

RESOLUTION NO. PC Resolution PC-2024-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA MESA TO APPROVE A CONDITIONAL USE PERMIT, TO ALLOW FOR A CANNABIS DISTRIBUTION FACILITY AT 8227-8229 COMMERCIAL STREET, IN THE M (INDUSTRIAL SERVICE AND MANUFACTURING) ZONE.

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WHEREAS, all commercial adult -use cannabis businesses which do not conduct retail sales shall be located on property zoned M (Industrial Service and Manufacturing) and are subject to review and approval of an Adult Use Cannabis License and Conditional Use Permit (CUP); and

WHEREAS, pursuant to La Mesa Municipal Code (LMMC) 6.11.070 (C), a validly permitted and licensed adult-use cannabis distribution facility may be authorized without co-location with a medicinal use cannabis business validly permitted and licensed under Measure "U" (LMMC Chapter 24.23); and

WHEREAS, California offers a transport-only distributor license (Type 13) which restricts licensees to moving cannabis and cannabis products between cultivation, manufacturing, or distribution premises; and

WHEREAS, the proposed Type 13 transport-only Adult Use Cannabis Distribution Facility (Distribution Facility) meets the location and design of commercial adult-use cannabis standards required pursuant to La Mesa Municipal Code 6.11.160 (D); and

WHEREAS, the Planning Commission of the City of La Mesa did hold a duly noticed public hearing on July 17th, 2024, and accepted public testimony in considering Project No. 2022-0692, a CUP for an Adult Cannabis Distribution Facility (Distribution Facility); and

WHEREAS, the Planning Commission did receive and consider a staff report on the proposal.

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

The project is exempt from environmental review under CEQA Guidelines Sections 15301, 15303, and 15332. Section 15301 exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of a private structures involving negligible or no expansion of a use beyond what existed at the time of the lead agency's determination. Section 15303 exempts new construction or conversion of small structures including commercial structures, accessory structures, and water, electrical, gas, and other utility extensions including street improvements. Section 15332 exempts infill development projects that meet all of the conditions necessary to qualify for the exemption: (a) the project is consistent with the applicable general plan designation and policies, as well as with applicable zoning designation, and regulations; (b) the project occurs within the City limits on a project site of no more than five acres substantially surrounded by urban uses; (s) the project site has no value, as habitat for endangered, rare, or threatened species; (d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. The project meets the criteria for the exemption. None of the exceptions listed 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):**Incompatibility with other uses in the same vicinity will not result.

The project is compatible with other uses in the same vicinity. The Industrial Service and Manufacturing (M) zoning classification of the subject property is consistent with the General Plan land use designation of Light Industrial. The M zone permits an adult use cannabis distribution use with a CUP. The zone is intended for and permits general commercial uses with light industrial and manufacturing-type uses. Existing uses along Commercial Street include manufacturing and sales; fabrication shops, and multi-tenant industrial buildings. The proposed distribution use is a compatible use with the wide range of surrounding industrial, manufacturing, and general commercial uses identified above and therefore will not adversely affect surrounding uses or conflict with the vision established for the industrial area by the 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 proposed facility will be fully contained within an existing 4,859 square foot building that is not expected to increase additional vehicular trips. The proposed project is an industrial use, which is similar to other industrial uses allowed in the M Zone. The proposed use is not expected to generate high levels of vehicular or pedestrian traffic and therefore no traffic impacts would be expected with the cannabis distribution use.

The proposed specific regulatory conditions of approval further assure the project's compliance with applicable local, regional, and state codes and rules including that entry to the facility is prohibited unless said person(s) is a licensed facility employee, or those whose responsibilities necessitate access to facility provided they are under direct personal supervision. All access to the site will comply with all local and the Department of Cannabis Control regulations. These regulations, which would be implemented and enforced through the adult use cannabis license and approved CUP, are intended to reduce and/or prevent all adverse impacts to the public and community at large. The project, as proposed, is compliant with both LMMC Chapters 6.11 and 24.23.

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

The issuance of a CUP would not unreasonably increase the incidence of disruptive conduct in the area. The proposed project conditions include provisions for security measures to be implemented, including, but not limited to, perimeter security and lighting systems, fire and burglar alarm systems monitored by an alarm company licensed by the State of California; evidence that a California State Licensed Security Guard contracted by the business is present at all times the facility is open, and installation of an operable 24-hour, fixed-camera video surveillance system; The surveillance system is required to cover every interior area and room, and adjacent perimeter areas, within a minimum of 50 feet. 24- hour surveillance system access is required by the La Mesa Police Department or other City authorized department.

In addition, conditions of the permit would require that the applicant for the permit proactively address and cure any legitimate loitering complaints, noise complaints, odor

complaints, non-compliance issue with the CUP, or non-compliance with other applicable State or local regulations. Failure to operate the business in conformance to the conditions of approval(s) could result in possible suspension or revocation of the CUP and/or cannabis license(s). 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. In this case, 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 industrial use compared to other uses allowed in the M zone. The proposed cannabis distribution facility is an indoor use comparable with surrounding uses, with the expectation that noise generated by normal operations and other operations activity should not be significantly different from a use that is more familiar to the general public. In addition, the project complies with LMMC Chapters 6.11 and 24.23 and a condition of the permit would require the applicant to proactively address and cure any legitimate noise complaints. Failure to do so could result in possible suspension or revocation of the CUP and/or cannabis license(s).

The use is consistent with the General Plan

The General Plan land use designation of the subject property is “Commercial Light Industrial” and is consistent with the Industrial Service and Manufacturing (M) zone classification of the property. With a CUP, conditions to regulate the project will promote the goals and objectives of the General Plan. Designated for “Light Industrial” land use, the General Plan states that the goal of this designation is to preserve the area as an employment center by allowing a mix of light industrial, wholesale commercial and construction service uses. When considering which particular uses are acceptable, the City will encourage those uses which generate employment or revenue. The proposed distribution facility would support this planned land use intent. General Plan Objective LU-3.2 promotes “An industrial employment center attractive to customers from both local neighborhoods and Regional communities” (p. LD-37) with supporting policies to encourage businesses that improve the appearance of the area and provide off-street and on-street parking to satisfy inadequate parking availability for the area. The project also promotes economic growth and employment consistent with Land Use Policy LU-3.2.1.

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 hereby made a part hereof.
2. The foregoing findings of fact and determinations are supported by the minutes, plans, and exhibits, all of which are herein incorporated by reference.
3. The Planning Commission approves Project No. 2022- 0692 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 17th day of July, 2024, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

I, Lynnette Santos, Secretary, do hereby certify the foregoing to be a true and exact copy of **Resolution PC-2024-XX**, duly passed and adopted by the Planning Commission.

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Lynnette Santos, Secretary  
La Mesa Planning Commission

**Exhibit A**  
**PC Resolution PC-2024-XX**  
**Project 2022-0692**  
**Conditions of Approval**

1. The project is conditionally approved subject to approval of tenant improvement plans submitted on 11/21/2023 (Record Number 2024-1030).
2. The distribution facility shall not be physically changed or increased in size (e.g., floor area or buildings utilized) without prior approval and/or amending the CUP.
3. The CUP for the distribution facility shall expire no later than five (5) years from the date of issuance.
4. Pursuant to 6.11.100, the license for the commercial adult use distribution facility shall expire twenty four (24) months after the date of issuance of said license.
5. This Conditional Use Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. Approval of the CUP for the distribution facility is subject to all applicable State laws and regulations, and the applicable provisions of La Mesa Municipal Code Chapters 6.11 and 24.23.
7. The project shall comply 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.

**The following conditions shall be satisfied prior to the issuance of building and grading permits:**

Planning Division Conditions:

8. 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, and shall execute an indemnity agreement in substantially the form as provided by the Community Development Department prior to building permit issuance, initiating use in reliance of this permit, recordation of the final map and/or recordation of the final parcel map, as applicable, and the Community Development Director is hereby authorized to execute the same. This agreement shall be executed by the applicant, notarized, and then signed by the Community Development Director before obtaining any other permit.
9. Construction plans shall be in substantial conformity to approved plans and may not be physically changed or increased in size without prior approval and/or amending the CUP.
10. If determined by the Director of Community Development to be necessary, the applicant shall provide a photometric analysis showing the illumination of the exterior of the site,

façade, and surrounding area including accessory uses, parking lots, and adjoining sidewalks.

11. If applicable, all new rooftop mechanical equipment shall be fully screened from view with durable materials that match the building.
12. The applicant shall prepare and submit plans in conformance with the approved exhibits and conditions of approval for the CUP. A note shall be placed on the building plans stating that prior to final inspection sign off and release of electrical service, the site and buildings shall be inspected for substantial conformance to the approved exhibits and conditions. The exact materials and colors of all proposed structures shall be prominently noted on all plans and exhibits.

Police Department Conditions:

13. All proposed exterior improvements shall be reviewed and shall implement CPTED (Crime Prevention Through Environmental Design) principles to the satisfaction of the Police Department.
14. Lighting at commercial cannabis facilities shall be provided such that the property is well lit at night to prevent loitering and eliminate hiding places and shall remain illuminated at all times between sunset and sunrise with sufficient intensity to illuminate every portion of the premises including but not limited to parking, any accessory uses and adjoining sidewalks.
15. Building lighting shall be provided to illuminate building numbers, building accesses, and front and back areas.

**The following conditions shall be satisfied prior to the issuance of a Certificate of Occupancy:**

Planning Division Conditions

16. Prior to issuance of a certificate or occupancy, the applicant shall provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements pursuant to applicable law.
17. The Adult Use Cannabis Distribution facility permit holder shall acquire all required commercial permits pursuant to the Business and Professions Code. The applicant shall provide copies of all required permits to the City consistent with the Business and Professions Code.

Building Division Conditions:

18. The applicant shall obtain approvals from all departments for all issued permits including but not limited to building, fire, planning, grading, SD County ACPD, SD County HazMat, encroachment, or other permits for the proposed improvements prior to the issuance of a certificate of occupancy.

19. A fire inspection is required prior to a certificate of occupancy or business license being issued. The applicant shall ensure the manufacturing facility is set up and ready for operation prior to the fire inspection. Be advised fire inspections may be required during the setup of the operation and will be determined at time of permit issuance.

**Police Conditions:**

20. All security measures shall be implemented, including, but not limited to, perimeter security and lighting systems, fire and burglar alarm systems monitored by an alarm company licensed by the State of California; evidence that a California State Licensed Security Guard contracted by the business is present at all times the facility is open, and installation of an operable 24-hour, fixed-camera video surveillance system; The surveillance system is required to cover every interior area and room, and adjacent perimeter areas, within a minimum of 50 feet. 24- hour surveillance system access is required by the La Mesa Police Department or other City authorized department
21. The applicant shall provide an Internet Protocol (IP) Address to the surveillance system.
22. Provide a contract with a valid licensed alarm company operator.

**The following conditions shall apply to operation of the use:**

23. Revocation of a permittee's State license shall result in immediate revocation of the City of La Mesa's CUP.
24. 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.
25. 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.
26. Business operations shall not commence unless and until all required approvals, inspections and licenses have been obtained.
27. A copy of the CUP and State license shall be displayed inside the facility in a place visible to the public.
28. The facility 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.
29. The business shall be subject to the Cannabis Business Tax Ordinance, Chapter 6.10 of the LMMC.

30. All activities associated with the business shall be conducted indoors.
31. At all times the distribution facility is open, the facility shall provide at least one security guard who is licensed by the State of California, possesses a valid Department of Consumer Affairs "security guard card," and has a valid City of La Mesa Business License. The applicant shall provide copies of security contracts and security guard cards.
32. The site shall be alarmed with a centrally monitored fire and burglar alarm system that is monitored by an alarm company licensed by the State of California (Business & Professions Code 7590 et. seq.). The applicant shall provide copies of alarm contracts and alarm company licenses.
33. Twenty-four 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. Further, that 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 areas 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.
34. No consumption of any cannabis product shall be allowed on the premises.
35. The sale or consumption of any alcohol or tobacco products is prohibited on premises.
36. Performance entertainment as defined by LMMC Section 24.01.100 is prohibited.
37. 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.
38. The applicant shall keep accurate records of commercial cannabis activity and shall maintain records related to commercial cannabis activity for a minimum of seven years.
39. Disposal of any unused or unwanted cannabis product shall be in conformance with applicable State laws and shall not be disposed of, as or with, routine garbage.
40. The facility shall maintain a current register of the names of all employees currently employed by the facility and shall disclose such registration for any City officer or authorized official for purposes of determining compliance with local and state employment requirements.
41. All employees shall undergo a background check, at initial employment and annually thereafter, and any person who has been convicted of a felony shall not be employed by or operate, manage, control or own the manufacturing facility or premise.
42. All employees of the facility shall have clearly visible photo identification badges that are to be worn at all times when they are on the premises of the facility.



43. All staff of the facility shall receive appropriate training for their intended duties as required by State and local law.
44. 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.
45. 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).
46. Landscape design and maintenance shall implement applicable CPTED principles which shall demonstrate 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.
47. 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.
48. Pursuant to La Mesa Municipal Code (LMMC) Section 24.02.060, the Conditional Use Permit may be revoked by the planning commission if it determines that the permit was obtained through fraudulent representation or the use was subsequently changed in operation contrary to representations or conditions applied and pursuant to LMMC Section 24.23. A Conditional Use Permit for manufacturing site may be revoked or suspended due to failure to correct a correction ordered by the city in response to a legitimate smell complaints, noise complaints, upon City confirmation of the smell or noise nuisance. A Conditional Use Permit may also be revoked or suspended for non-compliance with the regulations set forth in Measure U or failure to comply with state regulations. The holder of a Conditional Use Permit shall have a reasonable opportunity and time to cure the complaint, nuisance, or possible non-compliance 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.
49. The City or its designee shall have access to the facility for inspection of the facility, the employees, and records during any normal business hours or at any other reasonable time. The applicant shall provide and deliver records to the City upon request.
  50. City and authorized regulatory staff, or designee, shall be allowed access to the premises in accordance with State law.
  51. The facility licensee shall have a reasonable period of time, which shall not exceed 14 calendar days, to cure a legitimate complaint unless the complaint would result in an immediate danger to the public and shall be cured immediately as determined by local law enforcement or other appropriate authority.
  52. Fire Protection systems shall be in operational order at all times.
  53. The use of electrical generators other than for emergency security back-up is prohibited.
  54. Any plumbing modifications for all commercial cannabis facilities shall be approved by the Building Department prior to modification.
  55. A unique identifier shall be used to identify and track plants over 12" in height from the cultivator until time of sale. The identifier shall contain all and any information required by State law as it may be amended. At a minimum, the identifier shall identify the origin of the plant and the dispensary or distributor for which the plant is being grown.
  56. Any volatile substances as well as any hazardous materials stored or used on premises shall be disclosed to the City and stored or fastened in a secure manner or as required by City code. The use of any volatile solvents, as defined by Health and Safety Code 11362.3(d), for processing any cannabis shall be strictly prohibited.
  57. An annual report and fee to operate any commercial cannabis facility is required. Applications for the annual commercial cannabis business report and fee shall be filed with City of La Mesa Planning Department at least 60 calendar days before the expiration of the current permit (commencing after the effective date of the Conditional Use Permit and with the first issuance of a business license and annually on the anniversary date for five consecutive years).
  58. No commercial cannabis facility may be physically changed or increased in size (e.g., floor area or buildings utilized) without prior approval and/or amending the existing permit.
  59. A Fire inspection is required prior to a certificate of occupancy or issuance of business license.
  60. A copy of the Board of Equalization Seller's Permit shall be posted at all times.

61. Extraction of cannabis concentrates with butane or other flammable gases is prohibited.
62. No external signage shall be allowed, other than the address of the premise.
63. No public access or sales shall be allowed on the premise. Only directors, officers, managers, employees, contractors of the cannabis facility shall be present on the premises. Transporters and representatives of dispensaries, distributors, cultivators, testing labs, and other licensees under the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) shall be allowed on the premise with prior notice to and permission by the manufacturer to conduct business as required and appropriate.
64. Any site that produces edible cannabis products that require baking or refrigeration must be also be a California-licensed commercial kitchen or in a cottage kitchen with a class B permit.
65. All commercial cannabis facilities shall secure a State license within 6 months of the State issuance. Revocation of a permittee's State license shall result in immediate revocation of the permittee's City of La Mesa permit.
66. 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.