

From: Rex Gressett <rex.gressett@aol.com>

Sent: Friday, April 10, 2020 12:55 PM

To: Lemos, June <Jlemos@fortbragg.com>

Subject: comments for MUP hearing today

June please read my remarks below into the public comments at this afternoons meeting. If there is a problem please let me know.

Thanks for the quick help earlier this morning. I cant believe I didn't look in the staff report . thanks again.

Although my confidence in the Fort Bragg City Council has recently bottomed out in a new low. I have not become so terminally cynical that I doubt the immediate approval of this minor use permit.

If in the very teeth of catastrophic economic crisis, and exploding city insolvency, the city council does not demonstrate strong and unqualified support for a new business I would be surprised.

Fort Bragg continues to labor under the oppressive and hostile leadership of a city Mayor openly antagonistic to transparency, flagrantly devoid of policy or commitment to the public welfare and contemptuous of civic participation. The Mayors relentless empty grandstanding has done enormous damage to the .City of Fort Bragg but I am confident that even in this crisis of city leadership the council as a whole will quickly approve the establishment of a new business, and enthusiastically support the persistent spirit of american enterprise that never stops building and never gives up. I strongly urge the council to approve this Minor Use Permit without delay.

Perkins, Scott

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Friday, April 10, 2020 11:28 AM
To: Varga, Tom
Cc: Gonzalez, Joanna; Perkins, Scott
Subject: MUP 1-20 questions for public hearing

To whom it may concern,

I reviewed the application materials for proposed MUP 1-20, including the comments from the Building Department, PW, and the PD and I have some concerns and questions that cannot be answered easily based on the information that is available in the packet. I request that the following be addressed during the public hearing if possible.

First, although the City has an application review completeness checklist, this application does not appear to be complete enough for purposes of issuing a MUP for a retail dispensary with a delivery component. As noted by some of the agency comments, building plans have not been submitted and further review will be necessary once the specific information is available. Shouldn't the MUP wait until that information has been provided? Further, I believe this application lacks sufficient information to facilitate informed decision-making concerning the justification for the required findings and adequate environmental analysis, particular concerning the delivery component of this proposed dispensary.

Second, the staff's analysis for compatibility with General Plan Policy LU-4.1 is cursory and incomplete in my opinion. This project proposes a formula cannabis dispensary at basically the same time as a non-formula retail cannabis dispensary has already been approved. Starting a new business is challenging enough during normal times but starting a retail business during a public health emergency where customer movements are restricted presents additional challenges. Can one new dispensary succeed let alone two under the current environment? The MUP for the other non-formula dispensary has already been approved (pending potential appeal) but how will this additional proposed formula business impact the economic vitality of the dispensary that was approved within the City's existing commercial areas--both dispensary locations are in existing commercial areas in previously vacant buildings. The other dispensary took over a long-vacant commercial space but this proposed dispensary is taking over a recently-vacated space where an existing commercial business was forced to close because of a dramatic rent increase.

It is my opinion that it can be inferred from the circumstances, including the timing of this application, that the rent increase may have been incident to the intended sale of the location to the applicant in order for their formula business to take over the location of an existing commercial business in part because it only occurred once retail cannabis was added to the use table for the CBD zone. Regardless, this location and other characteristics of this proposed formula business is directly impacting the economic vitality of existing City businesses and commercial areas by competing with the other new dispensary in a different, somewhat blighted commercial area which will be improved by its success and operations at the same time that it is displacing an existing commercial business from the location in the CBD when numerous other long vacant properties within the CBD are vacant, available for purchase, and wouldn't involve displacing an existing business that ceased operations as a result and which deprived the community of the sole retail outlet of its kind. The negative impacts of this particular formula business (or similar formula businesses in the future) to the economic vitality to the City's existing commercial areas and business should be discouraged and this proposed MUP is arguably inconsistent with LU-4.1.

Third, the staff report asserts that the granting of this MUP would be categorically exempt from CEQA review per the Class 3 exemption for conversion of small structures found in section 15303. I would tend to agree if this were merely about physical changes to the building rather than an expansion of prior uses because of the

delivery component. The delivery component to this proposed MUP implicates potentially significant impacts to traffic circulation and infrastructure and increased greenhouse gas emissions due to the delivery vehicles. Those impacts need to be analysed and addressed as well as potentially mitigated, which suggests that reliance on the Class 3 categorical exemption is not merited unless the delivery component is removed from the requested MUP at this time. A delivery component could be sought at a later time with the appropriate environmental analysis of that aspect of the proposed dispensary. Proposed Special Condition No. 1 does not address this concern nor does it condition the project on future analysis demonstrating the delivery activities will not result in a detrimental effect on the environment, including traffic levels, adequacy of the on site and off site transportation infrastructure, and greenhouse gas emission levels due to the delivery activities included in their operating plan, which do not appear to be limited or restricted. There are no limits proposed to be placed on the delivery operations and no analysis of the project's potential impacts or adherence to thresholds of significance using either VMT or LOS metrics.

In addition, the potentially significant land use conflicts between the proposed dispensary and the adjacent Noyo Center for Marine Sciences should be analyzed due to the arguably incompatible nature of the customer base of the two businesses (recreational drug users at the dispensary and school-aged children seeking educational enrichment at the Noyo Center). The staff report recommends relying on the City's standard nuisance enforcement provisions and the standard condition that permits revocation of the use permit to address this concern but I recommend that the Noyo Center be proactively approached for comment on these concerns so we can be sure that their lack of comment was intentional rather than an oversight due to the timing of this review during the Covid-19 public health emergency when their attention may be elsewhere. At most this will provide a short delay that should not impact the applicant because the shelter-in-place order would limit their ability to proceed with any construction activities that would be necessary to pursue establishing the proposed dispensary at this location. A simple affirmative comment of "no comment" would be sufficient but the current absence of any meaningful input leaves the review authority with nothing but unconfirmed assumptions in order to try to justify MUP required finding #3 concerning compatibility with surrounding land uses.

Specific questions for staff and the applicant:

1. What is the operating plan for the delivery component of the proposed dispensary and how will delivery operations be limited or controlled (other than the simply agreeing to comply with state licensing requirements concerning delivery and employee requirements)?
2. Are there customer location or operating hour limits that would help reduce potential impacts to traffic or air quality (e.g., limiting deliveries to customer locations within a certain distance of the dispensary or within certain operating hours)?
3. How many and what kind of delivery vehicles are proposed and will they be low-emission, potentially electric vehicles?
4. How many product deliveries per day are anticipated under the proposed business plan and would they be open to limits to control the potential impacts?
5. Is the delivery component essential and can it be removed from the MUP at this time and then sought as an amendment to the MUP in the future when more information is available so we can analyse the significance of the potential impacts?
6. Where will the delivery vehicles access the facility and where will they be parked when not in use for a delivery? Will this impact existing or future neighboring uses by removing or utilizing existing street parking?
7. Will a loading zone be requested or necessary? Is the applicant amenable to a special condition prohibiting or limiting future requests for a loading zone or limiting delivery truck access to the alley and prohibiting temporary parking in the alley that could block through traffic?
8. Has Caltrans been consulted regarding the use of Highway One/Main Street by potential delivery trucks serving the dispensary? Do we need to impose limits?
9. Has the Noyo Center been contacted (other than through standard mailed public notice) to be sure that their lack of comment about the compatibility of the use with the Noyo Center is intentional rather than an oversight or consequence of the shelter-in-place order?

10. Is the applicant amendable to continuing this item until we have heard from the Noyo Center and ask them if they recommend any additional special conditions in order to support approval or if they potentially oppose this permit?

Depending on the answers to these questions, granting the MUP at this time is questionable on the grounds that (i) required MUP Finding Nos. 3 (also General Finding No. 2) and 4 are not clearly justified and supported by evidence in the record; (ii) required General and MUP Finding Nos. 1 are not clearly justified and supported by evidence in the record because the proposed location of the formula business does not conform to the requirements of LU-4.1; and (iii) the potentially significant impacts of the proposed delivery component of the dispensary have not been analyzed concerning transportation and greenhouse gas emissions because of the improper reliance on a Class 3 Categorical Exemption, which may conflict with the requirements of CEQA and the related required General Finding No. 5 is not clearly justified or supported by substantial evidence in the record.

Regards,

--Jacob

Perkins, Scott

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Wednesday, April 8, 2020 8:53 AM
To: Perkins, Scott
Cc: Varga, Tom
Subject: Re: MUP 1-20

Scott,

Thank you for the documents. I don't see a document providing the analysis for the required permit findings, which I would like to review. Will that be made available as well or will it have to wait until the review authority actually takes this under consideration at the hearing and a staff report is made public? (In case no one has formally requested a public hearing, please consider this email a written request for one.)

The City has a precedent of posting 100% of prior the retail cannabis MUP's online, albeit a single application, but anything covered by a public notice that is supposed to be made available for public review should probably be posted on the City's website regardless of past practices, particularly during periods when public access to City Hall is limited. (For example, the Avalon Hotel project managed this by making extra hard copies available upon request and provided a special notice on City Hall in case anyone came in person to try to follow the directions for access provided in the legal public notice.) The City actually has affirmative obligations to facilitate that access in order to establish a legally adequate process and properly process permit applications. Falling short in any required process provides a justification to challenge an entitlement that may have been tainted by procedural errors.

Perkins, Scott

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Tuesday, April 7, 2020 12:12 PM
To: Varga, Tom
Cc: Perkins, Scott
Subject: MUP 1-20

Tom or Scott,

When will there be a link in Active Permit Applications to the materials for MUP 1-20 that the public can review? Comments are due soon if they can be considered for a video hearing that may be scheduled for later this week. I assume this will also have a hearing like MUP 2-20 did because it is likely to have potential issues that did not apply to the Hypes Dispensary.

For example, this dispensary is proposed to be located adjacent to an existing child-centered land use with frequent visits by school groups, the Noyo Center. The Noyo Center is an established use unlike a potential day care center that has yet to be permitted so the compatibility of a retail cannabis dispensary with the Noyo Center needs to be analyzed. As such, the findings are less clearly supported because the types of customers and activities that occur, primarily shopping for recreational drugs that aren't supposed to be available to minor children, are arguably inconsistent with the existing nearby operations of the Noyo Center, which are geared toward educating children. The entrances to both of these businesses are on the same street frontage within a very short distance so interaction between the customer bases will be unavoidable.

On the flip side, the existing retail cannabis business on Main Street in Mendocino, Sol de Mendocino (aka Love In It), doesn't have a history of issues with incompatible interactions between its customers purchasing recreational cannabis and the customers of nearby Out of This World, which caters largely to children and children-oriented science items with a similar target user base as the Noyo Center.

Please let me know if there are public review materials for MUP 1-20 available online and please include this email as a written comment for MUP 1-20.

Thanks,

--Jacob