



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: NOVEMBER 27, 2023

ITEM NUMBER: PH-2

SUBJECT: POTENTIAL ORDINANCE TO AMEND TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE AND REQUISITE MODIFICATIONS REQUIRED IN TITLE 9 (BUSINESS LICENSES) FOR MODIFICATIONS TO THE CITY'S RETAIL CANNABIS PROVISIONS

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

**PRESENTATION BY: MICHELLE HALLIGAN, CONTRACT PLANNER
NANCY HUYNH, PRINCIPAL PLANNER**

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RECOMMENDATION

Staff recommends the Planning Commission:

1. Receive the staff presentation, take public comments, and provide direction to staff regarding the eight topics/issues identified by the City Council for potential modifications to the City's retail cannabis storefront program, which would potentially amend Costa Mesa Municipal Code (CMMC) Title 9 (Chapter VI – Cannabis Business Permits) and Title 13 (Chapter IX, Article 21 – Location of Cannabis Distributing, Manufacturing, Research and Development, Testing Laboratories, Retail Storefronts and Retail Nonstorefront Uses); and
2. Continue the item to a date certain for staff to return with a Draft Ordinance for recommendation to the City Council.

APPLICANT OR AUTHORIZED AGENT

The subject Ordinance review is a City Council initiated effort.

BACKGROUND:

Since the adoption of Ordinance No. 2021-08 (Title 9, Business Licenses) and Ordinance No. 2021-09 (Title 13, Zoning) to establish regulations for legal cannabis storefront and non-storefront (delivery) uses, the City has approved 22 Conditional Use Permits (CUPs) for cannabis retail storefronts, three CUPs for standalone cannabis delivery businesses, and seven Minor Conditional Use Permits to add non-storefront retail delivery to existing cannabis manufacturing and/or distribution facilities located in the City's Measure X "green zone". Nine cannabis storefronts, one standalone delivery business, and seven delivery businesses that are part of existing manufacturing and/or distribution cannabis businesses in the "green zone" are currently operating. There are 31 other cannabis storefront applications that have not obtained Conditional Use Permits (CUPs), and are in various stages of application review.

At the July 18, 2023 City Council meeting, Councilmember Marr requested that an item be agendized for the City Council to discuss the possibility of exploring amendments to the City's cannabis provisions to address concerns regarding potential business displacement and cannabis storefront overconcentration. The item was agendized for the August 1, 2023 City Council meeting and was continued to the regular meeting of September 5, 2023 without discussion.

At the September 5, 2023 City Council meeting, the City Council generally discussed concerns regarding unanticipated business displacement and overconcentration of retail cannabis businesses, and several other areas of concern related to the City's retail cannabis storefront program. At the conclusion of the public hearing and after considering public testimony, the City Council voted on several motions directing staff to further explore the following topics/issues with the Planning Commission and to make a recommendation to the City Council regarding potential Code amendments:

1. Establishing a minimum separation between cannabis storefronts;
2. Increasing the minimum separation between cannabis storefronts and "youth centers", as defined in the Municipal Code from 600 feet to 1,000 feet to be consistent with other sensitive use separation requirements;
3. Establishing a minimum separation between residential zoning districts and cannabis storefronts;
4. Establishing a maximum number of retail cannabis businesses ("cap");
5. Allowing the word "cannabis" on cannabis storefront signage;
6. Adding limitations to prohibit the marketing of cannabis and cannabis products to youth;
7. Strengthening of labor peace agreement requirements for cannabis storefronts; and
8. Establishing provisions for notification and relocation assistance for existing businesses that would be displaced by retail cannabis uses.

DESCRIPTION:

The City Council has provided direction to the Planning Commission to focus on the aforementioned eight retail cannabis program topics/issues, identify potential amendments to the City's ordinance based on City Council direction, deliberate regarding the potential advantages and disadvantages of such amendments, and ultimately make recommendations to the City Council for consideration.

ANALYSIS:

Pursuant to Zoning Code Section 13-10(i)(2-a), one of the Planning Commission's key functions is to recommend City Council approval, conditional approval or denial of Zoning Code amendments. This first report on this matter includes a high-level analysis of the specific topics/issues that the City Council has directed the Planning Commission to consider in regards to potential amendments to the City's retail storefront program. The main purpose of this first Planning Commission review is to consider the issues and to provide general direction for potential modifications. At this time, the Planning Commission does not need to provide specific details (such as specific Ordinance text), but instead should provide general direction that staff can use to prepare ordinance changes.

At a subsequent Planning Commission review of this matter, staff will return with a draft Ordinance that incorporates the Planning Commission's direction. The draft Ordinance prepared by staff will show edits to the existing retail cannabis storefront program with proposed new text shown in underline, and removed text shown in strikethrough format. Ultimately, staff is requesting that the Planning Commission deliberate on each of the City Council's directed topics/issues, and make a motion for how staff should generally return with modifications to the City's cannabis retail storefront program. Pursuant to City Council direction, staff has provided the following analysis for Planning Commission consideration.

Costa Mesa Retail Cannabis Storefront Program - Existing Location Provisions

Section 13-200.93 of Article 21 of Title 13 of the Costa Mesa Municipal Code establishes the location requirements for cannabis uses in the City, including retail storefronts. CMMC Section 13-200.93(e) specifically requires that no cannabis retail storefront use shall be located:

- 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.

This Code Section further clarifies that:

- 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;
- The property line of a “playground” shall be considered a thirty (30) foot radius from the exterior physical boundaries of the playground equipment area; and
- All distances shall be measured without regard to the boundaries of the city and and/or intervening structures or other barriers.

As indicated above and as adopted by the City Council, the CMMC does not establish a minimum separation requirement between cannabis storefronts, nor between storefronts and residential zones. Instead, the City’s current Cannabis storefront provisions were written with extensive standards that were meant to ensure neighboring compatibility of uses, and to prevent detrimental effects to public health, safety and general welfare.

(1) Minimum Separation Between Cannabis Storefronts and (2) Establishing a Maximum Allowed Number of Cannabis Storefronts Citywide

As directed by the City Council, the Planning Commission should explore minimum separation requirements to avoid overconcentration of storefronts and a limit on the number of retail cannabis storefronts in the City (“cap”). A comparison of storefront separation and “cap” requirements from other local jurisdictions that was presented to the Planning Commission in 2021 is summarized below, with the addition of new information from the cities of Stanton and Vista.

Santa Ana - (population: 332,794): Limit (cap) of 30 licenses (currently 24 storefront licenses); 500-foot separation distance between storefronts;

Long Beach - (population: 466,776): no cap (currently 32 storefront licenses); 1,000-foot separation distance between storefronts;

La Habra - (population: 60,594): Limit (cap) of four retail non-storefront licenses; no separation distance between non-storefronts (retail storefronts are not allowed);

Palm Springs - (population: 47,897): no cap (currently 24 storefront licenses); 500-foot separation distance between storefronts except within the Cannabis Overlay Zone (no separation required); and

City of San Diego - (population: 1.41 million): Limit (cap) of 36 licenses (four per council district with nine total districts; currently 22 storefront licenses); 1,000-foot separation distance between storefronts.

Stanton - The City of Stanton has now implemented a cannabis program. Stanton has a population of approximately 40,000 residents, and does not have a minimum separation between storefronts nor a cap on licenses. The City of Stanton has

limited the number of applications to be processed to a total of four, and is currently not accepting new applications.

Vista - The City of Vista has now implemented a cannabis program. With a population of approximately 100,000 residents, Vista has a cap of one storefront per 10,000 residents (currently 11 storefront licenses), and a minimum separation of 500 feet between storefronts.

A preliminary mapping exercise was conducted to demonstrate the existing proximity of open cannabis storefronts in Costa Mesa. As shown in Exhibit 1, of the nine cannabis storefronts operating today, five are located within 500 feet of another storefront and six are located within 1,000 feet of another storefront. A separation distance requirement between storefronts would prevent clustering of storefronts, and establishing a minimum separation between storefronts could address concerns regarding cannabis storefront overconcentration.

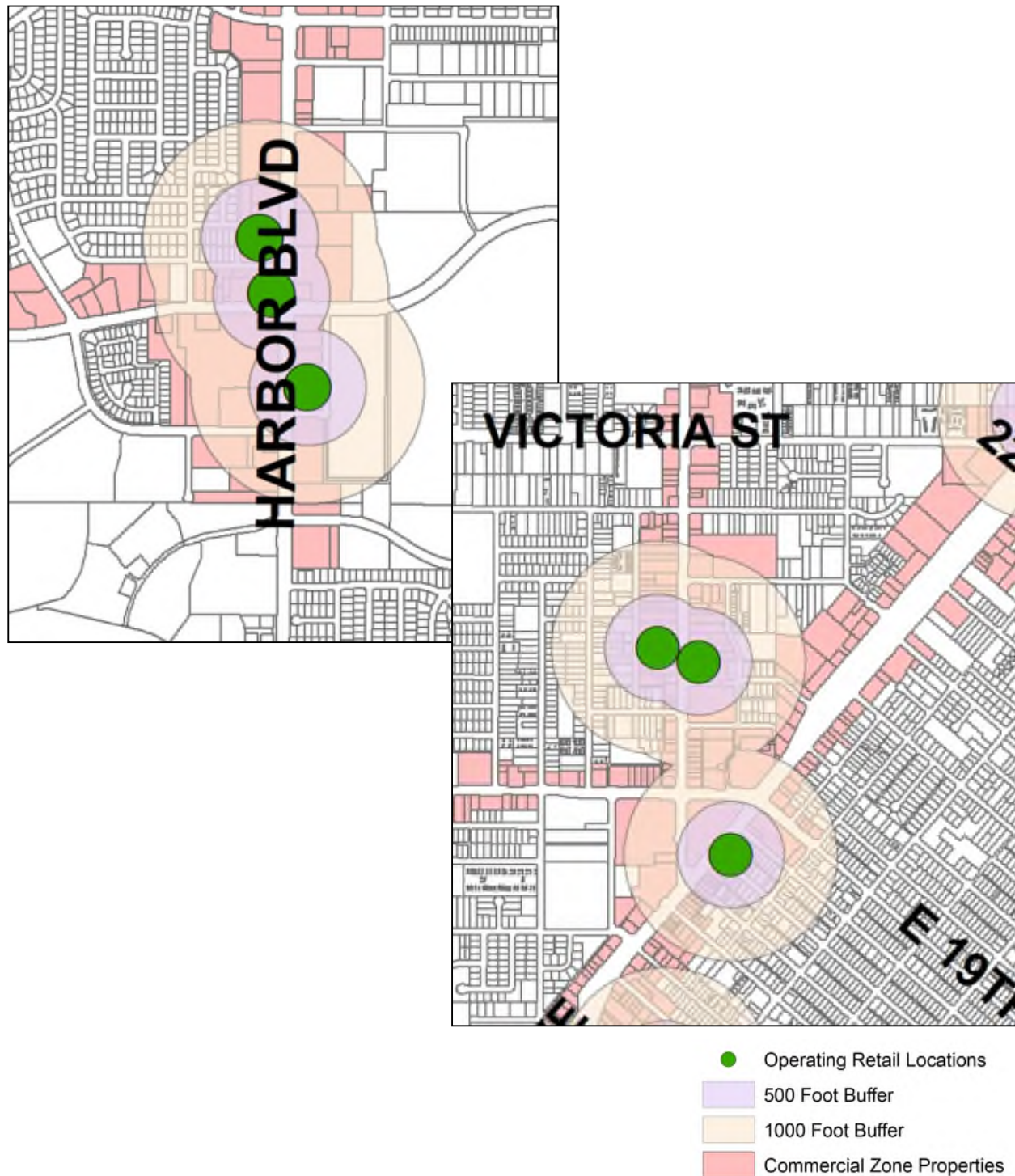
A cap could also help alleviate concerns regarding the overall number of cannabis storefronts. As stated in the March 22, 2021 Planning Commission staff report, the City's cannabis consultant, HdL, indicated that their general guidance for a jurisdiction establishing a cap based on population is one storefront for every 18,000 people. According to the United States Census estimates for 2022, the City of Costa Mesa has an estimated population of 109,521, which (based on HDLs guidance) would equate to approximately six total storefront licenses. In 2021, staff recommended establishing a "soft cap" of up to fifteen applications that could be processed the first year, and allow the City Council to consider increasing the applications in the years to follow. Moving forward, the Planning Commission could recommend a similar "year-based" application limitation strategy, or a combination of strategies to address concentration and the number of storefronts. Some examples for Planning Commission consideration are described below:

- 500-foot or 1000-foot separation between storefronts (similar to the Cities of Santa Ana, Long Beach, San Diego, and Vista);
- Limit the total number of storefronts allowed within each council district (similar to the City of San Diego) or other geographical location restriction such as maximum number of licenses permitted on a given right-of-way, block or census tract;
- Citywide limit on the number of cannabis storefront applications that can be accepted for processing each year (similar to the City of Stanton); and/or
- Citywide limit ("cap") on the total number of cannabis storefronts (similar to the Cities of Santa Ana, La Habra, San Diego, and Vista).

If the Planning Commission wishes to address "overconcentration", staff recommends establishing a separation requirement between storefronts. Such a requirement would automatically limit the total number of storefronts in the City due to the City's geography and the location of commercially-zoned properties. As an alternative, a "soft cap" could

also be implemented to limit the total number of storefronts citywide. Alternatively, the Planning Commission can recommend no amendments be made to the City's ordinance regarding this topic.

Exhibit 1. Example of Potential Separation Distances between Cannabis Storefronts



(3) Minimum Separation Between Cannabis Storefronts and Residential Zones

Pursuant to the CMMC, a Conditional Use Permit (CUP) is the required land use entitlement for cannabis storefronts regardless of their proximity to residential zones. A CUP is a discretionary permit that is evaluated and decided by the Planning Commission unless appealed to, or called up by, the City Council. The CMMC conditionally allows cannabis storefronts in commercial zones without a minimum separation from residential uses. Standard conditions of approval for cannabis storefronts include, but are not limited to, considerations for odor control, parking, shielding lighting away from adjacent properties and 24-hour security. Additional conditions of approval such as posting signs regarding noise in the parking lots and limiting the hours exterior trash enclosures have also been used to help reduce the potential for impacts to nearby residential and other uses. Two of the cities surveyed adopted minimum separations from residential zones.

Long Beach - No separation; however, a cannabis storefront cannot be located within a building that contains a residential unit.

Palm Springs - No separation.

City of San Diego - 100 feet from residential zones and residential care facilities.

Santa Ana - No separation; cannabis storefronts are in industrial areas only.

Stanton - 400 feet from residential zones.

Vista - No separation.

The Planning Commission could consider recommending the addition of minimum separations from residential uses. It should be noted that no other retail use (with the exception of sexually oriented businesses) is subject to separation requirements from residential uses. However, the City's Municipal Code includes various operational restrictions for businesses that include live entertainment, dancing, and/or serve alcohol based on a 200-foot distance requirement from residential uses.

The below Exhibit 2 identifies a potential 200-foot buffer around residential zones in the City to illustrate distance from adjacent commercial zones. As shown on Exhibit 2, many of the City's residential uses are located within relatively close proximity of the City's commercial zones. As such, when applying a 200-foot buffer between residential zones and commercial zones, the number of parcels available for retail cannabis use decreases from 1,171 to 385 parcels (a 67 percent decrease). The results of applying a 500-foot buffer further decreases the number of commercial parcels that may meet minimum separation requirements to 162 parcels (an 86 percent decrease). This mapping exercise did not remove commercial properties that are within sensitive use separation requirements. If sensitive use separations were applied, the number of commercially zoned properties that could accommodate a retail cannabis use would further decrease.

Of the 22 approved cannabis storefront CUPs, 16 are located on properties within the 200-foot buffer and all 22 are located on properties within the 500-foot buffer. Of the 9 cannabis storefronts operating, seven are located within 200 feet of residential uses.

Due to the proximity of commercially-zoned properties to residential uses in some areas of Costa Mesa, staff does not recommend a separation from residential uses; however, specific operating conditions could be applied based on proximity to residential uses. Alternatively, the Planning Commission can recommend amendments to the City's ordinance to address this topic.

Exhibit 2. Example of Potential Residential Buffer from Cannabis Storefronts



(4) Minimum Separation from Cannabis Storefronts and Youth Centers

The CMMC requires that cannabis storefronts must be located a minimum of 1,000 feet from K-12 schools, child daycares, playgrounds, and homeless shelters. The adopted minimum separation between youth centers and cannabis storefronts is 600 feet in accordance with the State's minimum requirement (California Business and Professions Code Section 26054(b)). A youth center is defined in CMMC 9-485 as:

"...any public or private facility that is primarily used to host recreation or social activities for minors, specifically private youth membership organizations or clubs, social services teenage club facilities, video arcades where ten (10) or more games or game machines or devices are operated or similar amusement park facilities, but does not include dance studios, tutoring, martial arts studios or similar type of uses."

Other communities' regulations regarding youth centers can serve as case study guidance for potential program changes in Costa Mesa. The majority of local jurisdictions surveyed adopted the State's 600-foot separation; however, the City of San Diego established a more restrictive 1,000-foot separation. The following is a summary of youth center separation requirements from other jurisdictions:

Long Beach - No separation requirement from youth centers.

Palm Springs - 600-foot separation from youth centers.

City of San Diego - 1,000-foot separation from "minor-oriented facilities".

Santa Ana - 600-foot separation from youth centers.

Stanton - 600-foot separation from youth centers.

Vista - 600-foot separation from youth centers.

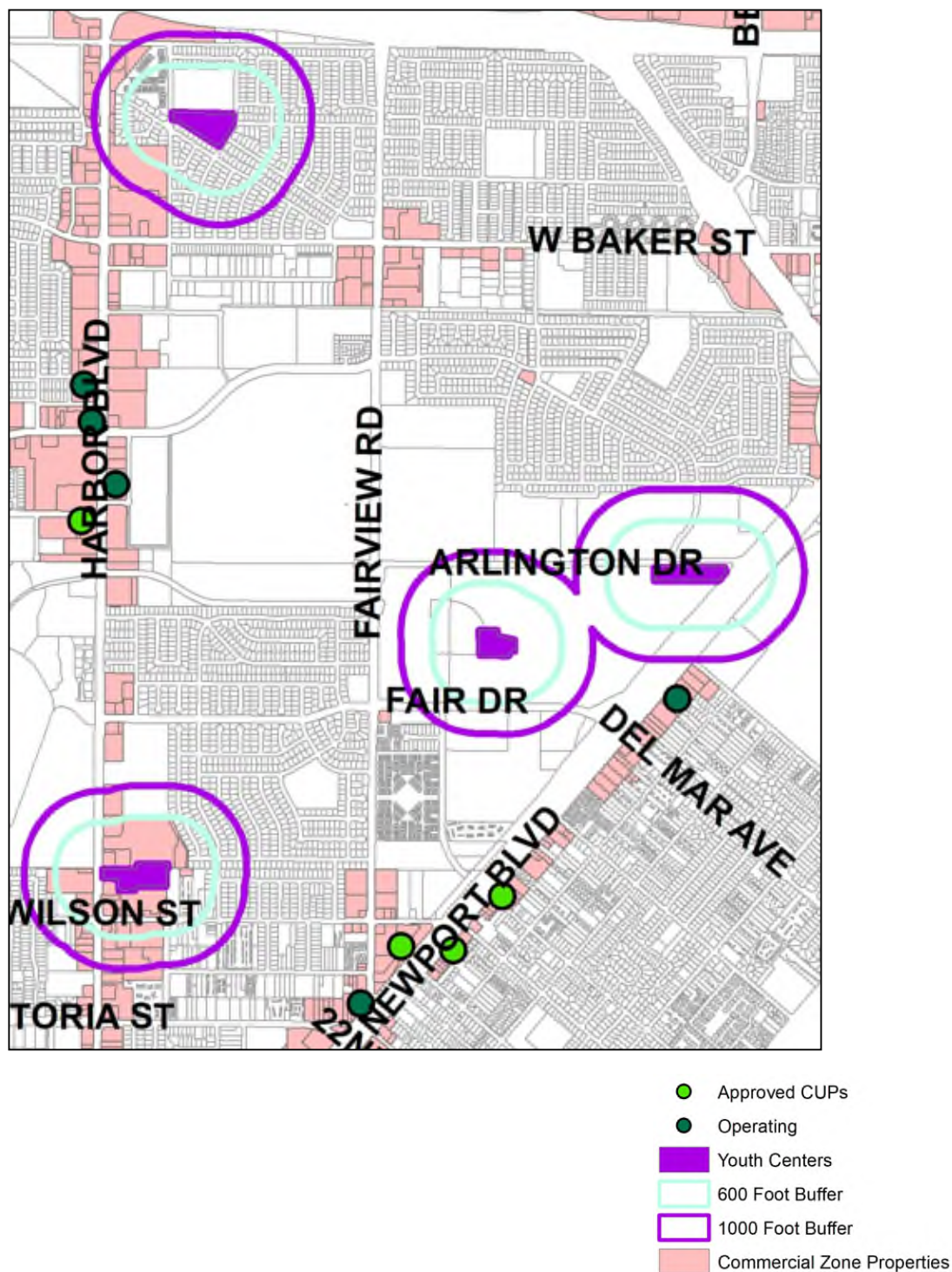
The City Council's direction regarding youth centers was specific to "explore increasing the minimum separation between cannabis storefronts and youth centers from 600 feet to 1,000 feet". There are five facilities in Costa Mesa that meet the CMMC definition of a youth center, of which one is located within a park and is already subject to a 1,000-foot sensitive use separation. The proposed expanded separation requirement would only change the separations from the four other youth center locations. The Planning Commission can consider the following options for youth centers:

- Do not change Section 13-200.93(e)(1), which requires a 600-foot separation distance from youth centers per the State minimum; or
- Recommend adoption of a higher separation distance from youth centers of 1,000 feet (the same buffer as for other sensitive uses).

As shown in Exhibit 3, increasing the youth center separation beyond the adopted State minimum to 1,000 feet would not affect any operating retail cannabis storefronts nor any

properties with approved cannabis storefront CUPs. A preliminary assessment of all retail cannabis applications indicates that none of the retail storefront applications would likely be impacted by extending the youth center buffer to 1,000 feet. However, a 1,000-foot separation requirement would reduce the number of potential locations for future retail cannabis business applications.

Exhibit 3. Example of Increasing Youth Center Buffer from 600 Feet to 1,000 Feet



(5) Allowing “Cannabis” in Storefront Signage

The City Council directed the Planning Commission to consider allowing the word “cannabis” to be displayed on signs at licensed cannabis storefronts. Cannabis businesses throughout the State are subject to advertising regulations contained in California Business Code sections 26150—26156 (see Attachment 3). Additionally, CMMC Section 9-495(g)(6) contains the following provisions for signage and notices at cannabis storefronts:

- a) Business identification signage for a cannabis business shall conform to the requirements of the CMMC, including, but not limited to, seeking the issuance of a city sign permit;
- b) Each entrance to a cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited;
- c) Business identification signage shall be limited to that needed for identification only; and
- d) The business shall at all times comply with the advertising and marketing restrictions of Business and Professions Code sections 26150-26156, in addition to the requirements of the CMMC.

As mentioned above, CMMC 9-495(g)(6) limits cannabis business’ identification signage to the information “needed for identification only”. Additionally and pursuant to this provision, retail cannabis storefronts have also been subject to the following standard condition of approval:

“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.”

The intention of this condition is to ensure cannabis dispensaries maintain a high-quality aesthetic and limit cannabis advertising in the City to persons under 21 years of age. Similarly, the California Business Code Section 26152 (e) requires that a licensee shall not “advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.”

Based on cannabis advertising regulations, staff believes that the Planning Commission would have to make the determination that by allowing the word “cannabis” in storefront

signage would: (1) be for “identification only”, and (2) would not “encourage persons under 21 years of age to consume cannabis or cannabis products”. If the Planning Commission believes that the aforementioned determinations could be made, no changes to the City’s local cannabis provisions would be necessary; however, the properties who have approved CUPs would be required to obtain approval of a Minor Conditional Use Permit (MCUP) to modify their CUP conditions of approval. This could be accomplished as a City-initiated modification at the discretion of the City Council.

For further Planning Commission consideration, staff reviewed the cannabis signage requirements of six Southern California jurisdictions. Of the jurisdictions surveyed and similar to the City of Costa Mesa provisions, Long Beach and San Diego have adopted codes that limit storefront signage to business identification only. The below is a summary of the City’s surveyed applicable signage provisions relating to cannabis storefront identification:

Long Beach - Business identification signage is limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered.

Palm Springs - No specific restriction on the word cannabis. All cannabis facility signage is reviewed by the Architectural Review Committee.

City of San Diego - Signs posted on the outside of the cannabis outlet shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors.

Santa Ana - No specific restriction on the word cannabis. All commercial cannabis signage shall not be attractive to minors.

Stanton - No specific restriction on the word cannabis.

Vista - No specific restriction on the word cannabis.

(6) Marketing Restrictions Related to Youth

Pursuant to City Council direction, the Planning Commission may also consider potential code amendments to restrict cannabis marketing to youth beyond State regulations. Cannabis businesses throughout the State are subject to advertising regulations contained in California Business Code Sections 26150—26156 (see Attachment 3 for the complete State cannabis “Advertising and Marketing Restrictions”). Pursuant to the State cannabis marketing regulations, the following provisions are specifically applicable to youths:

Section 26151 (b) - Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be

21 years of age or older, as determined by reliable, up-to-date audience composition data;

Section 26151 (c) - Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method;

“A licensee shall not do any of the following:”

Section 26152 (e) - Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products;

Section 26152 (f) - Publish or disseminate advertising or marketing that is attractive to children; and/or

Section 26152 (g) - Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

The Planning Commission may also consider restricting advertising based on examples from other jurisdictional ordinances intended to prevent youth from being influenced by cannabis businesses:

Chula Vista - “Advertising or Marketing in the City shall not contain a depiction of an individual under 21 years of age consuming Cannabis or Cannabis Products. Advertising or Marketing in the City shall not be Attractive to Youth.”

City of San Bernardino - “...the holder of the permit shall be prohibited from advertising any commercial cannabis business located in the City of San Bernardino utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising, anywhere in the state. This paragraph is not intended to place limitations on the ability of a commercial cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.”

Santa Ana - “Any and all signage, packaging, and facilities shall not be “attractive,” as it is defined by the State, to minors.”

Stanton - “Advertisements and marketing may not be designed to appeal to children or encourage children to consume cannabis goods, contain any false or misleading statements, or make any misrepresentations.”

Watsonville - “A [cannabis] facility shall not print, publish, advertise, or disseminate in any way or by any means, other than a dedicated business Internet website accessible only through an age gate portal.”

Staff believes that the State of California Business Code applicable cannabis marketing provisions are both comprehensive and restrictive in regard to preventing cannabis marketing and advertising to youths. If the Planning Commission agrees, the Commission could recommend leaving CMMC Section 9-495(g)(6) as is. Alternatively, the Planning Commission can recommend amendments to the City’s ordinance to further protect local youth from the influence of cannabis advertising in a manner that is enforceable by the City of Costa Mesa..

(7) Strengthening Labor Peace Agreement Regulations

Currently, the State requires cannabis applicants/licensees with 20 or more employees to enter into a labor peace agreement (LPA). Beginning July 1, 2024, the requirement will apply to applicants/licensees with ten or more employees. CMMC 9-495(h)(18) requires a Cannabis Business Permit applicant to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of an LPA as otherwise required by Business and Professions Code section 26051.5 (see Attachment 4) once two employees have been hired.

At the September 5, 2023 meeting, some City Council members expressed concern that the City’s regulations and oversight could be strengthened to ensure cannabis operators enter into bona fide LPA’s. As defined in the California Business and Professional Code, an LPA is an agreement between a commercial cannabis applicant or licensee and a bona fide labor organization. Under an LPA, the labor organization and its members (cannabis employees) agree to not engage in picketing, work stoppages, boycotts, and other economic interference with the business. In return, the applicant/licensee agrees to not disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent the cannabis employees.

Labor organizations as well as current or former cannabis business employees can submit complaints regarding a licensee’s LPA to the California Department of Cannabis Control (DCC). When an organization has been determined to not be a bona fide labor organization, the DCC will contact cities and counties throughout the state. The DCC is actively in contact with Costa Mesa staff regarding the status of labor organizations, and staff has received at least one notification this year from the DCC in regard to a non-bona fide labor organization.

Staff believes that the DCC is the appropriate agency to investigate complaints regarding cannabis LPAs and labor organizations, and therefore, and if the Planning Commission agrees, the Planning Commission could recommend leaving CMMC

Section 9-495(h)(18) as is. Alternatively, staff and the Planning Commission can further research and discuss options for amendments to the City's ordinance or staff procedures to address this issue.

(8) Business Displacement Regulations

To date, the City has approved 22 Conditional Use Permits for cannabis storefronts, of which the majority occupied or will occupy commercial tenant spaces previously occupied by another business. In some instances, the tenant space was vacated prior to the Planning Commission hearing for the cannabis use, while in other instances, an existing tenant was occupying the tenant space at the time of the CUP hearing. In some instances, the owner of the property provided assistance to the existing tenants prior to making the space available for a cannabis tenant. For example, the Planning Commission has previously heard testimony that existing tenants to be replaced by cannabis storefronts have been assisted financially, provided an option to remain for a certain time under reduced monthly rents (until the cannabis storefront tenant was approved and tenant improvements were to begin), and also offered another suite if located in a multi-tenant building. However, there have been several commercial tenants on month-to-month leases where leases were terminated or otherwise ended without offering of assistance and with minimal noticing. Some local business owners whose leases were ended described short notice and the financial hardship and other difficulties caused by unanticipated business relocation. State and local regulations do not require the cannabis applicants, nor the property owners, to provide financial or other assistance to tenants who must move locations due to an owner's decision to lease the tenant space to a cannabis storefront.

While reviewing proposed cannabis storefront applications, some Planning Commissioners asked staff if a proposed business replacing another would be inconsistent with General Plan Land Use Policy 6.7, to "*encourage new and retain existing businesses that provide local shopping and services* [emphasis added]."

Pursuant to City Council direction, the Planning Commission should explore the potential benefits and challenges to require notification and relocation assistance for existing businesses that may be replaced by a cannabis storefront. At present, no notification or relocation assistance is required when an owner decides to end a lease with one business to allow for another. A preliminary review of six jurisdictions in Southern California did not identify any examples of regulations requiring property owners or incoming cannabis businesses to provide notification to existing tenants, nor pay relocation costs.

The Planning Commission should discuss the appropriateness of codifying requirements related to commercial tenant notification and/or assistance. Staff believes that depending on the extent of the relocation procedures and administration of such a program, a

significant staff effort may be required including monitoring and implementing what methodology should be used to identify the amount of assistance, qualifications for the assistance, how assistance would be disbursed, timing in the entitlement process, and record keeping and reporting. Alternatively, the Planning Commission could also consider recommending that only noticing be provided to existing tenants.

GENERAL PLAN CONFORMANCE:

This item is administrative in nature.

ENVIRONMENTAL DETERMINATION:

The Code Amendment and Ordinance were reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures. The Planning Commission's recommendation regarding the Ordinance are exempt pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) because the potential amendments to the ordinance will not have a significant effect on the environment.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved this report as to form.

PUBLIC NOTICE:

Pursuant to CMMC Section 13-29(d) public notification has been completed no less than 10 days prior to the date of the public hearing:

1. On-site posting. A public notice was posted at City Hall.
2. Newspaper publication. A public notice was published once in the Daily Pilot newspaper.

Any public comments received prior to the November 27, 2023, Planning Commission meeting may be viewed at this link: <https://costamesa.legistar.com/Calendar.aspx>

CONCLUSION:

The Costa Mesa City Council directed the Planning Commission to explore potential amendments to the City's adopted retail cannabis program. As directed, the Planning Commission will consider making recommendations to modify portions of Title 13 (Planning, Zoning, and Development) of the CMMC and Title 9 (Business Licenses) that are specifically applicable to retail cannabis storefront businesses. The topics the Planning Commission has been tasked to explore are analyzed in this report and include potentially establishing a minimum separation between cannabis storefronts, increasing the minimum separation between cannabis storefronts and "youth centers" as defined in the Municipal Code from 600 feet to 1,000 feet to be consistent with other sensitive use

separation requirements, establishing a minimum separation between residential zoning districts and cannabis storefronts, establishing a maximum number of retail cannabis businesses (“cap”), allowing the word “cannabis” on cannabis storefront signage, adding limitations to prohibit the marketing of cannabis and cannabis products to youth, strengthening labor peace agreement requirements for cannabis storefronts, and establishing provisions for notification and relocation assistance for existing businesses that would be displaced by retail cannabis uses.

Staff recommends the Planning Commission receive the staff presentation, take public comment, and provide initial feedback and direction. Staff will return to the Planning Commission at a later date with a draft Ordinance that implements Planning Commission direction, and any other information requested by the Commission.