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

**February 22, 2021
Regular Meeting – 6:00 p.m.**

CALL TO ORDER:

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

PLEDGE OF ALLEGIANCE:

Chair de Arakal led the Pledge of Allegiance.

ROLL CALL:

Present: Chair Byron de Arakal, Vice Chair Kedarious Colbert, Commissioner Dianne Russell, Commissioner John Stephens, Commissioner Russell Toler, Commissioner Jenna Tourje, Commissioner Jon Zich

Officials Present: Director of Economic and Development Services Jennifer Le, Assistant Planner Katelyn Walsh, Associate Planner Nancy Huynh, Assistant City Attorney Tarquin Preziosi, City Engineer Seung Yang, City Clerk Brenda Green, and Recording Secretary Julie Colgan

ANNOUNCEMENTS AND PRESENTATIONS:

Chair de Arakal read a brief statement into the record regarding COVID-19, and how the public can participate in the meeting.

PUBLIC COMMENTS ON ITEMS NOT LISTED ON THE AGENDA:

Chair de Arakal opened public comments at 6:04 p.m.

Steven Chan called in to the meeting and provided a video for his comment about the noise from Smart and Final.

Wendy Leece provided comments on the proposed Triangle LED signs.

Chair de Arakal closed public comments at 6:12 p.m.

COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Zich addressed Director Le in response to the first public comment and briefed the public on signing up for City notifications.

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Commissioner Tourje commented on the Housing Element meeting for Districts 4, 5, and 6; she encouraged the public to go online and take the Housing Element survey.

Commissioner Toler commented on accidents around Costa Mesa (CalTrans District 12); the CalTrans survey currently available to the public; he provided the survey website, and encouraged the public to take the CalTrans survey.

Commissioner Stephens commented on the study session for the Housing Element; encouraged the public to get involved; expressed the importance of hearing the opinion of the residents, and provided the public email address to reach out.

Commissioner Russell thanked everyone who participated in the Housing Element meetings, and provided information on the COVID-19 vaccine.

Vice-Chair Colbert commented on his recent outreach with business owners and consultants; spoke briefly on COVID-19 and highlighted a local case in Orange County; and encouraged the public to learn more about Black History month.

Chair de Arakal thanked Vice-Chair Colbert for his comments, spoke on Housing Element workshops and acknowledged the Study Session. He expressed to the public and particularly the younger generation the importance to get involved.

CONSENT CALENDAR: None

PUBLIC HEARINGS:

- 1. A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE TO ADOPT CODE AMENDMENT CO-21-01 TO AMEND CHAPTER IX, ARTICLE 21 AND CHAPTER IV, TABLE 13-30 OF TITLE 13 TO ESTABLISH THE DEVELOPMENT STANDARD FOR CANNABIS USES, INCLUDING RETAIL CANNABIS STOREFRONT AND NON-STOREFRONT USES AND AN ORDINANCE TO AMEND CHAPTER I, ARTICLE 5, CHAPTER II, ARTICLE 1 AND CHAPTER VI OF TITLE 9 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE TAXATION, REGULATION, OPERATING REQUIREMENTS AND STANDARDS FOR CANNABIS USES INCLUDING RETAIL CANNABIS STOREFRONT AND NON-STOREFRONT USES, IN ORDER TO IMPLEMENT THE CITY OF COSTA MESA RETAIL CANNABIS TAX AND REGULATION MEASURE (MEASURE Q)**

Project Description: An Ordinance for Zoning Code Amendment CO-2021-01 to amend portions of Title 13 (Planning, Zoning, and Development) of the Costa Mesa Municipal Code and an Ordinance to amend portions of Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code to establish the taxation, regulations, operating requirements and standards for cannabis uses, including

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retail cannabis storefront and non-storefront uses in order to implement the City of Costa Mesa Retail Cannabis Tax and Regulation Measure (Measure Q).

Environmental Determination: The ordinances are exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) (General Rule), Section 15301 (Class 1, Existing Facilities), Section 15303 (Class 3, New Construction or Conversion), Section 15308 (Class 8, Actions by Regulatory Agencies), and Section 15332 (Class 32, Infill Development).

Recommended Action: Staff recommends that the Planning Commission adopt a Resolution recommending that the City Council:

Find that the adoption of the Zoning Code Amendment is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) (General Rule), Section 15301 (Class 1, Existing Facilities), Section 15303 (Class 3, New Construction or Conversion), Section 15308 (Class 8, Actions by Regulatory Agencies), and Section 15332 (Class 32, Infill Development); and

1. Give first reading to Ordinance 2021-X1 to adopt Zoning Code Amendment CO- 21-01 to amend the following chapters of the Costa Mesa Municipal Code:
 - Chapter IX (Special Land Use Regulations), Article 21 (Location of Marijuana Distributing, Manufacturing, Research and Development and Testing Laboratories) of Title 13 (Planning, Zoning and Development); and Chapter IV (Citywide Land Use Matrix), Table 13-30 (Land Use Matrix) of Title 13.

Staff recommends that the Planning Commission review Ordinance 2021-X2 that amends the following chapters of Title 9 of the Costa Mesa Municipal Code, and make recommendations to the City Council regarding the definitions set forth in Chapter VI:

- Chapter I (Business Tax), Article 5 (Administration, Application and Procedures) of Title 9 (Licenses and Business Regulations).
- Chapter II (Regulation of Certain Businesses), Article I (Generally) of Title 9; and
- Chapter VI (Marijuana Business Permits) of Title 9.

Written public comments were: 1) received; 2) provided to the Commissioners; and 3) entered into the record.

Ex-parte communications: 1) Commissioner Zich participated in Zoom meeting with Staff.

Associate Planner Nancy Huynh presented the staff report.

Discussion with Commission and staff ensued about Measure X, Measure Q, City Council's role in adopting regulations, sensitive uses- what the 1,000 foot buffer covers,

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language and definition of ‘youth centers’ within the ordinance, application fees associated with cannabis uses, explanation of when taxes are payable, clarification regarding a zoning administrator’s decision and call for review procedure, discussed the process for managing applications for cannabis businesses, for measuring the 600 and 1,000 foot separation distance, minimum standard security measures, and the health and safety definition of youth center.

PUBLIC COMMENTS:

Chair de Arakal opened Public Comments at 7:57 p.m.

- Caller 1: Thanh To, resident, spoke on behalf of Weedmaps in support of the proposal, and asked the City to consider a social equity program for a more diverse marketplace. He requested the City to consider reserving a minimum of 25% towards social equity programs.
- Caller 2: Tatev Oganyan, an attorney and a licensing/compliance specialist for cannabis operators and landlords, spoke in favor of the proposal, and requested a continuance of the first reading to allow time for further collaborative discussions to ensure compliance with Measure Q.
- Caller 3: Josh Clark, business owner, spoke in opposition to wording in the ordinance, specifically “any unit on a property from being eligible for a license, if that property has in the last 5 years had an illegal cannabis dispensary”. The City’s desire to penalize the bad land owners will cause collateral damage to the innocent, third-party business owners.
- Caller 4: Wendy Lei, an attorney at Winter LLP, suggested that a business already operating in a Measure X Zone with a current CUP for operation should be able to apply for a minor CUP, and suggested a full CUP for the incoming operators in non-Measure X zones.
- Caller 5: Cole Morgan, an attorney with Stuart Kane, LLP, provided supplemental comments in addition to written comments, and asked the Commission to reject the ordinance and to further define ‘Youth Centers’ throughout the City.
- Caller 6: Dana Cisneros, managing attorney at Cannabis Corporate Law Firm, provided comments on a continuance, and asked the City not to delay the ordinance any further. She also spoke in support of a social equity program.
- Caller 7: Unidentified caller spoke in opposition to wording in the ordinance penalizing landowners for the current illegal dispensaries. He asked the City to red tag the tenants of the units instead of the landowners.

Chair de Arakal closed Public Comments at 8:18 p.m.

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Commissioner Stephens made a motion to continue the item.

Discussion with staff ensued about social equity programs, youth centers, barring a landowner from having legal tenants if an illegal business was previously operating, CUP vs MCUP, use of MCUP process for non-storefront delivery in the Measure X zone, intent of felony provisions, expanded youth center definition and clarification on the 600-foot distance, City's plan to process applications and social equity policy, 5-year prohibition period, new cannabis retail uses precluding future sensitive uses within 1,000 feet, inconsistencies within the ordinance, the City disclaimer on the sensitive uses map, granting permits for retail and non-retail through an MCUP process, long-term planning impacts, and the youth centers buffer within the ordinance.

Commissioner Stephens shared what the continuance should achieve and process of the continuance.

Chair de Arakal asked Director Le for her suggestions with a continuance.

Director Le suggested continuing the item to the March 22 meeting.

Commissioner Zich supported the motion and agreed with Chair de Arakal's concerns, and spoke of a number of cannabis businesses in the City.

Discussion between Staff and the City Attorney ensued regarding BCC /ABC regulations and how the City can or cannot regulate cannabis; Chair de Arakal requested Staff report on how other cities regulate cannabis.

MOTION: A motion was made by Commissioner Stephens to leave the Public Hearing open and continue the item to March 22, 2021.

Moved by Commissioner Stephens, seconded by Vice-Chair Colbert.

The motion carried by the following roll call vote:

Ayes:	de Arakal, Colbert, Russell, Stephens, Toler, Tourje, Zich
Nays:	None
Absent:	None
Recused:	None
Motion carried:	7 – 0

Chair de Arakal announced a recess at 9:15 p.m.

Chair de Arakal reconvened the meeting at 9:30 p.m.

2. PLANNING APPLICATION 20-10 AND TENTATIVE TRACT MAP T-21-01 (TTM NO. 19120) FOR A MASTER PLAN FOR AN EIGHT-UNIT RESIDENTIAL COMMON INTEREST DEVELOPMENT UNDER THE MESA WEST

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RESIDENTIAL OWNERSHIP URBAN PLAN AT 1978 MEYER PLACE AND 1979 ANAHEIM AVENUE

Project Description: Planning Application 20-10 and Tentative Tract Map 19120 is request for a Master Plan for the development of an eight-unit attached residential common interest development intended for individual ownership under the Mesa West Residential Ownership Urban Plan. The proposed residences include two and three-bedroom unit types ranging from approximately 1,500 square feet to 2,000 square feet as well as two-car garages for each unit. The proposed maximum building height is 44 feet at four-stories including a roof deck level. The proposed tentative tract map would establish one lot with eight airspace condominiums for individual home ownership.

Environmental Determination: The project is exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332 (Class 32), In-Fill Development Projects.

Recommended Action: Staff recommends that the Planning Commission adopt 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 15332 (In-fill Development Projects); and
2. Approve Planning Application 20-10 and Tentative Tract Map T-21-01, subject to conditions of approval.

Written public comments were: 1) received; 2) provided to the Commissioners; and 3) entered into the record.

Ex-parte communications: 1) Commissioner Russell exchanged emails with residents; 2) Commissioner Stephens had a brief Zoom meeting with Mr. Jones; 3) Commissioner Tourje exchanged emails with residents; 4) Vice-Chair Colbert met with the applicant.

Associate Planner Nancy Huynh gave the staff presentation.

Discussion with Commission and staff ensued about the code requirements for public and private open space, method used for the shade/shadow study, how the threshold is determined, affordability of the units, how the project would be affected by an inclusionary housing ordinance, policy on displacement of residents in rental units that are proposed to be replaced with ownership units, changes made to the development plan compared to the original plan, objectives of the Mesa West Urban Plan, redevelopment of lower density properties to higher density properties, intent behind the land use policy, residential design guidelines and urban plan development requirements, parking requirements and street parking.

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Chair de Arakal asked the Applicant if he had read the staff report and agrees with the Conditions of Approval. Applicant responded he has read the staff report and agrees with the Conditions of Approval.

Authorized agent for the applicant Steve Jones with Olympia Capital Corporation, Project Managers Bill Jaeger and Shaneen Tuley, Architect Dirk Thelen, Civil Engineer Surrender Dewan introduced their presentation for the application.

Discussion ensued between the Applicant and Staff regarding the master plan, affordable ownership options, impacts described in the shade study, methodology of the shade study, and the impact of the development on shade/shadow during different times of the year.

Architect Dirk Thelen presented the methodology of the shade study and the impact the development may have throughout various seasons.

Discussion continued regarding the proposed housing being designed for entry-level first-time homebuyers, utility improvements, average family size in Costa Mesa, options for a pedestrian pass through to the two lots, privacy and security issues with pass through and neighbors, advantages of homeownership versus renting, project deviations from current code, and parking requirements.

PUBLIC COMMENTS:

Chair de Arakal opened Public Comments at 11:15 p.m.

- Caller 1: Angel and Jaqueline Lopez, residents, spoke in opposition to the proposed project due to proximity of their property to the proposed project, privacy issues, height of the project, and pedestrian pass through.
- Caller 2: Kristine Nolf, resident, spoke in favor of the proposed project with modifications to reduce privacy concerns for current residents around the project, code deviations, spoke of the need for a pedestrian pass through, and the importance of non-displacement policies.
- Caller 3: Cynthia McDonald, resident, spoke in opposition to the proposed project due to the deviations from current code, open space requirement, and gave an example of a project that did not deviate from current code.
- Caller 4: Michael Nolf, resident, spoke in favor of the proposed project with modifications, affordable housing requirement for some of the units, spoke about privacy/security issues, pedestrian pass through, and opposed the height.

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Caller 5: David Steigerwald, resident, spoke in opposition to the proposed project due to the displacement of existing residents, and asked for ample time to relocate if the project is approved.

Chair de Arakal closed Public Comments at 11:30 p.m.

Discussion with Commission and Staff ensued about lot size deviations and other projects that deviate from the 1-acre lot size requirement, specifically the 1974 Meyer project.

Discussion with the Applicant ensued regarding design of the project, privacy concerns, required parking spaces, and zoning code.

Chair de Arakal closed the Public Hearing at 11:41 p.m.

MOTION: A motion was made by Commissioner Tourje to approve the project subject to conditions of approval:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332 (In-fill Development Projects); and
2. Approve Planning Application 20-10 and Tentative Tract Map T-21-01 subject to conditions of approval with additional conditions of approval to require privacy requirements for the rooftop deck at Staff's discretion.

The motion was seconded by Vice-Chair Colbert.

COMMISSIONER COMMENTS:

Vice-Chair Colbert supported the motion, voiced his concerns with the application and the intent to provide affordable housing, but in some cases the goal is not achieved and displacement occurs, which does not meet the existing needs in Costa Mesa.

Commissioner Toler supported the motion, has significant issues with the project, but the issues are with City code, not with the applicant or proposed project.

Commissioner Russell, reluctantly supported the project, acknowledged applicant fulfilled the Mesa West's requirements, spoke of current policy plan which encourages redevelopment and in some cases may result in displacing current lower income families, spoke of reevaluating the Mesa West Urban Plan during the Housing Element process, and spoke of the need to create greater affordability without compromising neighborhoods.

Commissioner Zich opposed the motion, thanked Commissioners for their thoughts, spoke of the housing element requirement, privacy concerns, design does not meet enough of City's code to warrant approval, and did not agree with affordability of the units.

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Commissioner Stephens thanked the public and Commission for their comments, supported the motion, commented that the Mesa West Urban Plan has not happened as originally envisioned, that we should move forward with development, and he noted the City did not have districts in 2006 when the Urban Plans were approved.

Commissioner Tourjé thanked everyone for their comments, reluctantly supported the motion with respect to the privacy concerns of the neighbors, and suggested that staff bring a possible Inclusionary Housing Ordinance discussion forward in the future.

Chair de Arakal supported the motion and spoke of his non-support of the Mesa West Urban Plan, and the residents of District 4 and a desire to not turn their district into the hub for affordable housing in the City.

Moved by Commissioner Tourje, and seconded by Vice-Chair Colbert.

The motion carried by the following roll call vote:

Ayes:	de Arakal, Colbert, Russell, Stephens, Toler, Tourje
Nays:	Zich
Absent:	None
Recused:	None
Motion carried:	6 – 1

RESOLUTION PC-2021-01 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 20-10 AND TENTATIVE TRACT MAP 19120 FOR A MASTER PLAN FOR AN EIGHT-UNIT RESIDENTIAL COMMON INTEREST DEVELOPMENT UNDER THE MESA WEST RESIDENTIAL OWNERSHIP URBAN PLAN AT 1978 MEYER PLACE AND 1979 ANAHEIM AVENUE

3. PLANNING APPLICATION 20-19 FOR A MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY (HIGHER GROUND) AT 3505 CADILLAC AVENUE, UNIT F-7

Project Description: Planning Application 20-19 is a request for a Conditional Use Permit for a marijuana manufacturing and distribution facility within a 6,015-square-foot tenant space in an existing industrial building. The proposed facility would manufacture, package, distribute, and transport cannabis products; no extraction would occur at this facility. The facility would have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation of marijuana, or marijuana dispensary, is permitted.

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

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Recommended Action: Staff recommends that the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act per CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 20-19, subject to conditions of approval.

Six ex parte communications: 1) Commissioner Zich attended a Zoom meeting with the Applicant; 2) Commissioner Russell met on site with the Applicant; 3) Commissioner Toler had a Zoom meeting with Applicant; 4) Vice-Chair Colbert had a Zoom meeting with the Applicant; 5.) Commissioner Tourje emailed with the Applicant; and 6) Chair de Arakal had a telephone conversation with the authorized agent of the Applicant.

Assistant Planner Katelyn Walsh presented the staff report.

COMMISSIONER COMMENTS: None

Applicant has read the staff report and agrees to the Conditions of Approval.

Applicant thanked staff for their hard work and presented the proposed application.

Discussion between Staff and Applicant and representatives ensued regarding job creation and the number of proposed employees and process for hiring locally

Chair de Arakal opened public comments at 12:28 a.m.

PUBLIC COMMENTS: None

Chair de Arakal closed Public Comments at 12:28 a.m.

Chair de Arakal closed the Public Hearing at 12:29 a.m.

MOTION: A motion was made by Chair de Arakal, and seconded by Commissioner Stephens to approve the project subject to conditions of approval:

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. Approve Planning Application 20-19, subject to the findings in Exhibit A and conditions of approval.

Moved by Chair de Arakal, and seconded by Commissioner Stephens.

The motion carried by the following roll call vote:

Ayes: de Arakal, Colbert, Russell, Stephens, Toler, Tourje, Zich

Nays: None

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Absent: None
Recused: None
Motion carried: 7 – 0

RESOLUTION PC-2021-02 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 20-19 TO ALLOW A MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY (HIGHER GROUND) IN THE PDI ZONE FOR PROPERTY AT 3505 CADILLAC AVENUE, UNIT F-7

DEPARTMENTAL REPORT(S):

1. Public Services Report – City Engineer Seung Yang reported on a Public Services Department project on Merrimac Way and the Hamilton Street improvement project.
2. Development Services Report – Director Le noted there will be a Planning Commission study session regarding the Housing Element on March 1, 2021. Staff will post and provide appropriate notice of the meeting.

Chair de Arakal asked Director Le to see a progress report and conditions of approval associated with Smart and Final.

CITY ATTORNEY'S OFFICE REPORT(S):

1. City Attorney – Mr. Preziosi had no report.

ADJOURNMENT AT 12:32 A.M.:

Submitted by:

JENNIFER LE, SECRETARY
COSTA MESA PLANNING COMMISSION