



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: NOVEMBER 12, 2013

ITEM NUMBER: PH-5

SUBJECT: APPEAL OF PLANNING APPLICATION ZA-11-42 FOR A HOOKAH LOUNGE AT 440 FAIR DRIVE, SUITE A

DATE: NOVEMBER 1, 2013

**FOR FURTHER INFORMATION CONTACT: MINOO ASHABI, AIA (714) 754-5610
Minoo.ashabi@costamesaca.gov**

RECOMMENDATION:

Uphold or reverse the Zoning Administrator's decision to deny the proposed project, described below.

PROJECT DESCRIPTION

The proposed hookah lounge is located in a 950 square foot tenant space on the ground floor of a two-story commercial building located at 440 Fair Drive in a C1 zone. The two story building contains a variety of tenants including general and medical offices, several massage/spa facilities and a pizza place on the first floor. All parking is provided to the east and north of the building.

The business is located within 200 feet of residential zone properties; therefore, the applicant was required to submit a minor conditional use permit (MCUP) application to allow operation of the hookah lounge past 11:00 pm in conjunction with a conditional use permit (CUP) because a DJ is proposed three nights a week. The Zoning Administrator denied the request on October 10, 2013.

APPLICANT

The applicant is Moheb Fakhry, authorized agent for the property owner D'Allessio Investment LLC.

BACKGROUND

On October 10, 2013, the Zoning Administrator denied the request for the hookah lounge to stay open past 11:00 p.m. The applicant filed an appeal of the Zoning Administrator's decision on October 18, 2013 (Attachment 2).

Operation of the hookah lounge past 11:00 pm is subject to approval of a minor conditional use permit since it is located within 200 feet of residential zone. A conditional use permit is also required for businesses that provide live entertainment or dancing. The original application included a request for outdoor seating and live entertainment but the request was modified to having a DJ three times a week until midnight.

The following is the chronology of the events leading to this request:

- On October 5, 2011, a business license was approved for Harbor Hookah Lounge at this location. The business license specifically referred that only retail uses were permitted.
- On March 20, 2012 and November 5, 2012, the City received two complaints that the business was operating outside their approved hours.
- On November 16, 2011, the applicant was informed that the business license permitted only retail use at this location and operation of a lounge after 11:00 pm was not authorized. Because the business was located less than 200 feet from residentially zoned properties, the hookah lounge operation was required to cease at 11:00 pm unless a minor conditional use permit was approved.
- On December 7, 2011, the applicant submitted a request for a minor conditional use permit.
- On January 23, 2012, the applicant received a letter that the minor conditional use permit application was deemed incomplete and was informed that the administrative hearing officer had dismissed the civil citation related to live entertainment; however, operation of the hookah lounge past 11:00 pm was subject to approval of a minor conditional use permit.
- The application was inactive due to inadequate information, but the hookah lounge continued the operation without a minor conditional use permit. The applicant was informed that, given the proximity to residential uses, staff will most likely not approve the request; consequently, he was offered the option to withdraw the request and receive a full refund. The applicant opted not to withdraw the application and continued the operation past 11:00 pm. From March 2012 to June 2013, the applicant received several citations for violating the authorized hours of operations by staying open past 11:00 pm.
- On July 29, 2013, the applicant submitted a letter addressing pending issues (outdoor seating, live entertainment, parking, etc.).

- On August 21, 2013, the applicant was notified about the status of the application and the applicant requested that the application proceed despite staff's recommendation to withdraw the request.
- On October 14, 2013, the Planning Commission recommended a moratorium on hookah lounges to the City Council. If the hookah lounge moratorium is approved by the City Council and becomes effective, this business could remain in operation in accordance with the requirements of the issued business license.

ANALYSIS

The applicant noted the following reasons for rehearing the request:

- The extended hours past 11:00 p.m. is compatible with sensitive residential uses. The applicant claims that the business was approved with clear explanation of the operating hours of the hookah lounge.

Response- As noted above, the business license was issued on October 5, 2011, with a note indicating that the business was authorized for a retail outlet until 2:00 a.m. (Attachment 5).

- The applicant noted that the business has been operating in a manner in compliance with the original approval.

Response – The City does not have a specific land use category reflecting operation of hookah lounges; however, business operations similar to food and beverage establishments are subject to approval of a minor conditional use permit if within 200 feet of residential uses and stay open past 11:00 p.m. The applicant was notified on November 16, 2011, that the hookah lounge operation was not in compliance with the business license and in violation of the zoning regulations.

- The applicant noted that the other hookah lounges have history of complaints but not at this location.

Response – Given the history of other hookah lounges, the Zoning Administrator determined that operation of this type of business in close proximity to residential zoned properties is not a compatible use. During the public notice period, three letters in opposition of the proposal was received (Attachment 6).

- The applicant noted that the approval of the business license is an indication that the hookah lounge is consistent with the City's General Plan.

Response – As noted above the business license did not authorize a hookah lounge operation until 2:00 a.m. The applicant was notified and he chose to violate the business license approval and was issued several citations.

Justifications for Denial

Given the proximity of this location to sensitive residential uses staff cannot support the requests for the following reasons:

- Proposal to extend business hours past 11:00 pm is incompatible with sensitive residential uses. The building in which the hookah lounge is located is approximately 160 feet from the residential zone to the east and 150 feet from the residential zone to the south; however, the parking lot is less than 75 feet from the residences to the east. The proposed hours of operation past 11:00 pm could result in significant adverse impacts to the nearby residentially-zoned properties, including, but not limited to noise, litter, and loitering.
- The business has not been operating in a manner that is compliant with the original approval. As noted earlier, the use was permitted as a retail use to operate between the hours of 12:00 pm to 2:00 am. After the City discovered that the business owner is operating a hookah lounge instead of a retail outlet, the applicant was notified that approval of a minor conditional use permit was required for his operation. He has received multiple citations and continued operating the hookah lounge past 11:00 pm.
- Similar hookah lounges within 200 feet of residentially-zoned properties operating past 11:00 pm have a long history of complaints regarding litter, noise, and loitering. On August 8, 2011, Planning Commission denied a request for a hookah lounge to operate past 11:00 pm because of the adverse impacts the operation had on adjacent residential uses, a 270-unit senior housing building (Bethel Towers) on West 19th Street. On August 9, 2012, the Zoning Administrator also denied extending the hours of operation for a hookah lounge located at 3033 Bristol Street, Suite F, within 200 feet of residential uses. The Zoning Administrator found that the late hour operations of this business could result in similar issues and incompatibility with abutting residential uses. Even though there has been no direct complaints related to excessive noise for this location, operation of hookah lounges have been associated with loud music, loitering, and nuisance noise in the parking lot. Considering the proximity to residentially zoned properties and the history of zoning violations, this site is considered an inappropriate location for the proposed extended hours of operation.
- Inconsistency with the General Plan. The proposal is not consistent with General Plan Objective LU-1F to minimize blighting influences and maintain the integrity of stable neighborhoods and General Plan Objective HOU-1.2 which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Given the proximity to residentially-zoned properties and history of zoning code violations, this site is considered an inappropriate location for the proposed hookah lounge's extended hours of operation.

ENVIRONMENTAL DETERMINATION

If approved, the project would be exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities. If the use is denied,

they would be exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15270(a) for projects which are disapproved.

GENERAL PLAN CONFORMITY

The proposed use is not consistent with General Plan Objective LU-1F to minimize blighting influences and maintain the integrity of stable neighborhoods and General Plan Objective HOU-1.2 which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Given the proximity to residentially-zoned properties and history of zoning code violations, this site is considered an inappropriate location for extended hours of operation for the hookah lounge.

CONCLUSION

The Zoning Administrator determined that given the proximity to residentially-zoned properties on the east and south and history of zoning code violations, this site is considered an inappropriate location for the proposed extended hours of operation for the hookah lounge. The Planning Commission could uphold or reverse the Zoning Administrator's decision.


MINOO ASHABI, AIA
Principal Planner


GARY ARMSTRONG, AICP
Economic and Development Services
Director

- Attachments:
- 1. Draft Planning Commission Resolution
 - 2. Appeal Letter
 - 3. Location Map
 - 4. Zoning Administrator Approval
 - 5. Business License
 - 6. Submitted public comments

- cc:
- Director of Economic & Development / Deputy CEO
 - Sr. Deputy City Attorney
 - Public Services Director
 - City Engineer
 - Transportation Services Manager
 - Fire Protection Analyst
 - Staff (4)
 - File (2)

Moheb Fakhry



Delassio Investment LLC
440 Fair Drive, Suite xx
Costa Mesa, CA 92626

RESOLUTION NO. PC-13-___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA UPHOLDING ZONING ADMINISTRATOR'S ACTION TO DENY A REQUEST TO OPERATE A HOOKAH LOUNGE LOCATED AT 440 FAIR DRIVE UNTIL 2:00 A.M. (MINOR CONDITIONAL USE PERMIT ZA-11-42)

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Moheb Farag, representing Delassio Investment LLC, owner of property located at 440 Fair Drive, for a minor conditional use permit for a hookah lounge to stay open until 2:00 a.m.

WHEREAS, minor conditional use permit (ZA-11-42) was denied by the Zoning Administrator on October 10, 2013.

WHEREAS, the applicant filed an appeal of the Zoning Administrator for a rehearing by the Planning Commission on October 18, 2013.

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 12, 2013, with all persons having the opportunity to speak for and against the proposed project.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **DENIES ZA-11-42** with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for ZA-11-42 and upon applicant's compliance with each and all of the conditions contained in Exhibit B as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 12th day of November, 2013.

Jim Fitzpatrick, Chair
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS

1. The proposal does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
 - a. A compatible and harmonious relationship does not exist between the building and site development, and use(s), and the building and site developments and uses that exist, or have been approved, for the general neighborhood. Specifically, a proposal to extend business hours past 11:00 pm is incompatible with residentially properties that exist within 200 feet for the subject property. Hours of operation past 11:00 pm will result in significant adverse impacts to the nearby residentially-zoned properties, including, but not limited to noise, litter, and loitering.
 - b. The proposal does not comply with performance standards as prescribed in the Zoning Code. Specifically, the use was permitted as a retail outlet to stay open past 11:00 pm and not a hookah lounge. The applicant has been operating the hookah lounge after 11:00 pm without authorization and received multiple citations during the past two years.
 - c. The proposal is not consistent with the General Plan. The proposed use is not consistent with General Plan Objective LU-1F to minimize blighting influences and maintain the integrity of stable neighborhoods and General Plan Objective HOU-1.2 which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Given the proximity to residentially-zoned properties and history of zoning code violations, this site is considered an inappropriate location for extended hours of operation for the hookah lounge.
2. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) because:
 - d. The proposed use is not compatible with developments in the same general area and would be materially detrimental to other properties within the area. Staff has received complaints regarding the late hours of operation and a written request from a nearby resident to not approve the extended hours. Specifically, the proposed hours of operation past 11:00 pm will result in significant adverse impacts to the nearby residentially-zoned properties, including, but not limited to noise, litter, and loitering.
 - e. Granting the minor conditional use permit will be materially detrimental to the health, safety and general welfare of the public and otherwise injurious to property or improvements within the immediate neighborhood since the business is located within 200 feet of residential uses and the parking lot is located less than 75 feet from the residences on Carnegie Avenue. Although a block wall separates the parking lot from the residences to the east, the late night traffic on Fair Drive and use of parking lot will directly affect the neighboring residences.

- f. Granting the minor conditional use permit will allow a use which is not in accordance with the general plan designation for the property. Specifically, the proposed use is not consistent with General Plan Objective LU-1F to minimize blighting influences and maintain the integrity of stable neighborhoods and General Plan Objective HOU-1.2 which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Given the proximity to residentially-zoned properties on the east and south and history of zoning code violations, this site is considered an inappropriate location for the proposed extended hours of operation for the hookah lounge.
2. The Costa Mesa Zoning Administrator has denied ZA-11-39. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.
3. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



City of Costa Mesa

- Appeal of Planning Commission Decision/Rehearing: \$1,220.00
- Appeal of Zoning Administrator/ Building Official / Fire Marshal / Staff Decision: \$690.00

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* Moheb F. KHR Y
 Address [REDACTED]
 Phone 832.788.3979 Representing Harbor Hookah Lounge

REQUEST FOR: REHEARING APPEAL REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

APP # ZA-11-42
10.11.2013
Zoning Administrator.

Decision by: Willa Bouwens-Killeen
 Reasons for requesting appeal, rehearing, or review:

Dont agree with the d
See Attached Response.

Date: 10-15-2013 Signature: [Signature]

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
 **Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only – do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
 If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

City of Costa Mesa

CITY OF COSTA MESA - [Created: 10/28/2013 1:27:40 PM] [Scale: 273.21] [Page: 8.5 x 11 / Portrait]

Overview Map



Legend

Address Points	Roads	Major	SECONDARY Hydrology Channels
Freeway	Collector	Newport BLVD	
	Freeway (cont)	Primary (cont)	

Map Display



(C) 2002-3 www.GeoPrise.NET

-11-

Appeal backgrounds

Answering the justifications for denial:

1. **Proposal to extend business hours past 11:00 is compatible with sensitive residential uses.** The initial application was submitted before establishing the business and all business criteria was clear, business exact address, business nature as a hookah lounge and the business hours, application was approved with no CUP or MCUP required.. Also few months later another application has been submitted approved with no conditions.
2. **The business has not been operation in a manner that is complaint with original approval.** The first application has been approved as a hookah lounge with operation hours 12:00 pm till 2:00 am; the second application was approved same way with no specific hours (open hours). Both applications was referred to a hookah lounge which offering service for hookah (a formal letter from the city of Costa mesa is acknowledging and confirming this fact).. Since there are no a clear category can hookah lounges be under, so the planning stuff considered it under retail (this has been discussed already with Ms. Rebecca and Wendy former planners in the city those days). Also, when applying for tobacco & Cigarettes licenses from the BOE they only offer one license as a retailer for all business who handling and dealing with tobacco & cigarette.
3. **Similar hookah lounges within 200 feet of residentially-zoned properties past 11:00pm having long history of complains.** Each individual business owner and his management are completely responsible to comply with the city zoned property regulations. Also, they have full control of their establishment using the proper strategy to achieve that. It is not fair for other businesses to get the punishment for a bad business behavior! Mean time it is not also fair to consider that establishment as a business model to judge other businesses. A police report for our particular location, shows 0 complain generated since we established our business.
4. **Inconsistency with the general plan.** When applicant applying to do business in Costa mesa city, it is the planning department responsibility to determine whether the type of business will be compatible or incompatible with the city plan, for this reason planning department will have the full authority to approve, denying or approving with conditions the business application, application can't be partially considered. Our application was submitted clearly as HOKKAH LOUNGE there was no way to dispute that all main business elements was cleared as well, and was approved more than 3 times.



**CITY OF COSTA MESA**

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

October 11, 2013

Moheb Farag

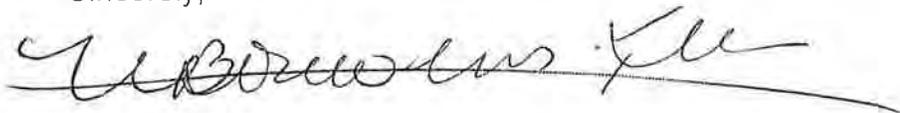

**RE: ZONING APPLICATION ZA-11-42
MINOR CONDITIONAL USE PERMIT FOR A HOOKAH LOUNGE TO STAY
OPEN UNTIL 2:00 A.M.
440 FAIR DRIVE, SUITE A**

Dear Mr. Farag:

This letter is to notify you that Zoning Application ZA-11-42 has been denied, based on the findings as described in the attached pages. The decision will become final at 5 pm on October 18, 2013 (seven days from the date of this letter), unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee), or is called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please contact the project planner, Minoo Ashabi at 714.754.5610 or minoo.ashabi@costamesaca.gov.

Sincerely,



WILLA BOUWENS-KILLEEN
Zoning Administrator

Attachments: Project description
 Findings

-13-

PROJECT DESCRIPTION

- The proposed hookah lounge is located in a 950 square foot tenant space on the ground floor of a two-story commercial building located at 440 Fair Drive in C1 zone.
- The two story building includes a variety of tenants including general and medical offices, several massage/spa facilities and a pizza place on the first floor. All parking is provided to the east and north of the building.
- The applicant requests a minor conditional use permit (MCUP) to allow operation of the hookah lounge past 11:00 p.m.

Background

Operation of the hookah lounge past 11:00 pm is subject to approval of a minor conditional use permit since it is located within 200 feet of residential zone. A conditional use permit is also required for businesses that provide live entertainment or dancing. The original application included a request for outdoor seating and live entertainment but the request was modified to having a DJ three times a week until midnight.

The following is the chronology of the events leading to this request:

- On October 5, 2011, a business license was approved for Harbor Hookah Lounge at this location. The business license specifically referred that retail uses only were permitted.
- On March 20, 2012 and November 5, 2012, the City received two complaints that the business was operating outside their approved hours.
- On November 16, 2011, the applicant was informed that the business license permitted only retail use at this location and operation of a lounge after 11:00 pm was not authorized. Because the business was located less than 200 feet from residentially zoned properties, the hookah lounge operation was required to cease at 11:00 pm unless a minor conditional use permit was approved.
- On December 7, 2011, the applicant submitted a request for a minor conditional use permit.
- On January 23, 2012, the applicant received a letter that the minor conditional use permit application was deemed incomplete and was informed that the administrative hearing officer had dismissed the civil citation related to live entertainment; however, operation of the hookah lounge past 11:00 pm was subject to approval of a minor conditional use permit.
- The application was inactive due to inadequate information, but the hookah lounge continued the operation without a minor conditional use permit. The applicant was informed that, given the proximity to residential uses, staff will most likely not approve the request; consequently, he was offered the option to withdraw the request and receive a full refund. The applicant opted not to withdraw the application and continued the operation past 11:00 pm. From March 2012 to June 2013, the applicant received several citations for violating the authorized hours of operations by staying open past 11:00 pm.

- On July 29, 2013, the applicant submitted a letter addressing pending issues (outdoor seating, live entertainment, parking, etc.).
- On August 21, 2013, the applicant was notified about the status of the application and the applicant requested that the application proceed despite staff's recommendation to withdraw the request.

ANALYSIS

Justifications for Denial

Given the proximity of this location to sensitive residential uses staff cannot support the requests for the following reasons:

- Proposal to extend business hours past 11:00 pm is incompatible with sensitive residential uses. The building in which the hookah lounge is located is approximately 160 feet from the residential zone to the east and 150 feet from the residential zone to the south; however, the parking lot is less than 75 feet from the residences to the east. The proposed hours of operation past 11:00 pm could result in significant adverse impacts to the nearby residentially-zoned properties, including, but not limited to noise, litter, and loitering.
- The business has not been operating in a manner that is compliant with the original approval. As noted earlier, the use was permitted as a retail use to operate between the hours of 12:00 pm to 2:00 am. After the City discovered that the business owner is operating a hookah lounge instead of a retail outlet, the applicant was notified that approval of a minor conditional use permit was required for his operation. He has received multiple citations and continued operating the hookah lounge past 11:00 pm.
- Similar hookah lounges within 200 feet of residentially-zoned properties operating past 11:00 pm have a long history of complaints regarding litter, noise, and loitering. On August 8, 2011, Planning Commission denied a request for a hookah lounge to operate past 11:00 pm because of the adverse impacts the operation had on adjacent residential uses, a 270-unit senior housing building (Bethel Towers) on West 19th Street. On August 9, 2012, the Zoning Administrator also denied extending the hours of operation for a hookah lounge located at 3033 Bristol Street, Suite F, within 200 feet of residential uses. The Zoning Administrator found that the late hour operations of this business could result in similar issues and incompatibility with abutting residential uses. Even though there has been no direct complaints related to excessive noise for this location, operation of hookah lounges have been associated with loud music, loitering, and nuisance noise in the parking lot. Considering the proximity to residentially zoned properties and the history of zoning violations, this site is considered an inappropriate location for the proposed extended hours of operation.
- Inconsistency with the General Plan. The proposal is not consistent with General Plan Objective LU-1F to minimize blighting influences and maintain the integrity of stable neighborhoods and General Plan Objective HOU-1.2 which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Given the proximity to residentially-zoned properties and history of zoning code violations, this site is considered an inappropriate location for the proposed hookah lounge's extended hours of operation.

FINDINGS

1. The proposal does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
 - a. A compatible and harmonious relationship does not exist between the building and site development, and use(s), and the building and site developments and uses that exist, or have been approved, for the general neighborhood. Specifically, a proposal to extend business hours past 11:00 pm is incompatible with residentially properties that exist within 200 feet for the subject property. Hours of operation past 11:00 pm will result in significant adverse impacts to the nearby residentially-zoned properties, including, but not limited to noise, litter, and loitering.
 - b. The proposal does not comply with performance standards as prescribed in the Zoning Code. Specifically, the use was permitted as a retail outlet to stay open past 11:00 pm and not a hookah lounge. The applicant has been operating the hookah lounge after 11:00 pm without authorization and received multiple citations during the past two years.
 - c. The proposal is not consistent with the General Plan. The proposed use is not consistent with General Plan Objective LU-1F to minimize blighting influences and maintain the integrity of stable neighborhoods and General Plan Objective HOU-1.2 which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Given the proximity to residentially-zoned properties and history of zoning code violations, this site is considered an inappropriate location for extended hours of operation for the hookah lounge.
2. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) because:
 - a. The proposed use is not compatible with developments in the same general area and would be materially detrimental to other properties within the area. Staff has received complaints regarding the late hours of operation and a written request from a nearby resident to not approve the extended hours. Specifically, the proposed hours of operation past 11:00 pm will result in significant adverse impacts to the nearby residentially-zoned properties, including, but not limited to noise, litter, and loitering.
 - b. Granting the minor conditional use permit will be materially detrimental to the health, safety and general welfare of the public and otherwise injurious to property or improvements within the immediate neighborhood since the business is located within 200 feet of residential uses and the parking lot is located less than 75 feet from the residences on Carnegie Avenue. Although a block wall separates the parking lot from the residences to the east, the late night traffic on Fair Drive and use of parking lot will directly affect the neighboring residences.
 - c. Granting the minor conditional use permit will allow a use, density or intensity which is not in accordance with the general plan designation for the property. Specifically, the proposed use is not consistent with General Plan Objective LU-1F

to minimize blighting influences and maintain the integrity of stable neighborhoods and General Plan Objective HOU-1.2 which protects existing residential neighborhoods from the encroachment of incompatible or potentially disruptive land uses and/or activities. Given the proximity to residentially-zoned properties on the east and south and history of zoning code violations, this site is considered an inappropriate location for the proposed extended hours of operation for the hookah lounge.

3. The Costa Mesa Zoning Administrator has denied ZA-11-39. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.
4. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



APPLICATION FOR BUSINESS LICENSE
 SEND YOUR CHECK MADE PAYABLE TO THE CITY OF COSTA MESA
 TREASURY MANAGEMENT DIVISION, PO BOX 1200, COSTA MESA, CA 92628-1200
 (714) 754-5234 TDD: (714) 754-5244

B10 Jun

Business Name Harbor Hookah Lounge
 Parent Company Name N/A
 (If Corporate Owned)

Note: Business address will be compared to zoning requirements before approval. Check with the Planning Division regarding the use of the location at (714) 754-5245.
 Business Address 440 Fair Dr #A Unit # A City Costa Mesa State CA Zip 92626
 Mailing Address 440 Fair Dr Unit # A City Costa Mesa State CA Zip 92626
 Business Telephone # (832) 788 3979 Business Start Date 10-06-2010 No. of Employees (on average) _____

Ownership (Check One only)
 Sole Owner Corporation Partnership Husband & Wife Co-ownership Limited Liability Company
 Seller's Permit No. _____ Contractor's State No. & Class _____
 (If Applicable) (If Applicable)
 Federal Employer ID # or, Owner's Social Security # _____ Federal Firearms License # (if applicable) _____

OWNER'S OR PRINCIPAL'S NAME(S)

Name MOHEB FAKHRY Name Matthew Markaros
 Home Address _____ Home Address _____
 City _____ City _____
 Telephone # _____ Title Manager
 Drivers License No. _____ Date of Birth _____

TYPE OF BUSINESS

PLEASE CIRCLE ONE: Wholesale/Retail/Manufacturing/Services/Non-Profit/Administrative Only/Warehouse/ Other
 Fully Describe Business Operation: Retail Hookah Lounge
No food or personal services Standard Industrial Class Code (SIC) 7299
 Alcohol Beverage Control Permit No. N/A Department of Motor Vehicles Permit # N/A
 (If Applicable) (Required for automobile/motorcycle sales businesses)
 Hours of Operation (M-F) 12-2 AM (S-SU) _____ Number of Rental Units/Rooms/Spaces _____
 (Commercial/Industrial only) (If Applicable)

CHOOSE ONE OF THE APPROPRIATE FEES BELOW

GENERAL BUSINESS
 (wholesale, retail, professional, Etc.)
 Enter Annual Gross Receipts Amount \$ 40,000
 And Circle the corresponding category below

Annual Gross Receipts	Tax
\$0.00 to 1,000.00	\$0.00
\$1,000.01 to 25,000.00	\$25.00
\$25,000.01 to 40,000.00	\$35.00
\$40,000.01 to 75,000.00	\$45.00
\$75,000.01 to 200,000.00	\$60.00
\$200,000.01 to 500,000.00	\$100.00
Over \$500,000.00	\$200.00

TAX EXEMPT ORGANIZATIONS
 Attach proof of Tax Exempt Status (required for waiver of tax due)

SHOW EXHIBITION SWAP MEET Tax on the Promoter's Gross Receipts from the Gross Receipts schedule to the left _____
 Enter the tax due amount here \$ _____
 PLUS _____ (# of sellers _____ x \$5 = \$ _____)
 EQUALS _____ Total tax due \$ _____

ADMINISTRATIVE OFFICES/WAREHOUSES
 (Fees based on annual operating expenses when no receipts generated)
 Enter annual operating expenses amount \$ _____
 Use Gross Receipts schedule to the left to determine business license tax.

CONTRACTOR
 (California Licensed) Total tax due \$50.00

VEHICLE WHEEL TAX/TOW TRUCK/BUS
 Number of Vehicles: _____ x \$25.00 = Total Tax Due \$ _____

Will you store, handle or use 55 gallons, 500 pounds or 200 cubic feet of hazardous materials per year? Yes _____ No X
 Will you have an assembly room with an occupant load of 50 or more persons? Yes _____ No X
 Will you be installing a spray booth? Yes _____ No X
 Will your business produce dust/wood shavings or other material? Yes _____ No X
 Will you be storing or using flammable or combustible liquids or compressed gases? Yes _____ No X
 Will you be warehousing materials higher than 12 feet? Yes _____ No X
 Fire Department approval required for any "Yes" answer. Please make an appointment by calling (714) 327-7400.

Your Business License will be issued under the provisions of Municipal Code Section 9-1. You are cautioned that this License does not permit operation of a business in violation of other Municipal Code Sections. There will be no tax refund if you are found operating illegally after the Certificate has been issued. Your business location will be checked by Planning, Building, and, if necessary, Fire Department officials. If you have any doubt whether your business location and/or building may conform with the requirements of the Municipal Code administered by these departments, you are urged to contact these departments for further information before filing your application. ** Sales or use tax may apply to your business activities. You may seek written advice regarding the application of tax to your particular business by writing or visiting the nearest State Board of Equalization. ** I declare under penalty of perjury that, to the best of my knowledge and belief, the statements made herein are correct and true and that acceptance of payment does not constitute approval of the Business License. Authorization to conduct business is not granted until issuance of the license.

Authorized Signature _____ Title Manager Date 10-06-2010

FOR CITY OFFICE USE ONLY
 Planning Approval _____ Date Approved 10/5/10 CUP Required? _____ CUP _____
 Building Approval _____ Date Approved _____ Comments to Retail use only
 Fire Department Approval _____ Date Approved _____

Alice Bowman



Would like the Zoning Administrator to know that she is against the extension of operating hours for the Hookah Lounge located at 440 Fair. Dr. (ZA-11-42)
She claims there is already a ruckus down the street at all hours of the night; loud cars that go zooming down the street, banging, and loud chatting. She does not want them to be able to operate past 11:00 p.m.

She would also appreciate a call back at



YOUSEFI, BELQIS

From: emy bowman [REDACTED]
Sent: Friday, October 04, 2013 4:17 PM
To: PLANNING COMMISSION
Subject: 440 Fair Drive

I would like to make a comment regarding the decision to allow the hookah lounge/retail store to remain open until 2am. If this were an industrial center, or totally surrounded by businesses I would say "go ahead". However, living right across the street at [REDACTED] it is not alright. We have a family neighborhood with young children and elderly here on our street. The homes on our street have bedroom windows that face the parking lot of this center. At night when traffic is quiet, parking lot partiers are whooping it up and the noise and the whiffs of marijuana come across the street. I don't think it should be open past 11:00. Adding fuel to this fire we (and neighbors) have received webpage advertisements for Honey Spa going into detail the measurements of the girls, bust cup size, breast implants, hygiene, rating, and what you can do... and There are session overviews with pricing. So, seeing that our city cannot control prostitution and drug use across the street from my house, it makes no sense that I would agree to accept anyplace there to be open later than 10pm. I would rather all the spas, medicinal marijuana dispensaries (of which there are very bad scamming reviews online) and the hookah lounge be relocated. We need to be family friendly and keep red light districts out of our neighborhood. Thank you,
Emy G. Bowman

10/07/2013

Oct. 4, 2013

To the Costa Mesa Planning
Dear Sirs:

Please do not permit the
Hookha Lounge to stay open until
2 am. We have enough strangers
roaming our streets in the middle of
the night now.

This may cause an increase
in car breakins and thefts.

Yours truly,

Margaret C. Engard

Received
City of Costa Mesa
Development Services Department

OCT 07 2013