



Legislation Text

File #: 22-756, Version: 2

TITLE:

PLANNING APPLICATION 21-21 FOR A RETAIL CANNABIS STOREFRONT BUSINESS LOCATED AT 1990 HARBOR BOULEVARD

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTED BY: MICHELLE HALLIGAN, CONTRACT PLANNER

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RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1), Existing Facilities; and
2. Approve Planning Application 21-21, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT:

The property owner, applicant and authorized agent is Robert Taft, Jr. of Vertical Four, Inc.

BACKGROUND:

The subject 9,191-square-foot property is located at 1990 Harbor Boulevard and is situated on the east side of the street, between Ford Road and West Bay Street. The site is zoned C1 (Local Business District) and is surrounded by C1 and C2 (General Business District) zoned properties. The site and the surrounding properties have a General Plan Land Use Designation of "General Commercial."

The surrounding uses include an upholstery business to the north, an automotive repair business to the south, and a car dealership's parking lot located to the west. The adjacent sites are separated from the subject property by buildings and fencing. Existing uses located to the east (across Harbor Boulevard) include auto repair, vehicle accessories, and car rentals.

The existing development on the subject property consists of a one-story 2,446-square-foot building fronting Harbor Boulevard, a two-story 1,332-square-foot building located at the rear of the property and an un-striped surface parking area located between the two buildings. Two building permits were issued for the property in 2021, prior to the City accepting cannabis retail storefront Pre-Applications. In August 2021, the City issued demolition permit BC21-00528, allowing the removal of an unpermitted, non-conforming prefabricated building from the center of the property. Based on the business license history for this property, it appears that the unpermitted prefabricated structure was used in conjunction with a past automotive business. In February 2021, the City issued building permit BC21-00124, allowing the renovation of the front building. The improvements include a new stucco façade with three clerestory windows facing Harbor Boulevard, relocating the main entrance to the rear of the building, adding an interior pony wall, enlarging a bathroom, and plumbing and electrical work.

There are no open Code Enforcement cases on this property.

Non-Conforming Development

The existing development is nonconforming in terms of setbacks, parking, landscaping, and floor area ratio (FAR), and therefore is subject to the nonconforming provisions of the Costa Mesa Municipal Code (CMMC) Section 13-204. Pursuant to this Code Section, a conforming use may be located on a nonconforming property so long as the new site modifications do not result in greater site nonconformities, and such improvements bring the site into greater conformance with Code requirements.

The CMMC and General Plan establish maximum floor area ratios (FARs) for each non-residential land use designation based on trip generation characteristics. Pursuant to the General Plan, the maximum FAR for the proposed use is 0.20 and the existing FAR is 0.41. The proposed retail cannabis storefront use would occupy the 2,446-square-foot front building. Improvements would be made to bring this structure into compliance with current building and safety codes; however, the building placement on the site and associated nonconforming setbacks would remain. The nonconforming building in the rear is proposed to be demolished. Removal of this structure would result in a reduced site FAR of 0.27, and therefore would become more conforming with the CMMC and General Plan.

Rear Building

The applicant purchased the property in 2020 in its existing condition, which included a residential structure developed at the rear of the lot. Based on Google Earth imagery, it appears that the rear structure was converted to a residential use sometime after 2009. The City building permit records indicate that since 1955, no permits have been issued for this structure with the exception of a commercial roofing permit in 2006. As previously indicated, the property has a zoning designation of "C1" and a "General Commercial" General Plan Land Use Designation. Neither the "C1" Zoning District or the "General Commercial" Land Use District allow for residential use. Further, the Mesa Water District records only recognize a history of "commercial uses" for water usage on site, and the United States Post Office records also confirm that the property has only been serviced by mail delivery as a commercial property. The applicant is proposing to demolish the unpermitted residential structure and replace this area of the property with parking stalls, landscaping and a trash enclosure

(bringing those items into conformance).

City of Costa Mesa Medical Marijuana Measure (Measure X) and Costa Mesa Retail Cannabis Tax and Regulation Measure (Measure Q)

In November 2016, Costa Mesa voters approved Measure X, allowing medical cannabis manufacturing, packaging, distribution, research and development laboratories, and testing laboratories in Industrial Park (MP) and Planned Development Industrial (PDI) zoned properties north of South Coast Drive and west of Harbor Boulevard (“The Green Zone,” excluding the South Coast Collection property located at 3303 Hyland Avenue). Measure X is codified in Titles 9 and 13 of the 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 certain requirements. On June 15, 2021, the City Council adopted Ordinances No. 21-08 and No. 21-09 to amend Titles 9 and 13 of the CMMC to establish regulations for legal cannabis storefront and non-storefront uses. A non-storefront retailer sells packaged cannabis goods to customers through direct delivery only.

Cannabis Business Permit (CBP) Application Process

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

- Pre-Application Determination;
- CBP Notice to Proceed;
- Conditional Use Permit (CUP);
- Building Permit(s);
- Final City Inspections;
- CBP Issuance; and
- City Business License.

The “Pre-Application Determination” includes staff review of a detailed applicant letter that describes the proposed business, an existing site plan, statement attesting that there is/has been no unpermitted cannabis activity at the site within one year, and a detailed map demonstrating the proposed storefront’s distance from sensitive uses. Staff also visits the site at this time. Planning staff has completed the aforementioned pre-application review, visited the site, and issued a letter indicating that the applicant meets required separation distances from sensitive uses and may proceed to submittal of a CBP.

Following completion of the pre-application review, the applicant submitted a CBP application for the

initial phase of the CBP review. Staff's initial CBP review includes:

- A background check of the business owner(s)/operator(s);
- An evaluation of the proposed business plan (including a capitalization analysis); and
- An evaluation of the proposed security plan by the City's cannabis security consultant, HdL Companies (HdL).

The applicant successfully passed these evaluations and staff issued a "CBP Notice to Proceed," which allows the applicant to submit a CUP application. The CUP application and required supportive materials were submitted by the applicant and reviewed for conformance with City standards and regulations by the Planning Division, Building Division, Public Services Department (including Transportation and Engineering Divisions), Fire Department, and Police Department. If the Planning Commission approves the CUP, the applicant may then begin the remaining steps of the CBP process, which include:

- Obtaining building permits;
- Completing tenant improvements; and
- Demonstrating through various City reviews/inspections that all conditions of approval have been satisfied, and that all other requirements of the CMMC have been met.

After passing the final City and HdL inspections, the CBP would be issued. CBP approval is valid for a two-year period and must be continuously renewed prior to expiration. During the two-year CBP period, the Community Improvement Division (CID), along with other City staff, will conduct site inspections to verify that the business is operating in compliance with CUP and CBP requirements. Violations identified during site inspections may be grounds for revocation of issued permits or non-renewal of a CBP.

After obtaining the CBP, the applicant would apply for and obtain a City Business License through the Finance Department. Lastly, the applicant must obtain the appropriate license from the State Department of Cannabis Control (DCC) prior to operating.

Cannabis retail businesses pay a 7% gross receipts tax to the City of Costa Mesa's Finance Department. Records and revenues are audited annually by the City's Finance Department and HdL Companies.

DESCRIPTION:

Planning Application 21-21 is a request for a CUP to allow a retail cannabis storefront business within an existing 2,446-square-foot commercial building located at 1990 Harbor Boulevard. The affiliated State license is a Type 10 "storefront retailer." Upon approval of a CUP, CBP, City Business License, and State license, the business would sell pre-packaged cannabis and pre-packaged cannabis products directly to onsite customers, subject to conditions of approval and other City and State requirements.

ANALYSIS:

Conditional Use Permit Required

Pursuant to CMMC Sections 13-28(b) and 13-200.93(c)(1), subject to the approval of the Planning

Commission, a CUP is required for the establishment of cannabis retail storefronts. The subject site is located within a commercial zone (C1, Limited Business District) where commercial development is specifically allowed to include retail storefronts. The property is located on one of the City’s primary commercial corridors and surrounded by commercial uses, with the nearest residential uses located over 300 feet away. Pursuant to the CMMC, cannabis retail storefronts are permitted uses in the City’s commercial zones and are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties.

Separation Requirements

CMMC Section 13-200.93(e) stipulates that no cannabis retail storefront use shall be located within 1,000 feet of a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600 feet of a youth center that is in operation at the time of submission of a completed cannabis business permit application. The subject site complies with the required separation from sensitive uses.

Exterior Tenant Improvements

During the September 2021 site visit, staff observed graffiti, holes in the windows fronting Harbor Boulevard, the absence of any landscaping, and an exposed dumpster. Prior to submitting an application for a dispensary, the applicant obtained building permits to renovate the front building, including a new stucco façade with three clerestory windows facing Harbor Boulevard, and relocating the entrance from Harbor Boulevard to the rear of the building. At the time of this report, the permitted improvements to the front building are in progress.

If the CUP is approved, the applicant proposes to further upgrade the exterior of the front building with graffiti-resistant tile and planter boxes. Proposed site improvements as shown in the attached conceptual landscape plan include living plant walls in the parking lot, a new planter box at the front of the property along Harbor Boulevard, adding approximately 400 square feet of landscaping in the rear (including at least eight palm trees), adding a bicycle rack to encourage multi-modal transportation, striping the parking lot to comply with the City’s parking design standards, and constructing a trash enclosure. The applicant also proposes to update the site with security lighting, surveillance cameras and new signage (signs to be reviewed and permitted separately per the City’s sign code requirements). As indicated above, the rear building is proposed to be demolished.

Interior Tenant Improvements

The proposed cannabis retail business includes an interior lobby, customer restroom, non-cannabis sales floor area, cannabis and cannabis product sales floor area, and “back-of-house” limited access areas that include an office, storage, employee restroom and security room. The non-cannabis floor area includes the display of store branded hats and t-shirts, and cannabis related accessories. Below is a summary of the proposed floor plan within the 2,446-square-foot building.

Operational Area	Square Feet
Lobby	360
Customer Restroom	61
Non-Cannabis Sales Floor	615
Cannabis Sales Floor	1,083
Office, Storage & Security	293
Employee Restroom	47

Total	2,446
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Customer and Employee Access

All entrance/exit doors face the parking lot. Customers would only be allowed in the lobby, customer restroom, and sales areas. All other areas of the premises would be limited access areas and accessible only to employees with security credentials and escorted vendors. Customer access to the proposed establishment would include entering the licensed premise from a door adjacent to the parking lot. Staff would verify the customer's identity and age before allowing the customer to enter the non-cannabis sales area. When staff determines there is adequate space and service for another customer, they would allow them into the cannabis and cannabis product sales area. The two sales floors would be divided by a pony wall and tempered glass. After completing a transaction, customers must leave the property. As conditioned, a security guard would monitor the property at all times to ensure that customers are following regulations.

Employees would enter through an access-controlled "employee-only" entrance in the rear of the building. Vendors would only enter through the access-controlled employee door while accompanied by an employee of the subject retail business. The applicant plans to utilize their Costa Mesa manufacturing and distribution businesses as vendors. The distance from the controlled access doors to the vehicle loading area (parking space #2) is approximately 20 feet. The access doors, path of travel and vehicle loading areas would be under camera surveillance.

Storefront Operations

The proposed business is required to comply with the proposed retail storefront operational conditions/requirements:

- Display State license, CBP, and City business license in a conspicuous building location;
- Hours of operations are limited to 7:00 AM to 10:00 PM daily;
- Shipments of cannabis goods may only be accepted during regular business hours;
- Cannabis inventory shall be secured using a lockable storage system during non-business hours;
- At least one licensed security guard shall be on premises 24-hours a day;
- The premises and the vicinity must be monitored by security and/or other staff to ensure that patrons immediately leave and do not consume cannabis onsite or within close proximity. The CMMC prohibits the consumption of cannabis or cannabis products in public areas; cannabis consumption is limited to non-public areas, such as within a private residence. State law further prohibits cannabis consumption and open container possession within 1,000 feet of sensitive uses and while riding in or driving a vehicle;
- There must be continuous video monitoring and recording of the interior and exterior of the premises;
- Adequate security lighting shall be provided;
- Onsite sales of alcohol or tobacco products and on-site consumption of alcohol, cannabis, and tobacco products is prohibited;
- No one under the age of 21 is allowed to enter the premises;
- Prior to employment, all prospective employees must successfully pass a background check conducted by the City, and the employee must obtain a City issued identification badge;

- Customers are only granted access to the retail areas after their age and identity have been confirmed by an employee;
- Each transaction involving the exchange of cannabis goods between the business and consumer shall include the following information:
 - Date and time of transaction;
 - Name and employee number/identification of the employee who processed the sale;
 - List of all cannabis goods purchased including quantity, and cost thereof; and
 - Total transaction amount paid.
- There must be video surveillance of the point-of-sale area and where cannabis goods are displayed and/or stored;
- Cannabis products shall not be visible from the exterior of the building;
- Free samples of cannabis goods are prohibited;
- When receiving new inventory from licensed distributors, employees will verify the distributor's identity and license prior to allowing them to enter the facility through an access-controlled door. After distributor's credentials have been confirmed, an employee would escort the distributor to the shipping and receiving area (office) and remain with them throughout the process.
- Cannabis goods to be sold at this establishment must be obtained from a licensed cannabis distributor and have passed laboratory testing for quality control;
- Cannabis product packaging must be labeled with required test results and batch number;
- Packaging containing cannabis goods shall be tamper and child-resistant; if packaging contains multiple servings, the package must also be re-sealable;

Business Plan

The applicant provided a detailed business plan that was evaluated by the City's cannabis consultant (HDL). The business plan described the owners' experience, proof of capitalization, start-up budget, a three-year pro forma, target customers, key software, and daily operations. The City's cannabis consultant determined that the applicant's business plan was appropriate for continued entitlement processing. (The business plan contains proprietary details and is therefore not included as an attachment to this staff report).

Security Plan

The applicant provided a professionally prepared security plan for the proposed retail cannabis establishment. The City's cannabis consultant reviewed the security plan and determined that appropriate security measures were included to address the City's security requirements pursuant to CMMC Title 9, Chapter VI, and State law.

Since the security plan contains sensitive operational details that require limited public exposure to remain effective, the plan is not included as an attachment. However, the following is a list of general security measures that are addressed/required for the proposed cannabis retail establishment:

- At least one security guard will be on-site 24-hours a day;
- All employees must pass a "Live Scan" background check;
- City-issued identification badges are required for employees;
- An inventory control system shall be maintained;
- Exterior and interior surveillance cameras shall be monitored and professionally installed;

- An alarm system shall be professionally installed, maintained, and monitored;
- Surveillance footage must be maintained for a minimum of 90 days;
- Cash, cannabis, and cannabis products shall be kept in secured storage areas;
- Sensors shall be installed that detect entry and exit from all secured areas;
- Security lighting (interior and exterior) shall be installed;
- Emergency power supply shall be installed;
- Employees shall be trained for use with any/all emergency equipment;
- Employees and vendors will be trained regarding cash and operational protocols;
- Visitor/customer specific security measures shall be required; and
- All facility entry and exit points and locations where cash or cannabis products are handled or stored shall be under camera surveillance.

Parking and Circulation

Retail cannabis uses are subject to the same parking ratio requirement as other retail establishments in the City (four spaces per 1,000 square feet of gross floor area). Based on this ratio, the proposed 2,446-square-foot facility is required to provide ten onsite parking spaces. With proposed demolition of the unpermitted rear structure and parking lot re-striping, the proposed project includes ten vehicular parking spaces that would serve the proposed cannabis retail facility. Pursuant to the CMMC, the proposed bike rack would credit the site with one additional and surplus parking space.

The site is accessed from Harbor Boulevard via only right-hand turns. This section of Harbor Boulevard is developed with a raised, planted center median which restricts left-hand turns into the site. As a result of the existing building location, the existing/proposed access driveway is 11 feet, 11 inches wide and therefore can only accommodate a single vehicle for site ingress or egress. The driveway and aisle width are legal non-conforming. Staff previously identified the narrow driveway as a circulation concern with the applicant and the applicant has responded by agreeing to provide a parking attendant to ensure that customer access to the site parking will not result in queuing on Harbor Boulevard. In order to prevent circulation impacts on Harbor Boulevard, staff has included a condition of approval that requires the applicant to provide a minimum of one parking attendant on-site during business hours. The parking attendant will monitor the driveway and be stationed near Harbor Boulevard to ensure that customers exiting the site will yield driveway access to customers entering the site. In addition, the condition requires that the parking attendant be equipped with a two-way radio to the staff person monitoring the facility's entrance/exit door to inform the parking attendant when customers are leaving the facility. Lastly, the parking attendant will be provided signage to alert customer's when the parking lot is full. The proposed condition requires that the parking attendant be provided for the first six-months from business opening and that after that time, the applicant may request that staff consider elimination of this requirement if conditions do not warrant the further need for the site parking attendant (see Operational Condition of Approval No. 8.).

As with many new uses and based on many factors that are difficult to quantify, it is difficult to anticipate the precise parking demand for a new use; however, if parking shortages or other parking-related problems occur, the business owner or operator will be required to monitor the parking lot and institute appropriate operational measures necessary to minimize or eliminate the problem in a manner deemed appropriate by the Director of Economic and Development Services (see Operational Condition of Approval No. 6). Examples of parking demand management techniques include, but are not limited to, modification of business operating hours, offering an employee shuttle service, and incentivizing employee carpooling/cycling/walking. The applicant could also investigate if

off-site parking opportunities exist nearby that can be used by employees during the establishment's initial opening period. The applicant operates two Measure X facilities in the City and is exploring options for an employee shuttle between those facilities and the retail storefront.

Traffic

CMMC Section 13-275(e) indicates that any increase in traffic generation by a change of use that is required to obtain a discretionary permit, shall be subject to review by the appropriate reviewing authority which may impose fees to address increased trip generation. If required, the fee collected is used to fund the City's comprehensive transportation system improvement program. The purpose of the program is to ensure that the City's transportation system has the capacity to accommodate additional trips.

The Transportation Services Division determined that the appropriate average daily trips (ADT) for a cannabis retail establishment is approximately 108 trips per 1,000 square feet based on the Institute of Transportation Engineers (ITE) 11th Edition Trip Generation Manual for a pharmacy/drug store. The City's traffic review focuses on net trip increase and therefore the ADT for the previous/existing use(s) is credited (subtracted) from the proposed use ADT to estimate potential changes in trip generation. Staff analyzed the ADT of the existing/previous automotive uses and compared that with the proposed retail cannabis use ADT. CMMC Section 13-275(a), specifies that "a traffic impact study shall be required for all development projects estimated by the Public Services Department to generate one hundred (100) or more vehicle trip ends during a peak hour." Staff determined that the proposed project does not meet the threshold for requiring a traffic study. However, the proposed use would be subject to a traffic impact fee. The estimated traffic impact fee is approximately \$29,000. The fee calculation would be finalized during the building permit plan check process and must be paid prior to building permit issuance.

Odor Attenuation

Generally, cannabis products would arrive in tamper and odor-resistant packaging and remain unopened until consumption. The proposed HVAC system would utilize industry-standard activated carbon filter equipment to completely filter the air. HEPA air purifiers would also be used to minimize odor. As conditioned, the operator must replace the air filters at regular intervals, as directed in the manufacturer specifications. The facility also features an enclosed lobby and an enclosed non-cannabis sales area that separates the retail sales floors and limited access areas from the public entrance. These divided rooms provide additional odor barriers that will assist in minimizing potential exterior cannabis odor. Lastly, as conditioned, 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.

GENERAL PLAN CONFORMANCE:

The Costa Mesa General Plan establishes the long range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa for the next two decades. This vision focuses on protecting and enhancing Costa Mesa's diverse residential neighborhoods, accommodating an array of businesses that both serve local needs and attract regional and international spending, and providing cultural,

educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan.

The following analysis evaluates the proposed project's consistency with applicable policies and objectives of the 2015-2035 General Plan.

1. **Policy LU-1.1:** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services and employment opportunities in consideration of the need of the business and residential segments of the community.*

Consistency: The proposed use would provide a new entrepreneurial business in Costa Mesa located within a commercial area as allowed under Measure Q, and provides new goods and services and new employment opportunities in the community.

2. **Objective LU-6B:** *Encourage and facilitate activities that expand the City's revenue base.*

Consistency: Retail cannabis uses are expected to generate increased tax revenues in that cannabis sales are subject to a seven-percent local tax on gross receipts. Approval of the proposed cannabis retail storefront would allow business operations that would expand the City's revenue base. This revenue can then be used for community services and infrastructure improvements that serve the community.

3. **Policy LU-6.15:** *Promote unique and specialized commercial and industrial districts within the City which allow for incubation of new or growing businesses and industries.*

Consistency: The proposed use is part of the specialized and growing cannabis industry that is limited in the surrounding region. Approval of this CUP would facilitate a new local business opportunity in a specialized and expanding industry.

REQUIRED FINDINGS:

Pursuant to Title 13, Section 13-29(g), Findings, of the Costa Mesa Municipal Code, in order to approve the project, the Planning Commission must find that the evidence presented in the administrative record substantially meets specified findings as follows:

- *The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.* The subject site is located within a commercial zone (C1, Local Business District) where commercial development is specifically allowed to include retail storefronts. The property is located on one of the City's primary commercial corridors and surrounded by commercial uses. Pursuant to the CMMC, cannabis retail storefronts are permitted uses in the City's commercial zones and are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties. Additionally, the proposed cannabis retail storefront use is not located within 1,000 feet of a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600

feet of a youth center. All retail sales would take place underroof and no outdoor storage or sales are proposed, nor would be allowed. Staff does not anticipate that the proposed cannabis use would be materially detrimental to the adjacent uses that include automotive-related establishments and upholstery. The proposed use would also not be materially detrimental to the properties located behind the subject property as these uses are divided from the property by fencing and involve vehicle storage. Lastly, the proposed licensed premise would be located more than 300 feet from the closest residentially zoned property. As proposed and conditioned, the retail cannabis use would be compatible with adjacent commercial properties and in compliance with local and State requirements.

- Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood. The proposed cannabis retail storefront would follow safety measures detailed in a professionally-prepared security plan. The security plan was evaluated for compliance by the City's cannabis consultant, HdL. Measures designed to maintain safety at the site include, but are not limited to, at least one security guard would be onsite at all times, and security devices shall be installed before operation. Examples of security devices include window and door alarms, motion-detectors, limited access areas, and a monitored video surveillance system covering all exterior entrances, exits, and all interior limited access spaces. In addition, the business employees, including part-time staff, must pass a Live Scan background check and obtain an identification badge from the City. The conditions of approval including, but not limited to, the aforementioned security measures are intended to ensure that the use would not be materially detrimental to the health, safety and general welfare of the public or be otherwise injurious to property or improvements within the immediate neighborhood. In addition, the conditions of approval include the requirement for a parking attendant to monitor driveway access and parking conditions to ensure appropriate onsite circulation and access from Harbor Boulevard.
- Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property. The proposed retail use is located within an existing commercial building on a property that has a General Plan land use classification of "General Commercial." No additional square footage is proposed; therefore, approving the CUP would not increase site intensity. If approved, the proposed project would reduce existing nonconformities such as floor area ratio, insufficient parking, absence of landscaping, and lack of trash enclosure. As stated in the General Plan Land Use Element, the City's commercial designations "accommodate the full range of commercial activity present and desired in Costa Mesa." The use is consistent with General Plan policies related to providing a mixture of commercial goods, services, and employment opportunities; expanding the City's tax base; and promoting the incubation of unique and specialized businesses.

ENVIRONMENTAL DETERMINATION:

The project is categorically exempt from the provisions of 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 project site contains an existing building that has been used for commercial activities and the application does not propose an increase in floor area or otherwise

expand the prior commercial use. The proposed use is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with the applicable zoning designation and regulations.

ALTERNATIVES:

The Planning Commission has the following decision alternatives:

1. **Approve the project.** The Planning Commission may approve the project as proposed, subject to the conditions outlined in the attached Resolution.
2. **Approve the project with modifications.** The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If any of the additional requested changes are substantial, the hearing should be continued to a future meeting to allow a redesign or additional analysis. In the event of significant modifications to the proposal, staff will return with a revised Resolution incorporating new findings and/or conditions.
3. **Deny the project.** If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application, provide facts in support of denial, and direct staff to incorporate the findings into a Resolution for denial. If the project is denied, the applicant could not submit substantially the same type of application for six months.

LEGAL REVIEW:

The draft Resolution and this report have been approved as to form by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to Title 13, Section 13-29(d) of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

As of the date this report was circulated, one written comment has been received and is attached to this report. Any other public comments received prior to the June 13, 2022 Planning Commission meeting will be provided separately.

CONCLUSION:

The proposed project is a retail cannabis storefront business on an existing developed commercial property that is located on one of the City's commercial corridors and meets the separation requirements established in CMMC 13-200.93(e). Staff and the City's cannabis consultant completed the Application Determination, Business Plan and Security Plan evaluations, owner background checks, and thoroughly reviewed the CUP materials. If approved, the operation would be required to comply with all conditions of approval and extensive local and State regulations.

If the Planning Commission approves the project, the applicant would next obtain building permits, complete tenant

improvements, and pass City inspections prior to obtaining a CBP and City Business License. The CBP is valid for two years and must be continuously renewed, including inspections, prior to expiration. During each two-year CBP period, the Community Improvement Division, along with other City staff, conduct site inspections to verify that the operation complies with CUP and CBP requirements. Violations identified during site inspections may be grounds for revocation of issued permits or non-renewal of a CBP.

As proposed and conditioned, the use would be consistent with other commercial uses in the C1 zone, the Zoning Code, the City's General Plan. In addition, the required findings for the CUP can be made, as described above. Therefore, staff recommends approval of Planning Application 21-21 subject to conditions of approval.