

RESOLUTION NO. 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 PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA HEREBY FINDS AND DECLARES AS FOLLOWS:

WHEREAS, in November 2020, the Costa Mesa voters approved Measure Q; which allows for storefront and non-storefront retail cannabis uses in commercially zoned properties meeting specific location requirements, and non-storefront retail cannabis uses in Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties;

WHEREAS, on June 15, 2021, the City Council adopted Ordinance Nos. 21-08 and No. 21-09 to amend Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC) to establish regulations for cannabis storefront and non-storefront uses;

WHEREAS, Planning Application 22-21 was filed by Randall Longwith with Costa Mesa Access, Inc. dba South Coast Safe Access, authorized agent for the property owner, Vaccher Family Trust, requesting approval of the following:

A Conditional Use Permit to operate a storefront retail cannabis business within an 3,720-square-foot tenant space within an existing commercial building located at 2001 Harbor Boulevard, Suites 101, 102, and 103. 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;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 28, 2022 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, the project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and CEQA does not apply to this project because it has been rejected and will not be carried out, pursuant to Public Resources Code section 21080(b)(5) and CEQA Guidelines Section 15270(a).

NOW, THEREFORE, based on the evidence in the record the Planning Commission hereby **DENIES** Planning Application 22-21 with respect to the property described above as set forth in Exhibit A.

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 28th day of November, 2022.



Byron de Arakal, 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-2022-33 was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on November 28th, 2022 by the following votes:

AYES: de Arakal, Ereth, Rojas, Vivar

NOES: Toler, Russell

ABSENT: Zich

ABSTAIN: None



Scott Drapkin, Secretary
Costa Mesa Planning Commission

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EXHIBIT A

FINDINGS

- A. Pursuant to CMMC Section 13-29(g), when granting an application for a conditional use permit, the Planning Commission shall find that the evidence presented in the administrative record substantially meets certain required findings. The Applicant failed to meet its' burden to demonstrate that the proposed project would comply with all of the requirements of Section 13-29(g)(2) and therefore the Planning Commission was unable to make the required findings to approve the proposed use for each and every reason set forth herein below:

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 the Finding: Pursuant to CMMC Section 13-10(i)(2)(c), the Planning Commission has the authority to "approve, conditionally approve or deny applications for conditional use permits..." Additionally and pursuant to CMMC Sections 13-28(B) and 13-200.93(c)(1), subject to the approval of the Planning Commission, a CUP is required for the establishment of cannabis retail storefronts in a commercial zone. All cannabis operators in Costa Mesa are required to obtain a Conditional Use Permit (CUP). As defined in the CMMC, a CUP is "a discretionary approval usually granted by the Planning Commission which allows a use or activity not allowed as a matter of right, based on specified findings." Unlike uses that are listed in the CMMC that are permitted "by-right", a use that requires a CUP necessitates the Planning Commission to use their judgement to determine whether a proposed project should be entitled.

The proposed cannabis establishment would be located on the first floor of a two-story, multitenant commercial building. The business occupying the suites directly above the proposed cannabis storefront is an individual and group counseling provider that specializes in substance addiction recovery. Evidence was presented to the Planning Commission, through written testimony and careful consideration of the record that the proposed cannabis retail storefront would not be substantially compatible with the existing addiction recovery use operating above the proposed use. No predominance of evidence was sufficiently presented during the public hearing that the proposed cannabis retail use would operate without resulting in adverse impacts to the neighboring uses. The proposed cannabis establishment would not be substantially compatible with the existing addiction recover counseling use.

Finding: *“Granting the conditional use permit or 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 the Finding: The proposed cannabis establishment would potentially be materially detrimental to the general welfare of the public in that the proposed cannabis retail use is not substantially compatible with the existing addiction recovery use operating above the proposed use.

Finding: *“Granting the conditional use permit or 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 the Finding: The proposed use is consistent with General Plan policies related to economic development and jobs. In addition, the proposed cannabis retail storefront is not considered an inconsistent use, nor would result in a density of intensity that is not in accordance with the General Plan.