

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

January 22, 2024

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Chair Ereth led the Pledge of Allegiance.

ROLL CALL

Present: Chair Adam Ereth, Commissioner Angely Andrade, Commissioner Johnny Rojas, Commissioner Vivar, Commissioner Jon Zich

Absent: Vice Chair Russell Toller, Commissioner Karen Klepack,

Officials Present: Director of Economic and Development Services Jennifer Le, Assistant Director of Development Services Scott Drapkin, Assistant City Attorney Tarquin Preziosi, Assistant Planner Caitlyn Curley, Contact Planner Michelle Halligan, City Engineer Seung Yang and Recording Secretary Anna Partida

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA:

None.

COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Vivar thanked those in attendance. He stated he was looking forward to the all the new year and all it has to bring for the Commission.

Commissioner Zich encouraged the public to voice their concerns and opinions.

Commissioner Andrade wished everyone a Happy New Year and reminded the public of the Fairview Development Center feed back session at the Senior Center.

Chair Ereth wished everyone Happy New Year and thanked those joining the meeting on Zoom.

CONSENT CALENDAR:

No member of the public nor Commissioner requested to pull a Consent Calendar item.

1. APPROVAL OF MEETING MINUTES: DECEMBER 11, 2023.

MOVED/SECOND: Vivar/Rojas

MOTION: Approve recommended action for Consent Calendar Item No. 1.

The motion carried by the following roll call vote:

Ayes: Ereth, Andrade, Rojas, Vivar, Zich

Nays: None

Absent: Toler, Klepack

Abstained: None

Motion carried: 5-0

ACTION: Planning Commission approved the minutes of the regular meeting of the December 11, 2023.

Jennifer Le introduced Cecilia Gallardo, the City's new Assistant City Manager and Administrative Services Director, and Bill Rodrigues the Development Services Departments new Planning and Sustainable Development Manager.

PUBLIC HEARINGS

1. LOCAL HISTORIC REGISTER FOR THE "LEROY ANDERSON HOUSE" (208 MAGNOLIA STREET)

Project Description: An application for placement of 208 Magnolia Street on the City's local Historic Register, and approval of a Mills Act Contract. The subject property is not currently listed on any historic registers but is identified in the 1999 Historic Resources Survey as eligible for local landmark designation and is also identified as a potential historical resource in the City's General Plan.

Environmental Determination: Exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) ("General Rule") in that there is no possibility that the addition of the Leroy Anderson House to the Local Register will have a significant impact on the environment.

One ex-parte communication reported.

Chair Ereth held a call with Newport-Mesa Unified School District executives, a Parks Commissioner and one member of the Historical Preservation Committee.

Caitlyn Curley, Assistant Planner, presented the staff report.

The Commission asked questions of staff including discussion of:

Commissioner Viviar asked staff if the entire property would be considered historic or only the structure. Staff responded that the structure would be designated historic. He continued his question by asking if the 1997 garage addition would be part of the historical designation. Staff stated it would be a part of the designation because the architectural integrity of the building was maintained.

Chair Ereth asked staff if the commission was to look at the additions to the property or only the original aspects of the house that were still standing. Staff responded that the historic review included the entire structure.

Commissioner Zich asked staff if the property owner could build an ADU. Staff responded that any changes to any Mills Act properties receive a Certificate of Appropriateness before changes can be made to an historic structure and that an ADU could be considered. Commissioner Zich asked if special permissions were required for all alterations the property owner would like to make. Staff responded that the property owner would need City permission to make any alterations. Zich asked about the required maintenance that needs to be completed on the property under the Mills Act. Staff responded that the owner could choose not to complete the maintenance. However, they would be subject to loss of any historic incentives at Councils' discretion.

Chair Ereth asked staff about the tax reduction the owner would receive for being part of the Mills Act. He stated that the tax reduction and the required property maintenance are not comparable; the owner would be paying more to maintain the historic integrity of the property. Staff responded that the tax reduction is only to assist the owner with the cost of the required maintenance. Chair Ereth asked staff what would happen if the property owner decided to withdraw from their Mills Act Contract before the necessary maintenance is to be completed.

Commissioner Andrade asked staff about how this designation would benefit the city. Staff responded informing the commission that there would be a plaque that would be provided to the property owner and staff would speak more with the historic society on community outreach efforts to encourage other potential historic properties to consider historic program involvement.

Chair Ereth inquired about the inspection fees that could be collected and asked staff if the property owner could pick and choose the required maintenance or do they have to follow the contract completely. Staff stated the maintenance timeline is somewhat flexible. The Chair asked staff about the future of the historic program and what they hoped to accomplish.

Commissioner Zich asked if the address of the historic sites are publicly available and what the benefits were for the City to enter into the Mills Act Contract with this property owner. Staff responded that the addresses are publicly available on the City's website and the benefit for the city is that it would help to maintain its historical integrity, which is considered a General Plan priority.

Commissioner Vivar asked staff if the last approved Mills Act property also has a plaque and if that property also has additions to the structure. Staff responded stating that the property was relocated, refurbished and a plaque will be offered to them. Commissioner Vivar asked if the Mills Contract runs with the land. Staff confirmed it does.

The Chair opened the Public Hearing.

The Chair opened public comments.

No public comments.

The Chair closed public comments.

The Chair closed the Public Hearing.

Commissioner Andrade made a motion. Seconded by Commissioner Rojas.

The Commission discussed the motion including excitement about maintaining the integrity of the city and those in opposition to the motion their concerns for community benefit and structural integrity.

MOVED/SECOND: Andrade/Rojas

MOTION: Approve staff's recommendation.

The motion carried by the following roll call vote:

Ayes: Ereth, Andrade, Rojas

Nays: Zich, Vivar

Absent: Toler, Klepack

Recused: None

Motion carried: 3-2

ACTION: The Planning Commission adopted a resolution to:

1. Recommend that the City Council designate the property on the City's local Historic Register by adoption of a City Council resolution; and
2. Recommend the City Council direct Planning staff to finalize a draft Mills Act Contract for City Council consideration and approval.

RESOLUTION PC-2024-01 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE THE ADDITION OF 208 MAGNOLIA STREET TO THE LOCAL HISTORIC REGISTER PURSUANT TO TITLE 13, ARTICLE 14 (HISTORIC PRESERVATION) OF THE COSTA MESA MUNICIPAL CODE AND APPROVE A MILLS ACT CONTRACT

The Chair explained the appeal process.

2. ORDINANCE TO AMEND TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE AND ORDINANCE TO AMEND TITLE 9 (LICENSES AND BUSINESS REGULATIONS) FOR MODIFICATIONS TO THE CITY'S RETAIL CANNABIS PROVISIONS

CMMC CODE AMENDMENT AND ORDINANCE NO. 2023-XX. The proposed code amendment that would modify Title 13 (Planning, Zoning, and Development) of the CMMC regarding the City's retail cannabis provisions and also includes requisite code modifications required in Title 9 (Business Licenses) that are specifically applicable to the City's retail cannabis program.

Environmental Determination: The ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) (General Rule).

Four ex-parte communications reported.

Commissioner Viviar received emails from two members of the public.

Commissioner Zich received two emails and had telephone conversations with members of the public. He also spoke with a cannabis applicant.

Commissioner Andrade received two emails from members of the public.

Chair Ereth received two emails from members of the public.

Michelle Halligan, Contract Planner, presented the staff report.

The Commission asked questions of staff including discussion of:

Commissioner Vivar asked staff about the Cannabis Business Permit (CBP) cap and if the CBP would be transferrable to a new owner. Staff responded by informing Commissioner Vivar that a new owner would have to go through the application CBP process, that the CBP does not run with the land and the operations require a renewal every two years.

Commissioner Andrade requested information on the process the city intends to take going from 30 CBPs to 15 CBPs. Staff responded explaining the application process and review requirements.

Commissioner Rojas asked for clarification on how many Cannabis applications are still in CBP process. Staff responded by explaining that the cannabis applications still waiting have the option to continue to wait or to withdraw their application.

Chair Ereth asked how many applications have received a notice to proceed to Planning Commission hearing. Staff stated there were approximately eight. He asked staff for clarification on when and how cannabis businesses report earnings to the city. Mr. Preziosi described that the Code allows staff to make reasonable requests for cannabis sales reports and that staff seeks to provide more clarity regarding quarterly reporting. The Chair also asked about the existing definition of a youth center. Mr. Preziosi responded that the City Council took the basis for the youth center definition from the State Health and Safety Code, which was established long before shopping centers frequently featured youth-oriented businesses, and updated the definition to exempt tutoring, martial arts studios, and similar youth-oriented businesses.

Commissioner Zich expressed that he would like the City Council to reconsider the definition of a youth center and other sensitive use separations. Staff showed a slide of the additional cannabis topics that were described by Commissioner Zich at the December 11, 2023, Planning Commission meeting for the public to see. The list reads as follows: Definition of a youth center; Separation from youth centric businesses; Adding separation from parks (not just playgrounds); Changing the process of evaluating existing nonconforming uses when applying for a conditional use permit; and establishing a separation from cannabis businesses and group and recovery homes.

Then Commissioner Andrade asked staff to investigate how Long Beach and other communities that allow cannabis retail uses define youth serving facilities to present to City Council for their consideration.

Chair Ereth continued his questions for staff and asked if the modifications regarding eligibility for cannabis applicants due to illegal activities could impact the applicant in the process of obtaining a CBP. Mr. Preziosi answered affirmatively, that proposed owners or operators could be determined to be ineligible to obtain a Cannabis Business Permit. The Chair asked staff why the code does not allow physicians to operate from cannabis storefronts. Assistant Director Drapkin responded that disallowing physicians from working and prescribing onsite reduce the issuance of unwarranted medical cannabis cards.

The Chair opened the Public Hearing.

The Chair opened public comments.

Candace Hawes, asked for the limitation on the number of storefronts, but wished the limit had been established before accepting applications.

Janet Loftus stated she preferred to not have cannabis storefronts in Costa Mesa. However, a limit to the number of dispensaries is an improvement from the current standard. Costa Mesa will have the highest number of cannabis storefronts per capita. She asked for health warnings to be posted on cannabis storefronts.

Priscilla Rocco stated she disapproves of the way the city has allowed multiple cannabis dispensaries in Costa Mesa. She stated there are too many for Costa Mesa's size. She spoke on impaired driving concerns, negative impacts on property values and crime. She commented cannabis will impact lower income neighborhoods the most and asked that cannabis shops not be allowed on paths to schools, parks, and youth centers. She urged the commission to not allow cannabis within 1,000 feet from bedrooms and front yards. Lastly, she stated she agrees with the signage conditions recommended in the staff report.

Alexander Haberbush stated the excessive concentration of cannabis storefronts threatens Costa Mesa's character, safety, economic stability, quality of life for the residents and viability of businesses. He commented that the potential for saturation exceeds what is reasonable in the community and a limit of 30 is far too high. He asked that the City implement buffer zones immediately to protect residential and commercial areas and establish a cap below 30.

The Chair closed public comments.

The Chair closed the Public Hearing.

The Commission asked staff further questions:

Andrade asked if staff could add a requirement for businesses to post health warnings in cannabis storefronts.

Commissioner Zich expressed concern that the city might not be the correct entity to create a cannabis health warning.

Chair Ereth motion to recommend first reading to City council. Seconded by Commissioner Rojas.

The Commission discussed the motion including how the proposed amendments do not reflect all the changes that each individual commissioner would like in the ordinance. However, the Commission stated they diligently debated the proposals with a lot of passion and strong supportive arguments.

MOVED/SECOND: Ereth/Rojas

MOTION: To recommend first reading to City Council.

The motion carried by the following roll call vote:

Ayes: Ereth, Andrade, Rojas, Vivar, Zich

Nays: None

Absent: Toler, Klepack

Recused: None

Motion carried: 5-0

ACTION: The Planning Commission adopted a resolution to:

1. Find that the project is categorically exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) in that the updates to the City's retail cannabis provisions will not have a significant impact on the environment; and
2. Recommend that the City Council give first reading to ordinances approving Code Amendment No. 2024-XX, amending portions of the Costa Mesa Municipal Code Title 13 (Planning Zoning, and Development), and Code Amendment No. 2024-XX, amending portions of Title 9 (Licenses and Business Regulations), both pertaining to retail cannabis storefront regulations.

RESOLUTION PC-2024-02 - RESOLUTION RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE TO AMEND THE CANNABIS RETAIL STOREFRONT PROVISIONS IN TITLE 13 (PLANNING, ZONING, AND DEVELOPMENT), CHAPTER IX (SPECIAL LAND USE REGULATIONS), ARTICLE 21 (LOCATION OF CANNABIS DISTRIBUTING, MANUFACTURING, RESEARCH AND DEVELOPMENT, TESTING LABORATOIES, RETAIL STOREFRONT AND RETAIL NONSTOREFRONT USES) OF THE COSTA MESA MUNICIPAL CODE

RESOLUTION PC-2024-03- RESOLUTION RECOMMENDING THAT THE CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE TO AMEND THE CANNABIS RETAIL STOREFRONT PROVISIONS IN TITLE 9 (LICENSES AND BUSINESS REGULATIONS), CHAPTER VI (CANNABIS BUSINESS PERMITS) OF THE COSTA MESA MUNICIPAL CODE

The Chair explained the appeal process.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

DEPARTMENTAL REPORTS

1. Public Works Report – None.
2. Development Services Report – None.

CITY ATTORNEY'S OFFICE REPORT

1. City Attorney – None.

The Commission all wished Jennifer Le farewell and the best of luck.

ADJOURNMENT AT 8:44 PM

Submitted by:



SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION