

RESOLUTION NO. PC-2024-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING ZONING APPLICATION ZA-22-35 FOR A MINOR CONDITIONAL USE PERMIT TO AMEND EXISTING CONDITIONS OF APPROVAL AND REPLACE AN EXISTING TYPE 48 ABC LICENSE WITH A TYPE 90 "MUSIC VENUE" LICENSE IN THE MG ZONE FOR THE PROPERTY LOCATED AT 2968 RANDOLPH AVENUE

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA FINDS AND DECLARES AS FOLLOWS:

WHEREAS, Zoning Application 22-35 was filed by F. Michael Ayaz, authorized agent for the property owner, Jerry Palanjian requesting approval of the following:

A Minor Conditional Use Permit application to replace an existing ABC liquor license (Type 48 "On-Sale General – Public Premises") with a Type 90 "Music Venue", and modifications to conditions of approval, including expanded hours of operation, expanded operating days and to allow dancing;

WHEREAS, a duly noticed public hearing held by the Planning Commission on August 12, 2024 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 (Class 1), for Existing Facilities;

WHEREAS, the CEQA categorical exemption for this project reflects the independent judgement of the City of Costa Mesa.

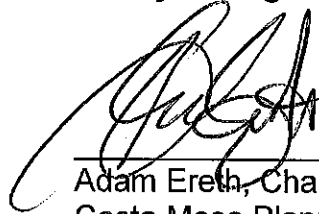
NOW, THEREFORE, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibit B, the Planning Commission hereby **APPROVES** Zoning Application 22-35 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Zoning Application 22-35 and upon applicant's compliance with each and all of the conditions in Exhibit B, and compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall

be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 12th day of August, 2024.

A handwritten signature in black ink, appearing to read 'Adam Ereth', is written over a horizontal line.

Adam Ereth, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Scott Drapkin, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2024-19 was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on August 12, 2024 by the following votes:

AYES: Ereth, Andrade, Klepack, Martinez, Rojas

NOES: Toler, Zich

ABSENT: None

ABSTAIN: None



Scott Drapkin, Secretary
Costa Mesa Planning Commission

Resolution No. PC-2024-19

EXHIBIT A

FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(g)(2) because:

Finding: The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

Facts in Support of Findings: The proposed amendment to the permitted use is substantially compatible with developments in the SoBECA area, including numerous restaurants, bars and breweries, and would not be materially detrimental to other properties within the area in that the business is existing and the proposed changes, including operating an hour earlier, opening on Sunday and permitting dancing are not anticipated to result in detrimental effects to properties within the area. Additionally, the project is conditioned to account for concerns regarding neighborhood compatibility, including a condition requiring a Planning Commission reevaluation of the approval six months and one-year from opening.

Finding: Granting the minor conditional use permit will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Facts in Support of Finding: The proposal will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood as the project is conditioned to address potential safety concerns. In addition, the applicant will operate consistent with a Security Policy and Procedure Manual that outlines training and protocols that staff will be instructed to follow, and includes information such as providing specific wristbands to distinguish patrons under 21 years of age from those that are older, providing numerous security guards in strategic areas and installing video surveillance.

Finding: Granting the minor conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

Facts in Support of Finding: The proposal will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property. The subject property includes a land use designation of Light Industrial which allows for certain commercial recreational uses, provided that the commercial use is determined to be complementary to the industrial area. The business is already in existence and this proposal would generally maintain existing operations that include the

service of on-site alcohol and to be closed at 2 a.m. The proposed modifications that include opening an hour earlier, operating on Sundays and permitting dancing is not inconsistent with the General Plan. The SoBECA Urban Plan is not applicable in that the project does not include a request for residential or live/work.

- B. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities. This application is for the proposed amendment of prior entitlements associated with an existing beverage serving establishment to allow for a change in ABC license type and modification of previous operational conditions of approval. There will be no increase in floor area for the site, no significant exterior changes and the business operations will remain relatively similar to what currently exists onsite in relation to potential environmental impacts. Furthermore, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies in that the Project would not result in a cumulative impact; would not have a significant effect on the environment due to unusual circumstances; would not result in damage to scenic resources; is not located on a hazardous site or location, and would not impact any historic resources.
- C. The project is not subject to a traffic impact fee, pursuant to Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT B

CONDITIONS OF APPROVAL

- PIng.
1. The use shall be limited to the type of operation as described in the staff report, i.e., live entertainment in the form of live bands, comedians, spoken word/poetry readings, and karaoke. The applicant is entitled to operate pursuant to the California Department of Alcoholic Beverage Control Type 90 (On-Sale General – Music Venue) license except when said provisions are refined by these conditions of approval. Any change in the operating characteristics including, but not limited to, hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Costa Mesa Municipal Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
 2. The conditions of approval and code requirements included herein shall supersede and replace the conditions of approval and code requirements for Conditional Use Permit PA-12-26 and Minor Conditional Use Permit ZA-18-51.
 3. Street address shall be displayed in a manner visible to the public street and clearly legible for quick identification by emergency service personnel. Numerals shall be a minimum 12" in height with not less than 3/4" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than 1/4" stroke and shall contrast sharply with the background.
 4. The licensee shall not employ or use the services of any full or part time active or reserve peace officer currently employed by the City of Costa Mesa for security purposes.
 5. Pursuant to Costa Mesa Municipal Code Section 9-193(2), the applicant must obtain a "Public Entertainment Permit," which is renewable on an annual basis, and shall maintain said permit in good standing by adhering to conditions stipulated as part of that permit.
 6. A maximum occupancy of 296 people, determined by City of Costa Mesa Building Division and Fire Department, has been established pursuant to applicable provisions of the Uniform Building Code and other applicable codes, shall be conspicuously posted in public view within the premises, and shall not be exceeded at any time. It shall be the responsibility of management to ensure that this occupancy limit is not exceeded. This occupancy limitation is inclusive of all patrons, employees, contractors, and other individuals within the licensed premises at any given time.
 7. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant

and/or business owner shall institute appropriate security and operational measures as necessary to comply with this requirement.

8. There shall be no sales of alcoholic beverages for off-site consumption and no alcoholic beverage obtained inside the venue shall be taken outside of or beyond the demising walls of the venue.
9. The parking lot shall be posted with signs directing customers and employees to be considerate when entering, exiting, starting their cars and leaving the parking lot. Signage should clarify and security personnel shall enforce that loitering of patrons, employees, and contractors is not allowed, and any unnecessary or excessive noise created by patrons, employees, and contractors is prohibited.
10. All lots where parking is provided shall be properly illuminated.
11. Qualified and trained security personnel shall be provided to ensure that all parking lots are monitored during the days and hours the business is in operation. Security personnel shall provide parking management, noise control as well as general security of parking areas.
12. Customer and employee parking shall be prohibited on any other privately owned lot or private street not associated with the licensed premises. If parking problems arise, the operator shall institute appropriate operational measures to eliminate issues within 30 days to address the problem.
13. A reciprocal parking and access agreement shall be maintained on both properties to reflect the proposed sharing of the parking lots at 2960 and 2968 Randolph Avenue.
14. The business operator shall include a conspicuous and prominent notification in their online advertisement, social media, and at the point of sale for online tickets that onsite parking is limited and that use of a ridesharing service or alternate means of transportation to and from the site are recommended. Furthermore, the business operator shall provide notice that parking in nearby residential developments or other unaffiliated private property is not allowed and that the illegally parked vehicle is subject to tow without warning.
15. All sales and service staff (within 90 days of hire) shall complete Responsible Beverage Service (RBS) training with a provider approved by the California Department of Alcoholic Beverage Control. A copy of the training certificates shall be kept on premises and presented to any authorized City official upon request.
16. Music or other entertainment shall not be audible beyond the property lines in which the licensed premises is located.
17. No outdoor seating or patio area shall be permitted.
18. The applicant shall maintain free of litter all areas of the premises.
19. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
20. Hours of operation shall be limited to the hours of 8:00 p.m. to 2:00 a.m., Thursday through Sunday and on the following holidays: New Year's Eve,

Valentine's Day, St. Patrick's Day, Cinco de Mayo, Memorial Day, Fourth of July, Labor Day, Halloween, Veteran's Day, Thanksgiving, and Christmas Day.

21. At the discretion of the Director of Economic and Development Services, upon receipt of noise complaints by the City of Costa Mesa, the applicant shall submit an acoustical analysis prepared under the supervision of a person experienced in the field of acoustical engineering to evaluate existing and projected noise levels and recommend the use of noise attenuation measures and/or noise insulation techniques to muffle sound to a level that conforms to the provisions of Costa Mesa's Noise Ordinance. This is to ensure that any noise impacts to nearby uses are adequately mitigated. The person preparing the report shall, under the direction of a person experienced in the field of acoustical engineering, perform an inspection of the site prior to the opening of the business to the public to ensure that noise attenuation measures are implemented or underway, as recommended by the acoustical expert.
22. The conditions of approval and ordinance or code provisions of Minor Conditional Use Permit ZA-22-35 shall be blueprinted on the face of the site plan as part of the plan check submittal package for any future building permit applications submitted to the City.
23. The applicant, the property owner and the operator (collectively referred to as "indemnitors") shall each jointly and severally 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 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 be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other 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.
24. If any section, division, sentence, clause, phrase or portion of this resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.
25. The project is subject to compliance with all applicable Federal, State, and local laws.
26. No modification(s) of the approved building elevations including, but not limited to, change of architectural type, changes that increase the building height, removal of building articulation, or a change of the finish

material(s), shall be made without prior Planning Division written approval.

27. No modification(s) of the approved building interior, including but not limited to, floor plan layout, age restricted areas, or gross floor area, shall be made without prior approval from the City. Applicant shall contact the City of Costa Mesa's Economic and Development Services Department's Planning Division to initiate this process.
28. A review of this entitlement shall be conducted by the Planning Commission as soon as possible after both the sixth month and one-year anniversary date of the project approval's effective date to determine if the business is operating in good faith and whether any modifications to business operations or conditions of approval are warranted. If the business is not operating in good faith or other adverse impacts are determined to exist, the Planning Commission may adjust existing conditions of approval or add new conditions to address the concern up to an including initiating a revocation of this use's entitlement.
29. All patrons must be 18 years or older and must provide valid, state-issued identification for entry.
30. If bottle service is to occur within the licensed premises, it shall only be allowed within the specified age-restricted areas shown on the approved project plans.
31. No patrons under the age of 21 are allowed in the age-restricted areas shown on Sheet A-1.1 of the approved plans when bottle service is offered.
32. All age-restricted areas shall be separated from the general areas of the licensed premises by a physical barrier. The physical barrier shall not obscure visibility into the age-restricted areas and the barrier may include a rope or other identifier to clearly mark the restricted area.
33. Security personnel shall be stationed by each age-restricted area when bottle service is occurring to monitor and secure the restricted areas to ensure that minors do not enter into these areas or are otherwise allowed access to alcohol not served by employees of the establishment.
34. Colored wristbands shall be provided to customers over the age of 21 and under the age of 21. Patrons under 21 years of age must be provided distinctly different wristbands for identification than those patrons above the legal drinking age. Wristbands must be of a type and material that is tamper-proof to ensure under age patrons are easily identifiable and unable to purchase alcohol at the establishment. Wristbands given to patrons between the ages of 18 and under 21 shall be of a color that is highly visible and easily contrasts with the wristbands given to patrons who are 21 and older. Wristband color for each age cohort shall be randomly selected by management on a daily basis and shall avoid repeating colors or creating recognizable patterns in order to reduce the ability to counterfeit or falsify age identifiers. Management

shall maintain a log of wristband colors by age cohort assigned each day and shall make said log available for inspection upon demand of the City of Costa Mesa.

35. The applicant shall submit to the City of Costa Mesa a Security Policy & Procedure Manual for approval. The policy manual shall be kept on the premises at all times and all staff shall be trained on the security policies outlined in said document. No changes to the approved Security Policy & Procedure Manual shall be made by management until first approved by the City of Costa Mesa. Updates to the security plan may be required at the request and subject to the Costa Mesa Police Department approval.
36. The applicant shall maintain a log of the number of employees, security personnel, and patrons in attendance each night the business is in operation and shall provide this log to City officials upon demand for purposes of verifying compliance with the business's maximum occupancy of 296 persons.
- PC. 37. No patrons between the ages of 18 and 21 shall be allowed entry to the venue on any night of the week except for Thursday night. However, if a Special Event is held at the venue pursuant to a lawfully issued Special Event Permit by the City of Costa Mesa on a Thursday, then the operator may move the 18 to 21 year old night from Thursday to another approved business night during the same week.
38. Under no circumstances and without exception, patrons aged 18 to 21 shall not be allowed entry to the venue on the following days: New Year's Eve, Independence Day/Fourth of July, and Halloween regardless of which day of the week these days fall on.

CODE REQUIREMENTS

The following list of federal, state, and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

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| Plng. | <ol style="list-style-type: none">1. Development shall comply with all requirements of Article 1, Chapter 5, Title 13, of the Costa Mesa Municipal Code relating to development standards for residential projects.2. All noise-generating construction activities shall be limited to 7 a.m. to 7 p.m. Monday through Friday and 9 a.m. to 6 p.m. Saturday. Noise-generating construction activities shall be <u>prohibited</u> on Sunday and the following Federal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.3. All on-site utility services shall be installed underground.4. Installation of all utility meters shall be performed in a manner so as to obscure the installation from view from any place on or off the property. The installation vault, wall cabinet, or wall box under the direction of the Planning Division. |
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7. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance.
8. All unpaved areas visible from public right-of-ways shall be landscaped and the landscaping shall be maintained in a healthy condition, free of dying, dead, diseased, decayed, discarded, and/or overgrown vegetation.
9. Trash facilities shall be screened from view, and designed and located appropriately to minimize potential noise and odor impacts to neighbors.
10. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
11. Transformers, backflow preventers, and any other approved above-ground utility improvements shall be located outside of the required street setback area and shall be screened from view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
12. Applicant shall maintain compliance with all applicable ABC regulations at all times.
- Bldg. 13. Prior to building permit issuance, the conditions of approval shall be on the approved Architectural plans.
14. Comply with the requirements of the following current adopted codes, California Building Code, California Electrical code, California Mechanical code, California Plumbing code, California Green Building Standards Code and California Energy Code (or the applicable adopted, California Building code California Electrical code, California Mechanical code California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Requirements for accessibility to sites, facilities, buildings and elements by individuals with disability shall comply with chapter 11B of the California Building Code.
- ~~15. A change of occupancy shall require compliance with current California Building codes and Disabled access requirements of Chapter 11B of the California Building Code.~~
16. Prior to building permit issuance, the Applicant shall submit a plan to the County of Orange Health Dept. for review and approval.
17. A change of occupancy shall require compliance with current California Building codes and Disabled access requirements of chapter 11B of the California Building Code.
18. Any increase in building occupancy may only occur if approved by the City based on the completion of code required life-safety upgrades to the venue.
- Fire 19. Comply with the requirements of the current California Fire Code and referenced standards as amended by the City of Costa Mesa.

- Bus. 20. All contractors and subcontractors must have valid business licenses to
Lic. do business in the City of Costa Mesa. Final inspections, final occupancy
 and utility releases will not be granted until all such licenses have been
 obtained.

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- AQMD 1. Applicant shall contact the Air Quality Management District (800) 288-7664
 for potential additional conditions of development or for additional permits
 required by AQMD.
2. Prior to the Building Division (AQMD) issuing a demolition permit, contact
 South Coast Air Quality Management District located at:
 21865 Copley Dr.
 Diamond Bar, CA 91765-4178
 Tel: 909-396-2000
- OR
- Visit their web site:
 <http://www.costamesaca.gov/modules/showdocument.aspx?documentid=23381>
 The Building Division will not issue a demolition permit until an
 identification number is provided by AQMD.
- Cable 3. The applicant shall contact the current cable company prior to issuance
 of building permits to arrange for pre-wiring for future cable
 communication service.
- Sani. 4. It is recommended that the applicant contact the Costa Mesa Sanitary
 District at (949) 645-8400 for current district requirements.
- State 5. Comply with the requirements of the California Department of Food and
 Agriculture (CDFA) to determine if red imported fire ants (RIFA) exist on
 the property prior to any soil movement or excavation. Call CDFA at (714)
 708-1910 for information.