

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

February 26, 2018

These meeting minutes represent an "action minute" format with a concise summary of the meeting. A video of the meeting may be viewed on the City's website at www.costamesaca.gov or purchased on DVD upon request.

The Chair called the meeting to order (00:00:06).

Commissioner Kerins led the Pledge of Allegiance.

ROLL CALL

Present: Chair Stephan Andranian
Vice Chair Byron de Arakal
Commissioner Jeffrey Harlan
Commissioner Isabell Kerins
Commissioner Carla Navarro Woods

Staff: Barry Curtis, Director of Economic and Development Services
Jennifer Le, Assistant Director of Development Services
Yolanda Summerhill, Deputy City Attorney
Tarquin Preziosi, Assistant City Attorney
Mel Lee, Senior Planner
Jon Neal, Assistant Fire Marshall
Julie Colgan, Recording Secretary

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS:

Chair Andranian announced that the public will have two minutes to give public comments; that there will be no public comments during Public Hearing Item No. 1 since it is a continued item, public comments were accepted at the prior meeting, and the public hearing for the item was previously closed; that any member of the public who wishes to speak on Public Hearing Item No. 1 should do so during general comments; and that public comments on sober living items should be directed to the Commission.

Ralph Hernandez, Costa Mesa resident, spoke on the permit history for the house located at 268 Knox Street and expressed concern regarding unpermitted construction.

Jane Kearl stated concerns with Public Hearing Item No. 1.

Hal Schlegel, Costa Mesa resident, stated concerns with Public Hearing Item No. 1.

An unidentified speaker spoke about the City's consultants and campaign contributions.

Doug Allenthorp spoke about the permits he acquired on 268 Knox Street and brought the plans, receipts, and cancelled checks.

Chair Andranian asked Mr. Allenthorp when the plans were stamped. Mr. Allenthorp responded August 30, 1993.

Martha Hernandez stated concerns with Public Hearing Item No. 1.

James R. Westling, Costa Mesa resident, spoke on the 650-foot separation map for 268 Knox Street and asked that it be kept as a standard.

Ryan Michael, resident at 268 Knox Street, spoke in support for Public Hearing Item No. 1.

The Chair closed the public comment portion of the meeting.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

None.

CONSENT CALENDAR:

1. MINUTES FOR THE MEETING OF JANUARY 8, 2018

MOTION: Move Approval of the Consent Calendar.

Moved by Vice Chair de Arakal, seconded by Commissioner Harlan.

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Harlan, Kerins, Navarro Woods

Noes: None

Absent: None

Abstained: None

PUBLIC HEARINGS (00:22:17)

1. CONDITIONAL USE PERMIT PA-16-33 TO OPERATE A SOBER LIVING FACILITY HOUSING UP TO 10 GENDER-SPECIFIC ADULTS; INCLUDING AN APPEAL OF THE DENIAL OF A REQUEST FOR REASONABLE ACCOMMODATION FOR RELIEF FROM CERTAIN LAND USE REQUIREMENTS OF THE ZONING CODE; OPERATED BY RAW RECOVERY, LLC, AT 268 KNOX STREET

Project Description: Conditional Use Permit (CUP) PA-16-33 is a request to operate a sober living facility housing up to 10 gender-specific adults. The applicant also submitted a request for a reasonable accommodation for relief from certain land use requirements of the Zoning Code. The application for accommodation was denied. The applicant appealed that decision to the Planning Commission. This item was continued from the February 12, 2018 Planning Commission meeting.

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

No ex-parte communications to report.

Jennifer Le, Assistant Director of Development Services, presented the staff report.

Commissioners, staff, and Mr. Preziosi discussed the 650-foot separation map; the possibility that the facility could reduce its number of occupants and apply for a state license; the process for obtaining a state license with six or fewer residents; why staff did not consider state-licensed facilities with seven or more residents that do not have a Conditional Use Permit issued by the City (shown on the separation map within 650-feet of the subject property) as separation conflicts; bedroom count; and Code Enforcement complaints.

MOTION: Move that the Planning Commission adopt a Resolution upholding the Director's denial of the request for reasonable accommodation, and approving Conditional Use Permit PA-16-33, subject to the findings in Exhibit A and conditions of approval in Exhibit B with the following modifications:

Condition of Approval No. 2 to read: "The total number of occupants in the sober living home shall be no more than eight persons (inclusive of a resident house manager, if applicable)".

Condition of Approval No. 3 to read: "The onsite garage shall be used for parking only and no other purpose. The garage space shall remain free and clear of obstructions and be capable of being used for parking at all times. Parking in the public alley or otherwise obstructing access to the garage is prohibited".

Moved by Vice Chair de Arakal, seconded by Commissioner Harlan.

Vice Chair de Arakal spoke in support of the motion.

Commissioner Harlan spoke in support of the motion.

Commissioner Navarro Woods spoke in support of the motion.

Commissioner Kerins spoke in support of the motion.

Chair Andranian spoke in opposition to the motion.

RESOLUTION PC-18-16 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA UPHOLDING THE DIRECTOR'S DENIAL OF THE REQUEST FOR REASONABLE ACCOMMODATION; AND APPROVING CONDITIONAL USE PERMIT PA-16-33 FOR A SOBER LIVING FACILITY HOUSING TEN GENDER-SPECIFIC ADULTS; OPERATED BY RAW RECOVERY, LLC, AT 268 KNOX STREET

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Navarro Woods

Noes: Andranian, Kerins

Absent: None

Abstained: None

The Chair explained the appeal process.

- 2. CODE AMENDMENT CO-18-01: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA ADOPTING THE TEXT OF URGENCY ORDINANCE 17-16, AMENDING ARTICLE 20 (MARIJUANA AND/OR MEDICAL MARIJUANA USES AND ACTIVITIES) OF CHAPTER IX (SPECIAL LAND USE REGULATIONS) OF TITLE 13 (PLANNING ZONING AND DEVELOPMENT), RELATING TO CULTIVATION OF MARIJUANA AND CERTAIN MARIJUANA RELATED USES**

Description: The proposed Code Amendment (CO-18-01) will amend portions of Article 20 of Chapter IX of Title 13 of the Costa Mesa Municipal Code, adopting the text of Urgency

Ordinance No. 17-16, as it pertains to provisions for marijuana and cannabis uses in the City. The proposed Code Amendment would, with minor textual revisions, make permanent the temporary Code provisions adopted by Urgency Ordinance 17-16 which prohibit cultivation (to the extent allowed by state law), dispensaries, and retail sales of marijuana.

Environmental Determination: The project is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Mel Lee, Senior Planner, presented staff report.

Commissioners and Mr. Preziosi discussed what changes were made to the ordinance; whether cultivation of plants can occur if children live in the home; whether a private residence includes an accessory dwelling unit; whether state law allows outdoor cultivation of plants; why the City does not allow outdoor cultivation; and whether the accessory structure definition should be clarified in the ordinance.

PUBLIC COMMENTS

None.

MOTION: Move that the Planning Commission find that the project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines and recommend that the City Council adopt Code Amendment CO-18-01 amending the following:

- **Article 20 (Marijuana and/or Medical Marijuana Uses and Activities) of Chapter IX (Special Land Use Regulations) of Title 13 (Planning Zoning and Development), Relating to Cultivation of Marijuana and Certain Marijuana Related Uses.**

And ask staff and legal counsel to provide to City Council a definition for accessory structures as mentioned in the draft ordinance.

Moved by Vice Chair de Arakal, seconded by Commissioner Kerins.

Mr. Preziosi clarified that Zoning Code Section 13.2 gives a definition of accessory building not accessory structure and read the description.

Ms. Summerhill stated that staff has heard the questions that Vice Chair de Arakal has posed and staff can take the recommendations to City Council and provide options to them.

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Harlan, Kerins
Noes: Navarro Woods
Absent: None
Abstained: None

- 3. CODE AMENDMENT CO-17-07: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING ARTICLE 5 (ADMINISTRATION, APPLICATION AND PROCEDURES) OF CHAPTER I (BUSINESS TAX) AND CHAPTER VI (MEDICAL MARIJUANA BUSINESS PERMITS) OF TITLE 9 (LICENSES AND BUSINESS REGULATIONS); CHAPTER IV (CITYWIDE LAND USE MATRIX) AND ARTICLE 21 (MEDICAL MARIJUANA DISTRIBUTING, MANUFACTURING, PROCESSING, RESEARCH AND DEVELOPMENT, TESTING LABORATORIES AND TRANSPORTING LOCATIONS) OF CHAPTER IX (SPECIAL LAND USE REGULATIONS) OF TITLE 13**

(PLANNING ZONING AND DEVELOPMENT), RELATING TO AMENDMENTS TO VOTER APPROVED ORDINANCE 16-15 (MEASURE X, THE COSTA MESA MEDICAL MARIJUANA MEASURE)

Description: The proposed Code Amendment (CO-17-07) will amend portions of Title 9 and Title 13 of the Costa Mesa Municipal Code as they pertain to provisions for medical marijuana and cannabis uses permitted in the City pursuant to Measure X. The proposed Code amendment allows for adult use marijuana to be distributed, manufactured, researched and developed and tested in the same locations and subject to the same permitting process and restrictions as medical marijuana and makes textual revisions to conform to state law. Cultivation (to the extent allowed by state law), dispensaries, and retail sales of marijuana will continue to be prohibited in the City. The primary purpose of the proposed code amendment is to allow the same types of "adult use" wholesale marijuana activities in those areas where wholesale medical marijuana activities are currently allowed pursuant to Measure X. The secondary purpose is to achieve consistency with state law.

Environmental Determination: The project is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Mel Lee, Senior Planner, presented staff report.

Commissioners and Mr. Preziosi discussed Section 9-495 subsection (b)(3)(a) and what changes were made to the ordinance.

PUBLIC COMMENTS

A speaker spoke in support of this item.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines and recommend that the City Council adopt Code Amendment CO-17-07 amending the following:

- **Article 5 of Chapter I of Title 9 of the Costa Mesa Municipal Code (Licenses and Business Regulations) Section 9-29.5 and Sections 9-481 through 9-499;**
- **Chapter IV of Title 13 of the Costa Mesa Municipal Code (Planning, Zoning, and Development) Sections 13-30 (31a through 31f); and**
- **Article 21 of Chapter IX of Title 13 of the Costa Mesa Municipal Code (Planning, Zoning, And Development) Sections 13-200.90 through 13-200-94.**

Moved by Commissioner Kerins, seconded by Commissioner Navarro Woods.

Chair Andranian spoke in support of the motion.

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Harlan, Kerins, Navarro Woods

Noes: None

Absent: None

Abstained: None

The Chair called for a break at 7:28 p.m.

The Chair reconvened the meeting at 7:35 p.m.

4. AMENDMENT TO PLANNING APPLICATION PA-17-38 A1 FOR A MEDICAL MARIJUANA EXTRACTION FACILITY AT 3590 CADILLAC AVENUE, UNIT B

Project Description: Planning Application PA-17-38 A1 is an amendment to a previously approved Conditional Use Permit (PA-17-38) for a Medical Marijuana extraction facility (Oil Haus) within a 7,315-square-foot tenant space in an existing industrial building. The previously approved Conditional Use Permit allows for extraction, manufacturing/processing, and packaging at the subject property. The proposed amendment would include offices, manufacturing/processing facilities, e.g., the equipment used to extract oils from marijuana plants and process the oils into the finished product, laboratories, testing facilities, preparation, packaging, and storage of the finished product. No distribution services are proposed. The facility would be staffed by at least 8 persons. The hours of operation are proposed to be from 8:00 AM to 6:00 PM, seven days a week, increasing to 24-hour-a-day operation, if demand warrants. Security systems (card readers, security cameras, etc.) will be installed throughout the facility. No cultivation of marijuana, or medical marijuana dispensary, is permitted.

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

No ex-parte communications to report.

Mel Lee, Senior Planner, presented the staff report.

The Commissioners and staff discussed what had changed on the application since it was heard the first time; when the amendment was filed; and the security improvement plan.

PUBLIC COMMENTS

Chris Shepard explained what will occur in Phase 2 of the application.

Commissioners and Mr. Shepard discussed: whether the original business plan always included Phase 1 and Phase 2; the CO2 and ethanol extraction process; indoor air quality; the Applicant was asked to ensure the same temperature measurement units be used in the Applicant's documents; the medical marijuana business permit; that the site has not been used for Phase 1 yet; the type of waste material produced and what happens to it; and whether product would be transported 24/7.

No public comments.

The Chair closed the public hearing.

Vice Chair de Arakal asked if the applicant has six months to get his state license and if he does not get it, then the CUP will expire. Mr. Preziosi responded that was correct.

Mr. Lee stated that Jon Neal, Fire Marshall Assistant, pointed out that Code Requirement No. 18 needs to be revised and should state "the storage, use, and disposal of volatiles, solvents, or hazardous materials at this facility shall be conducted according to the California Fire Code and the Orange County Environmental Health Department regulations".

MOTION: Move that the Planning Commission deny the application.

Moved by Commissioner Harlan, seconded by Vice Chair de Arakal for discussion.

Commissioner Harlan spoke in support of the motion.

Vice Chair de Arakal spoke in support of the motion.

Commissioner Navarro Woods asked whether the original CUP is still approved, if this application is denied. Mr. Preziosi responded that a denial of this application would not affect the existing CUP.

Chair Andranian spoke on the motion.

SUBSTITUTE MOTION: Move that the Planning Commission find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities); and adopt a Resolution to approve Planning Application PA-17-38 A1, subject to conditions of approval.

Moved by Commissioner Kerins, seconded by Chair Andranian.

Vice Chair de Arakal spoke in opposition to the substitute motion.

Commissioner Navarro Woods and staff discussed whether there are any examples of a manufacturing application where rental considerations resulted in the Applicant obtaining a CUP for an initial use so they could occupy the building and then asking for an amendment to their original CUP afterward; and discussed what was originally applied for with this application.

Commissioner Harlan stated concerns with considering Phase 2 of the application when Phase 1 had not yet been implemented.

RESOLUTION PC-18-17– A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING CONDITIONAL USE PERMIT PA-17-38 A1 TO ALLOW A MEDICAL MARIJUANA EXTRACTION FACILITY AT 3590 CADILLAC AVENUE, UNIT B

The motion carried by the following roll call vote:

Ayes: Andranian, Kerins, Navarro Woods

Noes: de Arakal, Harlan

Absent: None

Abstained: None

The Chair explained the appeal process.

5. PLANNING APPLICATION PA-17-45 FOR A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY (MELLOW EXTRACTS) AT 3505 CADILLAC AVENUE, UNIT J5

Project Description: Planning Application PA-17-45 is a Conditional Use Permit for a Medical Marijuana manufacturing and distribution facility (Mellow Extracts) within a 4,549-square-foot tenant space in an existing industrial building. The proposed facility would include offices, extraction, preparation, manufacturing, processing, packaging, staging, storage, and distribution of cannabis products. The facility will be staffed by at least 9 persons. Hours of operation are proposed to be from 7:00 AM to 7:00 PM, Monday through Saturday, increasing to 24-hour-a-day operation if demand warrants. The facility will have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation of marijuana, or medical marijuana dispensary, is permitted.

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

Five ex-parte communications to report: All Commissioners received an email from Jim Fitzpatrick, the applicant's representative.

Mel Lee, Senior Planner, presented the staff report.

Commissioner Kerins stated concerns with the access to the Santa Ana Riverbed and asked whether there will be fencing to secure the back area.

Commissioners and staff discussed Condition of Approval No. 1 and the Applicant's request to expand hours of operation to 24-hours-a-day; whether a request for an amendment would require a minor conditional use permit (MCUP) or a conditional use permit (CUP); whether other businesses are allowed to operate and manufacture 24 hours per day; and hours of operation.

Commissioner Kerins stated concerns with the location's accessibility to the Santa Ana Riverbed and granting a 24-hour-a-day operation without a history in the location.

Vice Chair de Arakal, Mr. Lee, and Ms. Le discussed the request for hours of operation.

PUBLIC COMMENTS

Jim Fitzpatrick, the applicant's representative, stated he has read the conditions of approval and agreed to them except Nos. 1, 2, 27 and Code Requirement No. 6. He presented a slideshow on the proposed application.

Matt Longo, applicant, explained what Mellow Extracts is and why they are requesting a 24-hour operating time.

Ed Sapigao, architect, explained the container system.

A member from the applicant's team explained the extraction process and what safety procedures will occur.

Vice Chair de Arakal and a member of the applicant's team discussed what specifically in their application would require a 24-hour run time.

Tom Johnson, security expert, spoke regarding the safety concerns with the proximity to the Santa Ana Riverbed and how the security plan addresses it.

Commissioners and Mr. Longo discussed whether a licensed transporter will be armed; when distribution of products will occur; adding a condition of approval that distribution will only occur during specific times; what will be produced at the site; whether the applicant operates other businesses outside Costa Mesa and whether they operate 24-hours per day; why the need for the biohazard waste container; the reasons for a 24-hour a-day operation; and the HOA's position on this application.

No public comments.

Mr. Fitzpatrick provided closing comments.

The Chair closed the public hearing.

Vice Chair de Arakal and Mr. Preziosi discussed whether the six-month requirement in Condition of Approval No. 2 is an administrative regulation and not a Zoning Code requirement.

Vice Chair de Arakal, Mr. Curtis and Mr. Neal discussed the deposit required in Condition of Approval No. 27.

MOTION: Move that the Planning Commission finds that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities); and adopt a Resolution to approve Planning Application PA-17-45, subject to conditions of approval with the following modifications:

Condition of Approval No. 1 to read: “The use of this property as a medical marijuana manufacturing/processing business shall comply with the approved plans and terms described in this resolution and these conditions of approval. The business hours shall be from 7:00 AM to 7:00 PM, Monday through Sunday, increasing to 24-hour-a-day operation if demand warrants. No product distribution shall occur between 12:00 AM to 5:00 AM. The Planning Commission may modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)]”.

Condition of Approval No. 2 to read: “This CUP will expire and be of no further force and effect if the applicant does not obtain a valid medical marijuana business permit for this location within 12 months from issuance of this CUP”.

Delete Code Requirement No. 6.

Moved by Chair Andranian, seconded by Commissioner Kerins.

Chair Andranian spoke to the motion.

Commission Navarro Woods spoke in support of the motion.

Vice Chair de Arakal spoke in support of the motion, but stated concerns with not giving the previous applicant 12 months to get his medical marijuana business permit but allowing this applicant.

Mr. Preziosi clarified that it is not in the text of the administrative regulations to require six months to get a valid medical marijuana business permit but is in the model condition examples.

Commissioner Harlan spoke in opposition to the motion.

RESOLUTION PC-18-18– A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING CONDITIONAL USE PERMIT PA-17-45 TO ALLOW A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY AT 3505 CADILLAC AVENUE, UNIT J5

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Kerins, Navarro Woods
Noes: Harlan
Absent: None
Abstained: None

The Chair explained the appeal process.

6. **PLANNING APPLICATION PA-17-47 FOR A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY (SOL DISTRO) AT 3560 CADILLAC AVENUE**

Project Description: Planning Application PA-17-47 is a Conditional Use Permit for a Medical Marijuana manufacturing and distribution facility (Fluid South, dba as Sol Distro) within a 20,000-square-foot tenant space in an existing industrial building. The proposed facility would include offices, preparation, manufacturing, processing, packaging, staging, storage, and distribution of cannabis products and indoor parking for one delivery vehicle. The facility also includes equipment for brewing non-alcoholic carbonated beverages. The facility will be staffed by at least 32 persons, including transportation drivers. The initial hours of operation are proposed to be from 7:00 AM to 7:00 PM, Monday through Saturday, increasing to a 24-hour-a-day operation, if demand warrants. The facility will have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation of marijuana, or medical marijuana dispensary, is permitted.

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

Five ex-parte communications to report: All Commissioners received an email from Jim Fitzpatrick, applicant's representative.

Mel Lee, Senior Planner, presented the staff report.

PUBLIC COMMENTS

Jim Fitzpatrick, applicant's representative, stated he has read the conditions of approval and agreed to them except Nos. 1, and 2. He presented a slideshow on the facility.

A member of the applicant's team presented a slideshow on the lab operations.

Commissioners and a member of the applicant's team discussed what will be produced in the kitchen; how the edibles are tested; and the different California State licenses.

No public comments.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities); and adopt a Resolution to approve Planning Application PA-17-47, subject to conditions of approval with the following modifications:

Condition of Approval No. 1 to read: "The use of this property as a medical marijuana manufacturing/processing business shall comply with the approved plans and terms described in this resolution and these conditions of approval. The business hours shall be from 7:00 AM to 7:00 PM, Monday through Sunday, increasing to 24-hour-a-day operation if demand warrants. No product distribution shall occur between 12:00 AM to 5:00 AM. The Planning Commission may modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)]".

Condition of Approval No. 2 to read: "This CUP will expire and be of no further force and effect if the applicant does not obtain a valid medical marijuana business permit for this location within 12 months from issuance of this CUP".

Delete Code Requirement No. 6.

Moved by Chair Andranian, seconded by Commissioner Kerins.

RESOLUTION PC-18-19 – A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING CONDITIONAL USE PERMIT PA-17-47 TO ALLOW A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY AT 3560 CADILLAC AVENUE

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Kerins, Navarro Woods

Noes: Harlan

Absent: None

Abstained: None

The Chair explained the appeal process.

7. PLANNING APPLICATION PA-17-49 FOR A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY (JOSHD FARMS) AT 3505 CADILLAC AVENUE, UNIT F9

Project Description: Planning Application PA-17-49 is a Conditional Use Permit for a Medical Marijuana manufacturing and distribution facility (JoshD Farms) within a 10,007-square-foot tenant space in an existing industrial building. The proposed facility would include preparation, extraction, manufacturing/processing, packaging, staging, storage, and distribution of cannabis products and indoor parking for one delivery vehicle. The facility will be staffed by at least eight persons, including transportation drivers. The initial hours of operation are proposed to be from 7 AM to 7 PM, Monday through Saturday, increasing to a 24-hour-a-day operation, if demand warrants. The facility will have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation of marijuana, or medical marijuana dispensary, is permitted.

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

Five ex-parte communications to report: All Commissioners received an email from Jim Fitzpatrick, applicant's representative.

Mel Lee, Senior Planner, presented the staff report.

PUBLIC COMMENTS

Jim Fitzpatrick, applicant's representative, stated he has read the conditions of approval and agreed to them except Nos. 1, 2 and Code Requirement No. 6. He spoke on the proposed application.

Blake Terreri, applicant, spoke on the proposed application.

Ed Sapigao, architect, explained the lab operation.

Commissioners, staff, Mr. Fitzpatrick, and Mr. Johnson discussed the Fire Department's role in reviewing the application and the safety plan for the application.

Commissioner Kerins stated concerns for the security of the area.

No public comments.

The Chair closed the public hearing.

Vice Chair de Arakal and staff discussed how monitoring compliance with conditions of approval will occur.

MOTION: Move that the Planning Commission find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities); and adopt a Resolution to approve Planning Application PA-17-49, subject to conditions of approval with the following modifications:

Condition of Approval No. 1 to read: “The use of this property as a medical marijuana manufacturing/processing business shall comply with the approved plans and terms described in this resolution and these conditions of approval. The business hours shall be from 7:00 AM to 7:00 PM, Monday through Sunday, increasing to 24-hour-a-day operation if demand warrants. No product distribution shall occur between 12:00 AM to 5:00 AM. The Planning Commission may modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)]”.

Condition of Approval No. 2 to read: “This CUP will expire and be of no further force and effect if the applicant does not obtain a valid medical marijuana business permit for this location within 12 months from issuance of this CUP.

Delete Code Requirement No. 6.

Moved by Chair Andranian, seconded by Commissioner Kerins.

RESOLUTION PC-18-20– A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING CONDITIONAL USE PERMIT PA-17-49 TO ALLOW A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY AT 3505 CADILLAC AVENUE, UNIT F9

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Kerins, Navarro Woods

Noes: Harlan

Absent: None

Abstained: None

The Chair explained the appeal process.

The Chair called for a break at 9:49 p.m.

The Chair reconvened at 9:56 p.m.

8. PLANNING APPLICATION PA-18-03 FOR A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY (SE7ENLEAF, LLC) AT 3505 CADILLAC AVENUE, UNIT M101

Project Description: Planning Application PA-18-03 is a Conditional Use Permit for a Medical Marijuana manufacturing and distribution facility (Se7enLeaf, LLC) within a 2,299-square-foot tenant space in an existing industrial building. The proposed facility would include extraction, manufacturing/processing, preparation, packaging, staging, storage, and distribution of cannabis products and an office and conference area. The facility will be staffed by at least eight employees. The initial hours of operation are proposed to be from 7 AM to 7 PM, Monday through Saturday, increasing to a 24-hour-a-day operation, if demand warrants. The facility

will have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation of marijuana, or medical marijuana dispensary, is permitted.

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

Five ex-parte communications to report: All Commissioners received an email from Jim Fitzpatrick, applicant's representative.

Mel Lee, Senior Planner, presented the staff report.

Commissioner Kerins and staff discussed whether the buildings in the proposed application are two separate buildings.

PUBLIC COMMENTS

Jim Fitzpatrick, applicant's representative, stated he will be doing a dual presentation on this item and for Public Hearing Item No. 9 since it is the same applicant for both items. He has read the conditions of approval on both items and agreed to them except Nos. 1, 2 and Code Requirement No. 6.

Michael Moussalli, applicant, explained how the operation will run.

Alex Sandorf, member from the applicant's team, explained the extraction process.

Matteo Tabib, member from the applicant's team, explained the distribution component of the application.

Ed Sapigao, architect, explained the floor plans for buildings M101 and L3.

Commissioners, Mr. Moussalli, and members of the applicant's team discussed whether buildings M101 and L3 could operate independently; how transportation of products between the two buildings would occur; and who polices the transportation system and testing lab.

No public comments.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities); and adopt a Resolution to approve Planning Application PA-18-03, subject to conditions of approval with the following modifications:

Condition of Approval No. 1 to read: "The use of this property as a medical marijuana manufacturing/processing business shall comply with the approved plans and terms described in this resolution and these conditions of approval. The business hours shall be from 7:00 AM to 7:00 PM, Monday through Sunday, increasing to 24-hour-a-day operation if demand warrants. No product distribution shall occur between 12:00 AM to 5:00 AM. The Planning Commission may modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)]".

Condition of Approval No. 2 to read: "This CUP will expire and be of no further force and effect if the applicant does not obtain a valid medical marijuana business permit for this location within 12 months from issuance of this CUP.

Delete Code Requirement No. 6 and include a condition that no transportation of product could be walked from facility to facility.

Moved by Commissioner Kerins, seconded by Chair Andranian.

Chair Andranian spoke in support of the motion.

Commissioner Harlan spoke in opposition to the motion.

Vice Chair de Arakal spoke in opposition to the motion.

The motion failed by the following roll call vote:

Ayes: Andranian, Kerins

Noes: de Arakal, Harlan, Navarro Woods

Absent: None

Abstained: None

The Chair explained the appeal process.

9. PLANNING APPLICATION PA-18-04 FOR A MEDICAL MARIJUANA MANUFACTURING AND DISTRIBUTION FACILITY (SE7ENLEAF, LLC) AT 3505 CADILLAC AVENUE, UNIT L3

Project Description: Planning Application PA-18-04 is a Conditional Use Permit for a Medical Marijuana manufacturing and distribution facility (Se7enLeaf, LLC) within a 4,360-square-foot tenant space in an existing industrial building. The proposed facility would include preparation, extraction, processing, packaging, staging, storage, and distribution of cannabis products, offices and an indoor parking space for one delivery vehicle. The facility will be staffed by at least 15 employees. The initial hours of operation are proposed to be from 7 AM to 7 PM, Monday through Saturday, increasing to a 24-hour-a-day operation, if demand warrants. The facility will have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation of marijuana, or medical marijuana dispensary, is permitted.

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

Five ex-parte communications to report: All Commissioners received an email from Jim Fitzpatrick, applicant's representative.

Jim Fitzpatrick asked if there could be a substitute motion on Public Hearing Item No. 8.

Yolanda Summerhill stated that the Costa Mesa Municipal Code, Section 2-72, does give authority for reconsideration of a motion and the motion could only be made by the Commissioner who voted with the prevailing side.

Vice Chair de Arakal spoke regarding his concerns with Public Hearing Item No. 8.

Commissioner Navarro Woods spoke regarding her concerns with Public Hearing Item No. 8.

Mr. Moussalli spoke regarding a solution to transporting products securely from one location to the other.

Commissioner Navarro Woods and Mr. Moussalli discussed why another location was not an option and whether modifications could be made to the operations so they are fully contained within themselves and no transportation would occur between each location.

Commissioners, Mr. Moussalli, and Mr. Tabib discussed adding a condition that no transportation of products between facilities could occur.

MOTION: Move to reconsider Public Hearing Item No. 8.

Moved by Commissioner Navarro Woods, seconded by Chair Andranian.

The motion carried by the following roll call vote:

Ayes: Andranian, Kerins, Navarro Woods

Noes: de Arakal, Harlan

Absent: None

Abstained: None

MOTION: Move that the Planning Commission continue Public Hearing Item No. 8 to a date uncertain to be set by staff and applicant.

Moved by Chair Andranian, seconded by Commissioner Kerins with discussion.

Commissioner Kerins stated concerns with requiring this applicant but not others to comply with a condition that no transportation could occur between each building.

Vice Chair de Arakal stated concerns with this application being a proper model under Measure X with having one applicant operating out of two buildings.

Commissioner Navarro Woods stated that other applicants have been self-contained and there has not been evidence of sharing products between sites like this application is requesting.

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Harlan, Kerins, Navarro Woods

Noes: None

Absent: None

Abstained: None

PUBLIC COMMENTS

Jim Fitzpatrick, applicant's representative, asked that the Commission support this application's stand-alone operation.

Commissioner Kerins and Mr. Fitzpatrick discussed the concerns of overconcentration of these type of businesses in one area.

Commissioner Harlan recommended to the applicant that they request to continue the item since the previous application was continued and stated he would support a continuance of this item.

Mr. Moussalli stated they would move forward with their application being a stand-alone building and no product will be moved between buildings at the Commission's request.

A member of the public spoke regarding the request to operate 24-hours-a-day and the transfer of products between buildings.

A member of the applicant's team stated they accept Vice Chair de Arakal's request that no transfer of products will occur between both facilities.

Mr. Fitzpatrick provided closing comments.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission find that the project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities); and adopt a Resolution to approve Planning Application PA-18-04, subject to conditions of approval with the following modifications:

Condition of Approval No. 1 to read: "The use of this property as a medical marijuana manufacturing/processing business shall comply with the approved plans and terms described in this resolution and these conditions of approval. The business hours shall be from 7:00 AM to 7:00 PM, Monday through Sunday, increasing to 24-hour-a-day operation if demand warrants. No product distribution shall occur between 12:00 AM to 5:00 AM. The Planning Commission may modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)]".

Condition of Approval No. 2 to read: "This CUP will expire and be of no further force and effect if the applicant does not obtain a valid medical marijuana business permit for this location within 12 months from issuance of this CUP.

Delete Code Requirement No. 6 and to include a condition that no transportation of product could be walked from facility to facility.

Moved by Commissioner Kerins, seconded by Vice Chair de Arakal.

Chair Andranian stated reasons he does not support the motion.

The Commissioners discussed the motion.

SUBSTITUTE MOTION: Move that the Planning Commission continue this item to the March 12, 2018 meeting.

Moved by Chair Andranian, seconded by Commissioner Navarro Woods.

The motion carried by the following roll call vote:

Ayes: Andranian, de Arakal, Harlan, Kerins, Navarro Woods
Noes: None
Absent: None
Abstained: None

DEPARTMENTAL REPORT(S)

1. Public Services Report – none.
2. Development Services Report – none.

CITY ATTORNEY'S OFFICE REPORT(S)

1. City Attorney – none.

ADJOURNMENT (05:25:49) TO A PLANNING COMMISSION SPECIAL MEETING AT 6:00 P.M., OR SHORTLY THEREAFTER, ON MONDAY, MARCH 5, 2018.

Submitted by:



BARRY CURTIS, SECRETARY
COSTA MESA PLANNING COMMISSION