



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: APRIL 10, 2023

ITEM NUMBER: PH-3

**SUBJECT: PLANNING APPLICATION 21-38 FOR A RETAIL CANNABIS
STOREFRONT BUSINESS LOCATED AT 2424 NEWPORT
BOULEVARD UNITS C AND F (GAIA WELLNESS)**

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

PRESENTATION BY: MICHELLE HALLIGAN, CONTRACT PLANNER

FOR FURTHER 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; and
2. Approve Planning Application 21-38 subject to conditions of approval contained in the resolution.

APPLICANT OR AUTHORIZED AGENT

The applicant/authorized agent is Sean Maddocks on behalf of Ash & Lex, LLC and the property owner, Albert Mardikian.

PLANNING APPLICATION SUMMARY

Location:	2424 Newport Boulevard	Application Number:	PA-21-38
Request:	Planning Application 21-38 for a Conditional Use Permit for the establishment of a cannabis retail storefront in the C1 (Local Business District) zone.		

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone:	C1 (Local Business District)	North:	C1 (Local Business District)
General Plan:	Commercial Residential	South:	C1 (Local Business District)
Lot Dimensions:	300' x 66'	East:	R2-MD (Multiple-Family Residential District, Medium Density)
Lot Area:	19,799 sq. ft.	West:	State Route 55
Existing Development:	4,967 sq. ft. one-story multi-tenant commercial building and a 2,037 sq. ft. multiple-family residential building containing five units		

DEVELOPMENT STANDARDS COMPARISON

Development Standard	Required/Allowed C1 Zone	Provided/Proposed
Building Height	2 stories/30'	1 story/15'
Setbacks:		
Front	20'	25'-2"
Side	15'/0'	18'/0'
Rear	0'	178'-6"
Landscape Setback – front	20'	21'-2" ¹
Parking	25 ²	26 ²
Floor area ratio (FAR)	0.20	0.35 ³
<p>1 The existing front setback is over 20 feet; however, no landscaping is currently provided. Proposed improvements would provide landscaping and reduce the number of parking spaces within the front setback to only one accessible space. Landscaping would also be improved along one side of the property.</p> <p>2 The existing parking lot striping is nonconforming. The proposed site plan includes appropriately designed commercial and residential parking stalls onsite, a bike rack credit of one stall, and eight offsite parking stalls on an adjacent property.</p> <p>3 The existing floor area ratio is legal nonconforming.</p>		
CEQA Status	Exempt per CEQA Guidelines Section 15301 (Existing Facilities)	
Final Action	Planning Commission	

BACKGROUND

The subject site is an approximately 19,799-square-foot property that is located at 2424 Newport Boulevard. The nearest cross streets are Santa Isabel Drive to the south and Monte Vista Avenue to the north. The site is zoned C1 (Local Business District) and is surrounded by C1 properties to the north and south, and street rights-of-way to the west (Newport Boulevard and State Route 55). Residential properties, zoned R2-MD (Multiple-Family Residential District, Medium Density) are located to the east. The site has a General Plan Land Use Designation of "Commercial Residential". The property shares a common access driveway with the adjacent property to the north (2428

Newport Boulevard). The driveway access is generally located on the 2428 Newport Boulevard property; however, existing site parking is located on the subject property.

Existing development on the subject property consists of a one-story, 4,967-square-foot multi-tenant commercial building containing six tenant suites oriented toward Newport Boulevard and a one-story, five-unit residential building in the rear. The proposed cannabis retail establishment, Gaia Wellness, would occupy suites C and F (a 1,552-square-foot tenant space). Both suites C and F are vacant. Suite F was previously occupied by a dog grooming business that was open between the hours of 7:30 AM and 5 PM, and Suite C was occupied by a massage business that was open between 10 AM and 10 PM. Two salons, a glass door retailer, and an automobile broker occupy the remainder of the commercial building. Historic records indicate that the existing residential structure was constructed in 1936 and that the Orange County Board of Supervisors approved the addition of a commercial structure in front of the residences in 1946. The two structures are approximately 95 feet apart. There are no open Code Enforcement cases on the subject property.

The subject property is located in between two multi-tenant commercial centers on one of the City's primary commercial corridors. Existing uses along this block of Newport Boulevard include, but are not limited to, hotels, restaurants, salons, mini warehousing, automobile services, and single-family homes. The rear of the subject property abuts 126 Isabella Avenue and 2417 Elden Ave, residential properties that are zoned R2-MD (Multiple-Family Residential District, Medium Density).

The applicant is partnering with an existing cannabis manufacturing and distribution business in Costa Mesa, Se7enLeaf, LLC, which obtained a CUP in 2018 under Measure X. There are no Code Enforcement cases on the property.

Non-Conforming Development

The existing development is legal nonconforming in terms of floor area ratio, parking, landscaping, and residential use, 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.

The proposed use would not increase the building square footage and would not modify the residential structure nor residential use. Improvements would be made to bring the two subject commercial suites into compliance with current building and safety codes; however, and as specifically allowed by the CMMC, the existing nonconformities can remain pursuant to the City's legal nonconforming provisions. The applicant is proposing to bring the property into closer conformance by adding landscaping in the front setback, a tree in the front setback, and a bicycle rack. Additional landscaping improvements would be made along the southwestern property line. Although existing parking at the site is legal nonconforming (discussed further in the *Parking and*

Circulation section of this report), the applicant proposes to lease eight surplus parking stalls from an adjacent property.

City of Costa Mesa Medical Marijuana Measure (Measure X) and Costa Mesa Retail Cannabis Tax and Regulation Measure (Measure Q)

In November 2016, Costa Mesa voters approved Measure X, allowing medical cannabis manufacturing, packaging, distribution, research and development laboratories, and testing laboratories in “Industrial Park” (MP) and “Planned Development Industrial” (PDI) zoned properties north of South Coast Drive and west of Harbor Boulevard (“The Green Zone,” excluding the South Coast Collection property located at 3303 Hyland Avenue). Measure X is codified in Titles 9 and 13 of the CMMC.

In 2018, non-medical adult use cannabis became legal in California under the State’s Medicinal and Adult-Use Cannabis Regulation and Safety Act (Proposition 64). On April 3, 2018, the City Council adopted Ordinance No. 18-04 to allow non-medical 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. Lastly, the applicant must obtain the appropriate 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 21-38 is a request for a CUP to allow a 1,552-square-foot retail cannabis storefront in an existing multi-tenant commercial building at 2424 Newport Boulevard (Units C and F). 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(s), the business would be allowed to sell pre-packaged cannabis and pre-packaged cannabis products 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 (C1 – Local Business District) where commercial development is allowed to include retail uses. As defined in the CMMC, “This district is intended to meet the local business needs of the community by providing a wide range of goods and services in a variety of locations throughout the City.” 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. 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 only minor updates to the building façade. Other proposed exterior improvements include:

- Removing parking from the front setback, except for one accessible parking stall;
- Repaving and restriping the surface parking lot to comply with the City's Parking Design Standards (refer to the parking discussion below);
- Adding bicycle racks to encourage multi-modal transportation;
- Improve the site landscaping to bring the property into closer conformance with the CMMC landscape requirements. New landscaping would be installed along the frontage including at least one new 24-inch box tree and live, drought-tolerant groundcover. Additional landscaping would be provided in planters along the southwestern property line. 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. 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 to combine Units C and F, and accommodate the proposed retail and back-of-house operations. The interior space would be renovated to meet the specific needs of the proposed storefront, which include limited access areas where only employees with proper security credentials are allowed. A floor plan summary of the 1,552-square-foot tenant space is provided on the following page.

Table 1 – Floor Plan Summary

Operational Area	Square Feet
Lobby	120
Secure Check-In	90
Display Area (Sales Floor)	540
Restroom	72
Breakroom	83
Office	85
Fulfillment	132.3
Storage	155
Hallways	274.8
Total	1,552

Customer and Employee Access

Customer access would be limited to the lobby and display area. Customer circulation into the proposed establishment includes entering the licensed premise through the door fronting Newport Boulevard where a greeter employee would verify the customer's identity and age before allowing the customer to enter the retail sales area. After a customer's identity and age is verified and their transaction is completed, they must leave the premise through the lobby and front door. As further conditioned, a security guard would monitor the area at all times to ensure that customers are following regulations.

Vendor Delivery Operations and Access

All vendors (licensed distributors) will have pre-committed arrival times set by the storefront's operational managers for product delivery. All vendor vehicles will load and unload at the designated parking space located immediately adjacent to the employee access door. Vendor employees delivering products for sale would only be allowed to enter the premise while accompanied by an employee with the proper security credentials. All access-controlled doors, path of travel, and vehicle loading/unloading area 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:

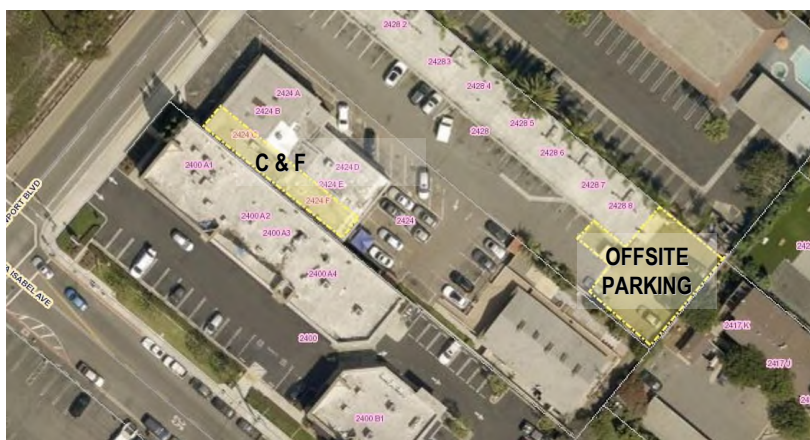
- At least one security guard will be on-site 24-hours a day;
- All employees must pass a "Live Scan" background check;
- City-issued identification badges are required for employees;
- An inventory control system shall be maintained;
- Exterior and interior surveillance cameras shall be monitored and 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. The parking required pursuant to the CMMC for a 4,967-square-foot retail/office building is 20 parking spaces. However, City records show 17 onsite parking stalls were previously approved at the site, 12 spaces for the commercial uses and five spaces dedicated to the residential use; therefore, the site is legal non-conforming for parking.

The current parking lot striping does not meet CMMC design standards and, as proposed, the applicant would restripe the parking lot to meet the City's design standards. The proposed plan provides 17 onsite parking vehicular stalls (12 spaces for the commercial uses and five for the residential uses) and a bike rack (credited as one required parking space). As conditioned, the final location of the proposed bike rack will be determined during the plan check process. Although the site modifications/upgrades will accommodate the legal nonconforming number of parking stalls (17), the applicant proposes to provide a total of 26 parking stalls by leasing eight surplus parking spaces in the rear of 2428 Newport Boulevard, as shown in Exhibit 1. As previously indicated, the two properties share a driveway ingress/egress from Newport Boulevard and an internal drive aisle; however, the properties are owned separately and currently do not provide common customer parking. As conditioned, the applicant's employees shall park at the offsite parking spaces and the applicant shall post wayfinding signs to the offsite parking stalls assigned for cannabis storefront use.

Exhibit 1 – Offsite Parking



“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 rapid 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.

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; however, there would be a Traffic Impact Fee. The estimated fee is approximately \$19,000. The fee calculation would be finalized during the building permit plan check process and must be paid prior to building permit issuance.

Odor Attenuation

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 that incorporates and exceeds industry best practices, including activated carbon filtration in a negatively pressurized environment, 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, as conditioned, if cannabis odor is detected outside of the building or off-site, 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

This portion of Newport Boulevard is characterized by a mixture of commercial and residential uses. The immediate vicinity of the proposed project is shown in Exhibit 2. There is a legal nonconforming five-unit residential building on the subject commercial property. Based on City records, the property has contained both residential and commercial uses since the late 1940s. The shortest distance between the proposed storefront and the onsite residential building is 95 feet.

Exhibit 2 – Existing Uses



In addition, there are two residentially-zoned properties that abut the subject property’s rear property line. The shortest distance between the proposed licensed premise and the nearest offsite residential buildings is approximately 215 feet. Block walls, landscaping, and the onsite residential building provide adequate buffers between the proposed storefront and adjacent residential properties. The following conditions of approval are proposed to ensure compatibility between the proposed use and onsite 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 noise 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; 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: The cannabis retail facility is proposed in an existing commercial building on a property that also contains a multiple-family residential structure. Historic records indicate that residential and commercial uses have coexisted on the subject site since the late 1940's. The proposed storefront would not result in the removal of the residential use. Like other properties along Newport Boulevard, the subject property is also adjacent to an established residential neighborhood. As conditioned, the proposed use would be required to control odor, noise, limit trash enclosure access, and provide adequate security and parking lot monitoring to ensure compatibility between uses (the aforementioned cannabis operation site controls exceed typical retail requirements).

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 other commercial tenants as well as a five-unit residential building. The previous use in Unit F was a dog groomer open between 7:30 AM and 5 PM and the previous use in Unit C was a massage business open from 10 AM to 10 PM. With the 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, excessive commercial noise is not anticipated to effect adjacent residential uses.

FINDINGS

Pursuant to Title 13, Section 13-29(g), Findings, of the Costa Mesa Municipal Code, in order to approve the project, the Planning Commission must find that the evidence presented in the administrative record substantially meets specified findings as follows:

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

The subject site is located within a commercial zone (C1, Local Business District) where commercial development is specifically allowed to include retail uses. In addition, the property is located on one of the City's primary commercial corridors that is predominantly intended for commercial uses. Existing uses along this block include hotels, restaurants, salons, mini warehousing, automobile services, and residential uses. Pursuant to the CMMC, cannabis retail storefronts are permitted uses in the City's commercial zones and are subject to extensive regulation (as specifically described in this report). 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 odor and noise control measures as described in this report to minimize any potential impacts to adjacent uses.

The proposed customer entrance and exit fronts Newport Boulevard, away from onsite and adjacent residential uses. The rear of the proposed storefront is approximately 95 feet from the onsite residential building. The proposed storefront would also not be materially detrimental to residences because the project would include features such as: prohibiting customers from entering or exiting via the limited access door, limiting vendor deliveries and customer services to the hours between 7 AM and 10 PM, posting signs in the parking lot directing customers 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, and shielding security lighting down and away from residential uses. Staff does not anticipate that the proposed retail cannabis use, as proposed and conditioned, would be materially detrimental to nearby uses that include hotels, restaurants, multi-tenant commercial centers, and residences. 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 “Commercial Residential”. It is the intent of this land use designation to allow a complementary mix of commercial and residential zoning along Newport Boulevard. The use is consistent with General Plan policies related to providing a mixture of commercial goods, services, and employment opportunities; expanding the City’s tax base; and promoting the incubation of unique and specialized businesses. 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 “Local Business District” (C1). A variety of commercial uses are allowed in the C1 zone, including a retail cannabis storefront, subject to a CUP. No additional square footage is proposed, therefore, the proposed use would not increase the floor area ratio (building intensity) or increase the number of residential units onsite (density).

ENVIRONMENTAL DETERMINATION

The project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 for the permitting and/or minor alteration of Existing Facilities, involving negligible or no expansion of the existing use. This project site contains a 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.

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. Any public comments received prior to the April 10, 2023 Planning Commission meeting will be provided separately.

CONCLUSION

The proposed project is a retail cannabis storefront business at a developed property that is located on one of the City's commercial corridors and meets separation requirements established in CMMC 13-200.93(e). Staff and the City's cannabis consultant completed the 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 would be 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, conducts 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 C1 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 21-38 subject to conditions of approval.