



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: OCTOBER 23, 2023

ITEM NUMBER:PH-1

SUBJECT: PLANNING APPLICATION 23-10 FOR A RETAIL CANNABIS NON-STOREFRONT AND CANNABIS DISTRIBUTION FACILITY ("GIPSOL CANNABIS") LOCATED AT 3505 CADILLAC AVE, UNIT O-105

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

PRESENTATION BY: GABRIEL VILLALOBOS, ASSISTANT PLANNER

**FOR FURTHER INFORMATION: GABRIEL VILLALOBOS
714-754-5610**

CONTACT: GABRIEL.VILLALOBOS@costamesaca.gov

RECOMMENDATION

Staff recommends 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 23-10, subject to conditions.

APPLICANT OR AUTHORIZED AGENT

The applicant/authorized agent is Eric L. Gipson on behalf of Gipsol Cannabis and the property owner, Shawn Entezam.

PLANNING APPLICATION SUMMARY

Location:	3505 Cadillac Ave, Unit O-105	Application Numbers:	PA-23-10
Request:	Planning Application 23-10 for a Conditional Use Permit for the establishment of a cannabis non-volatile manufacturing and cannabis distribution facility in the PDI (Planned Development Industrial) zone.		

SUBJECT PROPERTY:**SURROUNDING PROPERTY:**

Zone:	PDI (Planned Development Industrial)	North:	PDI (Planned Development Industrial)
General Plan:	Industrial Park	South:	PDI (Planned Development Industrial)
Lot Dimensions:	40 FT x 80 FT	East:	PDI (Planned Development Industrial)
Lot Area:	2,590 SF	West:	PDI (Planned Development Industrial)
Existing Development:	Existing 2,590-square-foot facility previously utilized as an industrial office suite.		

BACKGROUND:

The subject property is located on the west side of Cadillac Avenue, within a portion of the City's industrial area known as the "Green Zone" (described below). The subject property is specifically located within "Cambridge Park," a multi-tenant industrial business park center. The 14-acre property is zoned PDI (Planned Development Industrial) and is surrounded by properties zoned Industrial Park (MP) to the north and east, the 405 freeway to the south, and the Santa Ana River to the west. A variety of cannabis uses can be permitted in the "Green Zone," including manufacturing, distribution, and non-storefront retail (direct delivery to consumers).

The proposed project location, Unit O-105, is a 2,590-square-foot tenant suite located on the first floor of Building O, which is located on the southern portion of the property near the driveway entrance at the intersection of Cadillac Avenue and Sunflower Avenue. The previous use of the subject tenant space was an office.

There are no active Code Enforcement cases on this property.

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 a specified area known as "the Green Zone." The Green Zone includes specific Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties that are located north of South Coast Drive and west of Harbor Boulevard, excluding the South Coast Collection (SOCO) property located at 3303 Hyland Avenue. Measure X is codified in Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC).

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

On November 3, 2020, Costa Mesa voters approved Measure Q, the Costa Mesa Retail Cannabis Tax and Regulation Measure. This measure allowed the City to adopt regulations permitting storefront retail (dispensaries) and non-storefront retail (delivery) within the City subject to numerous standards and 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 retail cannabis storefront and non-storefront uses.

Cannabis Business Permit (CBP) Process

Prior to establishing a cannabis business in the City, an applicant is subject to an extensive submittal and application review process and must obtain all of the following City approvals before conducting business:

- Cannabis Business Permit Notice to Proceed;
- Conditional Use Permit (or Minor Conditional Use Permit in specific circumstances);
- Building Permits (and final inspections by multiple departments and the City's cannabis security consultant);
- Cannabis Business Permit; and
- City Business License

The initial phase of a CBP review includes a background check of the proposed owner and an evaluation of the proposed business plan and security plan by the City's cannabis security consultant (HdL Companies). The applicant has successfully completed these evaluations and staff issued a "Notice to Proceed," which allows the applicant to submit a Conditional Use Permit (CUP) application.

If the CUP were approved, the applicant would begin the remaining steps of the CBP process. The applicant must obtain building permits, complete building improvements, demonstrate that all conditions of approval have been satisfied, and that all other requirements of the CMMC have been satisfied. After passing the final City inspection, the CBP would be issued. CBP approval is valid for a two-year period and must be renewed prior to expiration. During the two-year CBP permit periods, the Community Improvement Division (CID), along with other City staff, will conduct site visits to verify the operation complies with all CUP and CBP requirements. Violations identified during these two-year site visits may be grounds for the revocation of the CBP or for non-renewal of a CBP.

After obtaining the CBP, the applicant may apply for and obtain a City Business License. In addition to the CUP, CBP, and City Business License, the applicant must obtain the appropriate licenses from the State Department of Cannabis Control (DCC) prior to operating.

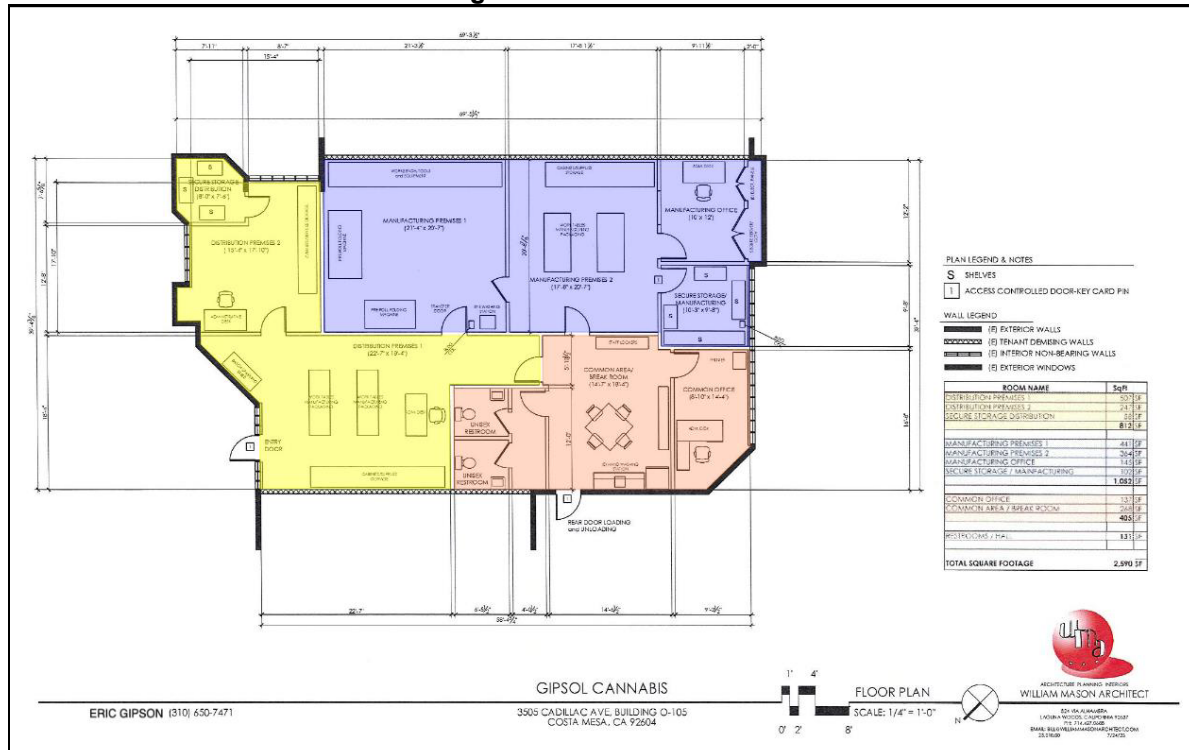
DESCRIPTION:

Planning Application 23-10 is a request for a CUP to operate both a non-volatile manufacturing and distribution facility within a 2,590-square-foot tenant space in a multi-tenant industrial office building located at 3505 Cadillac Avenue, Unit O-105. There are 27 other tenants located in Building O, seven of which are cannabis related businesses. The proposed non-volatile manufacturing and distribution uses involve intake, storing, and processing of raw cannabis for the preparation of finished cannabis products for distribution to other licensed retailers. The proposed use will include one distribution vehicle parked at the parking spaces nearest the main entrance of the

proposed facility, roughly 60 feet from the front entrance. There will be no vehicles parked overnight at the project site.

The proposed 2,590-square-foot non-volatile manufacturing and distribution facility will include an approximately 812-square-foot distribution area (shown in yellow), a 1,052-square-foot manufacturing area (shown in blue), and 536-square-feet of common area (shown in orange) dedicated to the cannabis business. Per Figure 1 below, the proposed cannabis facility's licensed areas are broken down as shown:

Figure 1. Licensed Areas



The hours of operation for the proposed facility are 8 a.m. to 6 p.m., Monday through Friday and on occasional weekends. No distribution activities to or from the facility will occur between the hours of 12 a.m. to 5 a.m. per the conditions of approval. The facility will include a maximum of five employees that will operate in both distribution and manufacturing capacities. The applicant proposes to use one vehicle (van) for distribution. Tenant improvements necessary to convert the tenant space for both the non-volatile manufacturing and distribution uses include the implementation of new electrical and safety features including security cameras, new equipment including a machine for mass producing cannabis pre-rolls, as well as new commercial locks and secured storage for cannabis products. No expansion is proposed to the existing tenant space, nor are any changes proposed to the exterior of the building or parking lot other than adding security cameras to cover the path of travel from the designated loading area to the facility.

The required State license types for the proposed cannabis business are a Type 6 “non-volatile manufacturing” and a Type 11 “distributor” license. A Type 6 license allows for the use of non-volatile solvents for extraction or post-extraction processing of cannabis, mechanical methods of extraction, the manufacturing of cannabis products through infusion, as well as the packaging and labeling of cannabis products. The proposal for this project will not include any extraction activities onsite, only the production of cannabis “pre-rolls” which are pre-packaged cannabis cigarette products. No other cannabis product type will be manufactured onsite, other than packaging of cannabis flower for Gipsol Cannabis’s white labeling service. In addition, a Type 11 license allows for the distribution of cannabis and cannabis products between cultivation, manufacturing, or other distribution premises, the distribution of cannabis finished products to licensed retailers, storage services for other licensees, and for the arrangement of testing for cannabis products. This business proposes to distribute their products to other retailers as well as provide a “white label” service to other cannabis businesses where the applicant would label and package cannabis products on their behalf.

ANALYSIS:

Conditional Use Permit

Pursuant to the Costa Mesa Municipal Code (CMMC) Section 13-200.92, cannabis distribution is prohibited in all zoning districts within the City, except for those portions of the manufacturing park (MP) 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”). Per CMMC Section 13-200.93, 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. The CMMC requires that a conditional use permit shall be required subject to the following conditions:

1. The requirements of Title 13, Chapter III (Planning Applications) are found in compliance;
2. The findings for granting a conditional use permit (CUP) in accordance with CMMC Section 13-29(g) are met;
3. The cannabis business license (CBP) pursuant to Chapter VI of Title 9 of the CMMC is obtained; and
4. The use is conducted in compliance with all applicable State and local laws.

Exterior and Interior Improvements

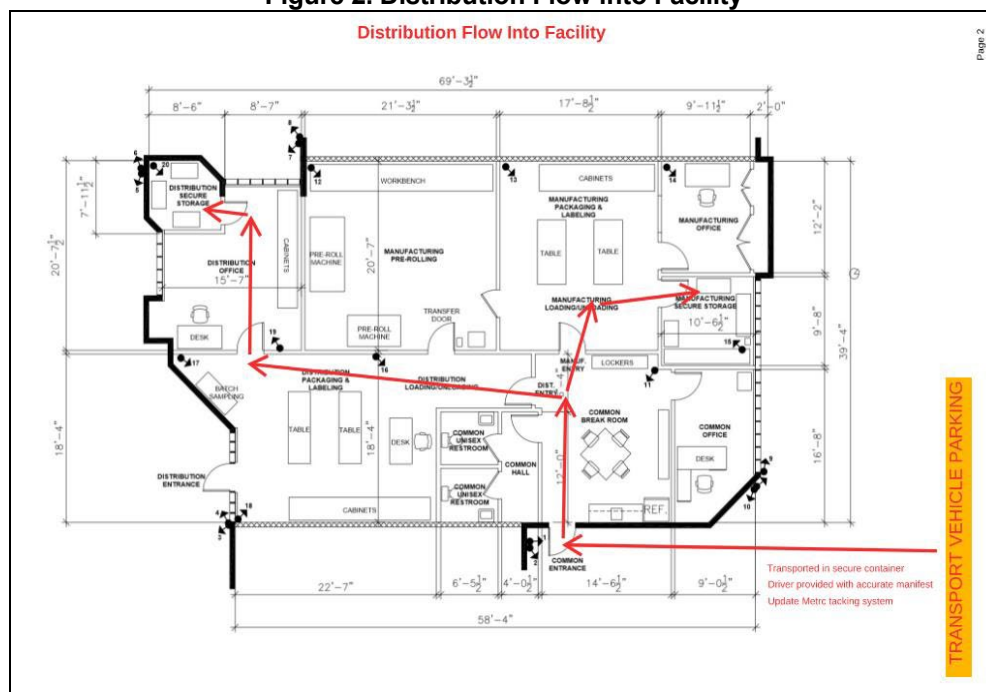
The applicant is not proposing any exterior modifications other than the addition of new security cameras to monitor ingress and egress from the entrance of the facility along the path of travel to the designated parking area. The interior tenant improvements are limited to non-structural changes including the addition of security features within the tenant

space, workstations for both manufacturing and distribution uses, storage racks, and equipment for the mass-producing of cannabis pre-rolls. In addition, freestanding carbon filters will be located in both the manufacturing and distribution licensed areas for odor mitigation purposes; this equipment is not incorporated into the existing HVAC system and will not require any construction to implement.

Distribution Use

The distribution component of this facility will be limited to an 812-square-foot, limited access area within the proposed facility composed of a work area, office and secured storage area. The “distribution premises 1” area will house work tables and the equipment necessary for the packaging and labeling of products, while the “distribution premises 2” area will house records, waste and cannabis products within the secured storage area. All testing of finished cannabis products brought into this facility will be handled prior to distribution to this location; the products will only be held onsite for labeling and distribution to licensed retailers. Per the flow diagram depicted below in Figure 2, both finished and raw cannabis products will be brought in through the common entrance located at the rear of the facility nearest the designated parking area. Finished products for labeling and distribution will be brought into the distribution storage, while raw cannabis will be taken into the manufacturing side for further processing.

Figure 2. Distribution Flow into Facility



For outgoing products, an invoice and manifest will be generated and then a drop off will be scheduled prior to any product leaving the facility. The distribution driver will be tracked with GPS software. All products moved into and out of this facility will be tracked and will not be accepted if received opened or in damaged packaging. All products received and distributed shall be confirmed as tested and pre-approved for consumption. The

Figure 3. Distribution Flow out of Facility



Parking

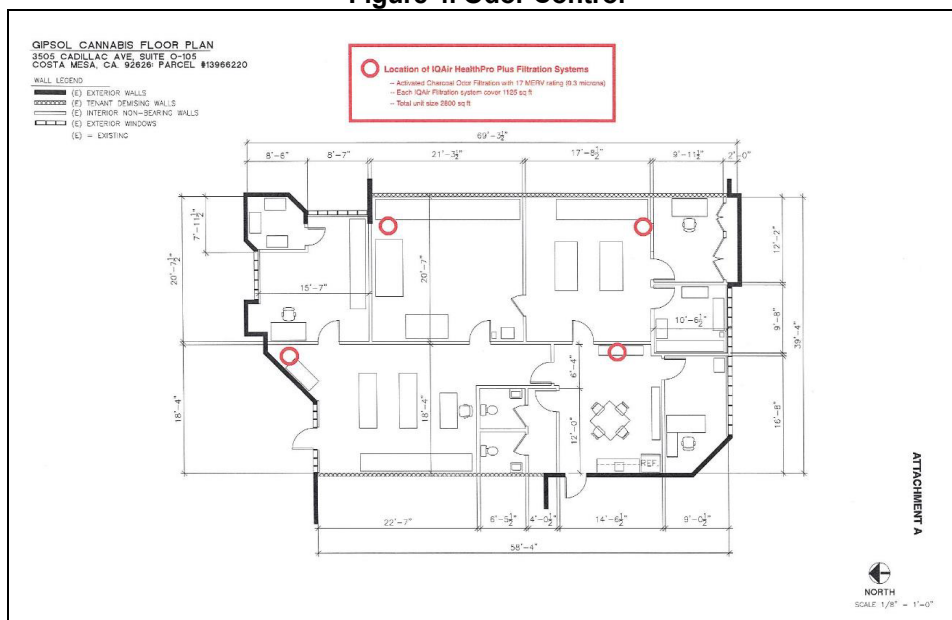
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parking ratio of 4/1,000 remains the same with the proposed use, no additional parking is required. Since the site is allocated 10 parking spaces (pursuant to the Costa Mesa Municipal Code) and the applicant is only proposing a maximum of five employees, staff does not anticipate an impact to on-site parking. Further, the applicant has also indicated that very limited distribution customers will interface with the daily operations. However, If parking shortages or other parking-related problems are discovered in the future, operational condition of Approval No. 7 requires the business operator to institute appropriate measures necessary to minimize or eliminate the problem including, but not limited to, reducing operating hours of the business, reducing the number of delivery vehicles, and/or limiting the number of persons within the suite.

Odor

To prevent odors from being released from the facility, four freestanding carbon filters will be placed in both the manufacturing and distribution rooms (see the below Figure 4). The filters will not be connected to the building's HVAC system, but will be plugged into the facility's electrical outlets. Lastly, and as conditioned in the attached Resolution, if cannabis odor is detected outside of the building or off-site specifically, 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.

Figure 4. Odor Control



Business Plan

The applicant provided a detailed business plan that was evaluated by the City's cannabis security consultant, HdL Companies. The business plan described the owner's

background, proof of capitalization, start-up budget, a three-year pro forma, target customers, and day-to-day operations. Generally, the approved business plan contains the distribution and manufacturing operating procedures which detail the process in which the products are obtained from their sources as well as the methods in which they are tracked when passing through the facility to their ultimate destination, which must be documented during each step for track and trace purposes and for reporting to the State.

Security Plan

The applicant provided a professionally prepared security plan for the proposed project. The City's cannabis security consultant (HdL Companies), reviewed the proposed security plan. HdL Companies determined that appropriate security measures were included to address the City's security requirements pursuant to Chapter VI of CMMC Title 9 as well as State law.

Since the security plan contains sensitive operational measures that require limited exposure to remain effective, the plan is not included as an attachment. However, the following is generally a list of measures that are provided in the plan and required by the CMMC:

- Live scan background check for every employee including drivers;
- City-issued identification badge for each employee;
- Professionally installed and monitored exterior and interior surveillance cameras;
- Professionally installed, maintained, and monitored alarm system including panic buttons and window and door alarms;
- Surveillance footage must be maintained for a minimum of 90 days;
- Secured storage of cash, cannabis and cannabis products;
- Security lighting;
- Sensors that detect entry and exit from all secured areas;
- Emergency power supply;
- Emergency equipment and training;
- Driver and vehicle safety protocol;
- Cash and product transportation; and
- Limited access areas and visitor check-in.

As proposed and conditioned, all facility entry and exit points and all locations where cash or cannabis products are handled or stored shall be under camera surveillance and are also all underroof.

GENERAL PLAN CONFORMANCE

Conformance with the City of Costa Mesa General Plan

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 continuing to provide 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 specific 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 cannabis use would provide a new entrepreneurial business in Costa Mesa as allowed under Measure X and Measure Q, new goods and services, and provide new employment opportunities in the community.

2. **Policy LU-6.3:** *Continue to prioritize commercial and industrial park use of properties located north of I-405 and within the Airport Industrial District.*

Consistency: The proposed use would continue and supplement permitted industrial and commercial uses located within an existing industrially-zoned property located north of I-405.

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 a growing industry and is proposed in a location as specifically identified for such uses by the City's electorate through Measure X and Measure Q.

Conformance with the Zoning Code

The proposed cannabis distribution and non-storefront retail use is conditionally permitted in the PDI (Planned Development Industrial) zone ("Green Zone") and is in compliance with the applicable Costa Mesa Zoning Code requirements, including, but not limited to, Articles 20 and 21.

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, based on the

evidence presented in the administrative record, the proposed use substantially meets the following specified findings:

- 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 the City's "Green Zone," an industrial area of the community where specific types of cannabis uses are conditionally permitted, such as distribution, manufacturing and non-storefront retail (delivery only). The proposed use is a cannabis non-volatile manufacturing and distribution facility and is located in an area specifically designated for these types of uses. The specific building in which the proposed cannabis business is to be located and the adjacent buildings, includes numerous other tenants that provide similar types of cannabis related services. Similar to other industrial uses, the proposed cannabis business would generate limited customer traffic to the site as the business is not open to the public and, as proposed and conditioned, the cannabis use would be compatible with adjacent industrial and commercial uses. Compliance with conditions of approval, local regulations, and State requirements would allow this use to operate with minimal impact on surrounding properties and uses.
- 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 business would follow safety measures as detailed in the professionally prepared security plan submitted to the City. The security plan was evaluated for compliance by the City's cannabis security consultant (HdL Companies). Measures designed to maintain safety at the facility include, but are not limited to, window and door alarms, panic buttons, motion-detectors, limited access areas, a video surveillance system that monitors all exterior entrances, exits and all interior limited access areas, and security lighting. As proposed and conditioned, video recordings shall be maintained for a minimum of three months. As required by the CMMC and affirmed in the security plan, the business shall designate a security representative to be available to meet with the City Manager, Chief of Police, or their designees, regarding any security or operational concerns. All business employees shall pass a live scan background check and obtain identification badges from the City. The recommended conditions of approval and local and State laws are intended to ensure that the use would not be materially detrimental to the health, safety and general welfare of the public, and would not 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 use is consistent with the General Plan goals and policies as discussed earlier in this report. The proposed use would occupy an existing industrial/office tenant space and there are no proposed additions to the building, therefore there is no change in land use intensity. As stated in the

General Plan Land Use Element, the City's industrial designations "accommodate a variety of industrial and compatible office uses, as well as limited and supportive commercial uses." The use is consistent with the General Plan policies related to providing a mixture of commercial goods, services, and employment opportunities; prioritizing commercial and industrial uses at properties north of I-405; and promoting the incubation of unique and specialized commercial and industrial businesses. In addition, the proposed use is a conditionally permitted use in the industrial zones.

ENVIRONMENTAL DETERMINATION

The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities, involving negligible or no expansion of the existing use. This proposal includes a permitted use in an existing industrial building with no increase in floor area. The project is consistent with the applicable General Plan land use designation and General Plan 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 item should be continued to a future meeting to allow a redesign and/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 for denial into a Resolution. If the project is denied, the applicant could not submit substantially the same type of application for at least six months.

LEGAL REVIEW

The draft resolution has 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. (See attached Notification Radius Map)
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 Planning Commission meeting will be forwarded separately to the Planning Commission.

CONCLUSION

The proposed project is a cannabis non-volatile manufacturing and distribution facility that is located within the City's Green Zone. As proposed and conditioned, the cannabis business will be consistent with other industrial uses in the Green Zone. The use is consistent with the Zoning Code and the City's General Plan. In addition, the required findings for the Conditional Use Permit are met as described above. Therefore, staff recommends approval of Planning Application 23-10, subject to the conditions of approval.