



# City of Costa Mesa

## Agenda Report

77 Fair Drive  
Costa Mesa, CA 92626

---

**File #: 22-840**

**Meeting Date: 8/22/2022**

---

**TITLE:**

PLANNING APPLICATION 21-29 FOR A RETAIL CANNABIS STOREFRONT BUSINESS LOCATED AT 170 EAST 17<sup>TH</sup> STREET, SUITES 115 AND 116 (CATALYST)

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

**PRESENTED BY: NANCY HUYNH, SENIOR PLANNER**

**CONTACT INFORMATION: NANCY HUYNH, 714-754-5609; [Nancy.Huynh@costamesaca.gov](mailto:Nancy.Huynh@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 21-29, subject to conditions of approval.

**APPLICANT OR AUTHORIZED AGENT:**

The applicant/authorized agent is Elliot Lewis of RD x Catalyst - Costa Mesa LLC, on behalf of the property owner, Jewell Brother Properties LLC.

**BACKGROUND:**

The subject property is located at 170 East 17<sup>th</sup> Street. The property is located on the north side of East 17<sup>th</sup> Street and is bounded by Wells Place to the north, Fullerton Avenue to the west, and Orange Avenue to the east. The site is zoned C2 (General Business District) and is surrounded by other commercially zoned properties (C2, C1 - Local Business District, CL - Commercial Limited District). The site has a General Plan Land Use Designation of General Commercial.

Existing development on the subject property consists of two commercial buildings with 19 tenant spaces, and a 75 space parking lot (including existing bicycle racks) located generally at the rear of the property. The two buildings on-site are both two-stories and have a combined floor area of 19,204 square feet. There are multiple driveways that provide access to the site, including a vehicle ingress/egress on East 17<sup>th</sup> Street, Fullerton Avenue, and three on Wells Place. The parking spaces are shared among the existing businesses. The surface parking lot and driveways are located on several parcels directly abutting the subject property and are all under common ownership.

The existing commercial buildings include 18 existing tenants and one vacant tenant suite. The existing onsite businesses include a custom framing shop, massage and beauty salons, general offices, an insurance company, and a vacuum and sewing machine sales and supply store. The proposed retail cannabis storefront use, "Catalyst" would occupy 2,559 square feet of the existing building in Suites 115 and 116, which are currently occupied by the vacuum and sewing machine repair and supply business (Coast Vacuum and Sewing Center).

The property is located on one of the City's primary commercial corridors and the surrounding uses predominantly include multi-tenant commercial centers. Existing businesses in these surrounding commercial centers consist of a variety of restaurants/bars, grocery store, pharmacy, massage and beauty parlors, general retail, medical and general offices, fitness gym, and automotive repair. The nearest residentially zoned properties (R2-HD; Multi-Family Residential High Density and R3; Multi-Family Residential District) are located to the north approximately 300 feet away from the subject property. The existing residences and the proposed storefront location are further separated by the subject property's parking lot as well as commercially zoned (CL) properties on Wells Place/Cabrillo Street.

There are no open Code Enforcement cases on this property.

### ***Non-Conforming Development***

The existing development is legal-nonconforming in terms of the parking, setback, landscaping, 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 new site modifications do not result in greater site nonconformities, and such improvements bring the site into greater conformance with Code requirements. In addition, the CMMC requires that if a site is legal non-conforming in regard to parking, a use may not be replaced with a use that requires more parking, unless the additional parking is provided pursuant to the CMMC. 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 0.67.

Improvements would be made to bring this structure into compliance with current building and safety codes; however, and as specifically allowed by the CMMC, the building size and placement on the site and associated nonconforming FAR, setbacks and landscaping can remain pursuant to the City's legal-nonconforming provisions. The applicant is proposing to bring the property into closer conformance by providing additional site landscaping. Lastly, the parking required for the vacuum and sewing machine sales and supply store is the same for the cannabis retail establishment and therefore no additional parking is required.

### ***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 north of South Coast Drive and west of Harbor Boulevard ("The Green Zone," excluding the South Coast Collection property located at 3303 Hyland Avenue). Measure X is codified in Titles 9 and 13 of the 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 storefront retail (dispensaries) 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.

### ***Cannabis Business Permit (CBP) Application Process***

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

- 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. Lastly, the applicant must obtain the appropriate license from the State Department of Cannabis Control (DCC) prior to operating.

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.

### **DESCRIPTION:**

Planning Application 21-29 is a request for a CUP to allow a retail cannabis use in an existing 2,559-square-foot tenant space within the existing multi-tenant commercial building located at 170 East 17<sup>th</sup> Street. The affiliated State license is a Type 10 "storefront retailer" license which also allows for retail cannabis delivery. However, the applicant is not proposing retail delivery services. Should the storefront wish to offer delivery services in the future, an amendment to the CUP would be required.

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, subject to conditions of approval and other City and State requirements.

### **ANALYSIS:**

#### ***Conditional Use Permit Required***

Pursuant to 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 in a commercial zone. The subject site is located within a commercial zone (C2 - General Business District) where commercial development is specifically allowed to include retail storefronts. The property is located on one of the City's primary commercial corridors and generally surrounded by other

commercial uses. Pursuant to the CMMC, cannabis retail storefronts are subject to extensive regulation (as specifically described in this report) which are adopted to prevent land use inconsistencies with adjacent properties. Pursuant to the CMMC, the approval of a CUP requires that the Planning Commission make specific findings related to neighborhood compatibility, health and safety, and land use compatibility. The analysis regarding CUP findings is provided further below in this report. Lastly, staff has drafted specific conditions of approval, included in the Resolution, to ensure site-specific land use compatibility.

### **Separation Requirements**

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 Section 26001(aq) 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.* Therefore, the premises only includes 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 separation from sensitive uses.

### **Exterior Tenant Improvements**

The existing building façade and exterior components are in good condition. The applicant is proposing only minor changes, which include removing existing doors and replacing these openings with new windows. The applicant also proposes to provide additional landscaping within the rear parking lot including five new fifteen-gallon trees. As discussed in this report under “Non-Conforming Development,” the CMMC does not require non-conforming landscaping to be modified comply with existing code requirements; however, the applicant is proposing to bring the property into closer conformance and has provided a conceptual landscaping plan as part of their CUP plan submittal. The proposed landscaping plan would be reviewed further during the plan check permitting process.

Other proposed exterior improvements include:

- Relocating the existing compact parking spaces along the northwestern property line to be completely on private property since they currently encroach on to the City’s right-of-way;
- Restriping the parking lot to comply with the City’s parking design standards;
- Constructing a new public sidewalk per City standards to “complete the street” on Fullerton Avenue along the northwestern portion of the rear parking lot; and
- Constructing a new trash enclosure.

The new public sidewalk is not a required offsite improvement per the Municipal Code; however, the applicant is proposing to improve the property beyond the City’s requirements in an effort to improve multi-modal circulation and active transportation options along Fullerton Avenue/East 17<sup>th</sup> Street. The applicant also proposes to update the site with security lighting, surveillance cameras, and new business signage (signs would be reviewed and permitted separately per the City’s sign code requirements).

### **Interior Tenant Improvements**

The proposed interior improvements involve construction of new demising walls to create new rooms for the storefront business. The new rooms include a retail sales area, a reception with check-in lobby, and “back-of-house” areas. The “back-of-house” areas include storage areas, offices, an electrical room, an employee break room, restrooms, and an order processing room. The proposed retail sales area is a separate room connected to the check-in lobby by a doorway. Below is a floor area summary of the 2,559-square-foot tenant space.

**Table 1 - Floor Plan Summary**

Operational Area	Square Feet
Lobby	356 SF
Reception	131 SF
Retail Sales Area	720 SF
Storage Room	249 SF
Office	129 SF
Order Processing Room	199 SF
Vendor Entry Room	59 SF
Employee Break Room	188 SF
Bathroom	64 SF
Hallway	402 SF
Miscellaneous Rooms	62 SF
Total	2,559 SF

### ***Customer and Employee Access***

Customers would only be allowed in the check-in lobby and retail sales area. Customer access to the proposed establishment includes entering the licensed premise through the main entrance doors that lead directly in to the check-in lobby. A greeter employee would verify the customer's identity and age before allowing the customer to enter the retail sales area. After a customer's identity and age is verified and their transaction is completed, they must leave the premise. As further conditioned, a security guard would monitor the area at all times to ensure that customers are following regulations.

All other areas of the premises would be accessible only to employees with the proper security credentials. Employees would also enter through the main public entrance since there is not a designated employee-only entrance. Once inside the facility, employees would access the back-of-house areas through an access-controlled door within the retail sales area that leads into the back-of-house.

### ***Vendor Access***

During business hours, vendor vehicles (such as licensed distributors) would use the available parking space located closest to the access-controlled vendor entry. There are five parking spaces located in front of the vendor entry door that are less than five feet away which (as conditioned) would be used as the designated loading/unloading areas. Prior to arriving, the licensed distributor would provide a window of delivery time so that security personnel could ensure a loading space is available. There would be security cameras installed on the exterior by the vendor entry to cover the entire parking lot.

Vendors would only be allowed to enter the premise while accompanied by an employee with the proper security credentials. In addition, a security guard would monitor the vendor vehicle until the loading/unloading activity has been completed and the vehicle departs the facility. As conditioned, the access-controlled door, path of travel, and vehicle loading/unloading area would be under camera surveillance at all times.

### ***Storefront Operations***

The proposed business is required to comply with retail storefront and operational conditions/requirements as follows:

- 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 and do not consume cannabis onsite or within close proximity. 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 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 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; and
- Packaging containing cannabis goods shall be tamper and child-resistant; if packaging

contains multiple servings, the package must also be re-sealable.

### ***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 owners' 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 has 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;
- Employees and vendors will be trained regarding cash and product transportation protocol;
- Visitor/customer specific security measures shall be required; and
- All facility entry and exit points and locations where cash or cannabis products are handled or stored shall be under camera surveillance.

### ***Parking and Circulation***

Retail cannabis uses are subject to the same parking ratio requirement as other retail establishments in the City (four spaces per 1,000 square feet of gross floor area). Based on this ratio, the 2,559-square-foot facility would be required to provide 10 onsite parking spaces. The required parking for the total commercial floor area on the property is 77 parking spaces.

The subject property has 75 parking spaces (including credit for one existing bicycle rack) shared

with all tenants of the commercial property (including both buildings). Therefore, the existing parking is legal conforming and is deficient by two parking spaces. As indicated in the above “Non-conforming Development” section of this report, the CMMC permits a use to be replaced with a new use that requires less or the same parking. Pursuant to the CMMC, the parking required for the vacuum and sewing machine sales and supply store (previous use) is the same for the cannabis retail establishment, and therefore no additional parking is required. However, since the property is non-conforming in regards to parking, staff has included Condition of Approval (COA) No. 19 in an effort to reduce parking demand by customers and employees, and also encourage active transportation. COA No. 19 requires that the applicant install, within the building and prior to operating, an employee bicycle storage area to encourage biking to/from work.

Access to the site is provided by multiple existing driveways along East 17<sup>th</sup> Street, Fullerton Avenue, and Wells Place. There is an existing public sidewalk at the front of the property along East 17<sup>th</sup> Street, which provides access to the site for pedestrians and bicyclists. The applicant also proposes to construct a new sidewalk connection along Fullerton Avenue/East 17<sup>th</sup> Street, which would improve pedestrian and bicyclist access to the site.

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; however, if parking shortages or other parking-related problems occur, the business owner or operator will be required to monitor the parking lot and institute appropriate operational measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services (see “Operational Conditions” of Approval No. 6 in the attached Resolution). Examples of parking demand management techniques include, but are not limited to, offsite parking for employees, reducing operating hours of the business, hiring an employee to monitor parking lot use and assist with customer parking lot circulation, offering delivery services to reduce in person store visits, and incentivizing employee carpooling/cycling/walking.

Lastly, the project would be conditioned to submit a lot line adjustment so that the parcels containing the parking spaces and the existing commercial building are combined into one parcel. Per Section 13-93(m) of the Zoning Code, all required parking spaces are to be located on the same lot as the use for which it is required. The previous approved entitlements for the property included a condition requiring either a recorded parking agreement or lot line adjustment. However, neither of those actions occurred. Therefore, staff has included a condition in the Resolution to require a lot line adjustment to be approved prior to building permit issuance. The lot line adjustment would have no impact to the existing site circulation, location of parking spaces, number of parking spaces, or the building setbacks.

### ***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 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) 11<sup>th</sup> Edition Trip Generation



Manual for a pharmacy/drug store with drive-through. 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 current vacuum and sewing machine repair and supply store 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 \$31,000. 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 packaging that is sealed and odor-resistant, and remain unopened while on the premises. However, a minimal amount of cannabis product would be removed from packaging for display purposes and would be placed in display containers. The storefront proposes to use several types of air filtration including carbon and zeolite filtration and HEPA filtration. The proposed HVAC system would also incorporate a negative pressurization in all rooms containing cannabis products. As conditioned, the operator must replace the air filters at regular intervals, as directed in the manufacturer specifications. Further, as conditioned, if cannabis odor is detected outside of the tenant space and/or off-site, 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. Lastly, cannabis products are not allowed to be disposed of in the exterior trash area.

### **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 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. The proposed retail cannabis business would replace an existing retail business in a commercial district.

**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 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 (C2, General 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 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, no outdoor storage or sales are proposed nor would be allowed and operations would be conditioned to be compliant with applicable local and State laws as well as to minimize potential impacts. Staff does not anticipate that the proposed retail cannabis use would be materially detrimental to the adjacent uses that include office uses, a variety of commercial uses and multi-tenant commercial centers. Existing businesses in these commercial centers consist of a variety of restaurants/bars, grocery store, pharmacy, massage and beauty parlors, general retail, medical and general offices, and automotive repair shop. In addition, staff does not anticipate that the use would be materially detrimental to the existing businesses onsite since the majority of the existing businesses have unique operating characteristics that generate minimal customer traffic resulting in available parking spaces onsite.. Therefore, 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 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, at least one security guard would be onsite at all times and security devices shall be installed before operation. Examples of security devices include window and door alarms, motion-detectors, limited access areas, and a monitored video surveillance system covering all exterior entrances, exits, and all interior limited access spaces. In addition, the business employees, 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 or prior 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 August 22, 2022 Planning Commission meeting will be provided separately.

### **CONCLUSION:**

The proposed project is a retail cannabis storefront business 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 Pre-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, will 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 C2 zone, the Zoning Code, and the City's General Plan. The required findings for the CUP can be made, as described above, and therefore, staff recommends approval of Planning Application 21-29 subject to conditions of approval.