



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: APRIL 24, 2023

ITEM NUMBER: PH-2

**SUBJECT: PLANNING APPLICATION 22-02 FOR A RETAIL CANNABIS
STOREFRONT BUSINESS LOCATED AT 1860 NEWPORT
BOULEVARD, UNIT B (1860 NEWPORT PROJECTS, LLC)**

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

PRESENTATION BY: MICHELLE HALLIGAN, CONTRACT PLANNER

**FOR FURTHER INFORMATION MICHELLE HALLIGAN
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RECOMMENDATION

Staff recommends the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Class 1) Existing Facilities; and
2. Approve Planning Application 22-02, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT

The applicant/authorized agent is Christopher Glew on behalf of 1860 Newport Projects, LLC and the property owner, Seidner LP.

PLANNING APPLICATION SUMMARY

Location:	1860 Newport Boulevard, Unit B	Application Number:	PA-22-02
Request:	Planning Application 22-02 for a Conditional Use Permit for the establishment of a cannabis retail storefront in the C2 (General Business District) zone.		

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone:	C2 (General Business District)	North:	C2 (General Business District)
General Plan:	General Commercial	South:	C2 (General Business District)
Lot Dimensions:	176' x 50'	East:	R2-HD (Multiple-Family Residential District, High Density)
Lot Area:	8,800 sq. ft.	West:	PDC (Planned Development Commercial)
Existing Development:	2,335 sq. ft. one-story commercial building		

DEVELOPMENT STANDARDS COMPARISON

Development Standard	Required/Allowed C2 Zone	Provided/Proposed
Building Height	2 stories/30'	1 story/17'-9"
Setbacks		
Front	20'	3'-2" ¹
Side	15'/0'	0'/0' ¹
Rear	0'	105'
Landscape Setback – front	20'	1'-6" ¹
Parking	9	13
Floor area ratio (FAR)	0.20	0.27 ¹
¹ The existing front setback, side setbacks, landscaping, and floor area ratio are legal nonconforming.		
CEQA Status	Exempt per CEQA Guidelines Section 15301 (Existing Facilities)	
Final Action	Planning Commission	

BACKGROUND

The subject site is an 8,800-square-foot property located at 1860 Newport Boulevard, generally bound by Flower Street to the north, an alley to the east, and Broadway to the south. The site has a General Plan land use designation of General Commercial. The site is zoned C2 (General Business District) and is surrounded by C2 properties to the north and south, and R2-MD (Multiple-Family Residential District, Medium Density) properties to the east (across an alley). The development located westerly of the site (across Newport Boulevard) is the “Triangle Square” shopping center which is zoned Planned Development Commercial (PDI).

Existing development on the subject property consists of a one-story, 2,335-square-foot commercial building oriented toward Newport Boulevard with a parking lot located at the rear of the property with direct access from an alley. Currently the entire building is occupied by a jewelry and watch retailer with pawnbroker services. Previously there

were two tenant spaces in the building and as currently proposed, would be returned to the prior two-tenant configuration. The proposed retail establishment, “Newport Leaf” would occupy Unit B, a 925-square-foot tenant space and the existing pawn, jewelry, and watch repair business would downsize and remain in Unit A. There are no open Code Enforcement cases on the property.

The subject property is located on one of the City’s primary commercial corridors. Other existing uses along this block of Newport Boulevard include, but are not limited to, restaurants, specialty shops, a grocery store, bowling alley, and a movie theater.

Previous Approvals

On October 27, 2008, the Planning Commission approved Planning Application 08-24 to allow pawnbroker services at 1860 Newport Boulevard as an ancillary use to watch and jewelry sales. Pursuant to CMMC Section 13-30 and subject to the approval of the Planning Commission, a CUP is required to establish pawnbroker services in the C2 zone.

Staff Report:

<http://ftp.costamesaca.gov/costamesaca/planningcommission/agenda/2008/2008-10-27/102708PA0824Notice.pdf>

Non-Conforming Development

The existing development is legal nonconforming in terms of floor area ratio, front setback, side setbacks, and landscaping, and therefore is subject to the nonconforming provisions of the Costa Mesa Municipal Code 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.

Improvements would be made to bring this structure into compliance with current building and safety codes; however, and as specifically allowed by the CMMC, the existing site nonconformities can remain pursuant to the City’s legal nonconforming provisions. The proposed use would not increase the building square footage, and therefore the floor area ratio would not increase. The existing legal nonconforming front setback would not change; however, the applicant is proposing to improve the front setback with additional landscaping. Landscaping enhancements, including several trees, are proposed in the parking lot to bring the site into greater 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 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.

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 and obtain State approval before 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 application complies with the City’s 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 Works 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 (every two-years) 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, and then ultimately obtain the applicable license from the State Department of Cannabis Control (DCC) prior to operating.

Cannabis retail businesses are subject to a City established seven-percent gross receipts tax, which must be paid to the City of Costa Mesa’s Finance Department. Records and revenues are audited annually by the Finance Department and HdL Companies.

DESCRIPTION

Planning Application 22-02 is a request for a CUP to allow a retail cannabis storefront in an existing commercial building at 1860 Newport Boulevard. The affiliated State license is a Type 10 “storefront retailer” license. If the CUP is approved and the operator also obtains a CBP, City Business License, and State license, the business would be allowed to sell pre-packaged cannabis and pre-packaged cannabis products directly to customers onsite, subject to conditions of approval and other City and State requirements. The applicant is not proposing non-storefront retail (delivery to customers) from this location.

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 in a commercial zone. To obtain a CUP, an applicant must show that the proposed use is compatible with the City's applicable zoning and General Plan provisions/policies, and will not be detrimental to public health, safety, and welfare.

The subject site is located within a commercial zone (C2 – General Business District) where commercial development is allowed to include retail storefronts. As defined in the CMMC, “this district is intended to provide for those uses which offer a wide range of goods and services which are generally less compatible with more sensitive land uses of a residential or institutional nature.” Pursuant to the CMMC, cannabis retail storefronts are subject to extensive regulation (as specifically described in this report). These regulations are adopted to prevent land use inconsistencies with adjacent properties (including residential and institutional). Pursuant to the CMMC, the approval of a CUP requires that the Planning Commission make findings related to neighborhood compatibility, health and safety and land use compatibility. Proposed uses subject to CUPs will generally have site-specific conditions of approval to ensure the required findings can be met. A detailed project analysis regarding CUP findings is provided below in this report.

Separation Requirements

CMMC Section 13-200.93(e) stipulates that no cannabis retail storefront use shall be located within 1,000 feet from a K-12 school, playground, licensed child daycare, or homeless shelter, or within 600 feet from a youth center as defined in CMMC Title 9, Chapter VI, Section 9-485, that is in operation at the time of submission of a completed cannabis business permit application. All separation distances are measured in a straight line (“as the crow flies”) from the “premises” (with the exception of playgrounds), where the cannabis retail use is to be located, to the closest property line of the sensitive use(s). (For playgrounds, the property line is a 30-foot radius from the exterior physical boundaries of the playground equipment area.) Premises is as defined in the State's Business and Professions Code Section 26001 as *the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.* Therefore, the premises only include the retail cannabis activity areas (including sales, storage, back-of-house and/or other ancillary areas) and excludes the parking lot and other areas that are not part of the area licensed by the State for commercial cannabis activity. The subject site complies with the required separation from sensitive uses.

Exterior Tenant Improvements

The applicant proposes minor updates to the building façade. Other proposed exterior improvements include:

- Enhancing the existing planter boxes in the front setback;
- Restriping the parking lot to comply with the City’s Parking Design Standards (refer to the parking discussion below);
- Improve the site landscaping to bring the property into closer conformance with the CMMC landscape requirements. New landscaping planters, including 24-inch box size trees and living ground cover, would be installed in the parking lot. A preliminary landscaping plan was provided. A detailed landscaping plan would be reviewed during the building plan check process for consistency with the conceptual plan as conditioned, should the CUP be approved;
- Installation of security lighting and surveillance cameras. A preliminary photometric study was provided. Should the CUP be approved, a detailed lighting and photometric plan will be further reviewed during the building plan check process, as conditioned; and
- New business signs. Proposed business signs would be reviewed and permitted separately per the City’s sign code requirements. Pursuant to Condition of Approval No. 6 (Prior to Issuance of Building Permits), business signage shall not include references to cannabis, whether in words or symbols.

Interior Tenant Improvements

The proposed floor plan would include the construction of new demising walls and doors to return the retail area to the previous two unit configuration. The interior space would also be renovated to meet current building codes and the specific needs of the proposed cannabis storefront, which include limited access areas where only employees with proper security credentials are allowed. A floor plan summary of the 925-square-foot cannabis retail storefront tenant space is provided below. A shared hallway and restroom are not a part of the proposed storefront and are not included in the floor plan summary.

Table 1 – Floor Plan Summary

Operational Area	Square Feet
Check-In and Retail Area	475
Storage	55
Breakroom	85
Office	128
Total	925

Customer Access

Existing building access is provided both at the front (from Newport Boulevard) and rear (from the existing parking lot) of the building. Customers who access the building from the parking lot would enter through a shared hallway, then enter the storefront through an interior entry door. A second entry door, specifically providing access to the proposed cannabis retail storefront, is also provided directly from Newport Boulevard (this door is for entrance only). Customers would enter directly into the check-in area (from either of the two entry doors), and customer access would be limited to the check-in and retail area. A greeter employee would verify a customer's identity and age before allowing the customer to enter the retail sales area. After a customer's identity and age is verified and their transaction is completed, they must leave the premise through the door to the hallway and out the exterior door to the parking lot. As further conditioned, a security guard would monitor the area at all times to ensure that customers are following regulations.

Employee and Vendor Access

All other areas of the premises would be only accessible to employees with the proper security credentials. Employees would enter and exit the facility through a limited access-controlled door located at the rear of the building. Vendors (licensed distributors) delivering products for resale would only be allowed to enter the premise while accompanied by an employee with the proper security credentials, and via the aforementioned limited access door during regular business hours. The access-controlled door is located in the rear of the building, approximately 35 feet from several parking stalls. All access-controlled doors, product paths of travel, and vehicle loading/unloading areas would be under camera surveillance at all times.

Storefront Operations

The proposed business is required to comply with the City's adopted retail storefront operational requirements as follows:

- Display State license, CBP, and City business license in a conspicuous building location;
- 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 and shall be designed to prevent light spill;
- 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. If the business holds a retail medical cannabis license (M-license) issued by the State, persons over the age of 18 may be allowed with the proper medical approvals i.e. physician's recommendation or medical card pursuant to CMMC Section 9-495(h)(6);
- 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 (applicants are encouraged and allowed to apply for employee badges after a CUP is approved);
- 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 specific 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 will escort the distributor to the appropriate interior location and remain with them throughout the process;
- Cannabis goods to be sold at this establishment must be obtained by a licensed cannabis distributor and have passed laboratory testing;
- Cannabis product packaging must be labeled with required test results and batch number; and
- 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 has submitted a detailed business plan that was evaluated by the City's cannabis consultant (HdL). The business plan describes the owner's experience, proof of capitalization, start-up budget, a three-year pro forma, target customers, key software, and daily operations. The business plan contains proprietary details and is therefore not included as an attachment to this staff report. The City's cannabis consultant determined that the applicant's business plan was appropriate for the proposed retail storefront use.

Security Plan

The applicant has submitted 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 included in the operations 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 shielded 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 product transportation protocol;
- 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 establishments are subject to the same parking ratio as other retail storefronts in the City; four spaces per 1,000 square feet of gross floor area. Based on this ratio, the total parking required for the entire 2,335-square-foot building (both tenants) is nine parking spaces, and the proposed 925-square-foot cannabis storefront requires four parking spaces. The current parking lot striping does not meet CMMC design standards. If the CUP is approved, the applicant would restripe the parking lot to

meet the City's standards and add a bike rack, for a total of 13 parking spaces. The proposed plan exceeds the required parking for the building by four spaces

The parking lot is accessed via an alley in the rear of the property. An existing vehicle gate separates the subject property from the alley. As conditioned, the vehicle gate would be required to remain closed to customers between 10 PM and 7 AM. During that timeframe, the gate would remain closed except when temporary access is needed for trash collection, property maintenance, or for employees to leave the property. Pedestrian circulation is provided along Newport Boulevard.

It is anticipated that there would be adequate parking onsite available to serve the existing business and the proposed storefront. 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. 6 in the attached Resolution). Examples of parking demand management techniques include, but are not limited to, offsite parking for employees, reducing operating hours of the business, hiring an employee to monitor parking lot use and assist with parking lot circulation, incentivizing online orders for pick-up, and incentivizing employee carpooling/cycling/walking.

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 (this includes various right-of-way improvements and complete streets/multi-modal circulation enhancements). The purpose of the program is to ensure that the City's transportation system has the capacity to accommodate additional trips. The Citywide Traffic Impact Fee related to new or expanding developments is determined using estimated Average Daily Trips (ADT), which is the total number of vehicular trips both in and out of a development generated throughout an average weekday. The Transportation Services Division determined that the appropriate 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 with a drive-through. The City's traffic engineering review focuses on net trip increase for both the ADT and peak hour trips. Therefore, the trip generation is estimated for the previous use(s) and is credited (subtracted) from the proposed use to estimate potential changes in trip generation for ADT and peak hour trips. The estimated traffic impact fee is approximately \$10,939. The fee calculation would be finalized during the building permit plan check process and must be paid prior to building permit issuance.

CMMC Section 13-275(a) specifies that “a traffic impact study shall be required for all development projects estimated by the Public Works Department to generate one hundred (100) or more vehicle trip ends during a peak hour.” The highest peak hour trips in either the AM or PM peak is used to estimate the number of vehicular trips generated both in and out of a new or expanded development, known as vehicle trip ends, during a peak hour. Staff reviewed and determined that the proposed use does not meet the threshold of 100 peak hour trip ends.

Odor Attenuation

If approved, cannabis products would arrive in State compliant packaging that is sealed within odor-resistant packaging, and remain unopened while on the premises. The applicant proposes to implement an odor control plan including carbon filters to ensure no odors are detectable outside of the proposed facility. Pursuant to the CMMC, “odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off site”. Further, and as conditioned, if cannabis odor is detected outside of the building, off-site or in an adjacent tenant suite, 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. Lastly, cannabis products are not allowed to be disposed of in the exterior trash enclosure.

Proximity to Residential

The subject commercial property abuts an alley that is adjacent to residential development. A parking lot, six-foot-tall vehicle gate, a 20-foot wide alley, and six-foot-tall fencing are the existing physical buffers that divide and separate the proposed storefront and nearby residential properties. The shortest distance between the proposed storefront and the closest residential building is approximately 130 feet. The following conditions of approval are proposed to ensure compatibility between the proposed use and adjacent residential uses:

- Business hours are limited from 7 AM to 10 PM;
- Signs shall be posted within the parking lot to remind customers and vendors to keep noise levels to a minimum (the security guard shall also be responsible for enforcement);
- A photometric study shall be submitted with building plan check that demonstrates the proposed security lighting is shielded and directed down/away from on- and offsite residences to prevent light spill;
- Disposal of waste at the trash enclosure shall be limited between 8 AM and 8 PM to avoid noise impacts to nearby residential uses during sensitive hours;
- A security guard shall be onsite 24 hours a day to patrol the property including parking areas;
- The vehicle gate shall remain closed to customers between the hours of 10 PM and 7 AM; and

- A staff person and/or security guard will help monitor the site's parking areas to ensure that customers are quiet, turn off vehicle engines promptly, do not play loud music, and generally do not create excessive neighbor disturbances. The parking lot monitoring will be especially diligent to prevent noise and other neighbor disturbance during early morning and evening business hours

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. 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.

4. **Policy LU-3.1:** *Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks), from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

Consistency: Like other properties along Newport Boulevard, the subject property is located adjacent to an established residential neighborhood. As conditioned, the proposed use would be required to control odor, noise, limit trash enclosure access, lock the vehicle gate after business hours, and provide adequate security and parking lot monitoring to ensure compatibility between uses.

5. **Policy N-2.9:** *Limit hours and/or attenuation of commercial/entertainment operations adjacent to resident and other noise sensitive uses in order to minimize excessive noise to these receptors.*

Consistency: The proposed cannabis storefront would be located on a site that includes one other commercial tenant. With the proposed storefront use, parking lot activity and associated noise is anticipated to be greater than past operations. Conditions of approval requiring 24-hour onsite security, parking lot monitoring, signage regarding noise, and limiting the hours the exterior trash enclosure can be used are intended to ensure compatibility between the proposed use and onsite and adjacent residential uses.

FINDINGS

Pursuant to Costa Mesa Municipal Code Title 13, Section 13-29(g), "Findings", 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. Existing uses along this part of Newport Boulevard include restaurants, a grocery store, jewelry retail and pawnbroking, and a variety of commercial uses at Triangle Square. Pursuant to the CMMC, cannabis retail storefronts are permitted uses in the City's commercial zones and are subject to extensive regulation. 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. No outdoor storage or sales are proposed nor would be allowed. The storefront business

would operate indoors (underroof) and also be subject to parking, odor and noise control measures as described in this report to minimize any potential impacts to adjacent uses.

One proposed customer door fronts Newport Boulevard and the other customer door faces the parking lot. The customer door facing the parking lot is located approximately 150 feet from the nearest residential building. In addition, the project would include features such as: odor control filters, limiting vendor deliveries and customer services to the hours between 7 AM and 10 PM, posting signs in the parking lot directing all to use consideration, having a security guard onsite at all times, having a staff member periodically monitor the parking lot, limiting the hours the trash enclosure can be used, locking the vehicle gate after business hours, and shielding security lighting down and away from residential uses. Therefore, staff does not anticipate that the proposed retail cannabis use, as proposed and conditioned, would be materially detrimental to nearby commercial and residential uses. As proposed and conditioned, the proposed retail storefront would be substantially compatible with developments in the area.

- *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, exterior loading and unloading, and all interior limited access spaces. In addition, all employees must pass a live scan background check and obtain an identification badge from the City. The City and State requirements are designed to ensure that the proposed 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 property has a General Plan land use designation of "General Commercial". It is the intent of this land use designation to permit a wide range of uses that serve both local and regional needs. The proposed cannabis storefront 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. The City's General Plan sets forth long-term policies that guide future development, whereas the Zoning Ordinance implements general plan policies through detailed development regulations, such as specific use types and building standards. Therefore, in determining General Plan compliance for the proposed cannabis retail storefront use, a comparison of the proposed use with the use, density and intensity allowed by the applicable zoning district is required. In this case, the applicable zoning district is "General Business District" (C2). A variety of commercial uses are allowed in the C2 zone including cannabis storefronts subject to approval of a Conditional Use Permit. No additional square footage is proposed; therefore, the proposed use would not increase the floor area ratio (building intensity). The proposed project does not include residential units and therefore would not increase density.

ENVIRONMENTAL DETERMINATION

The project is categorically exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities (Class 1). This project site contains an existing commercial building that has been used for commercial activities and the application does not propose an increase in floor area. The project is consistent with the applicable General Plan land use designation and policies as well as with the applicable zoning designation and regulations. Thus, the proposed use does not intensify the area in terms of Floor Area Ratio (FAR) or generate increased traffic that was not already anticipated for this area pursuant to the General Plan. The project also complies with all applicable business operational standards of Article 9 and 13 of the CMMC. Furthermore, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. Specifically, the project would not result in a cumulative impact; would not have a significant effect on the environment due to unusual circumstances; would not result in damage to scenic resources; is not located on a hazardous site or location; and would not impact any historic resources.

ALTERNATIVES

The Planning Commission can consider 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, no public comments have been received and is attached to this report. Any public comments received prior to the April 24, 2023 Planning Commission meeting will be provided separately.

CONCLUSION

The proposed project is a retail cannabis storefront business at a developed commercial property that is located on one of the City's main commercial corridors. The subject site meets separation requirements established in CMMC 13-200.93(e). Staff and the City's cannabis consultant completed the Pre-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, will conduct site inspections to verify that the operation complies with CUP and CBP requirements.

As proposed and conditioned, the use would be consistent with other commercial uses in the C2 zone, the Zoning Code, and the City's General Plan. The required findings for the CUP can be made, as described above, and therefore, staff recommends approval of Planning Application 22-02 subject to conditions of approval.