



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 proposed development described below is within the coastal zone and, pursuant to the Eureka Municipal Code, the City of Eureka Planning Commission will decide whether to approve, conditionally approve, or disapprove the conditional use permit and coastal development permit application at a public hearing held at 5:30 p.m. on Monday, November 19, 2018 in the Council Chambers of Eureka City Hall (531 K Street) or as soon thereafter as the matter can be heard.

Project Title: *Humboldt Gardens Conditional Use Permit and Coastal Development Permit*

Project Applicant: Humboldt Gardens Inc. **Case No:** C-18-0009/CDP-18-0008

Project Location: 212 X Street; APN 002-127-002

Zoning and General Plan Designations: CS (Service Commercial)/GSC (General Service Commercial)

Project Summary: The applicant is seeking a Conditional Use Permit (C) and Coastal Development Permit (CDP) for cannabis “cultivation, indoor, not more than 5,000 square feet” which is listed as a conditional use in the subject zoning district (CDP application filed 9/11/18). If the permits are granted, the use of indoor cannabis cultivation would apply to the entire parcel. A Commercial Cannabis License (MCL-18-0042) is being processed separately.

For more information, contact Rob Dumouchel, Associate Planner, phone: (707) 441-4164; fax: (707) 441-4202; e-mail: rdumouchel@ci.eureka.ca.gov or see this website:

http://www.ci.eureka.ca.gov/depts/development_services/public_hearing_notices.asp

How to Comment: 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, Third Floor, 531 K Street, Eureka, CA. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. Appeals to the City Council of the action of the Planning Commission on the project may be made within 10 calendar days of the action by filing a written Notice of Appeal, along with filing fees as set by the

City Council, with the City Clerk. 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 Development Services Department, Third Floor, City Hall.



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EUREKA CITY PLANNING COMMISSION

STAFF REPORT

November 19, 2018

Project Title: *Humboldt Gardens Use Permit and Coastal Development Permit*

Project Applicant: Humboldt Gardens Inc.

Case No.: C-18-0009/CDP-18-0008 **Project Location:** 212 X Street **APN:** 002-127-002

Zoning and General Plan Designations: CS (Service Commercial) and GSC (General Service Commercial)

Proposed Use: Cannabis cultivation, indoor, not more than 5,000 square feet

Staff Contact Person: Rob Dumouchel, Associate Planner; City of Eureka, Community Development Department; 531 "K" Street, Eureka, CA 95501; (707) 441-4164, Email: rdumouchel@ci.eureka.ca.gov

Staff Recommendation:

1. Hold a Public Hearing; and
2. Adopt a resolution of the Planning Commission of the City of Eureka approving a Use Permit and Coastal Development Permit allowing a Cannabis Cultivation Facility of not more than 5,000 square feet at 212 X Street (APN 002-127-002).

Project Description: Humboldt Gardens Inc. is seeking a Use Permit (C) and Coastal Development Permit (CDP) for cannabis "cultivation, indoor, not more than 5,000 square feet", which is listed as a *conditional use* in the subject zoning district. This parcel is located in the Coastal Zone, and a Coastal Development Permit is required (applied 9/11/2018). If this Use Permit and CDP are granted, the use of indoor cannabis cultivation not more than 5,000 square feet would apply to the entire parcel. Eureka Municipal Code (EMC) Section 10-5.903 lists indoor cannabis cultivation not more than 5,000 square feet subject to the provisions of Article 30 in the CS Zone. A Commercial Cannabis License (MCL-18-0042) is being processed separately.

A cannabis cultivation facility, as defined in EMC Sec. 10-5.3003.2 (e) is a facility for cannabis cultivation for supply to a cannabis distributor or manufacturer, including a nursery that produces only clones, immature plants or seeds. Cannabis cultivation, as defined in EMC Sec. 10-5.3003.2 (d) includes the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Environmental: Action on the Use Permit and Coastal Development Permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, these projects qualify for Class 1 exemption (Section 15301) from CEQA which exempts the

conversion and minor alteration of existing structures. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, 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 proposed project will take place within an existing structure and not expand the footprint of any buildings on the parcel.

Project Analysis: Eureka Municipal Code Sec. 10-5.29310.1 requires that a Coastal Development Permit be approved only upon making the finding that the proposed development conforms to the policies of the Local Coastal Program.

1. Overall objectives of the Coastal Zone (EMC §10-5.2902):

Objective 1	Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and human-created resources;
	The proposed use will be contained within an existing structure and does not involve new development. The approval of the proposed use is anticipated to have no negative effects or impacts on the quality of the coastal zone environment.
Objective 2	Assure orderly, balanced utilization and conservation of coastal zone resources, taking into account the social and economic needs of the people of this region, state, and nation;
	The proposed use will be contained within an existing structure in a developed commercial area. The project supports the social and economic needs of the region by filling a vacant space and creating jobs. The approval of the proposed use will have no impact on the utilization and conservation of coastal zone resources.
Objective 3	Maximize public access to and along the Humboldt Bay shoreline, and maximize public recreational opportunities in the coastal zone, consistent with sound resource conservation principles and constitutionally protected rights of private property owners;
	The site is not adjacent to Humboldt Bay or any other shorelines or coastal recreational amenities. The use will be contained within an existing commercial structure. The introduction of indoor cannabis cultivation is not anticipated to impact coastal access or conservation.
Objective 4	Assure priority for coastal dependent and coastal-related development over other development on the shoreline;
	Not applicable. The property is not located along a shoreline or waterway. The site is located in a longstanding commercial area and is surrounded by other non-coastal-dependent uses.
Objective 5	Provide a definite plan for development so as to guide the future growth of the City within the Coastal Zone;
	The Local Coastal Program provides for the development and growth of the City within the coastal zone; the proposed use is consistent with the

	purposes of the Coastal Land Use Plan and the Coastal Implementation Plan (zoning) and land use designations.
Objective 6	Protect the social and economic character and stability of residential, commercial, agricultural, and industrial areas within the City.
	The proposed use will be contained within an existing commercial structure. The proposed use will not negatively affect the stability of the existing surrounding service establishments, retail shops, industrial, office, or residential uses. Due to the fact the proposed use is compatible and similar to existing uses, the proposed use will not be inharmonious with the existing commercial character of the area. Through the application of the suggested conditions and through the enforcement of 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.

The zoning regulations are adopted to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. The purpose and objectives of the zone district are discussed below.

2. Purposes of the Coastal CS District (EMC §10-5.29130): (Findings in bold)

Purpose a	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 indoor cannabis cultivation that grows wholesale cannabis in a zone district that allows for this use. Other cannabis-related businesses are also located in the same zone district.
Purpose b	To provide opportunities for retail stores, offices, service 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 proposed use would transform a currently vacant building into a viable, job-generating business location. A concentration of occupied business facilities helps reduce blight, minimizes vandalism, and can reduce crime. Other cannabis-related businesses are also located in the same zone district.
Purpose c	To provide space for community facilities and institutions that appropriately may be located in commercial areas;
	The proposed location is a commercial area and has never been occupied as a public community facility or community institution.
Purpose d	To provide adequate space to meet the needs of modern commercial development, including off- street parking and truck loading areas;
	The location is set up for commercial use and has adequate space for off-street parking and loading.

Purpose e	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 existing building is proposed.
Purpose f	To protect commercial properties from fire, explosion, noxious fumes, and other hazards;
	The proposed use is indoor cultivation and should not generate an unusual risk of fire, explosion, noxious fumes, or other hazards. The project’s plans must be approved by the fire department and odor mitigation is required under both the conditions of approval and the Eureka Municipal Code.
Purpose g	To provide appropriately located areas for commercial uses having features that are incompatible with the purposes of the other commercial districts;
	The proposed use is not appropriate for some commercial districts (such as Henderson Center or Old Town), but the subject site is in an area of existing light industrial and commercial uses and is appropriate for the proposed use. Other nearby businesses include a document destruction facility, an employment services business, and a construction company. The proposed use is a compatible mix with existing commercial uses within the immediate area.
Purpose h	To permit additional development in mixed commercial areas containing both retail stores and commercial services; and,
	The proposed indoor cultivation of cannabis products that will be wholesaled from the site provides a compatible mix with existing commercial uses within the immediate area. Through the application of the suggested conditions and through the enforcement of 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.
Purpose i	To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.
	Indoor cannabis cultivation is a commercial use that is not incompatible with surrounding commercial uses. The proposed use will not produce excessive noise, light or noxious odors and all work will be conducted within an existing structure.

3. No detrimental effect to public health, safety, welfare, or materially injurious to properties or improvements in the vicinity (EMC §10-5.2407.1):

Based on the discussion above, the facility as conditioned will operate without creating a detrimental effect to public health, safety, and welfare or to the properties in the vicinity. Through the application of the suggested conditions, and through the enforcement of 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.

4. Local Coastal Program (EMC §10-5.29300)

The site of the proposed use is located in the Coastal Zone and the Eureka Municipal Code requires a Use Permit and Coastal Development Permit to be approved by the Planning Commission. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit. The project is not appealable to the state Coastal Commission.

The property is zoned Service Commercial (CS), which is intended to permit additional development in mixed commercial areas containing both retail stores and commercial services and to allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services. The proposed use meets the intention of the zoning designation, as it is a proposed light industrial use.

The subject property has a Land Use designation of General Service Commercial (GSC) which is intended to provide appropriately located areas for land-extensive retail uses, warehouse, and wholesale commercial uses. The proposed use creates a wholesale cannabis product which is sold to licensed distributors, this proposed use meets the intention of this Land Use.

Based on the discussion above, the proposed use is consistent with the Local Coastal Program’s Land Use Plan and Implementation Plan.

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. No comments were received prior to completion of this staff report with recommended conditions. If comments are received prior to the deadline for submitting them, any recommended conditions will be reviewed at the public hearing. Otherwise, the presumption is that the proposed manufacturing of cannabis will not be detrimental to the public health, safety and welfare.

Support Material:

Attachment 1 Planning Commission Resolution..... page 6

PLANNING COMMISSION RESOLUTION NO. 2018-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING THE USE PERMIT (C-18-0009) AND COASTAL DEVELOPMENT PERMIT (CDP-18-0008) TO ALLOW AN INDOOR CANNABIS CULTIVATION MANUFACTURING FACILITY AT 212 X STREET; APN 002-133-003.

WHEREAS, the applicant is planning to operate an indoor cannabis cultivation facility of not more than 5,000 square feet; and

WHEREAS, the property at 212 X Street is located in the Coastal Zone, is zoned Service Commercial (CS) and has a land use designation of GSC (General Service Commercial); and

WHEREAS, indoor cannabis cultivation with cultivation areas of not more than 5,000 square feet are conditionally permitted in the CS district and require a Use Permit; and

WHEREAS, conditionally permitted uses in the Coastal Zone require a Coastal Development Permit; and

WHEREAS, the Eureka Municipal Code §10-5.29310.1 prescribes the findings required to be made by the Planning Commission prior to granting a Coastal Development Permit; and

WHEREAS, the Eureka Municipal Code §10-5.2407.1 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.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Eureka that the decision to approve with conditions the subject applications was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; the project files; and, 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. Action on the Use Permit and Coastal Development 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 because it will take place within existing structures and does not call for the expansion of the footprint of any buildings.
2. The proposed indoor cannabis cultivation facility of not more than 5,000 square feet and its proposed location are in accord with the objectives of Title 5, Chapter 10 of the Eureka Municipal Code and the purposes of the district in which the site is located as documented in the staff report.

3. 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.
4. The site of the proposed use is located in the Coastal Zone and the Eureka Municipal Code requires a Coastal Development Permit to be approved by the Planning Commission. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit. The project is not appealable to the state Coastal Commission.

FURTHER, approval of both the Use Permit and Coastal Development 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 cultivation 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. The only exception to this condition is during brief periods of loading and unloading.
3. Any cannabis cultivation 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 property owner shall install and maintain a security system at the subject property within any buildings (present or future) that are engaged in cultivation of cannabis. 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.
8. 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.
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 19th day of November 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