



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: *Humboldt AF Cannabis Retail Facility Conditional Use Permit*

Project Applicant: James Alves **Case No:** C-18-0007

Project Location: 1131 Broadway; APN 004-025-010

Zoning and General Plan Designations: Service Commercial (CS)/General Service Commercial (G-SC)

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 CS 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-18-0040) 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: *Humboldt AF Cannabis Retail Facility Conditional Use Permit*

Project Applicant: James Alves **Case No.:** C-18-0007

Project Location: 1131 Broadway, APN 004-025-010

Zoning and General Plan Designations: CS-AR (Service Commercial)/GSC (General Service 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 as a conditional use in the CC zone district and subject to the provisions of Chapter 158. A Commercial Cannabis License (MCL-18-0040) 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

Humboldt AF Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0007

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 **Humboldt's Premium (Humboldt AF Cannabis), located at 1131 Broadway (APN 004-025-010)**.

The site at APN 004-025-010 consists of one legal parcel (16,860 square feet) with one existing structure on the east side of the parcel. The site is in the CS Zone district and located along the Broadway corridor. The existing structure previously contained an RV business and will be converted into cannabis retail, non-volatile manufacturing, and distribution space. The subject property is well served by water, wastewater, gas, power, and other utilities.

Humboldt AF Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0007



Figure 1: Street view of 1131 Broadway when it was still in operation as an RV business

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 2018-0014 approving a use permit allowing a Cannabis Retail Facility at 1131 Broadway.

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 Commercial Districts (EMC §155.075)**
 - c. **Special Purposes of the CS 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. The proposed use will be contained within an existing structure and be co-located with cannabis distribution and non-volatile manufacturing. 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 on Broadway and will be co-located with complementary cannabis-related uses (distribution and non-volatile manufacturing). 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. The proposed retail facility will be patronized by visitors and area residents. There is no indication that the retail facility will introduce harmful intrusions 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 new occupant will be upgrading the building and creating new jobs. The development of a retail facility in the existing commercial structure will draw in local and visiting retail consumers to purchase legal cannabis products which supports cannabis manufacturing jobs and creates sales tax revenues.
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 with a large parking lot that meets standards set in the Eureka Municipal Code.
Objective 7	To foster the provision of adequate off-street parking and off-street truck loading facilities;
	Adjacent to the facility is a parking lot dedicated to the facility that meets standards set in the Eureka Municipal Code. The building will also house a distribution facility with its own loading area separate from the parking lot.
Objective 8	To facilitate the appropriate location of community facilities and institutions;
	No community facilities or institutions have been proposed for the site. The existing building was previously used for an RV shop and would not be a likely option for a community facility.
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. This location, adjacent to Broadway with adequate parking, is likely to draw out-of-area visitors who are either visiting or passing through Eureka which may strengthen the city's tax base through sales tax.
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.

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 use is cannabis retail in a zone district that allows for this use. The addition of this cannabis retail store will increase options for those

	looking to purchase legal cannabis products. Other cannabis-related businesses are also located throughout the Commercial Zone districts.
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;
	If approved, the site would allow the applicant to conduct non-volatile manufacturing, distribution, and retail sales from the same location.
Purpose 3	To provide space for community facilities and institutions that appropriately may be located in commercial areas;
	Not Applicable. The proposed location is a commercial area and has never been occupied as a public community facility or community institution.
Purpose 4	To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas;
	The proposed use will have a sufficient number of off-street parking spaces to meet Eureka Municipal Code requirements. The entire parcel outside of the footprint of the existing structure is paved leaving plenty of room for trucks to load and maneuver.
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.
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 retail use is not anticipated to create noises or odors outside of the building. The application of the conditions suggested below and the enforcement of other City regulations would not permit odors to be detectable beyond the boundaries of the site. The proposed use is not expected to generate any detectable dust, dirt, smoke, vibration, heat, or glare.
Purpose 7	To protect commercial properties from fire, explosion, noxious fumes, and other hazards.
	The proposed use is commercial cannabis retail and should not generate an unusual risk of fire, explosion, noxious fumes, or other hazards.

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

Purpose 1	To provide appropriately located areas for commercial uses having features that are incompatible with the purposes of the other commercial districts;
	Retail cannabis facilities are conditionally allowed in the CC (Central Commercial), CN (Neighborhood Commercial) and the CS (Service Commercial) zone districts. The CS district provides for a mix of retail, restaurants, offices, and other visitor serving uses, and encourages the

	location of retail stores along the Broadway corridor. The retail cannabis facility use is compatible with the surrounding commercial uses.
Purpose 2	To permit additional development in mixed commercial areas containing both retail stores and commercial services; and,
	The proposed use is a retail facility supported by on-site non-volatile manufacturing and distribution.
Purpose 3	To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.
	The proposed use is complementary to and will not have an adverse impact on commercial services in the zone district. The retail facility will support the manufacturing and distribution of cannabis products.

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

Support Material:

Humboldt AF Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0007

Attachment 1 Planning Commission Resolution No. 2018-0014.....pages 9 – 11

PLANNING COMMISSION RESOLUTION NO. 2018-0014

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING THE CONDITIONAL USE PERMIT (C-18-0007) TO ALLOW A CANNABIS RETAIL FACILITY AT 1131 BROADWAY; APN 004-025-010.

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

WHEREAS, the property at 1131 Broadway is zoned Service Commercial (CS), has a land use designation of Retail Commercial (GSC); and

WHEREAS, the retail use is conditionally permitted in the CS 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 CS zone district; therefore, the operation of a Cannabis Retail Facility requires approval of a Conditional Use Permit.
2. The project is located in the CS (Service Commercial) district, in which retail is listed as a conditionally permitted use and CS (Service 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

Humboldt AF Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0007

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 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.
4. 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.
5. 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.
6. The applicant shall obtain Design Review approval prior to issuance of a building permit for any exterior improvements to the building.
7. 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

Humboldt AF Cannabis Retail Facility Conditional Use Permit

Project Number: C-18-0007

Jeff Ragan, Chair, Planning Commission

Attest:

Rob Holmlund, Director of Development Services