



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 partially 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, December 10, 2018 in the Council Chambers of Eureka City Hall (531 K Street) or as soon thereafter as the matter can be heard.

Project Title: *P+B Labs Humboldt Use Permit and Coastal Development Permit*

Project Applicant: P+B Labs Humboldt LLC **Case No:** C-18-0011/CDP-18-0013

Project Location: 4325 Broadway; APN 302-171-039

Zoning and General Plan Designations: CS (Service Commercial), A (Agricultural), and AC (Coastal Agriculture)/GSC (General Service Commercial) and PQP (Public/Quasi Public)

Project Summary: The applicant is seeking a Conditional Use Permit (C) and Coastal Development Permit (CDP) for cannabis “manufacturing, non-volatile, more than 5,000 square feet of manufacturing floor area” which is listed as a conditional use in the Service Commercial (CS) zone district. The CS zoned portion of the parcel is partially in the Coastal Zone (CDP application filed 11/5/2018). If the permits are granted, the use of manufacturing, non-volatile, more than 5,000 square feet would be restricted to the portion of the parcel within the CS zone district. A Commercial Cannabis License 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

December 10, 2018

Project Title: *P+B Labs Humboldt Use Permit and Coastal Development Permit*

Project Applicant: P+B Labs Humboldt, LLC

Case No.: C-18-0011/CDP-18-0013 **Project Location:** 4325 Broadway **APN:** 302-171-039

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

Proposed Use: Cannabis manufacturing, non-volatile, more than 5,000 square feet of manufacturing floor area

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 Non-Volatile Cannabis Manufacturing Facility of more than 5,000 square feet of manufacturing floor area at 4325 Broadway (APN 302-171-039).

Project Description: The applicant is seeking a Conditional Use Permit (C) and Coastal Development Permit (CDP) for cannabis "manufacturing, non-volatile, more than 5,000 square feet of manufacturing floor area" which is listed as a conditional use in the subject zoning district. The proposed use of manufacturing, non-volatile, more than 5,000 square feet is restricted to the portion of the parcel within the Service Commercial (CS) zone district. The CS zoned portion of the parcel is partially in the Coastal Zone. In the CS zone district, Eureka Municipal Code Section 155.078 lists cannabis manufacturing facilities as being subject to the provisions of Chapter 158; in the coastal CS zone district, Section 10-5.903 lists cannabis manufacturing facilities as being subject to the provisions of Article 30. A Commercial Cannabis License is being processed separately. No ground disturbing activities are anticipated.

The non-volatile cannabis manufacturing facility will be located within an existing commercial building which formerly housed a Kmart. At this non-volatile manufacturing facility, the applicant will manufacture transdermal patches and oil pills, and it will also bottle tinctures and balms. The non-volatile cannabis manufacturing facility will be co-located with a principally permitted cannabis distribution facility.



Figure 1: Subject parcel outlined in green; Service Commercial zoned portion of the parcel shaded in red; and Coastal Zone boundary marked in blue (areas to the west and south of the line are within the Coastal Zone)

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 (applicant is forecasting between 40 to 120 jobs at this location). The former Kmart building has attracted illegal camping and vandalism in the past, the conversion to an active and secure cannabis manufacturing and distribution facility should deter the continuance of inappropriate uses in the area. 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 non-volatile manufacturing facility 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, residential, or agricultural uses. Due to the number of individuals forecasted to be employed at the site, this project is likely to have a positive impact on nearby service commercial businesses like restaurants, retail shops, and gas stations. 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.

2a. 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 non-volatile manufacturing use supports the applicant’s other locations within the city as well as other cannabis businesses within the market area. The site had been vacant and if other businesses, like retail stores or offices, were interested they had a chance to lease or purchase the space.
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;
	This location was formerly a “big box” retail store (Kmart). In the time in which it has been vacant, other large retailers have not shown an interest in the building. The applicant will repurpose the existing building to manufacture and distribute wholesale cannabis products which are sold to the public through licensed cannabis retail facilities throughout the State.
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 was formerly a “big box” retail store and has adequate space for off-street parking and truck 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 non-volatile manufacturing 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;

	As a large non-volatile manufacturing facility, the proposed use is not appropriate for some commercial districts (such as Henderson Center or Old Town). The subject site is in an area of existing commercial uses and is appropriate for the proposed use. Other nearby businesses include a cemetery, a tile store, a carpet store, a western clothing store, and a building materials store. 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 non-volatile manufacturing of cannabis products that will be distributed 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.
Purpose i	To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.
	A small number of commercial cannabis companies require large facilities in order to operate. The applicant currently has three locations within the City of Eureka trying to serve demand for their products. The subject property will allow the business to grow and expand to better serve their market.

2b. Purposes of the Commercial Districts (EMC §155.075): (Findings in bold)

Purpose A	To provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale business offering commodities and services required by residents of the city and its surrounding market area.
	The proposed non-volatile manufacturing use supports the applicant’s other locations within the city as well as other cannabis businesses within the market area. The site had been vacant and if other businesses, like retail stores or offices, were interested they had a chance to lease or purchase the space.
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.
	This location was formerly a “big box” retail store (Kmart). In the time in which it has been vacant, other large retailers have not shown an interest in the building. The applicant will repurpose the existing building to manufacture and distribute wholesale cannabis products which are sold to the public through licensed cannabis retail facilities throughout the State.
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 was formerly a “big box” retail store and has adequate space for off-street parking and truck 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 noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, and other objectionable influences incidental to industrial uses.
	The proposed use is non-volatile manufacturing and should not generate noise, odor, dust, dirt, smoke, vibration, heat, glare, or heavy truck traffic. Commercial cannabis businesses, under the Eureka Municipal Code, are not allowed to emit odors.
Purpose G	To protect commercial properties from fire, explosion, noxious fumes, and other hazards
	The proposed use is non-volatile manufacturing and should not generate an unusual risk of fire, explosion, noxious fumes, or other hazards.

2c. Purposes of the CS District (EMC §155.076 (D)): (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.
	As a large non-volatile manufacturing facility, the proposed use is not appropriate for some commercial districts (such as Henderson Center or Old Town). The subject site is in an area of existing commercial uses and is appropriate for the proposed use. Other nearby businesses include a cemetery, a tile store, a carpet store, a western clothing store, and a building materials store. The proposed use is a compatible mix with existing commercial uses within the immediate area.
Purpose 2	To permit additional development in mixed commercial areas containing both retail stores and commercial services.
	The proposed non-volatile manufacturing of cannabis products that will be distributed 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.
Purpose 3	To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.

	A small number of commercial cannabis companies require large facilities in order to operate. The applicant currently has three locations within the City of Eureka trying to serve demand for their products. The subject property will allow the business to grow and expand to better serve their market.
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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 partially 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 affected portion of 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. The following Agencies/Departments commented:

1. Humboldt County Public Health: The Humboldt County Division of Public Health provided a recommended condition of approval for the project:

“Recommend Conditional Approval. Under California Health and Safety Code, Section 25404 et seq., any business that handles hazardous materials at any one time, in a quantity equal to, or greater than: a total weight of 500 pounds, a total volume of 55 gallons, or 200 cubic feet of gas

at standard temperature and pressure must report these activities via the California Environmental Reporting System (CERS) online at www.calepa.cers.ca.gov. Similar requirements apply to businesses which generate or treat hazardous waste and/or operate an underground storage tank system (UST). If this business meets any of the above requirements, they must complete a Hazardous Materials Business Plan (HMBP) submittal via the California Environmental Reporting System (CERS). HMBP information must be updated in CERS within 30 days of beginning storage of chemicals, or operation. Maintain compliance with all HMBP requirements and inspections.”

Support Material:

Attachment 1 Planning Commission Resolution..... page 9

PLANNING COMMISSION RESOLUTION NO. 2018-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING THE USE PERMIT (C-18-0011) AND COASTAL DEVELOPMENT PERMIT (CDP-18-0013) TO ALLOW A NON-VOLATILE CANNABIS MANUFACTURING FACILITY OF MORE THAN 5,000 SQUARE FEET OF MANUFACTURING FLOOR AREA AT 4325 BROADWAY; APN 302-171-039.

WHEREAS, the applicant is planning to operate a non-volatile cannabis manufacturing facility of more than 5,000 square feet of manufacturing floor area; and

WHEREAS, the property at 4325 Broadway is located partially within the Coastal Zone, is zoned Service Commercial (CS), Agricultural (A), and Coastal Agricultural (AC) and has a land use designation of General Service Commercial (GSC) and Public/Quasi Public; and

WHEREAS, non-volatile cannabis manufacturing will be restricted to the portion of the parcel in the CS zone district; and

WHEREAS, non-volatile cannabis manufacturing facilities of more than 5,000 square feet are conditionally permitted in the CS zone 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 and §155.285 prescribes the findings required to be made by the Planning Commission prior to granting a Use Permit; and

WHEREAS, 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.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Eureka that:

1. The project is approved in accord with the objectives and purposes of the Zoning Regulations, CS zone district, and specific purposes of the CS district because:
 - a. Granting the conditional use permit will facilitate and achieve the arrangement of land uses depicted in the general plan.
 - b. The project will foster a harmonious, convenient, workable relationship among land uses.
 - c. The project will facilitate and promote stability of land uses consistent with the general plan.
 - d. The project will create jobs and eliminate blight in a vacant building, which is a benefit to the city as a whole.

- e. Granting the use permit will not result in increased population densities, and will not cause an overcrowding of land with structures.
 - f. The development will not result in adverse traffic impacts.
 - g. The project provides more than the required number of off-street parking spaces, and provides off-street loading facilities.
 - h. No community facilities or institutions exist or have been proposed at the site.
 - i. Implementation of the project will greatly enhance property values in the vicinity of the development thereby protecting and enhancing real property values.
 - j. No new signage is proposed for the site.
2. The project will occur entirely within an existing building and no exterior modifications are proposed.
 3. The project will not result in any adverse environmental impacts and will not result in any adverse impacts to the public health, safety or welfare.
 4. The proposed project complies with the applicable provisions of the Code in compliance with the standards for the CS zone.
 5. The project complies with General Plan Policy 1.B.9 which encourages economic investment in buildings and is therefore consistent with the applicable policies of the Local Coastal Program.
 6. The proposed uses are not inharmonious with the surroundings, will not have an adverse effect on the value of property or improvements in the vicinity, are not ugly, inharmonious, monotonous, or hazardous.
 7. The project will not adversely affect any other natural or ecological resources.
 8. The project will not adversely impact ESHA or wetlands.
 9. No substantial adverse environmental impact will result from the proposed project.
 10. 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:

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 non-volatile cannabis manufacturing facility is more than 5,000 square feet and its proposed location is in accord with the objectives of Title 5, Chapter 10 and Chapter 155 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. Any cannabis 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 manufacturing 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.
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. 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.
7. If the business handles hazardous materials at any one time, in a quantity equal to, or greater than: a total weight of 500 pounds, a total volume of 55 gallons, or 200 cubic feet of gas at standard temperature and pressure, the business must report these activities via the California Environmental Reporting System (CERS) and complete a Hazardous Materials Business Plan (HMBP) submitted via CERS. HMBP information must be updated in CERS within 30 days of beginning storage of chemicals, or operation. Business must maintain compliance with all HMBP requirements and inspections.

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 December 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