

**RESOLUTION NO. 2023-xx**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, TO UPHOLD THE PLANNING COMMISSION'S DECISION AND DENY PLANNING APPLICATION 22-04 FOR A RETAIL CANNABIS STOREFRONT BUSINESS WITH DELIVERY LOCATED AT 2790 HARBOR BOULEVARD, SUITES 107, 109, AND 115 (FROM THE EARTH)**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY FINDS AND DECLARES AS FOLLOWS:

WHEREAS, Planning Application 22-04 was filed by Dan Zaharoni representing DBO Investments CM, LLC, the authorized agent for the property owner, Tri-Harmony Properties, LLC, requesting approval of the following:

A Conditional Use Permit to operate a storefront retail and cannabis delivery business within an existing 2,157-square-foot first floor commercial space within a multiple-tenant commercial building located at 2790 Harbor Boulevard (Suites 107, 109 and 115). The business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite and through delivery, subject to conditions of approval and other City and State requirements;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on May 22, 2023 with all persons having the opportunity to speak for and against the proposal, and the project was denied by the Planning Commission on a 5-2 vote;

WHEREAS, an appeal of the Planning Commission's denial of the project was filed on May 30, 2023;

WHEREAS, a duly noticed public hearing was held by the City Council on August 1, 2023 with all persons having the opportunity to speak for and against the appeal;

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is exempt from the provisions of CEQA per CEQA Guidelines Section 15270(a) in that CEQA does not apply to projects which a public agency rejects or disapproves;

NOW, THEREFORE, based on evidence in the record and the findings contained in Exhibit A, the City Council hereby upholds the decision of the Planning Commission to DENY Planning Application 22-04.

**PASSED AND ADOPTED this 1<sup>st</sup> day of August, 2023.**

\_\_\_\_\_  
John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

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Brenda Green, City Clerk

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Kimberly Hall Barlow, City Attorney

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

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 2023-XX and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 1st day of August 2023, by the following roll call vote, to wit:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 2nd day of August 2023.

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Brenda Green, City Clerk

## EXHIBIT A

### FINDINGS

- A. Pursuant to CMMC Section 13-29(g), when granting approval of an application for a conditional use permit, the Planning Commission shall find that based on the evidence presented in the record, the proposed project substantially meets the Costa Mesa Municipal Code Conditional Use Permit required findings. The Applicant failed to meet its' burden to demonstrate that the proposed project would operate in a manner that would comply with all of the requirements of Section 13-29(g)(2), therefore, the Planning Commission was unable to make the required findings to approve the proposed use.

During the May 22, 2023 public hearing, the Planning Commission voiced specific concerns in regard to non-compliance with the Conditional Use Permit required findings in that: (1) during the public hearing, the applicant presented (both verbally and in presentation form) that the cannabis use would associate with a local youth sporting organization, and the Commission believed that this constituted a conflict with the health, safety and general welfare of the public by associating a business that specializes in the sale of cannabis with the City's youth population; and (2) the Commission raised a concern that the proposed new business operation would result in a currently operating business (Angel's Beauty Salon) to cease operation at its existing location. When the Planning Commission requested clarification about the status of the existing business during the public hearing, the applicant was unclear of the existing business' future status. The Commission further indicated that granting the conditional use permit would not be consistent with General Plan Land Use Element Policy LU-6.7, to "Encourage new and retain existing businesses that provide local shopping and services", in that an existing business would not be retained as a result of the proposed new business.