

RESOLUTION NO. 2023-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT (CUP-23-0002) AND COASTAL DEVELOPMENT PERMIT (CDP-23-0002), TO ALLOW CANNABIS RETAIL WITHIN AN EXISTING COMMERCIAL BUILDING (GOLD RUSH COFFEE) AT 2742 BROADWAY STREET (APN 007-121-003)

WHEREAS, Green Rush proposes to operate a cannabis retail store within a 230-square-foot (-sf) portion of an existing 1,480-sf commercial building; and

WHEREAS, the project site is zoned Service Commercial (CS), and has a land use designation of General Service Commercial (GCS); and

WHEREAS, pursuant to EMC § 10-5.29133, cannabis retail is allowed with a conditional use permit in the CS zone district; and

WHEREAS, the proposed cannabis retail use is located within the coastal zone and, pursuant to EMC §10-5.2401(c), projects requiring a use permit in the coastal zone also require a coastal development permit; and

WHEREAS, the conditional use permit, and coastal development permit approvals for the cannabis retail use are a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission of the City of Eureka did hold a duly noticed public hearing at City Hall in the City of Eureka on July 10, 2023 at 5:30 p.m. via Zoom and in person in the Council Chamber; and

WHEREAS, the Planning Commission of the City of Eureka has reviewed the subject application in accordance with EMC Title 10, Chapter 5, and after due consideration of all testimony, evidence, and reports offered at the public hearing, does hereby find and determine the following facts:

1. The location of the cannabis retail use is in accord with the objectives of Chapter 5 and the purposes and intent of the CS zone district.
2. The proposed location of the cannabis retail use and the conditions under which the conditional use will be operated and maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
3. The cannabis retail use will comply with each of the applicable provisions of Chapter 5.
4. The project, as conditioned, will avoid impacts to coastal resources and priority uses, will be served by adequate services, and will minimize risks to hazards.
5. The project, as conditioned, conforms to the policies of the Local Coastal Program.
6. The project is categorically exempt from the provisions of the CEQA, in accordance

§15301 (Existing Facilities) of the CEQA Guidelines, as the project will be located entirely within an existing building with no proposed expansion or enlargement of the building.

WHEREAS, in the opinion of the Planning Commission of the City of Eureka, the proposed application should be approved subject to the following conditions. Compliance with conditions will be to the satisfaction of Development Services – Planning unless noted otherwise.

- A. **Building and Fire Department Approvals.** Prior to commencement of construction, the applicant shall obtain all required Building and Fire permits to the satisfaction of Development Services - Building and Humboldt Bay Fire.
- B. **Tsunami Safety Plan.** Prior to the issuance of the final certificate of occupancy, the Permittee shall submit a Tsunami Safety Plan to Development Services – Planning for review and approval. The Tsunami Safety Plan shall be implemented and enforced for the life of the development. The plan shall demonstrate that the tsunami threat and evacuation route will be adequately communicated to customers and employees, procedures will be in place for the safe evacuation of all occupants in the event of a tsunami, and staff will be adequately trained to carry out the plan. The plan shall include:
 - a. A Tsunami Evacuation Route Map for the project site informed by community-wide emergency response plans, showing egress direction(s) and expected assembly area(s) for safe evacuation.
 - b. Hazard risk notification procedures, including details on where placards, flyers, or other materials will be posted at conspicuous locations within the building, provided in English and Spanish, explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes; and
 - c. Training procedures for staff, detailing the instruction to be provided to all staff to ensure that the Tsunami Safety Plan is effectively implemented.
- C. **Tribal Monitor.** A tribal monitor shall be present for any future ground disturbing activities at the project site. Tribal Historic Preservation Officers from surrounding Tribal entities will be notified upon any project plan alterations, amendments, subsequent surveys or discoveries.
- D. **Inadvertent Discovery Protocol.** Any future ground disturbing activities are subject to the City’s standard protocol for inadvertent archeological discovery (cultural or historical artifacts) as follows:
 - a. If archaeological resources are encountered during construction activities, all onsite work shall cease in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist will be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officers for the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe are to be contacted immediately to evaluate the discovery and, in consultation with the project proponent, City of

Eureka, and consulting archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. Historic archaeological discoveries may include 19th century building foundations; structure remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.

- b. If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified paleontologist can assess the nature and importance of the find and, if necessary, develop appropriate treatment measures in conformance with Society of Vertebrate Paleontology standards, and in consultation with the City of Eureka.
- c. In the event of discovery or recognition of any human remains during construction activities, the landowner or person responsible for excavation would be required to comply with the State Health and Safety Code section 7050.5. Construction activities within 100 feet of the find shall cease until the Humboldt County Coroner has been contacted at 707-445-7242 to determine that no investigation of the cause of death is required. If the remains are determined to be, or potentially be, Native American, the landowner or person responsible for excavation would be required to comply with Public Resources Code (PRC) section 5097.98. In part, PRC section 5097.98 requires that the Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the landowner or the person responsible for the excavation work for the appropriate means of treating the human remains and any associated grave goods within 48 hours of being granted access to the site. Additional provisions of PRC section 5097.98 shall be complied with as may be required.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Eureka does hereby approve the application, subject to the conditions listed above.

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 July, 2023 by the following vote:

AYES: COMMISSIONER
NOES: COMMISSIONER
ABSENT: COMMISSIONER
ABSTAIN: COMMISSIONER

Meredith Maier, Chair, Planning Commission

Attest:

Cristin Kenyon, Executive Secretary