PARTIDA, ANNA PH-2

From: James Dewey <jd@kvklawyers.com>
Sent: Monday, May 22, 2023 11:58 AM
To: PC Public Comments
Cc: Gilbert Segel; Michael Segel; Joubin Manoochehri; GianDominic Vitiello; Tatyana Brenner
Subject: Public Comment to Agenda Item #2 of tonight's meeting
Attachments: 2023.05.22 Pub.Comnt. Costa Mesa PC.pdf

Hello Costa Mesa Planning Commission,

Please see the attached public comment to be considered apart of Agenda Item #2 of tonight's meeting,

If you could kindly confirm receipt of this attachment, it would be most appreciated.

Thank you,

James J.M. Dewey
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KV&K KATCHKO, VITIELLO & KARIKOMI, PC

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May 22, 2023

James Dewey
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VIA EMAIL
Costa Mesa Planning Division
77 Fair Drive
Costa Mesa, CA 92626
PCPublicComments@costamesaca.gov

Re:	**Comment to Planning Application**
Site Address:	**2790 Harbor Boulevard, Suite 107, 109, 115**
Applicant:	**Tri-Harmony Properties, LLC**
Application No.:	**PA 22-04**
Hearing Date:	**May 22, 2023**
Agenda Item:	**#2**

Dear Costa Mesa Planning Commission,

Our office represents the landowner for 2750 Harbor Boulevard, Costa Mesa, CA 92626 (our "**Client**") and we write to you in a representative capacity on the landowner's behalf.

Our Client received notice of a public hearing taking place on May 22, 2023 to consider Application No. PA-22-04 submitted on behalf of DBO Investments CM, LLC d/b/a From the Earth("**From The Earth**"), and Tri-Harmony Properties, LLC d/b/a Harbor Plaza, for the project located at 2790 Harbor Boulevard, Ste. 107, 109, and 115 (the "**Project**") in the Local Business District Zone (C1). Our Client's building is located within the same shopping center as the Project (the "**Shopping Center**"), and thus, our Client is concerned the addition of a retailcannabis business within the Shopping Center.

Planning Application 22-04 (the "**Application**") is a request for a conditional use permit to allow a 2,370-square-foot retail cannabis storefront with delivery within the existing building located at 2790 Harbor Boulevard.

Specifically, our Client is concerned the Project will significantly and negatively impact the (1) parking, (2) signage, and (3) security of the Shopping Center, and surrounding community creating an nuisance for patrons of the Shopping Center. While our Client does not directly oppose the Project, our Client believes its necessary to effectively mitigate these negative impacts, by including additional conditions and requirements in From The Earth's

conditional use permit ("**CUP**")

PARKING:
Cannabis retailers can see anywhere from 100-600 patrons a day, and thus require a high number of parking spaces. With Costa Mesa being one of the few cities in Orange County to offer retail sales of cannabis, a cannabis retailer would draw patrons from across the County, and traffic to the Shopping Center would increase.

The Shopping Center and the building of the Project host several active businesses which are open to the public, and the parking lot is already pushed to capacity. Adding a tenant that will see such a high volume of patrons a day will significantly interfere with the parking spaces for the Shopping Center as a whole.

Additionally, the Application proposes cannabis delivery activities take place at the Project, which requires loading of cannabis goods into a delivery vehicle. However, The Project does not have a dedicated loading dock. Employees of From The Earth would be required to load deliveries of cannabis goods within the parking lot and use additional parking spaces.

To help mitigate the negative parking impacts to the existing businesses, our Client suggests the following conditions be incorporated into the CUP:

- A private security guard or employee must monitor the project and the immediate vicinity of the project to ensure that patrons immediately leave the site and do not loiter, or consume cannabis in the vicinity of the retail business or on the property or in the parking lot.

- From The Earth must notify its patrons that loitering on and around the retail site is prohibited by California Penal Code § 647(e) and that patrons must immediately leave the site and not consume cannabis in the vicinity of the retail site or on the property or in the parking lot.

- From The Earth shall enter into an agreement with the landlord of the Project to dedicate the parking spaces in the immediate rear of the building to be used exclusively by the patrons and delivery vehicles of From The Earth, to eliminate any interference with the parking spaces of the rest of the Shopping Center

- From The Earth shall dedicate a representative or liaison have a team or dedicated representatives who can respond in a meaningful and timely way to complaints regarding the parking lot from the existing businesses and provide such team or representative's contact information to the existing businesses within the Shopping Center.

- From The Earth must provide a procedure and remediation plan of recourse for negatively impacted businesses to be compensated for their loss of parking.

SIGNAGE:
Cannabis businesses are limited in the forms of promotion and advertising they may utilize due to strict State regulations[1], and most cannabis businesses use their building to advertise and promote their presence.

The building of the Project is located on the corner of Harbor Boulevard, and Adams Avenue, and is a three (3) story multi-tenant building. With two of the building's sides being exposed to a major intersection, there is an abundance of space for advertising and signage on the building.

Specifically, our Client is concerned that From The Earth would bring unnecessary and excessive signage to the Shopping Center, and publicly depict images of cannabis. As a result, the Shopping Center would quickly become undesirable for many future tenants, and property values within the Shopping Center would decrease.

Additionally, one of our Client's tenants in the Shopping Center, Lollipop Dental is a pediatric dentist and orthodontist, and our Client would like to insulate the children-patients from depictions of cannabis.

The Costa Mesa Municipal Code places limits on cannabis businesses' ability to use temporary signage,[2] and limits signage to "that needed for identification only.[3]" However, to help address our Client's signage-related concerns regarding the Project, our Client would like to suggest the following conditions be incorporated into the CUP:

- All From The Earth signage shall not contain any logos or information that identifies, advertises, or lists the services or the cannabis goods and products offered.

- All From The Earth signage shall not use images or depictions of cannabis or cannabis products, including the cannabis leaf, nor shall any From the Earth signage use images or depictions of the ingestion or consumption of cannabis or cannabis products.

- No promotional materials, or advertisements of cannabis goods contained within or on the premises, shall be displayed in a manner so that images or depictions of cannabis may be visible from the exterior of the premises or from the public right of way.

SECURITY:
Suites 107 and 109 are the corner units of the building, and suite 115 is adjacent to the corner unit, on the Adams Ave. side of the building. All of the suites have entrances on the sidewalks of either Harbor Blvd.. or Adams Ave. Suite 107 and 109 have rear entrances that open to the

[1] 4 Cal. Code of Regulations §15040-41
[2] Costa Mesa Municipal Code §13-200.93
[3] Costa Mesa Municipal Code §9-495(g)(6)

common area shared by the tenants of the multi-tenant building.

The Application proposes cannabis delivery activities take place at the Project.
The Project does not have a dedicated loading bay to load cannabis goods into the delivery vehicles. To load the delivery vehicles, From the Earth would either travel through the common area of the building, or on the sidewalks, to the parking lot.

Our Client is concerned that a constant flow of cannabis goods being moved and loaded into delivery vehicles may encourage theft of cannabis goods at the cannabis business and would become a safety risk for the surrounding community. While state regulations already require cannabis businesses to maintain security personnel at the premises,[4] there is no requirement the security personnel escort the delivery drivers and cannabis goods to and from the premises.

As such, to help deter and prevent the theft of cannabis or cannabis products at the cannabis business, and to ensure the safety of the community, our Client would like to suggest the following conditions be incorporated into the conditional use permits:

- No From the Earth delivery vehicles may be loaded with cannabis goods during the hours of peak traffic hours, such as 4:00 PM to 7:00 PM, or such other period designated by the commission.

- When loading the delivery vehicles with cannabis goods, all From The Earth delivery drivers must be escorted by an armed security guard and use the shortest route from the premises to the delivery vehicle.

CONCLUSION:
For the above reasons, our Client is concerned about the negative impacts and nuisance a cannabis business in the Shopping Center might bring. However, our Client is confident these concerns can be addressed with appropriate mitigating conditions included in the CUP and urges the Planning Commission to consider the proposed conditions accordingly.

Our Client remains available to work with the City of Costa Mesa, and the landowner of the Project to ensure From the Earth is a welcome addition to the Shopping Center.

Thank You for your consideration,

KATCHKO, VITIELLO & KARIKOMI, PC

James Dewey Esq.

[4] 4 Cal. Code of Regulations § 15045

PH-2

PARTIDA, ANNA

From: NANTHAVONGDOUANGSY, PHAYVANH
Sent: Monday, May 22, 2023 12:54 PM
To: PARTIDA, ANNA; ALDANA, CHRISTOPHER
Subject: FW: Unconditional use permit 22-04

From: Kathey Young <katheyyoung@aol.com>
Sent: Monday, May 22, 2023 12:48 PM
To: NANTHAVONGDOUANGSY, PHAYVANH <PHAYVANH@costamesaca.gov>
Subject: Unconditional use permit 22-04

------ Forwarded message ----------
To Costa Mesa Planning Commissioners,

I am a retired Costa Mesa small business owner . I moved here in 1971 and I cherish the memories of

City of Costa Mesa being a town with strong community bonds with thriving small businesses. I am writing because I am concerned about

the extremely large numbers of cannabis store being approved .I am opposed to Conditional Use permit 22-04 because there are already two

cannabis store in operation and two approved. With approval of 22-04 that will make five in the immediate intersection of Harbor and Adams.

To allow a cluster of Cannabis store will be unsafe for the area. I am in favor of spreading these out.One of the proposed store is now occupied

by a beauty salon. The owner has worked very hard to build her business on the prime corner of Harbor and Adams. She does not want to move ..
She will be impacted if this project goes through.Altho just one business, it has it importance in our town. Lastly, I notice there is a bus stop right

in front. This will entice and expose the young school age traveler to purchase cannabis It will be too available for them. I appreciate

your consideration of theses oppositions as you deliberate the Conditional use permit 22-04.

Sincerely, Katherine Young

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