

RESOLUTION NO. ____-2021

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
OVERTURNING THE PLANNING COMMISSION'S DECISION AND
APPROVING MINOR USE PERMIT 1-21 FOR A CANNABIS DISPENSARY AT
144 N. FRANKLIN.**

WHEREAS, there was filed with the Fort Bragg Planning Commission a verified application on the forms prescribed by the Commission requesting approval of a Minor Use Permit under the provisions of Chapter 18 Article 7 of the Inland Land Use Development Code to permit the following Use:

Establish a cannabis dispensary on the property located at Assessor's Parcel No. 008-164-39 as shown on the Fort Bragg Parcel Map and addressed as 144 N. Franklin Street.

WHEREAS, the City held a duly noticed Administrative Hearing on May 18th approving the Minor Use Permit 1-21; and

WHEREAS, the Administrative Decision was appealed and a public hearing was held on June 23, 2021; and

WHEREAS, at the hearing on June 23, 2021 the Planning Commission decided to uphold the appeal and deny Minor Use Permit 1-21; and

WHEREAS, the Planning Commission held meetings on July 14th, July 21st and August 5, 2021 to consider adopting a resolution denying the project; and

WHEREAS, the Planning Commission adopted PC Resolution 09-2021 denying Minor Use permit on August 5, 2021; and

WHEREAS, a timely appeal of the Planning Commission's decision was submitted on July 6, 2021 and reaffirmed on August 9, 2021; and

WHEREAS, the City Council held a duly noticed public hearing on September 1, 2021, to consider the project, and took public testimony; and

WHEREAS, the approval of a project requires that all findings for a Minor Use Permit as required by Title 18 Inland Land Use Development Code Section 18.71.060(F) be made; and

WHEREAS, the public hearing included evidence establishing the following:

1. The applicant is requesting approval of a Minor Use Permit to allow a Cannabis Dispensary at 144 N. Franklin St.
2. Findings necessary for approval of a use permit are as follows:

- a. The proposed use is consistent with the General Plan and any applicable specific plan;
 - b. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
 - c. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
 - d. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.
 - e. The proposed use complies with any findings required by § 18.22.030 (Commercial District Land Uses and Permit Requirements).
 - i. CBD (Central Business District) district. The use complements the local, regional and tourist-serving retail, office and services functions of the CBD, and will not detract from this basic purpose of the CBD. Uses proposed for the intense pedestrian-oriented retail shopping areas of the CBD, which include the 100 blocks of East and West Laurel Street, the 300 block of North Franklin Street*, and the 100 and 200 blocks of Redwood Avenue, shall be limited to pedestrian-oriented uses on the street-fronting portion of the building.
 - f. The proposed use complies with the Specific Land Use Standards for Cannabis Retail Business in Section 18.42.057
 - g. The proposed use complies with Municipal Code Section 9.30 Cannabis Businesses.
3. Pursuant to Section 15303 of the California Environmental Quality Act (CEQA), the proposed project is Categorical Exempt (Class 3, Conversion of Small Facilities) in that it consists of a minor change of use.

NOW, THEREFORE, BE IT RESOLVED that pursuant of all the evidence presented on September 1, 2021, both oral and documentary, and further based on the recitals as stated above, the Fort Bragg City Council makes the following findings:

- 1) On the basis of the evidence presented, both oral and documentary, the Planning Commission affirms that the following required findings regarding the Minor Use Permit are made for each of the following reasons:

- a. The proposed use is consistent with the General Plan and any applicable specific plan;

The proposed use of cannabis retail dispensary is consistent with the Goal LU-3, Policy LU 3.1, 3.2, and Policy LU-3.6 and all other applicable elements of the City of Fort Bragg's Inland General Plan.

- b. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;

The Use for retail cannabis is listed as an allowable use with a minor use permit in the Inland Land Use Development Code Section 18.22.020 Table 2-6 with specific use regulations in Section 18.42.057.

- c. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

The proposed use is compatible with the existing and future land uses because it is a pedestrian oriented retail business located in the downtown retail area of the Central Business District.

- d. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

There will be no changes to the design, shape, or size of the building and the applicant's operating plan will ensure that the business will not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district, and should the business endanger, jeopardize, or otherwise constitute a hazard, the City has the right under Municipal Code Section 9.30.190 to suspend or revoke the Cannabis Business License.

- e. The proposed use complies with any findings required by § 18.22.030 (Commercial District Land Uses and Permit Requirements).

A cannabis retail dispensary does not detract from the basic purpose of the CBD because it is a pedestrian-oriented retail store in a district that is zoned and intended for the primary purpose of retail business.

- f. The proposed use complies with the Specific Land Use Standards for Cannabis Retail Business in Section 18.42.057

The applicant's operating plan complies with the Specific Land Use Standards listed in section 18.42.057 including compliance with Municipal Code Chapter 9.30 for Cannabis Businesses. .

- g. The proposed use complies with Municipal Code Section 9.30 Cannabis Businesses.

The proposed Cannabis Retail Dispensary has been reviewed by the Fort Bragg Police Department and the Community Development Department and it has been determined that the proposed project complies with Municipal Code Section 9.30 Cannabis Businesses.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby approve Minor Use Permit 1-21 for a Cannabis Dispensary at 144 N. Franklin St.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a special meeting of the City Council of the City of Fort Bragg held on the 1st day of September, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk