

PLANNING COMMISSION
 STAFF REPORT

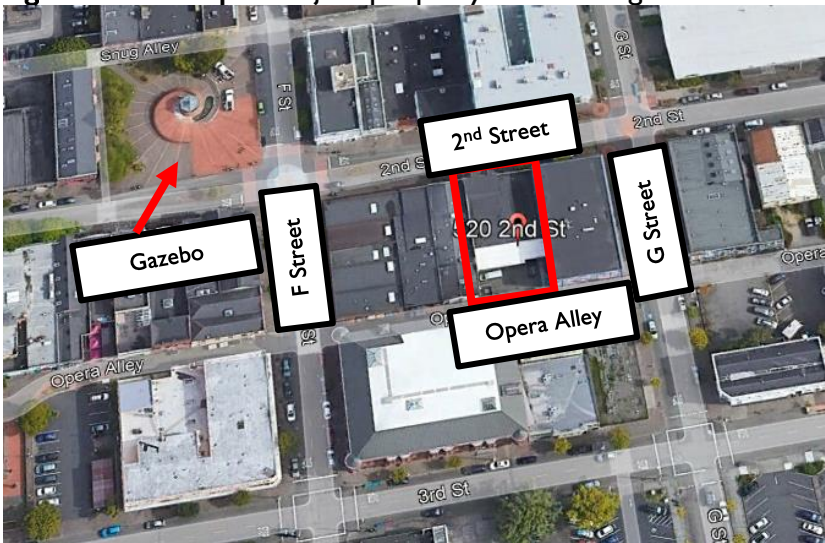
November 13, 2024 (continued from October 9, 2024)

Title:	The Rainy Day Cannabis Retail and General Cannabis Facility
Project:	Conditional Use Permit (CUP-24-0004) and Coastal Development Permit (CDP-24-0009)
Location:	520 2 nd Street
APN:	001-091-008
Applicant:	Betsie Zinsmann
Property Owner:	Betsie Zinsmann and Zachery Zinsmann
Purpose/Use:	Use an existing building for a cannabis business that includes retail sales, cultivation, processing, and distribution (these activities fall under the land use categories “Cannabis Retail” and “Cannabis General Use”)
Complete Application:	July 24, 2024
Deadline for Action	October 22, 2024
General Plan:	C-CR – Core Retail Commercial
Zoning:	CW – Waterfront Commercial
CEQA:	Exempt under §15301, Class I Existing Facilities
Appeal Status:	Not appealable to the California Coastal Commission
Staff Contact:	Lisa Savage, Senior Planner
Recommendation:	Hold a public hearing; and Adopt a resolution finding the project is exempt from the California Environmental Quality Act (CEQA), and approving with conditions.
Motion:	<i>“I move the Planning Commission adopt a resolution finding the project is exempt from CEQA and conditionally approving a Conditional Use Permit and Coastal Development Permit for the Rainy Day Cannabis Retail and General Cannabis Facility at 520 2nd Street.”</i>

Figure 1: General Project Location— 520 2nd Street



Figure 2: Site Map – subject property red rectangle



PROJECT SUMMARY

The Applicant (Betsie Zinsmann, DBA as “The Rainy Day Cannabis Facility”) is proposing to operate a cannabis business (Cannabis Facility) within the existing building at 520 2nd Street in Old Town Eureka (Figure 2). The business will include retail sales, cultivation, processing, and distribution. Selling cannabis products to customers falls under the “Cannabis Retail”

land use category in the City’s Coastal Zoning Code, and cultivation, processing, and distribution fall under “General Cannabis.” The subject property and surrounding properties on 2nd Street are zoned Waterfront Commercial (CW), where Cannabis Retail and General Cannabis are allowed with a Conditional Use Permit (CUP) [Eureka Municipal Code (EMC) §10-5.29113]. The project is located in the Coastal Zone, in the City’s coastal development permitting jurisdiction. Projects in the Coastal Zone requiring a CUP also require a Coastal Development Permit (CDP).

The Applicant proposes approximately 1,200 square feet (sf) of Cannabis Retail in the front of the 4,700-sf building, with General Cannabis in the rear of the building (Figure 6). Only the interior of the structure will be modified at this time; the exterior will not be modified other than potential signage and in-kind trim replacement.

Figure 3: Street View- 520 2nd Street – building outline red and storefront window area orange



Figure 4: Store-Front Windows (orange) (looking north)

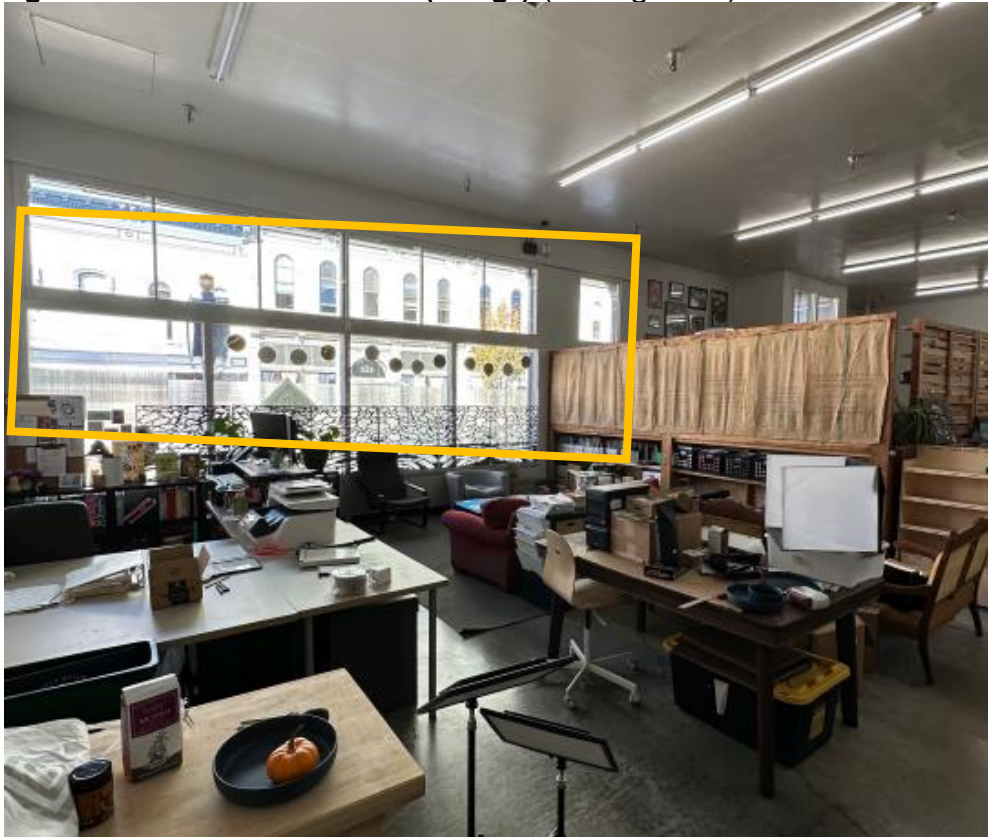
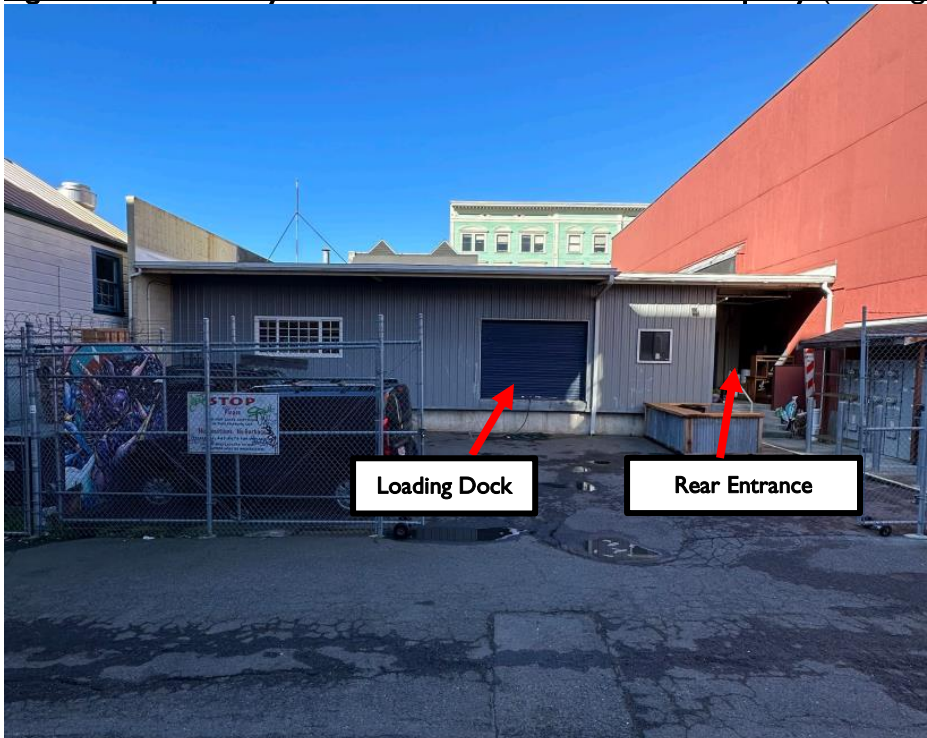


Figure 5: Opera Alley View of Paved Area at Rear of Property (looking north)



Background

The subject building is located on an approximately 6,600-sf parcel on the south side of 2nd Street in the middle of the block between F and G Streets (Figure 2). The building appears to be two stories on the northwest side; however, the two projecting windows above the storefront are part of a false second story façade (Figure 3). If approved, the proposed Cannabis Facility will occupy the entire single-story building (Figure 6).

The building is located within the nationally-recognized “Old Town” Historic District, and the building is considered a “contributing building” to the historic district. The property is listed in the “Green Book” under the address of 528 2nd Street, and is described as “1893, facade only; two-story commercial building by F.B Butterfield”. Based on a review of the building file, it appears that in the 1970’s everything was removed on the interior of the building, keeping only the façade. Although the façade is historic, the property is not listed on the Local Register of Historic Places, as the previous owner opted out. Therefore, exterior modifications will not require Historic Preservation Review by the Historic Preservation Commission.

Most recently the building was a coffee roaster with a retail component, and previously for many years, the property was the St. Vincent de Paul Society Thrift Store. The block includes restaurants, a bar, retail stores, galleries, a spa, and upper floor offices. Across 2nd street to the northeast is the Historic Vance Hotel.

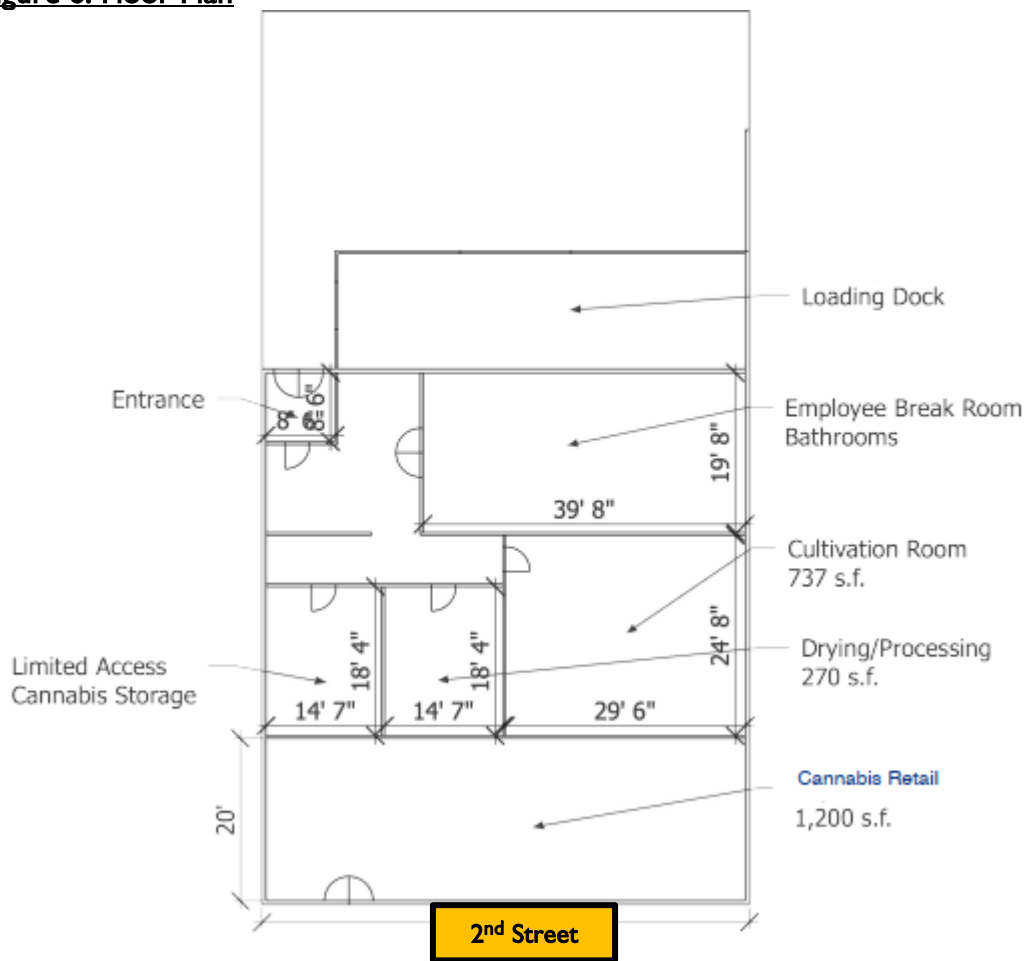
The site is in the CW zone district in the heart of the “Core Area” which is the traditional business center and cultural hub of the City. The area includes historic buildings on a grid pattern of streets with pedestrian-scaled storefronts, with restaurants, retail shops, cultural facilities, offices, and other related uses lining the sidewalks and a range of office and residential uses above the first floor. Two blocks to the east, the zoning changes to Office Residential (OR), and four and a half blocks to the west the zoning changes to Limited Industrial (ML). This is the first cannabis business applying for permits in the CW zone district; however, there is a permitted Retail Cannabis and Cannabis Consumption Lounge located nearby in the inland Downtown (DT) zone district on the southwest corner of 3rd and F Streets.

The entrance on the west side of the north building façade facing 2nd Street and the adjacent storefront windows (outlined in orange in Figures 3 and 4) will be reserved for the display of non-cannabis branded merchandise. Different farms and manufacturers will be showcased monthly, and in support of the current showcased manufacturers and farms, smoking accessories and branded merchandise will be available for sale. The retail cannabis products will be contained in a “store within a store”, directly behind the non-cannabis merchandise area, that will be created by utilizing the placement of partition walls and a locked door. A security guard will allow access to the retail cannabis area. The retail cannabis portion will offer flower, edibles, topicals, and concentrates, and will only carry products that are grown or manufactured in Humboldt County. Both areas will be open during business hours (Monday-Saturday, 10 a.m.-9 p.m.) to encourage pedestrian traffic (Figure 6). There will be locked access between the retail cannabis area in the front of the building and the cultivation, processing, and distribution in the rear. The back of the building will also contain the employee break room and restrooms and can be accessed by employees through the retail cannabis area and from a door in the back paved area (Figure 6).

The Applicant estimates having between 20 and 24 full-time employees, and an additional four part-time employees. They expect to receive product orders once or twice a week. All order

drop-offs will be delivered via Opera Alley to the paved area at the back of the property (Figure 5). This paved area is secured by a fence, contains a loading garage, and will have space available for employees to park. The paved parking/loading area is 60-ft-wide, and although the parking area is not striped, based on City parking space dimension standards, seven vehicles could potentially park perpendicular to the loading dock if no deliveries were expected. If the loading dock is being utilized, five vehicles could be accommodated.

Figure 6: Floor Plan



USE PERMIT ANALYSIS

To approve a Use Permit, the Planning Commission must make all of the following findings:

1. The proposed location of the conditional use is in accord with the objectives of Chapter Five and the purposes and intent of the district in which the site is located;
2. 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;
3. The proposed conditional use will comply with each of the applicable provisions of Chapter Five; and

4. The proposed conditional use is consistent with the certified Local Coastal Program (LCP).

I. Code Consistency

Chapter 5 Objectives and Purpose

Pursuant to EMC §10-5.102, the zoning regulations are adopted by the City Council in accordance with the City Charter to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. More specifically, the chapter is adopted in order to achieve the following objectives:

- (a) **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.**
- (b) **To foster a harmonious, convenient, workable relationship among land uses.**
- (c) **To promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.**
- (d) **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 site is located in the Core-Retail Commercial (C-CR) land use designation. The purpose of the C-CR designation is to protect and provide for nearshore development of recreational, visitor-serving, and commercial fishing industry uses that relate to the presence of coastal resources. The proposed Cannabis Facility will include both Cannabis Retail, a visitor-serving use, and General Cannabis, which is not a priority use in the C-CR land use designation. The 1997 Coastal General Plan defines visitor-serving facilities as “public or private developments that provide accommodations, food and services, including hotels, motels, campgrounds, restaurants, and commercial-recreation developments such as shopping, eating, and amusement areas, for tourists.”

As discussed above under Background, the Cannabis Retail use will be open during regular business hours for walk-in customers, providing a new type of retail store where tourists can shop while visiting Old Town. The Cannabis Retail use will be located in the front of the building; and, although the cannabis products will be partitioned off from view from 2nd Street, branded non-cannabis merchandise will be displayed in the windows, making the storefront active and inviting, thus adding visual interest and contributing to the visitor-serving ambiance along 2nd Street. The General Cannabis use will be located out-of-view in the rear, and will help support the overall economic success of the Cannabis Facility and the attractiveness of the retail shop to Old Town visitors looking for locally-made and artisan products.

According to the 1997 Coastal General Plan, Section I: Land Use and Community Place Design, “the primary ground floor uses reflect the type of development that the City would prefer on the first floor of buildings facing the public sidewalk.” The C-CR ground-floor/street level primary uses are limited to visitor-serving retail, commercial, restaurants, bars, theater, museums and art galleries. Given that the Cannabis Facility contains a visitor-serving, retail component prominently displayed in the front of the space, visible from the public sidewalk, the Cannabis Facility meets the visitor serving requirement of the C-CR designation. In order to ensure the Cannabis Facility continues

to include a prominent visitor-serving component, a condition has been added stating: (1) the General Cannabis use is not permitted in the front 1,200 sf of the building facing 2nd Street and can only operate in conjunction with Cannabis Retail or another approved use in the front of the building; and (2) the Cannabis Retail Use must maintain and utilize the transparent storefront (Figures 4 and 5) during operating hours to support an active and engaging pedestrian environment on 2nd Street, including ensuring at least 75% of the total glass area remains transparent to promote views into the business and prominently displaying merchandise or other visitor-serving aspects of the business.

For all the reasons described above, the proposed Cannabis Retail and General Cannabis uses, as conditioned, will help facilitate and achieve the arrangement of land uses depicted in the 1997 Coastal General Plan, will foster a harmonious, convenient, workable relationship among land uses, will not be an inharmonious influence or a harmful intrusion in the area, and will 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. Therefore, the proposed uses are consistent with objectives a, b, c, and d.

(e) To prevent excessive population densities and overcrowding of the land with structures.

The Cannabis Facility will not cause overcrowding of land with structures, as the uses will be conducted within an existing building. The Cannabis Facility will also not contribute to excessive population densities because the Facility does not include new residential units; and, while the Facility will create new jobs, it is replacing the previous coffee roasting/retail business. Therefore, the new use is consistent with objective e.

(f) To promote a safe, effective traffic circulation system.

(g) To foster the provision of adequate off-street parking and off-street truck loading facilities.

The Cannabis Facility will be serviced by 20-24 employees with a maximum of 16 employees at any one time. The employees will be the major source of traffic to the Cannabis Facility, which can be accessed from 4th and 5th Streets or H and I Streets, which are all major arterials and can support the additional traffic. From the major arterials, traffic will spread out between F, G and 2nd Streets, thereby not overburdening any one local street. Customers will most likely arrive at various times throughout the day and evening which will not add a significant additional burden of traffic. Therefore, no traffic circulation issues are anticipated.

There will be space for approximately seven employee vehicles (five vehicles when the loading dock is being utilized), in the rear paved portion of the property along Opera Alley, (Figure 5); however, the Cannabis Facility is located in the City's Parking Assessment District, where no off-street parking is required for commercial and industrial uses. In addition, there are a number of nearby public parking lots (2nd and H Streets, 3rd and E Streets, and 3rd and I Streets), and available on-street parking spaces surrounding the site; thus, no parking issues are anticipated.

The Applicant anticipates twice weekly deliveries, and does not plan to deliver to individual customers. Per EMC §10-5.1603(a), one loading berth is required for

commercial businesses 4,000 sf or larger, and there is an existing loading berth at the rear of the building along Opera Alley (Figure 5). There is room for the trucks to pull completely into the paved area at the back of the property to unload so as not to block alley traffic. Thus, the proposed uses are consistent with objectives f and g.

(h) To facilitate the appropriate location of community facilities and institutions.

No community facilities or institutions exist at the site; however, there are a variety of community facilities within and surrounding Old Town such as the Da Gou Rou Louwi' Cultural Center, and the Clarke Museum. There is ample appropriately-zoned vacant and underutilized land in Eureka to accommodate any future additional demand for such uses, and therefore the proposed use is consistent with objective j.

- (i) To promote commercial and industrial activities in order to strengthen the city's tax base.**
- (j) To protect and enhance real property values.**
- (k) To safeguard and enhance the appearance of the city.**

The proposed Cannabis Facility will be located in an existing building that is owner-occupied. The project includes both commercial (retail) and industrial (General Cannabis) activities, and the CUP allows additional flexibility of use which serves to make the property more valuable, and also helps avoid future vacancies which can have a negative effect on surrounding property values. Since the business owner is also the property owner, they have an enhanced interest in keeping up the building and ensuring the business is prosperous. A prosperous business will provide the City with additional tax revenue which will strengthen the City's tax base. The Applicant will also be required to maintain their City Business License and a Cannabis License which require annual fees paid to the City. A prosperous business will serve to strengthen the City's tax base, enhance real property values, and enhance the appearance of the City, and is consistent with objectives i, j and k.

Purposes of the CW Zoning District

In addition to the objectives prescribed in EMC §10-5.102 (Objectives), the CW (Waterfront Commercial) zoning district is included in the zoning regulations to achieve the following purposes:

- (a) To encourage, protect and maintain coastal-dependent and coastal-related uses;**
- (b) To encourage development of recreational and visitor-serving uses;**
- (k) To protect and maintain certain industrial uses that require waterfront locations.**

No coastal-dependent or related uses currently occupy the site or surrounding sites. The building is two blocks from the waterfront, separated from the bay shoreline by multiple buildings and 1st and 2nd Streets; and the City has significant vacant waterfront land, including ample underutilized space reserved for both coastal-dependent industrial uses and coastal recreational uses.

- (c) 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;**

- (d) 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 relationships to each other;**
- (j) To encourage upgrading of the use of strategically located sites between the central business district and Humboldt Bay by creating an environment suitable for establishments catering to tourists; and**

The Cannabis Facility will be located in an existing building in the central business district. The Cannabis Retail storefront will be open Monday-Saturday, and will serve both the local community and visitors. The project is conditioned to ensure the proposed conditional Cannabis Retail and General Cannabis uses contribute positively to an active and engaging Old Town environment by not allowing the non-visitor-serving General Cannabis to occupy the front 1,200 sf of the building facing 2nd Street, and by requiring the Cannabis Retail use to maintain and utilize its transparent storefront to create visual interest for pedestrians on 2nd Street.

- (e) To provide space for community facilities and institutions that appropriately may be located in commercial areas;**

See analysis under Chapter 5 Objectives and Purpose, subpart (h).

- (f) To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas;**
- (g) 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;**

See analysis under Chapter 5 Objectives and Purpose, subparts (f) and (g).

- (h) To protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, and other objectionable influences incidental to industrial uses;**
- (i) To protect commercial properties from fire, explosion, noxious fumes, and other hazards;**

The Cannabis Facility will not produce noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, and other objectionable influences, and will not create a fire, explosion, noxious fume, or other hazard as EMC Chapter 5, Article 30 (Cannabis) establishes regulations for commercial cannabis uses in the Coastal Zone, including the requirement that such uses must also comply with EMC Chapter 158 (Cannabis). A condition has been added to ensure the Applicant is aware of the need to obtain all Building and Fire permits prior to construction of interior tenant improvements, to the satisfaction of Development Services– Building and Humboldt Bay Fire. An additional condition has been added to ensure the Applicant is aware of the need to obtain a Business License and a Cannabis License prior to operation, and renew the Business License and Cannabis License annually. The Business License and renewals will be to the satisfaction of both Development Services– Planning and – Building, and the Cannabis License and renewal will be to the satisfaction of City Administration. Based on the above discussion, the proposed uses conform to the purposes of the CW zoning district.

2. Public Health, Safety, and Welfare

Referrals were sent to agencies and City departments with interest or jurisdiction over the property or the intended use of the property. The Eureka Police Department, Building, Engineering, PG&E, the Wiyot Tribe, and the Bear River Band responded with no issues other than a request by the Bear River Band that the City require Inadvertent Discovery Protocol, which has been included as a condition of approval. As discussed above, the City has regulations that specifically address commercial cannabis uses and their unique impacts, including specific additional requirements imposed to protect health and safety, and avoid a nuisance. Cannabis-specific requirements include, but are not limited to the following:

- New commercial cannabis businesses cannot be within 600 ft of a K-12 school.
- Each entrance to a commercial cannabis use must be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises, except for qualified patients, unless accompanied by a parent or legal guardian.
- Commercial cannabis businesses must implement a sufficient security plan that is approved by the Eureka Police Department, and must comply with security requirements outlined in State law (16 CCR Sections 5042-5047) such as limited-access areas, employee badges, video surveillance systems, security personnel, locks, and alarm systems.
- Commercial cannabis businesses must submit an odor control plan for City review and approval to ensure odors cannot be detected outside the building.

All of the above-mentioned measures will be required prior to the Cannabis Facility being granted a certificate of occupancy or Cannabis or Building License approvals.

Because no potential impacts were identified by any agency, by City Staff, or through analysis; and, through the application of the conditions of approval and enforcement of existing City regulations, including the City's cannabis regulations; and based on the discussion herein, the finding can be made the project will not impact the public health, safety or welfare.

3. Provisions of Chapter 5

The applicable provisions of Chapter 5 include the development standards for yards, building height, size, and bulk, off-street parking and loading, landscaping, etc. The proposed uses will be located in an existing building which meets all applicable development standards, with no additions or exterior modifications proposed. Although no new off-street parking is required by the code, there is room for employee parking at the back of the building adjacent to Opera Alley. In addition, one loading berth is required based on the size of the building, and one is existing in the back of the building. No signs are currently proposed by the Applicant, but any future non-exempt sign(s) must meet the sign regulations in EMC Article 17 (Signs), and will require an Administrative Sign Permit. A condition has been added to ensure the Applicant is aware of the requirement to apply for an Administrative Sign Permit if any signs are proposed in the future.

As described above, there are also cannabis-specific regulations in Chapter 5, Article 30. Specifically, EMC §10.5.3004(b) states that in the CW zone district, Cannabis Retail is the only type of commercial cannabis use allowed on the ground floor of a building facing the street. The project also contains a ground-floor General Cannabis use, which is conditioned to remain in the back of the building (Figure 6). In addition, per EMC §10.5.3004(e)(2)(a), all outdoor light fixtures must be shielded or recessed so the lighting source is not directly visible from the public right-of-way, and all fixture must be dark sky compliant and comply with California Green Building

Standards Code. A condition has been added to ensure the Applicant is aware of the requirement that all outdoor light fixtures meet these requirements.

Compliance with these regulations will be ensured through the Building Permit and Cannabis Licensing process. Therefore, the proposed uses and location comply with the applicable provisions of Chapter 5.

4. Local Coastal Program

The Local Coastal Program includes the 1997 Coastal General Plan land use designations and map, and the EMC zoning district regulations and map, among other provisions. The proposed conditional uses as conditioned are consistent with the C-RC land use designation and CW zoning district, as described in detail above.

The LCP also includes policies and development standards that apply to all development in the Coastal Zone regardless of district or land use designation. The proposed Cannabis Retail and General Cannabis uses as conditioned are also consistent with these additional policies and development standards, as discussed in the Coastal Development Permit analysis section below. For all these reasons, the Cannabis Facility is consistent with the certified Local Coastal Program.

COASTAL DEVELOPMENT PERMIT ANALYSIS

The proposed Cannabis Retail and General Cannabis uses require a Coastal Development Permit from the City. To approve a Coastal Development Permit, the Planning Commission must find that the proposed development conforms to the policies of the Certified Local Coastal Program. The Local Coastal Program is divided into two components: the first component is the Land Use Plan, which is the General Plan specific to land in the Coastal Zone. It outlines the existing conditions, permitted uses, and policies needed to achieve the goals of the Coastal Act and includes the general plan map. The second component of the Local Coastal Program is the Implementation Plan, which includes zoning regulations and the zoning map for land in the Coastal Zone, as well as specific Coastal Zone ordinances necessary to implement the policies of the Land Use Plan.

Land Use Plan Analysis

The project location is designated C-RC– Core Retail Commercial, and consistency of the proposed conditional Cannabis Facility with the purpose of the C-RC land use designation is discussed in the Use Permit Analysis section above. As analyzed above, the uses, as conditioned, can be found consistent with the purpose of the C-RC land use designation.

Staff reviewed the goals and policies in the adopted and certified Land Use Plan (LUP) to determine whether the project conforms to the LUP. The review found the project does not conflict with any adopted LUP goals or policies, and is consistent with and supported by the following:

Goal I.A To establish and maintain a land use pattern and mix of development in the Eureka area that protects residential neighborhoods, promotes economic choices and expansion, facilitates logical and cost-effective service extensions, and protects valuable natural and ecological resources.

The proposed project promotes economic expansion through investment in the City's urban Core Area. By accommodating growth through infill of urban land, the project will avoid the need for new service extensions or conversion of resource lands. As the proposed uses will be located within an existing building and there are no proposed ground disturbing activities, there are no anticipated impacts to nearby wetlands and bay waters. Old Town is a mixed-use area that includes residences, but the Cannabis Facility must comply with both EMC Chapter 5 Article 30 (Cannabis), and EMC Chapter 158 (Cannabis) which include noise, lighting, odor control, security, and other standards meant to prevent adverse impacts on nearby uses. For all these reasons, the project is consistent with Goal 1.A.

Goal 1.L To ensure an adequate supply of commercial land for and promote the development of commercial uses to meet the present and future needs of Eureka residents and visitors and to maintain economic vitality.

The proposed project will result in a new commercial business opening in Eureka which will manufacture and sell local products to Eureka residents and visitors, helping to maintain economic vitality consistent with Goal 1.L.

Goal 1.I: Core Area: Architectural/Landscape Character- To maintain the distinctive architecture, historic character, and landscape quality within the Core Area.

Policy 1.I.1 The City shall ensure that structures of historic or architectural interest are preserved and, wherever feasible, rehabilitated to protect the variety and quality of older buildings in the Core Area. In cases where such structures might be used to better advantage in new surroundings, the City shall encourage relocation.

The subject property is located in the Old Town Historic District and has a historic façade recognized by the "Green Book," but not listed on the Local Register of Historic Places (LRHP), and is thus not subject to Historic Preservation Commission oversight. The Applicant is also the property owner, and has expressed interest in keeping the exterior "authentic". Currently, they plan to repair and restore the ornamental trim that has fallen off the façade, like-for-like. Continued occupation of the historic building by new uses will help ensure the building will be maintained and preserved consistent with Goal 1.I and Policy 1.I.1.

Goal 5.B To provide public open space and shoreline accessways throughout the Coastal Zone, consistent with protecting environmentally sensitive habitats and other coastal priority land uses.

Policy 5.B.1 The City shall provide public open space and shoreline access through the Coastal Zone, particularly along the waterfront and First Street, through all of the following:

...d. Consider and protect the scenic and visual qualities of coastal areas that are visible from scenic public vista points and waterfront walkways...

Goal 6.A To protect and enhance the natural qualities of the Eureka area's aquatic resources and to preserve the area's valuable marine, wetland, and riparian habitat.

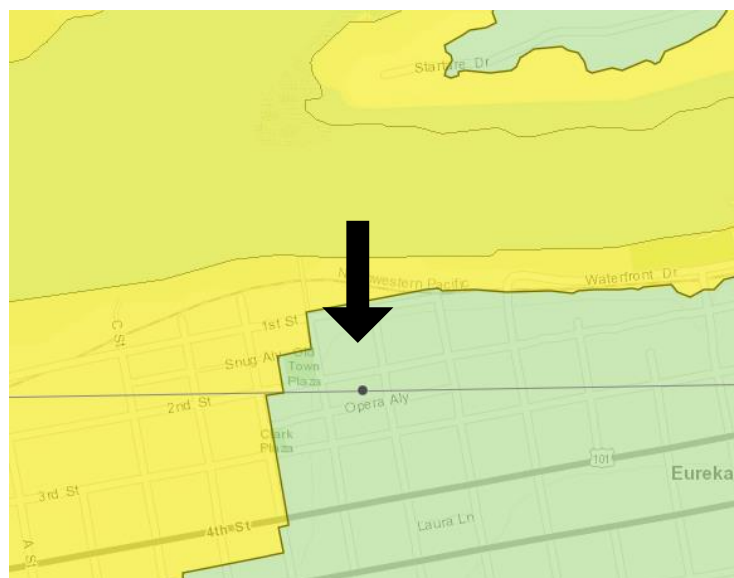
The proposed Cannabis Retail and General Cannabis uses will occupy an existing building in the heart of Old Town, along 2nd Street between F and G Streets. Two blocks north is the F Street Plaza, and five blocks northwest, is the Madaket Plaza, both of which provide direct access to

Eureka Boardwalk/Waterfront Trail, which in-turn provides public access to the bay. The project will not impact the Eureka Waterfront Trail or any other existing access facilities either through direct conflict or anticipated increases in demand as the proposed uses will be similar to the previous retail and manufacturing uses at the site. The proposed uses will not block or otherwise obstruct any existing public views of the waterfront because they're located within an existing building. In addition, there are no wetland or riparian habitats adjacent to the site, and by accommodating growth through utilization of an existing building, with no associated new exterior construction, expansion of the building, or ground disturbing activity proposed, the new uses will avoid any adverse impacts to coastal resources or public access. Finally, Per EMC §10.5.3004(e)(2)(a), all outdoor light fixtures must be shielded or recessed so the lighting source is not directly visible from the public right-of-way, and all fixture must be dark sky compliant and comply with California Green Building Standards Code. A condition has been added to ensure the Applicant is aware of this requirement. Therefore, the proposed project can be found consistent with Goal 5B, Policy 5.B.1, and Goal 6.A.

- Goal 7.A To minimize loss of life, injury, and property damage due to seismic hazards; and**
- Goal 7.B To minimize loss of life, injury, and property damage due to geological hazards.**
- Goal 7.D. To minimize the risk of loss of life, injury, damage to property and economic and social dislocations resulting from flood hazards.**

The project site is within a seismically active area in which large earthquakes are expected to occur during the lifespan of the proposed uses. Based on a review of the building file, although the façade is old, the interior of the building is more recently constructed (1970's) and underwent building permit review at that time. The new uses will not result in a significant addition of employees or customers, as there will be various shifts for the 24 employees, and the customer numbers will be similar to previous retail uses. A condition has been included to ensure the Applicant is aware of the need to obtain Building and Fire permits for any tenant improvements to ensure structural integrity.

Figure 7: Tsunami Hazard Area Map – 520 2nd Street



The project site is located outside of both the FEMA mapped 100- and 500-year flood zones, and the mapped tsunami inundation area on the Tsunami Inundation Map for Emergency Planning (Figure 7; California Geological Survey, August 13, 2020). The extent of the flood hazard area is expected to increase in the future with Sea Level Rise (SLR), with median scenario values ranging from 1.8 to 7.3 ft of SLR by 2100 based on the 2024 Ocean Protection Council's State of California Sea-Level Rise guidance. The current 100-year Stillwater event at the North Spit tide gage is 10.2 ft in elevation. With projected

SLR, this 100-year water level could increase to 12 to 17.5 ft in elevation. The project site is at approximately 23 to 26 ft in elevation¹, and therefore, would not be subjected to SLR flooding through 2100 even under the worst-case scenario.

For all the reasons discussed above, the project as conditioned will minimize risk to life and property from seismic, geologic, and floor hazards consistent with Goals 7.A, 7.B, and 7.D and associated policies.

Based on the above analysis, the project does not conflict with any, and is supported by several of the adopted goals and policies of the certified LUP; therefore, the finding that the project conforms with the LUP can be made.

Implementation Plan Analysis

The project site is zoned CW – Waterfront Commercial which allows Cannabis Retail and General Cannabis as conditional uses. The proposed uses will be located in an existing building with no additions or exterior modifications proposed. The proposed Cannabis Facility will conform with the zoning code and CW zone district as described under the Use Permit analysis above.

In addition to specifying the regulations pertaining to specific zoning districts, IP §10-5.2940 et. seq., specifies development standards that apply to all development in the Coastal Zone, including standards for public access, environmental resources, natural hazards, visual resources, public works, and new development. These standards largely reiterate certified LUP goals and policies discussed in the LUP policy analysis above, and the applicable findings are incorporated as if set forth in full herein. There is one additional standard not covered under the LUP analysis above, which is EMC §10-5.2946.9:

10-5.2946.9 Archaeological areas.

- a) **When development is proposed within a known archaeological area, project design shall avoid or minimize impacts to the resource.**
- b) **When development in archaeological sites cannot be avoided, adequate mitigation measures shall be required. Mitigation shall be designed in accord with guidelines of State Office of Historic Preservation and the State of California Native American Heritage Commission. When, in the course of grading, excavation, or any other development activity, evidence of archaeological artifacts is discovered, all work which could damage or destroy such resources shall cease and the City Planning Director shall be notified immediately of the discovery.**
- c) **The City Planning Director shall notify the State Historic Preservation Officer and the Sonoma State University Cultural Resources Facility of the find. At the request of the State Historic Preservation Officer, development of the site may be halted until an archaeological survey can be made and appropriate and feasible mitigation measures are developed.**

No ground disturbing activity is anticipated and thus no impacts to archaeological resources will result from the project. The project was referred to the local Tribal Historic Preservation Officers (THPOs) of the Wiyot Tribe, the Bear River Band, and the Blue Lake Rancheria. The

¹ All elevations in this section are referenced to NAVD88.

Bear River Band THPO requested the project be conditioned with Inadvertent Discovery Protocol. The City's standard protocol has been added as a condition of approval.

Based on the discussion above, the finding can be made that the proposed project as conditioned conforms with the certified IP.

ENVIRONMENTAL ASSESSMENT

The City of Eureka, as Lead Agency, has determined the proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), in accordance with §15301, Existing Facilities, Class I of the CEQA Guidelines, which covers the operating of private structures involving negligible or no expansion of use. Since the proposed project will be located entirely within an existing building with no proposed expansion or enlargement of the building, the project qualifies for the Class I exemption.

PUBLIC HEARING NOTICE

Public notification consisted of notification by mail of property owners and residents within a 300-foot radius of the site on or before September 27, 2024, and posting on the City's website and bulletin boards. A public hearing notice sign was also posted on the project site on or before September 27, 2024. The meeting was noticed for October 9, 2024, but then due to a lack of quorum, was continued to a date certain at the next regular Planning Commission meeting on November 13, 2024.

CONCLUSION

Based on the analysis above, the proposed Retail and General Cannabis uses, as conditioned, are consistent with the General Plan, Zoning Code, and Local Coastal Program. The Cannabis Facility is in accord with the objectives of Chapter 5 and the purposes and intent of the C-RC and CW land use and zoning designations, and will not be detrimental to the public health, safety, and welfare or materially injurious to properties or improvements in the vicinity, and instead will help protect public health, safety and welfare by occupying an existing building which will support both continued maintenance of the historic building and the vibrancy of the area, protecting property values and strengthening the City's tax base. The project is suitable for the site and for the existing building in which it will be located, and is compatible with existing and planned land uses in the vicinity.

STAFF CONTACT

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DOCUMENTS ATTACHED

Attachment 1: Planning Commission Resolution

Attachment 2: Applicant Submitted Material