

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

**May 13, 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](http://www.costamesaca.gov) or purchased on DVD upon request.*

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

Commissioner Zich led the Pledge of Allegiance.

**ROLL CALL**

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

Absent: Carla Navarro Woods

Staff: Barry Curtis, Director of Economic and Development Services  
Jennifer Le, Assistant Director of Development Services  
Tarquin Preziosi, Assistant City Attorney  
Bart Mejia, City Engineer  
Justin Arios, Assistant Planner  
Johnwilly Aglupos, Assistant Planner  
Julie Colgan, Recording Secretary

**ANNOUNCEMENTS AND PRESENTATIONS:**

None.

**PUBLIC COMMENTS:**

Ann Parker, Costa Mesa resident, stated concerns with not receiving records from a public records request she put in for 657 West 19<sup>th</sup> Street.

Chair de Arakal asked what is the general rule about fulfilling public records requests.

Tarquin Preziosi, Assistant City Attorney, responded that the general rule for a public records request is that the City has to respond within 10 days or in certain circumstances, they can extend the ten days by an additional fourteen days. He explained that the duty to respond is not the same as the duty to produce records. There is an additional duty on the part of the City to respond to the request to indicate whether it will produce records or not.

Chair de Arakal also asked if all public records are vetted by the City Attorney's office. Mr. Preziosi declined to answer at the time due to attorney client privilege.

The Chair closed the public comments.

## **PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:**

Commissioner Zich asked to be notified when a completion of a small cell site occurs because he would like to review the field test completion report. He also asked if the sales tax report from the Finance Director is available for the public on the City website and what category would the cannabis gross receipt sales tax show up in the sales tax revenue. Mr. Curtis said he would get back to Commissioner Zich on what category.

Chair de Arakal stated concerns with Senate Bill 50 excluding coastal communities with populations of 50,000 or less from the rules of SB 50 and with the provision in the bill where the state is mandating duplexes, triplexes, and fourplexes in R1 zones. He also spoke on an article in the Daily Pilot where Governor Newsom allocated \$2.2 million to study using a portion of Fairview Developmental Center for the homeless; how the City did their part to have a homeless shelter at great expense to the City's general fund budget; and suggested fighting against it. Lastly, he spoke on two events--the dedication of the new library at Lions Park on May 24 and the Costa Mesa Chamber of Commerce ask a City Planner seminar on June 5.

Jennifer Le, Assistant Director of Development Services, responded to Commissioner Zich question on cannabis tax revenues and clarified that cannabis tax revenues do not show up in the sales tax report because they are a gross receipt tax. She also stated that they City has received \$105,000 in cannabis tax revenues as of April 30.

## **CONSENT CALENDAR:**

Ann Parker, Costa Mesa resident, asked to pull the minutes.

The Chair asked for a motion on Consent Calendar Item number two.

### **2. 2018 ANNUAL REVIEW OF THE COSTA MESA 2015-2035 GENERAL PLAN**

**MOTION: So moved.**

**Moved by Commissioner Zich, seconded by Commissioner Colbert.**

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Zich

Noes: None

Absent: Navarro Woods

Abstain: None

### **1. MINUTES FOR THE MEETING OF APRIL 8, 2019**

Ann Parker, Costa Mesa resident, asked where the report was for the property 657 West 19<sup>th</sup> Street that Commissioner Zich asked Mr. Curtis for.

Chair de Arakal asked if we have an update on the matter.

Mr. Curtis responded that he believed the question came up at the last meeting and he had indicated it will come back at this meeting. He indicated he would provide the report to the Commission during his report later in the agenda.

Chair de Arakal asked for a motion on the minutes.

**MOTION: Move that the Planning Commission approve the minutes of April 8<sup>th</sup>.**

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

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Zich

Noes: None

Absent: Navarro Woods

Abstain: None

## **PUBLIC HEARINGS (00:19:14)**

### **1. PLANNING APPLICATION 19-01 FOR A MARIJUANA MANUFACTURING FACILITY (CR MANUFACTURING) AT 3550 CADILLAC AVENUE**

**Project Description:** Planning Application 19-01 is a request for a conditional use permit for a marijuana manufacturing facility (CR Manufacturing) within a 12,236-square-foot stand-alone industrial building. The proposed facility would include non-volatile manufacturing, involving intake of extracted cannabis constituent products (such as oil) from licensed cannabis distributors for the production of vape pens or vape pen refill cartridges. Final products would be stored, third-party tested, packaged, and labeled for distribution by third-party licensed cannabis distributors. Rooms include production areas, packaging, storage, shipping / receiving and ancillary offices. Licensed cannabis distributors would pull into a secured area inside the building during loading and unloading. The facility would have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation or dispensing of marijuana 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.

Johnwilly Aglupos, Assistant Planner, presented the staff report.

Commissioner Zich, Mr. Aglupos, and Jennifer Le, Assistant Director of Development Services, discussed that the rolling machines have been eliminated on the manufacturing equipment page submitted by the applicant; that the 4,483-square-foot space shown on the plan delineates the state license premise (cannabis manufacturing) from the non-licensed premise (non-cannabis, support offices); and the intention behind the requirement of steel grate walls in the package area in Condition of Approval No. 40.

## **PUBLIC COMMENTS**

The Chair opened the public hearing.

Meilad Rafiei, applicant's representative, stated he has read the conditions of approval and agrees to them. He presented a slideshow on Orchid Essentials' background, board of directors and executive officers team, proposed floor plan, intake and output of product,

deliveries, intake process, vape pens, product creation, diagram of the production room, waste management, and security.

Commissioner Zich and Mr. Rafiei discussed that the requirements in Condition of Approval No. 40 came from HdL (the City's security consultant) and why they are needed; whether potential expansion of the cannabis production area was taken into consideration; and the applicant's intention with the two community organizations listed in their community benefits page--Whittier Law School in Costa Mesa and Share Our Selves.

Ann Parker, Costa Mesa resident, talked about a pot shop that was closed down recently off Harbor Boulevard; stated concerns with the City being able to handle the Measure X businesses off Cadillac Avenue; and asked what the maximum number of Measure X businesses there can be, how many does the City already have, and whether there will be more police presence.

Igal Israel stated concerns with the City not being ready for the Measure X businesses and asked how the City will enforce the Measure X businesses when the operators are in charge of the cameras. He stated concerns with the 1989 Orange Street project that the Commission approved and how it is for sale now and it not fitting in with the surrounding neighborhood.

Commissioner Zich asked whether there is a point in which the City would be concerned if there are too many cannabis businesses in the Measure X zone and what the concern would be.

Mr. Curtis responded that the City approved Measure X for a very defined geographic area and there are no figures for a specific amount that is a cap for those businesses. He stated that the Measure X applications do go through the police department to determine if they have any concerns; no concerns have arisen to date.

Commissioner Zich asked whether the police department had expressed concerns with staffing level in response to the growing Measure X area. Mr. Curtis responded no.

The Chair closed the public hearing.

**MOTION: Move that the Planning Commission approve Planning Application 19-01 subject to the findings in Exhibit A and conditions of approval in Exhibit B and find 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.**

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

Chair de Arakal stated that he understands the public comments, but the voters of Costa Mesa believed that the City was ready for this or they would not have voted for Measure X. In addition, the Planning Commission is administering a law and a set of regulations that the voters of Costa Mesa put in place via the ballot box. In turn, he stated the Commission is fulfilling their responsibilities.

Commissioner Zich spoke in support of the motion.

Vice Chair Harlan stated that what is before the Commission is a conditional use permit that provides conditions which the applicant is required to comply with, and it will provide the protection for our community even if the property is sold because the conditional use permit runs with the land. He also spoke in support of the motion.

Commissioner Colbert spoke in support of the motion. He stated that the community organizations under the applicant's community benefits stood out to him, but he was not too sure if it will happen if the Whittier Law School does not continue to exist. He stated he would like to see it continue in some way in other law programs in the area.

**RESOLUTION PC-19-24 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING CONDITIONAL USE PERMIT PA-19-01 TO ALLOW A MARIJUANA MANUFACTURING FACILITY AT 3550 CADILLAC AVENUE**

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Colbert, Zich

Noes: None

Absent: Navarro Woods

Abstain: None

The Chair explained the appeal process.

**DEPARTMENTAL REPORT(S)**

1. Public Services Report – none.
2. Development Services Report – Mr. Curtis provided a presentation regarding the business at 657 West 19<sup>th</sup> Street that Ms. Parker brought up at the April 8<sup>th</sup> meeting. Commission Zich requested that staff provide a response back to the Commission regarding the issue.

Mr. Curtis provided a background regarding group counseling uses at the property, Solid Landing (previous use) and Elite Care (current use), and explained the history of those uses. He stated that a minor conditional use permit was approved by the Zoning Administrator which allowed Solid Landing to deviate from parking requirements; how the Planning Commission overturned the approval of the Zoning Administrator; and then how the City Council upheld the Planning Commission decision. He continued to explain that Solid Landings closed at the subject location in 2015 and staff believes the property has been closed since that time until fall of 2018.

Mr. Curtis then discussed a Zoning Administrator Determination made in 2016 (No. 16-1) regarding group counseling which modified a previous Zoning Administrator Determination. The 2016 Determination interpreted that no additional parking beyond four spaces per thousand gross square feet would be required for group counseling uses, as is the case for a general office uses, so long as certain operating parameters were satisfied. He noted that in practice, staff had used the project applicant's description letter certifying what they were going to do and staff used that as the required agreement. He explained the three major requirements that an applicant had to meet in order to be approved under that determination.

Mr. Curtis then spoke regarding Elite Care's approval and how its description letter stated that it would comply with all the parameters contained in the Zoning Administrator

Determination. He indicated that once the business had opened, concerns had arisen about the business and he contacted Elite Care to develop a binding agreement for Elite Care to formally agree to meet the required operational parameters. Based on his concerns with the difficulty of staff having to actively monitor applicants to determine whether certain parameters are met, such not parking on public streets or patients driving or walking to the facility, he directed the Zoning Administrator to resend her determination on group counseling and replace it with a previous determination from 2008 where a minor conditional use permit is required to deviate from parking requirements if adequate parking is not provided.

Commissioner Zich and Mr. Curtis discussed that based on the current determination in use the number of parking spaces required for Elite Care would be 67 and 29 spaces would be inadequate.


Chair de Arakal and Mr. Curtis discussed that staff is no longer using project description letters as the binding agreement and a conditional use permit is required now; whether Elite Care had been operating within their parameters prior to the Zoning Administrator rescinding her determination; and what agreement Elite Care is currently operating under.

**CITY ATTORNEY'S OFFICE REPORT(S)**

1. City Attorney – none.

**ADJOURNMENT AT 7:07 PM**

Submitted by:



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BARRY CURTIS, SECRETARY  
COSTA MESA PLANNING COMMISSION