RESOLUTION NO. PC-2023-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 23-04 FOR A CONDITIONAL USE PERMIT TO ALLOW A BODY ART ESTABLISHMENT AT 1834 NEWPORT BLVD, UNITS C & D

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

WHEREAS, Planning Application 23-04 was filed by Emil Allahverdiyev, authorized agent for the property owner, Mario Tambellini requesting approval of the following:
A new establishment ("Cleopatra Ink") to be located at 1834 Newport Blvd, Units C & D within an approximate 1,300-square-foot tenant space located within a multi-tenant commercial building.

WHEREAS, a duly noticed public hearing held by the Planning Commission on August 14, 2023 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** Planning Application 23-04 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 Planning Application 23-04 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 14th day of August, 2023.

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-2022- __ was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on August 14, 2023 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Scott Drapkin, Secretary
Costa Mesa Planning Commission

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: As conditioned, the proposed tattoo establishment would be compatible with surrounding commercial and residential uses. The proposed tattoo establishment is located is in a diverse commercial area including a variety of commercial, retail and dining/drinking establishments. The use is proposed approximately 170 feet from residential uses and therefore to prevent nuisances, conditions of approval have been included that limit hours of operation to be no later than 10 PM and prohibiting signs and limiting lighting at the rear of the property facing the residences. Lastly, the proposed use will not substantially increase traffic or parking demand at the commercial site beyond existing/previous levels.

Finding: Granting the 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 proposed body art operations will comply with Assembly Bill 300 (California Health and Safety Code, Division 104, Part 15, Chapter 17) which establishes State required health and safety standards for body art establishments. In addition, the proposed establishment is required to comply with City's health and safety standards established in Title 8 "Health and Sanitation", Chapter VI "Tattooing Establishment and Operation Regulations" of the CMMC. Because of the proximity of the proposed tattoo shop to residential uses, conditions of approval are also included to prevent neighbor impacts.

Finding: Granting the 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 proposed use is consistent with the "General Commercial" General Plan land use designation, and there are no Specific Plans applicable to the property. The proposed body art establishment that does not include an expansion in floor area, if approved, would not affect site development density or intensity.

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

Facilities. The exemption applies to the minor alteration of existing public or private structures involving negligible or no expansion of use. The proposed project requires interior improvements to Unit C and D to repurpose the space for a body art establishment, and the use is consistent with the applicable General Plan land use designation and applicable regulations. Furthermore, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. Specifically, the project would not result in a significant 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

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1. The use shall be limited to the type of operation described in the staff report and applicant's letters dated May 19, 2023, subject to conditions. Any change in the operational characteristics including, but not limited to, hours of operation, number of employees, services provided, size of location, shall be subject to Planning Division review 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 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 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.
3. 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.
4. Approval of the planning/zoning application is valid for two (2) years from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and a valid building permit has been maintained by making satisfactory progress as determined by the Building Official; 2) a certificate of occupancy has been issued; or 3) the use has been established and a business license has been issued. A time extension can be requested no less than thirty (30) days or more than sixty (60) days before the expiration date of the

permit and submitted with the appropriate fee for review to the Planning Division. The Director of Development Services may extend the time for an approved permit or approval to be exercised up to 180 days subject to specific findings listed in Title 13, Section 13-29(k)(6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority.

5. 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.
6. The project is subject to compliance with all applicable federal, State, County and local laws.
7. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
8. Once the use is legally established, the planning/zoning application herein approved shall be valid unless revoked. The Director of Economic & Development or designee may refer the planning/zoning application to the Planning Commission for modification or revocation at any time if any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.
9. All work shall be conducted under-roof. Outdoor work or display is prohibited.
10. 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 during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or in the requirement to modify the construction to reflect the approved plans.
11. The project shall be limited to the type of building as described in this staff report and in the attached plans. Any change in the use, size, or design shall require review by the Planning Division and may require an amendment to the Conditional Use Permit.
12. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or it, in the opinion of the development

services director or his designee, any of the findings upon which the approval was based are no longer applicable.

13. 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 prohibited on Sunday and the following federal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
14. The conditions of approval, code requirements, and special district requirements of PA-23-04 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
15. The body art establishment shall operate on an appoint-only basis, there will be no walk-in appointments allowed and appointments shall be limited to a maximum of two clients scheduled at the same time at any point during the business operating hours.
16. The business shall be conducted in a manner so that it does not permit the observation by customers or the public of tattooing and/or piercing of “specific anatomical areas” as described in Title 13, Chapter IX, Article 1 (sexually oriented businesses) of the Costa Mesa Municipal Code.
17. 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 whatever security and operational measures that are necessary to comply with this requirement.
18. All uses of the body art establishment shall occur within the building.
19. The applicant shall submit a lighting plan to the Planning Division for review and approval for any proposed new lighting. As determined by the Director of Economic and Development Services or their designee, a photometric study may be required to demonstrate compliance with the following: (a) lighting levels on the property shall be adequate for safety and security purposes (generally, at least 1.0 foot candle), (b) lighting design and layout shall minimize light spill at the adjacent residential property line and at other light-sensitive uses (generally, no more than 0.5-footcandle at the property line), and (c) glare shields may be required to prevent light spill.
20. There shall be no signage visible from the residential properties at the rear of the building.
21. The tattoo establishment shall be open to customers no later than 10:00 p.m. seven days a week.
22. The use shall at all times comply with the applicable provisions of State law and regulation, including but not limited to Assembly Bill 300, the California Safe Body Art Act, set forth in California Health and Safety Code Sections 119300 through 119328, as may be amended.
23. The use shall at all times comply with the applicable provisions of the County of Orange Environmental Health Department regulations pertaining to “Body Art”.

24. The use shall at all times comply with the applicable provisions of Title 8 “Health and Sanitation”, Chapter VI “Tattooing Establishment and Operation Regulations” of the Cost Mesa Municipal Code.
25. The applicant must obtain and post onsite, any and all required permits from city, county, and state agencies.
26. The applicant must obtain a Body Art Facility permit from the County of Orange Environmental Health Division prior to operation. Body Art Facility permit requires submittal of the construction plans, a copy of the facility’s Infection Prevention Plan, and current practitioner registration for all body art practitioners working on site. The owners must also provide Bloodborne Pathogen Control Training. Artist and facility registration must be renewed annually.
27. The applicant must obtain a City of Costa Mesa Business License prior to operation.
28. The suite is reserved for the approved use and subletting to uses not permitted by the City are prohibited.
29. Any activity not consistent with all of the terms and conditions of all applicable zoning approvals and approved plans granted by the City is considered a nuisance and will be required to be immediately abated.
30. Any illegal use of the space will constitute a breach in the CUP and it may result in the CUP being revoked in addition to the assessment of any other fines and citations as applied by the City.

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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1. All contractors and subcontractors must have valid business licenses to 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.
2. Approval of the planning application is valid for two years from the effective date of this approval and will expire at the end of that period unless applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and a valid building permit has been maintained by making satisfactory progress as determined by the Building Official; 2) a certificate of occupancy has been issued; or 3) the use has been established and a business license has been issued. A time extension can be requested no less than 30 days or more than 60 days before the expiration date of the permit and submitted with the appropriate fee for review to the Planning Division. The Director of Economic and Development Services may

extend the time for an approved permit or approval to be exercised up to 180 days subject to specific findings listed in Title 13, Section 13-29 (k) (6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority.

3. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.

4. Prior to issuance of building permits, applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.

Bldg. 5. Comply with the requirements of the following adopted codes Code, 2022 California Building Code, 2022 California Electrical code, 2022 California Mechanical code , 2022 California Plumbing code , 2022 California Green Building Standards Code and 2022 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 2022 California Building Code.

SPECIAL DISTRICT REQUIREMENTS

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

AQMD 1. Applicants shall contact the Air Quality Management District (AQMD) at 1-(800) 288-7664 for potential additional conditions of development or for additional permits required by AQMD