

REPORT to the LA MESA PLANNING COMMISSION

DATE: November 20, 2024

SUBJECT: CONDITIONAL USE PERMIT (EXTENSION) – A REQUEST FOR CANNABIS RETAIL USE AT 7729 UNIVERSITY AVENUE, IN THE GENERAL COMMERCIAL ZONE; URBAN DESIGN AND MIXED USE OVERLAYS (C-D-MU) (Project No. 2024-1830).

DESCRIPTION: The applicant, La Mesa Health Center, Inc. requests a five (5) year extension on the existing Conditional Use Permit (CUP 17-16), to allow for Cannabis Retail Use (Co-location).

ISSUING DEPARTMENT: Community Development

SUMMARY:

Issue(s):

1. Should the Planning Commission approve Project 2024-1830, an extension of an existing Conditional Use Permit (CUP 17-16), to allow cannabis retail use.

Recommendation:

1. That Planning Commission adopt the Resolution, approving project 2024-1830, extension of an existing Conditional Use Permit (CUP17-16) (Attachment 1).

ENVIRONMENTAL REVIEW:

The project, an extension of a CUP to continue cannabis retail use at 7729 University Avenue, has been reviewed and has been determined to be Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1, exemption for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of private structures involving negligible or no expansion or use beyond what existed at the time of the lead agency's determination agency's determination. The project

is exempt because it would allow the continuation of cannabis retail use in an existing building on a site zoned for such land use. The project is located where all public services and facilities are available, and the surrounding uses are not environmentally sensitive. There is no evidence that the project will result in an environmental impact. None of the exceptions in Section 15300.2 apply. Therefore, the project complies with the exemption standards established in the CEQA guidelines.

BACKGROUND:

The subject cannabis retail use is located at 7729 University Avenue, on the south side of University Avenue, east of Maple Avenue and west of Dale Avenue and Troy Lane (Attachment 2). On March 21, 2018 Resolution PC-2018-10, the Planning Commission approved a Conditional Use Permit (CUP) to allow for a medical marijuana dispensary use at this location (CUP 17-16) (Attachment 3). Pursuant to La Mesa Municipal Code (LMMC) 6.11.070, retail commercial adult cannabis businesses are permitted with a licensed (LMMC Chapter 24.23) medicinal-use cannabis business. A Co-Location License (Cannabis License No. 2020-18) to allow for the retail sale of adult use cannabis at this location was approved on May 11th, 2020 (Attachment 4). Pursuant to La Mesa Municipal Code (LMMC) 24.23.030 – Section 2 (j), cannabis CUP's expire five (5) years from "date of issuance". Due to the extended amount of time needed to finalize licensing requirements and building permits, the date of issuance for cannabis CUPs, has been determined to be the date of use or five (5) years from the issuance of the Certificate of Occupancy (CofO), if new construction or extensive renovations were needed. In this case, the CofO was issued January 22, 2020.

A determination of substantial conformance has been made by the Director of Community Development for a proposed 383 square foot addition to the existing business that will be used for administrative purposes, intake and storage, including temporary storage of cannabis product and non-cannabis office supplies (Attachment 5).

DISCUSSION:

The existing cannabis retail use located at 7729 University Avenue, is an existing 1,144 square foot, one-story commercial building. The applicant has proposed an addition of 383 square feet (Attachment 5) which has been determined by the Director of Community Development to be in conformance with the existing CUP and licenses(s). The site is zoned "General Commercial" with an Urban Design and a Mixed-Use Overlay (C-D-MU). Surrounding uses include general commercial, retail, and residential uses.

Good Standing Review

The subject use complies with all conditions of approval, and other local and state requirements. The City conducts annual compliance licensing inspections and to date, La Mesa Health Center, Inc. has been found to be compliant with all inspected requirements. There have been no calls for service from the police department or other nuisance complaints for this location. Pursuant to La Mesa Municipal Code Section 24.23.030 (d).a security plan is required including adequate security surveillance

cameras, alarm system, and perimeter security and lighting systems. Existing operations would continue to meet security requirements and are monitored in an ongoing basis. Security surveillance footage (24 hour, real-time, live access to video footage) is remotely accessible by the La Mesa Police Department.

Required Findings for Conditional Use Permit (CUP) Approval.

The Planning Commission may grant a Conditional Use Permit (CUP) after consideration of the staff report and public hearing, including evaluation of compliance with provisions codified by the LMMC and making all of the required findings. In considering the project, the Planning Commission may i) approve the project; ii) deny the project; iii) approve the project subject to conditions; or iv) continue the public hearing and request additional information before making a final decision.

Staff has reviewed the application for the CUP and has determined that the project is consistent with the land use and development standards in effect for this site in accordance with the La Mesa Municipal Code. The project is not requesting, nor does it require, any deviation or variance from the applicable regulations and policy documents. Regulatory conditions of approval of the CUP will remain in full force and effect, except as previously completed or satisfied. The conditions of approval assure the project's compliance with applicable local, regional, and State codes and rules, and ensure that the project will not be detrimental to the public health, safety and welfare.

Based on the findings for approval of a conditional use permit (LMMC Section 24.02.060 (a-c)) and the analysis in this report, staff has made the following findings in support of the recommendation of approval.

a. Incompatibility with other uses in the same vicinity will not result

The project is compatible with other uses in the same vicinity. The General Commercial Zone and Mixed Use Overlay support a variety of uses including retail businesses, offices, and services. Surrounding uses include uses consistent with the Mixed Use Urban Land Use designation including general commercial, retail, and residential uses. The subject cannabis facility has been in operation since January 2020 and has operated in compliance with all conditions of approval, and other local and state requirements and therefore continuous of the use will not adversely affect surrounding uses or conflict with the vision established for applicable land use plan.

b. Issuance of such a conditional use permit would not lead to the creation of a nuisance and would not endanger the public health, safety, or order by:

- (1) Unreasonably increasing pedestrian and/or vehicular traffic in the area in which the premises are located;

The issuance of a CUP would not unreasonably increase pedestrian and/or vehicular traffic in the area. The existing cannabis retail use is contained wholly within and existing commercial building. There is no evidence to suggest that the established use has caused or contributed to any pedestrian or vehicular traffic problem in the area

and the continued use is not expected to generate significant levels of vehicular or pedestrian traffic.

- (2) Increasing the incidence of disruptive conduct in the area in which the premises are located;

The subject cannabis retail use has complied with all conditions of approval, and other local and state requirements. There have been no calls for service from the police department or other nuisance complaints for this location and they have passed all annual compliance licensing inspections to date. Existing operations would be required to continue to meet all security requirements. Security surveillance footage (24 hour, real-time, live access to video footage) is remotely accessible by the La Mesa Police Department. In addition, conditions of the permit require that the applicant proactively address and cure any legitimate loitering complaints, noise complaints, odor complaints, non-compliance issues with the CUP, or non-compliance with other applicable state or local regulations. These regulations, which are implemented and enforced through the permit, are intended to reduce and/or prevent all adverse impacts to the public and community at large. Failure to operate the business in conformance to the conditions of approval could result in possible suspension or revocation of the permit. It is not anticipated that within such a controlled and conditioned environment, disruptive conduct would occur.

- (3) Unreasonably increasing the level of noise in the area in which the premises are Located.

The issuance of a CUP would not unreasonably increase the level of noise in the area. No increase in noise level is expected from this retail use compared to other uses allowed in the General Commercial zone. The existing cannabis retail use is an indoor retail use. No noise complaints have been filed related to the established use and there is no evidence to suggest that the use has created an unreasonable increase in the level of noise in the area. Pursuant to the provisions of LMMC, the business is required to proactively address and cure any legitimate noise complaints. Failure to do so could result in possible suspension or revocation of the CUP.

- (c) **The use is consistent with the General Plan**

The General Plan land use designation of the subject property is Mixed Use Urban. This land use designation is assigned to the City's transportation corridors such as University Avenue. It allows for more intensive level of commercial development than Local Serving Commercial and provides a variety of uses. The existing cannabis retail use is consistent with this General Plan Land Use.

CONCLUSION:

The owner and operator of the cannabis retail use located at 7729 University Avenue has continued to maintain compliance with all conditions of approval, and other local and state requirements. The subject business was found to be compliant with all

Report to Planning Commission

Date:

Page: 5 of 5

inspected requirements at the time of their inspection. For these reasons, the subject cannabis retail use is found to be in good standing with its Conditional Use Permit conditions of approval and compliance with other local and state requirements. Staff recommends that the Planning Commission adopt the resolution approving the Project, subject to the recommended conditions of approval shown on Exhibit A of the resolution.

Respectfully submitted by:

Lynnette Santos

Lynnette Santos
Director of Community Development

Attachments:

1. Draft Resolution and Exhibit A Conditions of Approval (5 Year Extension of CUP 17-16)
2. Vicinity Map
3. CUP 17-16; Resolution (PC-2018-10)
4. Co-Location Adult Use Cannabis License Approval Letter (May 11, 2020)
5. Plans for Proposed 383 Square Foot Addition (Substantial Conformance Approved)