

**From:** [Jacob Patterson](#)  
**To:** [Varga, Tom](#)  
**Cc:** [Perkins, Scott](#); [Gonzalez, Joanna](#)  
**Subject:** Additional public comment for MUP 1-20  
**Date:** Thursday, April 16, 2020 11:12:43 AM

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Tom,

I watched the public hearing yesterday and have a follow-up comment for you to consider before you make a determination on MUP 1-20. Thankfully, the public hearing included new information that provided the answers to some of my questions and partially addressed the concerns I raised.

First, receiving affirmative input from the Noyo Center that they had no comment on the use permit application means I am not concerned with the compatibility of the dispensary with the surrounding land uses (i.e., if the Noyo Center director is not concerned, then I am not concerned). As such, MUP Finding No. 3 is justified despite the concerns I expressed in my earlier comments. I appreciate the staff outreach to address this.

Second, the applicant provided new information concerning the delivery component of the proposed dispensary. He noted that the delivery vehicle will only access the location at the rear of the building; he only projects one or two customer deliveries per day; no off street parking would be used by the delivery vehicle; and the vehicle(s) would likely be a low emissions, including possibly an electric vehicle. The lack of that detail in the initial application was why I was concerned about the completeness and adequacy of the information and analysis as well as the City's reliance on a Class 3 categorical exemption from CEQA. That said, these are only statements by the applicant during the public hearing that are not necessarily enforceable because they were not part of the formal application and thus incorporated into the MUP. As a result, my concerns about the adequacy of the environmental analysis and the delivery component remain but this can be addressed easily without delaying the permit.

In order to address these concerns I have two alternative suggestions for you to consider as the review authority:

(1) As initially recommended, the delivery component can be removed from the scope of approved activities covered by the MUP, which eliminates issues with the adequacy of the environmental analysis for this discretionary permit.

(2) A better alternative, in my opinion, is to add an additional special condition to require compliance with the limits on the delivery component that were mentioned by the applicant during their comments at the public hearing. Specifically, a new special condition could be added to MUP 1-20 that requires the following: (i) limits the access to the facility and parking of the delivery vehicle to the rear of the property and requires it to not block alley traffic at any time, (ii) requires that any vehicles used by the dispensary for customer deliveries be low-emission vehicles, preferably plug-in electric or non-motorized (e.g., bicycles), and (iii) limits customer deliveries to no more than five per day--he projected a maximum of two but a few extra permitted deliveries would provide for some flexibility. I would also consider limiting customer deliveries to local customers (e.g., customer locations within a defined distance of the dispensary, perhaps 20 miles).

With these limitations, the City has sufficient information to reasonably determine that the delivery component of MUP 1-20 will not have a significant impact on the environment concerning traffic, transportation infrastructure, and greenhouse gas emissions because the number, duration, and length of vehicle trips will be limited to ensure that such impacts are minimized under option 2 above (or not exist under option 1).

In my opinion, this additional special condition is necessary to demonstrate that reliance on a categorical exemption is justified because the Class 3 categorical exemption does not clearly or logically apply to off-site deliveries, which have specific potentially significant impacts that are distinct from those concerning a traditional retail location limited to on-site sales. Without enforceable limits, there is still not adequate support in the record to justify the staff recommendation that we can rely on a Class 3 categorical exemption even though the site is under the 2500 square feet threshold to classify as a small structure. The key issue is that the uncertainty about the delivery component, which constitutes an expansion to the prior existing uses on the site and involves specific characteristics that could result in a significant impact on the environment. For example, as recommended by staff the delivery component currently does not have any limits on the length, number, or frequency of trips for delivery to customers without a special condition because no such limits were included in the operating plan or other application materials.

I recommend contacting the applicant this afternoon prior to making a determination on the request for MUP 1-20 to see if E7 would agree to an enforceable special condition placing limits on the delivery component in line with the comments made by their representative during the public hearing yesterday. (Even if they do not agree, you should only approve MUP 1-20 if you add a special condition to make such reasonable limits enforceable.) In my opinion, that would resolve any remaining issues and preclude delays and expenses related to potential appeals and additional public hearings, and the cost associated with more extensive environmental review of this discretionary permit that was not subject to any such limits. I assume most applicants would welcome reasonable special conditions in line with their expressed intentions and quickly receive the desired MUP.

In conclusion, I am happy to recommend granting MUP 1-20 with an additional special condition addressing these concerns incorporating the new information from the applicant that was disclosed during the public hearing.

As an aside, I recommend that the City obtains similar information from future MUP applicants during the application review process for retail cannabis businesses that include a customer delivery component. That is because information about the projected distances, frequency, and type of customer deliveries and the type(s) of delivery vehicles is necessary in order to evaluate the potentially significant impacts to traffic, transportation, and greenhouse gas emissions that would be generated during customer delivery trips.

Best regards,

--Jacob

**From:** [Perkins, Scott](#)  
**To:** [Varga, Tom](#)  
**Cc:** [Gonzalez, Joanna](#)  
**Subject:** FW: Proposed Dispensary Comments  
**Date:** Thursday, April 16, 2020 11:51:01 AM  
**Attachments:** [image001.png](#)

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Tom, please see the comment below.

Joanna, please add this to the packet, as well as Jacob's email earlier this morning.

**SCOTT PERKINS**, SENIOR PLANNER  
**CITY OF FORT BRAGG**, COMMUNITY DEVELOPMENT  
416 North Franklin Street  
Fort Bragg, California 95437  
tel. (707) 961-2823 x112  
email [sperkins@fortbragg.com](mailto:sperkins@fortbragg.com)  
web <http://www.city.fortbragg.com>



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**From:** Jamie Peters <[jamielp13@hotmail.com](mailto:jamielp13@hotmail.com)>  
**Sent:** Thursday, April 16, 2020 11:49 AM  
**To:** Perkins, Scott <[SPerkins@fortbragg.com](mailto:SPerkins@fortbragg.com)>  
**Subject:** Proposed Dispensary Comments

Good (mid) Morning Scott,

I hope you're doing well – all things considered.

Not sure if you have this info already, but a friend alerted me to some background on the proposed new dispensary that wants to go into the space previously inhabited by the Blacq Door.

From their research, they found that the business is backed by a hedge fund out of Toronto, Canada. The permit applicant, Mr. DiVito owns Element 7 LLC, which is an Illinois corporation registered as a foreign corp with the CA Secretary of State; and their "Head Office" listed on their website is actually a mailbox at a UPS store in LA. Has anyone done background checks on this applicant and unearthed this info? Does this sound legit to you?

Also, the address given for their Global Headquarters is apparently a residential apartment complex in Australia. From my friend's research, the speculation is that this company is collecting licenses and permits but haven't opened a single store. Permits have been approved in Rio Dell, Willits, Ukiah and several other cities too – across California – again, no stores opened. This just sounds really sketchy, don't you think?

I get that bigger companies have an appeal – especially in this unimaginable economic downturn – but my point in writing is...are we looking closely at who is trying to do business and why? Are we opening ourselves up to big pharma in our community? I'd much rather see a dispensary from our area, or even in Mendocino County, though that's probably not do-able at the moment.

Let's please check this out...it would be awful to unwittingly open our community to an unsavory and illegit business.

Thank you for your time.

Jamie

Sent from [Mail](#) for Windows 10

**From:** [Varga, Tom](#)  
**To:** [Perkins, Scott](#); [Gonzalez, Joanna](#)  
**Subject:** RE: Cannibas Dispensary on Main Street  
**Date:** Thursday, April 16, 2020 10:25:39 AM

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Go it, thanks

Tom Varga

-----Original Message-----

From: Perkins, Scott <[SPerkins@fortbragg.com](mailto:SPerkins@fortbragg.com)>  
Sent: Thursday, April 16, 2020 9:59 AM  
To: Varga, Tom <[TVarga@fortbragg.com](mailto:TVarga@fortbragg.com)>; Gonzalez, Joanna <[JGonzalez@fortbragg.com](mailto:JGonzalez@fortbragg.com)>  
Subject: FW: Cannibas Dispensary on Main Street

Tom: Please see the public comment below on yesterday's hearing for your consideration.

Joanna: Please be sure this comment is added to the packet/record.

SCOTT PERKINS, SENIOR PLANNER  
CITY OF FORT BRAGG, COMMUNITY DEVELOPMENT  
416 North Franklin Street  
Fort Bragg, California 95437  
tel. (707) 961-2823 x112  
email [sperkins@fortbragg.com](mailto:sperkins@fortbragg.com)  
web <http://www.city.fortbragg.com>

-----Original Message-----

From: AM Stuart <[alisems.haney2@gmail.com](mailto:alisems.haney2@gmail.com)>  
Sent: Thursday, April 16, 2020 9:56 AM  
To: Perkins, Scott <[SPerkins@fortbragg.com](mailto:SPerkins@fortbragg.com)>  
Subject: Cannibas Dispensary on Main Street

Dear Mr. Perkins,

For our town's traffic on Main Street to flow in the busy holiday weekends after this pandemic we need to limit the type of business that can create heavier congestion at the narrow intersection of Laural and Main streets.

To add a quick in & out business that creates the traffic typical of a pharmacy or liquor store so near to that congested corner would increase the already stressful congestion traffic experiences on any busy business day. Please consider this in your planning for our community.

Locating a dispensary off Main Street near a parking lot would benefit their business and the community.

Sincerely,  
A. M. Stuart, Registered Voter  
Fort Bragg Resident

Sent from my iPad