

RESOLUTION NO. PC-2022-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION PA-22-26 FOR AN INDOOR AXE THROWING FACILITY (SLASHERS) WITH SALE OF ALCOHOLIC BEVERAGES UNDER A STATE ALCOHOLIC BEVERAGE CONTROL (ABC) TYPE 40 LICENSE (ON-SALE BEER) AT 1941 NEWPORT BOULEVARD

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

WHEREAS, an application was filed by Dave See, representing Slashers and as the authorized agent on behalf of the property owner, 1941 Newport Blvd, LLC.

WHEREAS, Planning Application 22-26 is a request for a Conditional Use Permit to operate an indoor axe-throwing facility within a 5,951-square-foot tenant space with sale of alcoholic beverages for on-site consumption at 1941 Newport Blvd.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on October 10, 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 22-26 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 PA-22-26 and upon applicant's compliance with each and all of the conditions in Exhibit B, and compliance of all applicable 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 10th day of October, 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- was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on October 10, 2022 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

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 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 Finding: The proposed use would be compatible with commercial developments in the same general area (including an adjacent hotel and a design center) and would not be materially detrimental to the nearby residential properties in that conditions of approval have been included to avoid potential noise, vehicle, trash and light disturbances. Parking has also been thoroughly considered and analyzed for compliance and to avoid neighborhood impacts via an engineered parking study.

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: Potential noise impacts have been considered and the project will not have a negative impact on the surrounding neighborhood as all business activities as conditioned would be conducted within the building (underroof). Tenant improvements involving the installation of specialized rubber mats and the use of end grain wood will be utilized to reduce noise caused by axes upon impact. If noise-related problems arise as a result of customer activity in the parking lot, a parking lot monitor may be required at the discretion of the Director of Development Services.

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 General Plan designation is General Commercial, which allows for a wide range of commercial uses that serve both local and regional needs. The proposed use is consistent with the intent of the General Plan designation and the C2 Zoning District in that similar uses such as amusement centers, physical fitness facilities, bowling, billiards, and skating rinks are permitted or conditionally permitted in the C2 Zone. Lastly, conditions of approval have been included to address potential noise, traffic, and/or parking impacts.

- B. The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 (Class 1), Existing Facilities. The Class 1 exemption

applies to minor alterations to existing facilities or structures involving negligible or no expansion of the existing or prior use. The project falls within this exemption because it involves minor interior alterations and the change of use is negligible. As conditioned and proposed, the project will have little or no impact on the surrounding area. The project involves tenant improvements to convert an existing retail space into an axe-throwing use. There will be no resulting increase in the existing floor area of the tenant space.

- 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

- Plng.
1. The use shall be limited to the type of operation described in the staff report and applicant's letters dated October 10, 2022, subject to conditions. Any change in the operational characteristics including, but not limited to, hours of operation, shall be subject to Planning Division review and may require an amendment to the minor/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. 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.
 3. The hours of operation of the business shall be limited to 10 AM to 11 PM. Any minor adjustments in these hours of operation that meet the intent of this condition may be granted with written approval of the Director of Development Services.
 4. Game sessions shall be by appointment only and shall be limited to a maximum of three persons per lane.
 5. Customers shall exit the facility immediately following the end of their game session. Each game session shall provide for a 15-minute gap between each session to allow participants adequate time to vacate the facility and parking lot before the next game begins.
 6. The rear gate providing access to Bernard Street shall remain closed during hours of operation.
 7. If noise is determined to be disruptive for adjacent residents, a parking lot monitor may be required at the discretion of the Director of Development Services.
 8. All uses shall be conducted within the tenant space with closed doors (underroof). If noise-related problems arise, the operator shall institute

appropriate operational or other measures as necessary to minimize or eliminate the problem.

9. All employees and customers shall park on site.
10. The ancillary bar area square footage shall be limited to 8% of the tenant square footage.
11. Sale of alcohol shall be limited to patrons with a reserved or active game session.
12. If parking shortages or other parking-related problems arise, the operator shall institute appropriate operational measures necessary to minimize or eliminate the problem, including, but not limited to, reducing the days and/or hours of the business operation.
13. Prior to issuance of a Certificate of Occupancy (C of O) or commencement of operations, permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
14. A copy of the conditions of approval for the conditional use permit shall 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.
15. 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.
16. If any section, division, sentence, clause, phrase or portion of this approval 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.
17. Building permits, associated with existing interior improvements, shall be approved and finalized prior to issuance of Certificate of Occupancy and Business License.
18. Any change in the operational characteristics of the use 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.

19. All exterior lighting shall be shielded and/or directed away from residential areas, and no light spill shall occur offsite.
20. Trash facilities shall be screened from view and designed and located appropriately to minimize potential noise and odor impacts to adjacent residential areas (behind fences). Final design for the trash enclosure shall be approved by the Planning Division prior to issuance of building permits.
21. Hours of operation for customer service shall not occur any time between 11:00 p.m. and 6:00 a.m.
22. Truck deliveries shall not occur anytime between 8:00 p.m. and 7:00 a.m.
23. Signs shall be installed in the parking lot to prevent loitering and noise.
24. The parking lot shall be posted with signs directing customers and employees to use consideration when entering/exiting their cars and entering/leaving the parking lot.
25. The use 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 appropriate security and operational measures as necessary to comply with this requirement.
26. No outdoor public communication or sound amplification systems shall be used or installed..
27. No outdoor seating and/or customer waiting areas shall be allowed.
28. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
29. 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.
30. 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.
31. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized 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 development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
32. 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 Minor Conditional Use Permit.
33. 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.

34. Once the use is legally established, the planning/zoning application herein approved shall be valid until 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.
35. The applicant, property owner and/or the operator shall obtain and maintain at all times during the term of the permit comprehensive general liability insurance protecting the permittee in an amount of not less than two million dollars (\$2,000,000.00) per occurrence, combined single limit, including bodily injury and property damage and not less than two million dollars (\$2,000,000.00) aggregate for each personal injury liability, products-completed operations and each accident, issued by an insurance provider admitted and authorized to do business in California and shall be rated at least A-:viii in A.M. Best & Company's Insurance Guide. Such policies of insurance shall be endorsed to name the City of Costa Mesa as an additional insured. Proof of said insurance must be provided to the Planning Division before the business commences operations. Any changes to the insurance policy must be submitted to the Planning Division within 10 days of the date the change is effective.

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. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
 2. The conditions of approval and ordinance or code provisions of Planning Application 22-26 shall be blueprinted on the face of the site plan as part of the plan check submittal package when building permits are necessary.
 3. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time.
 4. 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.

5. 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.
6. Street addresses shall be visible from the public street and may be displayed either on the front door, on the fascia adjacent to the main entrance, or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum six (6) inches in height with not less than one-half-inch stroke and shall contrast sharply with the background.
- Bldg. 7. Prior to issuing the Building permit the conditions of approval shall be on the approved Architectural plans.
8. 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.
9. A change of occupancy shall require compliance with the Disbled access requirements of chapter 11B of the 2019 California Building Code.
10. Prior to the Building Division issuing a demolition permit. contact South Coast Air Quality Management District (AQMD) 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.
- Fire 11. Comply with the requirements of the 2019 California Fire Code requirements, including the referenced standards as amended by the City of Costa mesa.
- Bus. 12. All contractors and subcontractors must have valid business licenses to do
Lic. 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.

13. Business license shall be obtained prior to the initiation of the business.