

HALLIGAN, MICHELLE

From: PARTIDA, ANNA
Sent: Monday, July 17, 2023 8:41 AM
To: HALLIGAN, MICHELLE
Subject: FW: 141 E. 16th St., Costa Mesa

-----Original Message-----

From: Jean Klug <jkonbay@sbcglobal.net>
Sent: Saturday, July 15, 2023 5:34 PM
To: PC Public Comments <PCPublicComments@costamesaca.gov>
Subject: 141 E. 16th St., Costa Mesa

Costa Mesa Planning Commission:

I have a rental property close to where the proposed cannabis shop is seeking a permit to operate. What kind of image is Costa Mesa trying to present to its visitors and residents? According to a quick and not very thorough search, we have 7 or 8 already..... (probably more.) Why do we want to promote such a business? A pot shop on every corner? We have many young people in this community who are influenced by advertisements and other users. Do we need a bunch of loaded people driving on our streets? I am absolutely opposed to granting any more permits for pot shops. Enough is enough! I don't care how much revenue they bring in for the City. Be a thinking, responsible Planning Commission and vote "NO" on this Use Permit.

Thank you.

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HALLIGAN, MICHELLE

From: PARTIDA, ANNA
Sent: Tuesday, July 18, 2023 4:52 PM
To: HALLIGAN, MICHELLE
Subject: FW: PA-22-12: Opposition Submission by local resident

From: Arturo Manas <arturo.manas@gmail.com>
Sent: Tuesday, July 18, 2023 4:48 PM
To: PC Public Comments <PCPublicComments@costamesaca.gov>
Subject: PA-22-12: Opposition Submission by local resident

Dear Planning Commission,

My family (wife and 1 month old son) are **VERY** opposed to the conditional use permit for a retail cannabis store front at 141 E. 16th Street, Costa Mesa. We have lived within the Level 1 Community since the development was built in 2014. It is hard to understand that this "USE" is the highest and best consideration for the area. We are concerned with the increase in traffic and further congestion to the street parking along Newport Blvd that this use would bring. Furthermore, we don't think allowing a cannabis store around the corner from a drug and mental health treatment facility (Pillars Recovery @ 1545 Newport Blvd.) makes a whole lot of sense. We have dealt with vagrants, property damage and theft for several years now (all well documented with local authorities and our property hoa), so we would like to see the planning commission put more logical/rational effort into permit considerations for this location and others in the immediate area.

As a homeowner, father, husband, business professional trying to provide a safe and enjoyable environment, I'm frustrated and upset that the Planning Committee who approved the development of the Level 1 community has not made more of an effort to support the progression of the area surrounding our housing community. Please be more thoughtful of your Committee's uses going forward, as it directly affects the safety of my family and the value of my property.

Regards,

AJ & Michelle Manas
143 Tribeca Way
Costa Mesa, CA 92627

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HALLIGAN, MICHELLE

From: SeaBreezeVillas@verizon.net
Sent: Tuesday, July 18, 2023 4:33 PM
To: HALLIGAN, MICHELLE
Cc: FARRELL HARRISON, LORI ANN; DRAPKIN, SCOTT
Subject: Letter of Opposition to Contract Planner
Attachments: Ordinance No 202109 Cann Page 1.pdf; Ordinance No 202109 Cann page 8.pdf; Page 6 Ordinance No 202108 Cann.pdf; Page 7 Ordinance No 202108 Cann.pdf

Dear Michelle,

I am writing regarding the property 141 E. 16th Street (APN 425-361-07), which I understand has a pending application for a Conditional Use Permit for a storefront cannabis dispensary. I represent the ownership of the property known as Sea Breeze Villas at 133 E. 16th Street, a modular home community located immediately contiguous west of the proposed project. Sea Breeze Villas is home to 60 modular homes, housing families with children. Annual income levels approximately range from \$25,000-\$70,000.

Our organization **OPPOSES** this proposed development, as we believe it to be **incompatible** with both the existing residential land use at 133 E. 16th Street and future residential uses envisioned by Measure K in the entire neighborhood.

Sensitive Uses

Measure Q as well as both implementing Ordinances: Nos. 202108 and 202109 contain provisions for a separation of incompatible uses from proposed storefront dispensary (refer to attached highlighted pages from Ordinances). There is a requirement that a retail cannabis storefront dispensary business be located a minimum of 1000' feet from sensitive uses, which are in fact found immediately adjacent to the proposed dispensary in the southernmost corner of the property at 133 E. 16th Street. A neighborhood playground or "tot lot", which is enjoyed by the families that reside at 133 E. 16th Street is situated along the shared fence line at the southernmost corner of the site. The proposed storefront building is located roughly 8 feet from the shared property line. Existing tot lot location and proposed storefront is depicted in the following Google Earth Image:

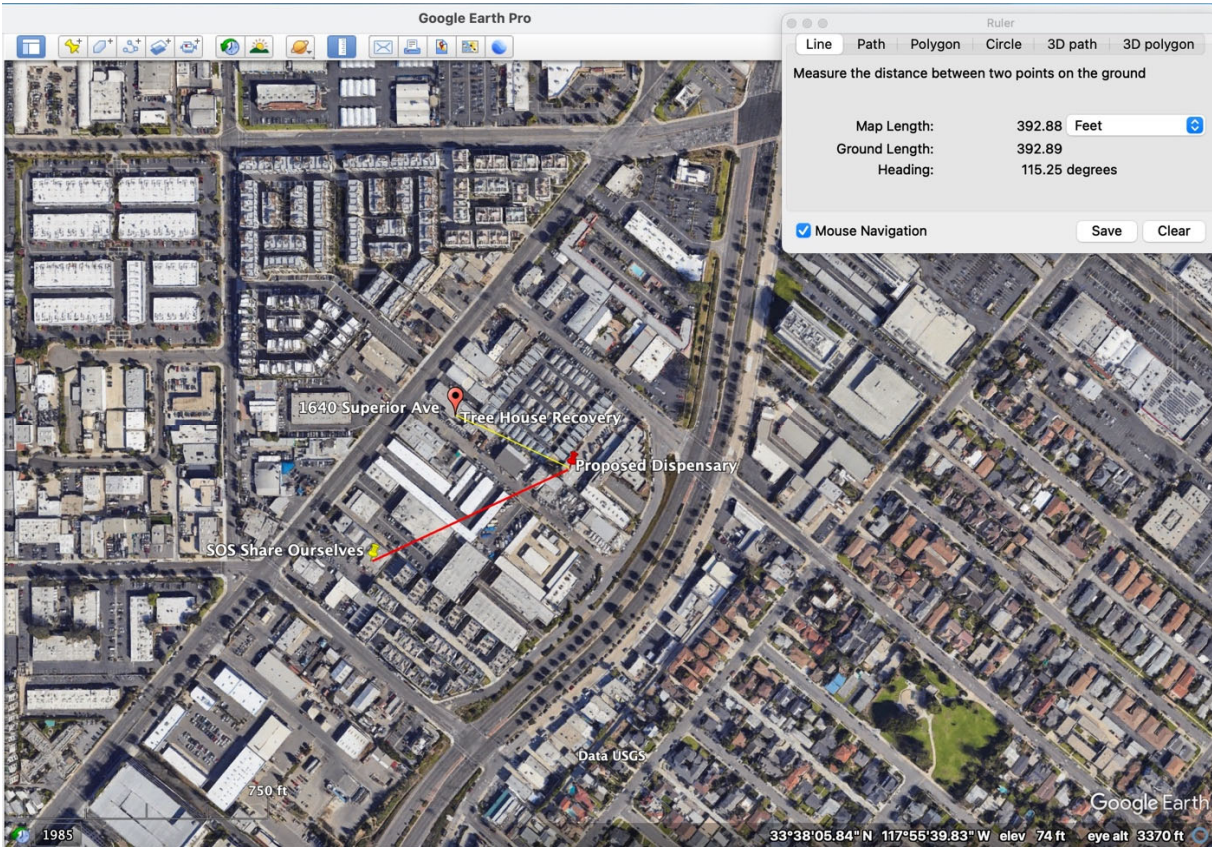


Source: Google Earth Pro

Additional Sensitive Uses

We are also concerned with the location of a cannabis dispensary so close to two social services and addiction recovery centers located at:

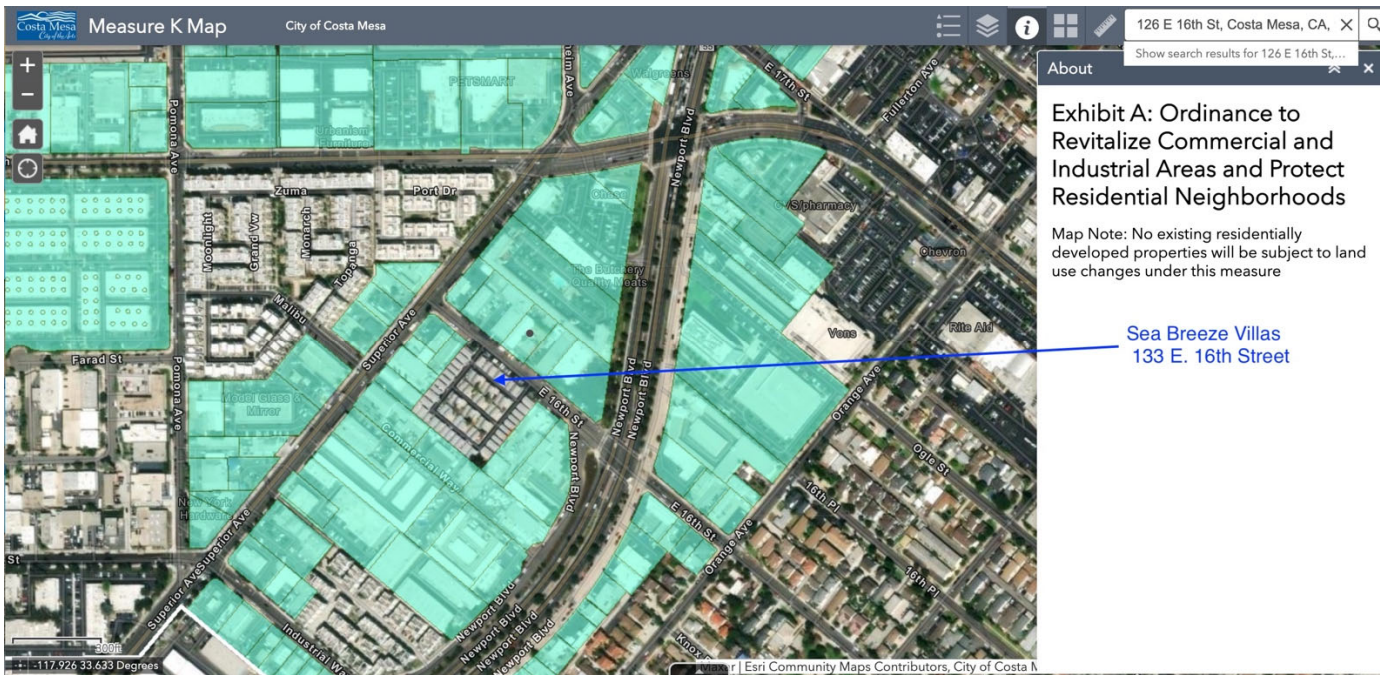
- **700'** to **Share Ourselves Community Health Center**: 1550 Superior Ave, Costa Mesa, CA 92627 <https://www.shareourselves.org/locations/>
- **400'** to **Tree House Recovery** : 1640 Superior Ave, Costa Mesa, CA 92627 <https://treehourecovery.com/>



Residential Use

Measure Q’s implementing ordinance Nos. 2021-08 and 2021-09 state that cannabis storefront uses are prohibited in all zone districts within the city, except for the commercial zone districts. Although the property at 141 E. 16th Street is zoned commercial, it is immediately contiguous to our existing residential use. Furthermore, the entire area has been identified by Measure K to accommodate future residential development. Our residential use is “protected” by Measure K, the Revitalization and Residential Neighborhoods Protection Measure which was approved by the voters on November 8, 2022. As stated on the City’s Measure K webpage, this measure will modify existing City regulations to allow for development of housing in commercial and industrial areas, **while keeping residential neighborhoods intact** and revitalizing commercial corridors.

Measure K’s intent is to protect residential neighborhoods and create future opportunities for additional affordable housing for working- and middle-class families. The balance of our entire neighborhood is included in Measure K shown in aqua-green below.



Source: <https://www.costamesaca.gov/trending/measure-k#:~:text=Measure%20K%20was%20approved%20by,intact%20and%20revitalizing%20commercial%20corridors.>

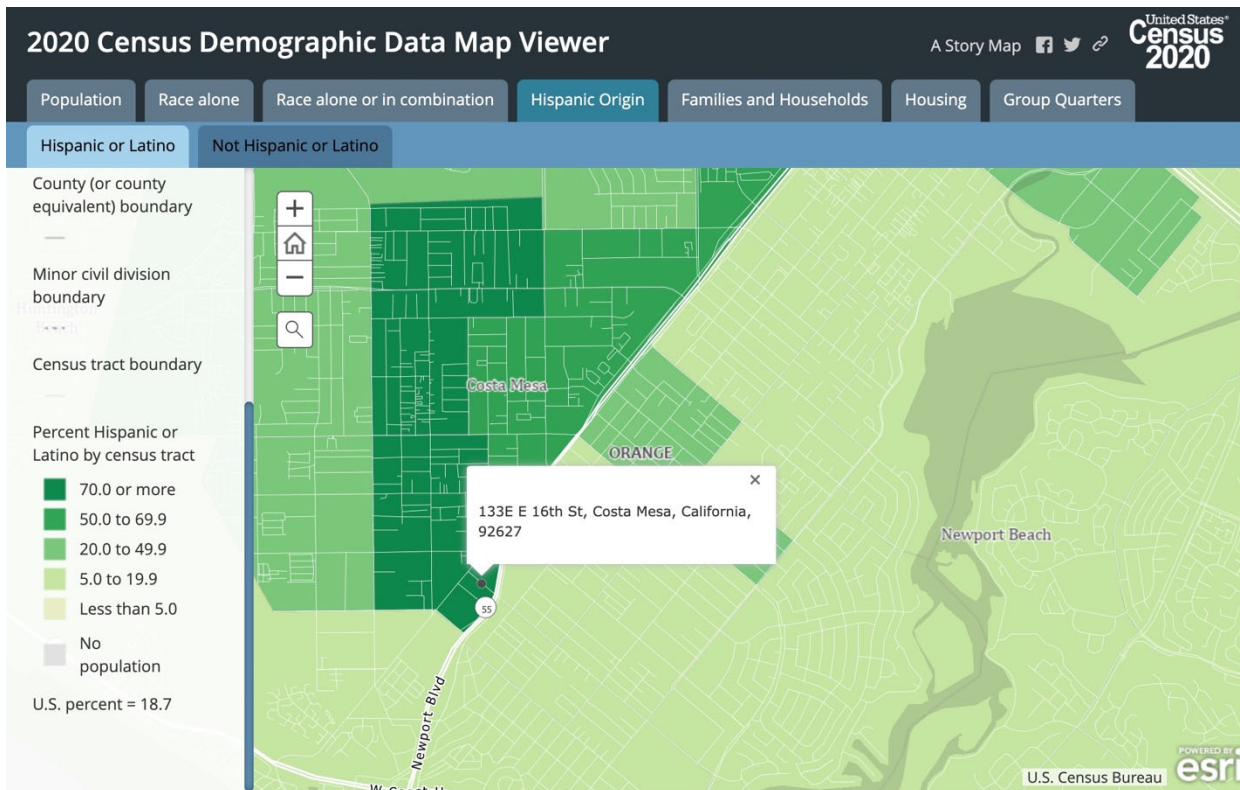
The intent of Measure Q is to locate cannabis storefronts among commercial uses to avoid incompatibility with uses such as residential. The intent of Measure K is to protect residential uses and to expand residential uses.

Documented Negative Impacts

Cannabis storefront dispensaries are associated with an increase in violent crime as they operate an all-cash business and are a target for armed robbery.¹ Neighborhoods and retail districts with medical marijuana dispensaries have reported an increase in noise, traffic, and other activity that negatively impacts neighboring land uses. Other cities and counties have experienced street dealers attempting to sell marijuana at a lower rate to people entering dispensaries. Police agencies also reported increased loitering, vagrancy, public nuisance, neighborhood crime, public marijuana smoking in the vicinity of dispensaries as well as contributing to an increase in other forms of drug use. In addition, dispensaries have been associated with an increase in traffic accidents and arrests for driving under the influence in which marijuana was implicated.²

According to the National Center on Addiction and Substance Abuse (CASA), Areas with dispensaries fear that there will be increased marijuana use. Some residents complain of odor. Community leaders worry that neighborhoods significantly impacted by drugs and the war on drugs are now being asked to shoulder the burden and risk of having dispensaries on their streets. Some see the location of these stores as a way to circumvent resistance to placing dispensaries in wealthier areas.³

The proposed cannabis store location is unjust from a social justice point of view. Why should the lower to medium income residents of a modular home community be subjected to the negative impacts associated with the proposed use? High value home communities would never be expected to tolerate such an incompatible use. Additionally, 2020 Census Data shows that Sea Breeze Villas is located within a census tract where 70% or more reported their ethnicity as Hispanic or Latino as indicated in the dark green color in the graphic below.



Source: <https://mtgis-portal.geo.census.gov/arcgis/apps/MapSeries/index.html?appid=2566121a73de463995ed2b2fd7ff6eb7>

It is unclear how the Planning Commission could possibly make all three of the required findings for the granting of a Conditional Use Permit pursuant to Costa Mesa Municipal Code Section 13-29 (g) - only finding (g) 2 (c) can be made.

(g) *Findings.* When granting an application for any of the planning applications specified below, the final review authority shall find that the evidence presented in the administrative record substantially meets any required conditions listed below. Other findings may also be required pursuant to other provisions of this Zoning Code.

(2) Conditional use permit and minor conditional use permit findings:

- a. 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.
- b. Granting the conditional use permit or minor 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.
- c. Granting the conditional use permit or minor 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 project **is not substantially compatible** and **will be materially detrimental**. City Leadership should be making decisions in the best interest of all the citizens of Costa Mesa, not only those in the highest socioeconomic strata. “While a wide range of individuals from many different socio-economic status groups utilize the dispensaries, many of the areas with dispensaries are economically disadvantaged and lack the political and economic power to discourage the placement of these stores in their communities.”³

The intent of Measure Q is to locate cannabis storefronts **among** commercial uses. The intent of Measure K is to **protect residential uses** and **to provide for residential uses**. Ordinances 2021-08 and -09 **require retail cannabis businesses to**

meet certain operating requirements including a minimum of one thousand feet (1000') from sensitive uses, which include the tot lot located immediately contiguous to the proposed dispensary.

In conclusion, we request that the proposed retail cannabis storefront proposed at 141 E. 16th Street be **denied** due to all the above referenced points and to the high-risk environment this project would create for our families at Sea Breeze Villas.

Thank you for your consideration.

Steven Schwimer
Managing Member
Sea Breeze Villas, LLC

Footnote ¹

Legal marijuana stores lead to increases in property crime

<https://www.sciencedaily.com/releases/2017/04/170427130750.htm>

Footnote ²

Impacts Associated with Medical Marijuana Dispensaries in Other Jurisdictions

http://saratoga.granicus.com/MetaViewer.php?view_id=8&clip_id=689&meta_id=26722#:~:text=A%20number%20of%20California%20cities,take%20Dover%20style%20armed%20robberies.

Footnote ³

According to the National Center on Addiction and Substance Abuse (CASA)

<https://www.ncadd-sd.org/support/ncadd-news/marijuana-dispensaries-and-disadvantaged-neighborhoods>

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ORDINANCE NO. 2021-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING SECTION 9-29.5 OF ARTICLE 5 (ADMINISTRATION, APPLICATION AND PROCEDURES) OF CHAPTER I (BUSINESS TAX) AND SECTIONS 9-116, 9-119, 9-120 & 9-121 OF CHAPTER II (REGULATION OF CERTAIN BUSINESSES) AND CHAPTER VI (MARIJUANA BUSINESS PERMITS) OF TITLE 9 (LICENSES AND BUSINESS REGULATIONS) TO ESTABLISH THE TAX RATE, OPERATING REQUIREMENTS AND STANDARDS FOR CANNABIS USES, INCLUDING RETAIL CANNABIS STOREFRONT AND NON-STOREFRONT USES TO IMPLEMENT THE CITY OF COSTA MESA RETAIL CANNABIS TAX AND REGULATION MEASURE (MEASURE Q)

WHEREAS, the City of Costa Mesa, pursuant to its police power, may adopt regulations to protect the health, safety and welfare of the public, Cal. Const. art. XI, § 7, Cal. Gov. Code § 37100, and thereby is authorized to declare what use and condition constitutes a public nuisance; and

WHEREAS, on November 3, 2020, city voters approved the “City of Costa Mesa Retail Cannabis Tax and Regulation Measure”, also known as Measure Q;

WHEREAS, Measure Q authorizes the City Council to adopt an ordinance which permits and regulates retail cannabis storefront (dispensaries) and non-storefront (delivery) businesses;

WHEREAS, Measure Q authorizes the City Council to impose a four percent (4%) to seven percent (7%) gross receipts tax on retail cannabis businesses. In addition, Measure Q requires retail cannabis businesses to meet certain operating requirements including permitted zones, **minimum of one thousand feet (1,000') from sensitive uses such as schools, childcare centers, playgrounds** and homeless shelters, security measures, and labor peace agreement for businesses with two or more employees;

WHEREAS, this Ordinance is necessary to implement Measure Q and establish the minimum operating requirements and development standards in the Costa Mesa Municipal Code to tax, review, and regulate retail cannabis storefront and non-storefront businesses in the City;

WHEREAS, Ordinance No. 2021-09 has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City’s environmental procedures. The Code Amendment has been found to be exempt pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and Section 15308 (Class 8, Actions by Regulatory Agencies for the Protection of the Environment) because a recommendation is not a final action and the recommended ordinance will not have a significant effect on the environment. The Code Amendment is also exempt pursuant to CEQA Guidelines Section 15301 (Class 1, Existing Facilities), Section 15303 (Class 3, New Construction or

Homeless shelter has the same meaning as *emergency shelter*.

Labor Peace Agreement has the same meaning set forth in Business and Professions Code section 26001.

Manufacturing site means a location where cannabis products are manufactured.

Marijuana means “cannabis,” as that term is defined in this chapter.

Marijuana activity and/or *cannabis activity* includes manufacture, processing, laboratory testing, research and development, transporting, delivery, dispensing, distribution, furnishing, giving away or sale or any other activity involving cannabis or a cannabis product.

Marijuana business and/or *cannabis business* means any business or operation which engages in any marijuana or cannabis activity.

Marijuana business permit has the same meaning as *cannabis business permit*.

Patient or *qualified patient* shall have the same definition as California Health and Safety Code section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health and Safety Code section 11362.5. For purposes of this chapter, a qualified patient shall include a person with an identification card as that term is defined by California Health and Safety Code section 11362.7 et seq.

Person with an identification card shall have the meaning given that term by California Health and Safety Code section 11362.7.

Playground shall mean and include both a public playground located in a city park and a private playground. A private playground shall mean a **privately-owned outdoor recreation area, including a tot lot**, containing playground equipment or amenities such as swings, slides, sandboxes, or similar installations designed for use by minors and serving either the general public or residents of a development where the playground equipment is located, including residential subdivisions and/or developments such as apartments, townhomes and/or condominium complexes, mobile home parks or other similar residential uses, as well as playground equipment serving registered guests at hotels and motels. A private playground does not include a playground or playground equipment installed at a single-family residence, or play equipment that is part of a privately-owned commercial business or place of worship, or a playground that is access-controlled during operating hours or does not have direct access from the public right-of-way. A private playground does not include areas designated for use as a playing field or court, pool, or skate facility.

Premises shall have the same meaning as set forth in Business and Professions Code section 26001 sub-section (ap) for purposes of measuring the required distance from retail storefront uses to those uses set forth in section 13-200.93(e)(1).

EXHIBIT 1

ARTICLE 21. LOCATION OF CANNABIS DISTRIBUTING, MANUFACTURING, RESEARCH AND DEVELOPMENT, TESTING LABORATORIES, RETAIL STOREFRONT AND RETAIL NON-STOREFRONT USES

13-200.90. Purpose.

The purpose of this article is to regulate the location of and standards for cannabis distributing facilities, manufacturing sites, research and development laboratories, testing laboratories, retail storefront and retail non-storefront uses in order to promote the health, safety, morals and general welfare of the residents and the businesses within the city by maintaining local control over the ability to authorize and regulate the location of cannabis businesses.

13-200.91. Applicability.

- (a) Nothing in this article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act of 1996.
- (b) All the provisions of this article shall apply to all property, public and private, within the city.
- (c) All the provisions of this article shall apply indoors and outdoors.
- (d) Unless otherwise provided herein or in this title, the terms used in this article shall have the meaning ascribed to them in Title 9, Chapter VI of this Code.

13-200.92. Cannabis distributing facilities, manufacturing sites, research and development laboratories, and testing laboratories.

- (a) Cannabis distribution, manufacturing, research and development and testing is prohibited in all zone districts within the city, except for those portions of the manufacturing park (MP) and planned development industrial (PDI) zones that are located both north of South Coast Drive and west of Harbor Boulevard, excluding any portion of the South Coast Collection (the “Green Zone”).
- (b) A conditional use permit shall be required and may be issued to allow the location of any business engaged in the distribution, manufacturing, researching and developing, or testing of cannabis in the MP or PDI zones pursuant to subsection (a) of this section, subject to the following conditions:
 - (1) The requirements of Chapter III of this title have been met;
 - (2) The findings for granting a conditional use permit in accordance with section 13-29(g) are met;
 - (3) The applicant obtains a cannabis business license pursuant to Chapter VI of Title 9 of this Code; and
 - (4) The use is conducted in compliance with all applicable state and local laws.
- (c) No person shall engage in any use set forth in this article unless that use is specifically authorized by Chapter VI of Title 9 of this Code.

13-200.93. Cannabis retail storefront and non-storefront uses.

- (a) Cannabis retail storefront uses are prohibited in all zone districts within the city, except for the commercial zone districts.
- (b) Cannabis retail non-storefront uses are prohibited in all zone districts within the city, except for the commercial zone districts and within the Green Zone.
- (c) The following planning application shall be required for cannabis retail uses:
 - (1) A conditional use permit shall be required for retail storefronts and non-storefronts; and
 - (2) An amendment to the approved conditional use permit shall be required for existing licensed cannabis distribution or manufacturing businesses to operate a retail non-storefront under the existing business and within the same licensed premise. The amendment shall be processed as a minor conditional use permit.
- (d) A conditional use permit may be issued to allow the location of a retail cannabis use pursuant to subsections (a) and (b) of this section, subject to the following conditions:
 - (1) The requirements of Chapter III of this title have been met;
 - (2) The findings for granting conditional use permit pursuant to section 13-29(g) are met;
 - (3) The applicant obtains a cannabis business license for the location pursuant to Chapter VI of Title 9 of this Code; and
 - (4) The use is conducted in compliance with all applicable state and local laws.
- (e) No cannabis retail storefront use shall be located:
 - (1) Within one-thousand (1,000) feet from a K-12 school, playground, child daycare, or homeless shelter, or within six-hundred (600) feet from a youth center, that is in operation at the time of submission of a completed Cannabis Business Permit application;
 - (2) All distances shall be measured in a straight line from the premises where the cannabis retail use is to be located to the closest property line of a K-12 school, playground, child daycare, homeless shelter or youth center;
 - i. For purposes of this sub-sub-section, the property line of a playground shall be a thirty (30) foot radius from the exterior physical boundaries of the playground equipment area.
 - (3) All distances shall be measured without regard to the boundaries of the city and and/or intervening structures or other barriers;
 - (4) At a property as for which the zoning administrator, director or planning commission determines, based on a preponderance of the evidence, that unpermitted and/or illegal cannabis activity involving sales, delivery and/or dispensing has taken place at any time in the 365 days preceding an application under this Article. If an unpermitted and/or illegal cannabis activity has existed on a property no cannabis business may be permitted on that property unless 365 days has elapsed since that unpermitted and/or illegal cannabis activity has vacated the property, and the owner of that property has compensated the City for any and all expenditure of public funds and resources, including all costs, expenses (including but not limited to the salaries of peace and/or code enforcement officers) and/or attorney's fees, incurred in investigating, abating or attempting to abate the unpermitted use or uses, whether or not any type of civil, criminal or administrative proceedings have been commenced against the property, provided