

RESOLUTION NO. PC 0_-2021

A RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION AFFIRMING THE APPROVAL OF MINOR USE PERMIT 1-21 FOR THE ESTABLISHMENT OF A CANNABIS DISPENSARY AT 144 NORTH FRANKLIN STREET.

The Planning Commission of the City of Fort Bragg does hereby resolve as follows:

Section 1. The Planning Commission does hereby find and determine that:

- a. The City of Fort Bragg received an application (“Application”) for a minor use permit to establish a cannabis retail and distribution business at 144 N. Franklin Street.
- b. The acting Community Development Director upon giving the required notice did, on the 18th of May, 2021, conduct a duly noticed public hearing as prescribed by law to consider the application.
- c. The acting Community Development Director did approve the Application for Minor Use Permit 1-21 with two special conditions on May 19, 2021.
- d. There was filed with this Commission a verified appeal on the forms prescribed by the Commission requesting a denial of the Minor Use Permit under the provisions of Chapter 18 Article 7 of the Inland Land Use Development Code.
- e. Upon giving the required notice, the Planning Commission did, on the June 23, 2021, conduct a duly noticed public hearing as prescribed by law to consider the appeal.
- f. The Planning Commission, after considering all the written and oral evidence presented at the public hearing, upholds the approval of Minor Use Permit 1-21.

Section 2. The Planning Commission further finds and determines that:

- a. The approval of Minor Use Permit 1-21 by the acting Community Development Director was proper based on the following findings required by Section 18.71.060 of the Fort Bragg Inland Land Use Development Code:
 - i. The proposed use is consistent with the General Plan because a cannabis retail dispensary is consistent with the Goal LU-3, Policy LU 3.1, and Policy LU-3.6 and all other applicable elements of the City of Fort Bragg’s Inland General Plan.
 - ii. 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 because cannabis

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.

- iii. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity because the proposed use is a pedestrian oriented retail business located in the downtown retail area of the Central Business District.
- iv. 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 because:
 1. There will be no changes to the design, shape, or size of the building; and
 2. 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.
- v. The proposed use complies with the findings required by Section 18.22.030 (Commercial District Land Uses and Permit Requirements) of the Fort Bragg Inland Land Use Development Code. Specifically:
 1. The use complements the local, regional and tourist-serving retail, office and services functions of the Central Business District ("CBD") and will not detract from this basic purpose of the CBD because the proposed use is pedestrian-oriented on the street-fronting portion of the building.
- b. The proposed use complies with the Specific Land Use Standards for Cannabis Retail Business required by Section 18.42.057 of the Fort Bragg Inland Land Use Development Code, including compliance with those

standards contained in Municipal Code Chapter 9.30 applicable to Cannabis Businesses.

- c. The proposed use complies with Chapter 9.30 of the Fort Bragg Municipal Code and has been reviewed and approved by the Fort Bragg Police Department and the Community Development Department.

Section 3. The Planning Commission approves Minor Use Permit 1-21 for a retail cannabis dispensary at 144 N. Franklin Street subject to the following conditions:

STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the Planning Commission is filed pursuant to ILUDC Chapter 18.92 - Appeals.
2. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City. Any condition directly addressing an element incorporated into the application exhibits shall be controlling and shall modify the application. All other plans, specifications, details, and information contained within application shall be specifically applicable to the project and shall be construed as if directly stated within the condition for approval. Unless expressly stated otherwise, the applicant is solely responsible for satisfying each condition prior to issuance of the building permit.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.
5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features

such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.

7. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
8. Unless a condition of approval or other provision of the Inland Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with ILUDC Subsection 18.76.070 (B).

SPECIAL CONDITIONS

1. Prior to commencing operation, a site visit by the Police Department and Community Development Department is required to ensure that all required operating plans and safety and security measures have been appropriately instituted.
2. The permittee is responsible for ensuring that products sold onsite are not consumed anywhere on the property or within the public right of way on Franklin St., Alder St., or the alley between Franklin St. and McPherson St.

Section 4. Based on the foregoing, the Planning Commission of the City of Fort Bragg approves the application for Minor Use Permit 1-21 subject to the provisions of the City of Fort Bragg Municipal Code and Title 18 of the City's Inland Land Use Development Code.

The above and foregoing Resolution was introduced by Commissioner _____, seconded by Commissioner _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 23rd day of June 2021, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

Jeremy Logan, Chair

ATTEST:

Sarah Peters, Administrative Assistant