



Agenda Report

Item #: 24-141

Meeting Date: 5/7/2024

TITLE: DE NOVO PUBLIC HEARING REGARDING PLANNING APPLICATION 22-08 FOR A CONDITIONAL USE PERMIT TO OPERATE A RETAIL CANNABIS STOREFRONT BUSINESS WITH DELIVERY LOCATED AT 2490 NEWPORT BOULEVARD (“NEWPORT WELLNESS”)

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTED BY: MICHELLE HALLIGAN, SENIOR PLANNER

CONTACT INFORMATION: MICHELLE HALLIGAN, SENIOR PLANNER, (714) 754-5608

RECOMMENDATION:

Staff recommends the City Council conduct a de novo hearing regarding Planning Application 22-08 and make findings regarding the final disposition of the application.

APPLICANT OR AUTHORIZED AGENT:

The applicant/authorized agent is Sean Maddocks on behalf of “Newport Wellness” and the property owner, Anne Trostle Johnson.

BACKGROUND:

The subject site is a 16,000-square-foot property located at 2490 Newport Boulevard, on the southwest corner of Newport Boulevard and Monte Vista Avenue. The site is zoned C1 (Local Business District) and is surrounded by C1 zoned properties to the south and east, the State Route 55 to the west, and residential properties, zoned R3 (Multiple-Family Residential District, High Density) located to the east. The site has a General Plan Land Use Designation of “Commercial Residential”. Vehicular ingress/egress is obtained from a driveway located on Monte Vista Avenue. The subject property is located on one of the City’s primary corridors paralleling State Route 55. Existing uses in the area include, but are not limited to, specialty stores, salons, restaurants, mini warehousing, automobile services, a hotel, and multi-family and single-family homes. See Figure 1 – Project Aerial

Figure 1- Project Aerial



Figure 2 - Site Photo



The subject property is developed with a 2,076-square-foot one-story multi-tenant commercial building and approximately 1,300-square-foot of unpermitted commercial structures, and two detached residential units. See Figure 2 – Site Photo. As proposed, the unpermitted commercial structures would be demolished. The 2,076-square-foot commercial structure and two residential units would remain. The proposed use is a retail cannabis storefront with delivery establishment (“Newport Wellness”) that would occupy all the commercial building following significant improvements. See Figure 3 – Proposed Site Plan. The application includes updating the structure to comply with current building and safety standards, and enhancing the building façade, landscaping, walls, and fences. See

Figure 4 – Proposed Elevation. Parking on site is considered legal-nonconforming with 12 parking spaces proposed (including credit for one bike rack). As proposed, the cannabis retail establishment would operate Monday through Sunday, between the hours of 7 AM and 10 PM, subject to conditions of approval as well as State and local laws pertaining to cannabis retail uses.

Figure 3 - Proposed Site Plan

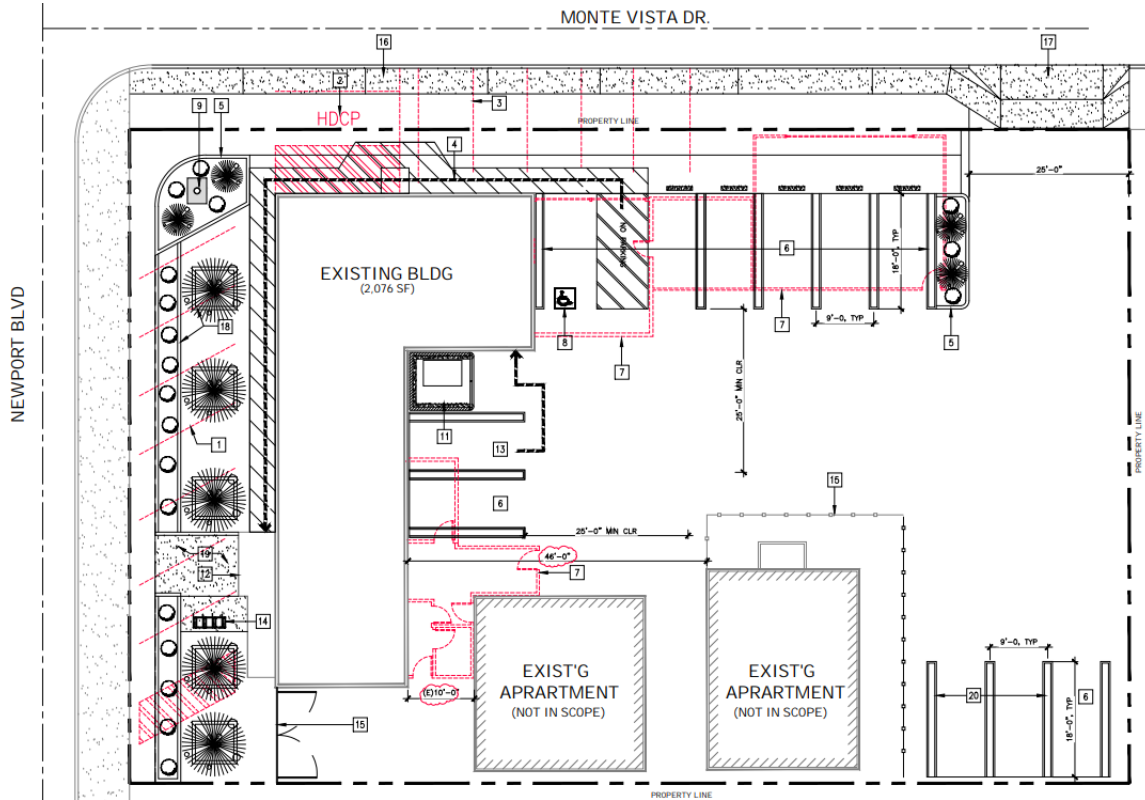


Figure 4 - Proposed Elevation



ANALYSIS:

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 Conditional Use Permit (CUP) is required for the establishment of cannabis retail storefronts and non-storefronts (delivery) in a commercial zone. To obtain a CUP, an applicant must demonstrate that the proposed use is substantially compatible with surrounding developments, is consistent with the applicable General Plan provisions/policies, and will not be detrimental to the health, safety, and welfare of the public or otherwise injurious to property in the immediate area.

A detailed description of the proposed use, operations, and improvements to the property are described in the March 25, 2024 Planning Commission staff report (provided as Attachment 7) and attachments, linked below:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6600444&GUID=124AEE41-6B92-49A2-B68D-6C39DCF99C84>

The Planning Commission meeting minutes are provided as an attachment to this report and the meeting video is linked below:

https://costamesa.granicus.com/player/clip/4109?view_id=14&redirect=true

Public Comment

Fourteen public comment letters were submitted to the Planning Commission opposing the proposed use. Members of the public, in written and spoken testimony, stated concerns that the use would result in negative impacts to the public, as well as over-concentration of cannabis storefronts on Newport Boulevard. The Planning Commission public comment letters are provided in Attachment 6.

Planning Commission Review

The application was heard by the Planning Commission on March 25, 2024. After receiving staff's presentation and recommendation for approval, the Planning Commission asked questions of staff and then opened the public hearing. The applicant provided a presentation and responded to questions asked by members of the Planning Commission. The Planning Commission then heard and considered public comments before closing the public hearing. After closing the public hearing, the Planning Commissioners further discussed the proposed use. Two of the Commissioners stated concerns with the cannabis storefront site lighting potentially impacting nearby residential uses, and the incompatibility of the proposed cannabis storefront with the two on-site residential units in regard to hours of operation and potential traffic and noise. Three Commissioners noted that the proposed building and property improvements represented a significant investment in the property and its appearance. They identified that proposed conditions of approval, improvements to the commercial building and grounds, and added security would allow the proposed use to operate in a manner that meets the required CUP findings and applicable General Plan policies. Ultimately, the Planning Commission voted 3-2 to approve the CUP application, subject to the conditions of approval.

With the approval, the Planning Commission added the following two additional operational conditions of approval:

- 27. Any proposed modification to operational condition of approval No. 4 (which requires a security guard to be present at the subject property 24 hours per day) shall be reviewed by the Planning Commission for approval or denial.
- 28. A parking attendant shall be required to monitor the parking lot during business hours for at least the first three months from business opening, and after that time, the applicant may request that staff consider eliminating this requirement if parking conditions do not warrant the further need for the attendant.

The Planning Commission Resolution for approval is provided as Attachment 1.

Calls for Review

On April 1, 2024, Councilmember Harper submitted an application to call up for review the Planning Commission decision to consider potential impacts on residential uses, specifically related to hours of operation, parking, noise, signage, and lighting. On April 1, 2024, Councilmember Marr also submitted an application to call up for review the Planning Commission decision to consider land use compatibility and compliance with the General Plan. The filed applications for review are provided as Attachment 2.

City Council “De Novo” Hearing

Pursuant to CMMC Chapter 9, Appeal and Review Procedures, the City Council shall conduct a new or “de novo” review of the matter. The City Council may exercise its independent judgment and discretion in making a decision, and the call for review hearing is not limited to the grounds stated for the review or the evidence that was previously presented to the Planning Commission. The City Council’s decision on the matter is the final decision.

Findings and Review Criteria

Pursuant to the CMMC 13-29(g)(2), approval of the application must be based on evidence in the administrative record that substantially supports the following findings:

- *The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area;*
- *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; and*
- *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.*

Staff has attached a draft City Council resolution for approval based on the March 25, 2024 Planning Commission's decision, including the two added conditions of approval (operational conditions of approval number 27 and 28). Should the City Council determine to overturn the Planning Commission's decision, staff requests that the City Council articulates its reasons for denial based on the required aforementioned findings in order for staff to incorporate those reasons into a resolution.

ENVIRONMENTAL DETERMINATION:

If considered for City Council approval, the project is categorically exempt from the provisions of the California Environmental Quality Act (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 or prior use. This project site contains existing structures that have been in continual commercial/residential use. The application does not propose an increase in commercial floor area or otherwise expand the prior commercial use, nor increase residential density. 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.

If the project is denied by the City Council, the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270(a) for projects that a public agency rejects or disapproves.

ALTERNATIVES:

The City Council has the following alternatives:

- Uphold the Planning Commission's decision and adopt a Resolution to approve the application subject to conditions of approval (including any additional conditions required by the City Council);
- Overturn the Planning Commission's decision and adopt a Resolution to deny Planning Application 22-08; or
- Remand Planning Application 22-08 the Planning Commission to reconsider the matter based on specific City Council direction.

FISCAL REVIEW:

There are no fiscal impacts with this agenda item.

LEGAL REVIEW:

The City Attorney has reviewed and approved this report as to form.

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.

Public comments received prior to the May 7, 2024, City Council meeting, may be viewed at this link: [CITY OF COSTA MESA - Calendar \(legistar.com\)](https://legistar.com/CITY_OF_COSTA_MESA).

CITY COUNCIL GOALS AND PRIORITIES:

This item is administrative in nature.

CONCLUSION:

The subject review is intended to provide the City Council with an opportunity to conduct a de novo hearing for the application and make findings on the final disposition to uphold or overturn the Planning Commission's decision on the Newport Wellness cannabis retail Conditional Use Permit.