

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

**Special Meeting
December 17, 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 Vice Chair called the meeting to order (00:00:20).

Commissioner Harlan led the Pledge of Allegiance

ROLL CALL

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

Absent: Chair Stephan Andranian (arrived at 6:18 p.m.)
Commissioner Carla Navarro Woods (arrived at 6:04 p.m.)

Staff: Barry Curtis, Director of Economic and Development Services
Jennifer Le, Assistant Director of Development Services
Tarquin Preziosi, Assistant City Attorney
Mathew Eaton, HdL Companies
Captain Bryan Glass, Costa Mesa Police Department
Katelyn Walsh, Assistant Planner
Julie Colgan, Recording Secretary

ANNOUNCEMENTS AND PRESENTATIONS:

None.

PUBLIC COMMENTS:

No public comments.

PLANNING COMMISSIONER COMMENTS AND SUGGESTIONS:

No Planning Commissioner comments.

CONSENT CALENDAR: None

1. PLANNING APPLICATION 18-41 FOR A MARIJUANA DISTRIBUTION FACILITY (TRIID) AT 3525 HYLAND AVENUE, SUITE 265

Project Description: Planning Application 18-41 is a request for a Conditional Use Permit (CUP) for a marijuana distribution facility (Triiad) within a 2,035-square-foot tenant space in

an existing multi-tenant industrial building. The facility will be operated by Triiad CC&M Corporation. The proposed facility would distribute pre-packaged cannabis products produced by licensed cannabis manufacturers or cultivators, including cannabis flower and wellness products (e.g. oils, lotions, balms, etc.). The applicant has modified the original proposal to no longer propose that extraction or manufacturing of cannabis will occur at this facility. Rooms include reception and lobby areas, storage rooms, and ancillary offices. Delivery/ distribution vehicles will be loaded and unloaded outside the suite within the parking lot. The facility will have security systems (card readers, security cameras, etc.) throughout the facility. No cultivation of marijuana, or marijuana dispensary, is permitted.

This item was continued from the November 26, 2018 Planning Commission meeting to the December 10, 2018 meeting. At the December 10, 2018 meeting, the Commission continued the item to a Special Meeting on December 17, 2018.

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.

Two ex-parte communications to report: Commissioner Zich met with the applicant prior to the December 10 meeting and had not had any discussion with them since and Vice Chair de Arakal had a phone conversation with Chair Andranian this afternoon about him being late to the meeting.

Katelyn Walsh, Assistant Planner, presented the staff report.

Commissioner Zich and Mathew Eaton, HdL Companies, discussed whether he believed the applicant's proposed 150-foot distance for the video surveillance is feasible for identification and recognition of a sufficient level for video capturing.

Commissioner Harlan and staff discussed whether there are any businesses current operating under a conditional use permit in the building at the proposed location.

PUBLIC COMMENTS

Chris Larocca, applicant, and Michael Tomasulo, investor in Triiad, has read the conditions of approval and agrees to them except Nos. 40 and 41. Mr. Larocca presented a slideshow on the proposed application.

Commissioner Zich and Mr. Tamasulo discussed whether the camera positions presented on the slide are conceptual and what the cameras field view can cover.

Vice Chair announced that Chair Andranian is now at the meeting. (6:18 p.m.)

Commissioner Harlan, Mr. Tomasulo, and staff discussed how many of the businesses at the location are leased or planned to be leased to Measure X applications.

Mathew Manslow, works at 3525 Hyland Avenue, spoke in opposition to this item.

Wally Kazi, owner at 3525 Hyland Avenue, spoke in opposition to this item.

An owner at 3525 Hyland Avenue spoke in opposition to this item.

John Tranella, owner at 3525 Hyland Avenue, spoke in opposition to this item.

An owner at 3525 Hyland Avenue spoke in opposition to this item.

William Morris, local real estate agent, gave first-hand knowledge of the Measure X zone and what it has done to property values and the rents in that zone.

Roy Newton, business owner at 3525 Hyland Avenue, spoke in opposition to this item.

Stephanie Shields, owner at 3525 Hyland Avenue, spoke in opposition to this item.

Kimber Ward, Yummy Karma, spoke about her cannabis business that was approved and stated that she has not had any odor complaints.

Catherine Rowlett, Hyland Avenue Association attorney, stated that the CC&R's for the building existed before Measure X was passed; that the association has never approved or agreed to cannabis operations at the location; that whatever the real estate agent has presented to the public or Triiad is not a representation by the association; the sole nature of the property that is set forth in the CC&R's is as an office building and no illegal activity is permitted on the premises which includes anything related to a Schedule 1 Drug under federal law; the association will not give a designated loading zone that is required in the applicant's conditions of approval; and that the proposed use is not compatible with the nature of the office building and the businesses operating at the site.

Commissioner Zich and Ms. Rowlett discussed what year the association was formed and when the building was built.

Mr. Tomasulo responded to public comments.

Dan Bane, an attorney that represents Triiad, explained when the building was constructed and provided closing comments.

Commissioner Navarro Woods and Mr. Bane discussed whether they received a letter directly from DSS.

Vice Chair de Arakal, Mr. Tomasulo, and Mr. Bane discussed whether Conditions of Approval Nos. 40 and 41 would be a deal breaker if they were not revised and whether the CC&R's prohibit cannabis use at the location.

The Chair closed the public hearing.

MOTION: Move that the Planning Commission adopt the Resolution finding that the project is 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 subject to conditions of approval with modifications to the following:

Condition of Approval No. 40 to read: Any activities relating to the loading and unloading of cannabis products shall take place in an area that shall be monitored by security cameras at all times located no further than 150 feet from video cameras location.

Condition of Approval No. 41 to read: All loading and unloading activity specific to this use shall be limited to one delivery vehicle at any given time.

Moved by Commissioner Zich, seconded by Chair Andranian.

Commissioner Zich provided comments on the motion.

Vice Chair de Arakal thanked the applicant and staff for looking into the non-profit and taxation issue and spoke in opposition to the motion.

Commissioner Harlan spoke in opposition to the motion.

SUBSTITUTE MOTION: Prohibit cannabis products on the property by amending Condition of Approval No. 1 by striking the word “distribution” and strike the words “between 12AM to 5AM”.

Moved by Chair Andranian.

Barry Curtis, Economic and Development Services Director, stated concerns with the motion because marijuana is then taken off the proposed property and the conditional use permit is not required anymore.

Chair Andranian and Mr. Curtis discussed the substitute motion.

Tarquin Preziosi, Assistant City Attorney, clarified that the City can only verify to the state that the business is in compliance with Measure X if it has both a conditional use permit as well as a marijuana business permit and that a general office space is permitted by right in this zone and the City would not be able to issue a marijuana business permit if distribution is not authorized by the conditional use permit or some other Measure X use is authorized by the conditional use permit.

Mr. Curtis stated that Mr. Eaton confirmed that the state would not be able to issue the license either because they would need to come out and inspect the site for the distribution use on that site.

Commissioner Navarro Woods suggested continuing the application so the applicant could find an alternative location.

Chair Andranian and Mr. Curtis discussed what denying the application without prejudice would include and what would happen if the applicant appealed the item.

Commissioner Harlan suggested that the Commission make a decision and then let the applicant decide on what to do with its application.

Mr. Curtis stated that the Commission could continue the item till after the City Council hears another Measure X item that was appealed at the same location and see how the City Council decides.

Chair Andranian withdrew his previous motion.

SUBSTITUTE MOTION: Continue this matter to the Planning Commission meeting on January 28, 2019.

Moved by Chair Andranian.

The motion dies due to a lack of a second.

SUBSTITUTE MOTION: To deny the application without prejudice because the Commission cannot make the required findings in the staff report.

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

RESOLUTION PC-18-84 - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA DENYING WITHOUT PREJUDICE CONDITIONAL USE PERMIT PA-18-41 TO ALLOW A MARIJUANA DISTRIBUTION FACILITY AT 3525 HYLAND AVENUE, SUITE 265

The motion carried by the following roll call vote:

Ayes: de Arakal, Harlan, Navarro Woods

Noes: Andranian, Zich

Absent: None

Abstained: None

The Chair explained the appeal process.

DEPARTMENTAL REPORT(S)

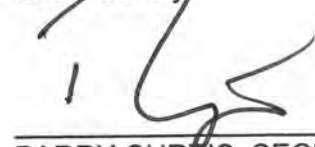
1. Public Services Report – none.
2. Development Services Report – Mr. Curtis stated that the staff and himself wanted to wish the Commission Merry Christmas and Happy New Year.

CITY ATTORNEY'S OFFICE REPORT(S)

1. City Attorney – none.

ADJOURNMENT (01:40:49)

Submitted by:



BARRY CURTIS, SECRETARY
COSTA MESA PLANNING COMMISSION