She stressed the potential safety risks to children, including increased traffic, impaired drivers, and secondhand exposure, urging the city to provide the same protections for Camp Lila as are given to schools and daycare centers.

Kimberly Borland, stated she opposes the approval of cannabis dispensaries at 167 Cabrillo Street and 176 Wells Place, citing concerns about the impact on the children's center and the surrounding residential area. She emphasized that these dispensaries could threaten Camp Lila's positive influence on the community and increase crime, disrupt the neighborhood, and raise rents, and urged the Planning Commission to reject the applications for these sensitive locations.

Henny Abraham, stated she visited Camp Lila and was deeply impressed by the enrichment it offers to children, and urged the Commissioners to visit and recognize its value. She expressed concern about the proximity of proposed cannabis dispensaries to Camp Lila and her nearby church, which also hosts children for tutoring, emphasizing the importance of supporting and preserving such spaces that provide vital services to the community, especially in the wake of the pandemic.

Olivia Bata, urged the Planning Commission to reconsider allowing cannabis shops within 600 feet of the children's program, emphasizing the importance of protecting youth programs like Camp Lila over cannabis profits. She highlighted how programs like Camp Lila have provided vital social, emotional, and creative support to children and families, especially during the pandemic, and asked the city to prioritize the well-being of the community's children.

Cameron Lindy, urged the city not to allow cannabis shops near Camp Lila, where his three-year-old son attends and loves. Drawing from a commercial real estate perspective, he explained that most retailers avoid placing cannabis stores near family-oriented businesses and urged the Commission to find alternative industrial locations for dispensaries that won't impact children or families.

Phil Iskins, urged the Planning Commission to exercise extreme discretion regarding the approval of cannabis shops, expressing doubt about the positive impact of such businesses in any community. Drawing from his experiences ministering to people struggling with drug use, he supports the concerns raised by parents and families, emphasizing the need for careful consideration in making these decisions.

Speaker seventeen, expressed concern about the potential opening of cannabis dispensaries near residential areas, particularly around 167 Cabrillo Street. They recount observing suspicious activity at a nearby cannabis dispensary and argued that such businesses are inappropriate for areas with children, and urged the Planning Commission to carefully consider the impact on the community and protect the city's character.

Keith McGinley, asked the city to adopt the broader definition of a youth center, instead of the narrow definition recommended by the cannabis industry. He emphasizes that the narrow definition would exclude places like Camp Lila, a children's arts and yoga program, from being protected, potentially forcing it to close if cannabis stores are allowed nearby, which would make it harder for parents to find safe, enriching programs for their kids.

Travis Castro, spoke in support of cannabis businesses and addresses misconceptions about their safety, emphasizing that on-site consumption and smoking are illegal and that cannabis products are sealed and stored securely with air filtration systems to prevent odors. He highlights the rigorous and costly process of obtaining a cannabis business license, stressing his commitment to safety as both a business owner and a resident of Cabrillo Street, while also acknowledging the concerns of the Camp Lila community.

Speaker twenty expressed frustration with the city's approach to cannabis zoning, comparing it to past challenges with sober living facilities and warning against "spot zoning" that bends rules to allow cannabis stores in inappropriate locations. They urged the Planning Commission to consider the long-term impact on future generations, emphasizing that zoning rules should not be modified to force cannabis businesses into areas where they don't fit, and ask the commission to prioritize the well-being of the city's residents.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Toler praised staff and the Housing and Grants Services Committee for their thorough work during the meeting, noting that the Committee did excellent homework and their recommendations will ensure community services are well-funded. Secondly, he highlighted attending two events: (1) the West Side walk, organized by Council Member Arlis Reynolds and Planning Commissioner Jimmy Vivar; and, (2) a bike ride celebrating women's contributions to Costa Mesa, thanking the Historical Society for their support.

Commissioner Vivar expressed his satisfaction with the community walk on Saturday, emphasizing the importance of exploring the city on foot to better understand its character and discover hidden spots that might be missed while driving. He also shared his experience of returning to his old middle school, TeWinkle Intermediate, where he gave a presentation to students about his journey through education and public service, aiming to inspire the next generation of Costa Mesa leaders.

Vice Chair Zich thanked everyone for attending the meeting and expressing their opinions, emphasizing the importance of community engagement. He encouraged residents to sign up for city notifications on the website to stay informed about various city activities, including Planning Commission and City Council meetings, and expressed hope that people stay involved in more than just local issues directly outside their homes.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

None.

OLD BUSINESS:

1. CANNABIS RETAIL STOREFRONT AND NON-STOREFRONT REGULATIONS - INFORMATIONAL PRESENTATION

Director Jennifer Le gave the staff presentation.

Commissioner Toler asked questions of staff regarding traffic impact analysis requirements for new businesses, he questioned whether the analysis solely establishes fees or could lead to public right-of-way design changes. Transportation Services Manager Jennifer Rosales explained that a traffic impact study is triggered if a development generates 100 or more peak hour trips, but no businesses have met this threshold so far. She also clarified how credits for existing land use and active transportation projects are calculated, referencing Table A from the staff report. Retail establishments receive a credit of 54 daily trips per 1,000 square feet, and a 5% active transportation credit is applied to traffic impact fees, reflecting contributions to city transportation improvements. The credit does not discount fees but designates funds for active transportation projects.

Chair de Arakal inquired whether the trip rate of 108.4, referenced in the staff report, is based on the Institute of Transportation Engineers (ITE) data and whether it accounts for pass-by trips. Transportation Services Manager Jennifer Rosales confirmed that the rate is an ITE figure specifically for a pharmacy with a drive-through and does not include pass-by trips. Chair de Arakal further asked if the ITE

manual allows for pass-by trip credits, to which Ms. Rosales responded that while the ITE does provide for such credits, the city has generally not applied them in traffic impact fee calculations for most developments.

Commissioner Vivar asked several questions regarding the traffic impact fee process, beginning with how the city determines whether a project requires infrastructure improvements or the payment of a traffic impact fee. Transportation Services Manager Jennifer Rosales explained that all developments generating new trips are required to pay the traffic impact fee, and if a traffic study is triggered, additional funds may be needed to mitigate impacts. Commissioner Vivar also inquired about the role of city staff in conducting traffic analysis, and Rosales clarified that the city retains a traffic consultant to perform full traffic studies, with costs borne by the applicant. Commissioner Vivar further asked about credits given for pre-existing uses, and Rosales confirmed that the most recent use is considered, regardless of when it occurred. Additionally, he inquired about the city's approach to reviewing impacts on active transportation infrastructure and was informed that all transportation modes are reviewed if a full traffic study is conducted. Lastly, Commissioner Vivar questioned why the city used pharmacy trip rates in its cannabis review instead of other uses like liquor stores. Rosales explained that the limited data available on cannabis in the ITE's 11th edition led to the choice of pharmacy rates, which are higher and more widely studied.

Chair de Arakal asked a brief question regarding whether a full traffic analysis would include a Vehicle Miles Traveled (VMT) review, assuming the project does not screen out. Transportation Services Manager Jennifer Rosales confirmed that a full analysis would include a VMT review in such cases.

Vice Chair Zich inquired about the allocation of tax revenue, particularly the portion designated for the Cultural Arts Master Plan and the First-Time Homebuyer Program. He questioned whether the half-percent allocation from \$1 million in revenue equates to just \$5,000. Director Jennifer Le clarified that the half-percent refers to a portion of the 7% tax collected, not the total revenue, and she will confirm with the Finance Department. Vice Chair Zich also asked about the 1,000-foot separation requirement, confirming it applies to homeless shelters but not churches (unless they have a state-licensed daycare or school) or sober living homes. Additionally, Vice Chair Zich sought clarification on the definition of "youth center," which Assistant Director Scott Drapkin explained as facilities for minors' recreation, excluding places like dance studios or tutoring centers.

Chair de Arakal asked Assistant City Attorney Tarquin Preziosi to clarify the distinction between state law and local jurisdiction definitions of "sensitive uses" regarding cannabis regulation. Assistant City Attorney Preziosi explained that under Prop 64, the city has broad authority to regulate or prohibit cannabis and can define sensitive uses independently, with few exceptions. Chair de Arakal then inquired whether Measure Q, passed by Costa Mesa voters, specified sensitive use definitions. Assistant City Attorney Preziosi clarified that Measure Q was an

uncodified ordinance, leaving the definition of sensitive uses to the discretion of the City Council, as granted by state law. The sensitive uses defined in the City's Ordinance are the result of the City Council's discretion, within the authority granted by the state.

Vice Chair Zich asked Assistant City Attorney Tarquin Preziosi whether Measure Q included language specifying the intent to separate retail cannabis locations from other uses. Assistant City Attorney Preziosi confirmed that Measure Q outlined separation distances from certain sensitive uses, but the definitions of those sensitive uses and the method for measuring the separation distance were left to the discretion of the City Council, as allowed by the voters. Vice Chair Zich thanked him for the clarification.

The Chair opened Public Comment.

Speaker one expressed his frustration with the City's definition of sensitive uses, particularly questioning why a preschool teaching art and yoga is not considered a protected school, while a video arcade is. The speaker criticized the decision-making process as "insanity" and suggested that redefining such terms is misguided. They emphasized that modern technology, like cell phones with video games, makes the distinction irrelevant, sarcastically suggesting that if 10 kids play games on their phones, they should be protected like a video arcade. He concluded by stating that altering definitions in this way is wrong.

Catherine Young, raised concerns about the lack of a traffic study for a potential retail dispensary. She questioned if a traffic study had been required and expressed worries about parking availability, particularly how cars would stop and park at the dispensary. Chair de Arakal clarified that no specific applications were under discussion at the meeting, and staff would address general questions about parking and traffic.

Speaker three asked if the City Council has the ability to modify the definitions of sensitive uses over time, depending on the makeup of the Council, such as if a more liberal council were in place. They questioned whether the City Council would have the latitude to change the definition of sensitive businesses or organizations. Chair de Arakal deferred the question to the Assistant City Attorney Tarquin Preziosi who clarified that under California law a City Council has the authority to amend ordinances, including definitions of sensitive uses, with certain limited exceptions.

The Chair Closed Public Comment.

Chair de Arakal summarized that the informational item had been presented, and staff had received the input provided. He asked if the next step would involve reviewing applications as they are ready. Director Le confirmed that this was correct and noted that the presentation was the last of three to the Planning Commission.

She added that staff is actively reviewing the conditional use permit applications and will schedule them for Planning Commission consideration when appropriate.

NEW BUSINESS:

None.

DEPARTMENTAL REPORTS:

1. Public Works Report – None.
2. Development Services Report – None.

CITY ATTORNEY'S OFFICE REPORT:

1. City Attorney – None.

ADJOURNMENT AT 7:40 PM

Submitted by:

SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION