



City of Costa Mesa

PLANNING COMMISSION

Agenda

Monday, July 25, 2022

6:00 PM

**City Council Chambers
77 Fair Drive**

The Commission meetings are presented in a hybrid format, both in-person at City Hall and virtually via Zoom Webinar. Pursuant to the State of California Assembly Bill 361(Gov. Code §54953(b)(3)) Commission Members and staff may choose to participate in person or by video conference.

You may participate via the following options:

1. Attending in person: Attendees are encouraged to wear masks at their discretion. If you are feeling ill, or if you've been exposed to someone with COVID-19, you may still participate in the meeting via Zoom.
2. Members of the public can view the Commission meetings live on COSTA MESA TV (SPECTRUM CHANNEL 3 AND AT&T U-VERSE CHANNEL 99) or http://costamesa.granicus.com/player/camera/2?publish_id=10&redirect=true and online at [youtube.com/costamesatv](https://www.youtube.com/costamesatv).

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- Select “Join Audio via Computer.”
- The virtual conference room will open. If you receive a message reading, “Please wait for the host to start this meeting,” simply remain in the room until the meeting begins.
- During the Public Comment Period, use the “raise hand” feature located in the participants’ window and wait for city staff to announce your name and unmute your line when it is your turn to speak. Comments are limited to 3 minutes, or as otherwise directed.

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During the Public Comment Period, press *9 to add yourself to the queue and wait for city staff to announce your name/phone number and press *6 to unmute your line when it is your turn to speak. Comments are limited to 3 minutes, or as otherwise directed.

4. Additionally, members of the public who wish to make a written comment on a specific agenda item, may submit a written comment via email to the PCPublicComments@costamesaca.gov. Comments received by 12:00 p.m. on the date of the meeting will be provided to the Commission, made available to the public, and will be part of the meeting record.

5. Please know that it is important for the City to allow public participation at this meeting. If you are unable to participate in the meeting via the processes set forth above, please contact the City Clerk at (714) 754-5225 or cityclerk@costamesaca.gov and staff will attempt to accommodate you. While the City does not expect there to be any changes to the above process for participating in this meeting, if there is a change, the City will post the information as soon as possible to the City’s website.

Note that records submitted by the public will not be redacted in any way and will be posted online as submitted, including any personal contact information.

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Note regarding agenda-related documents provided to a majority of the Commission after distribution of the agenda packet (GC §54957.5): Any related documents provided to a majority of the Commission after distribution of the Agenda Packets will be made available for public inspection. Such documents will be posted on the city's website and will be available at the City Clerk's office, 77 Fair Drive, Costa Mesa, CA 92626.

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The City of Costa Mesa aims to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is currently provided, the Clerk's office will attempt to accommodate in a reasonable manner. Please contact the City Clerk's office 24 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible 714-754-5225 or at cityclerk@costamesaca.gov. El objetivo de la Ciudad de Costa Mesa es cumplir con la ley de Estadounidenses con Discapacidades (ADA) en todos los aspectos. Si como asistente o participante en esta reunión, usted necesita asistencia especial, más allá de lo que actualmente se proporciona, la oficina del Secretario de la Ciudad intentara de complacer en una forma razonable. Favor de comunicarse con la oficina del Secretario de la Ciudad con 24 horas de anticipación para informarnos de sus necesidades y determinar si alojamiento es realizable al 714-754-5225 o cityclerk@costamesaca.gov.

PLANNING COMMISSION REGULAR MEETING

MONDAY, JULY 25, 2022 - 6:00 P.M.

BYRON DE ARAKAL
Chair

JON ZICH
Vice Chair

DIANNE RUSSELL
Planning Commissioner

RUSSELL TOLER
Planning Commissioner

ADAM ERETH
Planning Commissioner

JOHNNY ROJAS
Planning Commissioner

JIMMY VIVAR
Planning Commissioner

TARQUIN PREZIOSI
Assistant City Attorney

JENNIFER LE
Director of Economic and
Development Services

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS AND PRESENTATIONS

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA
Comments are limited to three (3) minutes, or as otherwise directed.

COMMISSIONER COMMENTS AND SUGGESTIONS

CONSENT CALENDAR: None.

PUBLIC HEARINGS:

1. [PLANNING APPLICATION 21-27 FOR A RETAIL CANNABIS 22-812 STOREFRONT USE WITH DELIVERY LOCATED AT 1072 BRISTOL STREET, SUITE 100](#)

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 21-27, subject to conditions of approval.

Attachments: [Agenda Report](#)

- [1. Draft Planning Commission Resolution](#)
- [2. Applicant Letter](#)
- [3. Vicinity Map](#)
- [4. Zoning Map](#)
- [5. Site Photos](#)
- [6. Project Plans](#)

OLD BUSINESS: None.

NEW BUSINESS: None.

DEPARTMENT REPORTS:

1. PUBLIC SERVICES REPORT

2. DEVELOPMENT SERVICES REPORT

CITY ATTORNEY REPORTS:

1. CITY ATTORNEY

ADJOURNMENT

Next Meeting: Planning Commission regular meeting, Monday, August 8, 2022 - 6:00 p.m.



City of Costa Mesa

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 22-812

Meeting Date: 7/25/2022

TITLE:

PLANNING APPLICATION 21-27 FOR A RETAIL CANNABIS STOREFRONT USE WITH DELIVERY LOCATED AT 1072 BRISTOL STREET, SUITE 100

DEPARTMENT: **ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION**

PRESENTED BY: MICHELLE HALLIGAN, CONTACT PLANNER

CONTACT INFORMATION: MICHELLE HALLIGAN, 714-754-5608; Michelle.Halligan@costamesaca.gov

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 21-27, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT:

The applicant/authorized agent is Andy Singh of CM Triangle Enterprise LLC dba CM Triangle, on behalf of the property owner, Tim Taber.

BACKGROUND:

The subject 26,556-square-foot property is located at 1072 Bristol Street and is generally situated south of the State Route (SR) 55 Freeway. The property is located at the southwest intersection of Bristol Street and Newport Boulevard. The site is zoned C1 (Local Business District) and has a General Plan Land Use Designation of General Commercial. Existing development on the site consists of a two-story 11,880-square-foot commercial building with six tenant suites and a 36-space parking lot.

The proposed retail cannabis storefront use with delivery "CM Triangle," would occupy one 3,286-square-foot tenant suite on the first floor. Suite 100 is currently occupied by the property owner's business that provides media consulting services. The other first floor tenant is an insurance business. Current second floor tenants include an insurance agency, a property management company, and professional law offices. The existing tenants at 1072 Bristol Street are generally open between 8 AM and 6 PM, Monday through Friday. All of the current tenants are closed on Saturday and Sunday. Surrounding uses include several adjacent office complexes located southeasterly of the property and Ganahl Lumber and an automobile dealership located across Bristol Street. To the rear of the property, abutting the subject property's parking lot, is several residential properties that front "The Masters Circle" (a dead-end single-family residential street). The parking lot and single-family homes are separated by landscaping and an approximate eight to ten-foot-tall block wall. Ingress and egress to the site is provided by existing 25-foot wide private driveways with access located from both Bristol Street and Newport Boulevard.

There are no open Code Enforcement cases on this property.

The applicant is partnering with Yummi Karma Inc., a cannabis manufacturing facility located in Costa Mesa - which was approved in 2018 under Measure X. Yummi Karma has been operating since 2018. There are no active Code Enforcement cases at the partnering Measure X facility.

Non-Conforming Development

The existing development is legal-nonconforming in terms of the front setback, parking, and floor area ratio (FAR), and therefore is subject to the nonconforming provisions of the Costa Mesa Municipal Code (CMMC) Section 13-204. Pursuant to this Code Section, a conforming use may be located on a nonconforming property so long as the proposed site modifications do not result in greater site nonconformities.

The CMMC and General Plan establish maximum floor area ratios (FARs) for each non-residential land use designation based on trip generation characteristics. Pursuant to the General Plan, the maximum FAR for the proposed use is 0.20 and the existing FAR is 0.45. As specifically allowed by the CMMC, the nonconforming FAR, front setback, and parking can remain and are considered legal-nonconforming.

City of Costa Mesa Medical Marijuana Measure (Measure X) and Costa Mesa Retail Cannabis Tax and Regulation Measure (Measure Q)

In November 2016, Costa Mesa voters approved Measure X, allowing medical cannabis manufacturing, packaging, distribution, research and development laboratories, and testing laboratories in “Industrial Park” (MP) and “Planned Development Industrial” (PDI) zoned properties located north of South Coast Drive and west of Harbor Boulevard (“The Green Zone”). Measure X provisions are codified in Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC).

In 2018, non-medical adult use cannabis became legal in California under the State’s Medicinal and Adult-Use Cannabis Regulation and Safety Act (Proposition 64). On April 3, 2018, the City Council adopted Ordinance No. 18-04 to allow non-medical use cannabis facilities in the same manner and within the same geographic area as were previously allowed pursuant to Measure X.

On November 3, 2020, Costa Mesa voters approved Measure Q, the Costa Mesa Retail Cannabis Tax and Regulation Measure. This measure allowed the City to adopt regulations permitting cannabis storefront retail and non-storefront retail (delivery) within the City subject to certain requirements. On June 15, 2021, the City Council adopted Ordinances No. 21-08 and No. 21-09 to amend Titles 9 and 13 of the CMMC to establish regulations for legal cannabis storefront and non-storefront uses. A “non-storefront” retailer sells packaged cannabis goods to customers through direct delivery only.

Cannabis Business Permit (CBP) Application Process

The process to establish a retail cannabis business in the City is subject to an extensive submittal and application review procedure. Retail cannabis applicants must obtain the following City approvals before obtaining State approval and conducting business in Costa Mesa:

- Pre-Application Determination;
- CBP Notice to Proceed;
- Conditional Use Permit (CUP);
- Building Permit(s);
- Final City Inspections;
- CBP Issuance; and
- City Business License.

The “Pre-Application Determination” includes staff review of a detailed applicant letter that describes the proposed business, an existing site plan, statement attesting that there is/has been no unpermitted cannabis activity at the site within one year, and a detailed map demonstrating the proposed storefront’s distance from sensitive uses. Staff also visits the site at this time. Planning staff has completed the aforementioned pre-application review, visited the site, and issued a letter indicating that the application complies with the City’s required separation distances from sensitive uses and may proceed to submittal of a CBP.

Following completion of the pre-application review, the applicant submitted a CBP application for the initial phase of the

CBP review. Staff's initial CBP review includes:

- A background check of the business owner(s)/operator(s);
- An evaluation of the proposed business plan (including a capitalization analysis); and
- An evaluation of the proposed security plan by the City's cannabis security consultant, HdL Companies (HdL).

The applicant successfully passed these evaluations and staff issued a "CBP Notice to Proceed," which allows the applicant to submit a CUP application. The CUP application and required supportive materials were submitted by the applicant and reviewed for conformance with City standards and regulations by the Planning Division, Building Division, Public Services Department (including Transportation and Engineering Divisions), Fire Department, and Police Department.

If the Planning Commission approves the CUP, the applicant may then begin the remaining steps of the CBP process, which includes:

- Obtaining building permits;
- Completing tenant improvements; and
- Demonstrating through various City reviews/inspections that all conditions of approval have been satisfied, and that all other requirements of the CMMC have been met.

After passing the final City and HdL inspections, the CBP would be issued. CBP approval is valid for a two-year period and must be renewed every two-years (prior to expiration). During the two-year CBP period, the Community Improvement Division (CID), along with other City staff, will conduct site inspections to verify that the business is operating in compliance with CUP and CBP requirements. Violations identified during site inspections may be grounds for revocation of issued permits or non-renewal of a CBP.

After obtaining the CBP, the applicant would apply for and obtain a City Business License through the Finance Department. Cannabis retail businesses are subject to a City established seven-percent gross receipts tax, which must be paid to the City of Costa Mesa's Finance Department. Records and revenues are audited annually by the Finance Department and HdL Companies. Lastly, the applicant must obtain the appropriate license from the State Department of Cannabis Control (DCC) prior to operating.

DESCRIPTION:

Planning Application 21-27 is a request for a CUP to allow retail cannabis uses within an existing 3,286-square-foot, first floor tenant suite located at 1072 Bristol Street. As proposed, the retail store would operate 7 AM and 10 PM, seven days a week. The affiliated State license is a Type 10 "storefront retailer" which also allows retail delivery. Upon approval of a CUP, CBP, City Business License, and State licenses, the business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite and via delivery to private addresses, subject to conditions of approval and other City and State requirements.

ANALYSIS:

Conditional Use Permit Required

Pursuant to Costa Mesa Municipal Code (CMMC) Sections 13-28(B) and 13-200.93(c)(1), subject to the approval of the Planning Commission, a CUP is required for the establishment of cannabis retail storefronts and non-storefronts (delivery) in a commercial zone. The subject site is located within a commercial zone (C1 - Local Business District) where commercial development is specifically allowed to include retail storefronts.

Although the subject building is generally developed as a commercial office building and the existing tenants are primarily office related uses, the site is located in the City's C1 - Local Business District, which allows for retail operations. Pursuant to the CMMC section 13-20(g), the C-1 District "is intended to meet the local business needs of the community by providing a wide range of goods and services in a variety of locations throughout the City." Therefore, the proposed retail storefront is a contemplated use for this property, subject to the Planning Commission approval of a conditional use

permit.

Separation Requirements

The property is located on one of the City's primary commercial corridors and generally surrounded by commercial uses, with the exception of a small residential neighborhood (49 single-family homes) that is located adjacent to the subject property's parking lot. The CMMC does not establish a minimum separation between cannabis retail uses and residential development or residential zones. Pursuant to the CMMC, cannabis retail storefronts are conditionally permitted uses in the City's commercial zones and are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties and uses.

CMMC Section 13-200.93(e) stipulates that no cannabis retail storefront use shall be located within 1,000 feet from a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600 feet from a youth center as defined in CMMC Title 9, Chapter VI, Section 9-485, that is in operation at the time of submission of a completed cannabis business permit application. All separation distances are measured in a straight line from the "premises" where the cannabis retail use is to be located to the closest property line of the sensitive use(s). Premises is as defined in the State's Business and Professions Code as *the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.* More specifically, the premises is essentially limited to the retail cannabis activity areas (including sales, storage, back-of-house and/or other ancillary areas) and excludes the parking lot and other areas that are not part of the area licensed by the State for commercial cannabis activity. The subject site complies with the required CMMC separation provisions from sensitive uses.

Exterior Tenant Improvements

The existing building façade and exterior components are in good condition and do not require significant upgrades. Currently, the suite's main entrance is located toward the center of the building, facing the parking lot. There is a secondary entrance located at the rear of the building, near Newport Boulevard. The applicant proposes to use the secondary entrance as the entrance to a lobby. The current main entrance would become the exit.

Proposed exterior improvements include:

- Shielded security lighting on the building;
- Shielded security lighting along the property perimeter; and
- Adding a bicycle rack to encourage multi-modal transportation.

Security lighting would be shielded, pointed downward and located in such a manner to prevent potential lighting impacts to the abutting residential properties. The applicant has provided a preliminary lighting plan as part of their CUP submittal. As conditioned, a lighting and photometric plan would be required during the plan check process to demonstrate that lighting onsite would be adequate for security purposes without light spill onto the abutting residentially-zoned properties. The applicant also proposes to update the site with surveillance cameras and new business signage (signs would be reviewed and permitted separately per the City's sign code requirements).

Interior Tenant Improvements

The majority of the interior improvements would involve construction of non-structural demising walls to create new rooms. The public areas of the retail use would include a lobby, sales floor, and exit room. Back-of-house areas include an access-controlled office, conference room, storage rooms, and kitchen. Below is a breakdown of the general spaces within the 3,286 square foot suite.

Table 1 - Floor Plan Summary

Operational Area	Square Feet
Lobby	79
Sales Floor	1,980
Exit Room	137
Offices/Conference Room	390
Kitchen	254
Other Employee-Only Areas	446
Total	3,286

Customer and Employee Access

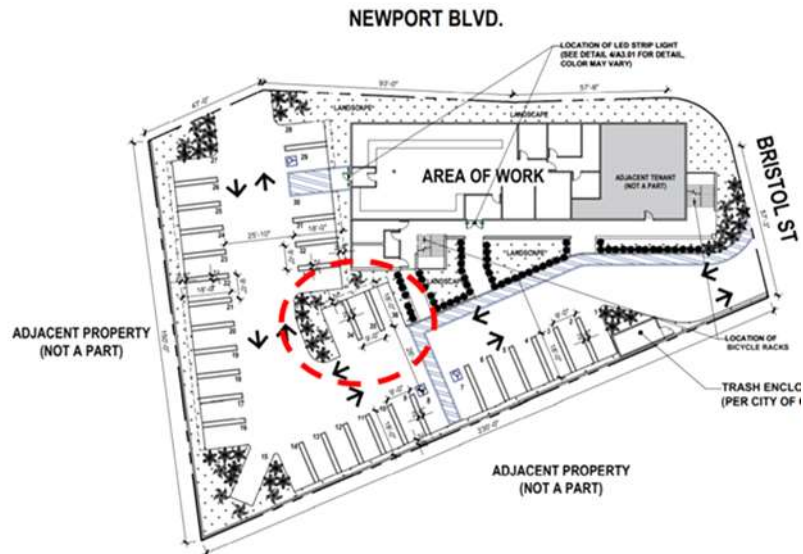
Customers would enter the premises through a lobby door located on the southwestern side of the building adjacent to the site’s Bristol Street Parking lot driveway access. Customer circulation is limited to the lobby, retail sales floor, and exit room. After a customer’s identify and age are verified and their transaction is completed, they must leave through the exit room. The exit room is located in the interior of the property, facing the parking area to the southeast. After exiting the suite, customers must leave the property. As conditioned, a security guard would monitor the area at all times to ensure that customers vacate the property.

The other areas of the premises would only be accessible to employees with proper security credentials. Employees would enter through the public entrance, since there is not a separate “employee-only entrance.”

Delivery Operations and Vendor Access

During business hours, retail cannabis delivery and vendor vehicles would use one of the three parking stalls located closest to the access controlled door in the center of the property (see the parking area circled on the below Exhibit A).

Exhibit A - Delivery and Vendor Vehicle Parking



The distance from the controlled access door to the employee/vendor vehicle parking stalls will be less than 50 feet. As proposed and conditioned, the exterior doors, path of travel and designated parking stalls would be under camera surveillance. As further conditioned, all delivery loading and unloading would be monitored by a security guard. Lastly, vendors would only be allowed to enter the premise while accompanied by an employee.

Storefront/Delivery Operation Conditions

The proposed business is required to comply with the following retail storefront/delivery operational conditions:

- Display State license, CBP, and City business license in a conspicuous building location;
- Hours of operations are limited to 7:00 AM to 10:00 PM daily;
- Shipments of cannabis goods may only be accepted during regular business hours;
- Cannabis inventory shall be secured using a lockable storage system during non-business hours;
- At least one licensed security guard shall be on premises 24-hours a day;
- The premises and the vicinity must be monitored by security and/or other staff to ensure that patrons immediately leave, do not consume cannabis onsite or within close proximity, and/or do not disturb the adjacent residential neighbors. Security guards will monitor the parking lot diligently during morning and evening business hours. The CMMC prohibits the consumption of cannabis or cannabis products in public areas; cannabis consumption is limited to non-public areas, such as within a private residence. State law further prohibits cannabis

consumption and open container possession within 1,000 feet of sensitive uses and while riding in or driving a vehicle;

- There must be continuous video monitoring and recording of the interior and exterior of the premises;
- Adequate security lighting shall be provided and shall be designed to prevent offsite light spill;
- Onsite sales of alcohol or tobacco products and on-site consumption of alcohol, cannabis, and tobacco products is prohibited;
- No one under the age of 21 is allowed to enter the premises. If the business holds a retail medical cannabis license (M-license) issued by the State, persons over the age of 18 may also be allowed with the proper medical approvals i.e. physician's recommendation or medical card pursuant to CMMC Section 9-495(h)(6);
- Prior to employment, all prospective employees must successfully pass a background check conducted by the City, and the employee must obtain a City issued identification badge;
- Customers are only granted access to the retail area after their age and identity has been confirmed by an employee;
- Each transaction involving the exchange of cannabis goods between the business and consumer shall include the following information:
 - Date and time of transaction;
 - Name and employee number/identification of the employee who processed the sale;
 - List of all cannabis goods purchased including quantity; and
 - Total transaction amount paid.
- There must be video surveillance of the point-of-sale area and where cannabis goods are displayed and/or stored;
- Cannabis products shall not be visible from the exterior of the building;
- Free samples of cannabis goods are prohibited;
- When receiving new inventory from licensed distributors, employees will verify the distributor's identity and license prior to allowing them to enter the facility through an access-controlled door. After distributor's credentials have been confirmed, an employee will escort the distributor to the shipping and receiving area and remain with them throughout the process.
- Cannabis goods to be sold at this establishment (either storefront or delivery) must be obtained by a licensed cannabis distributor and have passed laboratory testing;
- Cannabis product packaging must be labeled with required test results and batch number;
- Packaging containing cannabis goods shall be tamper and child-resistant; if packaging contains multiple servings, the package must also be re-sealable;
- When processing orders for cannabis delivery, employees will collect the pre-packaged materials, load products into a secured container and transport the containers to delivery vehicles outside the building. Video surveillance cameras will be installed with direct views of the path of travel and loading and unloading area;
- Cannabis deliveries must be made in-person by an employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered employed by the licensed retailer;
- The applicant shall maintain proof of vehicle insurance for any and all vehicles being used to deliver cannabis goods;
- During delivery, the employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law

enforcement officers;

- A delivery employee shall not leave the State of California while possessing cannabis products and while performing their duties for the cannabis retailer;
- The business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the State;
- Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated global positioning system (GPS) device for identifying the location of the vehicle (cell phones and tablets are insufficient);
- Signs, decals or any other form of advertisement on the delivery vehicles are prohibited;
- Deliveries must be made to a physical address that is not on publicly owned land and cannot be a school, a day care, homeless shelter, or a youth center; and
- A cannabis delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time, with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
- The business operator shall ensure that all delivery vehicles are properly maintained, all delivery drivers have a good driving record, and each driver conducts a visual inspection of the vehicle at the beginning of a shift.

Business Plan

The applicant has submitted a detailed business plan that was evaluated by the City's cannabis consultant (HdL). The business plan described the owner's experience, proof of capitalization, start-up budget, a three-year pro forma, target customers, key software, and daily operations. The business plan contains proprietary details and is therefore not included as an attachment to this staff report. The City's cannabis consultant determined that the applicant's business plan was appropriate for continued entitlement processing.

Security Plan

The applicant submitted a professionally prepared security plan for the proposed retail cannabis establishment. The City's cannabis consultant reviewed the security plan and determined that appropriate security measures were included to address the City's security requirements pursuant to CMMC Title 9, Chapter VI, and State law.

Since the security plan contains sensitive operational details that require limited public exposure to remain effective, the plan is not included as an attachment. However, the following is a list of general security measures that are required for the proposed cannabis retail establishment:

- At least one security guard will be on-site 24-hours a day;
- All employees, including drivers, must pass a "Live Scan" background check;
- City-issued identification badges are required for employees;
- An inventory control system shall be maintained;
- Exterior and interior surveillance cameras shall be monitored and professionally installed;
- An alarm system shall be professionally installed, maintained, and monitored;
- Surveillance footage must be maintained for a minimum of 90 days;
- Cash, cannabis, and cannabis products shall be kept in secured storage areas;

- Sensors shall be installed that detect entry and exit from all secured areas;
- Security lighting (interior and exterior) shall be installed;
- Emergency power supply shall be installed;
- Employees shall be trained for use with any/all emergency equipment;
- Delivery drivers shall be trained on delivery safety protocols;
- Employees and vendors will be trained regarding cash and product transportation protocol;
- Visitor/customer specific security measures shall be required;
- All facility entry and exit points and locations where cash or cannabis products are handled or stored shall be under camera surveillance;
- The applicant shall submit a list of all vehicles to be used for retail delivery purposes to the Costa Mesa Police Department. The list shall identify the make, model, color, license plate number, and registered owner of each vehicle. The applicant shall submit an updated vehicle list each quarter with the required quarterly update to the employee roster pursuant to the CBP.
- Delivery vehicle drivers shall be at least age 21, have a current driver's license, successfully complete a live scan, and have a City-issued badge; and

Parking and Circulation

As previously indicated, the site is developed with an 11,880 square-foot, two-story, commercial building that is currently occupied by a variety of commercial office uses. The City's parking ordinance requires four parking spaces for every 1,000 square feet of office floor area and, based on this ratio, the total required parking for the commercial building is 47 spaces. Since the site is developed with only 36 parking spaces, the parking for the property is considered legal non-conforming. As previously indicated, the CMMC specifies that properties with legal nonconforming parking conditions can continue so long as the development will not be made more nonconforming. Retail cannabis uses are subject to the same parking ratio requirement as offices (four spaces per 1,000 square feet of gross floor area); therefore, the proposed cannabis retail storefront use would not result in a greater or "more nonconforming" condition in regard to parking.

Although the CMMC allows the site's legal nonconforming conditions to continue, staff requested that the applicant survey parking lot utilization at two-hour intervals to determine actual parking demand conditions based on empirical observations. In response to staff's request, the applicant collected parking counts and took photos at 8 AM, 10 AM, noon, 2 PM, 4 PM, and 6 PM on a Wednesday, Thursday, and Friday (July 13, 2022 through July 15, 2022). Planning staff also visited the site, unannounced, on more than 20 occasions during the months of June and July. During these staff site visits, which occurred at various hours of the day, staff witnessed a minimum of 20 available parking spaces.

As shown in Table 2 and provided by the applicant, on average, 26 parking spaces or 72 percent of all spaces were available between 8 AM and 6 PM. The parking lot was typically most occupied (peak parking demand) midday, with an average of 64 percent of all parking spaces available during the noon and 2 PM counts. Based on empirical observation, 23 parking spaces would be available for the proposed use during the site's peak parking period (from noon and 2 PM on weekdays). In addition, the CMMC requires 14 stalls for the proposed cannabis retail operation and thus the observed 23 parking space availability at the site's peak demand exceeds the Code parking requirement by nine parking spaces. The least utilized parking demand times observed were 8 AM

and 6 PM, with 78 percent and 83 percent of the parking spaces available, respectively. Parking counts were not conducted after 6 PM, nor on weekends as the existing businesses are closed; however, staff visited the site on several occasions during these hours and the parking lot was generally vacant of cars.

Table 2 - Parking Availability Survey

Time	Wednesday Available	Thursday Available	Friday Available	Average Available	
8 AM	28	29	27	28	78%
10 AM	26	26	26	26	72%
Noon	23	23	24	23	64%
2 PM	22	23	25	23	64%
4 PM	21	25	31	26	72%
6 PM	27	30	34	30	83%
Daily Average	25	26	28	26	72%

Pursuant to CMMC section 13-98, the Planning Division may require that a declaration of land use restriction be recorded to ensure that future property owners are informed of use restrictions resulting from the number of parking spaces provided. Based on this Code provision, the property owner has agreed to record a Land Use Restriction requiring any future proposed use with a code-required parking ratio above four stalls per 1,000 square feet to be subject to a professionally prepared and affirmative parking study. This study would be subject to approval by a Minor Conditional Use Permit.

Vehicle access to the site is provided from Bristol Street and Newport Boulevard by an approximate 25-foot-wide driveway. Vehicles exiting the property from the Newport Boulevard driveway must turn right, away from the nearest residential street. Vehicles exiting the property from the Bristol Street egress must also turn right (towards Newport Beach). Pedestrian access is provided by public sidewalk along Bristol Street and Newport Boulevard.

The applicant proposes to add bicycle racks to encourage customers and staff to cycle to the storefront. The bicycle racks are credited as one parking space, which increases the total site parking to 37 parking spaces.

As with many new uses and based on many factors that are difficult to quantify, it is difficult to anticipate exact demand for a new use. The proposed use is conditioned to have at least one parking monitor during business hours for the first 90 days. If parking shortages or other parking-related problems occur, the business owner or operator will be required to institute appropriate operational measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services. Examples of parking demand management techniques include, but are not limited to, reducing operating hours of the business, hiring a permanent employee to monitor parking lot use and assist with customer parking lot circulation, encouraging customers to take advantage of delivery service instead of store visits, offering an

employee shuttle service from offsite parking, and incentivizing employee carpooling/cycling/walking.

Traffic

The CMMC Section 13-275(e) indicates that any increase in traffic generation by a change of use that is required to obtain a discretionary permit, shall be subject to review by the appropriate reviewing authority, which may impose fees to address increased trip generation. If required, the fee collected is used to fund the City's comprehensive transportation system improvement program. The purpose of the program is to ensure that the City's transportation system has the capacity to accommodate additional trips.

The Transportation Services Division has determined that the appropriate average daily trips (ADT) for a cannabis retail establishment is approximately 108 trips per 1,000 square feet based on the Institute of Transportation Engineers (ITE) 11th Edition Trip Generation Manual for a "pharmacy/drug store with a drive-thru." The City's traffic review focuses on net trip increase and therefore the ADT for the previous/existing use(s) is credited (subtracted) from the proposed use ADT to estimate potential changes in trip generation. Staff analyzed the ADT of the previous media consultant office use and compared that with the proposed retail cannabis use ADT. CMMC Section 13-275(a), specifies that "a traffic impact study shall be required for all development projects estimated by the Public Services Department to generate one hundred (100) or more vehicle trip ends during a peak hour." Staff determined that the proposed use does not meet the threshold for requiring a traffic study. However, the proposed use would be subject to a traffic impact fee. The estimated traffic impact fee is approximately \$50,008. The fee calculation would be finalized during the building permit plan check process and must be paid prior to building permit issuance.

Odor Attenuation

Cannabis products would arrive in State compliant sealed packaging that is tamper and odor-resistant, and would remain unopened until consumption. However, a minimal amount of cannabis product would be removed from packaging for display purposes and would be placed in transparent display containers. To prevent potential odors from the retail cannabis establishment, the suite would feature carbon filters with a minimum efficiency rating value (MERV-8) for capturing at least 80 percent of airborne particles between 3 and 10 micrometers in size. As conditioned, the operator must replace the air filters at regular intervals, as directed in the manufacturer specifications. The facility also features an enclosed lobby room and exit room (mantrap) that further separate the sales floor from the outside. This room provides an additional barrier that will assist in minimizing potential cannabis odor. Further, as conditioned, if cannabis odor is detected outside of the building or in an adjacent tenancy, the business owner/operator will be required to institute further operational measures necessary to eliminate off-site odors in a manner deemed appropriate by the Director of Economic and Development Services. Such odor mitigation measures could include, but not be limited to, expanding or replacing the filtration system, sealing and/or adding odor resistant structural barriers or limiting certain product sales. Lastly, cannabis products are not allowed to be disposed of in the exterior trash enclosure.

Proximity to Residential

The subject property abuts four existing residential properties developed with single-family homes.

The commercial parking lot is separated from the residential rear yards by landscaping and an eight to ten foot-tall block wall. To ensure neighborhood compatibility, proposed project conditions and requirements include the following:

- Onsite, 24-hour security is required;
- Business hours are limited from 7AM to 10PM;
- Vendor deliveries are limited to business hours;
- The posting of signs in the parking lot to remind customers and vendors to keep noise levels to a minimum;
- Shield security lighting down and away from the homes to prevent light spillover. As conditioned, a photometric study would be required to be submitted during plan check to demonstrate that light levels at the residential properties are less than 0.5 foot candle;
- The security guard will monitor the parking area to ensure that customers are quiet, turn off vehicle engines promptly, do not play loud music, etc. As conditioned, should noise complaints arise, the business owner/operator shall institute operational measures deemed appropriate by the Director of Economic and Development Services; and

GENERAL PLAN CONFORMANCE:

The Costa Mesa General Plan establishes the long range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa for the next two decades. This vision focuses on protecting and enhancing Costa Mesa’s diverse residential neighborhoods, accommodating an array of businesses that both serve local needs and attract regional and international spending, and providing cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan.

The following analysis evaluates the proposed project’s consistency with applicable policies and objectives of the 2015-2035 General Plan.

1. **Policy LU-1.1:** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services and employment opportunities in consideration of the need of the business and residential segments of the community.*

Consistency: The proposed use would provide a new entrepreneurial business in Costa Mesa located within a commercial area as allowed under Measure Q, and provides new goods and services and new employment opportunities in the community.

2. **Objective LU-6B:** *Encourage and facilitate activities that expand the City’s revenue base.*

Consistency: Retail cannabis uses are expected to generate increased tax revenues in

that cannabis sales are subject to a seven-percent local tax on gross receipts. Approval of the proposed cannabis retail storefront with delivery would allow business operations that would expand the City's revenue base. This revenue can then be used for community services and infrastructure improvements that serve the community.

3. Policy LU-6.15: *Promote unique and specialized commercial and industrial districts within the City which allow for incubation of new or growing businesses and industries.*

Consistency: The proposed use is part of the specialized and growing cannabis industry that is limited in the surrounding region. Approval of this CUP would facilitate a new local business opportunity in a specialized and expanding industry.

REQUIRED FINDINGS:

Pursuant to Title 13, Section 13-29(g), Findings, of the Costa Mesa Municipal Code, in order to approve the project, the Planning Commission must find that the evidence presented in the administrative record substantially meets specified conditional use permit findings as follows:

- *The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.*

The subject site is located within a commercial zone (C1, Local Business District) where commercial development is specifically allowed to include retail storefronts. In addition, the property is located on one of the City's primary commercial corridors which is predominantly intended for commercial uses. Pursuant to the CMMC, cannabis retail storefronts and non-storefronts (delivery) are permitted uses in the City's commercial zones and are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties. Additionally, the proposed cannabis retail storefront use is not located within 1,000 feet of a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600 feet of a youth center. All retail sales would take place underroof and no outdoor storage or sales are proposed nor would be allowed. Staff does not anticipate that the proposed retail cannabis use would be materially detrimental to the adjacent uses that include offices, hardware store/lumber yard and an automobile dealership.

The proposed use would also not be materially detrimental to the abutting residences because the site features a block wall buffer, mature landscaping, limited operation hours and proposes to add security lighting shielded down and away from homes to prevent potential lighting impacts. The posting of signs within the parking lot to remind customers and vendors to keep noise levels to a minimum is also required. There would also be a security guard present onsite at all times to monitor the site, including interior and exterior conditions. Lastly, the storefront business would also include parking and odor control measures as described in this report to avoid impacts to nearby properties. As proposed and conditioned, the retail cannabis use would be compatible with other properties within the area, and in compliance with local and State requirements.

- *Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the*

immediate neighborhood.

The proposed cannabis retail storefront with delivery use would follow safety measures detailed in a professionally-prepared security plan. The security plan was evaluated for compliance by the City's cannabis consultant, HdL. Measures designed to maintain safety at the site include, but are not limited to, having at least one security guard onsite at all times and the security guard will monitor all on-site delivery/vendor operations. Additionally, security devices shall be installed before operation, such as window and door alarms, motion-detectors, and a monitored video surveillance system covering all exterior entrances, exits, all interior limited access spaces, and designated employee/vendor parking spaces. In addition, all employees, including delivery drivers and part-time staff, must pass a live scan background check and obtain an identification badge from the City. The conditions of approval include, but are not limited to, the aforementioned security measures to ensure that the use would not be materially detrimental to the health, safety and general welfare of the public or be otherwise injurious to property or improvements within the immediate neighborhood.

- Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

The proposed retail use is located within an existing commercial building on a property that has a General Plan land use classification of "General Commercial." No additional square footage is proposed; therefore, approving the CUP would not increase site intensity. As stated in the General Plan Land Use Element, the City's commercial designations "accommodate the full range of commercial activity present and desired in Costa Mesa." The use is consistent with General Plan policies related to providing a mixture of commercial goods, services, and employment opportunities; expanding the City's tax base; and promoting the incubation of unique and specialized businesses.

ENVIRONMENTAL DETERMINATION:

The project is categorically exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities, involving negligible or no expansion of the existing use. This project site contains an existing commercial building that has been used for commercial activities and the application does not propose an increase in commercial floor area or otherwise expand the prior commercial use. The project is consistent with the applicable General Plan land use designation and policies as well as with the applicable zoning designation and regulations.

ALTERNATIVES:

The Planning Commission has the following alternatives:

1. Approve the project. The Planning Commission may approve the project as proposed, subject to the conditions outlined in the attached Resolution.
2. Approve the project with modifications. The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If any of the additional requested changes are substantial, the hearing should be continued to a future meeting to allow a redesign or additional

analysis. In the event of significant modifications to the proposal, staff will return with a revised Resolution incorporating new findings and/or conditions.

3. ***Deny the project.*** If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application, provide facts in support of denial, and direct staff to incorporate the findings into a Resolution for denial. If the project is denied, the applicant could not submit substantially the same type of application for six months.

LEGAL REVIEW:

The draft Resolution and this report have been approved as to form by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to Title 13, Section 13-29(d) of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

As of the date this report was circulated, no written public comments have been received. Any public comments received prior to the July 11, 2022 Planning Commission meeting will be provided separately.

CONCLUSION:

The proposed project is a retail cannabis storefront business with delivery at an existing developed commercial property that is located on one of the City's commercial corridors and meets separation requirements established in CMMC 13-200.93(e). Staff and the City's cannabis consultant completed the Application Determination, Business Plan and Security Plan evaluations, owner background checks, and thoroughly reviewed the CUP materials. If approved, the operation would be required to comply with all conditions of approval and extensive City and State regulations.

If the Planning Commission approves the project, the applicant would next obtain building permits, complete tenant improvements, and pass City inspections prior to obtaining a CBP and City Business License. The CBP is valid for two years and must be continuously renewed, including inspections, prior to expiration. During each two-year CBP period, the Community Improvement Division, along with other City staff, conduct site inspections to verify that the operation complies with CUP and CBP requirements. Violations identified during site inspections may be grounds for revocation of issued permits or non-renewal of a CBP.

As proposed and conditioned, the use would be consistent with other commercial uses in the C1 zone, the Zoning Code, and the City's General Plan. Further, the project has been conditioned to minimize impacts to neighboring residential units. The required findings for the CUP can be made, as described above, and therefore, staff recommends 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 15301 (Class 1), Existing Facilities; and approve Planning Application 21-27, subject to conditions of approval.



City of Costa Mesa

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 22-812

Meeting Date: 7/25/2022

TITLE:

PLANNING APPLICATION 21-27 FOR A RETAIL CANNABIS STOREFRONT USE WITH DELIVERY LOCATED AT 1072 BRISTOL STREET, SUITE 100

DEPARTMENT: **ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION**

PRESENTED BY: MICHELLE HALLIGAN, CONTACT PLANNER

CONTACT INFORMATION: MICHELLE HALLIGAN, 714-754-5608; Michelle.Halligan@costamesaca.gov

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 21-27, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT:

The applicant/authorized agent is Andy Singh of CM Triangle Enterprise LLC dba CM Triangle, on behalf of the property owner, Tim Taber.

BACKGROUND:

The subject 26,556-square-foot property is located at 1072 Bristol Street and is generally situated south of the State Route (SR) 55 Freeway. The property is located at the southwest intersection of Bristol Street and Newport Boulevard. The site is zoned C1 (Local Business District) and has a General Plan Land Use Designation of General Commercial. Existing development on the site consists of a two-story 11,880-square-foot commercial building with six tenant suites and a 36-space parking lot.

The proposed retail cannabis storefront use with delivery "CM Triangle," would occupy one 3,286-square-foot tenant suite on the first floor. Suite 100 is currently occupied by the property owner's business that provides media consulting services. The other first floor tenant is an insurance business. Current second floor tenants include an insurance agency, a property management company, and professional law offices. The existing tenants at 1072 Bristol Street are generally open between 8 AM and 6 PM, Monday through Friday. All of the current tenants are closed on Saturday and Sunday. Surrounding uses include several adjacent office complexes located southeasterly of the property and Ganahl Lumber and an automobile dealership located across Bristol Street. To the rear of the property, abutting the subject property's parking lot, is several residential properties that front "The Masters Circle" (a dead-end single-family residential street). The parking lot and single-family homes are separated by landscaping and an approximate eight to ten-foot-tall block wall. Ingress and egress to the site is provided by existing 25-foot wide private driveways with access located from both Bristol Street and Newport Boulevard.

There are no open Code Enforcement cases on this property.

The applicant is partnering with Yummi Karma Inc., a cannabis manufacturing facility located in Costa Mesa - which was approved in 2018 under Measure X. Yummi Karma has been operating since 2018. There are no active Code Enforcement cases at the partnering Measure X facility.

Non-Conforming Development

The existing development is legal-nonconforming in terms of the front setback, parking, and floor area ratio (FAR), and therefore is subject to the nonconforming provisions of the Costa Mesa Municipal Code (CMMC) Section 13-204. Pursuant to this Code Section, a conforming use may be located on a nonconforming property so long as the proposed site modifications do not result in greater site nonconformities.

The CMMC and General Plan establish maximum floor area ratios (FARs) for each non-residential land use designation based on trip generation characteristics. Pursuant to the General Plan, the maximum FAR for the proposed use is 0.20 and the existing FAR is 0.45. As specifically allowed by the CMMC, the nonconforming FAR, front setback, and parking can remain and are considered legal-nonconforming.

City of Costa Mesa Medical Marijuana Measure (Measure X) and Costa Mesa Retail Cannabis Tax and Regulation Measure (Measure Q)

In November 2016, Costa Mesa voters approved Measure X, allowing medical cannabis manufacturing, packaging, distribution, research and development laboratories, and testing laboratories in “Industrial Park” (MP) and “Planned Development Industrial” (PDI) zoned properties located north of South Coast Drive and west of Harbor Boulevard (“The Green Zone”). Measure X provisions are codified in Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC).

In 2018, non-medical adult use cannabis became legal in California under the State’s Medicinal and Adult-Use Cannabis Regulation and Safety Act (Proposition 64). On April 3, 2018, the City Council adopted Ordinance No. 18-04 to allow non-medical use cannabis facilities in the same manner and within the same geographic area as were previously allowed pursuant to Measure X.

On November 3, 2020, Costa Mesa voters approved Measure Q, the Costa Mesa Retail Cannabis Tax and Regulation Measure. This measure allowed the City to adopt regulations permitting cannabis storefront retail and non-storefront retail (delivery) within the City subject to certain requirements. On June 15, 2021, the City Council adopted Ordinances No. 21-08 and No. 21-09 to amend Titles 9 and 13 of the CMMC to establish regulations for legal cannabis storefront and non-storefront uses. A “non-storefront” retailer sells packaged cannabis goods to customers through direct delivery only.

Cannabis Business Permit (CBP) Application Process

The process to establish a retail cannabis business in the City is subject to an extensive submittal and application review procedure. Retail cannabis applicants must obtain the following City approvals before obtaining State approval and conducting business in Costa Mesa:

- Pre-Application Determination;
- CBP Notice to Proceed;
- Conditional Use Permit (CUP);
- Building Permit(s);
- Final City Inspections;
- CBP Issuance; and
- City Business License.

The “Pre-Application Determination” includes staff review of a detailed applicant letter that describes the proposed business, an existing site plan, statement attesting that there is/has been no unpermitted cannabis activity at the site within one year, and a detailed map demonstrating the proposed storefront’s distance from sensitive uses. Staff also visits the site at this time. Planning staff has completed the aforementioned pre-application review, visited the site, and issued a letter indicating that the application complies with the City’s required separation distances from sensitive uses and may proceed to submittal of a CBP.

Following completion of the pre-application review, the applicant submitted a CBP application for the initial phase of the

CBP review. Staff's initial CBP review includes:

- A background check of the business owner(s)/operator(s);
- An evaluation of the proposed business plan (including a capitalization analysis); and
- An evaluation of the proposed security plan by the City's cannabis security consultant, HdL Companies (HdL).

The applicant successfully passed these evaluations and staff issued a "CBP Notice to Proceed," which allows the applicant to submit a CUP application. The CUP application and required supportive materials were submitted by the applicant and reviewed for conformance with City standards and regulations by the Planning Division, Building Division, Public Services Department (including Transportation and Engineering Divisions), Fire Department, and Police Department.

If the Planning Commission approves the CUP, the applicant may then begin the remaining steps of the CBP process, which includes:

- Obtaining building permits;
- Completing tenant improvements; and
- Demonstrating through various City reviews/inspections that all conditions of approval have been satisfied, and that all other requirements of the CMMC have been met.

After passing the final City and HdL inspections, the CBP would be issued. CBP approval is valid for a two-year period and must be renewed every two-years (prior to expiration). During the two-year CBP period, the Community Improvement Division (CID), along with other City staff, will conduct site inspections to verify that the business is operating in compliance with CUP and CBP requirements. Violations identified during site inspections may be grounds for revocation of issued permits or non-renewal of a CBP.

After obtaining the CBP, the applicant would apply for and obtain a City Business License through the Finance Department. Cannabis retail businesses are subject to a City established seven-percent gross receipts tax, which must be paid to the City of Costa Mesa's Finance Department. Records and revenues are audited annually by the Finance Department and HdL Companies. Lastly, the applicant must obtain the appropriate license from the State Department of Cannabis Control (DCC) prior to operating.

DESCRIPTION:

Planning Application 21-27 is a request for a CUP to allow retail cannabis uses within an existing 3,286-square-foot, first floor tenant suite located at 1072 Bristol Street. As proposed, the retail store would operate 7 AM and 10 PM, seven days a week. The affiliated State license is a Type 10 "storefront retailer" which also allows retail delivery. Upon approval of a CUP, CBP, City Business License, and State licenses, the business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite and via delivery to private addresses, subject to conditions of approval and other City and State requirements.

ANALYSIS:

Conditional Use Permit Required

Pursuant to Costa Mesa Municipal Code (CMMC) Sections 13-28(B) and 13-200.93(c)(1), subject to the approval of the Planning Commission, a CUP is required for the establishment of cannabis retail storefronts and non-storefronts (delivery) in a commercial zone. The subject site is located within a commercial zone (C1 - Local Business District) where commercial development is specifically allowed to include retail storefronts.

Although the subject building is generally developed as a commercial office building and the existing tenants are primarily office related uses, the site is located in the City's C1 - Local Business District, which allows for retail operations. Pursuant to the CMMC section 13-20(g), the C-1 District "is intended to meet the local business needs of the community by providing a wide range of goods and services in a variety of locations throughout the City." Therefore, the proposed retail storefront is a contemplated use for this property, subject to the Planning Commission approval of a conditional use

permit.

Separation Requirements

The property is located on one of the City's primary commercial corridors and generally surrounded by commercial uses, with the exception of a small residential neighborhood (49 single-family homes) that is located adjacent to the subject property's parking lot. The CMMC does not establish a minimum separation between cannabis retail uses and residential development or residential zones. Pursuant to the CMMC, cannabis retail storefronts are conditionally permitted uses in the City's commercial zones and are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties and uses.

CMMC Section 13-200.93(e) stipulates that no cannabis retail storefront use shall be located within 1,000 feet from a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600 feet from a youth center as defined in CMMC Title 9, Chapter VI, Section 9-485, that is in operation at the time of submission of a completed cannabis business permit application. All separation distances are measured in a straight line from the "premises" where the cannabis retail use is to be located to the closest property line of the sensitive use(s). Premises is as defined in the State's Business and Professions Code as *the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.* More specifically, the premises is essentially limited to the retail cannabis activity areas (including sales, storage, back-of-house and/or other ancillary areas) and excludes the parking lot and other areas that are not part of the area licensed by the State for commercial cannabis activity. The subject site complies with the required CMMC separation provisions from sensitive uses.

Exterior Tenant Improvements

The existing building façade and exterior components are in good condition and do not require significant upgrades. Currently, the suite's main entrance is located toward the center of the building, facing the parking lot. There is a secondary entrance located at the rear of the building, near Newport Boulevard. The applicant proposes to use the secondary entrance as the entrance to a lobby. The current main entrance would become the exit.

Proposed exterior improvements include:

- Shielded security lighting on the building;
- Shielded security lighting along the property perimeter; and
- Adding a bicycle rack to encourage multi-modal transportation.

Security lighting would be shielded, pointed downward and located in such a manner to prevent potential lighting impacts to the abutting residential properties. The applicant has provided a preliminary lighting plan as part of their CUP submittal. As conditioned, a lighting and photometric plan would be required during the plan check process to demonstrate that lighting onsite would be adequate for security purposes without light spill onto the abutting residentially-zoned properties. The applicant also proposes to update the site with surveillance cameras and new business signage (signs would be reviewed and permitted separately per the City's sign code requirements).

Interior Tenant Improvements

The majority of the interior improvements would involve construction of non-structural demising walls to create new rooms. The public areas of the retail use would include a lobby, sales floor, and exit room. Back-of-house areas include an access-controlled office, conference room, storage rooms, and kitchen. Below is a breakdown of the general spaces within the 3,286 square foot suite.

Table 1 - Floor Plan Summary

Operational Area	Square Feet
Lobby	79
Sales Floor	1,980
Exit Room	137
Offices/Conference Room	390
Kitchen	254
Other Employee-Only Areas	446
Total	3,286

Customer and Employee Access

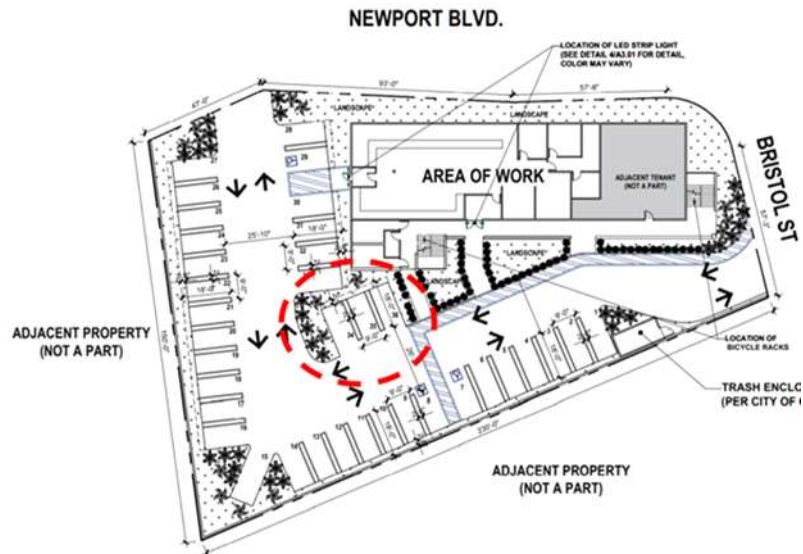
Customers would enter the premises through a lobby door located on the southwestern side of the building adjacent to the site’s Bristol Street Parking lot driveway access. Customer circulation is limited to the lobby, retail sales floor, and exit room. After a customer’s identify and age are verified and their transaction is completed, they must leave through the exit room. The exit room is located in the interior of the property, facing the parking area to the southeast. After exiting the suite, customers must leave the property. As conditioned, a security guard would monitor the area at all times to ensure that customers vacate the property.

The other areas of the premises would only be accessible to employees with proper security credentials. Employees would enter through the public entrance, since there is not a separate “employee-only entrance.”

Delivery Operations and Vendor Access

During business hours, retail cannabis delivery and vendor vehicles would use one of the three parking stalls located closest to the access controlled door in the center of the property (see the parking area circled on the below Exhibit A).

Exhibit A - Delivery and Vendor Vehicle Parking



The distance from the controlled access door to the employee/vendor vehicle parking stalls will be less than 50 feet. As proposed and conditioned, the exterior doors, path of travel and designated parking stalls would be under camera surveillance. As further conditioned, all delivery loading and unloading would be monitored by a security guard. Lastly, vendors would only be allowed to enter the premise while accompanied by an employee.

Storefront/Delivery Operation Conditions

The proposed business is required to comply with the following retail storefront/delivery operational conditions:

- Display State license, CBP, and City business license in a conspicuous building location;
- Hours of operations are limited to 7:00 AM to 10:00 PM daily;
- Shipments of cannabis goods may only be accepted during regular business hours;
- Cannabis inventory shall be secured using a lockable storage system during non-business hours;
- At least one licensed security guard shall be on premises 24-hours a day;
- The premises and the vicinity must be monitored by security and/or other staff to ensure that patrons immediately leave, do not consume cannabis onsite or within close proximity, and/or do not disturb the adjacent residential neighbors. Security guards will monitor the parking lot diligently during morning and evening business hours. The CMMC prohibits the consumption of cannabis or cannabis products in public areas; cannabis consumption is limited to non-public areas, such as within a private residence. State law further prohibits cannabis

consumption and open container possession within 1,000 feet of sensitive uses and while riding in or driving a vehicle;

- There must be continuous video monitoring and recording of the interior and exterior of the premises;
- Adequate security lighting shall be provided and shall be designed to prevent offsite light spill;
- Onsite sales of alcohol or tobacco products and on-site consumption of alcohol, cannabis, and tobacco products is prohibited;
- No one under the age of 21 is allowed to enter the premises. If the business holds a retail medical cannabis license (M-license) issued by the State, persons over the age of 18 may also be allowed with the proper medical approvals i.e. physician's recommendation or medical card pursuant to CMMC Section 9-495(h)(6);
- Prior to employment, all prospective employees must successfully pass a background check conducted by the City, and the employee must obtain a City issued identification badge;
- Customers are only granted access to the retail area after their age and identity has been confirmed by an employee;
- Each transaction involving the exchange of cannabis goods between the business and consumer shall include the following information:
 - Date and time of transaction;
 - Name and employee number/identification of the employee who processed the sale;
 - List of all cannabis goods purchased including quantity; and
 - Total transaction amount paid.
- There must be video surveillance of the point-of-sale area and where cannabis goods are displayed and/or stored;
- Cannabis products shall not be visible from the exterior of the building;
- Free samples of cannabis goods are prohibited;
- When receiving new inventory from licensed distributors, employees will verify the distributor's identity and license prior to allowing them to enter the facility through an access-controlled door. After distributor's credentials have been confirmed, an employee will escort the distributor to the shipping and receiving area and remain with them throughout the process.
- Cannabis goods to be sold at this establishment (either storefront or delivery) must be obtained by a licensed cannabis distributor and have passed laboratory testing;
- Cannabis product packaging must be labeled with required test results and batch number;
- Packaging containing cannabis goods shall be tamper and child-resistant; if packaging contains multiple servings, the package must also be re-sealable;
- When processing orders for cannabis delivery, employees will collect the pre-packaged materials, load products into a secured container and transport the containers to delivery vehicles outside the building. Video surveillance cameras will be installed with direct views of the path of travel and loading and unloading area;
- Cannabis deliveries must be made in-person by an employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered employed by the licensed retailer;
- The applicant shall maintain proof of vehicle insurance for any and all vehicles being used to deliver cannabis goods;
- During delivery, the employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law

enforcement officers;

- A delivery employee shall not leave the State of California while possessing cannabis products and while performing their duties for the cannabis retailer;
- The business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the State;
- Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated global positioning system (GPS) device for identifying the location of the vehicle (cell phones and tablets are insufficient);
- Signs, decals or any other form of advertisement on the delivery vehicles are prohibited;
- Deliveries must be made to a physical address that is not on publicly owned land and cannot be a school, a day care, homeless shelter, or a youth center; and
- A cannabis delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time, with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
- The business operator shall ensure that all delivery vehicles are properly maintained, all delivery drivers have a good driving record, and each driver conducts a visual inspection of the vehicle at the beginning of a shift.

Business Plan

The applicant has submitted a detailed business plan that was evaluated by the City's cannabis consultant (HdL). The business plan described the owner's experience, proof of capitalization, start-up budget, a three-year pro forma, target customers, key software, and daily operations. The business plan contains proprietary details and is therefore not included as an attachment to this staff report. The City's cannabis consultant determined that the applicant's business plan was appropriate for continued entitlement processing.

Security Plan

The applicant submitted a professionally prepared security plan for the proposed retail cannabis establishment. The City's cannabis consultant reviewed the security plan and determined that appropriate security measures were included to address the City's security requirements pursuant to CMMC Title 9, Chapter VI, and State law.

Since the security plan contains sensitive operational details that require limited public exposure to remain effective, the plan is not included as an attachment. However, the following is a list of general security measures that are required for the proposed cannabis retail establishment:

- At least one security guard will be on-site 24-hours a day;
- All employees, including drivers, must pass a "Live Scan" background check;
- City-issued identification badges are required for employees;
- An inventory control system shall be maintained;
- Exterior and interior surveillance cameras shall be monitored and professionally installed;
- An alarm system shall be professionally installed, maintained, and monitored;
- Surveillance footage must be maintained for a minimum of 90 days;
- Cash, cannabis, and cannabis products shall be kept in secured storage areas;

- Sensors shall be installed that detect entry and exit from all secured areas;
- Security lighting (interior and exterior) shall be installed;
- Emergency power supply shall be installed;
- Employees shall be trained for use with any/all emergency equipment;
- Delivery drivers shall be trained on delivery safety protocols;
- Employees and vendors will be trained regarding cash and product transportation protocol;
- Visitor/customer specific security measures shall be required;
- All facility entry and exit points and locations where cash or cannabis products are handled or stored shall be under camera surveillance;
- The applicant shall submit a list of all vehicles to be used for retail delivery purposes to the Costa Mesa Police Department. The list shall identify the make, model, color, license plate number, and registered owner of each vehicle. The applicant shall submit an updated vehicle list each quarter with the required quarterly update to the employee roster pursuant to the CBP.
- Delivery vehicle drivers shall be at least age 21, have a current driver's license, successfully complete a live scan, and have a City-issued badge; and

Parking and Circulation

As previously indicated, the site is developed with an 11,880 square-foot, two-story, commercial building that is currently occupied by a variety of commercial office uses. The City's parking ordinance requires four parking spaces for every 1,000 square feet of office floor area and, based on this ratio, the total required parking for the commercial building is 47 spaces. Since the site is developed with only 36 parking spaces, the parking for the property is considered legal non-conforming. As previously indicated, the CMMC specifies that properties with legal nonconforming parking conditions can continue so long as the development will not be made more nonconforming. Retail cannabis uses are subject to the same parking ratio requirement as offices (four spaces per 1,000 square feet of gross floor area); therefore, the proposed cannabis retail storefront use would not result in a greater or "more nonconforming" condition in regard to parking.

Although the CMMC allows the site's legal nonconforming conditions to continue, staff requested that the applicant survey parking lot utilization at two-hour intervals to determine actual parking demand conditions based on empirical observations. In response to staff's request, the applicant collected parking counts and took photos at 8 AM, 10 AM, noon, 2 PM, 4 PM, and 6 PM on a Wednesday, Thursday, and Friday (July 13, 2022 through July 15, 2022). Planning staff also visited the site, unannounced, on more than 20 occasions during the months of June and July. During these staff site visits, which occurred at various hours of the day, staff witnessed a minimum of 20 available parking spaces.

As shown in Table 2 and provided by the applicant, on average, 26 parking spaces or 72 percent of all spaces were available between 8 AM and 6 PM. The parking lot was typically most occupied (peak parking demand) midday, with an average of 64 percent of all parking spaces available during the noon and 2 PM counts. Based on empirical observation, 23 parking spaces would be available for the proposed use during the site's peak parking period (from noon and 2 PM on weekdays). In addition, the CMMC requires 14 stalls for the proposed cannabis retail operation and thus the observed 23 parking space availability at the site's peak demand exceeds the Code parking requirement by nine parking spaces. The least utilized parking demand times observed were 8 AM

and 6 PM, with 78 percent and 83 percent of the parking spaces available, respectively. Parking counts were not conducted after 6 PM, nor on weekends as the existing businesses are closed; however, staff visited the site on several occasions during these hours and the parking lot was generally vacant of cars.

Table 2 - Parking Availability Survey

Time	Wednesday Available	Thursday Available	Friday Available	Average Available	
8 AM	28	29	27	28	78%
10 AM	26	26	26	26	72%
Noon	23	23	24	23	64%
2 PM	22	23	25	23	64%
4 PM	21	25	31	26	72%
6 PM	27	30	34	30	83%
Daily Average	25	26	28	26	72%

Pursuant to CMMC section 13-98, the Planning Division may require that a declaration of land use restriction be recorded to ensure that future property owners are informed of use restrictions resulting from the number of parking spaces provided. Based on this Code provision, the property owner has agreed to record a Land Use Restriction requiring any future proposed use with a code-required parking ratio above four stalls per 1,000 square feet to be subject to a professionally prepared and affirmative parking study. This study would be subject to approval by a Minor Conditional Use Permit.

Vehicle access to the site is provided from Bristol Street and Newport Boulevard by an approximate 25-foot-wide driveway. Vehicles exiting the property from the Newport Boulevard driveway must turn right, away from the nearest residential street. Vehicles exiting the property from the Bristol Street egress must also turn right (towards Newport Beach). Pedestrian access is provided by public sidewalk along Bristol Street and Newport Boulevard.

The applicant proposes to add bicycle racks to encourage customers and staff to cycle to the storefront. The bicycle racks are credited as one parking space, which increases the total site parking to 37 parking spaces.

As with many new uses and based on many factors that are difficult to quantify, it is difficult to anticipate exact demand for a new use. The proposed use is conditioned to have at least one parking monitor during business hours for the first 90 days. If parking shortages or other parking-related problems occur, the business owner or operator will be required to institute appropriate operational measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services. Examples of parking demand management techniques include, but are not limited to, reducing operating hours of the business, hiring a permanent employee to monitor parking lot use and assist with customer parking lot circulation, encouraging customers to take advantage of delivery service instead of store visits, offering an

employee shuttle service from offsite parking, and incentivizing employee carpooling/cycling/walking.

Traffic

The CMMC Section 13-275(e) indicates that any increase in traffic generation by a change of use that is required to obtain a discretionary permit, shall be subject to review by the appropriate reviewing authority, which may impose fees to address increased trip generation. If required, the fee collected is used to fund the City's comprehensive transportation system improvement program. The purpose of the program is to ensure that the City's transportation system has the capacity to accommodate additional trips.

The Transportation Services Division has determined that the appropriate average daily trips (ADT) for a cannabis retail establishment is approximately 108 trips per 1,000 square feet based on the Institute of Transportation Engineers (ITE) 11th Edition Trip Generation Manual for a "pharmacy/drug store with a drive-thru." The City's traffic review focuses on net trip increase and therefore the ADT for the previous/existing use(s) is credited (subtracted) from the proposed use ADT to estimate potential changes in trip generation. Staff analyzed the ADT of the previous media consultant office use and compared that with the proposed retail cannabis use ADT. CMMC Section 13-275(a), specifies that "a traffic impact study shall be required for all development projects estimated by the Public Services Department to generate one hundred (100) or more vehicle trip ends during a peak hour." Staff determined that the proposed use does not meet the threshold for requiring a traffic study. However, the proposed use would be subject to a traffic impact fee. The estimated traffic impact fee is approximately \$50,008. The fee calculation would be finalized during the building permit plan check process and must be paid prior to building permit issuance.

Odor Attenuation

Cannabis products would arrive in State compliant sealed packaging that is tamper and odor-resistant, and would remain unopened until consumption. However, a minimal amount of cannabis product would be removed from packaging for display purposes and would be placed in transparent display containers. To prevent potential odors from the retail cannabis establishment, the suite would feature carbon filters with a minimum efficiency rating value (MERV-8) for capturing at least 80 percent of airborne particles between 3 and 10 micrometers in size. As conditioned, the operator must replace the air filters at regular intervals, as directed in the manufacturer specifications. The facility also features an enclosed lobby room and exit room (mantrap) that further separate the sales floor from the outside. This room provides an additional barrier that will assist in minimizing potential cannabis odor. Further, as conditioned, if cannabis odor is detected outside of the building or in an adjacent tenancy, the business owner/operator will be required to institute further operational measures necessary to eliminate off-site odors in a manner deemed appropriate by the Director of Economic and Development Services. Such odor mitigation measures could include, but not be limited to, expanding or replacing the filtration system, sealing and/or adding odor resistant structural barriers or limiting certain product sales. Lastly, cannabis products are not allowed to be disposed of in the exterior trash enclosure.

Proximity to Residential

The subject property abuts four existing residential properties developed with single-family homes.

The commercial parking lot is separated from the residential rear yards by landscaping and an eight to ten foot-tall block wall. To ensure neighborhood compatibility, proposed project conditions and requirements include the following:

- Onsite, 24-hour security is required;
- Business hours are limited from 7AM to 10PM;
- Vendor deliveries are limited to business hours;
- The posting of signs in the parking lot to remind customers and vendors to keep noise levels to a minimum;
- Shield security lighting down and away from the homes to prevent light spillover. As conditioned, a photometric study would be required to be submitted during plan check to demonstrate that light levels at the residential properties are less than 0.5 foot candle;
- The security guard will monitor the parking area to ensure that customers are quiet, turn off vehicle engines promptly, do not play loud music, etc. As conditioned, should noise complaints arise, the business owner/operator shall institute operational measures deemed appropriate by the Director of Economic and Development Services; and

GENERAL PLAN CONFORMANCE:

The Costa Mesa General Plan establishes the long range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa for the next two decades. This vision focuses on protecting and enhancing Costa Mesa’s diverse residential neighborhoods, accommodating an array of businesses that both serve local needs and attract regional and international spending, and providing cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan.

The following analysis evaluates the proposed project’s consistency with applicable policies and objectives of the 2015-2035 General Plan.

- 1. Policy LU-1.1:** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services and employment opportunities in consideration of the need of the business and residential segments of the community.*

Consistency: The proposed use would provide a new entrepreneurial business in Costa Mesa located within a commercial area as allowed under Measure Q, and provides new goods and services and new employment opportunities in the community.

- 2. Objective LU-6B:** *Encourage and facilitate activities that expand the City’s revenue base.*

Consistency: Retail cannabis uses are expected to generate increased tax revenues in

that cannabis sales are subject to a seven-percent local tax on gross receipts. Approval of the proposed cannabis retail storefront with delivery would allow business operations that would expand the City's revenue base. This revenue can then be used for community services and infrastructure improvements that serve the community.

3. Policy LU-6.15: *Promote unique and specialized commercial and industrial districts within the City which allow for incubation of new or growing businesses and industries.*

Consistency: The proposed use is part of the specialized and growing cannabis industry that is limited in the surrounding region. Approval of this CUP would facilitate a new local business opportunity in a specialized and expanding industry.

REQUIRED FINDINGS:

Pursuant to Title 13, Section 13-29(g), Findings, of the Costa Mesa Municipal Code, in order to approve the project, the Planning Commission must find that the evidence presented in the administrative record substantially meets specified conditional use permit findings as follows:

- *The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.*

The subject site is located within a commercial zone (C1, Local Business District) where commercial development is specifically allowed to include retail storefronts. In addition, the property is located on one of the City's primary commercial corridors which is predominantly intended for commercial uses. Pursuant to the CMMC, cannabis retail storefronts and non-storefronts (delivery) are permitted uses in the City's commercial zones and are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties. Additionally, the proposed cannabis retail storefront use is not located within 1,000 feet of a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600 feet of a youth center. All retail sales would take place underroof and no outdoor storage or sales are proposed nor would be allowed. Staff does not anticipate that the proposed retail cannabis use would be materially detrimental to the adjacent uses that include offices, hardware store/lumber yard and an automobile dealership.

The proposed use would also not be materially detrimental to the abutting residences because the site features a block wall buffer, mature landscaping, limited operation hours and proposes to add security lighting shielded down and away from homes to prevent potential lighting impacts. The posting of signs within the parking lot to remind customers and vendors to keep noise levels to a minimum is also required. There would also be a security guard present onsite at all times to monitor the site, including interior and exterior conditions. Lastly, the storefront business would also include parking and odor control measures as described in this report to avoid impacts to nearby properties. As proposed and conditioned, the retail cannabis use would be compatible with other properties within the area, and in compliance with local and State requirements.

- *Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the*

immediate neighborhood.

The proposed cannabis retail storefront with delivery use would follow safety measures detailed in a professionally-prepared security plan. The security plan was evaluated for compliance by the City's cannabis consultant, HdL. Measures designed to maintain safety at the site include, but are not limited to, having at least one security guard onsite at all times and the security guard will monitor all on-site delivery/vendor operations. Additionally, security devices shall be installed before operation, such as window and door alarms, motion-detectors, and a monitored video surveillance system covering all exterior entrances, exits, all interior limited access spaces, and designated employee/vendor parking spaces. In addition, all employees, including delivery drivers and part-time staff, must pass a live scan background check and obtain an identification badge from the City. The conditions of approval include, but are not limited to, the aforementioned security measures to ensure that the use would not be materially detrimental to the health, safety and general welfare of the public or be otherwise injurious to property or improvements within the immediate neighborhood.

- Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

The proposed retail use is located within an existing commercial building on a property that has a General Plan land use classification of "General Commercial." No additional square footage is proposed; therefore, approving the CUP would not increase site intensity. As stated in the General Plan Land Use Element, the City's commercial designations "accommodate the full range of commercial activity present and desired in Costa Mesa." The use is consistent with General Plan policies related to providing a mixture of commercial goods, services, and employment opportunities; expanding the City's tax base; and promoting the incubation of unique and specialized businesses.

ENVIRONMENTAL DETERMINATION:

The project is categorically exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities, involving negligible or no expansion of the existing use. This project site contains an existing commercial building that has been used for commercial activities and the application does not propose an increase in commercial floor area or otherwise expand the prior commercial use. The project is consistent with the applicable General Plan land use designation and policies as well as with the applicable zoning designation and regulations.

ALTERNATIVES:

The Planning Commission has the following alternatives:

1. Approve the project. The Planning Commission may approve the project as proposed, subject to the conditions outlined in the attached Resolution.
2. Approve the project with modifications. The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If any of the additional requested changes are substantial, the hearing should be continued to a future meeting to allow a redesign or additional

analysis. In the event of significant modifications to the proposal, staff will return with a revised Resolution incorporating new findings and/or conditions.

3. ***Deny the project.*** If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application, provide facts in support of denial, and direct staff to incorporate the findings into a Resolution for denial. If the project is denied, the applicant could not submit substantially the same type of application for six months.

LEGAL REVIEW:

The draft Resolution and this report have been approved as to form by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to Title 13, Section 13-29(d) of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

As of the date this report was circulated, no written public comments have been received. Any public comments received prior to the July 11, 2022 Planning Commission meeting will be provided separately.

CONCLUSION:

The proposed project is a retail cannabis storefront business with delivery at an existing developed commercial property that is located on one of the City's commercial corridors and meets separation requirements established in CMMC 13-200.93(e). Staff and the City's cannabis consultant completed the Application Determination, Business Plan and Security Plan evaluations, owner background checks, and thoroughly reviewed the CUP materials. If approved, the operation would be required to comply with all conditions of approval and extensive City and State regulations.

If the Planning Commission approves the project, the applicant would next obtain building permits, complete tenant improvements, and pass City inspections prior to obtaining a CBP and City Business License. The CBP is valid for two years and must be continuously renewed, including inspections, prior to expiration. During each two-year CBP period, the Community Improvement Division, along with other City staff, conduct site inspections to verify that the operation complies with CUP and CBP requirements. Violations identified during site inspections may be grounds for revocation of issued permits or non-renewal of a CBP.

As proposed and conditioned, the use would be consistent with other commercial uses in the C1 zone, the Zoning Code, and the City's General Plan. Further, the project has been conditioned to minimize impacts to neighboring residential units. The required findings for the CUP can be made, as described above, and therefore, staff recommends 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 15301 (Class 1), Existing Facilities; and approve Planning Application 21-27, subject to conditions of approval.

RESOLUTION NO. PC-2022-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA APPROVING PLANNING APPLICATION 21-27 FOR A STOREFRONT RETAIL CANNABIS BUSINESS WITH DELIVERY (CMT) IN THE C1 ZONE AT 1072 BRISTOL STREET, SUITE 100

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA FINDS AND DECLARES AS FOLLOWS:

WHEREAS, in November 2020, the Costa Mesa voters approved Measure Q; which allows for storefront and non-storefront retail cannabis uses in commercially zoned properties meeting specific location requirements, and non-storefront retail cannabis uses in Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties;

WHEREAS, on June 15, 2021, the City Council adopted Ordinance Nos. 21-08 and No. 21-09 to amend Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC) to establish regulations for cannabis storefront and non-storefront uses;

WHEREAS, Planning Application 21-27 was filed by Andy Singh, authorized agent for the property owner, Tim Taber, requesting approval of the following:

A Conditional Use Permit to operate a storefront retail cannabis business with delivery within an existing 3,286-square-foot suite within an 11,880-square-foot commercial building located at 1072 Bristol Street. The business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite and via delivery to private addresses, subject to conditions of approval and other City and State requirements;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on July 25, 2022 with all persons having the opportunity to speak for and against the proposal;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is exempt from the provisions of CEQA per Section 15301 (Class 1), for Existing Facilities, as described specifically in the staff report;

WHEREAS, the CEQA categorical exemption for this project reflects the independent judgement of the City of Costa Mesa.

NOW, THEREFORE, based on the evidence in the record and the findings contained in Exhibit A, and subject to the conditions of approval contained within Exhibit

B, the Planning Commission hereby **APPROVES** Planning Application 21-27 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 Planning Application 21-27 and upon applicant's compliance with each and all of the conditions in Exhibit B, and compliance of all applicable 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.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 25th day of July, 2022.

Byron de Arakal, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Scott Drapkin, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution No. PC-2022- was passed and adopted at a regular meeting of the City of Costa Mesa Planning Commission held on July 25th, 2022 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Scott Drapkin, Secretary
Costa Mesa Planning Commission

Resolution No. PC-2022-

EXHIBIT A

FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(g)(2) because:

Finding: The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

Facts in Support of Findings: The subject site is located within a commercial zone (C1, Local Business District) where commercial development is specifically allowed to include retail storefronts. In addition, the property is located on one of the City's primary commercial corridors which is predominantly intended for commercial uses. Pursuant to the CMMC, cannabis retail storefronts and non-storefronts (delivery) are permitted uses in the City's commercial zones and are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties. Additionally, the proposed cannabis retail storefront use is not located within 1,000 feet of a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600 feet of a youth center. All retail sales would take place underroof and no outdoor storage or sales are proposed nor would be allowed. Staff does not anticipate that the proposed retail cannabis use would be materially detrimental to the adjacent uses that include offices, hardware store/lumber yard and an automobile dealership.

The proposed use would also not be materially detrimental to the abutting residences because the site features a block wall buffer, mature landscaping, limited operation hours and proposes to add security lighting shielded down and away from homes to prevent potential lighting impacts. The posting of signs within the parking lot to remind customers and vendors to keep noise levels to a minimum is also required. There would also be a security guard present onsite at all times to monitor the site, including interior and exterior conditions. Lastly, the storefront business would also include parking and odor control measures as described in this report to avoid impacts to nearby properties. As proposed and conditioned, the retail cannabis use would be compatible with other properties within the area, and in compliance with local and State requirements.

Finding: Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Facts in Support of Finding: The proposed cannabis retail storefront with delivery use would follow safety measures detailed in a professionally-prepared security plan. The security plan was evaluated for compliance by the City’s cannabis consultant, HdL. Measures designed to maintain safety at the site include, but are not limited to, having at least one security guard onsite at all times and the security guard will monitor all on-site delivery/vendor operations. Additionally, security devices shall be installed before operation, such as window and door alarms, motion-detectors, and a monitored video surveillance system covering all exterior entrances, exits, all interior limited access spaces, and designated employee/vendor parking spaces. In addition, all employees, including delivery drivers and part-time staff, must pass a live scan background check and obtain an identification badge from the City. The conditions of approval include, but are not limited to, the aforementioned security measures to ensure that the use would not be materially detrimental to the health, safety and general welfare of the public or be otherwise injurious to property or improvements within the immediate neighborhood.

Finding: Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

Facts in Support of Finding: The proposed retail use is located within an existing commercial building on a property that has a General Plan land use classification of “General Commercial.” No additional square footage is proposed; therefore, approving the CUP would not increase site intensity. As stated in the General Plan Land Use Element, the City’s commercial designations “accommodate the full range of commercial activity present and desired in Costa Mesa.” The use is consistent with General Plan policies related to providing a mixture of commercial goods, services, and employment opportunities; expanding the City’s tax base; and promoting the incubation of unique and specialized businesses.

- B. The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities, involving negligible or no expansion of the existing use. This project site contains an existing commercial building that has been used for commercial activities and the application does not propose an increase in floor area or otherwise expand the prior commercial use. The project is consistent with the applicable General Plan land use designation and policies as well as with the applicable zoning designation and regulations.
- C. The project is subject to a traffic impact fee, pursuant to Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT B

CONDITIONS OF APPROVAL

General

- Plng.
1. The use of this property as a cannabis storefront and delivery business shall comply with the approved plans and terms described in the resolution, these conditions of approval, and applicable sections of the Costa Mesa Municipal Code (CMMC). 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)].
 2. Approval of the planning/zoning application is valid for two years from the effective date of this approval and will expire at the end of that period unless the applicant establishes the use by one of the following actions: 1) a building permit has been issued and construction has commenced, and has continued to maintain a valid building permit by making satisfactory progress as determined by the Building Official, 2) a certificate of occupancy has been issued, or 3) the use is established and a business license has been issued. A time extension can be requested no less than 30 days or more than sixty (60) days before the expiration date of the permit and submitted with the appropriate fee for review to the Planning Division. The Director of Development Services may extend the time for an approved permit or approval to be exercised up to 180 days subject to specific findings listed in Title 13, Section 13-29 (k) (6). Only one request for an extension of 180 days may be approved by the Director. Any subsequent extension requests shall be considered by the original approval authority.
 3. No person may engage in any cannabis business or in any cannabis activity within the City including delivery or sale of cannabis or a cannabis product unless the person:
 - a. Has a valid Cannabis Business Permit from the City;
 - b. Has paid all Cannabis Business Permit and all application fees and deposits established by resolution of the City Council, including annual Community Improvement Division inspection deposits;
 - c. Has obtained all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such cannabis business intends to operate;
 - d. Has obtained a City business license pursuant to Chapter I of the Municipal Code;
 - e. Is in compliance with all requirements of the Community Improvement Division regarding the property;
 - f. Has obtained any and all licenses required by State law and/or regulations; and
 - g. Has satisfied all CUP conditions of approval.

4. Any change in the operational characteristics of the use shall be subject to Planning Division review and may require an amendment to the Conditional Use Permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change.
5. No cultivation of cannabis is allowed anywhere on the premises.
6. The uses authorized by this Conditional Use Permit must be conducted in accordance with all applicable State and local laws, including, but not limited to compliance with the most current versions of the provisions of the California Code of Regulations that regulate the uses permitted hereby. Any violation thereof shall be a violation of the conditions of this permit and may be cause for revocation of this permit.
7. Except for operations allowed by this Conditional Use Permit and under an active Cannabis Business Permit and State Type 10 license, no permit holder or any of its employees shall sell, distribute, furnish, and/or otherwise provide any cannabis or cannabis product to any person, firm, corporation, group or any other entity, unless that person or entity is a lawful, bona fide customer, or it possesses all currently valid permits and/or licenses required by both the State of California and applicable local governmental entity to lawfully receive such cannabis and to engage in a "cannabis activity" as defined by Costa Mesa Municipal Code sec. 9-485. The permit holder shall verify that the recipient, regardless of where it is located, of any cannabis or cannabis product sold, distributed, furnished, and/or otherwise provided by or on behalf of the permit holder, possesses all required permits and/or licenses therefor.
8. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.
9. If any section, division, sentence, clause, phrase or portion of this approval is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.
10. The use shall operate in accordance with the approved Security Plan. Any changes to the Security Plan must be submitted to the Planning Division with

a written explanation of the changes. If the Director determines that changes are substantial, a modification to the Cannabis Business Permit and/or amendment to the CUP may be required.

11. A parking management plan, including techniques described in Operational Condition of Approval No. 7, must be approved by the Director of Economic and Development Services or designee prior to any grand opening or other high volume event on the subject property.
- Bldg. 12. Development shall comply with the requirements of the following adopted codes: 2019 California Residential Code, 2019 California Building Code, 2019 California Electrical Code, 2019 California Mechanical Code, 2019 California Plumbing Code, 2019 California Green Building Standards Code and 2019 California Energy Code (or the applicable adopted, California Residential Code, California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Requirements for accessibility to sites, facilities, buildings and elements by individuals with disability shall comply with chapter 11B of the 2019 California Building Code.
- CBP 13. The operator shall maintain a valid Cannabis Business Permit and a valid Business License at all times. The Cannabis Business Permit application number associated with this address is MQ-21-10. Upon issuance, the Cannabis Business Permit will be valid for a two-year period and must be renewed with the City prior to its expiration date, including the payment of permit renewal fees. No more than one Cannabis Business Permit may be issued to this property.
14. The use shall operate in accordance with the approved Business Plan. Any changes to the Business Plan must be submitted to the Planning Division with a written explanation of the changes. If the Director determines that changes are substantial, a modification to the Cannabis Business Permit and/or amendment to the CUP may be required.
15. A Cannabis Business Permit may be revoked upon a hearing by the Director of Economic and Development Services or designee pursuant to Section 9-120 of the CMMC for failing to comply with the terms of the permit, the applicable provisions of the CMMC, State law or regulation and/or any condition of any other permit issued pursuant to this code. Revocation of the Cannabis Business Permit shall trigger the City's proceedings to revoke the Conditional Use Permit and its amendments. The Conditional Use Permit granted herein shall not be construed to allow any subsequent owner/operator to continue operating under PA-21-27 until a valid new Cannabis Business Permit is received from the City of Costa Mesa.
16. A change in ownership affecting an interest of 51 or more percent, or an incremental change in ownership that will result in a change of 51 or more percent over a three year period, shall require submittal and approval of a

new Cannabis Business Permit. A change in ownership that affects an interest of less than 51 percent shall require approval of a minor modification to the Cannabis Business Permit.

- State
17. The business must obtain any and all licenses required by State law and/or regulation prior to engaging in any cannabis activity at the property.
 18. The applicant shall obtain State License Type 10 prior to operating. The uses authorized by this Conditional Use Permit must be conducted in accordance with all applicable State and local laws, including, but not limited to compliance with the most current versions of the provisions of the California Code of Regulations that regulate the uses permitted hereby. Any violation thereof shall be a violation of the conditions of this permit and may be cause for revocation of this permit.
 19. Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the City. This Conditional Use Permit will expire and be of no further force and effect if any State issued license remains suspended for a period exceeding six (6) months. Documentation of three violations during routine inspections or investigations of complaints shall result in the Community Improvement Division scheduling a hearing before the Director of Development Services to consider revocation of the Cannabis Business Permit.
 20. Third parties are prohibited from providing delivery services for non-storefront retail.
 21. Persons under the age of twenty-one (21) years shall not be allowed on the premises of this business, except as otherwise specifically provided for by state law and CMMC Section 9-495(h)(6). It shall be unlawful and a violation of this CUP for the owner/operator to employ any person who is not at least twenty-one (21) years of age.
- PD
22. Every manager, supervisor, employee or volunteer of the cannabis business must submit fingerprints and other information specified on the Cannabis Business Permit for a background check by the Costa Mesa Police Department to verify that person's criminal history. No employee or volunteer may commence paid or unpaid work for the business until the background checks have been approved. No cannabis business or owner thereof may employ any person who has been convicted of a felony within the past 7 years, unless that felony has been dismissed, withdrawn, expunged or set aside pursuant to Penal Code sections 1203.4, 1000 or 1385, or who is currently on probation or parole for the sale, distribution, possession or manufacture of a controlled substance.
- CID
23. Should any employee, volunteer or other person who possesses an identification badge be terminated or cease their employment with the

business, the applicant shall return such identification badge to the City of Costa Mesa Community Improvement Division within 24 hours, not including weekends and holidays.

24. The property owner and applicant shall use “Crime Prevention Through Environmental Design” techniques to reduce opportunities for crime, loitering and encampments on the property as deemed appropriate by the Community Improvement Manager and Director of Economic and Development Services.
- Finance 25. This business operator shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees and permits required under State and local law. This business operator shall cooperate with the City with respect to any reasonable request to audit the cannabis business’ books and records for the purpose of verifying compliance with the CMMC and this CUP, including but not limited to a verification of the amount of taxes required to be paid during any period.
26. The following records and recordkeeping shall be maintained/conducted:
 - a. The owner/operator of this cannabis business shall maintain accurate books and records, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis, or at any time upon reasonable request of the City, the owner/operator shall file a sworn statement detailing the number of sales by the cannabis business during the previous twelve month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.
 - b. The owner/operator shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this condition shall be provided to the City Manager upon a reasonable request.
 - c. The owner/operator shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the retail sale and delivery process. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA), the owner/operator shall allow City officials to have access to the business’s books, records, accounts, together with any other data or documents relevant to its permitted cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City’s request, unless otherwise stipulated by the City.
 - d. The owner/operator shall have in place a point-of-sale tracking system to track and report on all aspects of the cannabis business including,

but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The owner/operator shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City Manager or designees.

- Insp.
27. The City Manager or designees may enter this business at any time during the hours of operation without notice, and inspect the location of this business as well as any recordings and records required to be maintained pursuant to Title 9, Chapter VI or under applicable provisions of State law.
 28. Inspections of this cannabis business by the City will be conducted, at a minimum, on a quarterly basis. The applicant will pay for the inspections according to the adopted Fee Schedule.
 29. Quarterly Fire & Life Safety Inspections will be conducted by the Community Risk Reduction Division to verify compliance with the approved operation. The applicant will pay for the inspection according to the Additional Required Inspections as adopted in the Fee Schedule.
 30. Annual Fire & Life Safety Inspections will be conducted by the Fire Station Crew for emergency response pre-planning and site access familiarization. The applicant will pay for the inspection according to the adopted Fee Schedule.
 31. Pursuant to Title 9, Chapter VI, it is unlawful for any person having responsibility for the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this chapter or under State or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this chapter or under State or local law.

Prior to Issuance of Building Permits

1. Plans shall be prepared, stamped and signed by a California licensed Architect or Engineer.
2. The conditions of approval and ordinance or code provisions of Planning Application 21-22 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
3. Prior to the Building Division issuing a demolition permit, the applicant shall contact the South Coast Air Quality Management District (AQMD) located at:
21865 Copley Dr.
Diamond Bar, CA 91765-4178
Tel: 909- 396-2000

Or visit its website: <http://www.costamesaca.gov/modules/showdocument.aspx?documentid=23381>. The Building Division will not issue a demolition permit until an Identification Number is provided by AQMD.

4. Odor control devices and techniques shall be incorporated to ensure that odors from cannabis are not detected outside the property, anywhere on adjacent property or public right-of-way. Building and mechanical permits must be obtained from the Building Division prior to work commencing on any part of the odor control system.
5. Plan check submittal shall include air quality/odor control device specification sheets. Plan check submittal shall also include a landscape plan that complies with CMMC requirements, drought-tolerant plants and/or California native plants, a bike rack, parking lot striping in conformance with CMMC requirements, and trash enclosure.
6. No signage shall be installed until the owner/operator or its designated contractor has obtained permits required from the City. Business identification signage shall be limited to that needed for identification only. Business identification signage shall not include any references to cannabis, whether in words or symbols. All signs shall comply with the CMMC.
7. The plans and business operator shall comply with the requirements of the 2019 California Fire Code, including the 2019 Intervening Update and referenced standards as amended by the City of Costa Mesa.
8. The Traffic Impact Fee as calculated by the Transportation Services Division shall be paid in full.
9. Construction documents shall include a temporary fencing and temporary security lighting exhibit to ensure the site is secured during construction and to discourage crime, vandalism, and illegal encampments.
10. The applicant shall submit a lighting plan to the Planning Division for review and approval. The lighting plan shall show locations of all security lighting. As determined by the Director of Economic and Development Services or their designee, a photometric study may be required to demonstrate compliance with the following: (a) lighting levels on the property including the parking lot shall be adequate for safety and security purposes (generally, at least 1.0 foot candle), (b) lighting design and layout shall minimize light spill at the adjacent residential property line and at other light-sensitive uses (generally, no more than 0.5-footcandle at the property line), and (c) glare shields may be required to prevent light spill.

Prior to Issuance of a Certificate of Use/Occupancy

1. The operator, contractors, and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final occupancy and utility releases will not be granted until all such licenses have been obtained.

Prior to Issuance of Cannabis Business Permit

1. The applicant shall contact the Planning Division for a facility inspection and provide a matrix of conditions of approval explaining how each was met prior to issuance of a Cannabis Business Permit.
2. The applicant shall submit to the Planning Division a list of all vehicles to be used for retail delivery purposes. The list shall identify the make, model, color, license plate number and registered owner of each vehicle.
3. The applicant shall pay the public notice fee (\$1 per notice post card) and the newspaper ad publishing cost.
4. The final Security Plan shall be consistent with the approved building plans.
5. Each entrance to the business shall be visibly posted with a clear and legible notice stating the following:
 - a. That smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited;
 - b. That no person under the age of twenty-one (21) years of age is permitted to enter upon the premises;
 - c. That loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises is prohibited; and
 - d. The premise is a licensed cannabis operation approved by the City of Costa Mesa. The City may also issue a window/door sticker, which shall be visibly posted.
6. The owner/operator shall obtain and maintain at all times during the term of the permit comprehensive general liability insurance and comprehensive automotive liability insurance protecting the permittee in an amount of not less than two million dollars (\$2,000,000.00) per occurrence, combined single limit, including bodily injury and property damage and not less than two million dollars (\$2,000,000.00) aggregate for each personal injury liability, products-completed operations and each accident, issued by an insurance provider admitted and authorized to do business in California and shall be rated at least A-:viii in A.M. Best & Company's Insurance Guide. Such policies of insurance shall be endorsed to name the City of Costa Mesa as an additional insured. Proof of said insurance must be provided to the Planning Division before the business commences operations. Any changes to the insurance policy must be submitted to the Planning Division within 10 days of the date the change is effective.
7. The applicant shall submit an executed Retail Cannabis Business Permit Defense and Indemnity Agreement on a form to be provided by the City.
8. The applicant shall post signs within the parking lot directing customers, employees and vendors to use consideration when entering their vehicles and leaving the parking lot such as no loud voices, shouting, loud music, revving car engines, etc. The language of the parking lot signs shall be reviewed and approved by the Planning Division prior to installation.
9. Prior to issuance of building permits, the applicant shall show proof of recordation with the County of a land use restriction which restricts the use of all suites within 1072 Bristol Street to uses with a parking ratio of four stalls

or less per 1,000 square feet. Should any use be proposed with a higher parking ratio, a professionally prepared parking study shall be required before the use could be approved via a Minor Conditional Use Permit or other appropriate entitlement procedure at the time.

Operational Conditions

1. No product deliveries to the facility shall occur after 10:00 PM and before 7:00 AM.
2. Onsite sales and offsite delivery to customers is limited to the hours between 7:00 AM and 10:00 PM.
3. The applicant shall submit an updated delivery vehicle list each quarter with the quarterly update to the employee roster which is required pursuant to the CBP. The number of delivery vehicles parked onsite shall not exceed the number of available onsite surplus parking spaces. Delivery vehicles shall not be parked on City streets.
4. At least one security guard shall be onsite at all times.
5. The operator shall maintain free of litter all areas of the property under which applicant has control.
6. The use shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The operator shall institute appropriate security and operational measures as necessary to comply with this requirement.
7. If parking shortages or other parking-related problems develop, the business owner or operator will be required to institute appropriate operational measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services or designee. Temporary or permanent parking management strategies include, but are not limited to, reducing operating hours of the business, hiring an employee trained in traffic control to monitor parking lot use and assist with customer parking lot circulation, encouraging customers to take advantage of delivery service instead of store visits, limiting the number of employees that park onsite, offering an employee shuttle service, and incentivizing employee carpooling/cycling/walking.
8. While working, employees shall not park on residential streets unless doing so temporarily to make a cannabis delivery.
9. All employees must wear an identification badge while on the premises of the business and/or performing deliveries, in a format prescribed by the City Manager or designee. When on the premises, badges must be clearly visible and worn on outermost clothing and above the waist in a visible location.
10. The operator shall ensure that all vehicles are properly maintained, all delivery drivers have a good driving record, and each driver conducts a visual inspection of the vehicle at the beginning of each shift.

11. The operator shall ensure that deliveries are grouped to minimize total vehicle trips.
12. During each delivery stop, the delivery vehicle shall be parked in a safe manner (i.e., not impeding traffic circulation), the engine shall be turned off and the vehicle shall be locked.
13. Vehicle loading and unloading shall only take place within direct unobstructed view of surveillance cameras, located in the stalls in close proximity to the access-controlled door, as shown on an exhibit approved by the Director of Economic and Development Services or designee. No loading and unloading of cannabis products into or from the vehicles shall take place outside of camera view. The security guard shall monitor all on-site loading and unloading of delivery vehicles. Video surveillance cameras shall be installed on the exterior of the building with direct views of all doors. Any modifications or additional vehicle loading and unloading areas shall be submitted to the Director of Economic and Development Services or designee for approval.
14. Vehicle standing, loading and unloading shall be conducted so as not to interfere with normal use of streets, sidewalks, driveways and on-site parking.
15. The sale, dispensing, or consumption of alcoholic beverages on or about the premises is prohibited.
16. No outdoor storage or display of cannabis or cannabis products is permitted at any time.
17. Cannabis shall not be consumed on the property at any time, in any form.
18. The owner/operator shall prohibit loitering on and within fifty (50) feet of the property.
19. No cannabis or cannabis products, or graphics depicting cannabis or cannabis products, shall be visible from the exterior of the property, or on any of the vehicles owned or used as part of the cannabis business.
20. The owner or operator shall maintain air quality/odor control devices by replacing filters on a regular basis, as specified in the manufacturer specifications.
21. If cannabis odor is detected outside the building or within other building tenancies, the business owner or operator shall institute corrective measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services.
22. Cannabis liquid or solid waste must be made unusable and unrecognizable prior to leaving a secured storage area and shall be disposed of at facility approved to receive such waste.
23. Each transaction involving the exchange of cannabis goods between the business and consumer shall include the following information: (1) Date and time of transaction; (2) Name and employee number/identification of the employee who processed the sale; (3) List of all cannabis goods purchased including quantity; and (4) Total transaction amount paid.

24. In the first 90 days of business operations, there shall be at least one parking attendant to monitor the parking lot. The parking attendant shall ensure that customers are not parking in the adjacent properties' parking spaces. The attendant shall also ensure the parking lot is functioning efficiently without negatively impacting the existing businesses onsite and any surrounding properties. Economic and Development Services staff will periodically visit the business unannounced within the first 90 days on several occasions to verify the parking and circulation condition during normal hours of operation. After the initial 90 days, staff will determine if the parking attendants are still needed to maintain efficient parking and traffic flow.
25. Pursuant to CMMC section 13-98, a land use restriction shall be recorded to ensure that future property owners are informed of use restrictions resulting from the number of parking spaces provided. The Land Use Restriction shall specifically require that any future proposed use with a code-required parking ratio above four stalls per 1,000 square feet to be subject to a professionally prepared and affirmative parking study. This study would be subject to approval by a Minor Conditional Use Permit.

June 27, 2022

Costa Mesa Development Services
77 Fair Drive
Costa Mesa, CA 92626
(714) 754-5270

RE: CM Triangle Enterprise LLC Applicant Letter for Commercial Cannabis Storefront Business
To the City of Costa Mesa,

We are writing this Applicant Letter as part of our Commercial Cannabis Storefront Business Application for a retail storefront and delivery service in the City of Costa Mesa. CM Triangle Enterprise LLC is working with Measure X Partner Yummy Karma Inc to establish a retail storefront and delivery service at 1072 Bristol St Costa Mesa, CA 92626 on parcel 439-321-02. The parcel's zoning is C1 Local Business and the proposed location is not within the Green Zone.

Andy Singh, founder of CM Triangle Enterprise LLC, is a successful cannabis entrepreneur who co-owns Nuvata, a line of cannabis vaporizers with formulations specifically tailored to an individual's physiology. Andy was also recently awarded a license to operate a retail storefront in the City of Corona. Andy's critical knowledge of local and state regulations will help guide CM Triangle Enterprise LLC through the entire process in Costa Mesa, from application phase to post-licensing compliance.

We plan to use the Bristol location for conducting the retail sale of cannabis along with the preparation of deliveries of cannabis goods offsite. We are obtaining Type 10 Storefront Retail with Delivery licensure with both Adult Use (A) and Medical (M) designations from the Department of Cannabis Control (DCC), so we conduct retail sales to Adult Use customers who are over the age of 21 and Medical customers who are over the age of 18 and have a valid physician's recommendation and/or Cannabis Card. Areas that are generally accessible to the public include a Check-In Area where we verify client identification and check them into our customer queue, as well as a Retail Floor where cannabis goods are displayed and where transactions are processed. Limited access areas are only accessible by employees of the commercial cannabis business and visitors that are escorted by an employee of the commercial cannabis business. Limited Access Areas include a Secure Storage Room where bulk cannabis goods are stored, our Shipping/Receiving Room where incoming deliveries of cannabis goods are received and where orders to be delivered offsite are prepared, our Offices where records and security footage are stored, our Employee Breakroom and additional space that is not open to the public.

CM Triangle is taking extensive measures to ensure the safety and security of the site, as well as to mitigate all concerns relating to our proposed use. Odor control measures have been designed to include Merv-8, or better, carbon filters in a negative pressurized environment. Man-traps will be featured at the entrance and exit to provide added protection against any detectable odors escaping the facility. Further, we will be incorporating a 24-hour onsite Security guard to prevent loitering and noise-related nuisances, as well as to enhance the overall safety of the site. Security measures also include shielded security lighting and monitored surveillance cameras with a direct feed to local law enforcement. Our comprehensive Neighborhood Compatibility Measures will allow us to seamlessly integrate our operations while providing enhanced security for the surrounding area.

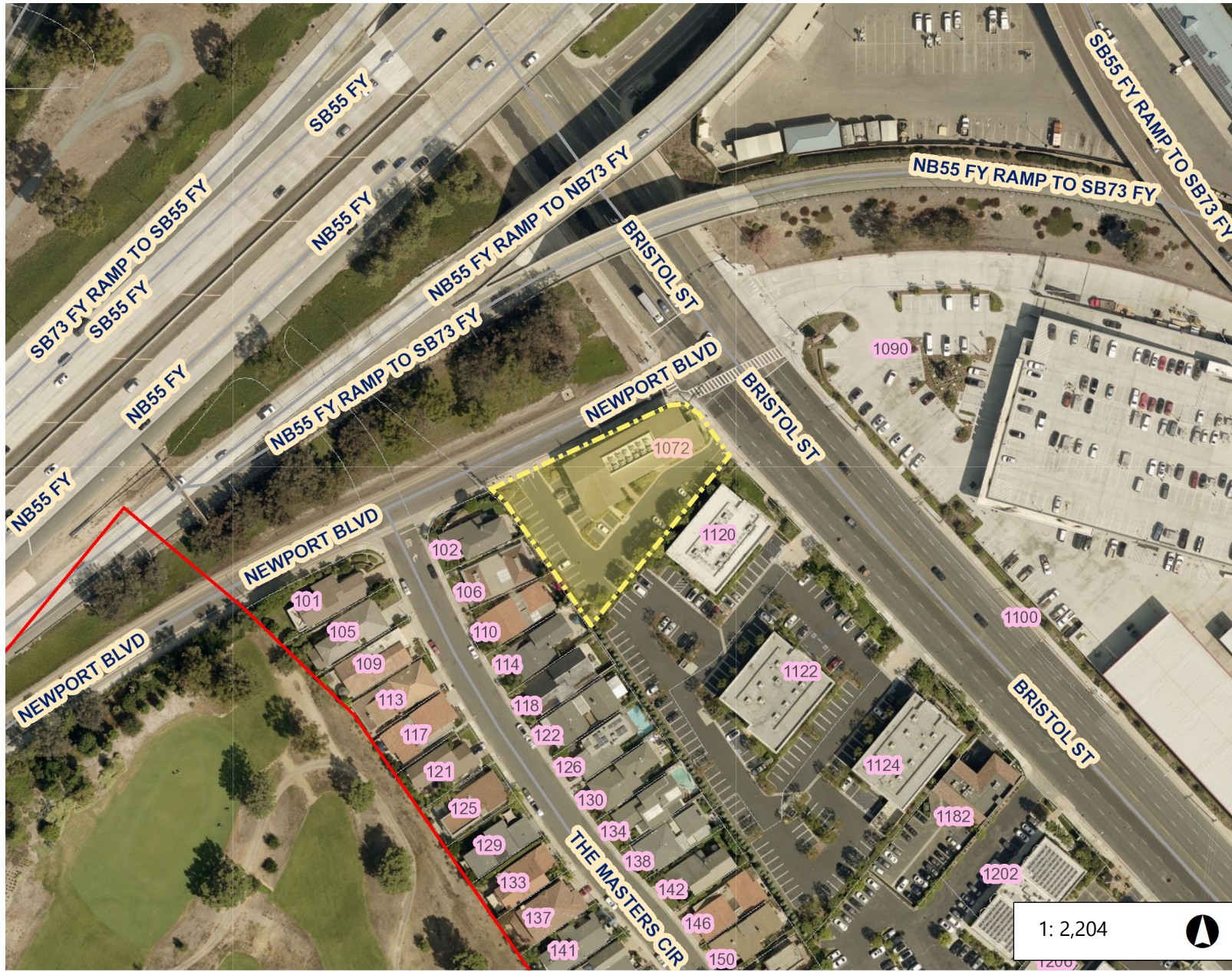
We only conduct the retail sale of cannabis goods that have been produced by licensed cultivators and manufacturers and sourced from licensed distributors that operation within the scope of compliance with local and state regulations. This includes cannabis flower, pre-rolls, manufactured cannabis products including various extracts, rosin, edibles, tinctures, topical products, sublingual tabs, capsules, beverages and non-cannabis merchandise such as branded clothing and accessories. All cannabis goods sold at our store are packaged and labeled in their final form and in compliance with State law. We have longstanding relationships with some of the leading brands including Raw Garden, Pacific Stone, Kiva and various others licensed operators. We have also built strong relationships with various distributors who carry these products so are able to secure favorable terms on products and maintain a consistent supply of cannabis goods for our clientele. We are implementing a robust inventory management, control and reporting system that allows us to accurately document the present location, amounts, and descriptions of all cannabis goods for all stages of the external supply chain and our internal retail process until purchase by a verified customer or patient.

We look forward to bringing the City of Costa Mesa premiere commercial cannabis that provides an incomparable customer experience and various additional community benefits. Please reach out to Andy Singh via email at asingh@nuvata.co or via phone at (562) 412-3194 with any questions or concerns.

Sincerely,



CM Triangle Enterprise LLC



Legend
 Costa Mesa

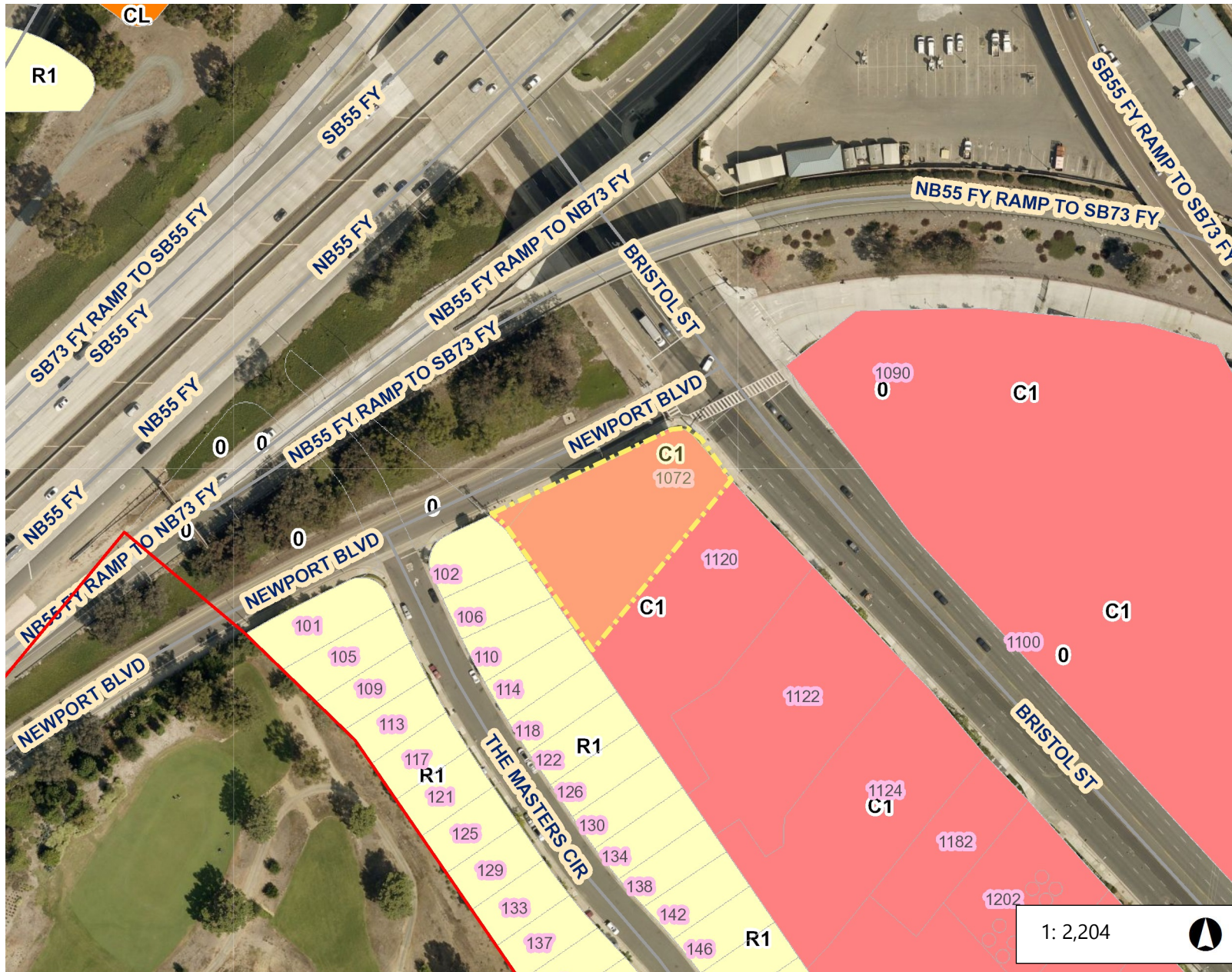
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
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 © City of Costa Mesa


The City of Costa Mesa makes no guarantee as to the accuracy of any of the information provided and assumes no liability for any errors, omissions, or inaccuracies.

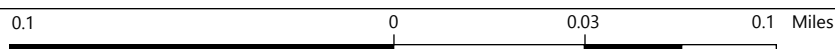
Notes



Legend

-  Costa Mesa
- Zoning**
-  AP - Administrative Professional
-  IR-MLT - Institutional Recreational I
-  R1 - Single-Family Residential
-  R2-MD - Multiple-Family Residenc
-  R2-HD - Multiple-Family Residenc
-  R3 - Multiple Family Residential
-  MG - General Industrial
-  MP - Industrial Park
-  PDI - Planned Development Indust
-  C1 - Local Business
-  C2 - General Business
-  C1-S - Shopping Center
-  TC - Town Center
-  PDR-NCM - Planned Development Mesa
-  I&R - Institutional Recreational
-  I&R-S - Institutional Recreational - S
-  P - Parking
-  CL - Commercial Limited
-  PDC - Planned Development Comr
-  PDR-LD - Planned Development R
-  PDR-MD - Planned Development R Density
-  PDR-HD - Planned Development R

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Notes

1072 BRISTOL STREET (PA-21-27)

EXISTING SITE PHOTOS



View from Newport Boulevard



View of the side door (to become entrance) and parking



View from the southern corner of the parking lot



Commercial and residential interface from parking lot, facing Newport Boulevard








Commercial and residential interface facing south from Newport Boulevard


















Bristol Street Frontage

SUITE 100

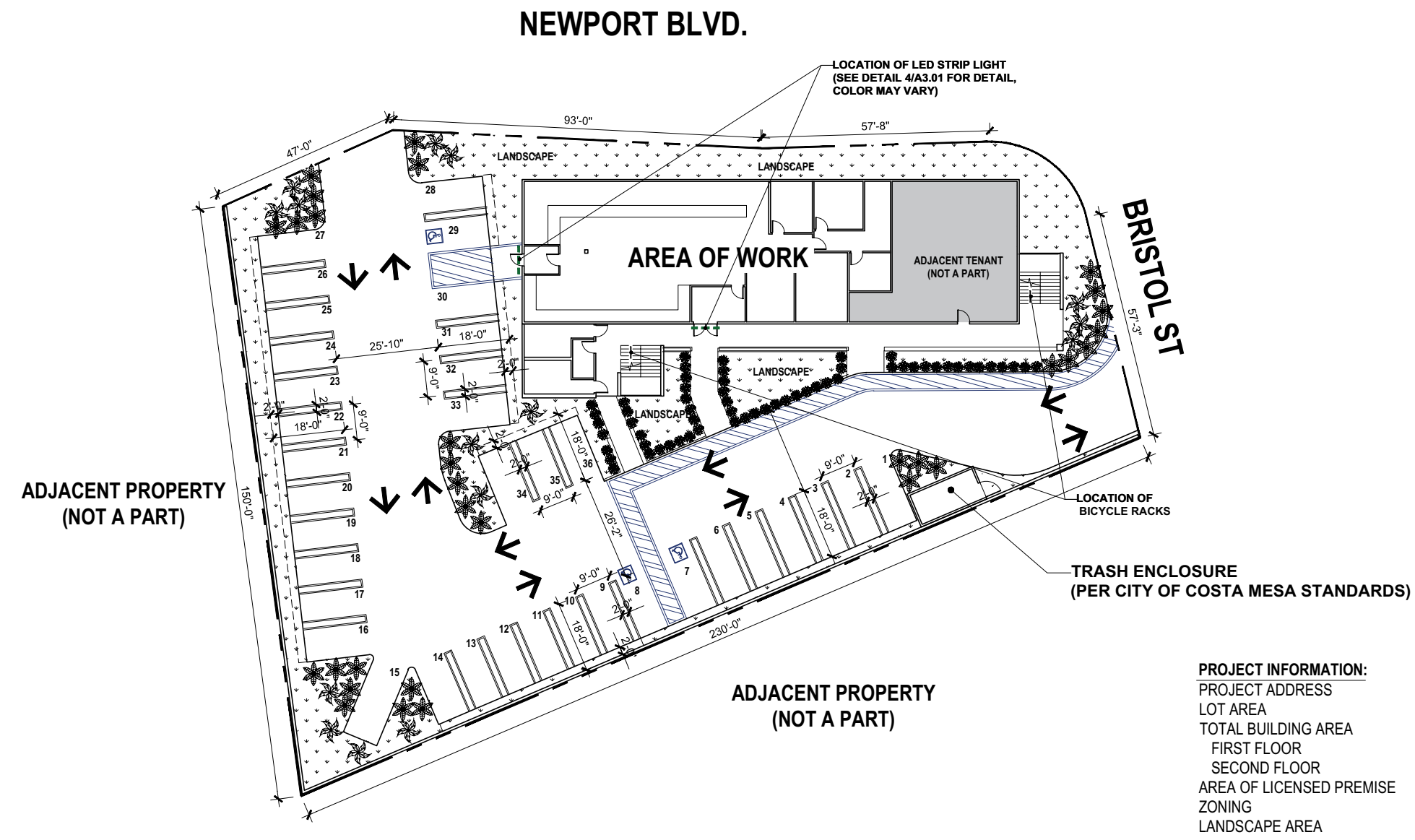
LEGEND:

-  CEANOTHUS 'CENTENNIAL'
CENTENNIAL WILD LILAC
-  HESPERALOE PARVIFLORA
RED YUCCA
-  CHONDROPETALUM TECTORUM
CAPE BUSH
-  CORDYLINAE AUSTRALIS "RED SENSATION"
RED SENSATION GRASS PALM
-  CORDYLINAE AUSTRALIS "TORBAY DAZZLER"
TORBAY DAZZLER GRASS PALM

-  KEY NOTE - SEE ABOVE
-  LOW WALL
-  4" WALL FRAMING PER STRUCTURAL
-  6" WALL FRAMING PER STRUCTURAL
-  8" WALL FRAMING PER STRUCTURAL
-  1-HOUR RATED EXTERIOR WALL
OCCURS WITH 4", 6", OR 8" FRAMING
-  SOFFIT OR DROP CEILING
-  SMOKE ALARM
-  CARBON MONOXIDE ALARM
-  EXHAUST FAN VENT TO OUTSIDE AIR
-  FLOOR MATERIAL TRANSITION
C = CARPET
T = TILE
V = VINYL
-  TOUCH SCREEN
-  TV LOCATION
-  SPEAKER
-  CABLE / DATA

G.34 - FANS SHALL BE ENERGY STAR COMPLIANT AND BE DUCTED TO TERMINATE TO THE OUTSIDE OF THE BUILDING
- FANS, NOT FUNCTIONING AS A COMPONENT OF A WHOLE HOUSE VENTILATION SYSTEM, MUST BE CONTROLLED BY A HUMIDITY CONTROL.

Notes 4



PROJECT INFORMATION:

PROJECT ADDRESS	1072 BRISTOL ST 100
LOT AREA	26,108 SF
TOTAL BUILDING AREA	11,880 SF
FIRST FLOOR	5,940 SF
SECOND FLOOR	5,940 SF
AREA OF LICENSED PREMISE	3,286 SF
ZONING	C1
LANDSCAPE AREA	6,041 SF

PARKING SUMMARY:

STANDARD PARKING STALLS	34 STALLS
HC PARKING STALLS	2 STALLS
BIKE RACKS	1 STALL

Site Plan SCALE: 1/16" = 1'-0" FILE: 1



Kurt Gibbs AIA
3575 Long Beach Blvd.
Long Beach CA, 90807
T: 562.981.2000
E: kurt@gibbs1934.com



Revisions:

No.	Issue	Date
1	CUP Submittal	11 Aug 2021
2	CUP Submittal	12 Nov 2021
3	CUP Submittal	15 Dec 2021
4	CUP Submittal	28 Jan 2022
5	CUP Submittal	4 Feb 2022

Project Number: 31020078

Date:

File:

Scale: Scale As Noted

Sheet Title: **Site Plan**

Drawing Number: **A1.01**

SUITE 100



Kurt Gibbs AIA
3575 Long Beach Blvd.
Long Beach CA, 90807
T: 562.981.2000
E: kurt@gibbs1934.com



Revisions:

No.	Issue	Date
1	CUP Submittal	11 Aug 2021
2	CUP Submittal	12 Nov 2021
3	CUP Submittal	15 Dec 2021
4	CUP Submittal	28 Jan 2022
5	CUP Submittal	4 Feb 2022

Project Number:
31020078

Date:

File:

Scale:
Scale As Noted

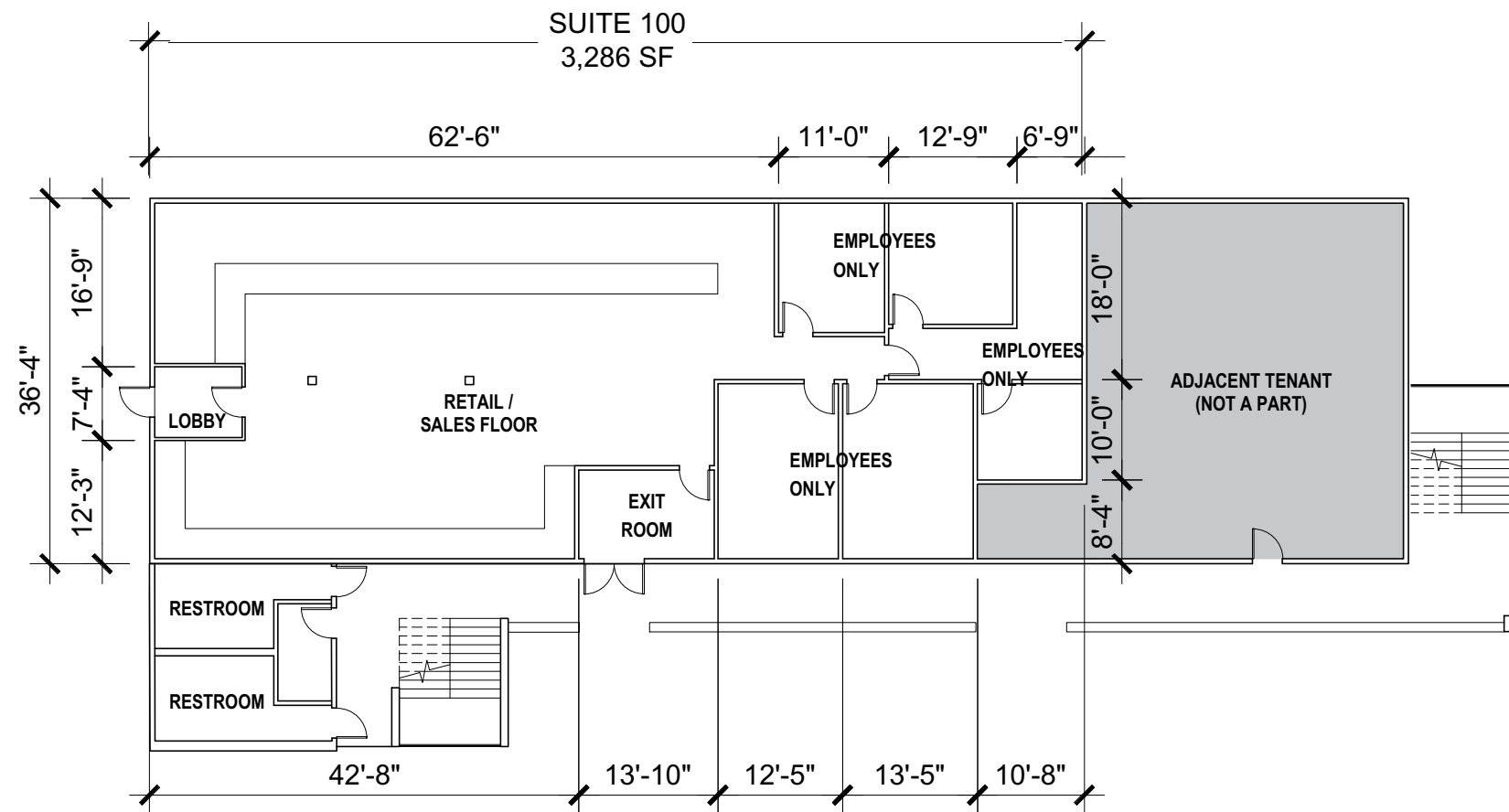
Sheet Title:
First Floor Plan

Drawing Number:
A2.01

	KEY NOTE - SEE ABOVE		TOUCH SCREEN
	LOW WALL		TV LOCATION
	4" WALL FRAMING PER STRUCTURAL		SPEAKER
	6" WALL FRAMING PER STRUCTURAL		CABLE / DATA
	8" WALL FRAMING PER STRUCTURAL		
	1-HOUR RATED EXTERIOR WALL OCCURS WITH 4", 6", OR 8" FRAMING		
	SOFFIT OR DROP CEILING		
	SMOKE ALARM		
	CARBON MONOXIDE ALARM		
	EXHAUST FAN VENT TO OUTSIDE AIR		
	FLOOR MATERIAL TRANSITION C = CARPET T = TILE V = VINYL		

G.34.
- FANS SHALL BE ENERGY STAR COMPLIANT AND BE DUCTED TO TERMINATE TO THE OUTSIDE OF THE BUILDING
- FANS, NOT FUNCTIONING AS A COMPONENT OF A WHOLE HOUSE VENTILATION SYSTEM, MUST BE CONTROLLED BY A HUMIDITY CONTROL.

Notes 4



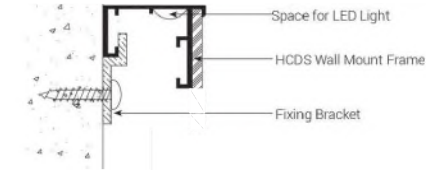
0 4 8 12 16 FT

First Floor Plan

SCALE: 1/8" = 1'-0"
FILE:

NOTES:

- ALL EXTERNAL LIGHTING SHALL BE DIRECTED AWAY FROM ANY ADJACENT RESIDENTIAL USES AND PUBLIC RIGHT OF WAY.
- NO ILLUMINATION SOURCE SHALL BE DIRECTED SO THAT DIRECT GLARE FROM THE SOURCE IS VISIBLE FROM ANY POINT BEYOND THE LOT OR BUILDING SITE UPON WHICH THE LIGHT SOURCE IS LOCATED.
- LIGHTING FIXTURES SHALL BE EQUIPPED WITH AUTOMATIC TIMING DEVICES, BE FULLY SHIELDED AND PLACED SO THAT THE LIGHT IS DIRECTED TOWARDS THE EARTH'S SURFACE AND IS DESIGNED TO EMIT ONLY THE MINIMUM AMOUNT OF LIGHT NECESSARY FOR THEIR INTENDED PURPOSE.



DETAIL MAY VARY AND IS INTENDED FOR USING THE "SHIELDING" METHOD OF CONSTRUCTION.

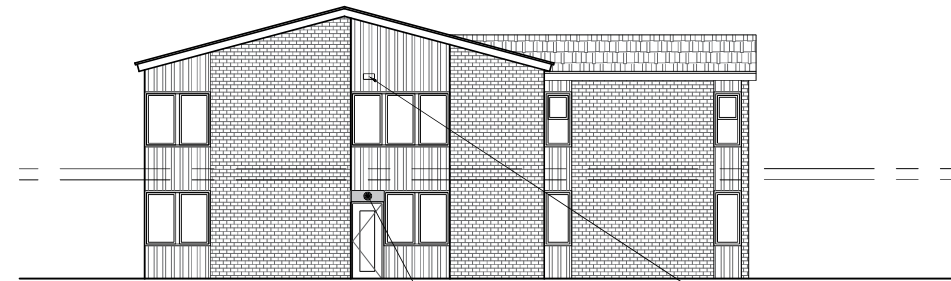
Light Shielding Detail

SCALE: NTS
FILE:

4

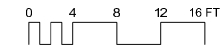


Kurt Gibbs AIA
3575 Long Beach Blvd.
Long Beach CA, 90807
T: 562.981.2300
E: kurt@gibbs1934.com



LYTEPRO16 WALLPACK
(BY SYNERGYLIGHTINGUSA)

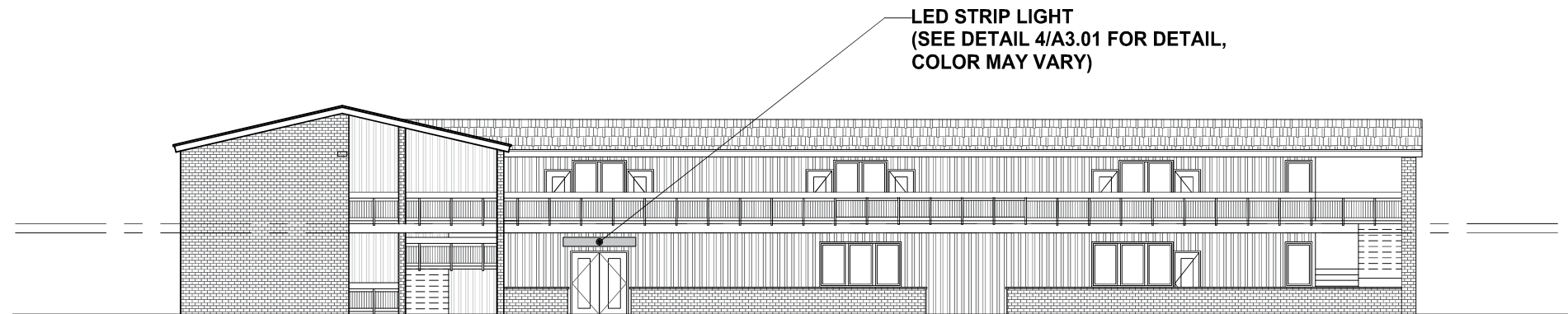
LED STRIP LIGHT
(SEE DETAIL 4/A3.01 FOR DETAIL,
COLOR MAY VARY)



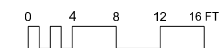
West Elevation

SCALE: 1/8" = 1'-0"
FILE:

1



LED STRIP LIGHT
(SEE DETAIL 4/A3.01 FOR DETAIL,
COLOR MAY VARY)



South Elevation

SCALE: 1/8" = 1'-0"
FILE:

1

Revisions:

No.	Issue	Date
1	CUP Submittal	11 Aug 2021
2	CUP Submittal	12 Nov 2021
3	CUP Submittal	15 Dec 2021
4	CUP Submittal	28 Jan 2022
5	CUP Submittal	4 Feb 2022

Project Number:
31020078

Date:

File:

Scale:
Scale As Noted

Sheet Title:
Elevations

Drawing Number:
A3.01

