



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

531 K Street • Eureka, California 95501-1146
Ph (707) 441-4160 • Fx (707) 441-4202
planning@ci.eureka.ca.gov • www.ci.eureka.ca.gov

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, September 10, 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: *Proper Wellness Center Cannabis Retail Facility Conditional Use Permit*

Project Applicant: Tara Gurley **Case No:** C-18-0006

Project Location: 517 5th Street (423 F Street); APN 001-143-005

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

Project Description: The applicant is seeking a Conditional Use Permit (CUP) for a cannabis “retail” facility, which is listed as a *conditional use* in the subject zoning district. 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, September 10, 2018 in Council Chambers of Eureka City Hall (531 K Street). A Commercial Cannabis License (MCL-18-0039) 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 Rob Dumouchel, Associate Planner, *phone*: (707) 441-4164;
fax: (707) 441-4202; *e-mail*: rdumouchel@ci.eureka.ca.gov



CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT

Rob Holmlund, AICP, Director

Rob Dumouchel, Associate Planner

531 K Street • Eureka, California 95501-1146

Ph (707) 441-4160 • Fx (707) 441-4202

planning@ci.eureka.ca.gov • www.ci.eureka.ca.gov

EUREKA CITY PLANNING COMMISSION

STAFF REPORT

September 10, 2018

Project Title: *Proper Wellness Center Cannabis Retail Facility Conditional Use Permit*

Project Applicant: Tara Gurley **Case No.:** C-18-0006

Project Location: APN 001-143-005

Zoning and General Plan Designations: CC (Central Commercial)/C-RC (Core 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. If this CUP is granted, the use of cannabis “retail” would apply to the entire parcel. Eureka Municipal Code Section 155.078 lists cannabis retail facilities subject to the provisions of Chapter 158 in the CC Zone. A Commercial Cannabis License (MCL-18-0039) is being processed separately.

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

1. 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. All of the above steps are repeated each with each Request for Proposal.

The above process was implemented in 2015 and the City Council approved one cannabis retail business (EcoCann) at 306 F Street. Then, In September of 2017, the City Council directed staff to issue a Request for Proposals (RFP) for up to two cannabis retail facilities and on November 13th the City released an RFP. 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 the City Council invite two cannabis retail businesses to begin the Conditional Use Permit process for the first

Proper Wellness Center Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0006

half of 2018. The two cannabis retail businesses were the Humboldt Patient Resource Center and MOCA Humboldt. Both are currently in the Commercial Cannabis License process.

When inviting the two cannabis retail businesses to begin the Use Permit process for the first half of 2018, City Council gave direction to amend the code to remove the limit on the number of retail cannabis facility use permits that can be issued in a six month period, but to retain the six-month-RFP-process.

While the Committee reviewed the 20 proposals received in February, the Committee was comfortable recommending an additional eight cannabis retail businesses (of the 20 that applied) to begin the Conditional Use Permit process for the second half of 2018.

The additional eight cannabis retail businesses are:

- 1. The Heart of the Emerald at 109 5th Street**
- 2. Heirloom Organics at 627 Summer Street**
3. S.T.I.L. at 2940 Broadway
4. Native Humboldt Farms at 514 W. 14th Street
5. Zen Healing at 26 W. 4th Street
6. 132 W. 4th Street LLC at 132 W. 4th Street
- 7. Humboldt's Premium at 1131 Broadway**
- 8. Proper Wellness Center at 423 F Street**

The bolded businesses listed above will be presented to the Planning Commission at the September 10th meeting. The focus of this staff report is **Proper Wellness Center, located at APN 001-143-005.**

The site at APN 001-143-005 consists of one legal parcel (13,200 square feet) with one existing structure that takes up the footprint of the parcel. The site is in the CC Zone district and the building is bordered by 5th Street and F Street. The existing structure contains office and retail space and is surrounded by buildings which host similar uses. The subject property is well served by water, wastewater, gas, power, and other utilities. The subject property is in the Parking Assessment District and does not have its own parking facilities.

Proper Wellness Center Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0006



Figure 1: Street view of the structure on APN 001-143-005

Staff Contact Person: Rob Dumouchel, Associate Planner; City of Eureka, Community Development Department; 531 “K” Street, Eureka, CA 95501-1165; phone: (707)441-4164, fax: (707) 441-4202, email: rdumouchel@ci.eureka.ca.gov

Staff Recommendation:

1. Hold a Public Hearing; and
2. Adopt a Planning Commission Resolution 2018-0015 approving a use permit allowing a Cannabis Retail Facility at APN 001-143-005.

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. The proposed retail use 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. 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 <i>conditional use</i> 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.

Proper Wellness Center Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0006

	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 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 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 property is located within the Parking Assessment District and the Eureka Municipal Code does not require any parking to be provided for any commercial-related use. 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;
	The property is located within the Parking Assessment District and the Eureka Municipal Code does not require any parking to be provided for any commercial-related use.
Objective 8	To facilitate the appropriate location of community facilities and institutions;
	The property has been vacant and available for lease since 2016. 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. Cannabis retail facilities are 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;

	It is unlikely that the project will have an adverse impact on property values on adjoining properties. The proposed retail facility is located on the block with the highest rate of commercial vacancy in the downtown area. Property values should be enhanced by the existence of the retail facility and the foot traffic it can create.
Objective 11	To safeguard and enhance the appearance of the City.
	The project site is in an existing structure as well as the Design Review Area. 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.

2. Purposes of Commercial Districts (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 Commercial Districts. The proposed retail facility will be patronized by area residents, and out of area visitors.
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 Commercial Districts. 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 creating a benefit for nearby businesses.
Purpose 3	To provide space for community facilities and institutions that appropriately may be located in commercial areas;
	The property has been vacant and available for lease since 2016. 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 construction is proposed, this use will occur in an existing structure. The property is located within the Parking Assessment District and is not required to provide off-street parking spaces.
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.
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.
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 and investment in our business district. The existence of the retail facility removes a longstanding vacancy.
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.
	The creation of a new retail facility will maintain the continuity of commercial frontage and create a draw for pedestrian shoppers.

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)

Proper Wellness Center Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0006

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

Support Material:

Attachment 1 Planning Commission Resolution No. 2018-0015.....pages 9 – 11

PLANNING COMMISSION RESOLUTION NO. 2018-0015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING THE
CONDITIONAL USE PERMIT (C-18-0006) TO ALLOW A CANNABIS RETAIL FACILITY AT
APN 001-143-005.

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

WHEREAS, the property at APN 001-143-005 is zoned Central Commercial (CC), has a land use designation of Core 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

Proper Wellness Center Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0006

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. 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.
3. 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.
4. 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.
5. The applicant shall obtain Design Review approval prior to issuance of a building permit for any exterior improvements to the building.
6. 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 10th day of September 2018 by the following vote:

AYES: COMMISSIONER

NOES: COMMISSIONER

ABSENT: COMMISSIONER

ABSTAIN: COMMISSIONER

Jeff Ragan, Chair, Planning Commission

Proper Wellness Center Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0006

Attest:

Rob Holmlund, Director of Development Services