

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

November 28, 2022

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Rojas led the Pledge of Allegiance.

ROLL CALL

Present: Chair Byron de Arakal, Commissioner Adam Ereth, Commissioner Jonny Rojas, Commissioner Dianne Russell, Commissioner Russell Toler, Commissioner Vivar

Absent: Vice Chair Jon Zich

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

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS:

None.

COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Ereth and Commissioner Vivar thanked the public for joining the meeting.

Commissioner Russell noted Caltrans is holding a hearing on December 5th at the Norma Hertzog Center in regards to a potential protective bike lane from Broadway Avenue into Newport Beach. She encouraged the public to attend.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

1. PLANNING APPLICATION 21-33 FOR A CONDITIONAL USE PERMIT TO OPERATE A RETAIL CANNABIS STOREFRONT BUSINESS LOCATED AT 675 PAULARINO AVENUE, SUITES 5, 6, AND 7 (STIIIZY)

Project Description: Planning Application 21-33 is a request for a Conditional Use Permit (CUP) to allow a retail cannabis storefront business in an existing 2,992-square-foot tenant space within a multi-tenant commercial building located at 675 Paularino Avenue. The business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite, subject to conditions of approval and other City and State regulations.

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

Two ex-parte communications reported:

Commissioner Russell had a phone conversation with the applicant's representative.

Commissioner Vivar received an email from the applicant's representative, but was not able to respond.

Nancy Huynh, Senior Planner, presented the staff report.

Commission and Staff:

Commissioner Toler, Ereth and Vivar were all pleased with the City map that was included in the presentation that showed approved and denied retail Cannabis Storefront CUP sites.

Commissioner Vivar asked for clarification on the current tenant leases at the site, which he received.

Chair de Arakal asked whether there is an acceptable ADA path of travel from the storefronts to the trash enclosure.

Scott Drapkin, Assistant Development Services Director, noted the City has been asking applicants to make sure their plans are updated to reflect current ADA compliance rules for interior and exterior improvements.

The Chair opened Public Hearing.

Mr. Tak Sato, applicant, stated he read and agreed to the conditions of approval.

Commission, Applicant and Staff:

Mr. Sato thanked staff and provided a brief presentation of this application. He also introduced their Director of Development, Cyrus Pi.

Commissioner Vivar asked why the applicant is opening a second location in Costa Mesa and whether the applicant will open additional stores in the City.

Mr. Pi noted their other location is a partnership with another retailer, and this store will be operated solely by their company. He also noted this store will serve a different trade area and location in the City.

Commissioner Vivar asked whether the applicant had spoken to the building owner at 688 Paularino Street who had expressed concerns of their business moving into the location.

Mr. Pi answered that this is first he has heard of this, so no he has not spoken to the business owner mentioned.

Commissioner Vivar expressed his appreciation that the applicant is making relocation accommodations for the tenants at the site.

Mr. Pi noted one tenant is moving into another vacant unit at the site and the other is moving into a vacant unit across the street, so there will be no disruptions in the business operations for either tenant.

Commissioner Ereth asked the applicant why they had picked this location that was already occupied by a tenant.

Mr. Sato noted the tenants were already talking with their landlord about moving to other locations or suites, so they were able to secure the three suites for their business without forcing out the current tenants.

Discussion ensued regarding the public outreach and two open houses that the applicant held at the site. The applicant noted the other tenants and attendees spoke favorably of having security guards at the site for safety and to deter parking from the hotel across the street.

Chair de Arakal asked whether the applicant will pull permits for the tenant improvements inside the building.

Mr. Sato answered if their CUP is approved tonight, then they will apply for the building permits.

The Chair opened Public Comments.

PUBLIC COMMENT:

Andrew Bachler, resident of Costa Mesa, spoke in favor of the application.

Mike Wong, Costa Mesa business owner, spoke in favor of the application.

Jason Ball, co-owner of the property, spoke in favor of the application.

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

The Chair closed public comments.

The Chair closed the Public Hearing.

Chair de Arakal made a motion to approve the staff recommendation, seconded by Commissioner Russell.

Chair de Arakal spoke in favor of his motion.

Commissioner Russell was pleased that the property owner was able to relocate the sushi restaurant into another location across the street and spoke in favor of the motion.

Commissioner Rojas spoke in favor of the motion and was appreciative that current businesses were preserved and able to relocate. This is key for him, for any future applications going forward.

Commissioner Ereth and Commissioner Vivar spoke in favor of the application and the applicant's presentation.

Commissioner Vivar encouraged the applicant to reach out to the business owner at 688 Paularino who had concerns regarding their business.

MOVED/SECOND: de Arakal/Russell

MOTION: Move staff's recommendation.

The motion carried by the following roll call vote:

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

Nays: None

Abstain: None

Absent: Zich

Motion carried: 6-0

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) Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 21-33, subject to conditions of approval.

RESOLUTION PC-2022-31 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-33 FOR A STOREFRONT RETAIL CANNABIS BUSINESS (STIIIZY) IN THE C1 ZONE AT 675 PAULARINO AVENUE, SUITES 5, 6, AND 7

The Chair explained the appeal process.

2. PLANNING APPLICATION 21-34 FOR A RETAIL CANNABIS STOREFRONT BUSINESS LOCATED AT 2332 NEWPORT BOULEVARD (FLOWER FACTORY)

Project Description: Planning Application 21-34 is a request for a Conditional Use Permit to allow a retail cannabis storefront use within an existing commercial building located at 2332 Newport Boulevard. The existing building is 3,790 square feet. The applicant proposes to reduce the size of the building to 2,000 square feet and bring the property into greater conformance with development standards. The proposed use would be subject to Costa Mesa's regulations, conditions of approval, and State regulations.

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

Three ex-parte communications reported:

Commissioner Ereth had a phone call with Chris Fewell.

Commissioner Vivar received an email from the applicant's representative.

Commissioner Russell had a conversation with the applicant's representative at the property.

Michelle Halligan, Contract Planner, presented the staff report via Zoom.

Commission and staff:

Commissioner Rojas asked whether the only vehicle access entry and exit into the parking area would be from Newport Boulevard, since the back gate will remain closed.

Ms. Halligan confirmed the only entry on Newport Boulevard and only emergency vehicles would have access through the back gate via a Knox box.

Commissioner Vivar asked for confirmation of the driveway entry width to the business.

Transportation Services Manager, Jennifer Rosales noted the width at 25 feet.

Discussion ensued regarding the parking configuration, drive aisle width, ADA parking compliance, and garbage truck access.

Commissioner Vivar asked whether a sidewalk would be provided at the entrance to the business to protect patrons from the parking area.

Ms. Halligan noted a 5-foot sidewalk is proposed at the entrance to business, which would also be ADA compliant.

Commissioner Ereth asked whether the parking turnaround in the back of the property is sufficient for the volume of cars expected for the business.

Ms. Rosales noted staff had reviewed the turnaround and it is adequate for the site and looking at the peak hour traffic volumes projected for the site, they did not see an issue.

Discussion ensued regarding traffic impact fees for the site.

Commissioner Ereth asked if the prior car rental facility at the location was still in business at the time this cannabis business intended to occupy the location.

Ms. Halligan noted they were not in business at that time.

Discussion ensued regarding free samples, and tax revenue percentages.

Commissioner Ereth requested clarification on why the back entrance will be blocked off from customer traffic.

Ms. Halligan noted the use of the property has changed to retail and wanted to mitigate any traffic leaving from the back entrance into alley, which backs to residential uses.

Chair de Arakal asked for clarification on the type of parking configuration at the site.

Ms. Halligan noted the business will have parallel parking on site.

Discussion ensued on different parking configurations, parking requirements and onsite circulation.

The Chair opened the Public Hearing.

Mr. Christopher Glew, authorized agent, stated he read and agreed to the conditions of approval.

Commission, Applicant and Staff:

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

Commissioner Russell noted two entrances into business and asked if the public would still be serviced by one main desk inside, which Mr. Glew confirmed.

Commissioner Vivar asked for clarification on the number of bike racks on site.

Mr. Glew noted one large bike rack that can hold up to 11 bikes will be located in the front of the business.

Discussion ensued regarding walking and biking incentives for customers and employees.

Commissioner Ereth questioned if the applicant had received feedback at their open house from the residential neighbors located behind their location adjacent to the alley.

Mr. Glew noted they had received favorable reactions from visitors identifying themselves as residential neighbors and received one concerned email from a business owner, which they addressed.

Discussion ensued regarding debit card transactions for payments and hiring from local communities.

Commissioner Ereth asked the applicant to clarify on how the business will pay their tax.

Mr. Glew noted that their business pays taxes on total gross receipts. He noted all the City's that they are located in are structured in this same way.

Mr. Drapkin noted that taxes are based on total gross receipts, and he will confirm with the City's Finance department.

Chair de Arakal asked how many employees would be in the store at any given time.

Mr. Glew answered at least two to three, excluding security staff that is outside.

Discussion ensued regarding parking for employees and a shuttle service for employees so they do not take available parking spots for customers.

The Chair opened Public Comments.

PUBLIC COMMENTS:

Richard Austin, Costa Mesa resident, did not support the business at this location. He noted parking difficulties in the area and three drug rehabilitation homes very close to this location. He thought it was a very difficult location to enter and exit.

Judy Pham, adjacent business owner, spoke in opposition to the application. She noted the difficulty in parking in the area, and the problem of homeless individuals around the property and alleyway.

The Chair closed Public Comments.

Chair de Arakal noted his concern for parking at the site and customers utilizing adjacent properties to park and asked the applicant how they will mitigate the parking concerns.

Mr. Glew noted the exterior signage and parking monitors they will use to direct customers to the correct parking spots on their property only. Customers will be denied access to the store if they walk in from an adjacent property until they move their vehicle and park in their lot.

Commissioner Russell asked how many customers they guess may be in their store at any time.

Mr. Glew thought at least 20 per hour at peak times.

Discussion ensued regarding their target market at that location and length of time per customer visit.

Discussion ensued regarding signage to the business and directional signage for parking at the site.

Commissioner Ereth noted his concerns of customers potentially driving in the alley late at night and disturbing the residential neighbors and asked how the applicant can mitigate those concerns.

Mr. Glew noted if that becomes an issue they could have their traffic flagger stand in the alleyway or down the street to direct customers away, but he noted GPS

directs customers toward Newport Boulevard and away from alley. He did not think this will be a problem for the site.

The Chair closed the Public Hearing.

Jennifer Le, Director of Economic and Development Services, confirmed with the Finance Department that gross receipts reflect the actual price that the item is sold for.

The Chair re-opened the Public Hearing per Commissioner Vivar's request.

Commissioner Vivar asked Ms. Rosales the angle of the cars exiting the site and if there will be sufficient driveway width to accommodate that.

Ms. Rosales noted the driveway width is 25 feet, which gives enough room for vehicles to exit and enter the site at the same time. The drive aisle is 20 feet, which meets the City's standards.

The Chair closed the Public Hearing.

Commissioner Toler made a motion, seconded by Chair de Arakal.

Chair de Arakal asked to change the language of Operational Condition of Approval Number six to require the hiring of an employee trained in traffic control irrespective if there is a problem, and to add a condition that after six months of operations the Planning Commission would review the CUP at a public hearing.

The maker of the motion agreed to these modifications to the motion.

MOVED/SECOND: Toler/de Arakal

MOTION: Move the staff's recommendation with modified language to Operational Conditions of Approval number six and adding a Condition of Approval.

The motion carried by the following roll call vote:

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

Nays: Ereth

Abstain: None

Absent: Zich

Motion carried: 5-1

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) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approval Planning Application 21-34, subject to conditions with modified language to Operational Condition number 6, and added Conditional of approval.

ADDED CONDITIONS:

Operational Condition of Approval number six to read: If parking shortages or other parking-related problems develop, the business owner or operator will be required to institute appropriate operational measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services or designee. Temporary or permanent parking management strategies include, but are not limited to, employee shuttle service from an approved location with excess parking, reducing operating hours of the business, hiring an employee trained in traffic control to monitor parking lot use and assist with customer parking lot circulation, encouraging customers to take advantage of online ordering for a faster pick-up, limiting the number of employees that park onsite, and incentivizing employee carpooling/cycling/walking.

Added Condition of Approval number 31 to read: After six months of operations (open to customers), the Planning Commission shall review the CUP at a public hearing.

RESOLUTION PC-2022-32 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-34 FOR A STOREFRONT RETAIL CANNABIS BUSINESS (FLOWER FACTOR) IN THE C1 ZONE AT 2332 NEWPORT BOULEVARD.

The Chair explained the appeal process.

Chair called for a recess at 8:01 p.m.

Chair reconvened the meeting at 8:11 p.m.

3. PLANNING APPLICATION 22-21 FOR A RETAIL CANNABIS STOREFRONT BUSINESS LOCATED AT 2001 HARBOR BOULEVARD, SUITES 101-103 (SOUTH COAST SAFE ACCESS)

Project Description: Planning Application 22-21 is a request for a Conditional Use Permit (CUP) to allow a 3,720 square-foot retail cannabis storefront on the first floor of an existing two-story multi-tenant commercial building. The affiliated State license is a Type 10 “storefront retailer” license, which also allows for retail cannabis delivery. However, the applicant is proposing a retail storefront without delivery to customers. Upon approval of a CUP, CBP, City Business License, and State license, the business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite, subject to conditions of approval and other City and State requirements. The proposed business operations are from 7 AM to 10 PM daily.

Environmental Determination: The ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Class1), Existing Facilities.

The Planning Commission indicated that there were no ex-parte communications.

Michelle Halligan, Contract Planner, presented the staff report.

Commission and Staff Discussion included:

Commissioner Ereth enquired about the previous, no longer existing, illegal cannabis business that was located at the site. He enquired about the type of counseling that was provided at the nearby counseling center and the recovery programs. He discussed with staff how the recovery counseling was factored in neighborhood compatibility. Staff responded with information on the amount of time since the shutdown of the illegal cannabis facility and provided confirmation of compensation for the city's abatement efforts. Staff confirmed the types of counseling provided, which included individual, family, group and recovery counseling. Staff stated that the municipal code does not establish a minimum distance between a cannabis storefront and a facility that provides drug recovery.

Commissioner Vivar enquired about the illegal, no longer existing, cannabis dispensary and if the landlord was aware of the illegal operation in their establishment. He also enquired about the staff proposed rear gate condition of approval. Staff responded that the property owner had worked with the police department and issued the legal paperwork to proceed with the eviction of the illegal dispensary. Staff explained the gate was primarily used by the electronics warehouse use located behind the property and staff did not want restrict their access during day time business hours.

Chair de Arakal enquired about the reduction of 18 parking spaces in 1986 and future possible parking requirements. Staff responded that the applicant would need to modify the CUP for any future proposed site use/parking changes.

PUBLIC COMMENT:

The Chair opened the public hearing.

Applicant team: Ronald Long

Ronald Long stated he read and agreed to the conditions of approval.

Commission, Staff and Applicant discussion included:

Commissioner Rojas asked the applicant whether they had conversations or received feedback from the counseling facility during their community outreach. The applicant responded that they did not.

Commissioner Toler asked the applicant whether they have had any interactions with the counseling center. The applicant responded they did not interact with the counseling center.

Commissioner Vivar asked the applicant whether the mailers they sent out to the surrounding neighbors were sent in both English and Spanish. He asked the applicant whether they were aware of the counseling service when they decided to lease the space. The applicant responded that they only sent out mailers in English. The applicant stated they were not aware of the counseling service when they were leasing out the space.

Commissioner Ereth asked the applicant about their open house and their reasoning for choosing the hours of 5:00 p.m. to 6:00 p.m. for the open house. He asked the applicant about the feedback they received from the public at the open house. He also asked whether there was any displacement of other tenants for the applicant to lease that space. The applicant responded that they should have held a longer open house, and that they received positive feedback from the community. The applicant stated to their understanding the units had been vacant for years.

The Chair opened public comments.

No public comments.

The Chair closed public comments.

Chair de Arakal asked staff about the counseling service in the building, when it was approved, and operational parameters. Staff stated they are required to provide vanpool for their patients and the counseling facility was approved to have patients on site Monday through Friday from the hours of 9:00 a.m. to 9:00 p.m.

The Chair closed public hearing.

Commissioner Toler made motion to approve.

The motioned died for lack of a second.

Commissioner Vivar made a motion to deny, seconded by Commissioner Ereth.

Commissioner Comments on the Motion for denial:

Commissioner Vivar stated the applicant did not do adequate work to ensure compatibility with the existing counseling service center. He also stated the outreach was inadequate.

Commissioner Ereth stated the application was not substantially compatible with the surrounding uses and could potentially be materially detrimental to the surrounding businesses and neighborhood.

Commissioner Rojas stated his fellow commissioners voiced his concerns and stated the application did not satisfy the required findings for approval.

Commissioner Toler stated he was not in support of the denial motion. He stated he could not differentiate this proposed application with others cannabis applications that the Commission has approved. He stated that much of the concerns mentioned in the meeting were misconceptions, and that it was business owners' responsibility to figure out on-site parking arrangements.

Commissioner Russell stated that the proposed application is located in close proximity to the counseling facility. However, she said the counseling management was notified, yet did not reach out to the commission with concern. She stated she was not in support of the denial motion.

Chair de Arakal stated he cannot make a finding for substantial compatibility. De Arakal stated that even though there was no sensitive use separation requirements he does not agree with putting a retail store front adjacent from a counseling center with recovery and rehabilitation programs.

The Chair called for the question.

MOVED/SECOND: Vivar/Ereth

MOTION: Moved to Deny Planning Application 22-21.

The motion carried by the following roll call vote:

Ayes: de Arakal, Ereth, Rojas, Vivar

Nays: Toler, Russell

Abstain: None

Absent: Zich

Motion carried: 4-2

ACTION: Planning Commission adopted a motion to deny Planning Application 22-21.

RESOLUTION PC-2022-33 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA DENYING PLANNING APPLICATION 22-21 FOR A RETAIL CANNABIS STOREFRONT BUSINESS LOCATED AT 2001 HARBOR BOULEVARD, SUITES 101-103 (SOUTH COAST SAFE ACCESS)

The Chair explained the appeal process.

OLD BUSINESS: None.

NEW BUSINESS: None.

DEPARTMENTAL REPORT(S)

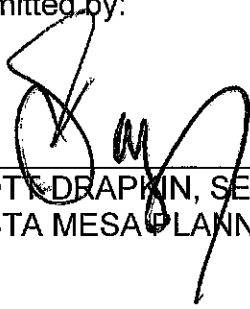
1. Public Services Report – Mr. Yang announced the start of the construction to the improvements at the intersection of Newport Boulevard and Industrial Way.
2. Development Services Report – None.

CITY ATTORNEY’S OFFICE REPORT(S)

1. City Attorney – None.

ADJOURNMENT AT 9:13 PM

Submitted by:



SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION