CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT
Rob Holmlund, AICP, Director

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NOTICE OF PUBLIC HEARING

EUREKA CITY PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the Eureka City Planning Commission will hold a public hearing on Monday, July 9, 2018, at 5:30 p.m., or as soon thereafter as the matter can be heard, in the Council Chamber, Eureka City Hall, 531 "K" Street, Eureka, California, to consider the following application:

Project Title: ***Humboldt Patient Resource Center Cannabis Retail Facility Conditional Use Permit***

Project Applicant: **Mariellen Jurkovich** **Case No**: C-18-0004

Project Location: 445 4th Street; APN 001-095-003

Zoning and General Plan Designations: CC (Central Commercial)

Project Description: The applicant is seeking a Conditional Use Permit for a cannabis "retail" facility, which is listed as a *conditional use* in the subject zoning district. Their operating hours will be Monday through Saturday from 10 am to 7 pm, Sunday 12 pm to 5 pm, with thirteen employees planned for operations. If this CUP is granted, the use of cannabis "retail" would apply to the entire parcel. Eureka Zoning Code Section 155.078 lists cannabis retail facilities subject to the provisions of Chapter 158 in the CC Zone. A public hearing will be held at 5:30pm on Monday, July 9, 2018 in Council Chambers of Eureka City Hall (531 K Street). A Commercial Cannabis License (MCL-18-0026) is being processed separately.

All interested persons are invited to comment on the project either in person at the scheduled public hearing, or in writing. Written comments on the project may be submitted at the hearing, or prior to the hearing by mailing or delivering them to the Development Services Department, 531 K Street, Eureka, CA 95501. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at the public hearing described in this notice or written correspondence delivered to the public entity conducting the hearing at or prior to the public hearing. The project file is available for review at the Community Development Division of the Development Services Department, Third Floor, City Hall. If you have questions regarding the project

or this notice, please contact Swan Asbury, Assistant Planner, *phone*: (707) 268-1830; *fax*: (707) 441-4202; *e-mail*: sasbury@ci.eureka.ca.gov

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EUREKA CITY PLANNING COMMISSION

STAFF REPORT

July 9, 2018

Project Title: ***Humboldt Patient Resource Center Cannabis Retail Facility Conditional Use Permit***

Project Applicant: Mariellen Jurkovich **Case No.:** C-18-0004

Project Location: 445 4th Street, APN 001-095-003

Zoning and General Plan Designations: CC (Central Commercial)/C-RC (Retail Commercial)

Project Description: The applicant is seeking a Conditional Use Permit for a cannabis "retail" facility, which is listed as a *conditional use* in the subject zoning district. The applicant's operating hours are tentatively scheduled to be Monday through Saturday from 10 am to 7 pm, Sunday 12 pm to 5 pm. The applicant anticipates employing approximately thirteen employees for operations at the proposed location. If this CUP is granted, the use of cannabis "retail" would apply to the entire parcel. Eureka Zoning Code Section 155.078 lists cannabis retail facilities subject to the provisions of Chapter 158 in the CC Zone. A Commercial Cannabis License (MCL-18-0026) is being processed separately.

Background: Per EMC § 158.022 (C), the City may only approve retail businesses through the following competitive process:

1. Once each year, the City solicits a "Request for Proposals." Anyone that is interested in establishing a cannabis retail business may submit a proposal to the City.
2. A review panel then evaluates, scores, and ranks each proposal.
3. Utilizing the evaluations of the panel, the Development Services Director makes a recommendation to City Council.
4. The City Council approves any number of the recommended businesses to begin the Conditional Use Permit process.
5. Staff works with the business to complete a Commercial Cannabis License and a Conditional Use Permit.
6. The Planning Commission reviews and approves/denies the Conditional Use Permit.
7. Steps 3 through 6 occur once at the beginning of the calendar year for the first half of the year and once in June or July for the second half of the calendar year.
8. All of the above steps are repeated each year.

The above process was implemented in 2017 and the City Council approved one cannabis retail business (Eco Cann) at 306 F Street On November 13, 2017, the City released a Request for Proposals (RFP) for cannabis retail facilities for the 2018 calendar year. The City Manager approved a Cannabis Retail

Facilities Selection Committee to review and rank the proposals. In early February, the City received 20 proposals, which were reviewed, evaluated, scored, and ranked by the Committee. Following the evaluation, the Committee recommended that City Council invite two cannabis retail businesses to begin the Conditional Use Permit process for the first half of 2018. The Development Services Director concurred with the panel's recommendations and forwarded the recommendation to the City Council on March 6, 2018. Council approved both businesses to begin the CUP process. One of the two businesses was Humboldt Patient Resource Center, proposed to be located at 445 4th Street (at the intersection with F Street), which is the subject of this Conditional Use Permit.

The Humboldt Patient Resource Center proposal scored significantly higher than the other proposals and was unanimously identified by the panel as having the best approach to establishing and operating a cannabis retail business, a professional business plan, a well-though-out operations plan, and excellent qualifications. As a bonus, the proposed site is a chronically-vacant building in need of maintenance and repair. Additionally, the applicant has been leasing their prospective location for over a year in anticipation of this opportunity, demonstrating their commitment to their project.

Staff Contact Person: Swan Asbury, Assistant Planner; City of Eureka, Community Development Department; 531 "K" Street, Eureka, CA 95501-1165; phone: (707)268-1830, fax: (707) 441-4202, email: sasbury@ci.eureka.ca.gov

Staff Recommendation:

1. Hold a Public Hearing; and
2. Adopt a Planning Commission Resolution 2018-08 approving a use permit allowing a Cannabis Retail Facility at 445 4th Street.

Environmental: The conditional use permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, the project qualifies for a Class 1 exemption (Section 15301) from CEQA which exempts the conversion and minor alteration of existing structures.

Required Consistency Findings: §155.285 of the Eureka Municipal Code requires that consistency findings must be made between the proposed conditional use with conditions and the following prior to Planning Commission approving a conditional use permit:

1. **Consistent with:**
   a. **Overall objectives of the Zoning Code (EMC §155.002)**
   b. **Purposes of the CC District (EMC §155.075)**
   c. **Special Purposes of the CC District (EMC §155.076)**
2. **No detrimental effect to public health, safety, welfare, or to properties in the vicinity (EMC §155.285)**
3. **Development Standards of the Zone (EMC §155.285)**
4. **Local Coastal Program (EMC §155.285)**

Project Analysis:

1. Overall objectives of the Zoning Code (EMC §155.002): (Findings in bold)

Objective 1	To provide a precise guide for the physical development of the City in such a manner as to achieve progressively the arrangement of land uses depicted in the general plan adopted by the Council;
	The proposed use implements the adopted land use map and is consistent with the goals and policies of the General Plan. The proposed use is also consistent with the City's Zoning regulations. Per EMC § 155.076, the

	purposes of the CC Zone District include "…to maintain compactness and encourage more intensive development in the county's principal business district…" and "…to maximize the efficiency of the central district by limiting or prohibiting uses that break the continuity of commercial frontage or are incompatible with an attractive pedestrian shopping area." The proposed use will occupy a chronically vacant space, encouraging intensive development while mending the break in the continuity of commercial frontage in addition to being compatible with an attractive pedestrian shopping area. The proposed use will also be contained within an existing structure and does not involve new external construction. While the nature of the proposed use is different from the previous use of the site (bank), retail is consistent with other businesses in the immediate area.
Objective 2	To foster a harmonious, convenient, workable relationship among land uses;
	The proposed retail facility will be located in an existing commercial structure on 4th Street. The proposed retail facility will not divide an established community, and granting the conditional use permit will foster a harmonious, convenient, workable relationship with the surrounding properties and zone districts by providing a retail facility that local residents, as well as visitors, can patronize.
Objective 3	To promote the stability of existing land uses that conform with the general plan and to protect them from inharmonious influences and harmful intrusions;
	The proposed use is considered appropriate for the area; it is listed as a *conditional use* in this zoning district. Downtown is currently developed with many commercial uses, and this building has existed on the site for many years with retail being an appropriate use for the building and neighborhood. The proposed retail facility will be patronized by visitors and area residents. There is no indication that the retail facility will introduce harmful influences into the area.
Objective 4	To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the City as a whole;
	The development of a cannabis retail facility in the existing commercial structure would be a benefit to the City as a whole. The previous use of the site was a bank and the property has been vacant for years. The location is convenient for many types of uses. The development of a retail facility in the existing commercial structure will draw visitors and patrons to the Old Town/Downtown area, which is a benefit to the City as a whole.
Objective 5	To prevent excessive population densities and overcrowding of the land with structures;
	The proposed project is a retail facility, does not include the development of housing units, and will be located in an existing commercial structure; therefore the granting of the conditional use permit will not result in

	increased population densities, and will not cause an overcrowding of land with structures.
Objective 6	To promote a safe, effective traffic circulation system;
	The cannabis retail facility is proposed in an existing structure that previously housed a bank. Adjacent to the facility is a parking lot dedicated to the facility with twenty parking places. The existing parking lot will be sufficient for the use, particularly in conjunction with street parking. In addition, the property is located within the Parking Assessment District. Accordingly, the Eureka municipal code does not require any parking to be provided for any commercial-related use. Also, within a 300' radius there are three public city-owned lots available (see Attachment 2). Most clientele will likely be pedestrian oriented traffic, it is unlikely to alter or affect the existing traffic circulation system in the vicinity.
Objective 7	To foster the provision of adequate off-street parking and off-street truck loading facilities;
	See discussions above regarding parking and circulation. Adjacent to the facility is a parking lot dedicated to the facility with twenty parking places. The existing parking lot will be sufficient for the use, particularly in conjunction with street parking. In addition, the property is located within the Parking Assessment District. Within a 300' radius there are three public city-owned lots available (see Attachment 2).
Objective 8	To facilitate the appropriate location of community facilities and institutions;
	The property has been available for lease for multiple years. If there was a need and funding for a public community facility/institution at the site, then it would have been leased for such a purpose when the opportunity presented itself. No community facilities or institutions have been proposed for the site.
Objective 9	To promote commercial and industrial activities in order to strengthen the city's tax base;
	Granting the conditional use permit will facilitate the development of a cannabis retail facility, which is the only type of cannabis businesses that generate sales tax. So, the facility would definitely contribute to the City's tax base. In addition, a new cannabis retail facility is likely to draw out-of-area visitors and local residents to the Downtown area, which may strengthen the city's tax base through sales tax and transient occupancy tax income from neighboring businesses.
Objective 10	To protect and enhance real property values;
	The proposed retail facility will be in an existing commercial structure. Property values should be enhanced by the existence of the retail facility, insuring that the property will not be vacant; it is unlikely that the project will have an adverse impact on property values on adjoining properties.
Objective 11	To safeguard and enhance the appearance of the City.
	The project site is in an Architectural Review (AR) combining zone. Exterior changes to the building will require Design Review approval. The Eureka

	Municipal Code currently does not allow signs to be installed for any cannabis-related businesses. The conditions of approval also address the visual appearance of the exterior of the facility.

2. Purposes of the CC District (EMC §155.075): (Findings in bold)

Purpose 1	To provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the City and its surrounding market area;
	The proposed project would create a retail facility, which is among the purposes of the CC district. The proposed retail facility will be patronized by area residents, and out of area visitors and clientele.
Purpose 2	To provide opportunities for retail stores, offices, services establishments, amusement establishments, and wholesale businesses to concentrate for the convenience of the public and in mutually beneficial relationship to each other;
	The proposed project would create a retail facility, which is among the purposes of the CC district. A concentration of occupied business facilities helps reduce blight, minimizes vandalism and can reduce crime. The approval of the conditional use permit will increase foot traffic in the area that will be beneficial for other nearby businesses.
Purpose 3	To provide space for community facilities and institutions that appropriately may be located in commercial areas;
	The property has been available for lease for multiple years. If there was a need and funding for a public community facility/institution at the site, then it would have been leased for such a purpose when the opportunity presented itself. No community facilities or institutions have been proposed for the site.
Purpose 4	To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas;
	No new exterior construction is proposed. The proposed project utilizes an existing building and parking lot. Adjacent to the facility is a parking lot dedicated to the facility with twenty parking places. The existing parking lot will be sufficient, particularly in conjunction with street parking. In addition, the property is located within the Parking Assessment District with three City-owned public parking lots located within a 300 foot radius of the property with a total of 76 spaces available in the lots (see Attachment 2).
Purpose 5	To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;
	No expansion in the size of the building is proposed and the existing building is sufficiently served by utilities, pedestrian facilities, and parking

	facilities. Adjacent to the facility is a parking lot dedicated to the facility with twenty parking places. The existing parking lot will be sufficient, particularly in conjunction with street parking. In addition, the property is located within the Parking Assessment District with three City-owned public parking lots located within a 300 foot radius of the property with a total of 76 spaces available in the lots (see Attachment 2).
Purpose 6	To protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, and other objectionable influences incidental to industrial uses; and,
	The proposed retail use is not expected to generate any detectable dust, dirt, smoke, vibration, heat, or glare. The enforcement of City regulations would not permit odors to be detectable beyond the boundaries of the site. The use is not expected to generate any truck traffic in excess of the traffic generated by the neighboring uses or in excess of the previous use as a bank.
Purpose 7	To protect commercial properties from fire, explosion, noxious fumes, and other hazards.
	The proposed retail facility will not generate an unusual risk of fire, explosion, noxious fumes, or other hazards.

3. Special Purposes of the CC District (EMC §155.076): (Findings in bold)

Purpose 1	To maintain compactness and encourage more intensive development in the county's principal business district; and,
	Granting the conditional use permit will facilitate the development of the retail facility, which will result in drawing out of area visitors and local residents to the Downtown/Old Town area, which will maintain compactness and encourage development in our business district. The existence of the retail facility insures the property will not be vacant.
Purpose 2	To maximize the efficiency of the central district by limiting or prohibiting uses that break the continuity of commercial frontage or are incompatible with an attractive pedestrian shopping area.
	Most clientele will likely be pedestrian oriented traffic and the existence of the retail facility insures the property will not be vacant.

4. No detrimental effect to public health, safety, welfare, or to properties in the vicinity (EMC §155.285):

Based on the discussion above the facility will operate without creating a detrimental effect to public health, safety, and welfare or to the properties in the vicinity. Through the enforcement of the conditions of approval and other existing City regulations, the use will not be permitted to allow cannabis odors to be detectable outside of the facility and will not be able to allow cannabis plants to be seen from outside the facility. It can be found that "the proposed location of the conditional use

and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity."

5. Development Standards of the Zoning Code (EMC §155.285)

The development standards of the Eureka Municipal Code regulate such things as land use, building height, size, location, off-street parking, etc. The project has been reviewed by staff and found to conform to all required development standards as contained in the Eureka Municipal Code. As the project is a conditionally permitted use and is to be located in an existing structure, all development standards are met.

6. Local Coastal Program (EMC §155.285)

This property is not located within the Coastal Zone.

Agency and Departmental Comments*:* Referrals were sent to several agencies and City departments with interest or jurisdiction over the property or the intended use of the property. The following Agencies/Departments commented:

1. **Tribal**: The Blue Lake Tribal Historic Preservation Officer (THPO), Bear River Band THPO, and Wiyot THPO agreed that if there is not any ground disturbance associated with the Conditional Use Permit then they do not have any concerns. Regardless, appropriate protocols for any groundbreaking work that includes inadvertent archeological discovery of cultural or historical artifacts should be followed.

No other comments were received which indicate that the proposed cannabis manufacturing facility use will be detrimental to the public health, safety, and welfare.

<u>Support Material</u>:

Attachment 1 Planning Commission Resolution No. 2018-08……..……pages 9 – 11

Attachment 2 Parking……page 12

PLANNING COMMISSION RESOLUTION NO. 2018-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING THE CONDITIONAL USE PERMIT (C-18-0004) TO ALLOW A CANNABIS RETAIL FACILITY AT 445 4th Street; APN 001-095-003.

WHEREAS, the applicant is planning to operate a cannabis retail facility; and

WHEREAS, the property at 445 4th Street is zoned Central Commercial (CC), has a land use designation of Retail Commercial (C-RC); and

WHEREAS, the retail use is conditionally permitted in the CC zone district; and

WHEREAS, the Eureka Municipal Code §155.285 prescribes the findings required to be made by the Planning Commission prior to granting a use permit.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Eureka that the project, as conditioned below and described in the Staff Report, is approved, and the decision to approve with conditions the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not be limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application. The findings of fact listed below "bridge the analytical gap" between the raw evidence in the record and the Planning Commission's decision.

1. The retail use is conditionally permitted in the CC zone district; therefore, the operation of a Cannabis Retail Facility requires approval of a Conditional Use Permit.

2. The project is located in the CC (Central Commercial) district, in which retail is listed as a conditionally permitted use and CC (Central Commercial) zone district is consistent with the underlying C-RC (Retail Commercial) land use designation; therefore, the proposed use is consistent with the General Plan.

3. The project location is in accord with the objectives of Chapter 155 (Zoning) of the Eureka Municipal Code and the purposes of the district in which the site is located as documented in the staff report.

4. The project location and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity as documented in the staff report;

5. The Conditional Use Permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, the project qualifies

for a Class 1 exemption from CEQA which exempts the conversion and minor alteration of existing structures.

6. The project will comply with the applicable provisions of the Code.

FURTHER, approval of the Use Permit is conditioned on the following terms and requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

1. All cannabis retail businesses operating at the subject property shall install odor control measures that shall be reviewed and approved by the City Building Department prior to operations. The odor control measures implemented shall be effective at controlling cannabis odors such that no cannabis odors shall be detectable outside the exterior walls of the facility.
2. Cannabis plant materials shall not be visible from the exterior of the property. This includes cannabis plant materials that are present onsite, in any buildings at the site, or in any vehicles at the site.
3. All cannabis retail businesses operating at the subject property shall meet with the City of Eureka Fire Department, Building Department, and Police Department and shall implement safety, security, and other related requirements imposed by those Departments.
4. The exterior of the building, adjacent parking lot, on-site landscaping, and all other visible components of the property shall be maintained at a high level of quality worthy of a building on the corner of one of the busiest intersections in the City.
5. The property owner shall install and maintain a security system at the subject property within any buildings (present or future) that are engaged in cannabis retail. The security system(s) shall be designed as a means of deterring and discouraging criminal activity at the property for as long as any business is engaged in the proposed use.
6. Prior to commencement of any demolition, remodeling or construction, the applicant shall obtain all required Building and Fire permits to the satisfaction of the City of Eureka Building and Humboldt Bay Fire Departments.
7. The applicant shall obtain Design Review approval prior to issuance of a building permit for any exterior improvements to the building.
8. Landscaping shall be added in order to enhance the visual appearance of the site from the street to the satisfaction of the Development Services Director.
9. In the event a building permit involving any ground disturbing activity is issued, the City's standard protocol for incidental archeological discovery (cultural or historical artifacts) shall be followed.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 9th day of July 2018 by the following vote:

AYES: COMMISSIONER

NOES: COMMISSIONER

ABSENT: COMMISSIONER

ABSTAIN: COMMISSIONER

_____

Jeff Ragan, Chair, Planning Commission

Attest:

_____

Rob Holmlund, Director of Development Services

1 in = 125 ft

N

0 62.5 125
Feet

Dispensary

300 Ft Buffer

Potential Parking Lots

Dispensary and Surrounding Parking

CITY of EUREKA

Figure 1

rtopolewski

Date: 6/29/2018