



City of Costa Mesa
PLANNING COMMISSION
Agenda

Monday, March 14, 2022

6:00 PM

City Council Chambers
77 Fair Drive

The Commission meetings are presented in a hybrid format, both in-person at City Hall and virtually via Zoom Webinar. Pursuant to the State of California Assembly Bill 361(Gov. Code §54953(b)(3)) Commission Members and staff may choose to participate in person or by video conference.

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1. Attending in person: If you are not fully vaccinated you are required to wear a mask while indoors at City Hall or the Council Chambers.
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- Select “Join Audio via Computer.”
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- During the Public Comment Period, use the “raise hand” feature located in the participants’ window and wait for city staff to announce your name and unmute your line when it is your turn to speak. Comments are limited to 3 minutes, or as otherwise directed.

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During the Public Comment Period, press *9 to add yourself to the queue and wait for city staff to announce your name/phone number and press *6 to unmute your line when it is your turn to speak. Comments are limited to 3 minutes, or as otherwise directed.

4. Additionally, members of the public who wish to make a written comment on a specific agenda item, may submit a written comment via email to the PCPublicComments@costamesaca.gov. Comments received by 12:00 p.m. on the date of the meeting will be provided to the Commission, made available to the public, and will be part of the meeting record.

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Note regarding agenda-related documents provided to a majority of the Commission after distribution of the agenda packet (GC §54957.5): Any related documents provided to a majority of the Commission after distribution of the Agenda Packets will be made available for public inspection. Such documents will be posted on the city's website and will be available at the City Clerk's office, 77 Fair Drive, Costa Mesa, CA 92626.

All cell phones and other electronic devices are to be turned off or set to vibrate. Members of the audience are requested to step outside the Council Chambers to conduct a phone conversation.

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As a LEED Gold Certified City, Costa Mesa is fully committed to environmental sustainability. A minimum number of hard copies of the agenda will be available in the Council Chambers. For your convenience, a binder of the entire agenda packet will be at the table in the foyer of the Council Chambers for viewing.

The City of Costa Mesa aims to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is currently provided, the Clerk's office will attempt to accommodate in a reasonable manner. Please contact the City Clerk's office 24 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible 714-754-5225 or at cityclerk@costamesaca.gov. El objetivo de la Ciudad de Costa Mesa es cumplir con la ley de Estadounidenses con Discapacidades (ADA) en todos los aspectos. Si como asistente o participante en esta reunión, usted necesita asistencia especial, más allá de lo que actualmente se proporciona, la oficina del Secretario de la Ciudad intentara de complacer en una forma razonable. Favor de comunicarse con la oficina del Secretario de la Ciudad con 24 horas de anticipación para informarnos de sus necesidades y determinar si alojamiento es realizable al 714-754-5225 o cityclerk@costamesaca.gov.

PLANNING COMMISSION REGULAR MEETING

Monday, March 14, 2022 - 6:00 P.M.

BYRON DE ARAKAL
Chair

JON ZICH
Vice Chair

DIANNE RUSSELL
Planning Commissioner

RUSSELL TOLER
Planning Commissioner

ADAM ERETH
Planning Commissioner

JOHNNY ROJAS
Planning Commissioner

JIMMY VIVAR
Planning Commissioner

TARQUIN PREZIOSI
Assistant City Attorney

JENNIFER LE
Director of Economic and
Development Services

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS AND PRESENTATIONS:

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA

Comments are limited to three (3) minutes, or as otherwise directed.

COMMISSIONER COMMENTS AND SUGGESTIONS

CONSENT CALENDAR:

All matters listed under the Consent Calendar are considered to be routine and will be acted upon in one motion. There will be no separate discussion of these items unless members of the Planning Commission, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar for discussion. The public can make this request via email at PCPublicComments@costamesaca.gov and should include the item number to be addressed. Items removed from the Consent Calendar will be discussed and voted upon immediately following Planning Commission action on the remainder of the Consent Calendar.

1. **MINUTES** **22-623**

RECOMMENDATION:

Planning Commission approve the Minutes of the meetings of February 22, 2021, March 8, 2021 and April 12, 2021.

Attachments: [02-22-21 Draft minutes](#)
[03-08-21 Draft minutes](#)
[04-12-21 Draft minutes](#)

PUBLIC HEARINGS:

NONE.

OLD BUSINESS:

1. **CANNABIS RETAIL STOREFRONT AND NON-STOREFRONT 22-619 REGULATIONS - INFORMATIONAL PRESENTATION**

RECOMMENDATION:

Staff recommends that the Planning Commission receive an informational presentation from staff, take public comment, and continue the item to the March 28, 2022 Planning Commission meeting.

Attachments: [Agenda Report](#)

NEW BUSINESS:

NONE.

DEPARTMENT REPORTS:

1. PUBLIC SERVICES REPORT

2. DEVELOPMENT SERVICES REPORT

CITY ATTORNEY REPORTS:

1. CITY ATTORNEY

ADJOURNMENT

Next Meeting: Planning Commission regular meeting, March 28, 2022 - 6:00 P.M.



City of Costa Mesa

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 22-623

Meeting Date: 3/14/2022

TITLE:

MINUTES

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

RECOMMENDATION:

Planning Commission approve the Minutes of the meetings of February 22, 2021, March 8, 2021 and April 12, 2021.

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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 Surender 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

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

March 8, 2021

Special Brown Act Training Session – 5:30 p.m.

Regular Meeting – 6:00 p.m.

CALL TO ORDER:

Chair de Arakal called the Special Brown Act Training Session Zoom webinar meeting to order at 5:30 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, Assistant City Attorney Tarquin Preziosi, City Engineer Seung Yang, City Clerk Brenda Green, and Recording Secretary Julie Colgan

ANNOUNCEMENTS AND PRESENTATIONS:

1. Chair de Arakal read a brief statement into the record regarding COVID-19, and how the Public can participate in the meeting.
2. Assistant City Attorney Tarquin Preziosi presented the Brown Act Training Session.
3. Chair de Arakal adjourned the Special Brown Act Training Session at 5:53 p.m.

REGULAR MEETING 6:00 P.M.:

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

PUBLIC COMMENTS ON ITEMS NOT LISTED ON THE AGENDA:

Chair de Arakal opened Public Comments at 6:01 p.m.

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- Caller 1: Wendy Leece, resident, spoke in opposition to the proposed Triangle LED signs.
- Caller 2: Cynthia McDonald, resident, inquired whether the Chair would allow comments from the Public on revisions to the proposed Triangle Square LED signs project. Chair de Arakal stated the public will be allowed to speak again on the matter.
- Caller 3: Steven Chan, resident, commented his original request about the noise from Smart and Final was 90 days prior. He asked the City to abate the public nuisance.
- Caller 4: Todd Martin, resident, inquired if the Triangle Square project agenda item has been continued. Chair de Arakal stated the Commission has not made a decision on the matter.
- Caller 5: Dale Luther, resident, inquired if his email regarding the Triangle Square project was received. Chair de Arakal stated it was received. The resident spoke in opposition to the proposed project.
- Caller 6: Unidentified caller spoke on ex-parte declarations and requested they include when Commissioners spoke to the members of City Council and/or the Applicant.
- Caller 7: Linda Morgan, resident, spoke in opposition to the Triangle Square project.

Chair de Arakal closed Public Comments at 6:15 p.m.

COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Russell announced the Parks and Community Services Park Hop Extravaganza event. She reminded everyone to vote in the March 9, 2021, OC Board of Supervisors election. She noted March 8, 2021, is International Women's Day – Theme is "A Challenged World is an Alert World".

Commissioner Stephens reminded everyone to vote in the March 9, 2021, OC Board of Supervisors election.

Commissioner Zich spoke about correspondence received earlier in the day regarding the Target Center and inquired if Code Enforcement is the best way to handle it. Director Le stated forwarding to Code Enforcement staff is the appropriate path.

Commissioner Tourje noted she was pleased the completed roadwork on the Westside included a bike lane designed for high visibility.

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Commissioner Toler briefed the Commission on www.wearetrellis.com and their event, Love Our City, on March 13, 2021 at 6:00 p.m. He also provided information on the Caltrans Active Transportation Plan survey, and he encouraged everyone to take the survey at www.survey.org/caltrans. He also spoke about the Housing Element and discussed renter versus landowner considerations.

Vice-Chair Colbert also noted it was International Women's Day. He addressed Mr. Chan and stated he has heard Mr. Chan's comments.

Chair de Arakal spoke about an article he recently read by Samuel J. Abrams regarding home ownership (Op-Ed: Is the dream of owning a home losing its appeal?).

CONSENT CALENDAR: None

PUBLIC HEARINGS:

1. ZONING APPLICATION 19-68 FOR A PLANNED SIGNING PROGRAM AND DEVELOPMENT AGREEMENT 20-01 FOR TRIANGLE SQUARE (1870 HARBOR BOULEVARD AND 1875 NEWPORT BOULEVARD)

Project Description: Zoning Application 19-68 is a request for a Planned Signing Program for Triangle Square to establish a new sign concept for the shopping center including electronic signs to be used for on- and off-site advertising. The project also includes a Development Agreement (DA-20-01) to be adopted by Ordinance in conjunction with the proposed Planned Signed Program. This item was continued from the April 13, 2020 and February 8, 2021 Planning Commission meetings.

Environmental Determination: This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15311 (Class 11) Accessory Structures.

Recommended Action: Staff recommends that the Planning Commission continue this item to the April 12, 2021 Planning Commission meeting.

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

Ex-parte communications: 1) Commissioner Stephens had telephone conversations with Cynthia McDonald, Todd Martin, Tyler Mateen, and Coralee Newman; he corresponded with Wendy Leece, Flo Martin, and Katie Arthur via email; 2) Commissioner Zich received a number of emails from the members of the public and exchanged comments with members of the public; 3) Vice-Chair Colbert corresponded with Wendy Leece, Katie Arthur and Dale Luther via email; 4) Commissioner Tourje received emails from members of the public; 5) Chair de Arakal had a telephone conversation with Coralee Newman; he received correspondence from Todd Martin and Dale Luther; 6) Commissioner Russell

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received several emails from members of the public; 7) Commissioner Toler received several emails from members of the public.

MOTION: A motion was made by Chair de Arakal to continue the Public Hearing to April 12, 2021.

Moved by Chair de Arakal, seconded by Commissioner Stephens.

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

Commissioner Stephens recused himself at 6:47 p.m., and left the meeting.

2. EXTENSION TO AND AMENDMENT OF THE SAKIOKA FARMS DEVELOPMENT AGREEMENT DA-99-02 (DA-20-03), SAKIOKA LOT 2, 14850 SUNFLOWER AVENUE

Project Description: An Ordinance to adopt the First Amendment to Development Agreement DA-99-02 (DA-20-03) to amend and extend the original Development Agreement established for Sakioka Farms Lot 2 (33 acres) for a period of ten years, to expire on May 15, 2031. The term of the existing Development Agreement expires on May 15, 2021.

Environmental Determination: The City finds that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061 (b) (3) (general rule) of the CEQA Guidelines because the amendment is merely a time extension for an existing development agreement and does not change the underlying project. In addition, the relevant environmental analysis contained in the approved 2015 – 2035 General Plan EIR (SCH No. 2015111053, June 2016) is still valid and applicable to the project such that no further environmental review is required.

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

1. Find that the project is categorically exempt from the provisions of CEQA per CEQA Guidelines Section 15061 (b) (3) (general rule) of the CEQA Guidelines because the amendment is merely a time extension for an existing development agreement and does not change the underlying project. In addition, the relevant environmental analysis contained in the approved 2015 – 2035 General Plan EIR (SCH No. 2015111053, June 2016) is still valid and applicable to the project such that no further environmental review is required; and

UNOFFICIAL UNTIL APPROVED

2. Give first reading to Ordinance 2021-xx to approve Development Agreement 20-03.

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 local residents and had a phone conversation with the Applicant; 2) Commissioner Zich received emails from community members and had a conversation with the Applicant; 3) Commissioner Stephens spoke with the Applicant and received an email from Kathy Esfahani; 4) Chair de Arakal had a telephone conversation with the Applicant, and received an email from Kathy Esfahani and spoke to her on the telephone.

Assistant Planner Katelyn Walsh gave the staff presentation.

Discussion with Commission and Staff included clarification of what City benefits would be lost if an extension was not granted, what the site would default to, the development summary under the existing Agreement, discretionary action of the master plan for future projects, clarification of why eminent domain is listed in the Agreement, definition of eminent domain and when it can be used, when the City last used eminent domain, future inclusionary housing ordinance, whether or not the site has been included in a previous Housing Element, traffic trips and maximum number of housing units on the site if developed, clarification of the status of the VMT and LOS traffic analysis guidelines update in relation to the Agreement (the City's traffic analysis guidelines were previously discussed and continued by the Commission), and clarification of the application to establish a U-Pick use at the subject site.

Chair de Arakal opened the Public Hearing at 7:56 p.m.

Applicant George Sakioka of Roy K. Sakioka & Sons, Amy Forbes, from Gibbs and Dunn, and Tony Petros, from LSA, gave their presentation.

PUBLIC COMMENTS:

Chair de Arakal opened Public Comments at 8:01 p.m.

- Caller 1: Kathy Esfahani, resident, requested the Commission let the 20-year-old agreement expire, and negotiate a better one.
- Caller 2: Cassius Rutherford, resident and renter, urged the Commission allow the agreement to expire.
- Caller 3: Linda (no last name given), resident, requested the Commission allow the agreement to expire, and explore the opportunity and potential of Lot 2 for affordable housing.

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Chair de Arakal closed Public Comments at 8:09 p.m.

Discussion with Commission, Applicant, and Staff included unit maximum, current land-use designation/regulations, current market conditions, inclusionary/affordable housing requirements, and reiteration of what the agreement will establish.

Chair de Arakal closed the Public Hearing at 8:32 p.m.

MOTION: A motion was made by Commissioner Zich to recommend that the City Council:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061 (b) (3) (general rule) of the CEQA Guidelines because the amendment is merely a time extension for an existing development agreement and does not change the underlying project. In addition, the relevant environmental analysis contained in the approved 2015 – 2035 General Plan EIR (SCH No. 2015111053, June 2016) is still valid and applicable to the project such that no further environmental review is required; and
2. Give first reading to Ordinance 21-xx to approve Development Agreement 20-03.

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

Chair de Arakal offered a substitute motion.

SUBSTITUTE MOTION: Recommend that the City Council give first reading to the Ordinance approving the extension of the Development Agreement, with the following negotiated additional provisions: 1) include a commitment to provide affordable housing as part of the residential component of the project; 2) agree to include the site as a housing opportunity site in the City's Housing Element with an identified density and number of units, and 3) if General Plan and zoning actions implementing the Housing Element are approved by the City and the public in compliance with Measure Y, as applicable, then the applicant agrees to build to the higher density and number of units including any affordable housing units required at that time.

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

Commissioner Zich discussed that he may not support the substitute motion.

Commissioner Russell will reluctantly support the substitute motion.

Assistant City Attorney Preziosi requested clarification on the substitute motion.

The substitute motion carried by the following roll call vote:

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Ayes: de Arakal, Colbert, Russell, Toler, Tourje, Zich
 Nays: None
 Absent: None
 Recused: Stephens
 Motion carried: 6 – 0

RESOLUTION PC-2021-03 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING THAT CITY COUNCIL GIVE FIRST READING TO AN ORDINANCE AUTHORIZING THE FIRST AMENDMENT TO DEVELOPMENT AGREEMENT 99-02 (DA-20-03) FOR SAKIOKA LOT 2 LOCATED AT 14850 SUNFLOWER AVENUE

Chair de Arakal announced a recess at 8:57 p.m.

Chair de Arakal reconvened the meeting at 9:10 p.m.

Commissioner Stephens re-entered the Council Chambers at 9:10 p.m.

3. ZONING APPLICATION 20-22 FOR A MINOR CONDITIONAL USE PERMIT TO ALLOW GROUP COUNSELING IN THE PLANNED DEVELOPMENT INDUSTRIAL (PDI) ZONE, LOCATED AT 3001 RED HILL AVENUE, BUILDING 4, UNIT 106

Project Description: Zoning Application 20-22 is a request for a Minor Conditional Use Permit (MCUP) to allow a group counseling use (New Directions for Women) to operate in the Planned Development Industrial (PDI) zone. New Directions for Women is located within an existing tenant space (3,148 square feet) at 3001 Red Hill Avenue, Building 4, Unit 106.

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.

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 Zoning Application 20-22, subject to conditions of approval.

Vice-Chair Colbert recused himself at 9:11 p.m., and left the meeting.

No ex parte communications.

Assistant Planner Katelyn Walsh presented the staff report.

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Chair de Arakal opened the Public Hearing at 9:22 p.m.

COMMISSIONER COMMENTS: None

Sue Bright of New Directions for Women stated she has read the staff report and agrees to the conditions of approval.

Sue Bright thanked staff and presented the proposed application.

Chair de Arakal opened Public Comments at 9:27 p.m.

PUBLIC COMMENTS: None

Chair de Arakal closed Public Comments at 9:28 p.m.

Chair de Arakal closed the Public Hearing at 9:28 p.m.

MOTION: A motion was made by Chair de Arakal 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 20-22, subject to conditions of approval.

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

The motion carried by the following roll call vote:

Ayes:	de Arakal, Russell, Stephens, Toler, Tourje, Zich
Nays:	None
Absent:	None
Recused:	Colbert
Motion carried:	6 – 0

RESOLUTION PC-2021-04 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING ZONING APPLICATION 20-22 FOR A MINOR CONDITIONAL USE PERMIT TO ALLOW GROUP COUNSELING IN THE PLANNED DEVELOPMENT INDUSTRIAL (PDI) ZONE, LOCATED AT 3001 RED HILL AVENUE, BUILDING 4, UNIT 106

DEPARTMENTAL REPORT(S):

1. Public Services Report – City Engineer Yang stated the Bear Street and Hamilton Street projects are complete.

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2. Development Services Report – Director Le gave an update on SCAG and the City's 11,760 unit RHNA allocation; She announced the City Council Study Session on the Housing Element will be held on March 23, 2021.

CITY ATTORNEY'S OFFICE REPORT(S):

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

ADJOURNMENT AT 9:33 P.M.:

Submitted by:

JENNIFER LE, SECRETARY
COSTA MESA PLANNING COMMISSION

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

**April 12, 2021
Regular Meeting – 6:00 p.m.**

CALL TO ORDER:

Chair de Arakal 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 Jenna Tourjé, Commissioner Dianne Russell, Commissioner Russell Toler, Commissioner Jon Zich

Officials Present: Director of Economic and Development Services Jennifer Le, Interim Assistant Director Susan Emery, City Clerk Brenda Green, Assistant Planner Justin Arios, Assistant City Attorney Tarquin Preziosi, City Engineer Seung Yang and Recording Secretary Julie Colgan

ANNOUNCEMENTS AND PRESENTATIONS: None.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA:

Caller one: Spoke on April being Distracted Drivers Month. She asked the Commission to make the “right decision” during the meeting to help limit distracted driving and keep the residents of Costa Mesa safe.

Caller Two: Provided staff a three-minute presentation about noise levels at a local supermarket (Smart & Final) to play for the Commissioners during the meeting.

Hengameh Abraham spoke in opposition to Public Hearing item number one.

Justin Michaels spoke in favor of Public Hearing item number one.

COMMISSIONER COMMENTS AND SUGGESTIONS:

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Commissioner Tourjé informed the public about the City's Pedestrian Master Plan process and how to participate in the study. She also spoke on the upcoming Costa Mesa Housing Element.

Commissioner Toler presented a slide show with instructions on how to participate in the Pedestrian Master Plan study and about walkability in the City of Costa Mesa.

Chair de Arakal commended the Orange County Fair for their Covid-19 vaccination system they have set up for the public. He also encouraged the public to get their Covid-19 vaccination.

CONSENT CALENDAR: None.

PUBLIC HEARINGS:

1. ZONING APPLICATION 19-68 FOR A PLANNED SIGNING PROGRAM AND DEVELOPMENT AGREEMENT 20-01 FOR TRIANGLE SQUARE (1870 HARBOR BOULEVARD AND 1875 NEWPORT BOULEVARD)

Project Description: This report is a continuation of the staff report from the February 8, 2021 Planning Commission meeting. This report provides additional information regarding the issues raised during the Planning Commission meeting, and describes the changes that have been made since that meeting.

Environmental Determination: The project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15311 (Class 11), Accessory Structures. This exemption consists of construction or placement of minor structures accessory to existing commercial, industrial, or institutional facilities. The project is for new on premise signs which are visually consistent with the existing commercial center and as designed have minimal impact to existing light levels, compared to existing conditions. The project is therefore consistent with this exemption.

Public comments were received on this item, provided to the Commissioners, and made a part of the record.

Six ex-parte communications to report:

Commissioner Toler reported a scheduled call with the representative of the applicant.

Commissioner Tourjé reported a scheduled conversation with the applicant's representative and several conversations with members of the community.

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Commissioner Zich reported a communication with the applicant's representative, several telephone calls with Costa Mesa residents, received emails from Costa Mesa residents and conducted his own research on the item.

Commissioner Russell reported two phone calls with the applicant and multiple conversations with members of the community.

Vice Chair Colbert reported a number of conversations with the applicant's representative, conversations with members of the community, as well as emails from residents.

Chair de Arakal reported a telephone conversation with the applicants representative, telephone conversations with members of the community, and received emails from multiple members of the community.

Justin Arios, Assistant Planner, presented the staff report.

Commission questions included:

Commissioner Zich asked whether the City or the applicant would be responsible for retaining an attorney in the event of an accident, with a claim of driver distraction due to the proposed signs. He also asked about the insurance that the applicant would provide for the City and asked staff for specifics on prohibited advertisements.

Commissioner Tourjé asked how the intent of the sign codes were interpreted for residential zones when the code says all zones are prohibited from having signs with flashing, moving lights.

Chair de Arakal asked for clarification on advertisement slots the city is allocated.

Chair de Arakal clarified that the public hearing remained open from the prior meeting.

Cora Newman, the applicant's representative, presented an informational slide show.

Commission questions continued:

Commissioner Zich asked the applicant about light levels, and how they came to their calculations of the light levels of the proposed signs. He also asked the applicant when they acquired the property and what the vacancy rate was when they acquired the property. He also inquired about the revenue projections.

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Commissioner Tourjé asked the applicant whether they conducted a market feasibility study to identify alternatives to digital advertising for revenue generation. She also inquired about the dimmable lighting for the digital signs and correlation with safety.

Vice Chair Colbert asked the applicant whether their projections for revenue from digital signs exceed one million with the change of ad duration from eight seconds to twenty seconds. He asked the applicant if the Council did not approve the project, how they would reevaluate to improve their branding.

PUBLIC COMMENT:

Andrew John, resident, spoke in support of the item.

Flo Martin spoke in opposition of the item.

Shaan Metha, resident and business owner, spoke in support of the item.

Eric Lee, business owner, spoke in support of the item.

Ian Humphry, business owner's representative, spoke in support of the item.

Katie Arthur spoke in opposition of the item.

Andrew Wagner-Trugman, resident, spoke in support of the item.

Todd Martian, resident, spoke in opposition of the item.

Vera Wilder, resident, spoke in support of the item.

Rick Huffman, spoke in opposition of the item.

Caller Eleven, resident, spoke in support of the item.

Danny James, business owner, spoke in support of the item.

Clayton Benton, business manager, spoke in support of the item.

Austin Knight, business owner representative, spoke in support of the item.

Sherri Hudson, resident and business owner, spoke in support of the item.

Jeff Folly, resident and leasing representative of triangle square, spoke in support of the item.

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Matthew Motrin, business owner, spoke in support of the item.

Caller Eighteen spoke in support of the item.

Linda Morgan, resident, spoke in opposition of the item.

Caller Twenty, resident, spoke in opposition of the item.

Wendy Leece, resident, spoke in opposition of the item.

Carla Valenzuela, Chamber of Commerce Representative, spoke in support of the item.

Dale Lutheran, spoke in opposition of the item.

Lauren King, resident, spoke in opposition of the item.

Caller Twenty-five, resident, spoke in opposition of the item.

Caller Twenty-six, resident, spoke in opposition of the item.

Ben Chapman, resident, spoke in opposition of the item.

Cynthia McDonald, resident, spoke in opposition of the item.

Herb Mitel, resident, spoke in opposition of the item.

Holly Locie, resident, spoke in support of the item.

Tom Arnold, resident, spoke in opposition of the item.

Michael Mosses-Knoll, resident, spoke in opposition of the item.

Daniel Folly, resident, spoke in support of the item.

Caller Thirty-four spoke in opposition of the item.

Barbara Ecken, resident, spoke in opposition of the item.

Caller Thirty-six, facility manager for Triangle Square, spoke in support of the item.

Ashtyn Mogavin, resident, spoke in support of the item.

Caller Thirty-eight, spoke in opposition of the item.

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George Kashagian, resident, spoke in support of the item.

Paya Abgi, business owner, spoke in support of the item.

Chair de Arakal paused the meeting for a ten minute break.

Commission, Applicant and staff discussion included:

Chair de Arakal asked the applicant about the purpose of the signs and whether or not the purpose was to generate income. He also asked if the project would be viable if there was no third party advertising allowed. He inquired how third party signs would entice the public to visit Triangle Square. He also asked the applicant discuss the “special circumstance” behind the request for electronic signs, in light of Ordinance Section 13-1-16. He asked Mr. Arios in past projects where LED display signs were approved, under a Planned Sign Program, if any off site advertising was allowed or permitted. He inquired with staff what they felt was the special circumstance that supported approval of the LED signs. He asked the applicant what the timeline was for the construction of the signs.

Vice Chair Colbert asked Ms. Rosales about the timing for the light cycle at the intersection of 19th and Newport. He asked Mr. Arios about the types of deviations from code requirements that were being requested, and if the deviations are consistent with other plan signing programs throughout the City. He clarified his question by asking staff if there was a history of Planned Sign Programs with deviations. He also asked in the event of the site sale, whether the entitlements go with the site and whether the terms would have to be agreed upon with the new owner.

The Chair closed the public hearing.

Commissioner Toler moved a recommendation to City Council denying Zoning Application 19-68 and Development Agreement 20-01. Seconded by Commissioner Zich.

Commissioner Toler stated he is not in support of the project for two reasons. One, the proposed project is not consistent with sign code. Two, granting this applicant’s request will make it harder to say no to future applicant’s that ask for the same privileges. He also stated that the residents have expressed that this is not a project that they are in favor of.

Commissioner Zich stated he was in support of the motion. He stated that approving the project seems to be a grant special privilege. He stated that the public benefit from the Development Agreement is not sufficient, although the DA provides revenue for the City; it is not very much and is not worth the cost of the

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impact. He believes the project will have a negative effect on the public's health, safety and general welfare.

Commissioner Tourjé stated she is in support of the motion. She stated she feels that the project does not meet the findings that would compel her to make a recommendation for approval to council.

Commissioner Russell stated she was in support of the motion. She stated she did not want to put the residents and the City in a situation that would negatively affect them.

Vice Chair Colbert stated, he was in support of the motion due to community concerns.

Chair de Arakal stated he was in support of the motion. He stated that the project as proposed does not allow him to make findings that are consistent with the ordinance. He suggested that Council could explore a scaled down version of the digital signs as long as there is no third party advertising.

MOVED/SECOND: Toler/Zich

MOTION: Planning Commission recommends that the City Council deny Zoning Application 19-68 and Development Agreement 20-01.

The motion carried by the following roll call vote:

Ayes: de Arakal, Colbert, Russell, Toler, Tourjé, Zich

Nays: None

Absent: None

Recused: None

Motion carried: 6-0

ACTION: Planning Commission adopted a Resolution recommending denial of Zoning Application 19-68 and Development Agreement 20-01.

RESOLUTION PC-2021-08 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL DENY DEVELOPMENT AGREEMENT 20-01 AND ZONING APPLICATION 19-68 FOR A PLANNED SIGNING PROGRAM FOR TRIANGLE SQUARE LOCATED AT 1870 HARBOR BOULEVARD AND 1875 NEWPORT BOULEVARD

OLD BUSINESS: None.

NEW BUSINESS: None.

DEPARTMENTAL REPORT(S):

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1. Public Services Report: Mr. Yang informed the public of upcoming walk audits, and how the community can participate in them. He also stated the City was working on a residential parking study.
2. Development Services Report: Ms. Le discussed the upcoming City Council study session on April 27, 2021 regarding the City's housing element.

CITY ATTORNEY'S OFFICE REPORT(S)

1. City Attorney- none.

ADJOURNMENT AT 11:42 P.M.

Submitted by:

JENNIFER LE, SECRETARY
COSTA MESA PLANNING COMMISSION



City of Costa Mesa

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 22-619

Meeting Date: 3/14/2022

TITLE:

**CANNABIS RETAIL STOREFRONT AND NON-STOREFRONT REGULATIONS -
INFORMATIONAL PRESENTATION**

**DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICE DEPARTMENT/PLANNING
DIVISION**

PRESENTED BY: SCOTT DRAPKIN, ASSISTANT DIRECTOR

**CONTACT INFORMATION: SCOTT DRAPKIN, (714) 754-5278;
scott.drapkin@costamesaca.gov**

RECOMMENDATION:

Staff recommends that the Planning Commission receive an informational presentation from staff, take public comment, and continue the item to the March 28, 2022 Planning Commission meeting.

APPLICANT OR AUTHORIZED AGENT:

City of Costa Mesa.

BACKGROUND:

On February 28, 2022, staff provided the Planning Commission an informational presentation to assist and prepare the Commission for the upcoming retail cannabis related Conditional Use Permit reviews. The presentation focused on several topics that included:

- A background, timeline and summary of the City's cannabis regulations;
- A description of the types of cannabis related businesses that are permitted in the City with specific emphasis on retail cannabis uses;
- A summary of the applicable Costa Mesa Municipal Code regulations relating to cannabis permitting (including location requirements, development standards, and operational requirements);
- A discussion of the City's cannabis permitting process (including pre-application review, ownership requirements/background checks, business plan review, security plan review and building and safety review);
- A review of the City's applicable Conditional Use Permit (CUP) findings; and
- A summary of the cannabis retail applications under review.

At the public hearing, staff presented the aforementioned information and afterwards responded to

Commissioner questions. Several questions and comments were detailed and necessitated further research and consideration by staff. The Planning Commission continued the item to the March 14 meeting for additional information and discussion.

DESCRIPTION:

During the February 28, 2022 Planning Commission public hearing, the Commission requested additional information and staff clarifications on the following 12 specific topics pertaining to cannabis retail:

1. Cannabis retail establishment separation requirements;
2. Security requirements;
3. Parking requirements;
4. Advertising regulations;
5. Public noticing requirements;
6. Status of existing businesses/sites for proposed retail cannabis establishments;
7. Background checks and cannabis business permit (CBP) requirements (capitalization assessments);
8. Traffic impact analysis requirements and potential traffic related impacts;
9. Conditional use permit findings related to proposed cannabis retail establishments;
10. Cannabis business taxes;
11. Cannabis establishment compliance with the California Environmental Quality Act (CEQA);
and
12. Liquidation of cannabis inventories after establishment closures.

In consideration of the complexity of the above topics, staff have bifurcated the further Planning Commission consideration of retail cannabis into two public meetings. Topics one through six (1-6) will be discussed at the March 14, 2022 Planning Commission meeting and the remaining topics will be discussed at the March 28, 2022 Planning Commission meeting. Dividing the topics will allow the Planning Commission and the public sufficient time to discuss and consider the issues.

Minimum Cannabis Retail Establishment Separation Requirements

Pursuant to the Costa Mesa Municipal Code (CMMC) Section 13.200.93(e), cannabis retail establishments shall not be located within 1,000 feet from a “K-12 school, playground, child daycare, or homeless shelter, or within six hundred (600) feet from a youth center, that is in operation at the time of submission of a completed cannabis business permit application.” The CMMC further states that distances shall be measured in a straight line (“as the crow flies”) from the premises where the cannabis retail use is to be located to the closest property line of a K-12 school, playground, child daycare, homeless shelter or youth center. When cannabis establishments are proposed near the City’s boundaries, the distances shall also include K-12 school, playground, child daycare, homeless shelter or youth centers in adjacent cities. Lastly, the property line of a playground shall be measured

from a thirty (30) foot radius from the exterior physical boundaries of the playground equipment area. There are no separation requirements between cannabis retail establishments. The Ordinance also does not establish a cap on number of establishments, though the Council may establish a cap by Resolution at its discretion.

At the previous presentation, one of the Planning Commissioner asked if the City's adopted cannabis regulations would prohibit "new" K-12 school, playground, child daycare, homeless shelter or youth centers to operate within the same prescribed distances from an established cannabis retail use. In response, staff has confirmed that these regulations are only applicable to cannabis establishments and new K-12 school, playground, child daycare, homeless shelter or youth centers would not be subject to cannabis related distance requirements.

Although not related specifically to distance requirements, CMMC 13.200.93(e) also specifies that if a property proposed for a cannabis establishment has been involved in any unpermitted and/or illegal cannabis activity involving sales, delivery and/or dispensing, no new cannabis permits can be obtained for one-year from the date since that unpermitted and/or illegal cannabis activity has vacated the property, and the owner of that property has compensated the City for any and all expenditure of public funds and resources relating to the abatement of the previous unpermitted/illegal use.

Security Requirements for Cannabis Retail Establishments

The security requirements for cannabis retail establishments are specified separately in the Municipal Code under Title 13.200.93(f) - *Cannabis Retail Storefront and Non-Storefront Uses* and Title 9-495 (b) - *Cannabis Business Permits*. Collectively, the aforementioned Code provisions require the following cannabis retail security measures:

- At least one (1) licensed private security guard shall be present twenty-four (24) hours per day;
- Security exterior lighting shall be provided as approved by the City;
- Continuous video monitoring and recording of the interior and exterior of the premises shall be provided and must include video of all entryways and exits. All video recordings shall be maintained for a minimum of ninety (90) days;
- Both the private security guard and the business personnel shall monitor the premises and the immediate vicinity of the premises to ensure that patrons immediately leave the premises and do not consume cannabis in the vicinity of the retail business or on the property or in the parking lot, and shall ensure that persons do not loiter, linger, or otherwise congregate;
- All cannabis products shall be secured after business hours in a locked container under twenty-four (24) hour video surveillance;
- The general public shall not be permitted to enter the premises of a non-storefront (delivery) retail use;
- A cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis business. These security

measures shall include:

1. Establishing limited access areas accessible only to authorized cannabis business personnel;
 2. Sensors shall be installed to detect entry and exit from all secure areas;
 3. A professionally maintained and monitored alarm system shall be installed;
 4. Any bars to be installed on the windows or the doors of the cannabis business for security purposes, if permitted by the City, shall be installed only on the interior of the building;
 5. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services Personnel; and
 6. Each cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- Each cannabis business shall identify a designated security representative/liaison to the City, who shall be available to meet with the City Manager or designee regarding any security related measures and/or operational issues;
 - A cannabis business shall notify the City Manager or designee within twenty-four (24) hours after discovering any significant discrepancies identified during inventory or a diversion, theft, loss, or any criminal activity involving the cannabis business;
 - Hours of operation shall be limited to: 7:00 a.m. to 10:00 p.m. daily. No licensed retail business shall be open to the public between the hours of 10:01 p.m. and 6:59 a.m.; and
 - Any delivery employee shall not carry cannabis goods valued in excess of five thousand dollars (\$5,000.00);

When applicable, the aforementioned security requirements are included in the application and on the plans prior to Planning Commission review of the Conditional Use Permit (CUP). Development Services staff along with the City's expert cannabis consultant confirm the security improvements and operations are installed prior to release of the Cannabis Business Permit (CBP) and City business license.

Parking Requirements for Cannabis Establishments

The City's non-residential parking provisions specify that parking compliance shall be considered when a new building is constructed, an existing building is increased in floor area and when the use changes that requires additional parking. The City's non-residential parking provisions categorize numerous non-residential uses, including, but not limited to, retail, office, industrial, food and beverage establishments, banks, furniture stores, hotels and shopping centers. Similar to most jurisdictional parking standards, the City's parking provisions do not include a category for all potential non-residential establishments and instead specify under CMMC Section 13-90, the parking requirements for the uses not specified shall be determined by the Planning Division and shall be

based upon the requirements for the most comparable use specified in the parking provisions or other appropriate sources.

Retail sales of cannabis is not specifically identified by the CMMC and therefore the Planning Division has determined the most comparable use specified in the City’s parking provisions to be the “retail” parking category. This category requires four (4) spaces for every 1,000 square feet of floor area. Additionally, prior to determining the appropriate parking demand for retail cannabis establishments, staff researched several other cities that permit cannabis dispensaries and their cannabis parking regulations. The below Table A lists several cities and their applicable cannabis related parking requirements. Six of the seven cities use their typical retail parking standards for cannabis dispensaries and five of those six cities use the same retail parking demand as Costa Mesa (four parking spaces per 1,000 square feet). The City of Palm Springs requires slightly less parking than Costa Mesa (one space per 300 square feet while the City of Santa Ana requires slightly more parking (one space per 200 square feet).

TABLE A		
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Santa Rosa	Retail	4 space per 1,000 s.f.
Napa	Retail	4 space per 1,000 s.f.

Lastly, as with numerous development sites in the City (non-residential and residential), several sites were developed prior to the current parking regulations and therefore do not provide the minimum required parking. These sites are considered legal nonconforming and are regulated pursuant to CMMC Section 13-204 (*Nonconforming Provisions*). The City’s nonconforming provisions specify that for a conforming use (a use that is permitted/allowed) proposed in a nonconforming development (an existing and legally established development which no longer conforms to the development standards required by this Zoning Code), if a change of use is proposed which has equivalent or less parking requirement than the current/previous use, the proposed use can change without complying with the current parking requirements. Pursuant to the CMMC, retail cannabis establishments are allowed in all of the City’s commercial zones. Since the majority of the proposed cannabis retail locations are/were used by retail businesses that required four parking space per 1,000 square feet of floor area, many of the City’s proposed retail cannabis establishments will not be required to provide additional parking in order to comply with minimum code requirements.

Advertising Regulations Related to Cannabis Retail Establishments

In addition to the City’s general signage provisions adopted under Title 13, Chapter 8, the City’s cannabis regulations provide specific signage requirements for cannabis retail establishments. For example, the CMMC specifies that cannabis business identification signage shall be limited to that needed for identification only and that graphics depicting cannabis or cannabis products shall not be visible from the exterior of any property, or on any of the vehicles owned or used as part of the

cannabis business. Additionally, outdoor storage of cannabis or cannabis products is not permitted. Further, directional signage such as A-frame signs, sandwich board signs, banners, or flags are prohibited, and cannabis establishments shall not advertise by having a person holding a sign and advertising the business to passersby. Lastly, the entrance to a cannabis business shall be visibly posted with a notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited.

At the previous Planning Commission cannabis presentation, one of the Commissioners requested information in regard to the ability of a cannabis establishment to distribute flyers that advertise their business and products. Pursuant to the CMMC - Article 3 (*Handbill Circulation*), the City regulates printed and written advertising such as leaflets and pamphlets both on public and private property. Primarily, this provision prohibits the dissemination of this type of advertising, with the exception of dissemination to "any person willing to accept it." The City's "handbill" provisions also regulate the hours of distribution of this applicable advertising to generally only daytime hours. Lastly, the State Business and Professions Code restricts cannabis establishments from publishing and/or disseminating advertising or marketing that is attractive to children. The Commission may consider appropriate conditions of approval in order to avoid litter and inadvertent dissemination of flyers to minors.

Public Noticing Requirements

Pursuant to the CMMC, cannabis retail storefront and non-storefront (delivery) CUP and MCUP application reviews require public noticing. No less than ten (10) days prior to the hearing or determination on the cannabis CUP or MCUP application, the notices are mailed to all property owners and occupants within a five hundred (500) foot radius of the project site, and a notice is posted on the site's street frontages. Retail cannabis establishment entitlements subject to CUPs require noticing in the newspaper as well.

Status of Existing Businesses/Sites for Proposed Retail Cannabis Establishments

At the previous Planning Commission retail cannabis presentation, Commissioners were interested in the status of the existing businesses/sites for proposed retail cannabis locations. The businesses in these locations include/included a variety of retail establishments such as take-out restaurants, chiropractic and marketing offices, boat storage, a hot tub showroom, a dry cleaners, a jewelry store/pawnshop, BBQ sales, a fitness studio, a flower shop, automobile repair and supplies, pet grooming and a donut shop. At this time, approximately 35 cannabis CUP applications are under review and for approximately half of these locations, the retail sites are currently occupied. For the proposed retail cannabis locations that are vacant, staff has spoken with many of the property owners and the previous tenants and gathered some of the following anecdotal information. Some property owners, who also operated their businesses at these sites have decided to move or close their existing businesses to allow the space to be leased to a cannabis business. Several of the commercial sites proposed for cannabis retail were vacant prior to the adoption of Measure Q and remain vacant. Several previous tenants were paid to move and are relocating their businesses in other commercial areas in the City. Lastly and worth mentioning, several of the cannabis retail establishments are replacing existing tenants and properties that have had histories of code enforcement actions relating to business operations and site maintenance.

Next Steps

After the staff presentation to the Planning Commission, the Planning Commission is encouraged to ask any questions of staff, and open the presentation for public comments. Following the Commissioners' questions and public comments, staff is recommending that the Planning Commission continue this item to the March 28, 2022 Planning Commission meeting. The March 28th agenda item and presentation will focus on providing information relating to the following topic areas:

1. Cannabis retail establishment background checks and cannabis business permit (CBP) requirements (capitalization assessments);
2. Traffic impact analysis requirements and potential traffic related impacts;
3. Conditional use permit (CUP) findings related to proposed cannabis retail establishments;
4. Cannabis business taxes;
5. Cannabis establishment compliance with the California Environmental Quality Act (CEQA);
and
6. Liquidation of cannabis inventories after establishment closures.

After the March 28, 2022 presentation, staff will begin to prepare for scheduling cannabis retail CUP applications for Planning Commission consideration.

ANALYSIS:

This agenda item is limited to providing an informational presentation to the Planning Commission. Additional detail will also be provided in the staff presentation.

GENERAL PLAN CONFORMANCE:

This agenda report is limited to providing an informational presentation to the Planning Commission and therefore General Plan conformance is not applicable.

FINDINGS:

This agenda report is limited to providing an informational presentation to the Planning Commission and no decisions will be made by the Planning Commission.

ENVIRONMENTAL DETERMINATION:

In accordance with the California Environmental Quality Act (CEQA) Guidelines, the staff presentation is an exempt activity pursuant to Sections 15060(c)(1),(2)&(3) and 15061(b)(3). The presentation is not a "project" under CEQA.

ALTERNATIVES:

This agenda report is limited to providing an informational presentation to the Planning Commission with no associated decisions; therefore alternative actions are not applicable.

LEGAL REVIEW:

The City Attorney has approved this report as to form.

PUBLIC NOTICE:

Pursuant to the Brown Act, this item was posted on the Agenda 72 hours prior to the meeting. Staff has provided a courtesy notification by email to the cannabis industry and members of the public who have requested information via a cannabis subject matter interest list.

CONCLUSION:

Staff will be providing the Planning Commission with an informational presentation regarding the City's adopted cannabis ordinances and upcoming review of Conditional Use Permits relating to retail cannabis applications. The Planning Commission will receive a presentation by staff, may ask staff any questions, and open the item for public comment. This agenda item is informational only and no decisions will be made.



City of Costa Mesa

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 22-619

Meeting Date: 3/14/2022

TITLE:

**CANNABIS RETAIL STOREFRONT AND NON-STOREFRONT REGULATIONS -
INFORMATIONAL PRESENTATION**

**DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICE DEPARTMENT/PLANNING
DIVISION**

PRESENTED BY: SCOTT DRAPKIN, ASSISTANT DIRECTOR

**CONTACT INFORMATION: SCOTT DRAPKIN, (714) 754-5278;
scott.drapkin@costamesaca.gov**

RECOMMENDATION:

Staff recommends that the Planning Commission receive an informational presentation from staff, take public comment, and continue the item to the March 28, 2022 Planning Commission meeting.

APPLICANT OR AUTHORIZED AGENT:

City of Costa Mesa.

BACKGROUND:

On February 28, 2022, staff provided the Planning Commission an informational presentation to assist and prepare the Commission for the upcoming retail cannabis related Conditional Use Permit reviews. The presentation focused on several topics that included:

- A background, timeline and summary of the City's cannabis regulations;
- A description of the types of cannabis related businesses that are permitted in the City with specific emphasis on retail cannabis uses;
- A summary of the applicable Costa Mesa Municipal Code regulations relating to cannabis permitting (including location requirements, development standards, and operational requirements);
- A discussion of the City's cannabis permitting process (including pre-application review, ownership requirements/background checks, business plan review, security plan review and building and safety review);
- A review of the City's applicable Conditional Use Permit (CUP) findings; and
- A summary of the cannabis retail applications under review.

At the public hearing, staff presented the aforementioned information and afterwards responded to

Commissioner questions. Several questions and comments were detailed and necessitated further research and consideration by staff. The Planning Commission continued the item to the March 14 meeting for additional information and discussion.

DESCRIPTION:

During the February 28, 2022 Planning Commission public hearing, the Commission requested additional information and staff clarifications on the following 12 specific topics pertaining to cannabis retail:

1. Cannabis retail establishment separation requirements;
2. Security requirements;
3. Parking requirements;
4. Advertising regulations;
5. Public noticing requirements;
6. Status of existing businesses/sites for proposed retail cannabis establishments;
7. Background checks and cannabis business permit (CBP) requirements (capitalization assessments);
8. Traffic impact analysis requirements and potential traffic related impacts;
9. Conditional use permit findings related to proposed cannabis retail establishments;
10. Cannabis business taxes;
11. Cannabis establishment compliance with the California Environmental Quality Act (CEQA);
and
12. Liquidation of cannabis inventories after establishment closures.

In consideration of the complexity of the above topics, staff have bifurcated the further Planning Commission consideration of retail cannabis into two public meetings. Topics one through six (1-6) will be discussed at the March 14, 2022 Planning Commission meeting and the remaining topics will be discussed at the March 28, 2022 Planning Commission meeting. Dividing the topics will allow the Planning Commission and the public sufficient time to discuss and consider the issues.

Minimum Cannabis Retail Establishment Separation Requirements

Pursuant to the Costa Mesa Municipal Code (CMMC) Section 13.200.93(e), cannabis retail establishments shall not be located within 1,000 feet from a “K-12 school, playground, child daycare, or homeless shelter, or within six hundred (600) feet from a youth center, that is in operation at the time of submission of a completed cannabis business permit application.” The CMMC further states that distances shall be measured in a straight line (“as the crow flies”) from the premises where the cannabis retail use is to be located to the closest property line of a K-12 school, playground, child daycare, homeless shelter or youth center. When cannabis establishments are proposed near the City’s boundaries, the distances shall also include K-12 school, playground, child daycare, homeless shelter or youth centers in adjacent cities. Lastly, the property line of a playground shall be measured

from a thirty (30) foot radius from the exterior physical boundaries of the playground equipment area. There are no separation requirements between cannabis retail establishments. The Ordinance also does not establish a cap on number of establishments, though the Council may establish a cap by Resolution at its discretion.

At the previous presentation, one of the Planning Commissioner asked if the City's adopted cannabis regulations would prohibit "new" K-12 school, playground, child daycare, homeless shelter or youth centers to operate within the same prescribed distances from an established cannabis retail use. In response, staff has confirmed that these regulations are only applicable to cannabis establishments and new K-12 school, playground, child daycare, homeless shelter or youth centers would not be subject to cannabis related distance requirements.

Although not related specifically to distance requirements, CMMC 13.200.93(e) also specifies that if a property proposed for a cannabis establishment has been involved in any unpermitted and/or illegal cannabis activity involving sales, delivery and/or dispensing, no new cannabis permits can be obtained for one-year from the date since that unpermitted and/or illegal cannabis activity has vacated the property, and the owner of that property has compensated the City for any and all expenditure of public funds and resources relating to the abatement of the previous unpermitted/illegal use.

Security Requirements for Cannabis Retail Establishments

The security requirements for cannabis retail establishments are specified separately in the Municipal Code under Title 13.200.93(f) - *Cannabis Retail Storefront and Non-Storefront Uses* and Title 9-495 (b) - *Cannabis Business Permits*. Collectively, the aforementioned Code provisions require the following cannabis retail security measures:

- At least one (1) licensed private security guard shall be present twenty-four (24) hours per day;
- Security exterior lighting shall be provided as approved by the City;
- Continuous video monitoring and recording of the interior and exterior of the premises shall be provided and must include video of all entryways and exits. All video recordings shall be maintained for a minimum of ninety (90) days;
- Both the private security guard and the business personnel shall monitor the premises and the immediate vicinity of the premises to ensure that patrons immediately leave the premises and do not consume cannabis in the vicinity of the retail business or on the property or in the parking lot, and shall ensure that persons do not loiter, linger, or otherwise congregate;
- All cannabis products shall be secured after business hours in a locked container under twenty-four (24) hour video surveillance;
- The general public shall not be permitted to enter the premises of a non-storefront (delivery) retail use;
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measures shall include:

1. Establishing limited access areas accessible only to authorized cannabis business personnel;
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 4. Any bars to be installed on the windows or the doors of the cannabis business for security purposes, if permitted by the City, shall be installed only on the interior of the building;
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 6. Each cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- Each cannabis business shall identify a designated security representative/liaison to the City, who shall be available to meet with the City Manager or designee regarding any security related measures and/or operational issues;
 - A cannabis business shall notify the City Manager or designee within twenty-four (24) hours after discovering any significant discrepancies identified during inventory or a diversion, theft, loss, or any criminal activity involving the cannabis business;
 - Hours of operation shall be limited to: 7:00 a.m. to 10:00 p.m. daily. No licensed retail business shall be open to the public between the hours of 10:01 p.m. and 6:59 a.m.; and
 - Any delivery employee shall not carry cannabis goods valued in excess of five thousand dollars (\$5,000.00);

When applicable, the aforementioned security requirements are included in the application and on the plans prior to Planning Commission review of the Conditional Use Permit (CUP). Development Services staff along with the City's expert cannabis consultant confirm the security improvements and operations are installed prior to release of the Cannabis Business Permit (CBP) and City business license.

Parking Requirements for Cannabis Establishments

The City's non-residential parking provisions specify that parking compliance shall be considered when a new building is constructed, an existing building is increased in floor area and when the use changes that requires additional parking. The City's non-residential parking provisions categorize numerous non-residential uses, including, but not limited to, retail, office, industrial, food and beverage establishments, banks, furniture stores, hotels and shopping centers. Similar to most jurisdictional parking standards, the City's parking provisions do not include a category for all potential non-residential establishments and instead specify under CMMC Section 13-90, the parking requirements for the uses not specified shall be determined by the Planning Division and shall be

based upon the requirements for the most comparable use specified in the parking provisions or other appropriate sources.

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Lastly, as with numerous development sites in the City (non-residential and residential), several sites were developed prior to the current parking regulations and therefore do not provide the minimum required parking. These sites are considered legal nonconforming and are regulated pursuant to CMMC Section 13-204 (*Nonconforming Provisions*). The City’s nonconforming provisions specify that for a conforming use (a use that is permitted/allowed) proposed in a nonconforming development (an existing and legally established development which no longer conforms to the development standards required by this Zoning Code), if a change of use is proposed which has equivalent or less parking requirement than the current/previous use, the proposed use can change without complying with the current parking requirements. Pursuant to the CMMC, retail cannabis establishments are allowed in all of the City’s commercial zones. Since the majority of the proposed cannabis retail locations are/were used by retail businesses that required four parking space per 1,000 square feet of floor area, many of the City’s proposed retail cannabis establishments will not be required to provide additional parking in order to comply with minimum code requirements.

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