

## RESOLUTION NO.

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA MESA APPROVING PROJECT NO. 2024-1830 (CUP 17-16) (7729 UNIVERSITY AVENUE) FOR A CANNABIS RETAIL USE AT IN THE C-D-MU (GENERAL COMMERCIAL/ URBAN DESIGN OVERLAY/MIXED USE OVERLAY) ZONE.

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WHEREAS, La Mesa Health Center, Inc. submitted an application for a Conditional Use Permit (CUP), Project No. 2024-1830 (CUP 17-16), a request to extend an existing CUP for cannabis retail use at 7729 University Avenue in the C-D-MU (General Commercial / Urban Design Overlay/ Mixed-Use Overlay) zone;

WHEREAS, cannabis retail uses are permitted in the General Commercial (C) zone subject to review and approval of a CUP;

WHEREAS, the Planning Commission of the City of La Mesa did hold a duly noticed public hearing on November 20, 2024, and accepted public testimony in considering Project No. 2024-1830 (CUP 17-16);

WHEREAS, the Planning Commission did receive and consider a staff report on the proposed project;

#### THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

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 Categorically 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.

#### **Conditional Use Permit Findings (La Mesa Municipal Code Section 24.02.060 (a-c)):**

##### 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.

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 an 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.

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 a 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.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF LA MESA AS FOLLOWS:

1. The foregoing findings of fact and determinations are true and correct and hereby made a part hereof.

2. The foregoing findings of fact and determinations are supported by the staff report, attachments plans, and exhibits, all of which are herein incorporated by reference.
3. The Planning Commission approves Project No. 2024-1830 (CUP 17-16) subject to the conditions in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of La Mesa, California, held the 20<sup>th</sup> day of November 2024, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

I, Lynnette Santos, Planning Commission Secretary, do hereby certify the foregoing to be a true and exact copy of **Resolution PC**, duly passed and adopted by the Planning Commission.

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Lynnette Santos; Secretary  
La Mesa Planning Commission

**Exhibit A**

PC Resolution

Project No. 2024-1830 (CUP 17-16)

Conditions of Approval

1. The Owner(s) shall waive any claims of liability against the City and indemnify, hold harmless and defend the City and City's employees regarding any component of the City's approval pursuant to the executed Hold Harmless and Indemnity Agreement on file with the City signed by the property owner or assigns on April 10, 2019.
2. The project is conditionally approved as set forth on the application, and project plans consisting of 3 sheets including Site Plan, Floor Plan, and Exterior Elevations; all designated as approved by the Planning Commission on November 20<sup>th</sup>, 2024, and shall not be altered without express authorization by the Director of Community Development Department. All construction plans shall be in substantial conformity with approved plans and may not be physically changed or increased in size without prior approval of the Director of Community Development and/or amending the existing Conditional Use Permit.
3. The building shall not be physically changed or increased in size (e.g., floor area or buildings utilized) without prior approval of the Director of Community Development and/or amending the Conditional Use Permit as determined necessary by the Director of Community Development.
4. The Conditional Use Permit shall expire no later than five (5) years from the date of expiration (on or before January 22, 2030).

5. The Cannabis Retail Use (Co-Location) shall remain in compliance with the provisions of La Mesa Municipal Code Chapter 6.11 Commercial Adult Use Cannabis and Chapter 24.23 Medical Marijuana Activity Zone Ordinance of La Mesa.
6. The project shall remain in compliance with the development standards of the underlying zone including but not limited to parking standards and requirements, trash and recycling enclosure standards, and landscape standards.
7. Site landscaping shall be consistent with City landscape standards and the State of California Model Water Efficient Landscape Ordinance (MWELO).
8. All driveways and parking areas shall be maintained in accordance with standards established by City Council resolution.
9. Performance entertainment as defined by LMMC Section 24.01.100 is prohibited.
10. Logos visible to the public are prohibited.
11. Signs shall be posted on the outside of the cannabis retail use and shall only contain the name of the business, limited to two colors, and shall require a sign permit approved by the City.
12. Pennants, balloons, banners, streamers, whirligigs, or other similar devices, when used for advertising purposes are prohibited.
13. Revocation of a permittee's State license shall result in immediate revocation of the City of La Mesa's Conditional Use Permit.
14. The applicant shall conform to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), and as it may be amended, to track, test, seal and label, at a minimum, all products.
15. The operation of the business shall comply with State Licensing outlined in California Business and Professions Code Division 10, as amended, and any other applicable laws or regulations.
16. A copy of the cannabis retail use Conditional Use Permit and State license shall be displayed inside the facility in a place visible to the public.
17. The cannabis retail use shall not transfer ownership or control of the business to another person or entity unless and until the transferee first obtains an approval from the City of La Mesa, and the appropriate City of La Mesa fees are paid.
18. The business shall be subject to all applicable local taxes.

19. The cannabis retail use shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
20. Security measures shall be provided pursuant to LMMC 6.11.180.
21. All activities associated with the business shall be conducted indoors.
22. Delivery of cannabis is prohibited with exceptions pursuant to Subsection 10.39.030 of the La Mesa Municipal Code and shall not apply to (i) primary caregivers delivering medical marijuana to qualified patients, (ii) qualified patients transporting marijuana for personal use only, (iii) duly licensed delivery services delivering medical marijuana to qualified patients, or (iv) duly licensed delivery services related to duly licensed medical marijuana facilities pursuant to Measure "U" (Ordinance No.2017-2857).
23. Consultations by medical professionals shall not be permitted on the premises.
24. The use of Vending Machine which allows access to medical marijuana except by a responsible person is prohibited. A vending machine is any device which allows access to cannabis without a human intermediary.
25. No consumption of any cannabis product shall be allowed on the premises.
26. The sale or consumption of any alcohol or tobacco products is prohibited on premises.
27. Attractive nuisances dangerous to children, including but not limited to abandoned and broken equipment, iceboxes, refrigerators, and unprotected and/or hazardous pools, ponds and excavations are prohibited.
28. All cannabis products that can be ingested by eating or drinking shall have a warning label or sign advising them of the potential hazard associated with over-consumption.
29. The applicant shall keep accurate records of commercial cannabis activity and shall maintain all records related to commercial cannabis activity for a minimum of seven years.
30. Disposal of any unused or unwanted cannabis shall be in conformance with applicable State laws and shall not be disposed of, as or with, routine garbage.
31. The cannabis retail use shall maintain a current register of the names of all employees currently employed by cannabis retail use business and shall disclose such registration for any City officer or authorized official for purposes of determining compliance with local and state cannabis employment requirements.
32. All employees of the cannabis retail use business shall have clearly visible photo identification badges that are to be worn at all times when they are on the premises of the facility.

33. All staff of the cannabis retail use business shall receive appropriate training for their intended duties as required by State and local law.
34. At least two (2) employees shall be on the premises during business hours.
35. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the cannabis retail use in character size at least two inches in height.
36. The cannabis retail use shall post and maintain professional quality sign consistent with LMMC Title 15 and Chapter 24.23 facing the parking lot(s) that reads "No loitering, no littering violators subject to arrest" in English and Spanish.
37. Site lighting shall be provided to illuminate the interior of the cannabis retail use, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks such that the property is well lit at night to prevent loitering and eliminate hiding places. Lighting shall be provided to illuminate building numbers, building accesses, and front and back areas. Lighting shall be of consistent levels to reduce contrast between shadows and illuminated areas and shall be hooded or oriented so as to deflect light away from adjacent properties.
38. The applicant shall maintain the premises and property in good condition and repair. All yards and other open spaces around buildings shall be kept free of waste, litter, junk, or storage of any material. Packing boxes, lumber, litter, dirt and other debris accumulated in vestibules, doorways or the adjoining sidewalks or outside commercial buildings and visible from public or private streets shall be prohibited. Maintenance of the property and the responsibility for such maintenance shall be that of the owner of record and/or the occupant, separately or jointly, and either or both may be cited for any violation on the building site.
39. All approved landscaped areas shall be properly maintained by regular watering, mowing, pruning, fertilizing, clearing of weeds and debris, the removal and replacement of dead or diseased plants and trees, and the repair and replacement of irrigation systems and integrated architectural features (e.g., fountains).
40. All fences, structures, building materials, and architectural features shall be kept in good condition, both structurally and aesthetically. Awnings and other features constructed of materials subject to weathering and deterioration shall be replaced when they are worn, tattered, excessively faded, or otherwise in poor condition. All building and exterior finishes and architectural features shall be maintained to avoid the appearance of deterioration or disrepair from excessive weathering, paint chipping or peeling, excessive cracks, broken windows or doors, or other conditions that represent lack of proper property maintenance.
41. Pursuant to the La Mesa Municipal Code (LMMC) Section 24.02.060, this Conditional Use Permit may be revoked or suspended by the Planning Commission if it determines that the permit was obtained through fraudulent representatives or the use was subsequently changed in operation contrary to representations or conditions applied pursuant to

Measure U, LMMC Section 24.23. The permit may also be revoked due to legitimate loitering complaints, noise complaints, and smell complaints, or non-compliance with the Conditional Use Permit, or non-compliance with other applicable state or local regulations. The Conditional Use Permit may be revoked or suspended due to failure to enact a correction ordered by the City, as well as non-compliance with the regulations of the La Mesa Municipal Code or failure to comply with any State law, regulation or code. The cannabis retail use licensee shall have a reasonable period of time, which shall not exceed 14 calendar days unless a longer time period is deemed necessary and reasonable by the City, to cure a legitimate complaint or non-compliance unless the issue would result in an immediate danger to the public and shall be cured immediately as determined by local law enforcement or other appropriate authority before being subject to revocation or suspension. If the use should create a nuisance to surrounding properties, staff shall schedule a public hearing before the Planning Commission to evaluate the operations of the business. If the Planning Commission finds that the operation is creating a nuisance, the Commission may then impose additional restrictions on the business or revoke the CUP.

42. City staff shall be allowed access to the premises in accordance with State law.

Fire Department Conditions

43. Fire Protection systems shall be in operational order at all times.
44. Any volatile substances as well as any hazardous materials stored or used on premises shall be disclosed in advance to the City and stored or fastened in a secure manner or as required by City code. Volatile solvents shall be prohibited. This does not include normal business cleaning materials however; they must be in a limited quantity.
45. A fire inspection is required prior to a certificate of occupancy or business license being issued. The applicant shall ensure the cannabis retail use is set up and ready for operation prior to the fire inspection.
46. If the building is sprinklered or contains a fire alarm, a Knox box will be required for emergency access.
47. Permanent three-dimensional street numbers, minimum eight inches in height, shall be provided on the address side of the building at the highest point and furthest projection of the structure. The address shall be visible from the street and shall not be obstructed in any manner. Building letter designations shall be a minimum of eight inches in height and shall be installed as directed by Heartland Fire & Rescue Fire Prevention.

Police Department Conditions:

48. Building plans shall include a description and detailed schematic of the overall facility security. The applicant shall identify with illustration and notes the proposed security measures to be implemented, including, but not limited to:

- a. Show and note on the floor plan that a surveillance camera shall be placed at face level to capture and record every individual coming and going from the business for identification purposes.
- 49. Twenty-four (24) hour, fixed camera video surveillance shall be required and digital storage in the cloud or other off-site method of recordings shall be available for 90 days after recording. The recording shall be of a sufficient quality to provide identification of any individual being recorded. The surveillance shall cover every interior area and room and adjacent perimeter area within a minimum of 50 feet; The City of La Mesa Police Department or other City authorized department shall have 24-hour remote access to the surveillance system.
- 50. The project shall maintain CPTED (Crime Prevention Through Environmental Design) principles and shall include the following to the satisfaction of the Police Department:
  - a. Trees shall be at least 8 feet above the ground and bushes shall be trimmed to less than 3 feet to allow for natural surveillance of the property.
  - b. Landscape shall not obstruct the view of any windows, doorway, security cameras and light.