

RESOLUTION NO. 2023-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA ADOPTING A MITIGATED NEGATIVE DECLARATION, MITIGATION MONITORING AND REPORTING PROGRAM, AND A RESPONSE TO COMMENT (ED-23-0003), AND CONDITIONALLY APPROVING A CONDITIONAL USE PERMIT (CUP-22-0007) FOR A CANNABIS RETAIL USE AT 1621 AND 1561 BROADWAY (APNS 004-042-003 AND -006)

WHEREAS, 1621 Broadway, LLC, is requesting approval to utilize an existing commercial building and parking area as a cannabis retail facility with both indoor and car-side pick-up service at 1621 Broadway and 1561 Broadway (APNs 004-042-003 and -006); and

WHEREAS, the subject property is zone Service Commercial (SC) with a General Commercial (GC) land use designation; and

WHEREAS, pursuant to Eureka Municipal Code (EMC) §158.021.A.1, Table 158-1: Allowed Commercial Cannabis Uses, a cannabis retail use requires a Conditional Use Permit (CUP) in the SC zoning district, and an application for a CUP (CUP-22-0007) was submitted October 4, 2022; and

WHEREAS, the CUP approval is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, City of Eureka Development Service – Planning, as lead agency, has determined the project is not categorically exempt from the provisions of CEQA, in accordance with §15300.2(e) of the CEQA Guidelines, because the project is located on land designated as hazardous waste property; and

WHEREAS, a draft Initial Study/Mitigated Negative Declaration (IS/MND) (ED-23-0003; SCH No. 2023070308) for the 1621 Broadway LLC Cannabis Retail Facility was prepared in accordance with §15063 and §15070 of the CEQA Guidelines; 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 September 11, 2023 at 5:30 p.m. in person and via Zoom in the Council Chamber; and

WHEREAS, the Planning Commission of the City of Eureka has reviewed the subject application for a CUP in accordance with Eureka Municipal Code Chapters 155 and 158, 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 draft IS/MND was submitted to the State Clearinghouse (SCH No. 2023070308) for a 30-day public comment period which ended on August 17, 2023; and, a notice of the 30-day comment period on the draft IS/MND (which also ended August 17, 2023), and Notice

of Intent to Adopt the MND, was posted at the Humboldt County Clerk's Office, City Hall, the City's website, and the project site on July 17, 2023.

2. The City received one comment letter during the CEQA public comment period, and a Response to Comment was prepared.
3. The MND was prepared for this project pursuant to the provisions of CEQA and reflects the City of Eureka's independent judgement and analysis.
4. The MND concluded that, with mitigation, no substantial adverse environmental impact will result from the proposed project.
5. On the basis of the whole record including the Initial Study, the comment received, and the Response to Comment, there is no substantial evidence that the project will have any significant effects on the environment with implementation of the mitigation measures.
6. The documents and other material which constitute the record of proceedings upon which the Planning Commission's decision is based are maintained at City of Eureka Development Services - Planning, 531 K Street, Eureka, CA.
7. The proposed cannabis retail use is consistent with the General Plan and Zoning Code adopted by the City Council.
8. The site is suitable for the size, design and operating characteristics of the proposed cannabis retail use.
9. The proposed cannabis retail is compatible with existing and planned land uses in the vicinity of the property.
10. The proposed 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.
11. The proposed cannabis retail use is properly located within the City and adequately served by existing services and infrastructure.

WHEREAS, in the opinion of the Planning Commission of the City of Eureka, the proposed application should be approved subject to the following conditions: City and State Cannabis Licensing. Prior to operation of the proposed cannabis retail use at the subject property, any applicable City of Eureka Cannabis Retail License and State of California Cannabis License shall be acquired, and the facility must pass a pre-operational inspection to the satisfaction of the City's Cannabis Licensing Program Manager. If cannabis retail operations commence before licensure and inspection, the use permit may be suspended by the Director of Development Services - Planning, and forwarded to the Planning Commission for revocation at a public hearing. All necessary licenses shall be maintained during operation of the cannabis retail use.

2. Licensing Application Consistency with Initial Study Project Description. The application materials for City of Eureka Commercial Cannabis Retail Licensing must substantially conform to the project description contained in the project's IS/MND.
3. Implementation of the MMRP. The mitigation measures described in the Mitigation Monitoring and Reporting Program (MMRP) for the 1621 Broadway LLC Cannabis Retail Facility shall be followed for all pre-construction, construction, and post-construction activities.
4. Business License. A Business License shall be obtained prior to commencement of the cannabis retail use, to the satisfaction of the City of Eureka's Finance Department.
5. Building Permit. Prior to commencement of any demolition, remodeling, or construction, or installation of signage, the applicant shall obtain all required Building and Fire permits to the satisfaction of Development Services – Building, and Humboldt Bay Fire.
6. Encroachment Permits. Any work required in, over, or under either the City of Eureka or Caltrans rights-of-way shall obtain an encroachment permit to the satisfaction of City of Eureka Public Works - Engineering and/or Caltrans as applicable.
7. Entrance Notices. For the duration of operation of a cannabis retail use at the subject property, each entrance shall be clearly and legibly posted with a notice indicating persons under the age of 21 are precluded from entering the premises, except for qualified patients, unless accompanied by a parent or legal guardian.
8. Signage. Unless otherwise exempted by EMC §155.340.030, no signs shall be placed or erected on-site without a City of Eureka Sign Permit approved by Development Services – Planning, and, if required, a building permit from Development Services – Building.
9. Inadvertent Archeological Discovery Protocol. In the event any ground disturbing activity occurs, the City's standard protocol for inadvertent archeological discovery (cultural or historical artifacts) shall be followed:
 - 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 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 Public Resources Code Section 5097.98 shall be complied with as may be required.

NOW THEREFORE, BE IT RESOLVED the Planning Commission of the City of Eureka does hereby approve the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and Response to Comment, (ED-23-0003) for the 1621 Broadway, LLC Cannabis Retail Facility, and the Conditional Use Permit (CUP-22-0007), 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 11th day of September, 2023, by the following vote:

AYES: COMMISSIONER
NOES: COMMISSIONER
ABSENT: COMMISSIONER

ABSTAIN: COMMISSIONER

Meredith Maier, Chair, Planning Commission

Attest:

Cristin Kenyon, Executive Secretary