



Legislation Text

File #: 22-726, Version: 2

TITLE:

PLANNING APPLICATION 21-22 FOR A RETAIL CANNABIS STOREFRONT BUSINESS WITH DELIVERY LOCATED AT 2301 NEWPORT BOULEVARD

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

PRESENTED BY: MICHELLE HALLIGAN, CONTRACT PLANNER

**CONTACT INFORMATION: MICHELLE HALLIGAN, 714-754-5608,
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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 21-22, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT:

The applicant/authorized agent is Devon Julian of Culture CM Newport Street, LLC, on behalf of the property owner, Sweet Inspirations.

BACKGROUND:

The subject half-acre property is located at 2301 Newport Boulevard and is situated west of the SR-55 Freeway, east of Fairview Road, north of Victoria Street, and south of Wilson Street. The site is zoned C2 (General Business District) and is surrounded by C2 and C1 (Local Business District) zoned properties. The site has a General Plan Land Use Designation of General Commercial.

Existing development on the site consists of a one-story 3,607-square-foot commercial building with landscaping, a patio cover at the rear of the building, a trash enclosure, and 23 surface parking stalls. Currently, half of the building is occupied by the Newport Cosmetic Center and the other half is vacant. The remainder of the building was previously occupied by a massage use (closed in 2019) and a medical use (closed in 2016). The proposed retail cannabis storefront use with delivery, "Cannabis Culture Club," would occupy the entire building. The existing site development complies with the General Plan in regard to floor area ratio (FAR) in that the maximum FAR is 0.20 and the existing/proposed FAR is 0.15. In addition, the site complies with the Costa Mesa Municipal Code (CMMC) in regard to setbacks, and as proposed the project is in compliance with the CMMC required

landscaping.

The surrounding uses include a large multi-tenant office building to the north, several automotive uses to the south (car wash, gas station, and smog check), a United States Post Office and retail store (Dollar Tree) to the west, and Newport Boulevard and the 55 Freeway located to the east. The Assistance League offices and consignment shop are located southwesterly of the proposed use and accessed from Fairview Road. The adjacent post office, retail store and the Assistance League sites are separated from the proposed use by a block wall/fencing and are generally inaccessible from the subject site located on Newport Boulevard.

There are no open 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 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 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 (specifically described in this report under "Separation Requirements"). 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 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 21-22 is a request for a CUP to allow retail cannabis business within an existing 3,607-square-foot commercial building located at 2301 Newport Boulevard. The affiliated State license types are Type 10 "storefront retailer" and Type 9 "non-storefront retailer" (delivery). Upon

approval of a CUP, CBP, City Business License, and State licenses, the business would sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite, and via delivery to private addresses, subject to conditions of approval and other City and State requirements.

ANALYSIS:

Conditional Use Permit Required

Pursuant to Costa Mesa Municipal Code (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 and non-storefronts (delivery) in a commercial zone. The subject site is located within a commercial zone (C2, General 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 275 feet away across Fairview and/or Wilson Street. 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

The existing building façade and exterior site improvements are in relatively good condition and do not require significant upgrades. The applicant proposes to update the building façade by replacing the rounded columns at the front of the building with existing rectangular design features, replacing the stucco, painting, and adding planter boxes along the front building façade. The applicant also proposes to improve the site by replacing the woodchip ground cover in the existing landscape areas with living plants, adding a bicycle rack to encourage multi-modal transportation, restriping the parking lot to comply with the City's parking design standards, removing a dilapidated and unpermitted rear patio cover, and replacing existing rear security gates. 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).

Interior Tenant Improvements

The proposed cannabis retail business includes an interior reception room, retail sales area (including four check-out stands with one dedicated to mobile order pick-ups), and "back-of-house" areas. Back-of-house areas include limited access storage, delivery operations area, a security room, office, conference room, employee break room, restrooms, and a vendor receiving room. Below is a summary of the proposed floor area plan within the 3,607-square-foot building.

Operational Area	Square Feet
Reception Room	283
Retail Sales Area	1,422

Storage/Delivery Area	497
Security Room	76
Office	135
Conference Room	145
Employee Break Room	224
Vendor Room	66
Bathrooms	94
Hallways	665
Total	3,607

Customer and Employee Access

Customers would only be allowed in the reception room and retail sales area. All other areas of the premises would be limited access areas and accessible only to employees with the proper security credentials. Customer access to the proposed establishment includes entering the licensed premise through the front entrance doors that connect directly to the reception room. A greeter employee would then verify the customer's identity and age before allowing the customer to enter the retail sales area. After a customer's identity and age is checked, and they complete their transaction, they must leave the premise. As further conditioned, a security guard would monitor the area at all times to ensure that customers are following regulations.

Employees would enter through an access-controlled "employee-only" entrance in the front of the building. When loading and unloading delivery vehicles and vendor vehicles, employees would enter through the access-controlled entrance in the front or an access-controlled door located at the rear of the building. Vendors would only enter through either access-controlled doors while accompanied by an employee. The distance from the controlled access doors and the delivery vehicle loading areas ranges from 45 to 100 feet. The access doors, path of travel and delivery vehicle loading areas would be under camera surveillance and deliver loading/unloading will be monitored at all times by the on-site security guard.

Storefront/Delivery Operations

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

- Display State license, CBP, and City business license in a conspicuous building location;
- Hours of operation are limited to 7:00 AM to 10:00 PM daily;
- Deliveries of cannabis goods to the storefront location 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 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 area after their age and identity has 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
 - 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 and remain with them throughout the process.
- Cannabis goods to be sold at this establishment (either storefront or delivery) 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-evident and child-resistant; if packaging contains multiple servings, the package must also be re-sealable;
- When processing orders for cannabis delivery, employees will collect the pre-packaged materials, load products into a secured container and transport the containers to delivery vehicles outside the building. Video surveillance cameras will be installed with direct views of the loading and unloading area and the security guard will monitor all outside vehicle loading/unloading until the delivery vehicle leaves the site;
- Cannabis deliveries must be made in-person by an employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered employed by the licensed retailer;
- The applicant shall maintain proof of vehicle insurance for any and all vehicles being used to deliver cannabis goods;
- During delivery, the employee shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers;

- A delivery employee shall not leave the State of California while possessing cannabis products and while performing his/her duties for the cannabis retailer;
- The business shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, the cost thereof and any other information required by the State;
- Any delivery method shall be made in compliance with State law, as amended, including use of a vehicle that has a dedicated global positioning system (GPS) device for identifying the location of the vehicle (cell phones and tablets are insufficient);
- Signs, decals or any other form of advertisement on the delivery vehicles are prohibited;
- Deliveries must be made to a physical address that is not on publicly owned land and cannot be a school, a day care, homeless shelter, or a youth center; and
- A cannabis delivery employee shall not carry cannabis goods valued in excess of \$5,000 at any time, with no more than \$3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.

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:

- Multiple security guards will be onsite during business hours;
- At least one security guard will be on-site 24-hours a day;
- All employees, including drivers, 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;
- Delivery drivers shall be trained on delivery safety protocols;
- Employees and vendors will be trained regarding cash and product transportation protocol;
- Visitor/customer specific security measures shall be required;
- All facility entry and exit points and locations where cash or cannabis products are handled or stored shall be under camera surveillance;
- The applicant shall submit a list of all vehicles to be used for retail delivery purposes to the Costa Mesa Police Department. The list shall identify the make, model, color, license plate number, and registered owner of each vehicle. The applicant shall submit an updated vehicle list each quarter with the required quarterly update to the employee roster pursuant to the CBP.
- State license Type 9 delivery vehicle drivers shall be at least age 21, have a current driver's license, successfully complete a live scan, and have a City-issued badge; and
- The business operator shall ensure that all delivery vehicles are properly maintained, all delivery drivers have a good driving record, and each driver conducts a visual inspection of the vehicle at the beginning of a shift.

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 3,607-square-foot facility is required to provide 14 onsite parking spaces. The subject property includes an existing surface parking lot with 23 parking spaces and therefore maintains a surplus of nine parking spaces. However, after re-striping the lot to meet the City's parking design standards, the parking lot would provide 22 parking spaces. The proposed bike racks would be credited as one additional parking space. The proposed use would occupy the entire building, therefore all parking spaces would serve the retail cannabis business.

The site is developed with two ingress/egress access driveways from Newport Boulevard. Newport Boulevard at this location is limited to a one-way southerly direction and therefore only right-hand turns into the site are possible. The site parking lot also includes an access driveway to the adjacent property located to the south.

During business hours, delivery vehicles and vendor vehicles would use the following areas for loading/unloading: (1) in a loading area located at the rear of the building, (2) in two employee-only surplus parking stalls located closest to the trash enclosure, and/or (3) in the surplus parking stalls located closest to the access-controlled employee door in the front of the building. As indicated above, the site has surplus parking and therefore the parking lot is not expected to be impacted when delivery or vendor vehicles are onsite. During certain hours, specifically in between deliveries and overnight, up to three delivery vehicles would be parked onsite.

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 Conditions" of Approval No. 7 in the attached Resolution). Examples of parking demand management techniques include, but are not limited to, reducing operating hours of the business,

hiring an employee to monitor parking lot use and assist with customer parking lot circulation, encouraging customers to take advantage of delivery service instead of store visits, limiting the number of employees that park onsite, 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.

Traffic

The 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 medical office 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 use 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 \$58,000. The fee calculation would be finalized during the building permit plan check process and must be paid prior to building permit issuance.

Odor Attenuation

Cannabis products would arrive in tamper-evident, odor-resistant packaging and remain unopened until consumption. However, a minimal amount of cannabis product would be removed from packaging for display purposes and would be placed in tamper-evident, transparent display containers. The proposed HVAC system would utilize industry-standard "Can-Filters" brand fan and activated carbon filter equipment to completely filter the interior's building air every 20 minutes. As conditioned, the operator must replace the air filters at regular intervals, as directed in the manufacturer specifications. The facility also features an enclosed reception room that separates the retail sales floor and limited access areas from the public entrance. This room provides an additional odor barrier that will assist in minimizing potential 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 significant tax revenues in that cannabis sales are subject to a seven-percent local tax on gross receipts. Approval of the proposed cannabis retail storefront with delivery 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 (C2, General Business District) where commercial development is specifically allowed to include retail storefronts. In addition, 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 and non-storefronts (delivery) 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 a multi-tenant office building. 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 are accessed from Fairview Road. Lastly, the proposed retail cannabis use would replace existing commercial uses, and is located more than 275 feet from the closest residential 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 with delivery use 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, multiple security guards would be on site during business hours, 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 delivery drivers and part-time staff, must pass a live scan background check and obtain an identification badge from the City. The conditions of approval include, but are not limited to, the aforementioned security measures 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.
- 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. 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 project is consistent with the applicable General Plan land use designation and policies as well as with the applicable zoning designation and regulations.

ALTERNATIVES:

In making the project decision, 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 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, no written public comments have been received. Any 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 with delivery at an existing developed commercial property that is located on one of the City's commercial corridors and meets 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 City 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 C2 zone, the intent of the Zoning Code, the City's General Plan, and the Costa Mesa Retail Cannabis Tax and Regulation Measure (Measure Q). In addition, the required findings for the CUP can be made, as described above. Therefore, staff recommends approval of Planning Application 21-22 subject to conditions of approval.