

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

April 22, 2019

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.

Chair de Arakal called the meeting to order at 5:57 p.m.

Commissioner Colbert led the Pledge of Allegiance.

ROLL CALL

Present: Chair Byron de Arakal
Vice Chair Jeffrey Harlan
Commissioner Kedarious Colbert
Commissioner Carla Navarro Woods
Commissioner Jon Zich

Staff: Barry Curtis, Director of Economic and Development Services
Jennifer Le, Assistant Director of Development Services
Tarquin Preziosi, Assistant City Attorney
Raja Sethuraman, Public Services Director
Bart Mejia, City Engineer
Nancy Huynh, Associate Planner
Johnwilly Aglupos, Assistant Planner
Katelyn Walsh, Assistant Planner
Julie Colgan, Recording Secretary

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS:

Ann Parker, Costa Mesa resident, stated concerns with the business that is operating at 657 West 19th Street; with the marijuana business operators in our City that are not Costa Mesa residents; and with the illegal marijuana dispensaries operating in our City.

Commissioner Zich noted that at the last meeting he asked Mr. Curtis to look into the property at 657 West 19th Street and asked Mr. Curtis for a status report.

Barry Curtis, Director of Economic and Development Services, responded that in addition to Commissioner Zich's request at the prior meeting, the City received an email with questions about this property as well. Mr. Curtis will bring back a comprehensive response at the next Commission meeting including responses to the questions raised in the email.

Chair de Arakal stated that he received an extensive briefing from Mr. Curtis on this matter and it will be reported on in more detail at the next meeting.

Chair de Arakal closed public comments.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

No Commissioner comments.

CONSENT CALENDAR:

1. **MINUTES FOR THE MEETING OF MARCH 25, 2019**
2. **GENERAL PLAN CONFORMITY RESOLUTION FOR THE CITY OF COSTA MESA ONE-YEAR AND FIVE YEAR 2019-2020-2024/25 CAPITAL IMPROVEMENT PROGRAMS**

MOTION: Move to approve the Consent Calendar.

Moved by Commissioner Colbert, seconded by Vice Chair Harlan.

RESOLUTION PC-19-19 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA FINDING THAT THE PROPOSED ONE-YEAR 2019-2020 AND FIVE-YEAR 2019-2024 CAPITAL IMPROVEMENT PROGRAMS ARE IN CONFORMANCE WITH THE CITY OF COSTA MESA 2015-2035 GENERAL PLAN

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich

Noes: None

Absent: None

Abstain: None

PUBLIC HEARINGS (00:07:14)

1. **PLANNING APPLICATION 19-09 FOR A MARIJUANA DISTRIBUTION FACILITY (SHELF LIFE, INC.) AT 3505 CADILLAC AVENUE, UNIT O-107**

Project Description: Planning Application 19-09 is a request for a Conditional Use Permit (CUP) for a marijuana distribution facility within a 1,907-square-foot tenant space in an existing industrial building. The facility would be operated by Shelf Life, Inc. The proposed facility would distribute pre-packaged cannabis products and source material produced by licensed cannabis manufacturers and cultivators, including flower, oils, waxes, beverages, and similar products. No extraction or manufacturing of cannabis would occur at this facility. Rooms include reception and lobby areas, storage rooms, and ancillary offices. Distribution vehicles would be loaded outside the suite in a designated loading area proposed within the parking lot. 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 categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Class 1), Existing Facilities.

One ex-parte communication to report: Commissioner Zich met with the applicant several month ago.

Katelyn Walsh, Assistant Planner, presented the staff report.

Commissioner Zich and Ms. Walsh discussed the reason for the two-month delay between when the conditional use permit application was submitted and when the application was deemed complete.

PUBLIC COMMENTS

Courtney Eder, applicant, stated that she has read the conditions of approval and agrees to them. She presented a slideshow including the history of Shelf Life, what they are applying for, what distribution allows, what Shelf Life is not, and testimonials.

Commissioner Navarro Woods and Ms. Eder discussed that the application is for the same use but at a different location than previously presented to the Commission.

Walt Bushman, Costa Mesa resident, asked why there are so many cannabis distributors in Costa Mesa and whether it was because of money. He stated concerns with the Measure X businesses being a bad precedent for kids and spoke in opposition to them.

Chair de Arakal responded to Mr. Bushman's concerns.

The Chair closed the public comments portion of the public hearing.

Vice Chair Harlan and Ms. Le discussed the intent of Condition of Approval No. 39 and whether sales to illegal dispensaries had become an issue.

Commissioner Navarro Woods stated support for Condition of Approval No. 39 and wants to see this condition added in all future Measure X CUP's.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission adopts a Resolution finding that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, Class 1, Existing Facilities; and adopt a Resolution to approve Planning Application 19-09, subject to conditions of approval.

Moved by Commissioner Navarro Woods, seconded by Chair de Arakal.

Commissioner Navarro Woods, Commissioner Zich, and Chair de Arakal provided comments in support of the motion.

RESOLUTION PC-19-20 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT PA-19-09 TO ALLOW A MARIJUANA DISTRIBUTION FACILITY AT 3505 CADILLAC AVENUE, UNIT O-107

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich

Noes: None

Absent: None

Abstain: None

The Chair explained the appeal process.

2. PLANNING APPLICATION 19-02 AND TENTATIVE PARCEL MAP 2018-193 FOR A TWO-UNIT RESIDENTIAL COMMON INTEREST DEVELOPMENT AT 172 EAST WILSON STREET

Project Description: Planning Application 19-02 is a request for the following:

1. Design Review for a Residential Common Interest Development consisting of two, two-story, attached condominium units on a 7,451-square-foot parcel. The proposed units would each be 2,559 square feet in area with four bedrooms, five bathrooms, and an attached two-car garage; and
2. Tentative Parcel Map 2018-193 to establish a two-unit condominium map.

Environmental Determination: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (Class 3), New Construction.

No ex-parte communications to report.

Nancy Huynh, Associate Planner, presented the staff report.

Commissioners, Ms. Huynh, and Ms. Le discussed the building height; the status of the legal non-conforming lot width considering the proposed change to the property; whether there is a restrictive design guideline or criteria regarding how much of the front of the property could be dedicated to garage doors; that the landscaping plan is conditioned to be submitted prior to building permit issuance; whether the lot was subdivided previously; and whether the lot was legal nonconforming prior to the subdivision.

PUBLIC COMMENTS

Walt Bushman, applicant, stated that he has read the conditions of approval and agrees to them.

Chair de Arakal and Mr. Bushman discussed how the landscape plan would soften the look of the four garage doors.

No public comments.

The Chair closed the public comments portion of the public hearing.

Vice Chair Harlan discussed whether more Residential Common Interest Development applications have come in since changes to the Small Lot Ordinance were made.

Mr. Bushman clarified maximum width on the driveway approach and that the project is within all the parameters set by Public Services.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303; and approve Planning Application 19-02 and Tentative Parcel Map 2018-193, subject to conditions of approval.

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

Commission Navarro Woods spoke in support of the project's two bedrooms on the first floor.

Chair de Arakal spoke in support of the motion and asked that the landscape plans include vertical landscaping in the ribbons between the driveways.

RESOLUTION PC-19-21 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING A RESIDENTIAL COMMON INTEREST DEVELOPMENT (PA-19-02) AND TENTATIVE PARCEL MAP 2018-193 FOR DEVELOPMENT OF TWO ATTACHED CONDOMINIUM UNITS AT 172 EAST WILSON STREET

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich
Noes: None
Absent: None
Abstain: None

The Chair explained the appeal process.

3. ZONING APPLICATIONS 18-63 AND 18-64, A REQUEST FOR TWO MINOR CONDITIONAL USE PERMITS TO INSTALL SMALL CELL FACILITIES ON TOP OF TWO WOOD UTILITY POLES ADJACENT TO 3590 HARBOR GATEWAY NORTH AND 1050 ARLINGTON DRIVE

Project Description: Zoning Applications 18-63 and 18-64 are requests for two Minor Conditional Use Permits (MCUP) to allow the installation of small cell facilities on two wood utility poles, located within public street rights-of-way adjacent to 3590 Harbor Gateway North and 1050 Arlington Drive.

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 and Section 15303 (Class 3), New Construction.

No ex-parte communications to report.

MOTION: Move that the Planning Commission combine the Public Hearing for Zoning Application 18-63 and 18-64 into one Public Hearing.

Moved by Chair de Arakal, seconded by Commissioner Colbert.

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Navarro Woods, Zich
Noes: None

Absent: None
Abstain: None

Johnwilly Aglupos, Assistant Planner, presented the staff report.

Commissioners, Mr. Aglupos, and Ms. Le discussed that no small cell facilities have been constructed and completed in the City and whether or not there would be a change in lighting on the Arlington Street wood pole because the luminaire would be raised.

Commissioner Navarro Woods asked whether the City Council discussed the location of small cell facilities in public areas or near schools when they made changes to the Design Guidelines. Mr. Curtis explained that the City Council's focus was on the distance requirement from a residential use as the determining factor for whether an application would be heard by the Planning Commission or the Zoning Administrator and that they did not focus on other public spaces.

Chair de Arakal and Ms. Le discussed whether the City Council contemplated specific guidelines on aggregate poles versus wood poles when they made changes to the Design Guidelines.

Chair de Arakal and Tarquin Preziosi, Assistant City Attorney, discussed whether federal law has any guidelines on what "visually compatible design" means in U.S. Code 332(c)(7)(B)(i)(II) and that the Commission would have to make findings to support its determination if it denied the application because it was not visually compatible.

Chair de Arakal and Mr. Aglupos discussed in Zoning Application 18-63 how placing a small cell facility on top of the aggregate light pole would interfere with the existing power lines above.

PUBLIC COMMENTS

Franklin Orozco, applicant, stated he has read the conditions of approval and asked that in Condition of Approval No. 2, the requirement for a letter of approval from SCE be deleted.

Chair de Arakal and Mr. Aglupos discussed Mr. Orozco's request regarding Condition of Approval No. 2. Ms. Le stated that staff would be amenable to the change proposed by Mr. Orozco.

Mr. Orozco clarified his request, asking that "The Applicant shall provide a letter of approval from SCE..." be removed from Condition of Approval No. 2.

Commissioners and Mr. Orozco discussed why the wood pole, for Zoning Application ZA-18-63, was chosen for the installation of a small cell facility and not the aggregate pole immediately adjacent; whether the height of the luminaire for Zoning Application 18-63 is sufficient for lighting; whether there are any poles along the street that satisfy the SCE criteria for the types of poles that can be used; whether the small cell facility design could be more streamlined; whether the small cell facility could be mounted on top of the wood pole; whether alternative structures were considered besides aggregate poles or wood poles in the general area; whether the Radio Frequency Compliance Report for Harbor Gateway North would apply to the Arlington Pole as well; whether the Radio Frequency Compliance Report should have "theoretical" in the title because it is generated before the small cell facility is installed

and then "actual" in the title after the installation is completed; examples of signage that will be installed and whether the signage would indicate to a pedestrian to not stand under the pole for an extended period of time; what kind of measures would be considered as a part of a small cell installation to ensure RF emissions meet federal requirements; clarifying what the thirty minute measurement is referring to under average time in Table 1 on handwritten page 75; whether the general public could be exposed to the emissions from the small cell facility if located at a similar elevation or horizontal plane; whether the distance from the pole to the top seating area in the football stadium was measured to ensure that the public is outside of the exposure range; how many post installation Radio Frequency Reports does AT&T have available for small cell facilities; ownership of the wood utility poles; and whether the applicant has sent a letter for pre-approval from the other members or co-owners of the wood utility poles.

No public comments.

The Chair closed the public comments portion of the public hearing.

Commissioner Navarro Woods stated concerns with setting a precedent since this is the first small cell facility application on a wood pole and discussed with Ms. Le whether designs from other carriers for small cell facilities on wood poles had been submitted to the City.

Mr. Orozco provided closing comments.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission find Zoning Application 18-63 that project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, Class 1, Existing Facilities, and Section 15303, Class 3, New Construction; and approve Zoning Application 18-63 subject to the findings in Exhibit A on handwritten page 114 and conditions of approval in Exhibit B beginning on handwritten page 116 with the following modification:

Condition of Approval No. 2 to read: "Any wireless device collocating on the individual facility shall fit within the proposed shroud dimensions. The applicant is subject to CofA #9 regarding a Radio Frequency (RF) report".

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

Ms. Le asked the Chair to confirm which design alternate his motion was intended to support.

Chair de Arakal responded Design Alternate 2. He asked the second of his motion if he agreed. Vice Chair Harlan responded yes.

Chair de Arakal provided comments and stated that he would like the post-installation Radio Frequency reports to be posted on the City's website.

Commissioner Zich spoke in support of the motion but stated concerns with the process and not having any post-installation reports in the City to refer to.

Commissioner Navarro Woods spoke in opposition to the motion. She stated concerns with setting a precedent without City Council having a discussion on small cell facility installation on wood poles.

Vice Chair Harlan stated concerns with the design and it being visually compatible relative to the other designs the Commission has seen.

Mr. Preziosi stated that earlier this month the California Supreme Court upheld cities' rights within the State of California to regulate small cell facilities on the basis of aesthetics. This was a case out San Francisco of the ninth circuit and the Supreme Court upheld a city's inherent power to regulate in public right of way as it relates to aesthetic impacts.

Chair de Arakal and Mr. Aglupos discussed what would happen if an appeal of this application was not heard within the "shot clock" timeframe mandated by the federal government.

Commissioner Colbert discussed his concerns regarding the City's process and review of the RF reports and commended the Zoning Administrator for forwarding these small cell facilities to PC.

Chair de Arakal provided additional closing comments.

RESOLUTION PC-19-22 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-18-63 TO INSTALL A SMALL CELL FACILITY, THAT IS DESIGNED AND CONFIGURED AS DEPICTED IN ALTERNATE 2, ON A JOINT UTILITY POLE NEAR 3590 HARBOR GATEWAY NORTH

The motion carried by the following roll call vote:

Ayes: de Arakal, Colbert, Zich
Noes: Harlan, Navarro Woods
Absent: None
Abstain: None

The Chair explained the appeal process.

MOTION: Move that the Planning Commission find that Zoning Application 18-64 is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, Class 1, Existing Facilities, and Section 15303, Class 3, New Construction; and approve Zoning Application 18-64, Design Alternate 2, subject to the conditions of approval on handwritten page 123 and findings on handwritten page 121 with the following modification:

Condition of Approval No. 2 to read: "Any wireless device collocating on the individual facility shall fit within the proposed shroud dimensions. The applicant is subject to CofA #9 regarding a Radio Frequency (RF) report".

Moved by Chair de Arakal, seconded by Commissioner Zich.

RESOLUTION PC-19-23 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA TO APPROVE MINOR CONDITIONAL USE PERMIT ZA-18-64 TO INSTALL A SMALL CELL FACILITY, THAT IS DESIGNED AND CONFIGURED AS

DEPICTED IN ALTERNATE 2, ON A JOINT UTILITY POLE NEAR 1050 ARLINGTON DRIVE

The motion carried by the following roll call vote:

Ayes: de Arakal, Colbert, Zich
Noes: Harlan, Navarro Woods
Absent: None
Abstain: None

The Chair explained the appeal process.

DEPARTMENTAL REPORT(S)

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

CITY ATTORNEY'S OFFICE REPORT(S)

1. City Attorney – none.

ADJOURNMENT AT 8:01 PM

Submitted by:



BARRY CURTIS, SECRETARY
COSTA MESA PLANNING COMMISSION