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## PLANNING COMMISSION Staff Report

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**DATE:** May 18, 2020

**FILE:** CAP-13-19  
PE-789-20

**ITEM:** 1

**PUBLIC NOTICE:** Notice of Public Hearing was published in the Pacifica Tribune on May 6, 2020, and mailed to 111 surrounding property owners and occupants.

**APPLICANT:** West Manor LLC  
901 Palmetto Ave. Unit B  
Pacifica, CA 94044

**OWNER:** Rod Muscio  
901 Palmetto Ave. Unit D  
Pacifica, CA 94044

**PROJECT LOCATION:** 901 Palmetto Avenue Unit B (APN 009-244-010) – West Sharp Park

**PROJECT DESCRIPTION:** File No. 2019-020 - Establishment of a Cannabis Manufacturing Operation

**SITE DESIGNATIONS:** General Plan/Local Coastal Plan: Commercial  
Zoning: C-3 (Service Commercial) / C-Z (Coastal Zone Combining)

**RECOMMENDED CEQA STATUS:** Exempt under Class 1 Categorical Exemption, CEQA Guidelines Section 15301

**ADDITIONAL REQUIRED APPROVALS:** Cannabis Public Safety License issued by Police Chief.  
Cannabis Activity Permit is subject to appeal to the City Council.

**RECOMMENDED ACTION:** Approve as conditioned.

**PREPARED BY:** Helen Gannon, Assistant Planner

## 1. PROJECT SUMMARY, RECOMMENDATION, AND FINDINGS

### A. Background

Staff has reviewed this item and determined that conducting a public hearing to consider it is an essential government function.

On July 10, 2017, the Pacifica City Council adopted Ordinance Nos. 818-C.S. and 819-C.S. to regulate Marijuana Operations (“Marijuana Ordinances”). The former ordinance concerned issuance of Marijuana Public Safety Licenses (MPSLs) while the latter ordinance concerned issuance of Marijuana Use Permits (MUPs) and related zoning matters.

Ordinance No. 819-C.S. added Article 48 (Marijuana Regulations) to the City’s Zoning Regulations found in Chapter 4 of Title 9 of the Pacifica Municipal Code (PMC), and amended the zoning map by creating new Marijuana Operation Overlay Districts. The Marijuana Ordinances required cannabis businesses to obtain licenses and permits to lawfully operate in the City of Pacifica. The Ordinances outlined four phases of licensing and permitting:

- **Phase 1** – Applicant submits a MPSL application and completes a Live-Scan (i.e., fingerprint check) with the Police Department to determine if disqualifying criminal convictions exist;
- **Phase 2** – Applicant submits a Security Plan for Police Department review and approval;
- **Phase 3** – Police Chief places an applicant who successfully completes Phase 1 and Phase 2 on a Qualified Marijuana Registration List, allowing the applicant to submit a MUP application to the Planning Department. Final determination on any MUP application is made by the Planning Commission; and
- **Phase 4** – Police Department verifies Phase 1 eligibility status remains unchanged and issues a MPSL to an applicant who successfully completed Phase 3. MPSL issuance is conditioned upon an applicant obtaining all necessary licenses from the State of California prior to operation, as well as maintaining a valid MUP.

Following enactment of the Marijuana Ordinances, the City processed and approved marijuana use permits for four marijuana retail operations. On November 13, 2018, the City Council enacted an amendment to the codified provisions of the Marijuana Ordinances, Ordinance No. 836-C.S., which clarified the processing timelines applicable to MUP applications and potential sanctions for failing to make an application complete within certain time frames.

On May 13, 2019, the City Council enacted Ordinance Nos. 843-C.S. and No. 844-C.S. further amending the Marijuana Ordinances by revising various regulations regarding the public safety licenses and zoning requirements for commercial marijuana activities, respectively. The essential provisions of Ordinance No. 844-C.S. included:

- i) Increasing the maximum number of allowed marijuana retail operations in the Rockaway Beach and Sharp Park Marijuana Operation Overlay Districts from two to three (the maximum number of allowed retail operations citywide did not increase);

- ii) Adding an additional finding for approval of a marijuana use permit;
- iii) Establishing parking requirements for marijuana operations;
- iv) Other administrative amendments to create efficiencies in the marijuana permitting process.

Ordinance Nos. 843-C.S. and No. 844-C.S. also replaced references of “marijuana”, “medical marijuana”, and “marijuana use permit”, with the terms “cannabis”, “medicinal cannabis”, and “cannabis activity permit,” respectively. To reduce confusion, the updated terms have been used henceforth.

Subsequent to adoption of Ordinance Nos. 843-C.S. and 844-C.S., the City processed and approved two additional cannabis retail operations, reaching a total of six cannabis retail operations in the city.

The subject application is the first Cannabis Manufacturing Operation (CMO) application which the Planning Commission will consider since creation of a cannabis permitting program. While the City has reached the maximum number of retail operations in the City, PMC Section 9-4.4804(a)(5) allows for cannabis manufacturing and testing operation applications to be filed with the Planning Department at any time (after passing the required Cannabis Public Safety License background check) and there is no numerical limit on the number of manufacturing and testing operations allowed in the City.

## **B. General Plan, Zoning, and Surrounding Land Uses**

The project is located in the northern area of the West Sharp Park neighborhood of the General Plan and Local Coastal Land Use Plan (LCLUP). Both the General Plan and the LCLUP call for commercial land uses in this portion of the West Sharp Park neighborhood west of Highway 1, although a number of nonconforming residential uses also exist within the area. According to the General Plan, “in order to maximize its good highway access, reinforce its coastal views, promote service commercial activities, and meet an important community need, [the northern area] on the east side of Palmetto should be developed in service commercial uses” (p. 66).

The project site is located in the C-3 (Service Commercial) zoning district and within the C-Z (Coastal Zone Combining) Overlay District.

Surrounding land uses are mostly made up of a variety of service commercial development including storage facilities, auto repair shops, and a wholesale bakery (closed). A lawful nonconforming single-family residence is located approximately 200 feet northwest of the subject site at 900 Palmetto Avenue. Ingrid B. Lacy Middle School is located more than 1,300 feet to the south.

## **C. Project Description**

### **Project Site**

The subject application proposes to establish and operate a medicinal and adult-use cannabis product manufacturing facility, defined in the City’s zoning regulations as a “Cannabis Manufacturing Operation” or “CMO” (see PMC Section 9-4.4801(d)). The subject site is an existing two-story commercial structure containing two other active businesses. Unit A is currently being used as a retail space for window and patio screens. Unit D is currently being used as a business location for an electrical contractor. Unit C does not currently have any active businesses. Previous uses for the subject unit, Unit B, include an

office for a taxi cab service and a commercial printer/bindery operation.

### Floor Plan

The footprint of the existing structure would not be altered. However, the applicant proposes to remodel the interior floor plan to comply with state cannabis regulations related to the separation of the two activities on-site which require separate state licenses (manufacturing and distribution). The entrance would open to the main floor, which would include the infusion and processing extraction room, cannabis waste room, distribution room and restroom. The staircase would lead up to the lofted area, which would include the batch sampling and processing packaging room as well as an office for inventory.

There is an existing attached garage on the first floor, suitable for one car, which would be used as a loading/unloading of shipments and deliveries area. This will be discussed more in the Parking section below.

The floor plan is provided in Attachment C.

### Business Operations

West Manor LLC is operated by Florinda "Karina" Cardenas ("Applicant"). The proposed business would consist of just one staff member, the Applicant. A condition of approval would require that all future operators and employees of the cannabis operation shall be required to submit to fingerprinting and a criminal background investigation pursuant to PMC Section 4-16.04(b)(3)(i). The current proposal is for 24 hour operations.

The Applicant is proposing to apply to the State for a Type 6 Cannabis Manufacturing License and a Type 11 Distribution License. With the appropriate state licenses and the Cannabis Public Safety License and Cannabis Activity Permit from the City, the Applicant intends to engage in the following licensed commercial cannabis activities as they relate to distribution: transport cannabis goods between licensees, arrange for the testing of cannabis goods, conduct quality assurance reviews of cannabis goods to ensure compliance with all packaging and labeling requirements, and confirm that product is in final form and ready for retail sale prior to transferring product to a licensed retailer. The Applicant would only engage in self-distribution by distributing products that have been manufactured or packaged by the Applicant's distribution or manufacturing licenses as provided in PMC 9-4.4803(d)(3). The Applicant would also package, re-package, label and re-label cannabis for retail sale. Distribution of cannabis or cannabis products not manufactured by the Applicant is strictly prohibited.

The cannabis manufacturing activities would have two main components. Under a Type 6 License, the Applicant would perform limited additional processing to refine the crude extracts before infusing them into other products. Such additional processing would involve only mechanical or thermal means of separation to refine the unprocessed extracts. The Applicant would not utilize any extraction methods that require any solvents and would not utilize chemical extractions in any of their processing.

The second main component of the cannabis manufacturing activities would source raw cannabis from licensed cultivators. The Applicant proposes to extract cannabis from raw cannabis flowers and to

process it using the same methods mentioned above. The Operations Plan explains that mechanical extraction of rosin using heat and other proprietary extraction methods, such as crystallization and dry ice separation, not requiring the use of solvents will be used to manufacture cannabis.

All refined cannabis extracts would be used to infuse and/or package cannabis products for both medicinal and adult use and sold wholesale to permitted cannabis retailers within and outside of Pacifica. The Applicant would have a wide range of products including cannabis flowers, pre-rolled cannabis cigarettes, concentrates, edibles, and vaporizer cartridges. Consumption of any cannabis products would be prohibited on the premises pursuant to PMC Section 9-4.4803(d)(1)(viii) and retail sales to customers would not occur at the manufacturing site.

The Operations Plan is provided in Attachment D and contains additional details related to the above-mentioned activities.

### Security Plan

The Applicant has proposed video surveillance to be provided throughout the exterior and interior of the structure to ensure all areas are under camera coverage 24 hours a day. Additionally, alarm systems would be located at all points of entry and would be utilized to monitor premises and prevent unauthorized access to the facility.

The Security Plan is provided in Attachment E and contains additional details related to the above-mentioned operational characteristics.

### Signage

The Applicant has not proposed any signage as a part of this application, except for the Accessible Parking space signage which is required by state law. Incidental signage will be posted inside and at the entrance of the establishment, indicating that the premises are under camera/video surveillance and indicating age restrictions for entrance pursuant to PMC Section 4-16.03(c)(i)(ab) and PMC Section 9-4.4803(d) and (e), respectively. The business's regular business hours, the cannabis activity permit and cannabis public safety license issued for such cannabis operation would be posted in a conspicuous place so that the same may be readily seen by all persons entering the cannabis operation. Because the subject site is located within a multi-unit commercial development, and no master sign program currently exists for the site. City approval of a master sign program would be required prior to issuance of a sign permit or building permit for any future sign that falls under the criteria set forth in subsection (b) of Section 9-4.2911, pursuant to PMC Section 9-4.2907(a).

### Parking and Circulation

PMC Section 9-4.2818(c)(4) establishes a parking requirement for "cannabis manufacturing and testing operations" of 2.7 parking spaces for each 1,000 square feet of gross leasable space, plus additional spaces as necessary based on the unique needs of the operation as determined by the Commission. The subject operation would require two spaces, one of which would be required to be an accessible parking space. The site cannot provide two parking spaces due to the limited width of approximately 13'-8" of the existing driveway, and the requirement to provide a van-accessible parking space. There is a one car

garage space in the existing structure; however, this space cannot be utilized since the accessible parking space would need to be located in the driveway. Therefore, the Applicant is only able to provide one space, located in the front driveway, and a Parking Exception is required.

The Applicant provided a trip generation analysis prepared by a licensed professional engineer to support its application. The analysis estimates trip generation figures for the cannabis operation using rates from the 10th Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, an industry standard publication used to predict potential traffic circulation impacts from proposed operation. The analysis estimated that the proposed CMO would generate 48 daily trips with up to 11 vehicle trips occurring during both the morning and afternoon peak hours.

The Applicant's current proposal would likely generate fewer trips than the ITE estimates because of the Applicant's unique operation of the business with only one person on-site. However, staff is unable to estimate what the adjusted trip generation rate may be. Staff believes several morning and afternoon peak hour trips may result from the proposed operation due to the delivery and pickup of merchandise and arrivals and departures of the Applicant.

#### **D. Required Findings**

**Cannabis Activity Permit CAP-13-19** - The proposed CMO requires approval of a Cannabis Activity Permit (CAP) pursuant to PMC Section 9-4.4803(b). CMOs are restricted to operating within the C-3 (Service Commercial) zoning district pursuant to PMC Section 9-4.4803(c)(1)(ii).

Pursuant to PMC Section 9-4.4805, the Commission shall approve a cannabis activity permit only upon making the following findings:

#### **Standard Use Permit Findings (Section 9-4.3303)**

*(1) That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.*

As conditioned, the proposed CMO would not be detrimental to the health, safety, and welfare of the greater public. The Applicant has submitted a security plan that has been reviewed and approved by the Police Chief which would ensure safe operation of the facility. The security plan includes physical security measures such as security cameras which would deter crime and assist with investigating any incidents which may occur.

Furthermore, the operation would be located entirely inside an existing commercial building located in a commercially zoned neighborhood and any noise from the CMO, such as from machinery or equipment, customers entering and exiting the business, would be consistent with surrounding commercial operations. The tenant space does not include any outdoor patio space where clients might congregate to generate noise or litter. In light of these circumstances, the proposed CMO would not result in any adverse impacts to the community.

*(2) That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan.*

The proposed cannabis business would be located entirely within an area designated “Commercial” in the neighborhood land use diagram of the General Plan and Local Coastal Plan (LCP). The General Plan neighborhood narrative for the area states that “in order to maximize its good highway access, reinforce its coastal views, promote service commercial activities, and meet an important community need, [the northern area] on the east side of Palmetto should be developed in service commercial uses” (p. 66). Therefore, because it is a service commercial use, the proposed cannabis manufacturing operation would be consistent with the intended uses for this area.

The use, if approved, would be also consistent with the following General Plan policies:

- *Community Facilities Policy 4: Meet basic social needs of City residents, such as transportation, housing, health, information and referral services, and safety, consistent with financial constraints.*

Discussion: The proposed cannabis business would provide a lawful source of medicinal, as well as adult-use, cannabis products to Pacifica’s cannabis retail operations, thereby helping to meet their health needs without a commitment of public financial resources. As expressed at the public hearings held during development of the City’s Cannabis Ordinances, many Pacifica residents rely on medicinal cannabis to treat various maladies. This manufacturing operation has the potential to provide for and assist the six approved cannabis retail operations within the City.

The cannabis business would also be consistent with the City’s LCP. The Plan Conclusions section of the LCP states that “commercial development shall continue to provide for neighborhood and coastal needs, but expansion and intensification should be consistent in size, height, mass and area with the existing development” (p. C-106). As noted above, the proposed CMO would meet local residents’ needs for lawful access to medicinal and adult-use cannabis. Additionally, the proposal will not change the size, height, mass and area of the existing commercial structure. Thus, commencement of the use would be consistent with the intended land use of this portion of the West Sharp Park neighborhood.

The proposed use has also undergone a thorough review by City staff including the Police Chief and Planning Department staff to ensure consistency with Article 48 “Cannabis Regulations” of Pacifica’s Zoning Regulations (PMC Title 9, Chapter 4) and Chapter 16 “Cannabis Public Safety Licenses” of Pacifica’s public safety ordinances (PMC Title 4). The Applicant has already obtained approval of Phases 1 and 2 (See Attachment F) of the application process and is seeking approval of Phase 3 of the process by Planning Commission action on the subject Cannabis Activity Permit. By submitting application materials which demonstrate an intention to comply with the City’s ordinances regulating cannabis business activity, the Applicant’s operation, as conditioned, would comply with all applicable laws of the City governing cannabis-related activities.

For the reasons stated above, the proposed use is consistent with the applicable provisions of the General Plan, Local Coastal Plan, and other applicable laws of the City.

- (3) Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.*

The Applicant does not propose to modify the site plan or the building's architecture. Therefore, the Design Guidelines are not applicable to the subject permit.

**Supplemental Cannabis Activity Permit Findings for All Cannabis Operations (Section 9-4.4805(a)(1))**

In addition to the findings required for the approval of a use permit set forth in Section 9-4.3303, as discussed above, the supplemental findings must be made to grant a cannabis activity permit for any cannabis operation.

- (1) For cannabis activity permit applications submitted pursuant to Section 9-4.4804(a), the cannabis operation applicant has been placed on the qualified cannabis registration list, as described in Section 9-4.4804(a)(1)(ii)(ad). For all other cannabis activity permit applications, that the Planning Department has received written notification from the Chief of Police that the applicant has complied with all requirements for satisfactory completion of the phase one and phase two cannabis public safety license requirements contained in Chapter 16 of Title 4 of this Code.*

Pursuant to PMC Section 9-4.4804(a)(5), the subject cannabis activity permit does not require placement on the qualified cannabis registration list because it is an application for a cannabis manufacturing operation and not a cannabis retail operation. Planning Department staff received written notification from Police Chief Dan Steidle on March 10, 2020, indicating that the Applicant complied with all requirements of phase one and phase two of the cannabis public safety license requirements contained in Chapter 16 of Title 4 of the PMC (see Attachment F). Therefore, there is sufficient evidence to make this finding.

- (2) The cannabis activity permit application is complete and the applicant has submitted all information and materials required by Section 9-4.4804(c) and (d).*

The CAP application contains all the required information as determined after a review by Planning Department staff. Since the Applicant is proposing to perform their own distribution, the Applicant has included distribution operations in the Operation Plan and intends to seek a State Type 11 License for distribution. The Planning Department deemed the application complete on February 12, 2020. Therefore, there is sufficient information to make this finding.

- (3) The proposed location of the cannabis operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the cannabis operation's proposed proximity to a school, day care center, youth center, public park, playground, recreational center, school bus stop, premises frequented by children, religious establishment, or other similar uses.*

The proposed location is within a commercial area and is therefore not an area frequented by children. The proposed site is not located within 600 feet of an identified school or youth center, nor is it within 200 feet from any daycare center; the proposed site and business is consistent

with and complies with the locational limitations set forth in PMC Section 9-4.4803(c)(2). Therefore, the proposed cannabis business is not likely to have a potentially adverse effect on the health, peace, or safety of persons, including children, due to its proximity to the enumerated sensitive uses.

- (4) *The proposed location of the cannabis operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the cannabis operation's proposed proximity to another existing or permitted cannabis operation.*

The proximity of the business in relation to other cannabis operations is not likely to have an adverse effect on the health, peace, or safety of the community. Three cannabis retail operations were approved in the West Sharp Park neighborhood, two of which are in operation at 2110 Palmetto Avenue and 2270 Palmetto Avenue (the third permitted but not yet operating location is at 1726 Palmetto Avenue). The nearest of these other cannabis operations is the location at 1726 Palmetto Avenue, approximately 2,830 feet to the south. There are currently no permitted or operating CMO businesses in Pacifica, and no other applications are pending.

The two approved cannabis retail operations which are now open in West Sharp Park have not caused law enforcement or code enforcement concerns since commencing operations. Therefore, there is information to support a finding that the location of the proposed cannabis operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the cannabis operation's proposed proximity to another existing or permitted cannabis operation.

- (5) *The design of the storefront or structure within which the cannabis operation will operate is architecturally compatible with surrounding storefronts and structures in terms of materials, color, windows, lighting, sound, and overall design.*

The Applicant proposes no changes to the storefront, with the exception of some added security cameras and signage. Therefore, the existing design of the storefront would be architecturally compatible with the surrounding storefronts and structures in terms of materials, color, lighting, and overall design.

- (6) *The proposed size of the cannabis operation is appropriate to meet the needs of the local Pacifica community for access to cannabis and that the size complies with all requirements of the City's Zoning Regulations.*

The size of the operation includes 770 sf of manufacturing space and 205 sf of garage space that will be used as the loading room. It is not oversized to meet regional demand, and, thus, is appropriate to meet the needs of the local Pacifica community for access to manufactured cannabis products. There is no applicable size limitation in the City's Zoning Regulations on general commercial spaces or CMOs specifically. For these reasons, the proposed size of the cannabis operation is appropriate under the criteria of this finding.

- (7) *The location is not prohibited under the provisions of this article or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Regulations will be accomplished.*

Planning Department staff is unaware of any local or state laws, rules, or regulations which would be violated by operation of the subject cannabis business in the identified location after it obtains a Cannabis Activity Permit, Cannabis Public Safety License, and applicable license(s) from the State of California. The location is within the C-3 zoning district, which is where a Cannabis Manufacturing Operation can be located, and is outside all buffer areas from sensitive uses which include K-12 schools, youth centers, and day care centers. Based on the project's relatively small size and as discussed in Supplemental Cannabis Activity Permit Finding No. 8 below, no significant nuisance issues or problems are likely or anticipated.

The project as proposed also accomplishes compliance with other applicable requirements of the City's Zoning Regulations, except for the parking standards. As noted in this report, the new manufacturing space will require a Parking Exception for only providing one parking space, when the proposed business would require two. PMC Section 9-4.2818(c)(4) establishes a parking requirement for "cannabis manufacturing and testing operations" of 2.7 parking space for each 1,000 square feet of gross leasable space, plus additional spaces as necessary based on the unique needs of the operation as determined by the Commission. However, staff believes that the proposal has provided as much parking as is reasonably possible, as discussed below. Therefore, there is sufficient information to make this finding.

- (8) *The cannabis operation is not likely to have an adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises (especially late at night or early in the morning hours), lewd conduct, or police detentions or arrests.*

Its small size; the requirements of its security and operations plans; the PMC prohibition on possession, distribution, or consumption of alcohol on the premises, and the prohibition on smoking, ingesting, or consuming cannabis on the premises, combine to suggest the proposed cannabis business would not have a detrimental effect on the surrounding area, and should serve to prevent excessive disturbances or illegal drug activity. The proposed business would also be fairly inconspicuous due to lack of signage on the project site and its location amongst other commercial spaces on the same site and adjacent sites. All proposed manufacturing methods would be non-volatile and any waste produced would be properly disposed of in a secured waste receptacle or secured area on the licensed premises. Therefore, as conditioned, there is sufficient information to make this finding.

- (9) *The cannabis operation is not likely to violate any provision of the Pacifica Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws.*

The Applicant has invested significant time and resources developing application materials suitable for City review and approval. These application materials include, but are not limited to, a security plan, operations plan, trip generation analysis, and floor plan. On this basis, the Applicant appears to be committed to operation of the proposed cannabis business in a manner consistent with the Pacifica Municipal Code, state law, and applicable terms of any permits issued.

- (10) *The applicant and/or the cannabis operation is not the subject of or a party to any of the following: pending litigation filed by the City against the applicant or any of its principals to enforce the Pacifica Municipal Code; a pending code enforcement case against the applicant or any of its principals relating to illegal cannabis activity; or an outstanding balance owed to the City by applicant or any of its principals for any unpaid taxes, fees, fines, or penalties.*

The Applicant and/or the cannabis operation is not the subject of, or a party to, any pending litigation filed by the City against the Applicant or any of its principals to enforce the Pacifica Municipal Code; a pending code enforcement case against the Applicant or any of its principals relating to illegal cannabis activity; or an outstanding balance owed to the City by Applicant or any of its principals for any unpaid taxes, fees, fines, or penalties.

- (11) *The applicant has not made a false statement of material fact or omitted a material fact in the application for a cannabis activity permit, as known at the time of determination on the application.*

The Police Department and Planning Department staffs, which have reviewed the submitted application materials and communicated with the Applicant, have not identified any instances wherein the Applicant has made a false statement of material fact or omitted a material fact since filing the subject application on August 21, 2019. Therefore, there is sufficient information to support a finding that the information submitted and statements made by the Applicant associated with their application have been truthful up to and until the time of determination on the subject application.

- (12) *The cannabis operation's site plan has incorporated features necessary to assist in reducing potential nuisance and crime-related problems. These features may include, but are not limited to, procedures for allowing entry; reduction of opportunities for congregating and obstructing public ways and neighboring property; and limiting furnishings and features that encourage loitering and nuisance behavior.*

The location of the proposed business does not feature fixtures or furnishings which would encourage customers to congregate in the business vicinity, such as chairs and benches. As mentioned above, the tenant space is relatively small, and would most likely not be able to physically support a large group of people to congregate indoors. Further, the project site does not include an outdoor space such as a patio which might encourage customers to congregate.

The Applicant would also install sufficient video recording equipment to monitor the premises in order to deter crime and support any Police Department investigations into isolated crimes which may occur. Therefore, there is sufficient information to make this finding.

**Supplemental Cannabis Activity Permit Findings for Manufacturing Operations (Section 9-4.4805(a)(2))**

- (1) The manufacturing operation, as proposed, will operate in accordance with the activities allowed under the definition of a cannabis manufacturing operation as provided in Section 9-4.4801(d).*

As proposed, the Applicant has not proposed in its Operations Plan any activities not allowed under the definition of a cannabis manufacturing operation and would be in accordance with the definition of a “cannabis manufacturing operation” provided in Section 9-4.4801(d). The Applicant would package and repackage cannabis products, label or relabel cannabis products, refine already extracted cannabis compounds, and perform extraction of cannabis compounds using mechanical and thermal methods which do not require the use of volatile or nonvolatile solvents. Therefore, there is sufficient evidence to make this finding.

- (2) The manufacturing operation includes adequate quality control measures to ensure any cannabis product manufactured at the site meets industry standards.*

The Applicant has indicated that it will abide by all state quality control measures having all products lab tested to make sure each product sold would meet industry standards. The Applicant’s Operations Plan states that it would contact a licensed laboratory testing facility to arrange for batch sample testing and would ensure the proper retrieval and documentation of the batch samples.

- (3) The manufacturing operation does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.*

The Applicant has indicated that the building will be equipped with sprinkler systems and have alarm systems that connect directly to emergency dispatch if needed. The North County Fire Authority (NCFA) reviewed the proposed application and the project as conditioned has satisfied all NCFA concerns. The operation will not involve the use of harmful gases, liquids, or substances, and therefore, does not present a heightened risk of explosion or release of harmful substances.

**Parking Exception PE-789-20** - The proposed CMO also requires approval of a Parking Exception because the proposed operation does not provide all of the off-street parking spaces required for a CMO by PMC Section 9-4.2818(c)(4). Section 9-4.2824(a) of the PMC states that a parking exception shall be granted in cases of practical difficulties and unusual hardship when the Commission makes the following finding:

- (1) *That the establishment, maintenance, and/or conducting of the off-street parking facilities as proposed are as nearly in compliance with the requirements set forth in this article as are reasonably possible.*

The parking requirement for the proposed project, per PMC Section 9-4.2818(c)(4), would be 2.7 parking spaces for each 1,000 square feet of gross leasable space, plus additional spaces as necessary based on the unique needs of the operation as determined by the Commission. Staff has not identified any unique needs of the proposed operation; therefore, the project would require two parking spaces.

The Applicant would provide one off-street parking space and seeks a parking exception for one parking space. Per the California Building Code, the project requires one van-accessible parking space. The existing width of the driveway is approximately 13'-8" and this width cannot be readily extended to create a second parking space due to the presence of a building wall on the left (north) side of the driveway and the location of the neighboring unit's driveway on the right (south) side of the driveway. There is an existing planter box that encroaches into the proposed path of travel for the accessible space, and the Applicant has proposed to remove this portion of the planter box to allow for the minimum five-foot accessible path of travel to be achieved. See Attachment G for site plan and proposed parking stall. The Applicant would require approval of an exception by the City's Building Official for other dimensions of the accessible parking stall beyond the path of travel.

Since construction of an additional parking space to the side of the existing driveway space is infeasible, staff also evaluated the potential for a tandem parking space. There is an existing one car garage space on site beyond the proposed van-accessible parking space (east of the space). However, the driveway cannot be utilized because it would be obstructed by the accessible parking space located between the garage and Palmetto Avenue. The space to the west of the existing driveway space is within the Palmetto Avenue public right-of-way. Therefore, a second parking space in a tandem configuration is not feasible on the site.

In staff's assessment, in light of the requirement to provide an accessible parking space combined with the existing physical constraints of the site, the proposed project is as nearly in compliance with the off-street parking requirements as are reasonably possible. There are no other possible locations to add a parking space on the site. Therefore, there is sufficient information to support approval of a parking exception.

## **2. CEQA RECOMMENDATION**

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Class 1 (Existing Facilities). Class 1 exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

The subject location of the proposed use is an existing commercial structure within a commercial zoned district. Therefore, the proposed use would be consistent with a Class 1 exemption because it would involve only interior alterations except for a minor alteration to a landscaping planter, would not result in any physical construction of new structures outside the footprint of the existing structure, and would not result in a use of greater intensity than the type of service commercial uses for which the area has been designated.

The project also does not trigger any of the exceptions to the exemption outlined in CEQA Guidelines Section 15300.2, as described below:

- Sec. 15300.2(a): There is no evidence in the record that the project would impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies. The proposed project involves commencement of a cannabis manufacturing business within an existing structure.
- Sec. 15300.2(b): There is no evidence in the record that successive projects of the same type in the area would have a significant environmental impact. The project involves the location of a cannabis manufacturing business within an existing commercial tenant space. No other cannabis manufacturing businesses exist in the City of Pacifica.
- Sec. 15300.2(c): There is no evidence in the record of any possibility that the project would have a significant effect on the environment due to unusual circumstances. The project site is zoned for service commercial use and the cannabis business use proposed does not have any unique characteristics which could cause potentially significant environmental impacts.
- Sec. 15300.2(d), (e) and (f): The project is not visible from a designated scenic highway; does not involve a current or former hazardous waste site; and does not affect a historic resource. Therefore, the provisions of subsections (d) through (f) are not applicable to this project.

For the reasons set forth above, there is substantial evidence in the record to demonstrate the proposed project qualifies as a Class 1 exemption and none of the exceptions to application of an exemption are applicable.

### **3. SUMMARY**

Staff's analysis of the proposed cannabis business and the whole of the Applicant's Cannabis Activity Permit application indicate that sufficient evidence exists to make the required findings for approval of Cannabis Activity Permit CAP-13-19 and Parking Exception PE-789-20. As conditioned, the project would satisfy all zoning regulations and applicable development standards, and would be consistent with the General Plan and Local Coastal Plan. Thus, staff recommends approval of the permit subject to the conditions in Exhibit A of the Resolution included as Attachment A.

### **PUBLIC COMMENTS**

Staff did not receive any public comments prior to the publication of the Planning Commission agenda packet.

## **COMMISSION ACTION**

### **MOTION FOR APPROVAL:**

Move that the Planning Commission **FINDS** the project is exempt from the California Environmental Quality Act; **APPROVES** Cannabis Activity Permit CAP-13-19 and Parking Exception PE-789-20 by adopting the Resolution included as Attachment A to the staff report including conditions of approval in Exhibit A to the Resolution; and, **INCORPORATES** all maps, the Applicant's CAP application and all attachments, and testimony into the record by reference.

### **ATTACHMENT LIST:**

- Attachment A - Draft Resolution and COAs (DOCX)
- Attachment B - Land Use and Zoning Exhibit (PDF)
- Attachment C - Floor Plan (PDF)
- Attachment D - Operations Plan (PDF)
- Attachment E - Security Plan (PDF)
- Attachment F - Police Chief Memorandum (DOC)
- Attachment G - Site Plan (PDF)