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

April 11, 2022

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Commissioner Vivar led the Pledge of Allegiance.

ROLL CALL

Present: Chair Byron de Arakal, Vice Chair Jon Zich, Commissioner Adam Ereth, Commissioner Jonny Rojas, Commissioner Dianne Russell, Commissioner Russell Toler, Commissioner Jimmy Vivar

Absent: None

Officials Present: Director of Development Services Jennifer Le, Assistant Director of Development Services Scott Drapkin, Assistant City Attorney Tarquin Preziosi, Contract Planner Michelle Halligan, City Engineer Seung Yang, Executive Secretary Julie Colgan, and Recording Secretary Anna Partida

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA:

None.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

Commissioner Ereth expressed enthusiasm about the recent success of his alma mater, the University of South Carolina Women's Basketball Team, which won the national championship.

Commissioner Toler gave a detailed presentation on urban design principles inspired by Christopher Alexander's "Pattern Language" and discussed its relevance to Costa Mesa's planning and zoning.

Commissioner Vivar commented on the importance of walkability and public transit improvements in Costa Mesa.

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CONSENT CALENDAR:

None.

PUBLIC HEARINGS:

1. PLANNING APPLICATION 22-10 – REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW FOR A PUBLIC COURTHOUSE AT 3390 HARBOR BOULEVARD

Description: Planning Application 22-10 is a request for a Conditional Use Permit to allow for the Orange County Superior Court to establish a temporary public courthouse use within the MP zone while the Santa Ana location is renovated (estimated completion in 2025). The project proposes various tenant improvements to allow for eight courtrooms, private offices for judges, spaces for legal and administrative support, and general public areas. The primary use of the facility will be for small claims and probate issues with the majority of the cases being heard remotely via teleconference. The use will not have any jurors, no criminal proceedings will take place, and there will be no detention facilities on the premises.

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.

Chair de Arakal made a motion to continue the item to the meeting of April 25, 2022; seconded by Commissioner Vivar.

MOVED/SECOND: de Arakal/Vivar

MOTION: Moved to continue the item to a date certain of April 25, 2022.

The motion carried by the following roll call vote:

Ayes: de Arakal, Zich, Ereth, Rojas, Russell, Toler, Vivar

Nays: None

Absent: None.

Recused: None

Motion carried: 7-0

ACTION: Item continued to the regular Planning Commission meeting of April 25, 2022.

3. PLANNING APPLICATION 21-12 FOR A CANNABIS MANUFACTURING, DISTRIBUTION AND NON-STOREFRONT RETAIL FACILITY (“DYRECT #4”) AT 3595 CADILLAC AVENUE, UNIT 102

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Description: Planning Application 21-12 is a request for a Conditional Use Permit (CUP) to operate a cannabis manufacturing and distribution facility (Dyrect #4) including a non-storefront retail cannabis (delivery only) use within a 5,940-square-foot tenant space at 3595 Cadillac Avenue, Unit 102. Delivery vehicles would be parked underroof in the existing warehouse and in a gated surface parking lot.

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.

Chair de Arakal made a motion to continue the item to the meeting of April 25, 2022. Seconded by Commissioner Viviar.

MOVED/SECOND: de Arakal/Ereth

MOTION: Moved to continue the item to a date certain of April 25, 2022.

The motion carried by the following roll call vote:

Ayes: de Arakal, Zich, Ereth, Rojas, Russell, Toler, Vivar

Nays: None.

Absent: None.

Recused: None

Motion carried: 7-0

ACTION: Item continued to the regular Planning Commission meeting of April 25, 2022.

2. **PLANNING APPLICATION 21-19 FOR A CANNABIS NON-STOREFRONT RETAIL USE (WINTER GREENS) AT 3590 CADILLAC AVENUE, UNIT A**

Description: Planning Application 21-19 is a request for a Conditional Use Permit (CUP) to allow a non-storefront retail (delivery-only) facility within a 9,757-square-foot tenant space, of which 5,060 square feet would be dedicated to indoor vehicle storage. The property is located in the City's "Green Zone," an industrial area where cannabis testing, manufacturing, distribution, and delivery is conditionally permitted. "Non-storefront retail" refers to the delivery of pre-packaged goods to customers at private addresses within the City and potentially to locations in other jurisdictions subject to regulation by those jurisdictions. No cannabis cultivation or storefront sales at the subject property will be authorized by the proposed CUP.

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.

No ex-parte communications reported.

Commission and Staff:

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Commissioner Rojas sought clarity on whether the project was solely for a Type 9 delivery license, focusing on pre-packaged products being delivered to registered customers. Staff confirmed that the license pertains to delivery operations, distinct from wholesale distribution.

Commissioner Vivar sought clarification on the parking rules for cannabis delivery vehicles when not in use, specifically whether they could be parked unattended on city streets. Staff confirmed that vehicles must be stored in a private parking lot or warehouse when not actively in use, but temporary stops, such as for gas or lunch breaks, are permitted on city streets as they are considered part of active use.

Commissioner Zich raised questions about odor control, delivery requirements, and land use consistency for the cannabis delivery project. Staff explained that odor control measures, such as carbon filters, would be reviewed during the plan check, though stricter measures apply to manufacturing or distribution uses. On delivery requirements, staff clarified that both local and state laws prohibit third-party services, requiring deliveries to be made by direct employees of the licensed retailer, and agreed to align the condition's wording with the clearer language in the staff report. Regarding land use, staff emphasized that the green zone prioritizes industrial and commercial uses, with residential projects requiring zone changes and general plan amendments that would conflict with existing policies. Commissioner Zich accepted the responses but stressed the importance of clarity and rigorous enforcement for future applications.

Chair de Arakal raised several questions about inspection protocols, insurance requirements, delivery operations, and general compliance for the cannabis delivery project. Staff clarified that announced inspections would be conducted with consulting firms like HDL, while unannounced inspections by other departments, such as the Fire Department, would occur quarterly. Regarding insurance, the operation requires \$2 million in liability coverage, including naming the city as an additional insured. Staff explained that delivery drivers must comply with state regulations, including cash and product limits, though concerns about security risks were noted. On vehicle reporting, staff confirmed that while quarterly updates are required, a new vehicle could theoretically operate within the fleet before the next update, though the driver must pass background checks and obtain city ID. Lastly, staff addressed parking non-conformity, noting that only significant structural changes, like adding square footage, would trigger compliance adjustments, and confirmed communication with the state ensures awareness of any license suspensions. The Chair emphasized concerns about workflow effectiveness and public safety while accepting the explanations provided.

The Chair opened the Public Hearing:

Gary Todd Winter, applicant's representative, stated he had read and agreed to the conditions of the approval.

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Commission, Applicant and Staff:

Commissioner Vivar asked the applicant several detailed questions about parking, ordering processes, inventory systems, and driver safety. The applicant confirmed that vehicles would be parked securely inside the warehouse at night, supported by 20 surveillance cameras and robust security measures. Regarding parking capacity, the applicant estimated accommodating 10 to 15 vehicles inside the 5,000-square-foot warehouse. On ordering, the applicant explained that customers must pre-register in their system before placing an order, with dispatchers available to assist when necessary. Addressing inventory optimization, the applicant clarified that customers would only see available inventory within their geographic area, not vehicle locations, ensuring security. For driver notifications, the system updates tasks only after completing prior deliveries, preventing distractions while driving and prioritizing safety. Commissioner Vivar expressed satisfaction with the responses, especially the measures ensuring driver and vehicle security.

Commissioner Zich inquired about the applicant's business operations, customer experience, and decision to locate in Costa Mesa. The applicant explained that their website incentivizes customers to order from nearby delivery vehicles for shorter delivery times and cost efficiency, while dispatchers provide personalized guidance similar to retail "budtenders" to enhance customer experience, particularly for medical users. They emphasized their commitment to building a trusted brand through exceptional service, product knowledge, and technology in a highly commoditized market. Addressing the choice of Costa Mesa despite the 7% gross receipts tax, the applicant cited their connection to the city, strategic building location, and plans to increase volume to offset costs while expressing hope for future tax reductions. They also shared plans to expand their brand into other regions to strengthen their presence and competitiveness. Commissioner Zich appreciated their responses, complimented their branding, and wished them success.

The Chair opened Public Comments.

PUBLIC COMMENTS:

None.

The Chair closed Public Comments.

Commission and Staff:

Chair de Arakal asked staff two questions for clarification. First, he inquired about the previous use of the building proposed for the cannabis delivery business, learning it was used for manufacturing and distributing illumination devices but asked staff to verify whether industrial chemicals or toxins were used in the process. Second, he raised concerns about Condition 5 of the planning conditions

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of approval, which references compliance with operating requirements under the municipal code, noting potential incongruence in how delivery hours are defined. Staff clarified that deliveries would align with normal business hours and noted the condition's distinction from storefront requirements. Chair de Arakal emphasized ensuring alignment between the code and conditions of approval.

Commissioner Vivar raised a question about the mention of volunteers in the draft resolution concerning background checks for cannabis business employees and drivers. He expressed curiosity about the role volunteers might play in such an establishment and sought clarification on whether they would be allowed to drive delivery vehicles. Staff explained that while state law permits volunteers, they must be over 21 years old, and no one under 21 is permitted on licensed premises or in delivery vehicles. However, staff noted that the role of volunteers in this context is unclear and may pose challenges, particularly regarding insurance requirements.

The Chair closed the Public Hearing.

Commissioner Russell made a motion. Seconded by Commissioner Ereth.

Commissioner Russell shared her satisfaction that the applicant is from Costa Mesa, stating that this local connection provides her with greater confidence in the business.

Commissioner Zich expressed support for the motion and appreciation for the applicant's business plan, welcoming their operation to Costa Mesa. He addressed public comments received, noting that concerns about odors and air quality seem unwarranted given that the applicant's business involves only pre-packaged products and not manufacturing or extraction processes. While acknowledging the commenter's sensitivity to air quality issues, he found the concerns too vague and unsupported to weigh against the application. He also emphasized that the business aligns well with the intended uses of the Measure X zone, which explicitly supports such operations, deeming the use highly compatible with the area. Commissioner Zich concluded by reiterating his support for the motion.

Chair de Arakal expressed strong support for the applicant, commending Mr. Winter's expertise, and broader involvement in the cannabis industry. He acknowledged the challenges posed by the city's high taxes and regulatory burdens, agreeing that these factors can inadvertently encourage illegal operations. Chair de Arakal emphasized the importance of addressing these tax issues in the future but praised Mr. Winter as an ideal candidate to lead the city's efforts in this space. He concluded by expressing confidence in the applicant's success and appreciation for his connection to the Costa Mesa community.

MOVED/SECOND: Russell/Ereth

MOTION: Move staff's recommendation.

The motion carried by the following roll call vote:

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Ayes: de Arakal, Zich, Ereth, Rojas, Russell, Toler, Vivar

Nays: None

Absent: None

Recused: None

Motion carried: 7-0

ACTION: The Planning Commission adopted a resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 21-19, subject to conditions of approval.

RESOLUTION PC-2022-03 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-19 FOR A NON-STOREFRONT RETAIL CANNABIS DELIVERY FACILITY (WINTER GREENS) IN THE MP ZONE FOR PROPERTY AT 3590 CADILLAC AVENUE, UNIT A

OLD BUSINESS:

None.

NEW BUSINESS:

None.

DEPARTMENTAL REPORTS:

1. Public Works Report – Mr. Yang announced the start of the Wilson Street improvement project and the construction of pedestrian signal in front of Wilson Park.
2. Development Services Report – None.

CITY ATTORNEY’S OFFICE REPORT:

1. City Attorney – The Assistant City Attorney informed the Planning Commission about Senate Bill 1186, which, if enacted, would prevent local jurisdictions from prohibiting the operation of medical cannabis delivery businesses within their boundaries. While cities could still ban storefront retail for medical cannabis, they would be required to allow delivery-only medical cannabis businesses to operate, up to a certain number. This bill aims to ensure access to medical cannabis delivery, even in areas where retail storefronts are restricted. The next committee hearing for the bill is scheduled for April 21.

ADJOURNMENT AT 7:20 PM

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Submitted by:

SCOTT DRAPKIN, SECRETARY
COSTA MESA PLANNING COMMISSION