



# **PLANNING COMMISSION AGENDA REPORT**

MEETING DATE: May 8, 2023

ITEM NUMBER: PH-1

**SUBJECT: MAJOR AMENDMENT TO MASTER PLAN PA-23-03 (PA-98-50 A3) FOR A REDUCTION OF REQUIRED OFF-STREET PARKING AND TO MODIFY OPERATIONAL CHARACTERISTICS; A CONDITIONAL USE PERMIT TO ALLOW LIVE ENTERTAINMENT WITHIN 200 FEET OF RESIDENTIALLY ZONED PROPERTY; MINOR CONDITIONAL USE PERMIT ZA-23-01 TO ALLOW AN OUTDOOR DINING PATIO; AND A PUBLIC CONVENIENCE OR NECESSITY DETERMINATION FOR ALCOHOL BEVERAGE CONTROL LICENSE TYPE 21 AND 47 FOR THE NORTHGATE MARKET LOCATED AT 2300 HARBOR BOULEVARD**

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

**PRESENTATION BY: CHRISTOPHER ALDANA, ASSISTANT PLANNER**

**FOR FURTHER INFORMATION CONTACT: CHRISTOPHER ALDANA  
714.754.4868  
Christopher.Aldana@costamesaca.gov**

---

## **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) for Existing Facilities; and Section 15303 (Class 3), New Construction or Conversion of Small Structures.
2. Approve Planning Applications PA-23-03 (PA-98-50 A3), PA-23-02 and ZA-23-01, and the Public Convenience or Necessity Determination, subject to conditions of approval.

## **APPLICANT OR AUTHORIZED AGENT**

The authorized agent is Le Architecture, and the applicant is Harbor Center Partners.

## PLANNING APPLICATION SUMMARY

Location:	2300 Harbor Boulevard (Building C)	Application Numbers:	PA-23-03 (PA-98-50 A3); PA-23-02; ZA-23-01; PCN
Request:	Major amendment to a master plan PA-23-03 (PA-98-50 A3) for a reduction of required off-street parking and to modify operational characteristics; Planning Application PA-23-02 for a conditional use permit to allow live entertainment within 200 feet of residentially zoned property; minor conditional use permit ZA-23-01 to allow an outdoor dining patio; and a Public Convenience or Necessity Determination for alcoholic beverages control license, Type 21 and Type 47 for Northgate Market.		

### SUBJECT PROPERTY:

### SURROUNDING PROPERTY:

Zone:	Shopping Center District (C1-S)	North:	C1-S, commercial & Multiple-Family Residential (R3), apartments
General Plan:	General Commercial	South:	(Across Wilson St.) C1-S, commercial
Lot Dimensions:	Irregular	East:	Single-Family Residential (R1), single family residence; R3, apartments
Lot Area:	25.7 acres (1,119,492 sf)	West:	(Across Harbor Blvd.) Local Business District (C1) and General Business District (C2); commercial; Institutional and Recreational School District (I&R), golf course
Existing Development:	Harbor Shopping Center - Approximately 320,000 sq.ft. multi-tenant shopping center.		

## DEVELOPMENT STANDARDS COMPARISON

Development Standard	Master Plan Approved	Proposed/Provided
Building Height	2 stories/ 25ft. to 50ft.	No Change
Setbacks:		
Front	20 ft.	No Change
Side (left/ right)	20 ft./50 ft.	No Change
Rear	41 ft.	No Change
Parking	1,528	1,484
Floor area ratio (FAR)	0.28	No Change
CEQA Status	Exempt per CEQA Guidelines Section 15301 (Class 1), for the permitting and/or minor alterations of Existing Facilities and Section 15303 (Class 3), New Construction or Conversion of Small Structures.	
Final Action	Planning Commission	

## **PROJECT DESCRIPTION**

### ***Project Site***

The applicant (Le Architecture representing Northgate Market) is requesting Planning Commission approval to operate a supermarket within “Building C” of “The Harbor Center” shopping center. The project site is located at the northeast corner of the Harbor Boulevard and Wilson Street intersection. The existing development on the site consists of a mix of commercial uses within eleven multi-tenant buildings. There are several “anchor” stores that are currently operating at this center, including Home Depot, T. J. Maxx, Home Goods, and Rite Aid Pharmacy, as well as numerous restaurants and other retail uses. Physical on-site improvements also include surface parking, landscaping and trash enclosures. “Building C” was previously occupied by Albertsons Grocery Store and has been vacant since February of 2020. There are no open code enforcement cases on this property.

The approximate 25.7-acre-property (“The Harbor Center”) is zoned “Shopping Center District” (C1-S) and has a General Plan land use designation of “General Commercial” (GENCOM). According to the General Plan Land Use Element, this designation is intended to permit a wide range of commercial uses that serve both local and regional needs and should have exposure and access to major transportation routes.

Table 1 provides a summary of the existing Zoning Districts and land uses that surround the project site. The project site is situated generally between single- and multifamily-residential developments to the east and commercial uses to the north, west and south.

**Table 1. Surrounding Properties**

<b>Direction</b>	<b>Zoning District</b>	<b>Use</b>
North	C1, R3	Retail, Residential
West	C1, C2, and I&R	Retail, Auto Repair, Residential, Golf Course
East	R1, R3	Residential
South	C1-S	Retail

### ***Previous Approvals***

The Planning Commission approved the Harbor Center Master Plan (PA-98-50) on May 10, 1999. PA-98-50 entitled the demolition of a 250,000-square-foot-multi-tenant retail center and construction of a new shopping center with approximately 320,000 square feet of commercial floor area. The Master Plan included a request for building height, a conditional use permit for off-site parking, and minor conditional use permits for permanent outdoor display in front of a home center and drug store for seasonal items, and for a drive-through restaurant. The site was originally developed with 1,528 parking spaces and the parking demand for the shopping center was determined utilizing a mixed-use parking analysis.

Since re-development of the Center, two subsequent Master Plan amendments have been approved. The two subsequent Master Plan Amendments include PA 99-22, which permitted the demolition of two detached existing buildings and allowed the construction of an 11,535-square-foot multi-tenant commercial building (near the intersection of Harbor Boulevard and Wilson Street), and for Master Plan Amendment PA 05-22 which included a conditional use permit to operate a recreational vehicle storage facility with a request to increase the maximum wall height. There have also been various entitlements associated with the site such as a minor conditional use permit for a Planned Sign Program.

### ***Northgate Market Community Open House***

On March 25, 2023 and April 22, 2023, community Open Houses were held (from 10 a.m. – 2 p.m.) at the subject site by the authorized agent to introduce the proposed market. The community open houses were hosted by Northgate leadership, associates, and the Gonzalez family members. Due to the site's proximity to residentially zoned property (abutting the east property line and across Wilson Avenue and Harbor Boulevard), the events were noticed and organized with the intention to obtain property owner and resident feedback, and answer questions about the proposed Northgate Market.

## **ANALYSIS**

### ***Proposed Use***

The applicant is proposing to introduce a flagship Northgate Market at the tenant space previously occupied by “Albertsons Grocery”. As described in the applicant letter, Northgate Market was founded in 1980 and, for more than 40 years, has been family owned and operated. According to the applicant, the Gonzalez family prioritizes operating successful markets for the community and being an involved community stakeholder.

The proposed renovation and re-occupancy of this space is intended to provide access to fresh produce and meats, and a vibrant modern and multifaceted *mercado* (market) experience. The proposed exterior renovation of the tenant space would include new paint, landscaping, new shopping cart corrals, an operational corn silo, and new outdoor dining areas. Proposed interior improvements would consist of, but are not limited to, culinary kiosks, a dining area and bar, an entertainment stage, a “Prospera” Bank, commissary kitchen, bakery, and an alcohol spirits *puesto* kiosk. In regard to dining, customers would be able to purchase food and beverage from various kiosks and eat at open tables provided in both indoor and outdoor areas of the Market.

As shown in the below Table 2, the proposed floor plan consists of a typical supermarket with various ancillary uses. Each use identified in Table 2 below is color coordinated with the below floor plan (see Image 1).

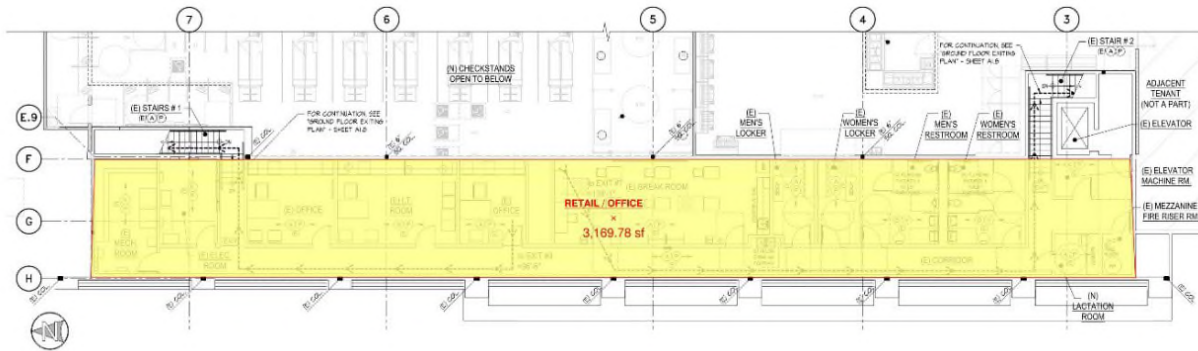
**Table 2 – Floor Plan Breakdown**

Program	Square Feet
Market Footprint (Ground Floor) – Retail/ Office	65,012
Market Footprint (Mezzanine Floor) – Retail/ Office	3,170
<b>Total Building Area</b>	<b>68,182</b>
Outdoor Dining Area (Front Left at parking lot)	526
Outdoor Dining Area (Front Right at parking lot)	507
Outdoor Dining Area (adjacent to West Wilson Street)	3,162
<b>Separated Programs (included in floor plan)</b>	
Seating: Cevicheria	72
Seating: Communal A	191
Seating: Communal B	217
Seating: Communal C	689
Seating: Communal D	236
Seating: Communal E	886
Seating: Bar Indoor (Rear)	67
Seating: Bar Outdoor (Rear)	123
Bar (Rear)	293
Bar (Front)	350
Stage	149
Retail / Office	456

**Image 1 - 1<sup>st</sup> Floor Plan**



**Image 2 - Existing 2<sup>nd</sup> Floor - Mezzanine**



Pursuant to CMMC 13-47, "supermarkets" and "food and beverage establishments with more than 300 square feet of public serving area" located within the C1-S zone are permitted uses (allowed "by-right"). In addition, the sale of alcohol beverages for on-site consumption before 11 p.m. within 200 feet of residentially zoned property in the C1-S zone is also a permitted use. Similar to the previous super market operations, the market will be open seven days a week. The proposed hours of operation for the market and in-store dining would be 6 a.m. to 11 p.m. Monday – Sunday, and the hours of operation for the patio areas would be 11 a.m. to 11 p.m. Last call for on-site sales/service of alcohol and food will be 10:30 p.m. Monday – Sunday.

**Required Permits**

As indicated above, the supermarket and food/beverage uses are permitted uses and allowed "by-right"; however, certain other aspects of the proposed project operations require discretionary review (Planning Commission and Zoning Administrator) as indicated in Table 3 below:

**Table 3: Project Components**

	<b>Project Component</b>	<b>CMMC Section or City Council Policy</b>	<b>Planning Application</b>	<b>Final Review Authority CMMC Table 13-29 (c)</b>
A	Amendment to an existing master plan for – "change of site characteristics" and "parking reduction", and outdoor seating area that encroaches into parking area	CMMC 13-28 (g)(2) and 13-48(a)	Major Amendment to Master Plan PA-23-03 (PA-98-50 A3) and Minor Conditional Use Permit ZA-23-01	Zoning Administrator
B	Establishments where food or beverages are served - live entertainment within 200 feet of a residential zone	CMMC 13-47 (Table 13-47)	Conditional Use Permit (CUP), PA-23-02	Planning Commission
C	Public Convenience or Necessity for new on-sale and off-sale State Alcoholic Beverage Control Licenses	City Council Policy Number 500-8	Public Convenience or Necessity (PCN) Findings	Planning Commission

Although the majority of the Code required entitlements to re-establish the supermarket allows for Zoning Administrator approval or is allowed “by-right”, a CUP is required for the entertainment aspects of the application, and the CMMC requires a public hearing before the Planning Commission for entertainment approval. Therefore and for the purposes of streamlining and review consistency, all planning applications for this project that require the Zoning Administrator’s review are forwarded for the Planning Commission for final consideration and action. An analysis of each proposed planning application and a summary of the CMMC applicable provisions are provided below:

**A. Major Amendment to “Harbor Center” Master Plan (PA-23-03)**

Pursuant to CMMC 12-28 (g)(2), a major amendment is considered a substantial amendment to the master plan if the proposal encompasses one or more minor changes listed in CMMC 13-28(g)(1), or any proposed change determined by the Development Services Director as a major amendment. The proposed project includes two minor changes listed in CMMC 13-28(g)(1), which are (1) to change the character of the development, and (2) to reduce the required parking spaces; therefore, the request is considered a major amendment to the approved Master Plan (described further below).

- i. CMMC Section 13-28(g)(1) a: “a change in the use or character of the development”

The proposed changes to character of the development include modifying the exterior building façade features and establishing three outdoor dining seating areas as described below:

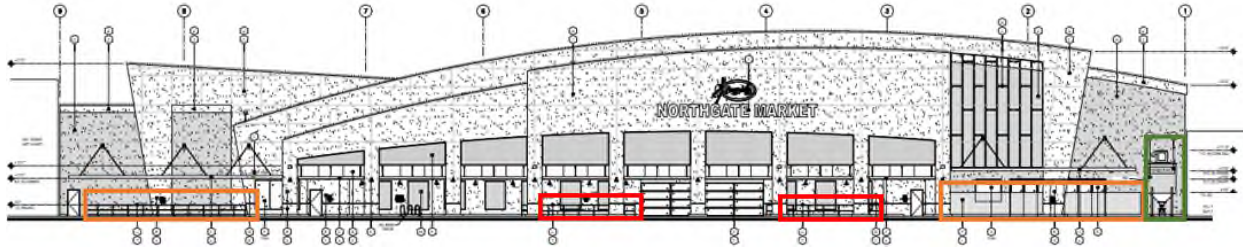
Exterior façade modifications: The exterior façade modifications generally include new paint, metal awnings, and updating existing fenestrations. A new 17-foot high silo is also proposed near the front (west) façade of the building (see Image 3 - West Elevation). The silo would serve as a new architectural feature adding to the theme of the proposed market, and would also be fully functional and would deliver dried corn to the interior for fresh tortilla processing.

The exterior façade modifications will also include future art mural installations on the west façade of the building. Per Condition of Approval No. 19, the proposed murals are required to be reviewed by the City of Costa Mesa Arts Commission prior to installation.

Outdoor dining: The market will provide customers several dining options, and include exterior modifications to provide outdoor seating areas where customers can enjoy their meals “al fresco”. The outdoor dining seating areas will involve the conversion of two (2) existing built-in shopping cart corrals, and replacing 16 existing parking stalls located adjacent to West Wilson Street. The built-in shopping cart areas that will be converted are located on the west façade of the building (adjacent to the main parking lot) and are approximately 525 square feet and 506 square feet in area. For easier

customer access, new shopping cart corrals would be located closer to the main entrance (see the Image 3 below).

**Image 3 – West Elevations**

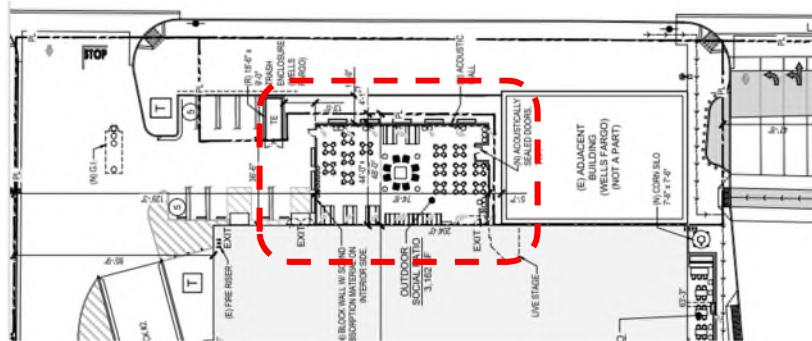


Proposed Feature	Color
Proposed Outdoor Seating	Orange
Proposed Shopping Cart Corral	Red
Proposed Silo	Green

The third outdoor dining area is proposed to replace 16 existing off-street parking stalls that are located on the south side of the building adjacent to West Wilson Street. This area is located directly behind “Building B” (currently occupied by Wells Fargo Bank - see Image 4 below).

**Image 4 – Outdoor Patio**

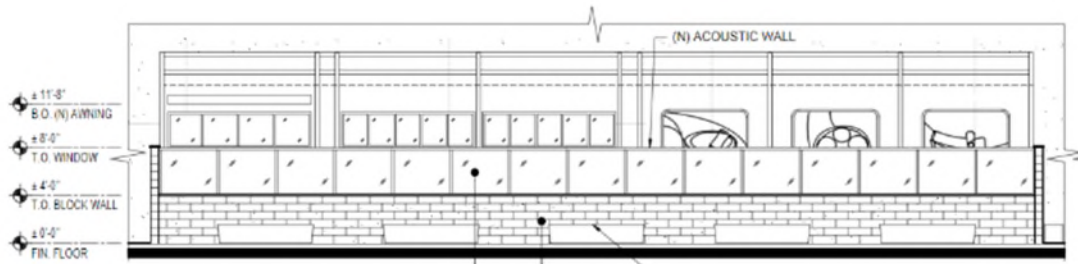
West Wilson Street



As shown above, the proposed 3,268-square-foot outdoor dining patio will include canvas sunshades and will be enclosed with an eight-foot tall enclosure to minimize noise. The southerly portion of the wall, facing West Wilson Street, would have a hybrid design consisting of a four-foot high acoustic block wall with an additional four feet of double pane glass barrier located above. Customer ingress/egress to the patio area would be limited from the interior of the Market through an automatic sliding glass door system. Glass windows are also proposed at this location to provide natural light into the Market (see the below Image 5 and Image 6).



**Image 5 – South Patio Elevation (as viewed from West Wilson Street)**



**Image 6 – Conceptual Rear Patio Simulation**



- ii. CMMC Section 13-28(g)(1)(e) – “A reduction of required off-street parking”, and CMMC Section 13-48(a) – “Outdoor seating area permitted to encroach into parking area”

The proposed outdoor dining area located near West Wilson Street would result in a reduction of the required off-street parking that was approved by Master Plan PA 98-50. Specifically, the project will reduce the total number of shopping center required parking from 1,528 to 1,484 spaces. A parking study for the proposed project demonstrates that the introduction of the Market and associated ancillary uses would not result in adverse parking impacts to visitors of the “Harbor Center” during peak hours, due to the site having surplus parking throughout the day. The Linscott Law & Greenspan Engineers Parking Study is included with this staff report as Attachment 7.

Pursuant to the CMMC Section 13-6, when there are mixed-uses within a single development that share the same parking facilities, the total requirement for parking is determined by the Costa Mesa shared parking analysis procedures which is adopted by City Council Resolution. Linscott Law & Greenspan Engineers (LLG) conducted the original 1998 shared parking analysis for the current shopping center (PA 98-50), and for the currently proposed project. The current shared parking analysis accounts for the existing parking demands of the shopping center with the proposed parking demand of the Northgate Market, inclusive of proposed potential in-store dining/food uses and outdoor dining/patio areas.

Based on information provided by “ICI Development” (property owner), the existing on-site parking supply for the “Harbor Center” totals 1,519 spaces. This parking supply includes eight (8) parking spaces that are currently inaccessible because they were converted to use by the Center’s several shopping cart corrals. Additionally, 16 spaces will be removed due to the proposed outdoor dining/patio area proposed Near West Wilson Street. After subtracting the aforementioned parking spaces, an adjusted available parking supply of 1,484 spaces is now used as the Harbor Center parking supply baseline. As indicated by the analysis conducted by LLG, there is sufficient parking supply to meet the projected peak parking demands of the existing commercial spaces and the proposed Northgate Market. The parking analysis concludes that on weekdays, the peak parking demand for the existing commercial spaces and the proposed Market will be 1,213 parking spaces at 1 p.m., and on weekends, the peak parking demand will be 1,208 parking spaces at 2 p.m. Accordingly, the analysis concludes that at peak parking demand, a surplus of 271 parking spaces is anticipated to accommodate customers of the “Harbor Center” with the proposed Northgate Market.

In an effort to attenuate noise (specifically in regards to the outdoor seating area located adjacent to West Wilson Street), the City requested an acoustical analysis from the applicant (included with this report as Attachment 8). As demonstrated in the acoustic analysis report prepared by Sound Media Fusion, LLC on February 10, 2023, the proposed patio located along West Wilson Street, as designed and with the appropriate noise reduction measures, is expected to operate in compliance with the CMMC noise standards, and will not exacerbate ambient noise in the area. Lastly, no live entertainment is proposed in the outdoor areas, and potential noise sources are limited to light background music, and the typical sounds associated with eating establishments. Pursuant to Condition of Approval No. 18, “patio areas are limited to low-volume, pre-recorded ambient background music and monitored with a noise meter by trained staff. The music shall not be audible off-site.”

### ***B. Conditional Use Permit for Live Entertainment (PA-23-02)***

The applicant proposes an approximate 149-square-foot stage located within the confines of the market to host occasional live entertainment. The proposed entertainment includes, but are not limited to live music and creative cooking demonstrations. The live entertainment is proposed during the Market hours of operation (6 a.m. to 11 p.m.). The proposed stage is located against the southerly building wall and adjacent to the automatic sliding ingress/egress doors that access the outdoor patio seating area that is located adjacent to West Wilson Street. Pursuant to CMMC 13-47 and subject to the approval of a Conditional Use Permit, live entertainment may be permitted in establishments where food or beverages are served in the C1-S zone that are located within 200 feet of residentially zoned property. The project site is located within 200 feet of a residentially zoned property, and therefore requires a CUP to allow live entertainment in the indoor dining area. As indicated in the “Findings” section of this report, the required CUP findings can be made to approve the proposed live entertainment permit.

Additionally, conditions of approval for the live entertainment component include a requirement to obtain a live entertainment permit and renew it annually pursuant to CMMC Section 9-199 (1). Also, annual live entertainment permits are subject to City review for ensuring “peace and tranquility of any residential area, mitigate traffic impacts, protect other uses in the area, and/or to protect the public health and safety”. Lastly and pursuant to CMMC Section 9-201, a live entertainment permit can be suspended or revoked by the City Manager if permit compliance or neighborhood compatibility issues are determined (including but not limited to noise and/or security issues).

### ***C. Determination of “Public Convenience or Necessity (PCN)”***

In order for the Market to offer the proposed on-site and off-site sales/service of alcohol, the applicant must obtain a Type 21 and a Type 47 license from the State Department of Alcoholic Beverage Control (ABC). A Type 21 license authorizes the sale of beer, wine and distilled spirits for consumption off the premises (retail), and a Type 47 license authorizes the sale of beer, wine and distilled spirits for consumption on the premises (dining), and must operate in conjunction with a bona fide eating place (the licensed premise must maintain suitable kitchen facilities, and must make actual substantial sales of meals for consumption on the premises).

Section 23958.4 of the California Business & Professions Code, also known as the California Alcoholic Beverage Control Act, establishes the criteria under which sale of alcoholic beverages licenses may be issued by the State Department of Alcoholic Beverage Control (ABC), which includes the ratio of on-sale/off-sale ABC licenses to population in the census tract in which the proposed business is located; when this number is exceeded, it is commonly referred to as an “overconcentration” or “undue concentration.” ABC defines an “undue concentration” of alcoholic beverages licenses as the following:

- The ratio of on-sale retail licenses to population within the census tract exceeds the ratio of licenses to population in the county as a whole.
- The ratio of off-sale retail licenses to population within the census tract exceeds the ratio of licenses to population in the county as a whole.

When an “undue concentration” is determined pursuant to State Law, the ABC cannot approve the issuance of a license unless the City makes a finding that public convenience or necessity would be served by the issuance of the license. In accordance with City Council Policy 500-8, the Planning Commission, after consideration, may make a PCN finding for the requested license type.

In this case, the ratio of both on-sale and off-sale ABC licenses to population exceeds the Countywide ratio, resulting in a determination of “undue concentration”. Based on the Countywide ratio, the State requirements limit the applicable census tract 639.05 to five (5) on-sale licenses and two (2) off-sale licenses. Pursuant to State records, three (3) on-

sale licenses and 10 off-sale licenses already exist within this census tract. If the applicant's request is approved, the number of on-sale licenses within the census tract would increase to four (4) licenses and the number of off-sale licenses within the census tract would increase to 11 licenses.

Although there is an over concentration of licenses in this census tract, the sales of alcohol for off-site consumption is a typical offering by a grocery store (which was offered by the previous existing supermarket), and the proposed on-site service of alcohol will provide a unique offering that will complement the Market's operational proposal. Further, the applicant is proposing on-site security and the Police Department has reviewed the request and has no objections. Therefore, the Public Convenience or Necessity can be determined.

### **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, the implementation of the General Plan 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 supermarket space has been vacant for many years and the new Market will provide a unique grocery shopping experience and other exciting ancillary services for the community. The Northgate Market would add to the variety of commercial services and goods in the neighborhood by providing access to food, limited entertainment, and a dining experience. Additionally, the new use would provide additional employment opportunities in the community.

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

**Consistency:** Approval of the proposed Market would allow a business operation that would expand the City's revenue base by generating increased tax revenues. The added revenue can then be used for community services and infrastructure improvements that serve the community.

3. **Policy LU-6.7:** *Encourage new and retain existing businesses that provide local shopping and services.*

**Consistency:** The project site has historically been occupied by a market. The proposed Northgate Market would be a new business that provides a dynamic shopping experience by providing entertainment and dining opportunities for local businesses and residents. Furthermore, the proposed market is located within the existing Harbor Center and could contribute to retaining existing businesses and attracting new businesses since restaurants and other retail-oriented businesses tend to locate near each other.

### **REVIEW CRITERIA**

The proposed project requires the Planning Commission to approve an amendment to a master plan, minor conditional use permit for outdoor seating areas, conditional use permit for live entertainment and PCN findings. All of the aforementioned planning applications have been reviewed pursuant to CMMC Section 13-29 (e). The following are the applicable “Review Criteria” pursuant to CMMC Zoning Code Section 13-29 (e):

- (1) *Compatible and harmonious relationship between the proposed building and site development, and use(s), and the building and site developments, and uses that exist or have been approved for the general neighborhood.*

The proposed use would re-establish a previously approved supermarket use within an existing shopping center. The shopping center (“The Harbor Center”) was approved on May 10, 1999 by the Planning Commission and included conditions of approval to ensure neighborhood compatibility. A supermarket is a neighborhood serving use and the re-introduction of the use would provide residents with accessibility to variety of retail goods, services, and indoor and outdoor dining experiences. The project as a whole would be compatible and function harmoniously in relationship with the existing site development which includes numerous eating and retail establishments within an established shopping center.

- (2) *Safety and compatibility of the design of buildings, parking area, landscaping, luminaries and other site features which may include functional aspects of the site development such as automobile and pedestrian circulation.*

The majority of the building is existing with much of the proposed tenant work consisting of an interior remodel for the replacement of a previously occupied supermarket space with a similar new supermarket, and several ancillary exterior improvements and upgrades. As proposed and conditioned, all new improvements including, parking, landscaping, lighting, exterior outdoor dining, and automobile and pedestrian circulation would be consistent with the existing master plan and general plan, and has been reviewed for safety and compatibility compliance by the City’s Building, Public Works, Transportation, and the Fire and Police Departments.

(3) Compliance with any performance standards as prescribed in the Zoning Code.

Since the supermarket proposed on-site food and beverage services, the proposed use is subject to CMMC Section 13-49. Pursuant to the CMMC, food and beverage serving establishments that are located within two hundred feet of residentially-zoned property are subject to the applicable development standards listed in 13-49 (a-h), as follows:

1. All exterior lighting shall be shielded and/or directed away from residential areas;
2. Outdoor public communication systems shall not be audible in adjacent residential areas;
3. Trash facilities shall be screened from view and designed and located appropriately to minimize potential noise and odor impacts to adjacent residential areas;
4. Outdoor seating areas shall be oriented away or sufficiently buffered from adjacent residential areas;
5. Hours of operation for customer service shall not occur any time between 11:00 p.m. and 6:00 a.m.; and
6. Truck deliveries shall not occur anytime between 8:00 p.m. and 7:00 a.m.

The proposed project is located within two-hundred feet of the “Sea Wind Apartments” at 398 West Wilson Street (a residentially zoned property) and, as conditioned and designed, complies with the above applicable standards in that: (1) the proposed lighting will be shielded and directed away from residential areas, (2) noise attenuation devices would be installed to ensure that any ambient music is not audible in adjacent residential areas, (3) a trash enclosure would be constructed in the parking lot south of Building C to minimize potential noise and odor impacts to the nearest residential areas, (4) new hardscaping and landscaping will be installed along the perimeter of the patio areas to provide an additional buffer to residential areas, and (5) the patio areas cease operation at 11 p.m. Lastly and as conditioned within the original Master Plan, hours of operation for all outdoor activity to the east and north of the buildings (including use of loading docks, deliveries, loading and unloading of trucks, movement of all product from outside to inside the building, trucks driving to the back of the site, and forklift operations) are limited from 7 a.m. to 8 p.m., Monday through Friday and 8 a.m. to 5 p.m., Saturday, Sunday, and holidays.

(4) Consistency with the General Plan.

The proposed grocery store is a community serving commercial use consistent with the General Commercial land use designation of the General Plan. According to the General Plan, uses in the “General Commercial” land use district are intended to provide a wide range of goods and services to meet the needs of residents as well as the regional neighborhoods. Re-establishing this unique destination supermarket and reactivating a vacant tenant space would be consistent with the General Plan land use objective LU-1A, in that it will “establish and maintain a balance of land uses throughout the community to preserve the

residential character of the City at a level no greater than can be supported by infrastructure.” Based on this, the proposed use is consistent with the “General Commercial” land use district designation and complies with the existing Master Plan and Zoning Code.

- (5) The planning application is for a project-specific case and is not to be construed to be setting a precedent for future development.

The proposed project would re-establish a supermarket use within an existing facility that was designed to be occupied by a supermarket. The project would not set precedent for future development.

- (6) When more than one (1) planning application is proposed for a single development, the cumulative effect of all the planning applications shall be considered.

More than one planning entitlement is proposed with this development and the cumulative effect of the planning applications have been considered by staff. As indicated in this report, approval and consistency findings can be made for all applications, including their cumulative effects.

## **REQUIRED FINDINGS**

The proposed project complies with the applicable Costa Mesa Municipal Code Section 13-29 (g)(5) “Master Plan” in that:

**Finding:** The master plan meets the broader goals of the general plan, any applicable specific plan, and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures and protection of the integrity of neighboring development.

**Facts in Support of Finding:** The proposed Master Plan amendment is compliant with the City’s applicable General Plan and the Zoning Code provisions. In addition, the new supermarket is similar to the previous use that occupied the space, and will enhance the integrity of the neighboring development based on façade upgrades and the added unique experiential amenities. Additionally and based on an engineered shared parking analysis for the shopping center, a surplus of on-site parking is available.

The proposed project complies with the applicable Costa Mesa Municipal Code Section 13-29(g)(2) - Conditional Use Permit in that:

**Finding:** 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.

**Facts in Support of Finding:** The proposed project includes a request for a conditional use permit to establish live entertainment as part of an eating establishment within a supermarket, as required pursuant to CMMC 13-47. As conditioned, the live entertainment would be compatible with developments in the same general area and would not be materially detrimental to other properties. The proposed 149- square-foot stage would be located within the approximate 69,000-square-foot building. The proposed stage would be activated occasionally and is subordinate to the primary market, and as conditioned, would not be incompatible with adjacent residential uses. The provision of live entertainment would be subject to the issuance and renewal of an annual live entertainment permit.

**Finding:** 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.

**Facts in Support of Finding:** Although the project site is located within 200 feet of residentially zoned property, the proposed live entertainment stage would be located indoors and as conditioned shall comply with the City's noise ordinance. Furthermore, the existing block wall located between the shopping center and the residential-zoned uses to the east would remain and would continue to serve as a noise buffer. A condition has also been included to limit the live entertainment to indoors only within the designated stage area. All activities, with the exception of the outdoor dining patio would be conducted underroof and inside the tenant suite. Lastly, conditions of approval have been included to ensure the use (including the live entertainment) operates in a manner that would allow the quiet enjoyment of the surrounding neighborhood.

**Finding:** 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.

**Facts in Support of Finding:** A supermarket with outdoor dining is a commercial use consistent with the General Commercial land use designation of the General Plan and the proposed live entertainment would not increase density or intensity, as the live entertainment will generally consist of an ancillary supermarket amenity. Further, "General Commercial" uses are intended to provide a wide range of goods and services to meet the needs of residents as well as the regional neighborhoods.

The proposed project complies with the applicable Costa Mesa Municipal Code Section 13-29(g)(2) - Minor Conditional Use Permit in that:

**Finding:** 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.



**Facts in Support of Finding:** The proposed project includes a minor conditional use permit request for outdoor dining. The outdoor dining patio area is located within an existing multi-tenant commercial center and is compatible with the general area. As conditioned, the outdoor dining will operate with minimal impact on surrounding properties and uses in that adequate amount off-street parking will be provided on the project site and would be shared amongst all tenants of the “Harbor Center”. Conditions of approval, based on expert recommendations are also included to monitor/attenuate potential noise and parking impacts. Therefore, the proposed use will not be detrimental to the surrounding area.

**Finding:** Granting the minor 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.

**Facts in Support of Finding:** The proposed outdoor dining patio area improvements 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 use, as conditioned, would not generate adverse noise, traffic, or parking impacts that are unusual for commercially zoned properties. Only low-level ambient noise is permitted in the patio areas and will be consistent with the local ambient noise of traffic.

**Finding:** Granting the minor 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.

**Facts in Support of Finding:** The proposed outdoor dining patio, as conditioned, is consistent with the intent of the City’s General Plan “General Commercial” land use designation for the property.

### **Finding of Public Convenience or Necessity (PCN)**

Pursuant to Section 23958.4 of the Business and Professions Code (BPC), the governing body of a local jurisdiction has the authority to determine PCN findings. In accordance with City Council Policy Number 500-8, the Planning Commission may make a finding of public convenience or necessity as required before the State can issue an on-sale or off-sale license for the establishment.

As indicated above in this report, the Public Convenience or Necessity can be determined because the operation of the supermarket would be consistent with the requirements of the Zoning Code and the General Plan. Further, the Police Department has reviewed the request and has no objections. Additionally, the requested licenses provide a convenience to customers without impacting the surrounding uses. Lastly, similar alcohol licenses were previously approved under the prior tenant with no neighborhood or surrounding commercial use impacts.

## **ENVIRONMENTAL DETERMINATION**

The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 (Class 1) for the permitting and/or minor alteration of Existing Facilities and Section 15303 (Class 3), New Construction and Conversions of Small Structures. This project will occupy an existing building and proposes minor exterior modifications including adding outdoor dining areas. No increase in building square footage is proposed, and the site is considered previously disturbed and is without environmental resources. The project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations. 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 historic resources.

## **ALTERNATIVES**

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 item 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 for denial into a Resolution for denial. If the project were denied, the applicant could not submit substantially the same type of application for six months.

## **LEGAL REVIEW**

The draft Resolution has 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 May 8, 2023 Planning Commission meeting will be provided separately.

### **CONCLUSION**

Approval of the project would allow the Northgate Market to provide live entertainment and outdoor dining patios in the C1-S Zoning District. The project is consistent with the General Plan and Zoning Code in regards to density, setback and development standards, and the project design is consistent in design with the surrounding neighborhood. Therefore, staff recommends approval of the project.