

**RESOLUTION NO. PC-2022-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-13 FOR A CONDITIONAL USE PERMIT TO ALLOW FOR A PHARMACEUTICAL MANUFACTURING USE LOCATED AT 3030 AIRWAY AVENUE**

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

WHEREAS, Planning Application 21-13 was filed by Etienne Runge, authorized agent for the property owner, 3030 Airway Owner LLC requesting approval of the following: Conditional Use Permit (CUP) to allow for a pharmaceutical manufacturing use within the MP zone. The project proposes a tenant improvement for offices and laboratories (19,000 square feet), manufacturing (21,300 square feet), and warehousing (10,700 square feet). Exterior improvements include the removal of rooftop equipment, construction of a central utility plant, installation of an underground waste neutralization system, installation of an emergency generator, switchboards, compressed air systems, bulk tanks, transformer, modification of parking, and the installation of additional landscaping.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 28, 2022 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 21-13 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 21-13 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 28th day of February, 2022.**

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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- \_\_ was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on February 28, 2022 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

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Scott Drapkin, Secretary  
Costa Mesa Planning Commission

Resolution No. PC-2022-\_\_

## **EXHIBIT A**

### **FINDINGS**

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

**Finding:** The proposed 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 project will be compatible with uses that exist within the general area in that it is an industrial project in a predominantly developed industrial sector of the City. The proposed site improvements and landscaping will improve and enhance the appearance of the property from Airway Avenue and the tenant improvements will enhance the existing industrial building. The project is over 2,000 feet from the nearest residences and, therefore, would have no effect on residential properties.

**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 development will be required to comply with all applicable California Building and Fire Code requirements to ensure the project is not materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood. The use will be subject to State, Federal, and other applicable regulations. As conditioned, the industrial use is compatible with other similar uses in the area and will not negatively affect the welfare of surrounding industrial properties.

**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 project site is zoned MP (Industrial Park) and has a General Plan Designation of Industrial Park. The project does not propose to expand the existing facility and complies with the intent of the Zoning Code as it pertains to building height, setbacks, parking, and overall Project Floor Area Ratio and will not allow a use which is not compatible with the General Plan. The project will bring the property closer into conformance with the City landscaping code.

- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:

- a. The proposed use is compatible and harmonious with uses both on site as

well as those on surrounding properties. The project would be compatible with surrounding industrial uses. No parking or environmental impacts are anticipated.

- b. Safety and compatibility of the design of the parking areas, landscaping, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered. The proposed use would not substantially increase traffic or parking demand at the industrial facility.
- c. The project, as conditioned, is consistent with the General Plan and the land use designation of Industrial Park.
- d. The planning application is for a project-specific case and does not establish a precedent for future development. Approval will apply to this project-specific location. Conditions have been included that are specific to the proposed project.

- D. **Finding:** The project is exempt from the provisions of the California Environmental Quality Act under CEQA Guidelines Section 15301 (Class 1) for Existing Facilities. The Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion or use beyond what that is existing at the time of the lead agency's determination. Because the tenant improvements at the project site will not include major alterations or expansion to the existing building and because the proposed use is similar to the prior use of the subject suite, the project qualifies for this exemption.
- E. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## **EXHIBIT B**

### **CONDITIONS OF APPROVAL**

- Plng.
1. The use shall be limited to the type of operation described in the application and this staff report: a pharmaceutical manufacturing use within an existing industrial building. Any change in the operational characteristics 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 conditions of approval, code requirements, and special district requirements of PA-21-13 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
  3. The applicant shall 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 and/or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. 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 applicant's 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. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by the City.
  4. 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.
  5. A copy of the conditions of approval for the conditional use permit must be kept on premises and present 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. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets. Trees and shrub species, count, location and size will be subject to Planning Division approval.

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 whatever security and operational measures that are necessary to comply with this requirement.
8. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorize hereby for a period of 180 days or more. 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 if, in the opinion of the Director of Economic and Development Services or his designee, any of the findings upon which the approval was based are no longer applicable.
9. 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.
10. Odor control devices and techniques shall be incorporated to ensure that odors from the use are not are not detected outside the property, anywhere on adjacent property or public right-of-way, or within any other units located within the same building. Building and mechanical permits must be obtained from the Building Division prior to work commencing on any part of the odor control system.
11. Prior to building permit issuance, the applicant shall contact the Sanitary District to determine if a wastewater discharge permit is required, comply with applicable discharge requirements, and obtain a wastewater discharge permit if required.
12. Prior to issuance of a building permit, the applicant shall work with the Planning Division to determine the design of the new central utility plant, emergency generator, and waste neutralization system areas including screening. The design shall include fully screened equipment that is compatible with the existing building and surrounding development.

### **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.

- Plng.
1. The project is subject to compliance with all applicable Federal, State, and local laws. A copy of the applicable Costa Mesa Municipal Code requirements has been forwarded to the Applicant and, where applicable, the Authorized Agent, for reference.
  2. The property owner is responsible for the maintenance of the landscaping on their property. Any dead, dying, or diseased trees, shrubbery, vines, groundcover, or turf, must be replaced within sixty (60) days of written notice from the development services or public services departments.

Tree stakes shall be removed when no longer needed to support the tree. Landscaping shall be maintained in an orderly and healthy condition. This shall include proper pruning according to International Society of Arborists (ISA) standards, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and application of appropriate quantities of water to all landscaped areas. Compost and/or mulch used as a groundcover shall maintain a consistent two (2)-inch minimum layer over soil.

3. Water conservation required: Landscape maintenance practices shall be employed which foster long-term landscape water. The practices may include, but not be limited to, performing routine irrigation system repair and adjustments, scheduling irrigation based on the California Irrigation Management Information System, use of moisture-sensing or rain shut-off devices, conducting water audits and prescribing the amount of water applied per landscaped acre.
4. 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.
5. Parking spaces shall be striped in accordance to the City's Parking Design Standards.
6. 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. Operations shall comply with noise standards contained in CMMC Title 13, Chapter 13, Noise Control.
7. Truck Deliveries shall not occur anytime between the hours of 8:00 pm and 7:00 am.
8. 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.



- Bldg. 9. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
10. Comply with the requirements of the following adopted codes Code, 2019 California Building Code, 2019 California Electrical code, 2019 California Mechanical code , 2019 California Plumbing code , 2019 California Green Building Standards Code and 2019 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 2019 California Building Code.
11. Prior to the Building Division 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.
12. Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants exist on the property prior to any soil movement or excavation. Call CDFA at (714) 708-1910 for information.
- Fire 13. Comply with the 2019 CFC as adopted and amended by the City of Costa Mesa.

### **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