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CITY OF COSTA MESA
BY BG

- Appeal of Planning Commission Decision:
 - \$1,220.00 (Tier 1)¹
 - \$3,825.00 (Tier 2)²
- Appeal of Non-Planning Commission Decision:
 - \$690.00 (Tier 1)¹
 - \$3,825.00 (Tier 2)²

APPLICATION FOR APPEAL OR REVIEW

Applicant Name*
Address
Phone

MARK LES
1525 MESA VERDE DR. E. #209, CM, CA 92626

REQUEST FOR: APPEAL REVIEW**

Decision of which appeal or review is requested: (give application number, if applicable, and the date of the decision, if known.)

PA-22-05 August 14, 2023

Decision by:

Reasons for requesting appeal or review:

(SEE ATTACHED)

Date: 8/21/23

Signature: [Handwritten Signature]

¹If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
²Review may be requested only by the City Council or City Council Member.

For office use only – do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If appeal or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal or review

¹ Includes owners and/or occupants of a property located within 500 feet of project site (excluding owners and/or occupants of the project site).
² Includes the project applicant, owners and/or occupants of the project site, and owners and/or occupants of a property located greater than 500 feet from the project site.

I am writing to appeal Planning Commission's approval of PA-22-05, a retail cannabis business, at 1505 Mesa Verde Drive East. My name is Mark Les, owner and property manager of the property located next door to the applicant at 1525 Mesa Verde Dr. E., also known as Mesa Verde Plaza. I am a 62-year resident of Mesa Verde and have owned and managed Mesa Verde Plaza for over 32 years.

The City of Costa Mesa's Mission Statement is to "[serve] our residents, businesses, and visitors while promoting a safe, inclusive and vibrant community." The Planning Commission's decision to approve PA-22-05 will have results contrary to that stated objective because of its detrimental impact on the following:

- 1. Detrimental to the 45 mostly small family friendly businesses at Mesa Verde Plaza.**
- 2. Detrimental to attracting future desirable tenants to Mesa Verde Plaza .**
- 3. Detrimental to parking at Mesa Verde Plaza.**
- 4. Detrimental to security in Mesa Verde Plaza and surrounding neighborhood.**
- 5. Detrimental to sustainable community development**

1. Detrimental to the 45 mostly small family friendly businesses at Mesa Verde Plaza.

Mesa Verde Plaza has a long history of **NOT** accepting businesses detrimental to a family atmosphere. Over the years I have made the decision to turn down leasing to potential uses such as; retail cannabis, massage, tattoo, Hookah, smoke shops etc. As a result, my tenant mix is comprised of virtually all family and youth-oriented uses. Current tenants appealing to minors include an Art School, a Music School, a home school enrichment program, escape rooms used for birthday parties, a Tae Kwon Do studio, a U.S. Marines recruitment office for high school students and a college prep school. None of these uses would likely come to my property today if there was a retail cannabis location right next to my property and this use may negatively impact their ability to attract new customers.

Retail cannabis is not a good mix for vibrant multi-tenant properties like Mesa Verde Plaza and this is why you do not see these uses in busy multi-tenant centers with low vacancy. Virtually **NONE** of the 25 or so retail cannabis in Costa Mesa are adjacent to or located within multi-tenant centers primarily serving children and families. Most of these new businesses are in areas that serve more adult uses or dilapidated buildings that have a tough time leasing.

Like any other adult oriented business, retail cannabis creates a stigma in the surrounding vicinity, preventing a family type atmosphere. I have been approached by over 100 cannabis businesses to rent at my center, some even willing to pay twice the going rate. The frequency which I receive these calls indicates that any shopping center of higher or similar quality are all unanimously turning down these uses. What you have seen is a mad scramble by retail cannabis to find buildings that would accept their use. This is a clear sign that retail cannabis is especially toxic to tenant mixes, and when it exists in a single tenant application like the one referenced here, the City should be careful and protective of the impact on surrounding properties and businesses within them.

The current Code restricts cannabis from 1,000 feet from K-12 education. The ballot measure voters were presented with, allowed for retail cannabis with "certain requirements." Voters would have

reasonably concluded that “certain requirements” would be similar to the Green Zone previously approved for cannabis R&D contained to an area on the other side of the 405 freeway away from residences and multi-tenant family neighborhood centers.

The California Health & Safety Code 11362.768 has restrictions on cannabis businesses locating within 600 feet of a “School”. “School” is defined as any public or private school providing instruction in kindergarten or grades 1 -12.

It is unclear if businesses within my property such as the musical school Musika Studio, the art school Art Steps and others meet the strict definition of “School” as defined by both codes. I believe the intent is clear to keep cannabis uses away from gatherings of youth under 18 years of age, which is the case for at least seven of the small business in my property previously mentioned. While these businesses in my property may also serve adults, their core business is to serve youth onsite at similar or higher levels than the “school” uses the Code is trying to shield away from being near cannabis locations.

Most all of my tenants are modest “Mom & Pop” type tenants who tend to shy away from controversy involving City Government. Two of my more sophisticated tenants did craft lease clauses which prohibit any cannabis related businesses use in the center, knowing the potential impact being located in close proximity to a cannabis use would have on their own business. OC Education (a 16-year tenant) had such a use restriction and terminated their tenancy within weeks of learning of the proposed cannabis use at the proposed location and also filing a letter of objection. They did not cite cannabis as their reason for vacating, but the sequence of events is hard to ignore and likely factored into choosing to close this location knowing retail cannabis stores are beginning to proliferate in close proximity.

Other tenants may feel the cannabis so close to their business will be a stigma in attracting parents with children to their business and eventually simply leave without protesting the use. Unfortunately, unlike them, I cannot just simply pick up my center and relocate. If I could no longer attract the family type uses that have filled my center for over four decades, the remaining option would be to start catering to adult type uses, which would further degrade the family oriented neighborhood of Mesa Verde within Costa Mesa.

I once had a vape store tenant I thought would be a nice quiet tenant but turned out to be a disaster. Cars with loud music and customers with lots of time on their hands roaming around smoking vape and peering in to windows of youth-oriented uses created quite a disturbance and I had to re-tenant that use as soon as I was able. From what I have seen elsewhere I believe a cannabis use will bring the same type of issues.

2. Detrimental to attracting future desirable tenants to Mesa Verde Plaza.

The stigma of cannabis in a building that could easily be perceived as a part of my center will be a negative for future potential tenants in my property that want to appeal to family and children. As previously mentioned, two tenants were so against being located to any cannabis uses, they made it part of their Lease. I urge the City Council to consider why that would be? I have no other requests for

any other type of restricted business uses in any lease. The clear conclusion is that most tenants that serve families and youth would view any retail cannabis in close proximity as a disqualifying factor and look elsewhere likely outside the City. As more retail cannabis locations are approved in Costa Mesa, small businesses that cater to youths and families will choose to locate in other cities so that they are not in close proximity to retail cannabis and are not under threat of having a retail cannabis use open up next to them in the future.

Approval of this use at this location will prevent future educational tenants from considering locating at my property and other surrounding properties. If a retail cannabis storefront is located next to my property, I will never be able to lease again to OC Education, any other school, or any other similar use that has a restriction on how close they can be to cannabis uses. The Council should consider the first and second order effects this has on the family-oriented community of Mesa Verde.

A growing popular use are “micro schools” which are small private schools catering to 20 to 25 neighborhood students for parents looking for an alternative to public schools. This would make a perfect fit for the space OC Education is vacating. The California Health code cited earlier was meant to keep cannabis from locating near private schools but once cannabis is in it will now prohibit private schools from locating next to cannabis. This will eliminate a very lucrative potential use for my center and the businesses that would like to be near a private school.

3. Detrimental to parking at Mesa Verde Plaza

My parking lot is closer to the front door of the proposed cannabis store than the vast majority of their own spaces which are located **BEHIND** their building. Currently, customers of tenants from the building next door use my parking lot as it has easier access and is closer than the back spaces the neighboring property provides for its own visitors. Inevitably, since my parking lot is located right next to the street it will seem much safer than the spots they provide tucked in back of their building in a secluded area. Customers of the retail cannabis use will undoubtedly routinely use my parking lot when visiting the proposed store, perhaps in even higher frequency than is already done on a daily basis. This will not only impact my own parking availability but will place the customers of this proposed cannabis retail location in even closer proximity to the numerous family oriented small businesses in my center already mentioned. This cannabis use will also draw far more traffic than their current mix of small business tenants and I expect I would be negatively impacted by any over flow parking.

Another factor that will negatively impact parking is that the City will not allow a left turn coming from Harbor in to 1505 Mesa Verde. Rather than make an inconvenient U-turn, the easiest thing for visitors of this proposed location is to turn left in my center and park there to go to the cannabis store. While security at 1505 Mesa Verde will prohibit the use of their products on their property I can well imagine that those who use my lot will not feel this restriction. My business and the surrounding community will undoubtedly have to pay a cost for this.

4. Detrimental to security in Mesa Verde Plaza and surrounding neighborhood.

Over the past few years my security has documented about 80 incidents in the back-parking lot of 1505. Most of these involve groups of drug users loitering and using drugs where Costa Mesa Police were summoned. Most of these incidents happened after-hours when 1505 Mesa Verde will **NOT** have security present. I am not saying all retail cannabis customers will fit this profile, but it will certainly attract a small percentage that can cause a lot of security problems. The 7/11 on the other side has a long history of attracting vagrants and drug users, this use may well exacerbate that issue.

Also, my center sits between over 1,500 apartment units and 1505 Mesa Verde. My center is often a cut through for walking and bike traffic and I can imagine customers strolling over to buy product and sample their purchases as they head back. Even if smoking cannabis in public is against the law I do not think that will stop anyone in the mood on a leisurely stroll back home sampling their purchases while peering in to youth-oriented businesses on my walkways and corridors shielded from visibility from the public street. If this happens just a small amount I hope you can see what a detriment that would be to all the family and youth uses at my property.

5. Detrimental to sustainable community development

The proliferation of cannabis uses (25+) proposed for Costa Mesa is not a free market phenomenon, it is a regulatory bubble created by the fact that until recently this use was not legal and now only 4 of 34 Cities in Orange County allow retail cannabis. Since I believe Costa Mesa to be the most desirable retail climate of the four cities currently allowing its use, we are seeing it have the highest demand to open cannabis retail locations. In a free market you would not see a surge, for instance, of Italian restaurants open up at once in close proximity because they have always been legal and are not excluded from operating in surrounding communities. Costa Mesa has created a modern-day gold rush within its borders as retail locations are grossly concentrated within the City to serve customers in neighboring cities that exclude it's use. The Costa Mesa Code should have restricted cannabis retail uses to appropriate zones, like the R&D measure, rather than dotted all over our main arteries as they do not reflect local community demand.

While many in our community responsibly use cannabis for many reasons including medical and even though it is now legal in California it is still against Federal Law. Because of this many cannabis business can't use traditional banks and rely on high volumes of cash transactions. This makes them much more of a mark for robberies and why they have armed guards patrolling outside their locations. This is very disconcerting look for a local neighborhood block.

A proposed retail cannabis use was recently turned down at the corner of Harbor & Adams for the same concerns of being close to just one youth-oriented business. Concentrating too many of these uses in one small block will result in an unsustainable growth of retail cannabis while the surrounding community is further degraded. Family oriented small business will choose to leave the surrounding community for more family-friendly locations and other new small businesses will never consider locating in Mesa Verde. This will create a long term, long lasting effect of the community of Mesa Verde as the businesses that do choose to operate next to retail cannabis uses will not be the same as the ones that have served this family community for its entire history.

In the last couple of years in addition to the many youth-oriented businesses at Mesa Verde Plaza two private elementary schools have opened up on Adams just outside the 1,000-foot restriction. These businesses all show that the regeneration of the Mesa Verde community is focused on the growth of families with children in the area.

Conclusion

The approval of the retail cannabis use next door to my center would have a significant negative impact on my ability to keep and attract the type of uses my center thrives on, and what creates the vibrant family community Costa Mesa prides itself on. The operator should be able to find another location in the City to open their business which would be more compatible to their use while being away from such a high concentration of family uses. The building owner at 1505 Mesa Verde stated they were previously approved to build subterranean parking at this location to complement their adjacent car lot on Harbor. It was only after he was approached with an attractive offer from this proposed cannabis location that he scraped those plans. The extension of their car lot is considerably more compatible with the neighborhood than this proposed use.

I also feel the Code related to cannabis should be revised to provide more restrictions on where these uses can locate. The ballot text seemed to imply that more restrictions would be applied to retail locations than what is currently being done today . This proposed location is slated to be the fourth large cannabis store in our immediate block and very close to many residential units. Other Cities have restrictions on not being this close to residential. I don't think local neighbors envisioned this concentration of retail cannabis storefronts when they approved the measure. It would have been hard to imagine that when cannabis was approved by the voters that our City would become the cannabis capital of Orange County. Sadly our Harbor Blvd. of Cars is turning in to the Harbor Blvd. of cannabis.

As the owner of a multi-tenant property I can tell you tenant mix is CRITICALLY important to success and this applies much more so to the City at large, it's why we have a Planning Department. At the Planning Department vote I felt the majority of the members were sympathetic to my cause but they stated they were just following the Code as written. I respect their dedication to adhering to this code, but in this case I believe the Planning Commission had the authority to make a decision to serve the community's best interest and protect the interests of Mesa Verde Plaza and its 45 mostly small businesses. The Planning Commission and City Council should carefully consider what this approval will mean for the community of Mesa Verde, the City of Costa Mesa and Mesa Verde Plaza both now and in the future. The decisions made today will heavily impact and shape the nature of this community for many years to come.

Thank you for considering my appeal and if any council members would like to discuss further or meet on site I would enjoy the opportunity to discuss further. My cell is (714) 914-4740.



