

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

February 27, 2023

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Andrade led the Pledge of Allegiance.

ROLL CALL

Present: Chair Adam Ereth, Vice Chair Russell Toller, Commissioner Angely Andrade, Commissioner Jonny Rojas, Commissioner Tim Taber, Commissioner Vivar, Commissioner Jon Zich

Absent: None.

Officials Present: Director of Economic and development Services Jennifer Le, Assistant Director of Development Services Scott Drapkin, Assistant City Attorney Tarquin Preziosi, Assistant Planner Jeffery Rimando, Assistant Planner Chris Aldana, Contract Planner Michelle Halligan, Transpiration Manager Jennifer Rosales, City Engineer Seung Yang and Recording Secretary Anna Partida

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS:

None.

COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Zich asked for the reports to have handwritten page numbers and asked for an economic analyzes from City staff comparing retail liquor stores to retail cannabis stores.

Chair Ereth stated he echoed Commissioner Zich's request for handwritten page numbers and economic report.

Commissioner Vivar echoed Commissioner Zich's request for an economic report. He also asked that a map of approved retail cannabis businesses be included in staff reports and for an update on the pedestrian master plan.

Chair Erath stated he requested information in the Pedestrian Master Plan in a previous meeting and would also like an update.

CONSENT CALENDAR:

1. MINUTES FOR THE MEETING OF FEBRUARY 13, 2022

Commission Comments:

Commissioner Vivar Asked staff about formatting differences between the minutes they were voting on at this meeting vs the minutes that we approved at the meeting prior.

MOVED/SECOND: Vivar/Toler

MOTION: Move staff's recommendation.

The motion carried by the following roll call vote:

Ayes: Erath, Toler, Andrade, Rojas, Taber, Vivar, Zich

Nays: None

Absent: None

Abstained: None

Motion carried: 7-0

PUBLIC HEARINGS

1. PLANNING APPLICATION 22-43 IS A REQUEST TO MODIFY A CONDITIONAL USE PERMIT FOR AN EXISTING CONVENIENCE STORE TO CHANGE THE TYPE OF OFF-SALE STATE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE FROM TYPE 20 (BEER AND WINE) TO TYPE 21 (GENERAL) AND TO EXPAND THE APPROVED HOURS OF OPERATION AT 1178 SUNFLOWER AVENUE

Project Description: The existing convenience store operator ("AK Market") is requesting to change the type of off-sale ABC license from a Type 20 (Beer and Wine) to a Type 21 (Off-Sale General) to expand the convenience store's sales to include distilled spirits. The applicant is also requesting to modify the business's operating hours to 6 a.m. to 10 p.m., Sunday through Thursday (an additional hour in the morning and in the evening) and 6 a.m. to 11 p.m., Friday and Saturday (an additional hour in the morning only). No interior or exterior changes are proposed.

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

alterations to existing facilities or structures involving negligible or no expansion of the existing use.

Chair Ereth, Commissioner Vivar and Commissioner Zich reported separate ex-parte communications with the applicant via email.

Jeffery Rimando, Assistant Planner, presented the staff report.

Commission and Staff:

Discussion ensued on notification letters, security patrol, property zoning, police department review, on pervious locations with type 21 license in the same area as property, steps to acquire type 21 license, types of signage and wording allowed on signs.

The Chair opened Public Hearing.

Rakesh Dadrah, applicant, stated he had read and agreed to the conditions of approval.

Commission, Applicant and Staff:

Discussion ensued on the reasoning behind the applications request for modification of hours, reason for the request to change license, security patrolling on property and signage requirements.

The Chair opened Public comments.

PUBLIC COMMENT:

Robert Ramirez, spoke in support of the item.

Jason Mira, spoke in support of the item.

Speaker 3, spoke in support of the item.

Speaker 4, spoke in support of the item.

Chris Glew, spoke in support of the item.

Speaker 6, spoke in support of the item.

The Chair closed public comments.

The Chair closed the Public Hearing.

Commissioner Zich made a motion. Seconded by Commissioner Vivar.

Motion included approval of the application as proposed with the conditions of approval No. 29 being removed from the resolution.

Commissioner Zich spoke on his motion.

Commissioner Vivar spoke in support of the motion.

MOVED/SECOND: Zich/Vivar

MOTION: Move staff's recommendation with the removal of Condition of Approval No. 29 regarding required two-hour area patrols.

The motion carried by the following roll call vote:

Ayes: Ereth, Toler, Andrade, Rojas, Taber, Vivar, Zich

Nays: None

Absent: None

Recused: None.

Motion carried: 7-0

ACTION: The Planning Commission adopted 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 15301 (Existing Facilities); and
2. Approve Planning Application 22-43, subject to conditions of approval.

RESOLUTION PC-2023-03 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION PA-22-43 FOR AN EXISTING CONVENIENCE STORE (AK MARKET) WITH REQUEST TO CHANGE TYPE OF OFF-SALE STATE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE FROM TYPE 20 (BEER AND WINE) TO TYPE 21 (GENERAL) AND EXPAND THE HOURS OF OPERATION AT 1178 SUNFLOWER AVENUE

The Chair explained the appeal process.

2. PLANNING APPLICATION 21-36 FOR A RETAIL CANNABIS STOREFRONT BUSINESS LOCATED AT 167 CABRILLO STREET (CABRILLO COMMUNITY PROJECT LLC DBA NATIVE GARDEN)

Project Description: Planning Application PA-21-36 was presented at the Planning Commission meeting on January 23, 2023. The staff recommendation was for project denial. After considering the information provided in the staff report, the applicant's presentation, and public comment, the Planning Commission voted 6-1 to continue the public hearing to their regular meeting on February 27, 2023. The Planning Commission specifically directed staff to return with a draft approval resolution with conditions of approval for Planning Commission consideration.

Environmental Determination: The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities, involving negligible or no expansion of the existing or prior use.

Six ex-parte communications reported:

Chair Ereth reported he talked with local businesses around the site and had email and phone call exchanges with the applicant.

Vice Chair Toler reported zoom call with the applicant.

Commissioner Rojas reported email exchange with the applicant.

Commissioner Zich reported an on-site visit and conversations with the applicant's team.

Commissioner Taber reported having a brief conversation with the applicant's team.

Commissioner Vivar reported email exchange with the applicant's team and conversation with the local residents.

Michelle Halligan, Contract Planner, presented the staff report.

Commission and Staff:

Discussion ensued on zoning code applicable provisions, precautions and compatibility of use. Parking, clarification on neighborhood commercial designation in a CL zone, and land use provisions were also discussed.

Chair opened Public Hearing.

Chris Glew, applicant's representative, stated that he had read and agreed to the conditions of approval, with the exception of the staff proposed hours of operation limitation.

Commission, Applicant and Staff:

Discussion ensued on security, community outreach, and security. The applicant's business in other states and how they operate those businesses in a residential locations, the applicant's presentation and reasoning behind certain slides in their slideshow was also discussed.

The Chair opened Public comments.

PUBLIC COMMENT:

Christian Martinez, spoke in support of the item.

Speaker 2, spoke in support of the item.

Speaker 3, spoke in opposition of the item.

Speaker 4, spoke in opposition of the item.

The Chair closed the public comments.

Commission and Staff:

Discussion ensued on the proposed business hours and the Code Enforcement process if complaints are filled against the property.

The Chair closed the Public Hearing.

Chair made a motion to approve the project with hours proposed by staff, and subject to a change in condition of approval number 12 to revise requirement for the applicant to return in six-months for Planning Commission review, and instead allow the applicant to return for Planning Commission review if they choose to do so, and under the normal submittal process for a request to amend a previously approved Conditional Use Permit. The motion failed for lack of a second.

Commissioner Toler made a motion to approve the project subject to the modification of condition or approval number two (Operational Conditions) and to modify the staff proposed hours of operation from 7 AM to 10 PM. The motion failed for lack of a second.

Commissioner Zich made a motion to approve the project subject to the modification of condition or approval number two (Operational Conditions) and to modify the staff proposed hours of operation from 9 AM to 8 PM (as proposed by the applicant). The motion was seconded by Vice Chair Toler.

Commissioner Zich spoke on his motion.

Commissioner Toler spoke in support of the motion.

Commissioner Taber spoke in support of the motion.

Commissioner Vivar spoke in opposition of the motion.

Commissioner Andrade spoke in support of the motion.

Commissioner Rojas spoke in opposition of the motion.

Chair Ereth spoke in opposition of the motion.

MOVED/SECOND: Zich/Toler

MOTION: Move to approve PA-21-36, subject to conditions of approval with a modification of hours in Condition of Approval No. 2.

The motion carried by the following roll call vote:

Ayes: Toler, Andrade, Taber, Zich

Nays: Ereth, Rojas, Vivar

Absent: None

Recused: None

Motion carried: 4-3

ACTION: The Planning Commission adopted a resolution to:

1. Find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Existing Facilities); and
2. Approve Planning Application 21-36, subject to conditions of approval with a modification to a Condition of Approval No. 2.

MODIFIED CONDITION OF APPROVAL (OPERATIONAL):

Condition of Approval No. 2 to read: Onsite sales to customers is limited to the hours between 9:00 AM and 8:00 PM. Other change related to hours of operation were also modified for consistency based on the motion.

RESOLUTION PC-2023-04- A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-36 FOR A STOREFRONT RETAIL CANNABIS BUSINESS (CABRILLO COMMUNITY PROJECT LLC DBA NATIVE GARDEN) IN THE CL ZONE AT 167 CABRILLO STREET

The Chair explained the appeal process.

3. **PLANNING APPLICATION 22-34 FOR A CANNABIS MANUFACTURING, DISTRIBUTION, AND NON-STOREFRONT RETAIL FACILITY (“FABULOUS CREATIONS INC.”) AT 3505 CADILLAC AVENUE, UNIT M-202)**

Project Description: Planning Application 22-34 is a request for a Conditional Use Permit (CUP) to operate a cannabis non-volatile manufacturing, distribution, and non-storefront retail (delivery) facility within a 2,206-square-foot, second floor tenant space located at 3505 Cadillac Avenue, Unit M-202.

Environmental Determination: The project is categorically exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities (Class 1).

No ex-parte communications reported.

Christopher Aldana, Assistant Planner, presented the staff report.

Commission and Staff:

Discussion ensued on the shared workspace area, who would facilitate day-to-day operations, vehicles used for delivery and the type of extraction allowed at this facility.

The Chair opened Public Hearing.

Berry Fisher, applicant, stated he had read and agreed to the conditions of approval.

Commission, Applicant and Staff:

Discussion ensued on the applicants experience in the cannabis industry, day-to-day operations, compliance and security.

The Chair opened Public comments.

PUBLIC COMMENT:

No public comments.

The Chair closed public comments.

The Chair closed the Public Hearing.

Commissioner Vivar made a motion. Seconded by Commissioner Rojas.

Commissioner Vivar spoke on his motion.

Commissioner Zich spoke in opposition to the motion with specific concern regarding insufficient information to make the required conditional use permit findings.

Commissioner Taber spoke in support of the motion.

Chair Ereth spoke in support of the motion.

Nays: Zich
Absent: None
Recused: None
Motion carried: 6-1

ACTION: The Planning Commission adopted 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 15301 (Class 1) Existing Facilities; and
2. Approve Planning Application 22-34, subject to conditions of approval.

RESOLUTION PC-2023-05- A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 22-34 FOR A CANNABIS MANUFACTURING, DISTRIBUTION AND NON-STOREFRONT RETAIL FACILITY (“FABULOUS CREATIONS INC.”) AT 3505 CADILLAC AVENUE, UNIT M-202

The Chair explained the appeal process.

DEPARTMENTAL REPORT(S)

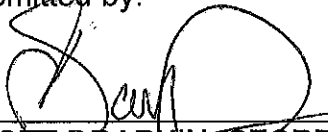
1. Public Services Report – None.
2. Development Services Report – Director Le reported on the study session that was held with Development Services and City Council.

CITY ATTORNEY’S OFFICE REPORT(S)

1. City Attorney – None.

ADJOURNMENT AT 9:30 P.M.

Submitted by:



SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION