



# City of Fort Bragg

416 N Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802

## Meeting Agenda Planning Commission

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Wednesday, June 23, 2021

6:00 PM

Town Hall, 363 N.Main Street

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### MEETING CALLED TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### PLEASE TAKE NOTICE

*Tonight's Planning Commission meeting is presented in a hybrid format, both in-person at Town Hall and virtually via Zoom. The Governor's Executive Orders N-25-20 and N-29-20 suspend certain requirements of the Brown Act, and Commissioners and staff may choose to participate in person or by video conference.*

*The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public comments regarding matters on the agenda may be made in person at Town Hall or by joining the Zoom video conference and using the Raise Hand feature when the Chair or Acting Chair calls for public comment. Any written public comments received after agenda publication will be forwarded to the Commissioners as soon as possible after receipt. All comments on agenda matters will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible. Public comments may be submitted to Sarah Peters at [speters@fortbragg.com](mailto:speters@fortbragg.com).*

### ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.*

*When: Jun 23, 2021 06:00 PM Pacific Time (US and Canada)*

*Topic: Planning Commission*

*Please click the link below to join the webinar:*

*<https://zoom.us/j/95547178517>*

*Or Telephone:*

*US: +1 669 900 9128 or +1 346 248 7799 (\*6 mute/unmute, \*9 raise hand)*

*Webinar ID: 955 4717 8517*

*TO SPEAK DURING PUBLIC COMMENT PORTIONS OF THE AGENDA VIA ZOOM, PLEASE JOIN THE MEETING AND USE THE RAISE HAND FEATURE WHEN THE CHAIR OR ACTING CHAIR CALLS FOR PUBLIC COMMENT ON THE ITEM YOU WISH TO ADDRESS.*

### **1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR ITEMS**

*MANNER OF ADDRESSING THE PLANNING COMMISSION: All remarks and questions shall be addressed to the Planning Commission; no discussion or action will be taken pursuant to the Brown Act. No person shall speak without being recognized by the Chair or Acting Chair.*

*TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: Thirty (30) minutes shall be allotted to receiving public comments. If necessary, the Chair or Acting Chair may allot an additional 30 minutes to*

public comments after Conduct of Business to allow those who have not yet spoken to do so. Any citizen, after being recognized by the Chair or Acting Chair, may speak on any topic that may be a proper subject for discussion before the Planning Commission for such period of time as the Chair or Acting Chair may determine is appropriate under the circumstances of the particular meeting, including number of persons wishing to speak or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

*BROWN ACT REQUIREMENTS: The Brown Act does not allow action or discussion on items not on the agenda (subject to narrow exceptions). This will limit the Commissioners' response to questions and requests made during this comment period.*

## **2. STAFF COMMENTS**

## **3. MATTERS FROM COMMISSIONERS**

## **4. CONSENT CALENDAR**

All items under the Consent Calendar will be acted upon in one motion unless a Commissioner requests that an individual item be taken up under Conduct of Business.

4A. [21-311](#) June 2, 2021 Meeting Minutes

**Attachments:** [Att 1 - June 2, 2021 Meeting Minutes](#)

4B. [21-316](#) June 9, 2021 Minutes

**Attachments:** [ATT 2 - June 9, 2021 Minutes](#)

## **5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

## **6. PUBLIC HEARINGS**

6A. [21-294](#) Receive Report, Conduct Public Hearing and Consider Adoption of a Resolution Approving Application for Use Permit 2-21 to Change the Primary Use of 237 E. Alder to Single Family Residential.

**Attachments:** [06232021 237 E. Alder Staff Report](#)  
[ATT 1 - Application, site plan and floor plan.pdf](#)  
[ATT 2 - Resolution Approving UP 2-21](#)

6B. [21-305](#) Receive Report, Conduct Public Hearing of Appeal and Consider Adoption of Resolution Affirming Approval of Minor Use Permit MUP 1-21 for Sunshine Cannabis Dispensary

- Attachments:** [06232021 MUP 1-21 Staff Report](#)  
[ATT 1 - Application for MUP 1-21](#)  
[ATT 2 - Notice of Final Action on MUP 1-21](#)  
[ATT 3 - Appeal of Administrative Decision](#)  
[ATT 4 - Resolution Affirming Project Approval](#)  
[ATT 5 - Public Comment](#)

**7. CONDUCT OF BUSINESS**

**ADJOURNMENT**

*The adjournment time for all Planning Commission meetings is no later than 9:00 p.m. If the Commission is still in session at 9:00 p.m., the Commission may continue the meeting upon majority vote.*

STATE OF CALIFORNIA         )  
                                               )ss.  
 COUNTY OF MENDOCINO    )

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on June 18, 2021.

\_\_\_\_\_  
 Sarah Peters  
 Office Assistant, Community Development Department

**NOTICE TO THE PUBLIC**

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Community Development Department at 416 North Franklin Street, Fort Bragg, California, during normal business hours. Such documents are also available on the City's website at [www.fortbragg.com](http://www.fortbragg.com) subject to staff's ability to post the documents before the meeting.

**ADA NOTICE AND HEARING IMPAIRED PROVISIONS:**

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).







# City of Fort Bragg

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## Text File

File Number: 21-311

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**Agenda Date:** 6/23/2021

**Version:** 1

**Status:** Public Hearing

**In Control:** Planning Commission

**File Type:** Minutes

**Agenda Number:** 4A.

June 2, 2021 Meeting Minutes



# City of Fort Bragg

416 N Franklin Street  
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Phone: (707) 961-2823  
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## Meeting Minutes Planning Commission

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Wednesday, June 2, 2021

6:00 PM

Town Hall, 363 N.Main Street

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### Special Meeting

#### MEETING CALLED TO ORDER

The meeting was called to order at 6:00 P.M. by Chair Logan

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL

**Present** 5 - Commissioner Nancy Rogers, Commissioner Stan Miklose, Vice Chair Jay Andreis, Commissioner Michelle Roberts, and Chair Jeremy Logan

#### **1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR ITEMS**

- (1) Public comment on non-agenda items was received via Zoom from Annemarie Weibel.
- (2) There were no items on the consent calendar.

#### **2. STAFF COMMENTS**

City Manager Miller gave an update on upcoming meetings and items to be heard by the Planning Commission. On June 9, there will be a continuation of the Grocery Outlet permit. There is nothing currently scheduled for June 16. On June 23, there are two items scheduled so far - an appeal of the Sunshine Holistic dispensary permit, and a minor use permit for converting a commercial building into a residential building.

#### **3. MATTERS FROM COMMISSIONERS**

- Commissioner Rogers requested an update on the Grey Whale Inn. City Manager Miller stated that Assistant Director O'Neal will be providing an update at the next meeting.
- Commissioner Miklose stated that the problem of cigarette butts and filters getting into the wastewater was brought to his attention and he will be helping the person look into it.

#### **4. CONSENT CALENDAR**

There was nothing on the consent calendar to address.

#### **5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

None

#### **6. PUBLIC HEARINGS**

**6A** [21-268](#) Receive Report, Conduct Public Hearing and Adopt a Resolution Providing a Recommendation to City Council Regarding an Inland Land Use and Development Code Amendment Regulating Formula Business

Chair Logan opened the public hearing at 6:09 PM. City Manager Miller presented the prepared report on the formula business ordinance to the commission. The commissioners asked clarifying questions which she addressed. Questions concerned the cumulative total percentage of formula businesses allowed and the ability to limit or prohibit fast food restaurants in certain districts.

**PUBLIC COMMENT:**

Public comments were received from Jacob Patterson and Annemarie Weibel.

**QUESTIONS FOR STAFF FROM COMMISSIONERS:**

Following public comment, commissioners asked further clarifying questions about limiting and potentially defining fast food restaurants.

Chair Logan closed the Public Hearing at 6:54 P.M.

**DISCUSSION:**

Under deliberation, commissioners discussed possible wording changes, limiting fast food businesses in the Central Business District, and requirements of businesses with drive-throughs.

**A motion was made by Vice Chair Andreis, seconded by Chair Logan, that this Planning Resolution be adopted. The motion carried by the following vote:**

**Aye:** 5 - Commissioner Rogers, Commissioner Miklose, Vice Chair Andreis, Commissioner Roberts and Chair Logan

Enactment No: RES PC07-2021

**7. CONDUCT OF BUSINESS**

None

**ADJOURNMENT**

Chair Logan adjourned the meeting at 7:31 PM.

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Jeremy Logan, Chair

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Sarah Peters, Office Assistant

IMAGED (\_\_\_\_\_)



# City of Fort Bragg

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## Text File

File Number: 21-316

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**Agenda Date:** 6/23/2021

**Version:** 1

**Status:** Public Hearing

**In Control:** Planning Commission

**File Type:** Minutes

**Agenda Number:** 4B.

June 9, 2021 Minutes



# City of Fort Bragg

416 N Franklin Street  
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## Meeting Minutes Planning Commission

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Wednesday, June 9, 2021

6:00 PM

Town Hall, 363 N.Main Street

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### MEETING CALLED TO ORDER

The meeting was called to order by Chair Logan at 6:00 P.M.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

**Present** 4 - Chair Jeremy Logan, Vice Chair Jay Andreis, Commissioner Michelle Roberts, and Commissioner Nancy Rogers

**Absent** 1 - Commissioner Stan Miklose

### 1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR ITEMS

(1) Public comments on Non-Agenda items were received from:

\*Jacob Patterson

\*Annemarie Weibel - via Zoom

\*David Gurney - via Zoom

(2) None

### 2. STAFF COMMENTS

Assistant Director O'Neal updated the commissioners on the old Grey Whale Inn building fencing. She reminded commissioners that there are two (2) public hearings scheduled for the June 23 meeting: (1) A use permit for converting a commercial structure into a single family residence at 237 E. Alder Street, and (2) an appeal of the minor use permit for the Sunshine Holistic cannabis dispensary located at 144 N. Franklin Street.

### 3. MATTERS FROM COMMISSIONERS

-Commissioner Rogers asked if there is still no meeting on June 16. Assistant Director O'Neal confirmed that. She also asked what the protocol is if fencing at the old Grey Whale Inn building is not removed by the deadline. Assistant Director O'Neal explained the code enforcement process.

-Chair Logan requested an update on a gas station that had a permit approved over a year ago. Assistant Director O'Neal said there is a building permit submittal in the queue and under review.

**4. CONSENT CALENDAR**

**Approval of the Consent Calendar**

A motion was made by Commissioner Rogers, seconded by Vice Chair Andreis, to approve the Consent Calendar. The motion carried by the following vote:

**Aye:** 4 - Chair Logan, Vice Chair Andreis, Commissioner Roberts and Commissioner Rogers

**Absent:** 1 - Commissioner Miklose

**4A.** [21-280](#) Approve Minutes of May 26, 2021

These Minutes were approved on the Consent Calendar.

**5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

None

**6. PUBLIC HEARINGS**

**6A.** [21-278](#) Receive Supplemental Report, Continue Deliberation, and Consider Adoption of Resolution Approving Coastal Development Permit 8-19 (CDP 8-19), Design Review 1-19 (DR 1-19), Parcel Merger 1-19 (MGR 1-19), and Adopting the Mitigated Negative Declaration (SCH: 2021010142) for a Grocery Outlet at 825, 845, 851 South Franklin Street

Chair Logan opened the Public Hearing at 6:19 P.M. Associate Planner Gurewitz and Assistant Director O'Neal presented the supplemental report on the Grocery Outlet project. Applicant representative Terry Johnson, with Best Development, addressed the commission.

**PUBLIC COMMENT:**

IN FAVOR:

- \*Paul Clark
- \*Cole Spake
- \*Valerie Spake
- \*Alyson Bailey - Zoom
- \*Andrew Jordan - Zoom
- \*Michelle Norvell - Zoom
- \*Anali Caraballo - Zoom

OPPOSED:

- \*Jacob Patterson
- \*David Gurney - Zoom
- \*Annemarie Weibel - Zoom

NO POSITION:

\*Roseanne Miklose

**Public Comments read into the record by staff:**IN FAVOR:

\*Ghulam Ansari

\*Sharon Brennfleck

\*Greg Burke

\*Jesusa Matson

\*A.B. Priceman

\*Petition from Judy Valadao, including signatures of -

-Linda Lowery

-Dulce Sanchez

-Andrew Kendl

-Mary Glanville

-Tim Tibbs

-Kymberlee Nelson

-Naomi Campbell

-Charles Richards

-Steve Hensley

-Lisa Willis

-Ann Rennacker

-Carol Becker

-LIZ beth Naranjo

-Kayla Gaspard

-Valerie Lancaster

-Susan Halvorson

-Judith Bracken

-Mari Edsall

-Philip Cabrera

-Jaleen Wedlow

-Cory Smith

-Divine Flagler

-Tom Sosnovec

-JoAnn Grant

OPPOSED:

\*Minucha Colburn

\*Star Decker

\*Dierdre Lamb

\*Ann Rennacker

\*Kristy Tanguay

\*Jaen Treesinger



NO POSITION:

\*Ray Alarcon

Following public comment, commissioners asked further clarifying questions which were addressed by applicant representatives and staff. Questions concerned the following issues: Building orientation; building height; building corner wrapping; parking design and landscaping; covered areas; pedestrian crossing safety; restroom doors; sign design and illumination; cultured stone design feature; rainwater catchment; gutters at entry; direction of water flow; solar readiness; and skylights.

Chair Logan closed the public hearing at 8:10 P.M.

**DISCUSSION:**

Under deliberation, commissioners discussed the following issues and concerns: Project permitted by right and an allowable use; blue water view; traffic and pedestrian safety; sign materials and colors; Mitigated Negative Declaration; Grocery Outlet community impacts; business competition; building and design; water catchment; loading zone screening; separate sign permit subject to Planning Commission approval; amendments to Special Conditions 20 and 25; and additions to Special Conditions 26 - 32.

**A motion was made by Commissioner Rogers, seconded by Chair Logan, that this Planning Resolution be adopted as amended. The motion carried by the following vote:**

**Aye:** 4 - Chair Logan, Vice Chair Andreis, Commissioner Roberts and Commissioner Rogers

**Recuse:** 1 - Commissioner Miklose

Enactment No: RES PC08-2021

**7. CONDUCT OF BUSINESS**

None

**ADJOURNMENT**

Chair Logan adjourned the meeting at 9:26 P.M.

\_\_\_\_\_  
Jeremy Logan, Chair

\_\_\_\_\_  
Sarah Peters, Office Assistant

IMAGED (\_\_\_\_\_)



# City of Fort Bragg

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## Text File

File Number: 21-294

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**Agenda Date:** 6/23/2021

**Version:** 1

**Status:** Public Hearing

**In Control:** Planning Commission

**File Type:** Planning Resolution

**Agenda Number:** 6A.

Receive Report, Conduct Public Hearing and Consider Adoption of a Resolution Approving Application for Use Permit 2-21 to Change the Primary Use of 237 E. Alder to Single Family Residential.

**AGENCY:** Community Development

**MEETING DATE:** June 23, 2021

**PREPARED BY:** Heather Gurewitz

**PRESENTED BY:** Heather Gurewitz

## **AGENDA ITEM SUMMARY REPORT**

**APPLICATION NO.:** Use Permit 2-21 (UP 2-21)

**OWNER:** Patricia Moore

**APPLICANT:** Patricia Moore

**AGENT:** N/A

**PROJECT:** Change of Use from Commercial Use to Single Family Residential

**LOCATION:** 237 E. Alder St.

**APN:** 008-155-07

**LOT SIZE:** 0.16 Acres

**ZONING:** Commercial Business District (CBD)

**ENVIRONMENTAL DETERMINATION:** Exempt from CEQA – Class 3 Conversion of a small structure under 15303(a). The structure is existing, there will be no construction and the use will be a single-family residence, therefore it is exempt from CEQA and there are no applicable exceptions to the exemption.

**SURROUNDING LAND USES:**

NORTH: Multi-Family Residential (CBD)  
EAST: Single-Family Residential (RVH)  
SOUTH: Single Family Residential (CBD)  
WEST: Grocery Store (CBD)

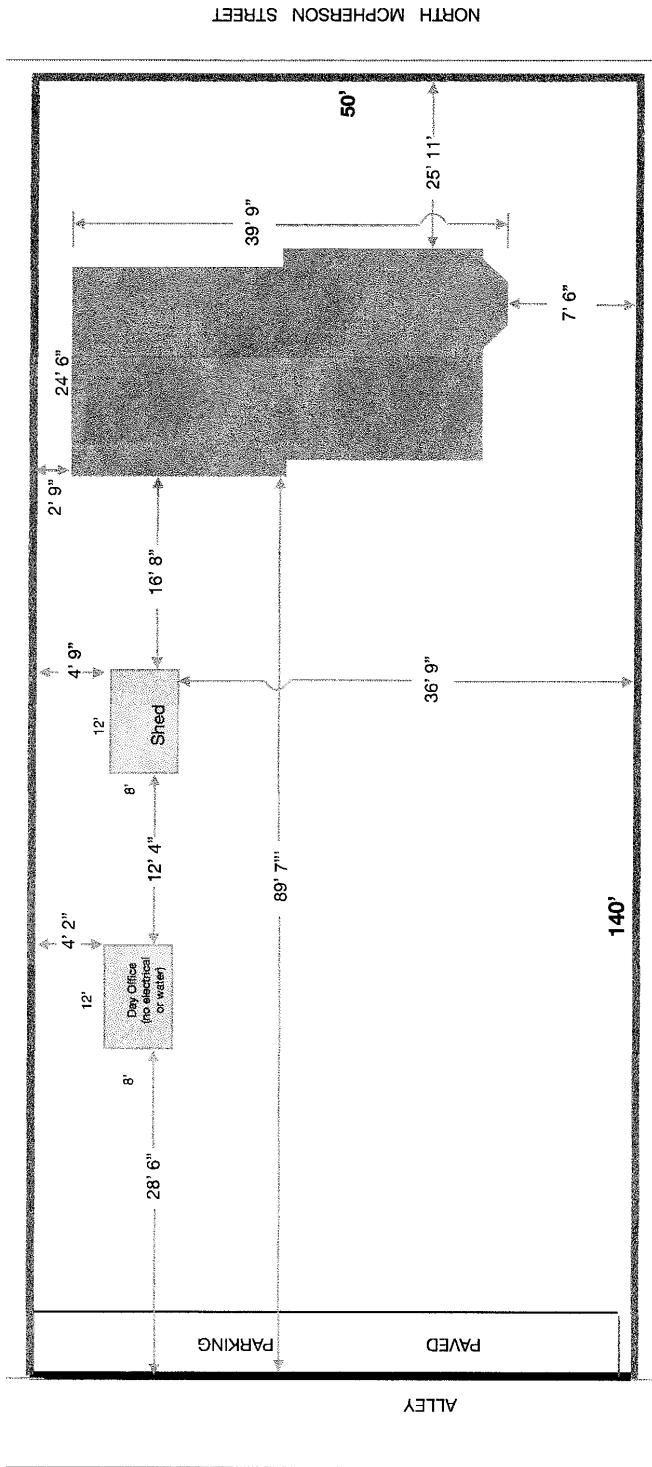
**APPEALABLE PROJECT:**  **Can be appealed to City Council**

### **BACKGROUND**

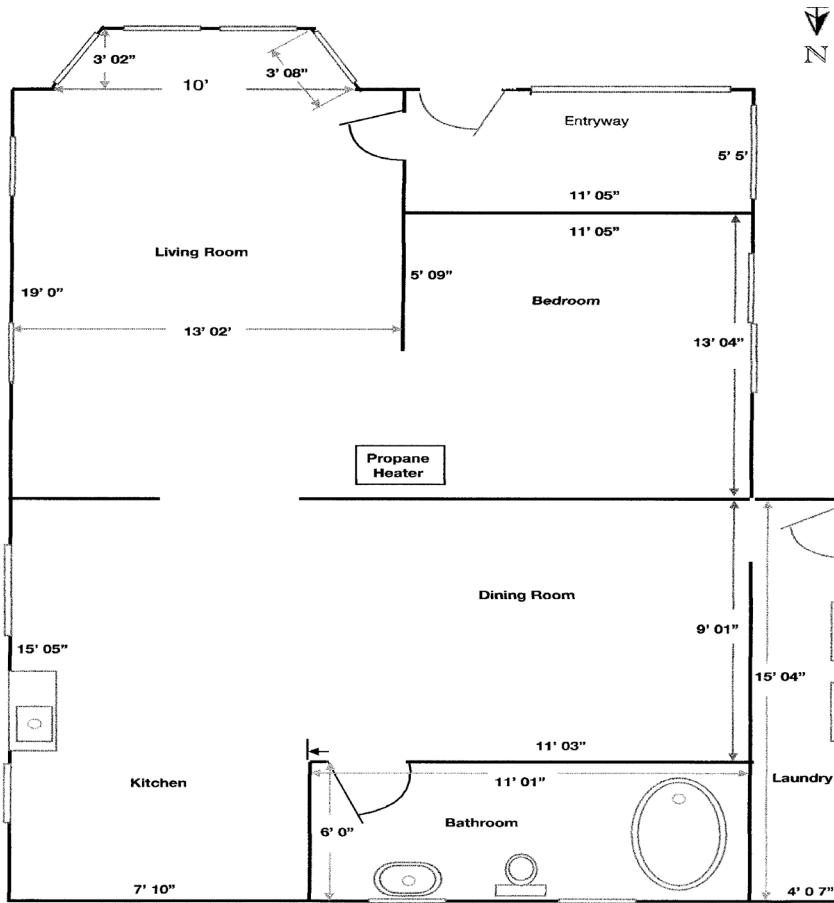
The structure located at 237 E. Alder St. is approximately 1,200 Square Feet. It has a bedroom, bathroom, living room, kitchen, and dining room. Construction of the building pre-dates city building files, but there are files showing building repair as early as 1978. The current owner purchased the building to use the front as a gallery for artwork with the back used as a living space. She has since closed the gallery and is currently using the whole building as a house.

# PROJECT DESCRIPTION

The applicant is requesting a change of use for 237 E. Alder St. from Commercial to Single-Family Residential. The existing site plan includes the main structure and two accessory structures, a shed and an office:



The drawing below shows a “not-to-scale” floor plan of the existing structure which includes a bathroom, bedroom, kitchen, etc.:



DRAWING NOT TO SCALE

Photo images of the structure are below as part of the visual analysis for conformance with Citywide Design Guidelines.

### INLAND GENERAL PLAN CONSISTENCY ANALYSIS

This project is consistent with the City of Fort Bragg Inland General Plan Policy LU-6.1 Preserve Neighborhoods states *“Preserve and enhance the character of the City’s existing residential neighborhoods.”*

While this project is in the Central Business District, there are single family homes to the east and the south and a multi-family residential structure to the north. Therefore, allowing this structure to return to the original use of a single residential dwelling is consistent with preserving the City’s existing residential neighborhoods.

This project is also consistent with the following goals, policies, and programs of the Fort Bragg 2019 Housing Element of the Inland and Coastal General Plan:

Goal H-1 states, *“Provide a range of housing, including single-family homes, townhouses, apartments, and other housing types to meet the housing needs of all economic segments of the community”* and Program H-1.7.8 Workforce Housing in Mixed-Use Zoning states, *“Continue to allow workforce housing in all zoning districts that allow mixed-use development.”*

This is a small residential structure that could reasonably be considered potential affordable workforce housing. It is in the CBD which does allow for mixed-use development on upper floors. Therefore, this project is consistent with Goal H-1 and Program H-1.7.8.

Goal H-5 states, *“Conserve and improve the existing housing supply to provide adequate, safe, and decent housing for all Fort Bragg residents.”* And Program H-5.2.2 Single-Family Homes states, *“Continue to allow the reuse of existing single-family residences, in commercial zones, as single-family residences...”*

This structure was a single-family residence and still has the architectural features of a residence. It is surrounded by other residential units on three sides and is located in a commercial district. It is therefore consistent with Goal H-5 and Program H-5.2.2 because the proposed use is a single-family residence in the commercial zone.

**FINDING:** Based on the project’s consistency with the above applicable policies and programs, the structure located at 237 E. Alder St. is consistent with the City of Fort Bragg’s Inland General Plan and the 2019 Housing Element.

**INLAND LAND USE DEVELOPMENT CODE CONFORMANCE ANALYSIS**

This project, located at 237 E. Alder St. is located in the Central Business District. The Inland Land Use and Development Code 18.22.020(c) Purposes of Commercial Zoning Districts states:

*“The CBD zoning district is applied to the core of the downtown which is the civic, cultural, and commercial center of the City. The CBD zone is intended to accommodate retail stores, government and professional offices, theaters, and other similar and related uses in the context of pedestrian-oriented development. The maximum allowable residential density within the CBD zone for the residential component of a mixed use project is 40 dwelling units per acre; the maximum floor area ratio (FAR) is 2.0. The CBD zoning district implements and is consistent with the CBD land use designation of the General Plan.”*

Development Feature	CBD Requirement	Project
Maximum Density	40 Units Per Acre	6.25 units per acre
Front Setback (Alder St.)*	None allowed	4 Ft.
Side interior setback	None Required	0 Ft
Side street setback (McPherson)	15 Ft (abutting residential zone)	21 Ft
Rear(alley) setback	5 ft	80 Ft.

Fencing	42" or less in a traffic safety visibility area.	Fencing is less than 42"
Landscaping	42" or less in a traffic safety visibility area.	Landscaping does not inhibit visibility from the alley or the corner of Alder and McPherson
Parking	Minimum 2 spaces, maximum four spaces	There are at least two off street parking spaces in the alley.

\*The requirement for no setback for the front of building applies to commercial buildings and is intended to preserve the look of the downtown. However, this building faces Alder St. and the setback is extremely minimal and the placement of the fence creates a visual barrier that provides consistency with the no setback on the main street.

Section 18.22.030 - Commercial District Land Uses and Permit Requirements provides Table 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts. This table allows a single residential unit with a Use Permit "only for existing structures that have the appearance of a single residential dwelling unit, per the Citywide Design Guidelines."

Staff analyzed the structure to determine if it meets the above criteria by comparing the structure with residential architectural guidelines in the Citywide Design Guidelines. Section 1.4 Single-Family Infill Development Design Guidelines Section states the primary design principle as, "*The Design of infill housing in the City of Fort Bragg should complement the existing character, scale, and pattern of the neighborhood in which it is built.*"

The diagram below shows the neighboring residential structures, and how 237 E. Alder complements the existing character, scale, and pattern of the neighborhood.



Additionally, the structure at 237 E. Alder St. was built as a residential unit, and its character has been preserved by maintaining the following characteristics that meet the residential architectural design guidelines in subsections 1.35 and 1.44:

- Matches the design of neighboring properties.
- Height and scale of the structure are similar to neighboring properties.
- Integration of varied textures, openings, recesses, and design accents
- Roof overhangs
- Incorporated front porch
- Sidewalk facing front door

These are demonstrated in the following visual images:

Front of house on Alder St.:





Side view from McPherson:



Rear-View Parking and fencing:



**FINDING:** Based on the above analysis, the structure at 237 E. Alder Street has the architectural design features of a single residential dwelling unit per the Citywide Design Guidelines.

**FINDING:** Based on the above analysis and the finding that the structure has the appearance and features of a house, it is consistent with Section 18.22.030 Table 2-6 of the Inland Land Use Development Code.

The review and analysis of this project finds that the project is:

1. Consistent with the General Plan based on the above analysis.
2. The use is allowable with a Use Permit in the Central Business District and complies with all applicable provisions of the Inland Land Use Development Code and Municipal Code.
3. Based on the above analysis, the design, location, size, and operating characteristics of the proposed single family residential structure is compatible with the existing and future land uses in the area because it is mostly surrounded by other residential structures.
4. Based on the above analysis, the site is physically suitable in terms of the design, location, shape, size, operating characteristics, and the provision of public and emergency vehicles to ensure that the type, density, and intensity of use being proposed because it is a pre-existing historic use and consistent with the neighborhood and would therefore 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 it is located.
5. Based on the above analysis the project complies with all required findings by 18.22.030.

## **ENVIRONMENTAL DETERMINATION**

Staff reviewed the project to determine if it was subject to a CEQA analysis. Staff determined that the project is exempt from CEQA under 15303(a) of the California Environmental Quality Act Guidelines Exemptions because the project falls under the category of a Class 3 conversion of a small structure. The structure is existing, there will be no construction and it will be turned into a single-family residence and therefore exempt. The project was reviewed for exceptions and it did not meet any of the criteria for an exception to the exemption.

## **POSSIBLE ACTIONS**

1. Adopt Resolution to Approve Use Permit 2-21 to allow a change of use from commercial office space to residential.
2. Add special conditions and approve with special conditions.
3. Deny project.

## **RECOMMENDED ACTION**

Receive Report, Hold Public Hearing, and consider adopting a Resolution to Approve Use Permit 2-21 for to change the primary use of 237 E. Alder St. to Single-Family Residential.

## **ATTACHMENTS**

- 1. Application, Site Plan, and Floor Plan**
- 2. Resolution to Approve UP 2-21**



CITY OF FORT BRAGG  
COMMUNITY DEVELOPMENT DEPARTMENT  
416 North Franklin Street  
Fort Bragg, CA 95437  
Tel: (707) 961-2827  
Fax: (707) 961-2802  
http://city.fortbragg.com



Case No(s) UP 2-21  
Date Filed 5/25/2021  
Fee \$1901  
Receipt No. \_\_\_\_\_  
Received by Heather Gurewitz  
Office Use Only - December 2011

### PLANNING APPLICATION FORM

Please complete this application thoroughly and accurately, and attach the required exhibits as indicated in the applicable brochure available from the Community Development Department. An incomplete application will not be accepted for processing. Please note that administrative permits may require additional fees if an interested party requests a public hearing. Public hearing expenses are borne by the applicant, owner, or agent.

#### APPLICANT

Name: Patricia Moore  
Mailing Address: 237 E Alder Street Phone: [REDACTED]  
City: Fort Bragg State: CA Zip Code: 95437 Email: [REDACTED]

#### PROPERTY OWNER

Name: Same as applicant  
Mailing Address: 237 E Alder Street Phone: [REDACTED]  
City: Fort Bragg State: CA Zip Code: 95437 Email: [REDACTED]

#### AGENT

Name: N/A  
Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Email: \_\_\_\_\_

#### STREET ADDRESS OF PROJECT

237 E Alder Street

#### ASSESSOR'S PARCEL NUMBER(S)

008-155-07-00

PROPERTY SIZE 7,098 Square Feet or \_\_\_\_\_ Acres

#### TYPE OF APPLICATION (Check all applicable boxes)

- |                                                                         |                                                                            |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <input type="checkbox"/> Design Review/Site & Architectural Review      | <input type="checkbox"/> Certificate of Compliance                         |
| <input checked="" type="checkbox"/> Use Permit/Minor Use Permit         | <input type="checkbox"/> General Plan Amendment                            |
| <input type="checkbox"/> Coastal Development Permit                     | <input type="checkbox"/> Local Coastal Program Amendment                   |
| <input type="checkbox"/> Variance/Administrative Variance               | <input type="checkbox"/> Rezoning                                          |
| <input type="checkbox"/> Lot Line Adjustment                            | <input type="checkbox"/> Annexation                                        |
| <input type="checkbox"/> Subdivision (no. of parcels) <u>          </u> | <input type="checkbox"/> Preapplication Conference                         |
| <input type="checkbox"/> Certificate of Appropriateness (COA)           | <input type="checkbox"/> Limited Term Permit                               |
| <input type="checkbox"/> Planned Development Permit                     | <input type="checkbox"/> Permit Amendment (list permits) <u>          </u> |

#### PROJECT DESCRIPTION (Briefly describe project as shown on proposed plans.)

Development Permit to return use of house from commercial to residential use.

**CERTIFICATION**

I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attachments is complete and accurate. I understand that failure to provide requested information or misstatements submitted in support of the application shall be grounds for either refusing to accept the application, for denying the permit, for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the City.

*Patricia D Moore*  
\_\_\_\_\_  
Signature of Applicant/Agent      5/25/21  
Date

*Patricia D Moore*  
\_\_\_\_\_  
Signature of Property Owner      5/25/21  
Date

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

ORDINANCE No. 771, adopted by the Fort Bragg City Council on September 26, 1994, requires applicants for discretionary land use approvals to sign the following Indemnification Agreement. Failure to sign this agreement will result in the application being considered incomplete and withheld from further processing.

As part of this application, the applicant agrees to defend, indemnify, release and hold harmless the City of Fort Bragg, its agents, officers, attorneys, employees, boards and commissions, as more particularly set forth in Fort Bragg Municipal Code Chapter 18.77, from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attach, set aside, void or annul the approval of this application or adoption of the environmental document which accompanies it. The indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, its agents, officers, attorneys, employees, boards and commissions.

*Patricia D Moore*  
\_\_\_\_\_  
Signature of Applicant

5/25/21  
Date

**SITE VIEW AUTHORIZATION**

I hereby grant permission for City staff and hearing bodies to enter upon and site view the premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision.

*Patricia D. Moore*  
\_\_\_\_\_  
Property Owner/Authorized Agent

5/25/21  
Date

NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

**DECLARATION OF POSTING**

At the time the application is submitted for filing, the applicant must complete and post the "Notice of Pending Permit" form at a conspicuous place, easily read by the public and as close as possible to the project site. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Community Development Department cannot process the application.

I hereby certify that I or my authorized representative posted the "Notice of Pending Permit" form in a conspicuous place, easily seen by the public and as close as possible to the project site for:

Front of house facing E Alder Street.  
\_\_\_\_\_  
(Describe location where notice is posted)

*Patricia D Moore*  
\_\_\_\_\_  
Property Owner/Authorized Agent

5/25/21  
Date

NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

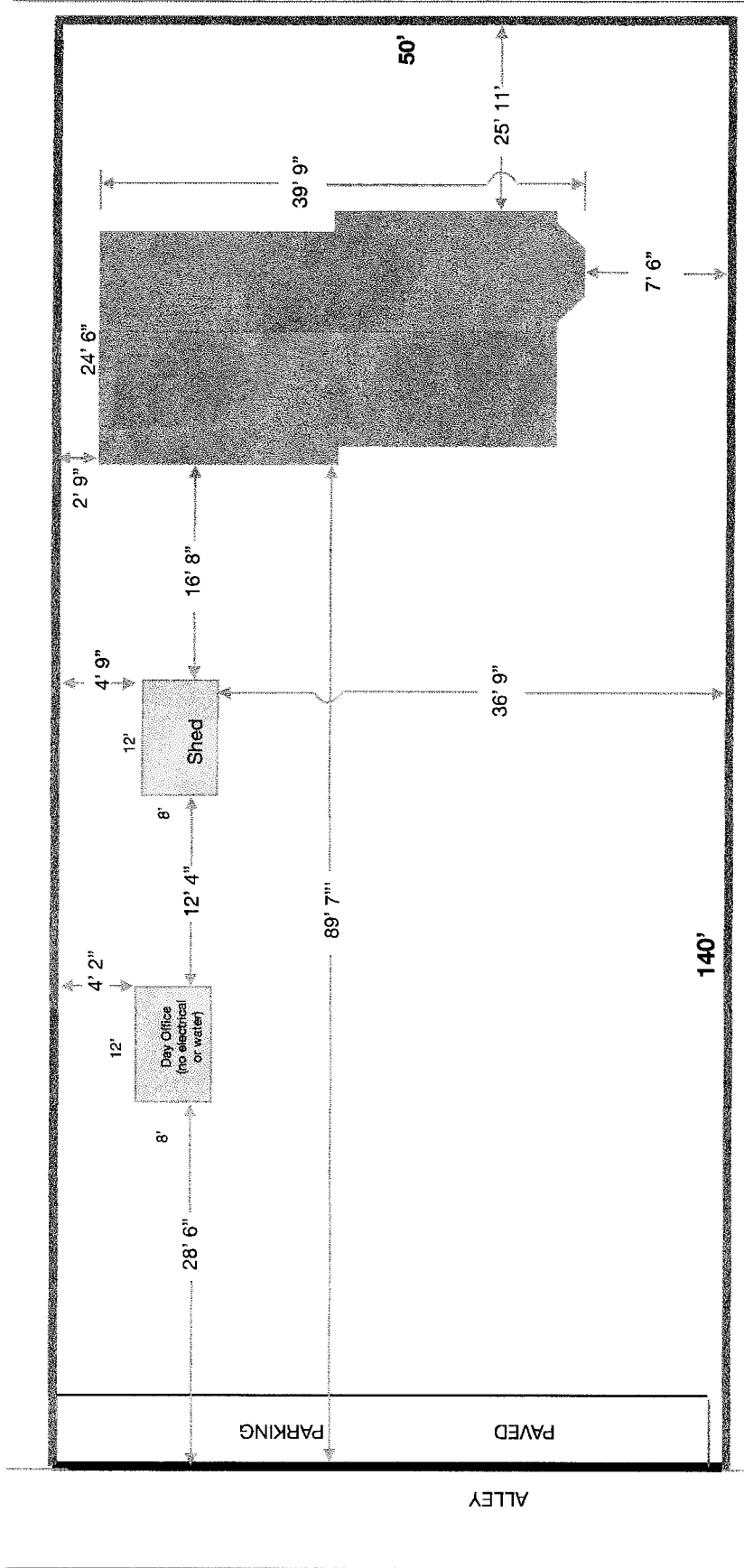
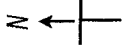
**AUTHORIZATION OF AGENT**

I hereby authorize N/A to act as my representative and to bind me in all matters concerning this application.

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Date

OWNER/APPLICANT: PATRICIA MOORE  
 ADDRESS: 237 E ALDER STREET  
 APN: 008-155-07-00

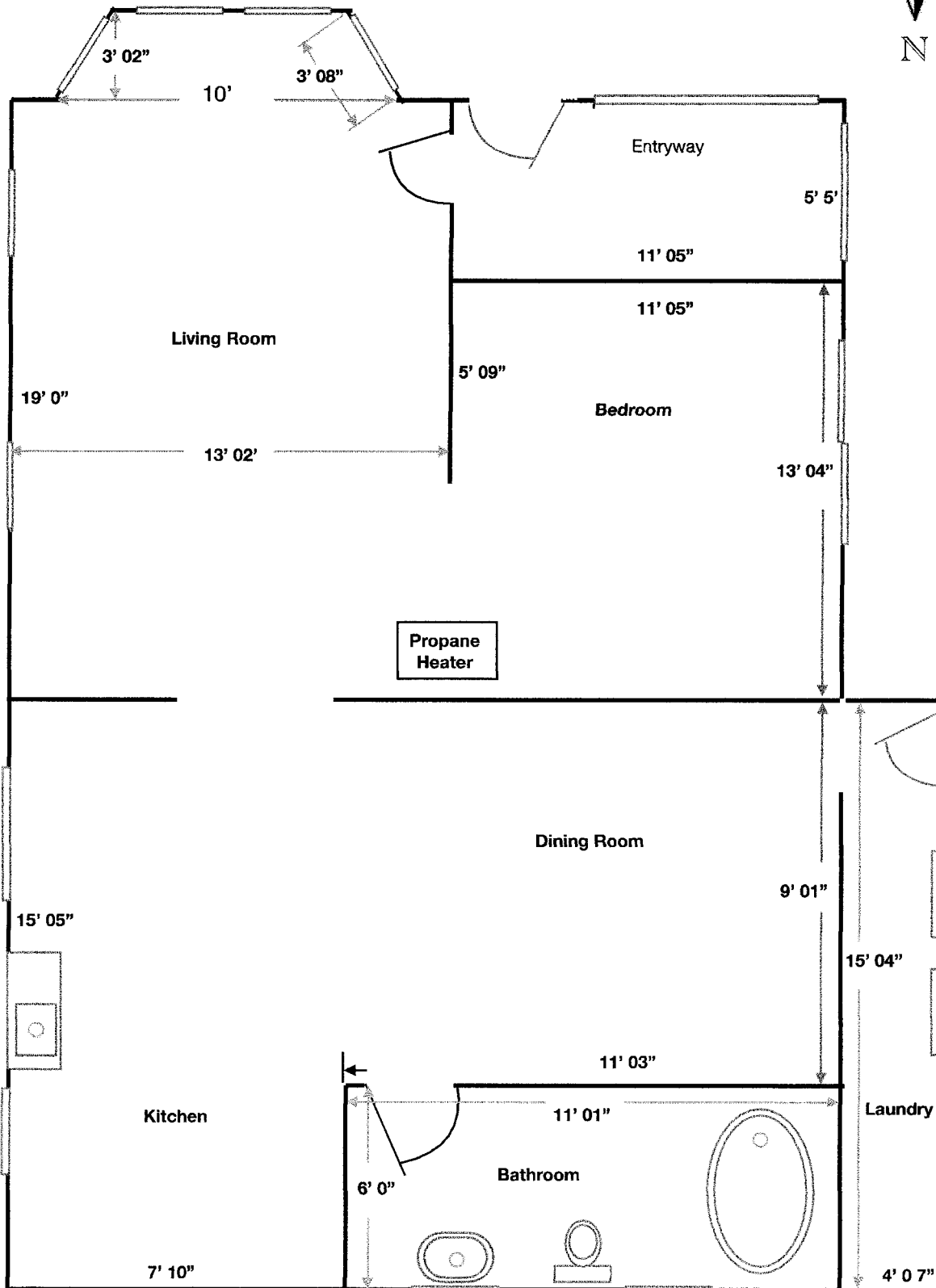


EAST ALDER STREET

DRAWING NOT TO SCALE

NORTH MCPHERSON STREET

APPLICANT/OWNER: PATRICIA MOORE  
ADDRESS: 273 E ALDER STYREET  
APN: 008-155-07-00



DRAWING NOT TO SCALE

## RESOLUTION NO. PC -2021

### RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION FOR APPROVAL OF USE PERMIT 2-21 FOR CHANGE OF USE FROM COMMERCIAL TO RESIDENTIAL AT 237 E. ALDER ST.

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

Convert the existing structure from commercial to residential use.

On that certain property described as follows:

Assessor's Parcel No. 008-155-07, as shown on the Fort Bragg Parcel Map and addressed as 237 E. Alder Street.

**WHEREAS**, the Planning Commission upon giving the required notice did, on the 23<sup>th</sup> day of June, 2021, conduct duly noticed public hearing as prescribed by law to consider said application; and

**WHEREAS**, the public hearing included evidence establishing the following:

1. The applicant is requesting approval of a Use Permit to allow a change of use from commercial to single-family residential for the structure located at 237 E. Alder St.
2. Findings necessary for approval of a use permit are as follows:
  1. The proposed use is consistent with the General Plan and any applicable specific plan;
  2. 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;
  3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
  4. 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.



5. The proposed use complies with any findings required by § 18.22.030 (Commercial District Land Uses and Permit Requirements).
  
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 and no alterations to the existing structure.

**NOW, THEREFORE, BE IT RESOLVED** that the Fort Bragg Planning Commission makes the following findings and determinations for this Use Permit 2-21 to allow the change of use from Commercial to Single-Family Residential:

1. *The proposed use is consistent with the General Plan and any applicable specific plan.*

The structure located at 237 E. Alder St. is consistent with the City's General Plan Policy LU-6.1 because it will preserve the character of one of City's existing residential neighborhoods. Additionally, it meets the 2019 Housing Element Goal H-1.78 to create workforce housing because it is a small single-family residence. It also meets Goal H-5 because it will help conserve and improve the existing housing supply in Fort Bragg by re-using an existing single-family home in a commercial zone.

2. *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 structure located at 237 E. Alder St. is consistent with Title 18, Chapter 2 of the Inland Land Use Development Code, Section 18.22.030 Table 2-6 which allows for a single residential unit with a Use Permit only for existing structures that have the appearance of a single residential dwelling unit, per the Citywide Design Guidelines and the staff analysis concludes that the structure in question meets the Citywide Design Guidelines for a single family residence.

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

The properties immediately to the north, south, and east are residential properties. The site to the west is a grocery store. The existing structure has an architectural design that matches the other residential structures in the vicinity and has previously been used as a house and as a mixed-use space.

4. *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.*

This project is already a single residential structure and will not have any changes to the design, location, shape, or size. The change in use is consistent with uses on the surrounding properties and 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.

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

The proposed project is listed as an allowable use with a Use Permit in the Inland Land Use Development Code Section 18.22.030, Table 2-6 and the existing structure is consistent with the Citywide Design Guidelines for a residential dwelling unit. Therefore, the project complies with the findings required by Section 18.22.030 of the Inland Land Use Development Code.

**BE IT FURTHER RESOLVED** that the Fort Bragg Planning Commission does hereby approve the change of use from commercial to residential at 237 E. Alder St. subject to the following standard conditions:

1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to ILUDC Chapter 18.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the ILUDC.
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 Coastal 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).

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that pursuant to all the evidence presented, both oral and documentary, and further based on the findings and conditions, Use Permit 2-21 is approved subject to the provisions of the City of Fort Bragg Municipal Code Title 18 Inland Land Use Development Code.

**I HEREBY CERTIFY**, that the foregoing Resolution was adopted by the Planning Commission of the City of Fort Bragg, at a regular meeting held on the 23<sup>rd</sup> day of June, 2021, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**RECUSED:**

DATE: June 23, 2021

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Jeremy Logan  
Planning Commission, Chair

ATTEST:

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Sarah Peters, Office Assistant



# City of Fort Bragg

416 N Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802

## Text File

File Number: 21-305

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**Agenda Date:** 6/23/2021

**Version:** 1

**Status:** Public Hearing

**In Control:** Planning Commission

**File Type:** Planning Resolution

**Agenda Number:** 6B.

Receive Report, Conduct Public Hearing of Appeal and Consider Adoption of Resolution  
Affirming Approval of Minor Use Permit MUP 1-21 for Sunshine Cannabis Dispensary

AGENCY: City of Fort Bragg  
MEETING DATE: June 23, 2021  
PREPARED BY: H. Gurewitz  
PRESENTED BY: H. Gurewitz

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Minor Use Permit (MUP) 1-21

**OWNER:** Lyndia Pyeatt

**APPLICANT:** Brandy Moulton

**AGENT:** N/A

**PROJECT:** Retail Cannabis Dispensary

**LOCATION:** 144 N. Franklin St.

**APN:** 008-164-39

**LOT SIZE:** 0.37 Acres

**ZONING:** Central Business District (Inland)

**ENVIRONMENTAL DETERMINATION:** Exempt from CEQA under 15301 Class 1 Existing Facilities

**SURROUNDING LAND USES:**  
NORTH: CBD – Grocery Store  
EAST: CBD - Commercial  
SOUTH: CBD - Housing  
WEST: CBD - Bank

**APPEALABLE PROJECT:**  Can be appealed to City Council

### RECOMMENDED ACTION

1) Open Public Hearing, 2) Receive Staff Report, 3) Receive testimony from the applicant and public comment, 4) close public hearing, 5) Consider adopting a resolution denying the appeal of approved Minor Use Permit 1-21.

### ALTERNATIVE PLANNING COMMISSION ACTIONS

1. Continue the public hearing to a later time.
2. Make findings and adopt resolution upholding the appeal.

## BACKGROUND

The building located at 144 S. Franklin St. was previously used as a restaurant, candy store, and most recently a retail flooring/carpet store. In 2020, the applicant applied for a Minor Use Permit (MUP) to create a retail dispensary with accessory cultivation, manufacturing, and distribution. The project was denied because the accessory uses were determined to be not allowable and were not accessory to the primary use of retail. The decision of the Planning Commission was appealed to the City Council and the project denial was affirmed.

In the December 9, 2020 Planning Commission meeting, it was expressed by member(s) of the planning commission that a dispensary at this location would be fine, but that the accessory uses were the reason for denial.

The applicant applied for a Minor Use Permit for a Dispensary with accessory delivery only and the City of Fort Bragg received a complete application for a Minor Use Permit and Cannabis Business Permit on March 22, 2021(see ATTACHMENT #1).

The Cannabis Business Permit Application was sent for review by the Fort Bragg Police Department. They concluded that the cannabis business permit was approvable with no conditions. The Community Development Department reviewed the Minor Use Permit Application and determined that the project was approvable. An administrative public hearing was requested and held on May 18, 2021. The application was approved by the acting Community Development Director with two 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.

See ATTACHMENT #2 for the Notice of Final Action.

## APPEAL OF ADMINISTRATIVE DECISION

The approval of MUP 1-21 was appealed on May 26, 2021 by Gene & Dianna Mertle, Jay Koski, Jean Cain, Sarah Macy, Carrie Hull, James Matson, and Patricia Bell. The reasons for the appeal and the staff responses are below. See Attachment #3 for the full letter.

Issue Raised in Appeal	Staff Analysis
1) An initial study should be done instead of a categorical exemption.	This project is an existing building and is not an intensification of use. The previous uses included a restaurant, candy store, and retail flooring/carpet store. The flooring/carpet store had three vans and truck delivering and installing carpet along the coast. The proposed business will be retail with accessory

	<p>retail delivery. There will be no onsite cultivation or processing and therefore no intensification of use compared to any of the previous uses. Based on an initial review of this project, there is no need for a complete initial study and staff finds that this project is categorically exempt under CEQA 15301 Existing Facilities.</p>
<p>2) The appellants state that a) They do not believe that a cannabis dispensary is compatible with the other adjacent uses of the post office, credit union, grocery store, and single family residential uses. b) They allege that the analysis done was zoning clearance and not sufficient for a minor use permit. c) They believe the finding that the use is compatible is invalid.</p>	<p>a) Neither California State law nor the City of Fort Bragg ILUDC require a buffer between any of the uses stated in the appeal letter and a cannabis dispensary. Buffers were discussed and considered by the City Council and Planning Commission in several meetings and the current version of the code was adopted without buffers. This indicates to staff that it was the intention and will of those bodies that they did not see a reason to separate a cannabis dispensary from those uses.</p> <p>b) The process required for zoning clearance is defined in ILUDC Section 18.71.020C. When a business license or building permit is submitted, staff confirm that the proposed activity is permitted and does not require any type of permit in the specific location using the Land Use tables. If there are specific land use standards in Chapter 4 they are provided to the applicant. The Community Development Department then signs off on the business license or building plans. There is no further analysis or review and no permit fees. Conversely, this application was processed for a Minor Use Permit which is defined in section 18.71.060 of the ILUDC. The process is much more complicated and requires that City Staff to analyze the project for consistency with the General Plan, conformance with the zoning code, and that the required findings can be made including a written proposal of how the applicant will conform with any specific land use standards. A staff report is prepared with a recommendation.</p> <p>c) This project site is located in the Central Business District and meets the code requirements listed in Section 18.22.030 Table 2-6 and the Specific Land Use Standards in Section 18.42.057. When the updates to these sections were passed in November of 2019, City Council determined that a cannabis dispensary is allowable in the CBD with a Minor Use</p>



	<p>Permit. They did not add any provisions in the code to prohibit a dispensary on the east side of Franklin St, or near any of the uses listed by the appellants. The City Council discussed, considered and rejected imposing buffers for cannabis uses. For that reason, it is staff's interpretation that Council was giving the direction that these uses were not incompatible.</p> <p>While this is staff's interpretation of the code and the decisions made by the City Council, planning commission may have a different interpretation.</p>
<p>3) Appellants of the project disagree with the City's finding that "There will be no changes to the design shape, or size of the building and the applicants plan addresses the operating characteristics and operating plan to 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." They believe that the project will a) endanger and jeopardize the property and their enjoyment of their property by their tenants and other neighbors. b) traffic generated by the</p>	<p>a) In determining whether this type of business could cause blight or vagrancy, staff considered the fact that cannabis sold by a licensed dispensary is significantly higher in price than that which is available through the black market. According to the applicant, the least expensive product they sell will be a minimum of \$11. Given this price range, it is unlikely that the dispensary will attract vagrancy or transients. The product being sold will be a locally produced product sold by the cultivator, similar to a wine shop selling wine they are producing for consumption offsite.</p> <p>There are extensive safety requirements for any cannabis business required as part of the Cannabis Business Permit per Municipal Code Section 9.30.130 which would prevent any potential criminal activity on site and likely reduce existing issues with vagrancy in the alley. Additional requirements are in California Business and Professions Code 26070, 16 CCR 5400 et seq and 16 CCR 5300 et seq.</p> <p>Additionally, it is the responsibility of the store owner to ensure that products are not consumed onsite, in the parking lot, or in the public right of way around the business. Because all products must be fully packaged and cannot be consumed in the vicinity, it limits the chance that this type of business would encourage individuals congregating outside the business and creating incidents of blight or vagrancy.</p> <p>Additionally, Special Condition #2 was established which specifies that products cannot be consumed onsite or anywhere in the parking area or public right of ways near the site.</p>

<p>project, and c) potential nursery cultivation. They specifically note the site's location and the provision of public utilities including water supply.</p>	<p>While there are numerous safeguards in place, should this business become a nuisance, Municipal Code 9.30.190 provides the grounds for permit revocation.</p> <p>b) In addition to retail sales from the former Floor Store, there were numerous large delivery trucks carrying flooring and carpeting entering and exiting the alleyway to this business. The commercial traffic associated with a dispensary is expected to be less than the previous use. There are two other cannabis dispensaries in the City and two located less than 3 miles south of the dispensary. There are enough existing dispensaries where it is unlikely that this particular dispensary will create a significant increase in traffic. Also, deliveries of cannabis product will be significantly smaller than deliveries of carpet and flooring.</p> <p>c) Appellants referenced the potential that Council may decide to allow small accessory nursery cultivation for on-site retail and retail delivery only for non-commercial use. If the City Council does approve this in the future, the applicant would have to submit an application for a Minor Use Permit for an accessory nursery cultivation which would be evaluated at that time. The application, as presented, only includes onsite and delivery retail of cannabis products and the application cannot be judged on potential future applications that may be presented.</p>
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Staff believes that the proposed project meets the required findings as set forth in ILUDC 18.71.060(F) and is recommending approval of this project. If the Planning Commission disagrees, it will need to provide staff with alternative findings to this effect. For reference, the following, is the project analysis based on the Inland Land Use Development Code requirements for a Minor Use Permit as presented to the acting Community Development Director with minor updates.

**CONSISTENCY WITH PLANNING POLICIES**

The project was reviewed for consistency with the General Plan. It is consistent with the following relevant General Plan Goals and Policies. It was not found to be inconsistent with any General Plan Goals, Policies or Programs.

General Plan Goal/Policy/Program	Project	Consistency?
Goal LU-3 - Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.	Retail sales would be consistent with the goal to support the commercial core.	Yes
Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).	This will be a pedestrian oriented retail business.	Yes
Policy LU-3.6 Re-Use of Existing Buildings: Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.	This is an existing building that has historically held a restaurant/candy store and retail flooring/carpet store. The building would be reused to retail cannabis.	Yes

The project was evaluated for consistency with the ILUDC. The project was found to be consistent with the Central Business District Zoning as noted in the table below:

Zoning Designation	Project	Consistency?
The CBD zoning district is applied to the core of the downtown, which is the civic, cultural, and commercial center of the City. The CBD zone is intended to accommodate retail stores, government and professional offices, theaters, and other similar and related uses in the context of pedestrian-oriented development.	This project will create a new retail store that is allowable with a minor use permit.	Yes

Additionally, the project was evaluated for consistency with the Specific Land Use Standards in 18.42.057 Cannabis Retail:

Requirements	Project	Consistency?
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<p><b>A.</b> Minor Use Permit Required.</p>	<p>Approval of this application would fulfill this requirement.</p>	<p>Yes</p>
<p><b>B.</b> The primary use of a cannabis retail use shall be to sell products directly to on-site customers. Sales may also be conducted by delivery.</p>	<p>Delivery service is proposed as part of this business and no other accessory uses proposed.</p>	<p>Yes</p>
<p><b>C.</b> Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.</p>	<p>No drive-through nor walk-up window services are proposed.</p>	<p>Yes</p>
<p><b>D1.</b> The cannabis operator shall maintain a current register of the names of all employees employed by the cannabis retailer, and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section and/or any project specific conditions of approval prescribed in the Minor Use Permit.</p>	<p>The applicant indicates in their plan that they will keep a register of all employees and shall disclose such register for inspection.</p>	<p>Yes</p>
<p><b>D2.</b> The cannabis operator shall maintain patient and sales records in accordance with State law.</p>	<p>The applicant has indicated in their operations plan that they will have a recordkeeping plan that meets the requirements of state law, which tracks each piece of inventory from seed to sale or disposal.</p>	<p>Yes</p>
<p><b>D3.</b> No person shall be permitted to enter a cannabis retail facility without government issued photo identification. Cannabis businesses shall not provide cannabis or cannabis products to any person, whether by purchase, trade,</p>	<p>Applicant's plan includes requiring valid proof of identification which includes a document issued by a federal, state, county, or municipal government, or a political subdivision or agency thereof.</p>	<p>Yes</p>

<p>gift or otherwise, who does not possess a valid government issued photo identification card.</p>	<p>A valid identification card issued to a member of the armed forces that includes date of birth and a picture of the person.</p> <p>A valid passport issued by the United States or by a foreign government that clearly indicates the age or birthdate of the individual.</p>	
<p><b>D4.</b> Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.</p>	<p>Proposed hours are 9:00 am – 9:00 pm</p>	<p>Yes</p>
<p><b>E. Accessory Uses.</b></p>	<p>No accessory uses are planned other than the delivery component</p>	<p>Yes</p>

The ILUDC Section 18.42.057 also states that, “In addition to the operating requirements set forth in Chapter 9.30, this Section provides location and operating requirements for cannabis retail.” Staff analyzed the project to determine if it was consistent with Municipal Code 9.30 Cannabis Business to meet the requirements stated in 18.42.057.

Staff reviewed the application to ensure that it complies with Municipal Code Section 9.30.130 Operating Requirements:

Code Section	Project	Consistent?
<p>A. The design, location, size and operating characteristics of the</p>	<p>The proposed plan is consistent with the requirements for a cannabis</p>	<p>Yes.</p>

cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation.	dispensary. There were no additional special conditions for this application.	
B. A cannabis business use shall maintain a current register of the names of all employees currently employed by the use.	The applicant indicates in their plan that they will keep a register of all employees.	Yes
C. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.	The applicant indicates in their plan that they will post the required notice.	Yes
D. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cannabis business use.	The business does not have a license from the ABC and has not expressed any intention of selling alcoholic beverages.	Yes
E. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity,	The security plan was reviewed by the Fort Bragg Police Department and the project was recommended for approval.	Yes

including theft and unauthorized entry.		
F. A cannabis business shall provide the Chief of Police and Fire Chief with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there is an emergency or there are operating problems associated with the cannabis business. The cannabis business management shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police or Planning Department.	The business owner has provided their contact information to resolve any concerns with the business.	Yes

The project was evaluated to determine if it met any grounds for **rejection** delineated in Section 9.30.100:

Municipal Code Rejection	Project	Rejection
The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;	Location is allowable	No
The applicant has violated any local or state law, statute, rule, or regulation respecting a cannabis business;	Not to our knowledge	No
The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;	There is no material evidence to suggest this.	No

the applicant, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of cannabis related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a guilty plea or verdict or a conviction following a plea of nolo contendere;	No convictions were found on the applicant's background check.	No
The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;	We have received no written reports of such and there are no convictions of such.	No
The applicant is under 21 years of age;	The applicant is over 21	No
The cannabis business does not comply with Title 18 (Inland Land Use and Development Code);	The project is in the CBD and this is allowable with a minor use permit.	No
The required application or renewal fees have not been paid.	All fees have been paid	No

In order to approve the project, ILUDC 18.71.060(F)(4) requires several findings, including that, "The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access... and public services... and utilities... 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."



The applicant's plan addressed the following aspects of the business that related to this finding:

Potential Impact	Applicant's plan
Security	Applicant has provided a security plan to prevent theft and to discourage loitering, crime, and illegal or nuisance activities. These include surveillance cameras, an alarm system, access controls, and inventory controls.
Storage and Waste	Applicant has provided a plan for the removal of waste and a plan to store all cannabis products and any cannabis waste in a secured area with commercial-grade non-residential locks and not visible to the public.
Odor Control	The applicant's plan states that, "Sunshine Holistic shall incorporate and maintain adequate odor control measures such that the odors of cannabis cannot be detected from outside of the structure in which the business operates... This will include staff training procedures and engineering controls, which may include carbon filtration or other methods of air cleaning... All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.
Lighting	The applicant's plan identifies that exterior lighting will be provided for security purposes but will use best practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties.
Noise	The applicant's plan states that, "The use of air conditioning and ventilation equipment shall comply with the noise regulations of the City of Fort Bragg.
Parking	The plan indicates that the project has six dedicated parking spaces including one ADA space.

The project was reviewed by the Fort Bragg Police Department and prior to issuance of a business license, the business will be inspected by the Fire Marshal.

Additionally, ILUDC Section 18.71.060(F)(5) requires that the finding be made that the project comply with section 18.22.030(C)3:

*“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.”*

The project is a pedestrian-oriented retail dispensary and the finding can be made that it is consistent with Section 18.22.030(C)3.

## **DESIGN REVIEW**

There are no exterior modifications for this project and therefore, no design review required. If the project is approved, the applicant will have to apply for a sign permit.

## **ENVIRONMENTAL DETERMINATION**

This project is exempt from CEQA under section 15301 Existing Facilities because there will be no substantial changes to the structure and the use is similar to the previous use as a retail space. There are no exceptions to the exemption and there are no potential significant environmental impacts from this project.

## **SUMMARY OF FINDINGS**

On the basis of the evidence presented, staff recommends the Planning Commission make the following required findings from ILUDC 18.71.060(F) regarding the Minor Use Permit 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 following 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;

*This project for a cannabis retail store is allowable under the Inland Land Use Development Code Section 18.22.020 Table 2-6 with a minor use permit.*

- 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 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 applicants plan addresses the operating characteristics and operating plan to 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.*

- 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.*

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

*The applicant's plan complies with the Specific Land Use Standards listed in section 18.42.057.*

- 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.*

## **ATTACHMENTS**

1. Application MUP 1-21
2. Notice of Final Action on MUP 1-21
3. Appeal of Administrative Decision
4. Resolution Affirming Approval of MUP 1-21



**CITY OF FORT BRAGG**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
 416 North Franklin Street  
 Fort Bragg, CA 95437  
 Tel: (707) 961-2827  
 Fax: (707) 961-2802  
 http://city.fortbragg.com



Case No(s) MUP 1-21  
 Date Filed 2/11/2021  
 Fee 1901.00  
 Receipt No. 00424941  
 Received by J Gonzalez

Office Use Only - December 2011

## PLANNING APPLICATION FORM

Please complete this application thoroughly and accurately, and attach the required exhibits as indicated in the applicable brochure available from the Community Development Department. An incomplete application will not be accepted for processing. Please note that administrative permits may require additional fees if an interested party requests a public hearing. Public hearing expenses are borne by the applicant, owner, or agent.

**PAID**  
**FEB 11 2021**  
**CITY OF FORT BRAGG**  
**FINANCE DEPARTMENT**

### APPLICANT

Name: Sunshine Holistic  
 Mailing Address: [REDACTED] Phone: [REDACTED]  
 City: Fort Bragg State: CA Zip Code: 95437 Email: [REDACTED]

### PROPERTY OWNER

Name: Lyndia Pyeatt  
 Mailing Address: 144 N Franklin St Phone: [REDACTED]  
 City: Fort Bragg State: CA Zip Code: 95437 Email: [REDACTED]

### AGENT

Name: Brandy Moulton  
 Mailing Address: [REDACTED] Phone: [REDACTED]  
 City: Fort Bragg State: CA Zip Code: 95437 Email: [REDACTED]

STREET ADDRESS OF PROJECT 144 N. Franklin St. Fort Bragg CA

ASSESSOR'S PARCEL NUMBER(S) 0081643900

PROPERTY SIZE [ ] Square Feet or 0.35 Acres

### TYPE OF APPLICATION (Check all applicable boxes)

- |                                                                    |                                                              |
|--------------------------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> Design Review/Site & Architectural Review | <input type="checkbox"/> Certificate of Compliance           |
| <input checked="" type="checkbox"/> Use Permit/Minor Use Permit    | <input type="checkbox"/> General Plan Amendment              |
| <input type="checkbox"/> Coastal Development Permit                | <input type="checkbox"/> Local Coastal Program Amendment     |
| <input type="checkbox"/> Variance/Administrative Variance          | <input type="checkbox"/> Rezoning                            |
| <input type="checkbox"/> Lot Line Adjustment                       | <input type="checkbox"/> Annexation                          |
| <input type="checkbox"/> Subdivision (no. of parcels) [ ]          | <input type="checkbox"/> Preapplication Conference           |
| <input type="checkbox"/> Certificate of Appropriateness (COA)      | <input type="checkbox"/> Limited Term Permit                 |
| <input type="checkbox"/> Planned Development Permit                | <input type="checkbox"/> Permit Amendment (list permits) [ ] |

### PROJECT DESCRIPTION (Briefly describe project as shown on proposed plans.)

Convert existing retail building into cannabis retail dispensary



**CERTIFICATION**

I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attachments is complete and accurate. I understand that failure to provide requested information or misstatements submitted in support of the application shall be grounds for either refusing to accept the application, for denying the permit, for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the City.

Brandy Moulton  
Signature of Applicant/Agent

11/17/19  
Date

Lynnda Pyeatt  
Signature of Property Owner

12-11-2019  
Date

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

ORDINANCE No. 771, adopted by the Fort Bragg City Council on September 26, 1994, requires applicants for discretionary land use approvals to sign the following Indemnification Agreement. Failure to sign this agreement will result in the application being considered incomplete and withheld from further processing.

As part of this application, the applicant agrees to defend, indemnify, release and hold harmless the City of Fort Bragg, its agents, officers, attorneys, employees, boards and commissions, as more particularly set forth in Fort Bragg Municipal Code Chapter 18.77, from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attach, set aside, void or annul the approval of this application or adoption of the environmental document which accompanies it. The indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, its agents, officers, attorneys, employees, boards and commissions.

Brandy Moulton  
Signature of Applicant

11/17/19  
Date

**SITE VIEW AUTHORIZATION**

I hereby grant permission for City staff and hearing bodies to enter upon and site view the premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision.

Brandy Moulton  
Property Owner/Authorized Agent

11/17/19  
Date

NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

**DECLARATION OF POSTING**

At the time the application is submitted for filing, the applicant must complete and post the "Notice of Pending Permit" form at a conspicuous place, easily read by the public and as close as possible to the project site. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Community Development Department cannot process the application.

I hereby certify that I or my authorized representative posted the "Notice of Pending Permit" form in a conspicuous place, easily seen by the public and as close as possible to the project site for:

front window next to main entry  
(Describe location where notice is posted)

Brandy Moulton  
Property Owner/Authorized Agent

11/17/19  
Date

NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

**AUTHORIZATION OF AGENT**

I hereby authorize Brandy Moulton to act as my representative and to bind me in all matters concerning this application.

Lynnda Pyeatt  
Property Owner

12-11-2019  
Date



CITY OF FORT BRAGG  
416 North Franklin Street  
Fort Bragg, CA 95437  
Tel: (707) 961-2827  
Fax: (707) 961-2802  
http://city.fortbragg.com



Case No(s)	_____
Date Filed	_____
Fee	_____
Receipt No.	_____
Received by	_____

Office Use Only - August 2016

## CANNABIS BUSINESS PERMIT APPLICATION FORM

Please complete this application thoroughly and accurately as possible using the application checklist. Incomplete applications cannot be processed until they are complete. This application will be processed along with a City Business License and will remain pending until all required licenses and permits are approved. Public hearing expenses are borne by the applicant, owner, or agent.

### APPLICANT

Name: Sunshine Holistic / Brandy Moulton  
Mailing Address: \_\_\_\_\_  
City: Fort Bragg State: CA Zip Code: 95437 Email: \_\_\_\_\_

### PROPERTY OWNER

Name: Lyndia Pyrott  
Mailing Address: \_\_\_\_\_  
City: Fort Bragg State: CA Zip Code: 95437 Email: \_\_\_\_\_

### AGENT

Name: same as applicant.  
Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Email: \_\_\_\_\_

STREET ADDRESS OF PROJECT 144 N Franklin St Fort Bragg CA 95437

ASSESSOR'S PARCEL NUMBER(S) 0081643900

PROPERTY SIZE \_\_\_\_\_ Square Feet or 0.35 Acres

TOTAL SQUARE FOOTAGE OF ALL STRUCTURES AND BUILDINGS TO BE USED BY THE APPLICANT: 5600 Square Feet

PROPOSED HOURS OF OPERATION: 9am 9pm

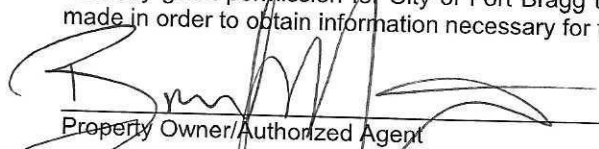
### PROJECT DESCRIPTION

Briefly describe project as shown on proposed plans retail cannabis dispensary.



**PUBLIC SAFETY REVIEW AUTHORIZATION**

I hereby grant permission for City of Fort Bragg to review the application and premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision.

  
Property Owner/Authorized Agent

2-17-21  
Date

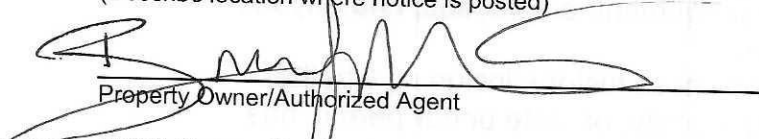
NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

**DECLARATION OF POSTING**

At the time the application is submitted for filing, the applicant must complete and post the "Notice of Pending Permit" form at a conspicuous place, easily read by the public and as close as possible to the project site. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Community Development Department cannot process the application.

I hereby certify that my authorized representative or I posted the "Notice of Pending Permit" form in a conspicuous place, easily seen by the public and as close as possible to the project site for:

front windows  
(Describe location where notice is posted)

  
Property Owner/Authorized Agent

2-17-21  
Date

NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

**AUTHORIZATION OF AGENT**

I hereby authorize Brandy Maulton to act as my representative and to bind me in all matters concerning this application.

  
Property Owner

2/18/21  
Date





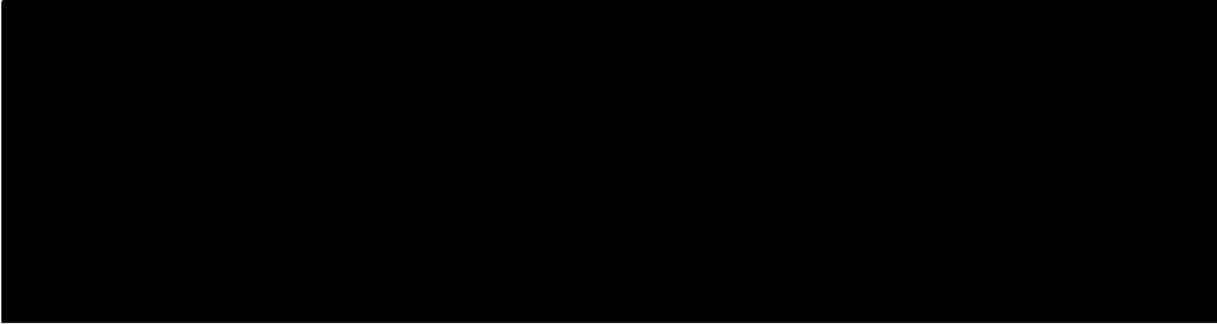
**CITY OF FORT BRAGG**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
416 North Franklin Street  
Fort Bragg, CA 95437  
Tel: (707) 961-2827  
Fax: (707) 961-2802  
<http://city.fortbragg.com>

## **Cannabis Business Application Checklist**

- City of Fort Bragg Cannabis Business Application, completed and signed
- Copy of all current/pending California State cannabis business licenses specific to the project site
- A list of the previous addresses for the past 5 years immediately prior to the present address of the applicant
- Copy of a valid California Drivers' License or Identification Card, US Passport, or birth certificate to verify the applicant is over 21 years of age.
- Photographs for identification purposes (will be taken at the Police Department)
- LiveScan and background check form for all management, employees, and anyone who will access non-public areas of the business
- A description of the applicant's prior cannabis business history, including whether the applicant, in previously operating in any city, county, or state under permit, has had a permit revoked or suspended and, if so, the reason therefor.
- All names of all persons having the management or supervision of the applicant's business
- Security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;
- A sketch or diagram showing the interior configuration of the premises, including the area and proposed security of each room.
- A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions; include public and non-public area designations
- Notarized statement by the property owner certifying under penalty of perjury that he or she has given consent to the applicant to operate a cannabis business at the location, or providing proof that the applicant owns the property.
- Operating procedures including the following:
  - Product safety and quality assurance
  - Record Keeping procedures
  - Product recall procedures
  - Solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business
  - Product supply chain information (cultivation, testing, transport, manufacturing, packaging, and labeling, etc.)
  - Odor prevention plan which may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity
- If required, copy of CA Cannabis Track-and-Trace System Registration

Brandy Moulton, CEO  
Sunshine Holistic  
18601 N HWY 1 PMB 166  
Fort Bragg, CA 95437

Address History



Date Printed: 02/11/2021 18:30  
Receipt Date: 02/11/2021 6:30 PM  
Receipt No. 00424941

City of Fort Bragg  
416 N Franklin St  
Fort Bragg, Ca 95437  
(707)961-2825  
www.fortbragg.com

CR		1,901.00
Planning		
Planning Application - 144 N Frank		
lin - Exist Retail to Cannabis		1,901.00
-----		
Total		1,901.00
Cash		0.00
Check	1174	1,901.00

Change 0.00

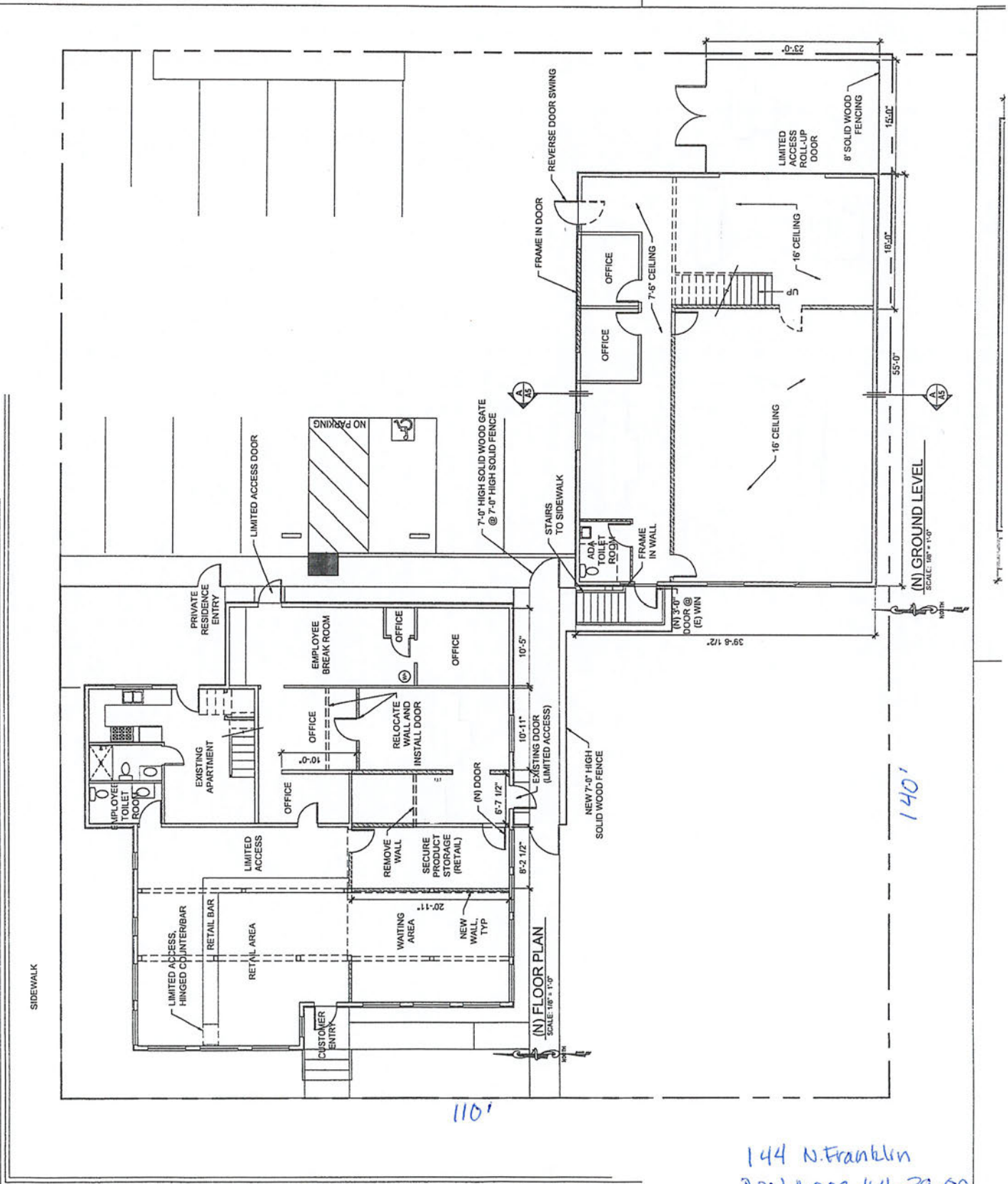
SEA



Alley



FRANKLIN ST.



110'

140'

144 N. Franklin  
 APN #008-164-39-00  
 Mup 1-21  
 Sunshine Holistic Dispensary  
 Brandy Moulton

Franklin St.

Cannabis Facility Application  
Applicant: Sunshine Holistic  
Address : 144 N Franklin St Fort Bragg, CA 95437  
APN: 008-164-39  
Building Size: 5600 square feet  
Lot Size : 0.35 Acres

Proposed Use : Cannabis Retail facility  
PROJECT NARRATIVE

#### SUMMARY

Sunshine Holistic proposes to operate a Commercial Cannabis Micro-business facility within the site at 144 N Franklin Rd in Fort Bragg. The entire facility is approximately 5000 square feet, and the division of space will be:

Retail Space will occupy approximately 1560 square feet, with large well-lit display cabinets.

Office, employee, and administration space will approximately occupy approximately 2000 square feet.

Vacant or overflow storage space will occupy 1439 square feet.

The proposed project will include activities permitted by a retail dispensary licensed for Medicinal & Adult use, which allows retail sales of cannabis and cannabis products to consumers, either at a brick-and-mortar dispensary or via delivery. The new dispensary planned for 144 N Franklin St will offer a unique combination of retail and delivery as customers will be able to shop in store and then have the products delivered on a daily, weekly or monthly basis. Sunshine Holistic will work diligently to provide unmatched service to each person that walks through their doors and ensure that a sense of community is built within their customer base and neighborhood.

#### LOCATION REQUIREMENT

##### Distance to sensitive sites

Sunshine Holistic complies with all applicable provisions of the Zoning Code and the City Code. Sunshine Holistic is not located within 600 feet of a school. "School" means any public or private school providing instruction in kindergarten or grades 1 to 12.

##### Storefront Entrance

Storefront entrance will be in a visible location with an unobstructed view from the public right of way

#### EMPLOYEE REGISTER

Sunshine Holistic will maintain employee files on site, whether in physical form or digital.

Required by law to report the following:

Employers:

California employer payroll tax account number

Federal employer identification number

Business name and address

Contact person and phone number

Employees:

First name, middle initial, and last name.

Social Security number

Livescan

Start-of-work date

## RECORDKEEPING

Sunshine Holistic has a record-keeping plan in place to maintain, update, and store records related to its operations. The record-keeping plan will allow Sunshine Holistic to comply with the City of Fort Bragg audits and inspections.

Sunshine Holistic will monitor and track inventory. Inventory will be monitored with a real-time, web-based inventory control system, which will track information for each piece of inventory from seed to sale or disposal.

The general manager will implement and strictly oversee the real-time, web-based inventory control system, which will be accessible by the City of Fort Bragg during business hours, seven days per week, unless an emergency is identified. This system will keep meticulous track of every bit of cannabis onsite until the product is either purchased or Sunshine Holistic disposes of it. All cannabis will be entered into the inventory system immediately with all identifying information. This includes the registration number of the agent making the entry, date/time, quantity, strain, and batch number.

## ACCESS PROTOCOL

### Patient Verification System

Sunshine Holistic will use a Web Based Patient Registration system to verify that a patient is properly registered. This verification will be checked twice: once before a patient is allowed into the dispensing room, and again when the patient is purchasing medical cannabis and MCIPs. The first check will ensure that only currently registered patients and caregivers are allowed into the dispensing room. The verification that occurs during the purchasing period will track the patient's purchases.

## PURCHASES AND DENIALS OF SALES

Purchases will be recorded in Sunshine Holistic's inventory tracking system. The system will document the date a Dispensing Associate makes a sale of medical cannabis or MCIP, how much product was sold, the strain, the identity of the patient, and which Associate sold the product. Associates will also document in the event a patient is denied the sale of medical cannabis. Documentation will include the date of the denial, the identity of the patient, the Associate who denied the sale, and the reason for the denial. Sunshine Holistic anticipates that denials will typically occur when the product requested is not available or medical cards



are deemed expired. The manager will review denials of sale to confirm that the dispensary has an adequate supply to meet patient requests.

#### CONFIDENTIALITY

Sunshine Holistic's associates will be trained to meet California state regulations and HIPAA requirements regarding patient confidentiality. Sunshine Holistic's inventory information and all other records are subject to strict confidentiality requirements. Upon employment, associates are required to complete training and to sign a non-disclosure agreement. Associates who violate confidentiality or allow unqualified persons to view records will be terminated immediately.

#### ACCESS CONTROLS

Sunshine Holistic will provide and install a variety of security devices to ensure that only authorized personnel have access to any location where cannabis is stored, so that employees are safe and secure inside the facility.

All access points from outside of the facility will have both locks and alarms. All perimeter windows and hatches will remain closed and locked with tamper-proof security devices. They will be equipped with perimeter alarms that will sound if there is any breach of these apparatuses. All external doors will require two (2) levels of security verification to open—something known and something held. This security process means that employees will need a key along with a unique access code to unlock the front as well as back external doors. In the event of any theft or loss of cannabis, these devices will also provide a security log of who accessed the doors for any ensuing investigations.

All doors will also be equipped with an alarm that will sound if they are opened without code and key or if they are damaged. Arming and disarming the security system will require an access code. Both the entry alarm and surveillance alarm will notify the monitoring service if a failure is detected in the system, which will be corrected as soon as possible. If the failure prevents security systems from operating, the facility will take additional security measures until it is fixed.

Alarm systems can also be triggered if an employee presses a panic or duress button. These buttons will be installed in strategic locations only accessible to employees. The panic button should be pressed when there is a theft or breach and the employee or other people would not be placed in danger by a loud alarm. The duress button will still notify authorities just like a typical alarm, but not make any sound. These security devices will allow employees who are threatened to signal an alarm without escalating the situation.

Access to Retail Area will be limited pursuant to Cal. Code Regs. tit. 16 § 5400. Access to the retail area will be limited to individuals who are at least 21 years of age and have a bona fide business reason for entering the premises or to individuals who are at least 18 years of age and have a valid physician's recommendation. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area. Sunshine Holistic's employees shall be physically present in the retail area at all times when individuals who are not employees of the retailer are in the retail area. An individual in the retailer limited-access area who is not employed by the retailer will be escorted by Sunshine Holistic's employees at

all times within the retailer limited-access area. Sunshine Holistic will keep a log of all authorized individuals who are not employees that enter the limited access area and will not receive consideration or compensation for permitting an individual to enter the retailer limited-access area.

Individuals shall be granted access to the retail area only to purchase cannabis goods after the retailer or an employee of the retailer has verified that the individual is at least 21 years of age and has a valid proof of identification, or that the individual is at least 18 years of age, has valid proof of identification and a valid physician's recommendation for his or her self or for a person for whom he or she is a primary caregiver. Acceptable forms of identification include the following:

A document issued by a federal, state, county, or municipal government, or a political subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, physical description, and picture of the person;

A valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture of the person; or

A valid passport issued by the United States or by a foreign government that clearly indicates the age or birthdate of the individual.

#### SECURITY SURVEILLANCE SYSTEM

Sunshine Holistic will provide a comprehensive surveillance system. All cameras will be located strategically throughout the facility and will have resolution to adequately capture images of people and movement throughout Sunshine Holistic. The extensive surveillance system will be run and monitored by an outside agency. There will be a computer and access center onsite with a video printer to allow local control and to produce a clear still photo from any live or recorded video on demand to provide to law enforcement, in the event of a security breach.

The video surveillance system is configured to allow for the exporting of still images in a variety of standard formats like .jpg or .bmp so that they can be digitally transferred. Digital images will also have data protection that prevents digital alteration and allows for a date/time stamp of both the image and the file creation to be authenticated. Video or still images exported from the system can be viewed on any standard computer operating system, such as Windows or Mac. The onsite system will be located in a secure office area that only the managers and security personnel will be able to access. The images from all cameras will have a date/time stamp to allow verification of video integrity during the life of Sunshine Holistic.

#### ELECTRONIC SECURITY SYSTEM

In addition to the surveillance system, Sunshine Holistic will implement a comprehensive electronic security system, including third party monitoring of all surveillance and alarms, intrusion detection electronic alarms, and panic/duress buttons at strategic locations within the facility. The intrusion detection system will use appropriate methods (such as pressure sensitivity, lasers, etc.) to determine if any entrance, exit, or window has been breached without authorization. The duress and panic buttons will be placed in several locations throughout the building.



#### FAILURE NOTIFICATION SYSTEM

The security system will include a failure notification system to provide an audible, visual and text notification of any failure in the surveillance or alarm system. The audible and visual notifications will be onsite at the equipment monitoring station. A text alert will go out to designated associates within five minutes after the failure, including the Principal Officers, General Manager, and any shift leaders. These notifications will be in both text message and email form. The message will include the time of failure, type of failure, cause of failure (if identified), extent of systems malfunctioning, and contact information for the security Company.

#### ELECTRICAL BACKUP SYSTEMS

Sunshine Holistic will use a battery with sufficient power to supply a minimum of twenty (20) minutes of backup power to video cameras, alarms, sensors, panic buttons and computers in the event of a total power outage. This power backup system will deter theft or diversion by individuals who want to create or take advantage of a power outage.

#### SURVEILLANCE RECORDING ACCESS CONTROLS

Only authorized security and appropriate management personnel will be allowed to access the surveillance monitoring and recording area. This secured area contains a terminal at which all of the security devices in the facility can be monitored and adjusted, and the surveillance archive can be viewed and printed. The terminal will be in an isolated area with a locked door that only the Principal Officers, general manager and Security Agents will have access to. Law Enforcement and the City of Fort Bragg will be provided access by authorized personnel, upon request and verification of appropriate organization credentials.

#### STATE LICENSE

A copy of issued State License will be displayed per state regulations.

#### DELIVERY

Sunshine Holistic plans to deliver Cannabis and Cannabis Products to patients located outside the Cannabis Retail facility in Mendocino County pursuant to Cal. Code Regs. Tit. 16 § 5415. All deliveries of cannabis goods will be performed by a delivery employee (over the age of 21) of a retailer in a new model hybrid vehicle, as to minimize noise and pollution from delivery operations. All deliveries of cannabis goods shall be made in between the operating hours of 9am-9pm and will not be made using an unmanned vehicle. Employees delivering cannabis will carry a copy of the retailer's current license, the employee's government-issued identification, and an identification badge provided by the employer and maintain an accurate list of the retailer's delivery employees. Delivery will only be offered to a physical address in California, not to an address located on publicly owned land or any address on land or in a building leased by a public agency. Delivery employees, carrying cannabis goods for delivery, shall only travel in an enclosed motor vehicle operated by a delivery employee of the licensee and ensure the cannabis goods are not visible to the public.

The vehicle(s) used for the delivery of cannabis goods will be outfitted with a dedicated Global

Positioning System (GPS) device for identifying the geographic location of the delivery vehicle. The device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle at all times during delivery. At all times, the retailer shall be able to identify the geographic location of all delivery vehicles that are making deliveries for the retailer and shall provide that information to the Bureau upon request. Upon request, the retailer will provide the California Cannabis Control Bureau with information regarding any motor vehicles used for the delivery of cannabis goods, while making deliveries, Sunshine Holistic's delivery employee shall not carry cannabis goods worth in excess of \$3,000 at any time. This value shall be determined using the current retail price of all cannabis goods. All pertinent info will be recorded including the vehicle's make, model, color, Vehicle Identification Number, license plate number and Department of Motor Vehicles registration.

The delivery service will have a menu available on their website and customers can either place their orders over the phone or online if they are already an established customer of theirs. In order to set up a delivery they will require a photo or scan of the customer's Government issued ID be sent to us prior to the ordering process. The customer will send over all necessary information and will have a profile created within the point of sale system. The order will go into the system and be pulled by an employee at the retail facility. Once the order is filled it will be placed in an exit bag with a receipt affixed to the bag. The receipt will include, the name of the customer, their assigned ID number, delivery address, description of the cannabis items, total amount paid by the customer including all taxes, name and address of the facility making the delivery, the name and id number of the employee making the delivery, and the name and id number of the employee who prepared the delivery. The driver will retain an additional copy of the receipt to be signed by the customer upon receipt of the delivery. There will be space provided to have the date and time written in of when the delivery was made.

While Making deliveries of cannabis goods, Sunshine Holistic's employees shall only travel from the licensed premises to the delivery address; from one delivery address to another delivery address; or from a delivery address back to Sunshine Holistic's licensed premises. Sunshine Holistic's delivery employee will not deviate from the delivery paths described in this section, except for necessary rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route unsafe, impossible, or impracticable.

#### ON-SITE CONSUMPTION:

No On-site Consumption activities proposed at this time.

#### SPECIAL EVENTS:

Special events will not be held on-site.

#### SITE MANAGEMENT PLAN/OPERATOR QUALIFICATIONS

CEO, CFO, COO Brandy Moulton:

Military Veteran,

Prior EMT and Paramedic certification,

Accounting experience,

Holds 9 State Issued Cannabis Facilities Licenses,  
Proprietary Patrol Operator certified  
Valid Guard card  
10 years of Cannabis experience.

#### SECURITY PLAN

Sunshine Holistic's security plan is intended to prevent theft or diversion of any cannabis or currency, as well as to discourage loitering, crime, and illegal or nuisance activities. The site security plan consists of several layers of systems and protocols, which are discussed in detail below. All the security systems will be capable of remaining fully operational during a power outage. No weapons or firearms will be permitted on the property. All security measures are designed to ensure emergency access is available in compliance with California Fire Code and Fort Bragg Fire Department standards.

A generator will be used in the event of a power outage to ensure the security systems remain operational. Should there be additional power failures, Sunshine Holistic will initiate emergency security patrols 24 hours a day until power is restored.

Sunshine Holistic possesses a Proprietary Patrol Operator's License and will put relevant employees through the 40 hour guard training course. The detached residence will also serve as quarter's for an employee with a valid guard card.

#### SURVEILLANCE

Security surveillance video cameras shall be installed and maintained in good working order to provide coverage on a twenty-four-hour basis of all internal and exterior areas where Cannabis is stored and dispensed. The security surveillance cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. Cameras shall remain active at all times and shall operate under any lighting condition. Security video will use standard industry format to support criminal investigations and shall be maintained for ninety (90) days. All recordings will be easily accessed for viewing, and Sunshine Holistic will cooperate with all law enforcement investigations, providing video footage upon request. Sunshine Holistic will be able to view the surveillance remotely at any Time.

#### ALARM SYSTEM

Sunshine Holistic shall install a professionally monitored alarm system, which provides Sunshine Holistic with instant notification of any triggering event. The alarm system will be equipped with a failure notification feature that provides prompt notification to the Applicant of any prolonged surveillance interruption or system failure. Additionally, Sunshine Holistic is able to access the alarm system remotely.

#### ACCESS CONTROLS

The proposed floor plan includes commercial security doors at all entrances, exits, and access points to restricted areas. The entrances will remain locked at all times with commercial grade 1 security locks and will be equipped with a buzz-in electronic entry system to control access during business hours. We will be defining the reception lobby and securing

it with walls to allow customers to be checked and age verified in at the counter and wait comfortably for access to the retail floor. Once a staff member is ready to serve and advise a qualified customer, they will be granted access through a second buzz-in door between the lobby and the retail area.

#### INVENTORY CONTROLS

Sunshine Holistic will at all times operate in a manner to prevent diversion of Cannabis and shall promptly comply with any track and trace program established by the state to ensure that no diversion or loss occurs. In the event of any inventory discrepancies, Sunshine Holistic will immediately notify regulators and law enforcement within the required time periods. In addition, Sunshine Holistic will perform a reconciliation of its inventory at least once every 14 days and shall be made available to the California Cannabis Bureau upon request.

In addition, Sunshine Holistic proposes to maintain an accurate record of sale for every sale made to a customer and include the information required. Sunshine Holistic will only display cannabis goods for inspection and sale in the retail area, and not be visible from outside the licensed premises. Sunshine Holistic will not make any cannabis goods available for sale or delivery to a customer unless: The cannabis goods were received from a licensed distributor, the retailer has verified that the cannabis goods have not exceeded their expiration or sell-by date if one is provided; and In the case of manufactured cannabis products, the product complies with all requirements of Business and Professions Code section 26130 and all other relevant laws.

Sunshine Holistic will operate according to CAL. CODE REGS. tit. 16 § 5408, and only sell, only live, immature cannabis that are not flowering, and purchased from a nursery that holds a valid Type-4 license under the Act, and a label is affixed to the plant or package containing any seeds which states "This product has not been tested pursuant to Medicinal and Adult-Use Cannabis Regulation and Safety Act." Sunshine Holistic will also strictly follow the daily limits pursuant to (CAL. CODE REGS. tit. 16 § 5409).

#### STORAGE AND WASTE

Solid waste will be separated into Compost, Recycling and Household Waste. A representative from Waste Management has confirmed that waste produced by this cannabis facility will be accepted in the weekly collection routes. All hazardous materials will be stored on site and transported to a hazardous materials collection event. All cannabis products and any cannabis waste will be stored in an area secured with commercial-grade non-residential locks, that is not visible to the public and that prevents diversion, theft, loss, hazards and nuisance. All storage and handling of hazardous materials will occur in code compliant control areas. All vendors will be pre-scheduled in advance and must present valid identification. Vendors will only be granted access to the areas required for removal of waste. All waste removal vendors will be required to document and track all waste materials removed from the Site.

#### TRAINING AND RECORDS

Management will require that employees follow necessary procedures to ensure that cannabis and any related by-products from the project site are not visible or accessible to the

public. Every employee will be required to participate in training to learn Sunshine Holistic's security and safety protocols required for continuous employment. Sunshine Holistic will mandate that all employees be well versed in all security procedures and provide the means to obtain a Guard Card from the Bureau of Security and Investigative Services. As required by state rules, Sunshine Holistic will maintain up-to-date and current records related to the cannabis operation. Those records will be stored in a secure manner onsite and will include surveillance vendor contracts with schematics of the security zones, name of vendors and monitoring company, and a list of all currently authorized employees with access to the surveillance and/or alarm systems. All surveillance equipment, records and recordings will be stored in a secure area that is only accessible to Applicant's management. Finally, Sunshine Holistic will update the security plan to comply with any new local or state laws and regulations for cannabis licensing.

#### ODOR

Sunshine Holistic shall incorporate and maintain adequate odor control measures such that the odors of Cannabis cannot be detected from outside of the structure in which the Business operates. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system will be kept up to date and functional. This will include staff training procedures and engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.

#### LIGHTING

Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards.

Exterior lighting systems shall be provided for security purposes in a manner sufficient to provide illumination and clear visibility to all outdoor areas of the premises, including all points of ingress and egress. Exterior lighting shall be stationary, fully shielded, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood. All exterior lighting shall be Building Code compliant and comply with Section 20-30.080 (Outdoor Lighting.)

Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.

#### NOISE

Use of air conditioning and ventilation equipment shall comply with the Noise regulations of the City of Fort Bragg.

#### PARKING

The proposed project has 6 dedicated parking spaces, including one ADA space. The current parking stalls provided are consistent with the City's requirements. Parking areas will be

regularly monitored by staff for safety and security. Employee shifts will be staggered to accommodate onsite parking, and employees will be encouraged to utilize biking and public transportation options.

#### MINORS

Sunshine Holistic will not allow any person who is under the age of 18 on the premises. All guests and visitors will be required to present identification for security and age determination Purposes.

#### OPERATIONAL PLAN

##### HOURS OF OPERATION

Storefront - Retail operations shall be open to the public between 9am and 9pm seven days a week.

Delivery - All deliveries within the City of Fort Bragg shall be done between 9am and 9pm.

##### STAFFING PLAN

All staff will receive thorough training on workplace safety, operations, track and trace, and security protocols. In addition to state licensing requirements related to staffing, Sunshine Holistic will diligently follow all applicable labor and employment laws. The employees will likely be full time and will work staggered shifts to accommodate customer flows. All employees hired by Sunshine Holistic will be over 21 years of age. Sunshine Holistic is committed to hiring employees locally. Mendocino County and Fort Bragg have a wealth of experienced and dedicated cannabis workforce. Sunshine Holistic plans to consider residency when making hiring decisions, will promote the job posting locally, and will use local connections in the cannabis industry to discover new local talent.

##### REGULATORY LAWS AND PROCEDURES

Sunshine Holistic will follow Cal. Code Regs. tit. 16 § 5410 & 5411 pertaining to allowing returns of purchased cannabis and giving away free under certain restrictions. Applicant will package or label cannabis goods and not accept, possess or sell cannabis goods that are not packaged as they will be sold at final sale. Cannabis goods purchased at applicants site by a customer shall not leave the retailer's premises unless goods are placed in an opaque exit package. Applicants will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis; the goods are placed in an opaque exit package. Applicants will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis packages. Applicants will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis. Applicant will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis. In addition to the retail operations established in this section, the consumption of Cannabis and Cannabis Products on-site shall not be permitted by patients or customers.

##### DUAL STATE LICENSING

Sunshine Holistic, prior to occupancy, will apply for and receive a Micro-business license from

the Bureau of Cannabis Control. Additionally, all software and staff training to comply with the Track and Trace system regulated by the California Department of Food and Agriculture will be implemented with ongoing training occurring to ensure up to date knowledge of the staff.

#### NEIGHBORHOOD COMPATIBILITY

The location provides an ideal setting for this type of land-use. This project will feature an understated storefront with no advertising that will ensure neighborhood integration and minimize disruptions. Pursuant to Health and Safety Code Section 11362.768 and the site is set back over 600 feet from any K-12 school, or other Cannabis retail operation. This site is discrete yet has plenty of square foot and dedicated parking to service customers without creating an impact on other business or traffic flow in the neighborhood.

The proposed facility is well-suited to house dispensary operations. The building will be upgraded where necessary to meet ADA compliance standards for persons with disabilities. The existing entrance is visible and there is no existing landscape or adjacent structure that would impact visibility, lighting, or security requirements.

#### NEIGHBORHOOD ENHANCEMENT

Sunshine Holistic will maintain the exterior building, replacing any damaged physical features of the building and keeping up with paint schedules. We will also maintain the existing rose bushes and incorporate more green, indigenous plants to the allotted garden space around the building. Employees will be allotted time every day to patrol the perimeter of the building and remove any waste that may have been dropped from all sidewalks, parking lots and streets, public and private. The use of remote monitored security cameras and the on site security guard provides a safer environment for all businesses, residents and consumers that may be in the area. The business is projected to create an additional 10 jobs at above minimum wage for our community. Sunshine Holistic will provide training to the projected employees at no cost to the individual. This is supported by the existing business model, no employee is paid less than 15 dollars an hour, all security and retail training is paid for by Sunshine Holistic.

#### COVID-19 Addendum

Accommodations will be made to ensure the safety of our employees and consumers. Personal protective equipment will be provided and required at all times, 6 foot diameter between employees will be provided. Sunshine Holistic will comply with any and all laws put forth by the City of Fort Bragg and the State of California.

Sunshine Holistic  
18601 N HWY 1 PMB 166  
Fort Bragg, CA 95437

## Non-Laboratory Quality Control Procedures

As a retailer, we only order from licensed distributors that have already lab tested and packaged the product. Retailers are not allowed to produce their own products and must source from other types of licensed cannabis businesses. All shipments are received by a manager and inspected for labeling mistakes, tampering, or delivery of the wrong product. Packaging, labeling, Certificates Of Analysis(COAs) and track and trace (METRC) enrollment are verified prior to signing acceptance of the delivery.

The manager on duty uses a checklist to verify the primary and information panel contains the necessary information to include, but not limited to, net weight, source and date of cultivation, type of cannabis, date of packaging, county of origin, allergen warning, and unique identifier. Once the labeling is verified as tamper evident, child proof, compliant and ready for sale, the manager on duty moves on to verify the COA information and track and trace. We do not accept items that are not delivered already in compliant packaging in accordance with the Bureau of Cannabis Control's (BCC) regulations.

Orders are placed 3-4 times a month to prevent product from deteriorating. Everything is stored in a way that the "older" products will be available for purchase prior to new batches. Pests are not an issue in our climate controlled room. In the event of an infestation, however, we would dispose of infected product as outlined by the BCC and sterilize/treat the building as necessary before resuming normal business operation. Surfaces, floors and bathrooms are cleaned on a daily basis by on shift employees. Deep cleaning is done once a week by local contractors under management supervision. Contractors do not have any access codes or keys.

Returns are handled at the time of delivery in the form of a refusal. We do not accept any products that are delivered in less than perfect and 100% compliant condition. Anything that happens after we've taken possession is our responsibility and is treated as such.

Customer returns are accepted only for defective items within 48 hours of purchase. A full refund is issued to the customer upon inspection of the item, and the item is returned to the distributor. Item will be noted on the daily summary as "returned defective" and stored in the cannabis waste area.



## Sunshine Holistic Sign Plans

We plan to duplicate the existing signage located at 17555 E Kirtlan Way, Fort Bragg CA 95437 displaying the name "Sovereign" in black and a gold crown on a white back ground.

The sign will not contain images of cannabis nature nor will it indicate that we are a cannabis dispensary. I believe this will complement the existing colors of the neighborhood and will not offend the sensitivities of surrounding businesses.

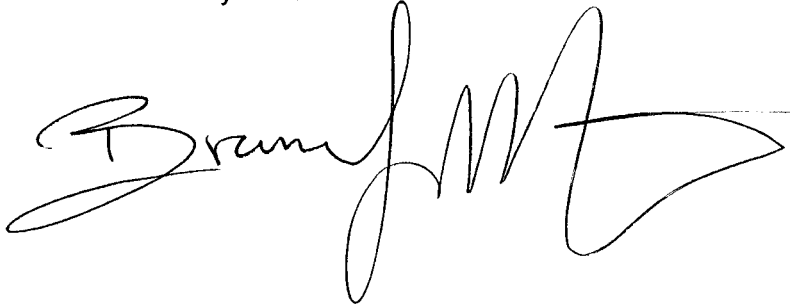
Here is a photo of the existing sign



A handwritten signature in black ink, appearing to read "Sunshine".

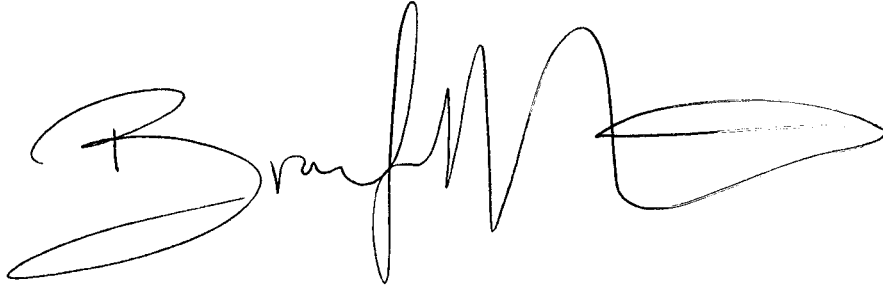
Criminal history

Sunshine Holistic's CEO and operations manager, Brandy Moulton, has not been convicted of a crime of any kind.

A handwritten signature in black ink, appearing to read "Brandy Moulton". The signature is written in a cursive style with large, sweeping letters. The first name "Brandy" is written in a more legible cursive, while the last name "Moulton" is more stylized and less legible. The signature is positioned below the text block.

Authorization for City

I, Brandy Moulton, on behalf of Sunshine Holistic hereby authorize the City of Fort Bragg, it's agents and employees to seek information and verification of the project located at 144 N Franklin St, Fort Bragg CA 95437.

A handwritten signature in black ink, appearing to read "Brandy Moulton". The signature is fluid and cursive, with a large initial "B" and a long, sweeping tail.

## Sunshine Holistic Permit Application

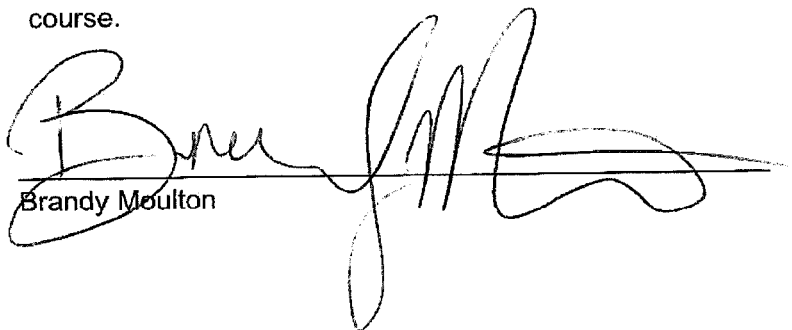
### Cannabis Business History

Currently Sunshine Holistic and Brandy Moulton owns and operates the following licenses:

- Retail: C10-0000271-LIC
  
- Distribution: C11-0000020-LIC
  
- Cultivation:
  - CCL19-0004425
  - CCL19-0000839
  - CCL18-0003417
  - CCL18-0003428
  - CCL18-0003435
  
- Non-storefront Retail: C9-0000130-LIC
  
- Microbusiness: C12-0000328-LIC

Sunshine Holistic and Brandy Moulton have had no licenses revoked or suspended and all of the above listed licenses are current.

Sunshine Holistic also holds a Proprietary Patrol Operator Licenses and puts all of it's employees through the Bureau of Security and Investigative Services 40 hour guard training course.

  
Brandy Moulton

I, Brandy Moulton, certify under penalty of perjury that all information submitted to the City of Fort Bragg regarding MUP 1-21 is true and correct.

A handwritten signature in black ink, appearing to read "Brandy Moulton". The signature is written in a cursive style with a large, looped initial "B".

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Sunshine Holistic  
18601 N HWY 1 PMB 166  
Fort Bragg, CA 95437

## Security Plan

1. Security Personnel- Individual guards licensed by the Bureau of Security and Investigative Services will remain on the premises during business hours. Security Guards will ensure all individuals entering the premises are 21 years of age or older and be the primary loss prevention agent.
2. Security cameras aimed at all points of entry and exit, sensitive areas such as product storage and cash registers, parking lots, employee and customer lounge areas. Video footage will be streamed off site and viewable remotely and on location view monitor located in limited access areas ie: manager's office and employee lounge. High resolution video footage is stored for a minimum of 90 days and is password protected to prevent tampering. Video storage is accessible to owners and managers ONLY.
3. Employee badges to be worn by all personnel. Visitors (vendors, law enforcement, compliance officers, etc) will be assigned a visitor badge upon entry. Each employee badge will have the information required by the State of California to include, but not limited to: the employee's name, employee number, license number, facial profile photo, and the business name. Visitor badges will have the business name, the license number, the word "VISITOR" printed in bold and no photo.
4. Security lighting will remain operational 24 hours a day. Outdoor security lighting will be motion sensitive and cast downwards to avoid disturbing neighboring businesses. Indoor security lighting will be yellow toned and dimmed..
5. All doors will be armed with a security code lock and an automatic door closing mechanisms. Each employee will have their own unique code that is necessary to arm and disarm the entry. All locking/unlocking of the door will send a text alert in real time to the owner with detailed information on which individual disarmed the building and at what time.
6. All sensitive areas and limited access areas, such as product storage areas, will have a separate code locking mechanism accessible only to authorized employees.
7. All cash is stored in a locked drop safe and the key is kept off site to prevent internal and external theft. Drop safes are accessible only by key which remains in the possession of the licensed owner, Brandy Moulton, or designated proxy in her absence.



# CITY OF FORT BRAGG

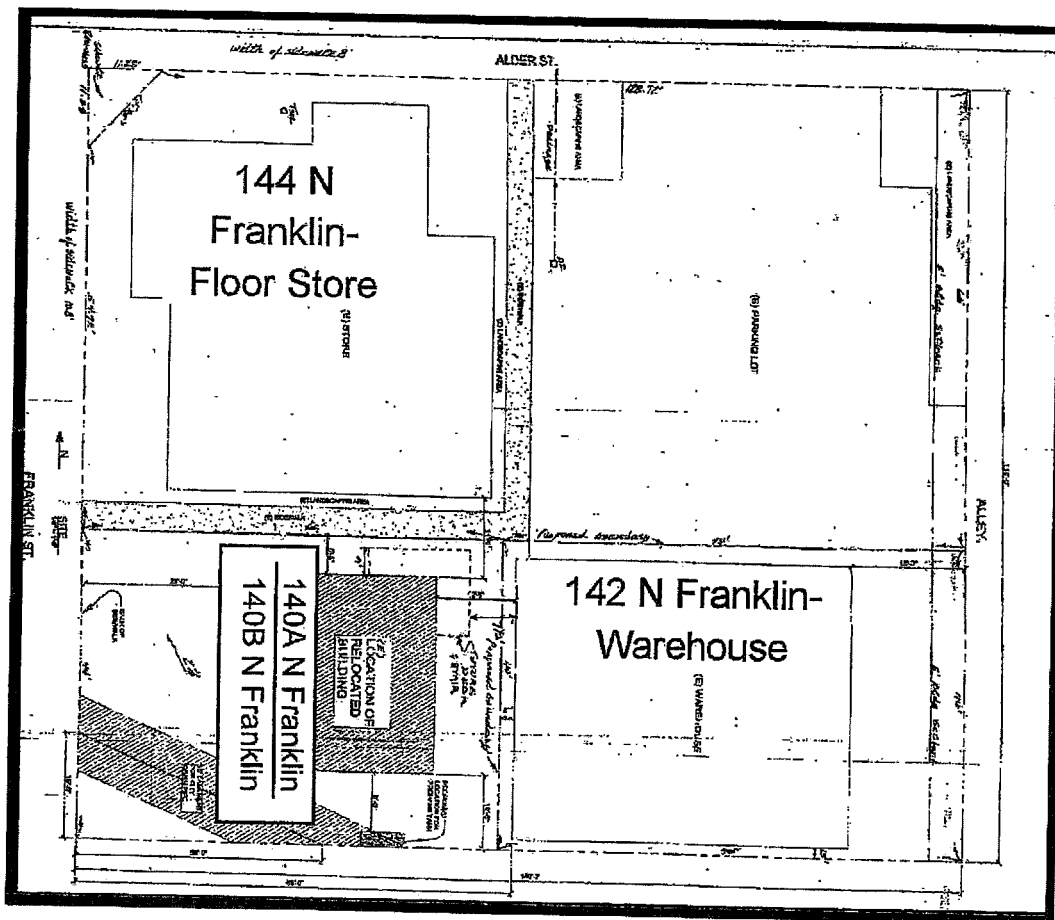
Incorporated August 5, 1889  
416 N. Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802

December 6, 2016

## RE: ADDRESS ASSIGNMENT FOR ASSESSOR PARCEL NO. 008-164-39

This letter is written to assign addresses to the commercial structures located on the Fort Bragg parcel of property known as Assessor Parcel No. 008-164-39, currently known as 144 N Franklin St. The Community Development Department has assigned the following addresses:

Parcel 008-164-39	
Existing Structure	Address Assigned
Floor Store-144 N Franklin St.	144 N Franklin Street
Warehouse-on alley	142 N Franklin Street
Relocated Building-Top Floor	140 A N Franklin Street
Relocated Building- Ground Floor	140 B N Franklin Street

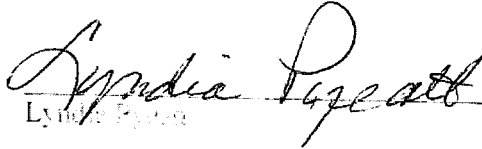


December 11, 2019

To Whom It May Concern,

I, Lyndia Pezatt, certify under penalty of perjury that I am the owner of the property located at 144 N Franklin St. Fort Bragg, CA, parcel number 00816439. I hereby give consent to Sunshine Holistic and all associated parties to engage in commercial cannabis operations as authorized by the city of Fort Bragg and the State of California.

Signed

  
Lyndia Pezatt

12-11-2019  
Date



# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Mendocino

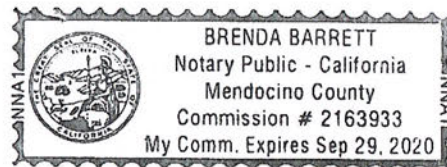
On Dec 11, 2019 before me, Brenda Barrett Notary Public  
(insert name and title of the officer)

personally appeared Lyndia P. Grant  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Brenda Barrett (Seal)





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## Marijuana Waste Disposal Guidance

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As of the date of this guidance document, 23 states have legalized medical marijuana production, processing, sale, and use, and a smaller number (Colorado, Washington, Oregon, and Alaska) have also legalized recreational marijuana. These numbers will likely increase. Nonetheless, marijuana is a controlled substance under federal law and its distribution and sale is a serious crime. The conflicting status of marijuana legalization has created uncertainty and concern among many businesses (e.g., banks) that might become directly or indirectly involved with state-legalized marijuana businesses. Waste Management, as a waste hauling and disposal company operating in most of these states, has customers who seek to use our services to properly handle and dispose of their marijuana wastes.

The U.S. Department of Justice (DOJ) has issued guidance to federal enforcement agencies explaining that DOJ does not intend to devote any enforcement resources to and will not prioritize enforcement of federal marijuana laws in states that have legalized marijuana if those states have implemented “strong and effective regulatory and enforcement systems” that will not threaten the federal government’s enforcement priorities, which includes implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. See J. Cole, Deputy U.S. Attorney General, *Guidance Regarding Marijuana Enforcement* (Aug. 29, 2013).

Waste Management believes that the proper management and disposal of marijuana waste is an essential element of any “strong and effective” regulatory system required by the DOJ Guidance and therefore is distributing this *Marijuana Waste Disposal Guidance* to communicate the following WM required procedures for managing and disposing of marijuana wastes in those states that have legalized recreational and/or medical marijuana.

1. WM will provide hauling and disposal services to licensed marijuana producers, processors, and retailers in those states that have legalized medical or recreational marijuana.<sup>1</sup> WM shall conduct all such services in strict compliance with applicable state and local laws and regulations.
2. WM will handle, transport, and dispose of **only** those marijuana wastes that have been rendered **unusable or unrecoverable by the generator**. While the standards and procedures for rendering wastes “unusable” or “unrecoverable” have some differences under different state laws, most generally share the same requirement that the marijuana must be ground up and mixed with other solid wastes or compostable materials such that the resulting mixture is at least 50% non-marijuana waste. Accordingly, WM will manage only those marijuana wastes if

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<sup>1</sup> The procedures outlined in this document apply only to those businesses for which the state has legalized that particular marijuana operation. For example, if a state has legalized only **medical** marijuana dispensaries, WM will not provide disposal services to an **illegal recreational** marijuana retailer.

the generator has ground up and mixed the marijuana wastes with other wastes materials such that the resulting mixture is at least 50% non-marijuana waste. Unless a state imposes stricter requirements or alternative procedures that are at least as strict, WM will not accept materials that do not meet this requirement, and WM will not perform the grinding and mixing operations itself. This standard applies in all states that have legalized marijuana, even if their regulations are not as strict. If there are any questions as to whether a state's alternative procedure meets these requirements, please contact the Corporate Legal or Environmental Protection Departments.

3. WM requires that all marijuana wastes must be profiled and approved for management through the WM Waste Approvals Process when WM transports, manages, or disposes of these wastes. WM's Waste Approvals Managers (WAMs) will ensure that all special handling conditions prescribed by state/local regulations (e.g., mixing marijuana wastes to render them unusable, issuance of certificate of destruction) are included in the profile approval instructions sent to the generator, hauler, and/or final disposal or management facility.
4. WM will only transport marijuana wastes within those states that have legalized marijuana. WM shall not provide transportation and disposal services for marijuana wastes if the on route or receiving state has not legalized marijuana, either recreational or medical. For example, WM may transport marijuana wastes within Washington State or to Oregon because both jurisdictions have legalized recreational marijuana. Conversely, WM should not transport medical marijuana wastes from New York to Virginia because Virginia has not legalized marijuana for any purpose.
5. If allowed by state and local law and by all applicable permits, WM may dispose of marijuana wastes through landfill disposal, incineration, and/or composting, whether at a WM owned/operated site or at a third party site.
6. The procedures outlined in this document do not apply to marijuana waste that WM is managing, transporting, and/or disposing under the direction of a state or federal agency. WM has assisted federal and state law enforcement agencies in the proper handling and disposal of marijuana wastes. WM will continue to provide these services when requested by federal or state law enforcement authorities. In providing these services, WM take all measures to ensure that WM's services strictly comply with federal, state and local law. For example, if the federal Drug Enforcement Agency (DEA) requests WM to provide disposal services for marijuana wastes recovered from a drug seizure, WM may accept these wastes even if they have not been rendered unusable or unrecoverable; provided, however, that WM shall strictly comply with the federal requirements and the directions of DEA.

If you have any questions, please contact either the WM Environmental Protection Group or the Legal Department.





# PROVISIONAL CANNABIS CULTIVATION LICENSE

**Legal Business Name:**

Sunshine Holistic

**Premises APN:**

Mendocino County - 1253401600

**Premises Address:**

27011 Albion Ridge Road  
Unincorporated, CA 95410

**Valid:**

11/28/2019 to 11/27/2020

**License Number:**

CCL19-0004425

**License Type:**

Medicinal-Small Mixed-Light Tier 2

---- NON-TRANSFERABLE ----

---- POST IN PUBLIC VIEW ----



# PROVISIONAL CANNABIS CULTIVATION LICENSE

**Legal Business Name:**

Sunshine Holistic

**Premises APN:**

Mendocino County - 1253401600

**Premises Address:**

29011 Albion Ridge Road  
Unincorporated, CA 95437

**Valid:**

11/28/2019 to 11/27/2020

**License Number:**

CCL19-0000839

**License Type:**

Medicinal-Small Outdoor

---- NON-TRANSFERABLE ----

---- POST IN PUBLIC VIEW ----





# PROVISIONAL CANNABIS CULTIVATION LICENSE

**Legal Business Name:**

Sunshine Holistic

**Main Premises APN:**

Mendocino County - 0194500800

**Main Premises Address:**

16730 Franklin Road  
Fort Bragg, CA 95437

**Valid:**

08/06/2020 to 08/05/2021

**License Number:**

CCL18-0003417

**License Type:**

Medicinal-Specialty Indoor

--- PROVISIONAL LICENSE PURSUANT TO BPC 26050.2 ---

**Additional Premises APN(s):**

**Additional Premises Address(es):**



**BUREAU OF  
CANNABIS  
CONTROL**

Bureau of Cannabis Control  
(833) 768-5880

## **Adult-Use and Medicinal - Microbusiness License**

### **Provisional**

**Distributor**

**Level 1 Manufacturer**

**Cultivator (less than 10K sq ft)**

**Cultivator Type Indoor**

**LICENSE NO:**

**C12-0000328-LIC**

**VALID:**

**8/25/2020**

**LEGAL BUSINESS NAME:**

**SUNSHINE HOLISTIC**

**EXPIRES:**

**8/25/2021**

**PREMISES:**

**17501 Jade CT**

**Fort Bragg, CA 95437**



*Non-Transferable*

*Prominently display this license  
as required by Title 16 CCR § 5039*





**BUREAU OF  
CANNABIS  
CONTROL**

Bureau of Cannabis Control  
(833) 768-5880

**Adult-Use and Medicinal - Distributor License  
Provisional**

**LICENSE NO:  
C11-0000020-LIC**

**VALID:  
4/27/2019**

**LEGAL BUSINESS NAME:  
SUNSHINE HOLISTIC**

**EXPIRES:  
4/26/2021**

**PREMISES:  
17555 KIRTLAN WAY E, BLDG A  
FORT BRAGG, CA 95437-8344**



*Non-Transferable*

*Prominently display this license  
as required by Title 16 CCR § 5039*



**BUREAU OF  
CANNABIS  
CONTROL**  
CALIFORNIA

Bureau of Cannabis Control  
(833) 768-5880

**Adult-Use and Medicinal - Retailer Nonstorefront License  
Provisional  
Delivery**

**LICENSE NO:  
C9-0000130-LIC**

**VALID:  
6/25/2019**

**LEGAL BUSINESS NAME:  
HOWLIND HOLDINGS LLC**

**EXPIRES:  
6/24/2021**

**PREMISES:  
7946 CARLTON RD, SUITE B Room  
1  
SACRAMENTO, CA 95826-4319**



*Non-Transferable*

*Prominently display this license  
as required by Title 16 CCR § 5039*



**BUREAU OF  
CANNABIS  
CONTROL**

Bureau of Cannabis Control  
(833) 768-5880

**Adult-Use and Medicinal - Retailer License  
Provisional  
Storefront**

**LICENSE NO:  
C10-0000271-LIC**

**VALID:  
6/24/2019**

**LEGAL BUSINESS NAME:  
SUNSHINE HOLISTIC**

**EXPIRES:  
6/23/2021**

**PREMISES:  
17555 KIRTLAN WY E, BLDG A  
FORT BRAGG, CA 95437**



*Non-Transferable*

*Prominently display this license  
as required by Title 16 CCR § 5039*



# CITY OF FORT BRAGG

*Incorporated August 5, 1889*

416 N. Franklin Street, Fort Bragg, CA 95437  
Phone: (707) 961-2827 Fax: (707) 961-2802  
www.FortBragg.com

## NOTICE OF FINAL ACTION ON MINOR USE PERMIT

On May 19, 2021, final action was taken by the City on the following Minor Use Permit application:

**PERMIT TYPE & NO.:** Minor Use Permit (MUP) 1-21  
**APPLICANT/OWNER:** Brandy Moulton/Lyndia Pyeatt  
**LOCATION:** 144 N. Franklin St. Fort Bragg, CA 95437  
**APN:** 008-164-39  
**DESCRIPTION:** Retail Cannabis Dispensary with Retail Delivery

---

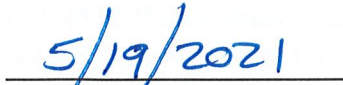
**DATE OF ACTION:** May 19, 2021

**ACTION BY:** John Smith, Acting Director, Community Development Department

**ACTION TAKEN:**  Approved (See attached Findings and Conditions)  
 Denied (See attached Findings)

**THIS PROJECT IS:**  Appealable to the City of Fort Bragg Planning Commission. Decisions of the Director shall be final unless appealed to the Planning Commission within ten (10) days after the decision is rendered. An appeal shall be submitted in writing along with the appeal fee of \$375.00 to the Community Development Department, and shall specifically state the pertinent facts and the basis for the appeal. Appeals shall be limited to issues raised at the administrative public hearing, or in writing before the public hearing, or information that was not known at the time of the decision.

  
\_\_\_\_\_  
John Smith  
Acting Director

  
\_\_\_\_\_  
Date

cc: Brandy Moulton  
Lyndia Pyeatt  
City Manager

## Permit Findings

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 following applicable elements of the City of Fort Bragg's Inland General Plan:*

*Goal LU-3 - Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.*

*Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).*

*Policy LU-3.6 Re-Use of Existing Buildings: Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.*

*This is an existing building that has historically held a restaurant, candy store, and retail flooring & carpet store. The building would be reused to retail cannabis dispensary with a public pedestrian entrance on Franklin St.*

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;

*A cannabis retail store is allowable with a Minor Use Permit under the Inland Land Use Development Code Section 18.22.020 Table 2-6. The project is not substantially different than previous uses for restaurant, candy store, or flooring store. The proposed use is a retail business and consumption of product is not allowed inside, in the parking lot, or in the public right of way around the store.*

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 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 applicants plan addresses the operating characteristics to 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. This includes security cameras, lighting, security guard, and alarm system.*

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 which will have a public entrance on Franklin Street and a staff entrance in the back, as is the case with all shops on Franklin St.*

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

*The applicant's plan complies with the Specific Land Use Standards listed in section 18.42.057 including the compliance with Muniicipal Code Section 9.30 and the operating requirements.*

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

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

### **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

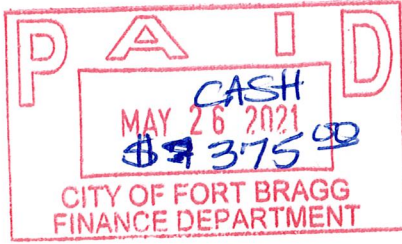
archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.

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, 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 Street, Alder Street, or the alley between Franklin and McPherson.

FROM RESIDENTS OR PROPERTY OWNERS OF 100 BLOCK OF NORTH McPHERSON ST



WBL

FOR CITY USE ONLY:

File # 36A-21/B  
Date Filed: 5.26.2021  
Received by: gremos

Jean K Cain  
Sarah Macy  
Currie Hull  
James Matson  
Patricia M Bell

APPEAL OF ADMINISTRATIVE DECISION

APPELLANT(S): Gene & Dianna Mertz JAY Koski Patricia M Bell

MAILING ADDRESS: 190 Elkhorn Way

CITY: Fort Bragg STATE & ZIP CODE: CA 95437

TELEPHONE #: 707 964 0798 FAX #: dmertzle@sbccglobal.net

Describe the action being appealed and state the reasons for the appeal.  
(You may attach a letter or other exhibits to describe or justify this appeal.)

see attached  
Jean K Cain  
Sarah Macy  
Currie Hull  
James Matson  
Patricia M Bell

5/26/21  
5/26/21  
5/25/21  
5/25/21  
5/25/21

APPELLANT(S) SIGNATURE: Gene A Mertz  
Jay Koski

DATE: 5/25/21  
DATE: 5/25/21

FOR CITY USE ONLY:

Fee Paid \$375  
Receipt # 00434620  
Date: 5.26.2021

Notice of Public Hearing:

Mailed ( ) Date: \_\_\_\_\_  
Published ( ) Date: \_\_\_\_\_  
Posted ( ) Date: \_\_\_\_\_

PLANNING COMMISSION ACTION:

DATE:

Approve: \_\_\_\_\_  
Deny: \_\_\_\_\_  
Table: \_\_\_\_\_ Until \_\_\_\_\_  
Receive & File: \_\_\_\_\_

RECEIVED

MAY 26 2021

CITY OF FORT BRAGG  
CITY CLERK



We are appealing the Acting Community Development Director's decision to approve Minor Use Permit 1-21 on May 19, 2021 and object for the reasons set forth in the enclosed public comment submitted for the administrative public hearing. Specifically, we object to:

- 1) The City of Fort Bragg's attempted reliance on a categorical exemption from CEQA and believe that an Initial Study should be prepared to determine the appropriate level of CEQA review for this project.
- 2) The City's ability to make the required finding that "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 Acting Community Development Director has not provided any basis to support that conclusion. Instead, he asserted that because the zoning potentially allows this use, it must be consistent with the land uses in the vicinity of the project, which completely ignores all of the reasons this particular land use of a cannabis dispensary in this particular location immediately adjacent to single-family residential properties is not consistent with the single-family residential uses that were raised by many of the neighbors through public comments. The Planning Commission should overturn that decision because the reasons given for that finding are nothing more than a zoning clearance, which is not the point of this particular finding. Instead, the Planning Commission is charged with explaining how a retail cannabis dispensary in this particular location within the Central Business District is compatible with the adjacent land uses of the post office, credit union, grocery store, and single-family residential uses. We believe that it is not compatible for the reasons raised in the public comments and objections from the neighboring residents and property owners.
- 3) The City's ability to make the required finding that "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 the retail cannabis dispensary in this location immediately adjacent to our property will endanger and jeopardize our property and the enjoyment of our property by our tenants and the other neighbors. Moreover, we are concerned about the traffic generated by this project that will be directed to the alley between our property as well as the water use of this project, which may involve nursery cultivation based on the City Council direction regarding the pending revisions to the City of Fort Bragg's cannabis regulations. The key issues for this finding are the site's location and the provision of public utilities to this project, including water supply.

We are the property owners of 153 and 155 N. McPherson Street, across the alley from the old Floor Store where a cannabis business is proposed. As stated in the Notice of Pending Action for MUP 1-21, we are writing to request a public hearing for this permit and to communicate our concerns and objections to a cannabis business in this particular location because we believe it will impact our property and our tenants and their children negatively if it is approved. We are very concerned that this permit might be approved without a hearing before the Planning Commission as was originally the case because the City should hear from neighbors who are concerned that this project is not compatible with the use of their property and not make these decisions without public input. When this business was denied the first time, the City came to the right decision and we believe it should be denied again for many of the same reasons that were already expressed in the earlier public comments and the petitions against allowing this business to go into this location.

This particular location downtown is not appropriate for a cannabis business due to the unique characteristics of the site compared to other locations downtown as well as the site layout and orientation of the buildings that will direct undesirable and incompatible activity and traffic toward our residential property and those of our neighbors because of the operating characteristics of this business. There is already a cannabis dispensary on Main Street that is not right next to residential property like our own and locations like that are much more appropriate for cannabis business if we are going to allow them downtown. This is not such a location and this permit should be denied because the City cannot make the following two permit findings listed in the prior staff reports: "the design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity" and "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."

We believe locations along Franklin Street that are adjacent to residential property like our own are not appropriate for cannabis businesses because they are not compatible with the residential land uses, which is particularly true for a cannabis dispensary that includes a delivery component because of the commercial traffic to and from the rear building and the parking lot that access the alley between Franklin and McPherson Street next to our property. This location is right next to residential property as well as important downtown businesses that many of us need to visit on a regular basis, including the post office, credit union, and Purity not just other shops and storefronts like the dispensary on Main Street. We also believe the number of these businesses should be limited so the character of our historic downtown can be protected from an overconcentration of too many cannabis businesses. How many cannabis dispensaries do we need in our small downtown and should we have any at such a prominent location where children and families are forced to be exposed to these activities in order to go to the bank, grocery store, or post office or even to play in their yards right across the alley?

Based on our own development experience, we also feel that the City of Fort Bragg should properly analyze the environmental impacts of this project, particularly traffic, land use conflicts, and water use rather than skipping that analysis through an inappropriate exemption because unusual circumstances exist based on this particular location within our historic downtown that is adjacent to both residential uses to the east along McPherson Street but also community uses to the west along Franklin Street like the post office. The City of Fort Bragg is in the process of updating the land use regulations for cannabis businesses and there are proposals to allow even more intensive uses than simple dispensaries, including cannabis cultivation, processing and manufacturing, which could easily be added to this business if it is approved and which present significant environmental concerns that should be addressed before any additional cannabis businesses are considered. We keep hearing about the drought and likely water shortages this summer and this business originally proposed cultivation and manufacturing in the rear building right across the alley from our property. We certainly don't want these uses to be able to happen there and are concerned about them being allowed once the new regulations are complete if a dispensary is already operating in this location. Since these uses were all proposed by this applicant in this location, with basically the same interior layout as this application, the impacts from those uses should be studied as a foreseeable consequence of approving these permits. In fact, some people have suggested that these other activities should be permitted as accessory uses to a dispensary or as part of a cannabis microbusiness downtown and we are very concerned that approving this cannabis business in this location will allow those uses next to our property, which we oppose completely. If we must allow additional cannabis dispensaries and businesses downtown, they should only be approved in more appropriate locations that are not right next to our and other residential properties and which will not generate commercial traffic in the alley behind those homes. Thank you for your consideration of these important concerns about this proposed project. We encourage the City of Fort Bragg to deny this permit application because the findings cannot be made for this cannabis business in this proposed location.

Sincerely, *Gene and Diana*

The Mertles

Date Printed: 05/26/2021 11:19  
Receipt Date: 05/26/2021 11:19 AM  
Receipt No. 00434620

City of Fort Bragg  
416 N Franklin St  
Fort Bragg, Ca 95437  
(707)961-2825  
www.fortbragg.com

CR	375.00
Appeal	
Appeal Fee 10	
0 BLOCK N MCPH	
ERSON	375.00
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Total	375.00
Cash	375.00
Cash	375.00

Change 0.00

GENE MERTLE  
Customer #: 005736  
190 EBBING WAY

FORT BRAGG, CA 95437

Cashier: LBianchi  
Station: CH12162

☺

## **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 23<sup>rd</sup> day of June 2021, by the following vote:**

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

---

**Jeremy Logan, Chair**

**ATTEST:**

---

**Sarah Peters, Administrative Assistant**



**From:** [Jacob Patterson](#)  
**To:** [Peters, Sarah](#)  
**Cc:** [CDD User](#)  
**Subject:** Public Comment -- 6/23/21 Planning Commission Meeting, Appeal of MUP 1-21, Sunshine-Holistic  
**Date:** Tuesday, June 15, 2021 3:35:12 PM

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Planning Commission,

I am commenting to draw your attention to something that I believe was overlooked during the staff-level review and approval of this permit. One of the required findings for this MUP is that the Planning Commission determines that “The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity” and I believe you cannot make this finding. In my opinion, the subject matter of this particular finding is the central issue for this hearing. Specifically, the location and operating characteristics of the proposed cannabis dispensary is not compatible with the existing and future land uses in the vicinity of the project. The original staff report suggested or at least implied that this retail use is the same or equivalent to any other retail use but that is not accurate. Cannabis businesses, including dispensaries, are inherently different in nature and operating characteristics from other types of retail businesses. It is those differences from other types of retail that make this proposed use incompatible with the existing residential uses in the vicinity of the project, IMO. For example, since cannabis businesses are generally prohibited from using federally-regulated financial institutions like banks, by necessity, they often maintain significant cash stores on hand at the business location. They also maintain cannabis itself as their inventory. Both the high-level of cash and the cannabis itself at a cannabis business result in cannabis businesses being more attractive to armed robbery and violent crimes than other non-cannabis retail businesses. This presents a safety and quality-of-life concern for owners and residents of property in the vicinity of the cannabis retail business. As I speak to residents, the increased security and personal safety concerns are one of the major reasons why they feel that a cannabis business of any type is incompatible with their residential uses. No one wants to have to fear for their personal safety in their own home and back yards just because a cannabis business opens up next door. I don't believe any of the nearby residents have similar concerns about their proximity to non-cannabis businesses in the very same location, including the Floor Store, Goody's or other downtown stores. A store selling socks, like Pippi Longstockings, is not going to be a target for an armed robbery in the same way that living next to a cannabis dispensary or convenience store, which are known as much more likely to be subject to robberies, including armed robberies. The other downtown cannabis dispensary on Main Street doesn't have any residences right next door, which is why no one appealed that permit and no one objected to the City's ability to make this required finding that it is compatible with the existing and future land uses in the vicinity. If Sunshine-Holistic wants to operate a dispensary in our Central Business District, they should have selected a different location that is not immediately adjacent to single-family homes. Our town welcomes dispensaries in locations like the location of the already-approved "Bakery" on Main Street but this proposed spot is not such a location.

Best regards,

--Jacob

**From:** [Jacob Patterson](#)  
**To:** [Peters, Sarah](#)  
**Cc:** [CDD User](#)  
**Subject:** Re: Public Comment -- 6/23/21 Planning Commission Meeting, Appeal of MUP 1-21, Sunshine-Holistic  
**Date:** Tuesday, June 15, 2021 4:04:40 PM  
**Attachments:** [Forbes Article Says Californian Dispensaries Are Being Targeted By Organised Crime Yet Again - Cannabis Law Report.pdf](#)  
[Budtenders Arm Themselves As Gunmen Target Cannabis Dispensaries.pdf](#)  
[Thieves Target Pot Industry Across California — and L.A. — in New Crime Wave - LA Weekly.pdf](#)

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Planning Commission,

Here are a few articles that discuss the crime-aspects of cannabis dispensaries that relate to my written comment (sorry for the attachments rather than links but the City may consider adopting a policy recognizing linked versus attached documents in public comments).

Best,

--Jacob



## Forbes Article Says Californian Dispensaries Are Being Targeted By Organised Crime Yet Again



Cannabis dispensary owners are worried by a second spate of pre-planned and organised robberies of premises statewide and some are suggesting that law enforcement just doesn't care .

### **Forbes reports..**

*Law enforcement's failure to protect cannabis businesses—even after they'd been burglarized once, twice, or, in the case of at least one San Francisco dispensary, BASA, four times—is shaking faith in marijuana legalization as a social experiment. Cannabis businesses pay possibly the highest taxes of any merchants in California. With state and local sales taxes as well as cultivation and excise taxes, the tax bill for legal weed in some cities exceeds 40 percent—a steep cost of doing business that, some merchants say, still doesn't earn legal cannabis any state protection.*

*And now, rumors of a second wave of dispensary robberies this weekend—and significant doubts that police will be able (or willing) to respond—are leading cannabis entrepreneurs to prepare defend their businesses by themselves. This in in turn is casting doubt on the value, and the long-term viability, of legalization.*

*"It's everywhere. It's not just Oakland, they're talking about hitting all the dispensaries all over California: Vallejo, Sacramento, LA, the Bay Area," said Shawn Richard, the majority owner of Berner's on Haight, the Cookies-branded dispensary in San Francisco.*

*San Francisco police have arrested at least ten people in connection with last month's robberies, according to a police spokesman. But there are no reports of any charges being filed, or the crimes being "solved."*

Read full story. <https://www.forbes.com/sites/chrisroberts/2020/07/02/legal-cannabis-businesses-are-preparing-to-get-robbed-again-will-police-protect-marijuana-legalization/#5a0dd4bd1009>

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# Budtenders Arm Themselves As Gunmen Target Cannabis Dispensaries



**Aaron Smith** Contributor

Aerospace & Defense

*I'm a seasoned reporter who covers the firearms industry*

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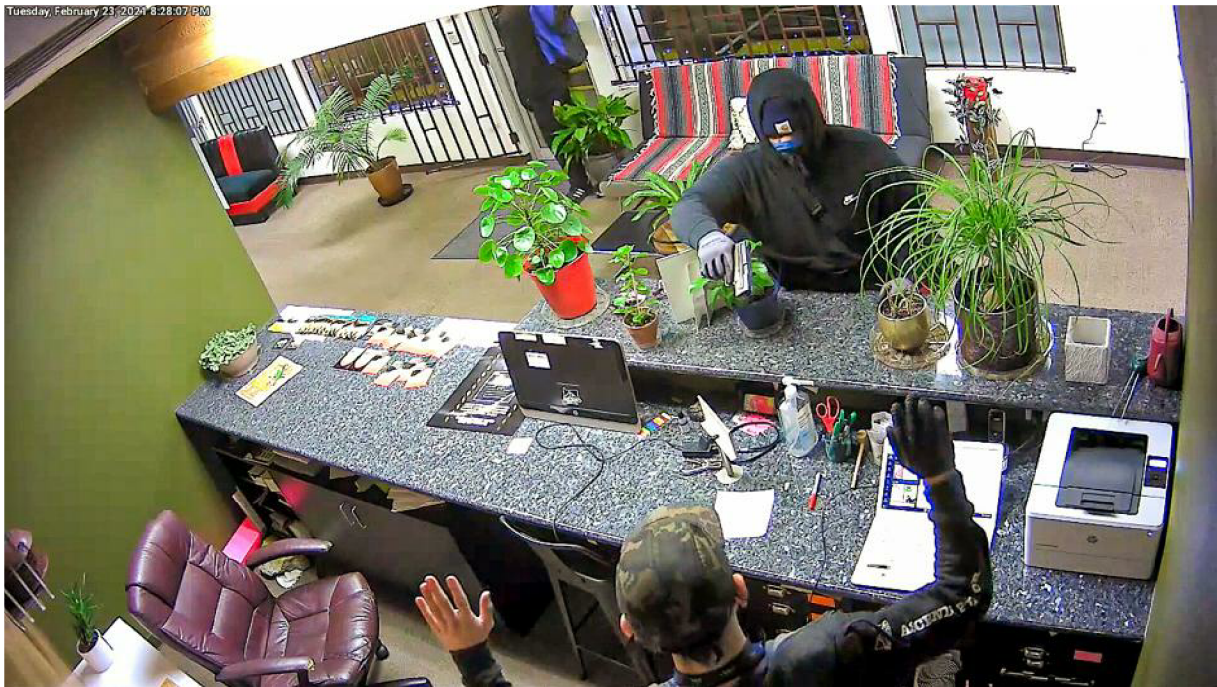


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06:13



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A budtender was robbed a gunpoint at Ascend dispensary in Portland, Oregon, on Feb. 23, 2021.

ASCEND SECURITY CAMERA

Cannabis retailers have been arming themselves in the wake of robberies of dispensaries in Oregon and Oklahoma that left two people shot dead.

Thousands of medical marijuana dispensaries have popped up in Oklahoma since voters legalized medical cannabis in 2018. Two men from Kansas were

Cookie Preferences



arrested last month on suspicion of committing a string of robberies at dispensaries in Oklahoma City, Guthrie and Perry.

The Oklahoma robbery spree turned deadly on April 30, when a suspected armed robber was shot dead in Ardmore by an employee at the Highest Choice, a dispensary in a strip mall that includes a gun shop.

“It was one of our employees who was able to act fast,” said Eric, a co-owner of the Highest Choice who identified himself only by his first name. “The situation presented itself and it was handled accordingly. If they present their weapon, you have every right to shoot them dead.”

He said that he wears a firearm, anticipating more robbers. “It’s not a chance of if, but when, it’s going to happen,” he said.

Detective Sgt. Juan Galicia of the Ardmore Oklahoma Police Department identified the dead man as Samuel Dollarhide of Texas, and said the investigation is ongoing.

While some dispensary workers take matters into their own hands, others employ armed guards. At the Stability Cannabis Shop in Oklahoma City on May 24, a security guard shot and [mortally wounded](#) a man who entered the dispensary and pulled a knife when he was refused service.

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A series of dispensary robberies in Portland, Oregon, where adult-use cannabis was legalized in 2014, turned deadly in December 2020 when budtender [Michael Arthur](#), the father of a 6-year-old, was killed at Cured

Green. It was the culmination of a dramatic spike in thefts at dispensaries in Multnomah County, which includes Portland. Dispensary thefts more than doubled to 99 in 2020, according to Jesse Bontecou, co-director of the Oregon Retailers of Cannabis Association, compared to 46 thefts in 2019, 46 in 2018 and 34 in 2017.

**Forbes** | Topline

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Dispensaries are tempting targets for criminals because the weed can be resold in states where it's illegal and the stores tend to hold large amounts of cash. Even if a state has legalized marijuana, it's still classified as an illegal Schedule I narcotic by the federal government, so credit card companies won't process transactions from dispensaries and most banks won't give them loans — or allow them to open up accounts to deposit their cash.

Dispensary workers have reacted differently to the violence. “I’m really anti-gun,” said Jina Yoo, owner of Cured Green. She said she’s upgraded her security system and has a security guard on staff, but no guns.

“I don’t need to talk about the gun, especially since my friend died from a gun,” she said. “Guns are the most hateful things.”

The reliance on cash in the cannabis business has led to a niche industry in security companies specializing in dispensaries, including Helix Security, Brickhouse Security, Cannabis Security Experts and Operational Security Solutions.

But some owners provide their own security. In Oregon, Bret Born owns the Ascend dispensary, where two employees, including his stepson, were robbed by gunmen in February. “They had my stepson at gunpoint and laid him out execution style,” he said.

The employees were not injured but the suspects stole \$469 cash and multiple jars of cannabis with an estimated street value of \$14,000 said Born. He speculated that the weed was stolen for resale in non-legal states.

Anticipating more robbers, Born has armed himself with an M&P 380 Shield EZ, a popular compact semiautomatic pistol from Smith & Wesson, and a Judge Public Defender, a burly Taurus revolver that fires alternating rounds of .45-caliber and 410 shotgun shells.

“I always carry a gun all the time,” said Born, a retired educator who grew up hunting in Ohio, but wasn’t in the dispensary when it was robbed. “If they had been here when I was here, it would have been like Oklahoma.”

“I’m looking at bringing security on, but doing it within,” said John Monteleone III, owner of the Fidus PDX cannabis shop in Portland, which was robbed last year of \$100,000 in cash and \$150,000 in cannabis.

Monteleone, who grew up hunting and fishing in Bend, said he received permission from the Oregon Liquor Control Commission to carry his Glock and Smith & Wesson sidearms openly in his store, and he allows his employees to carry, too.

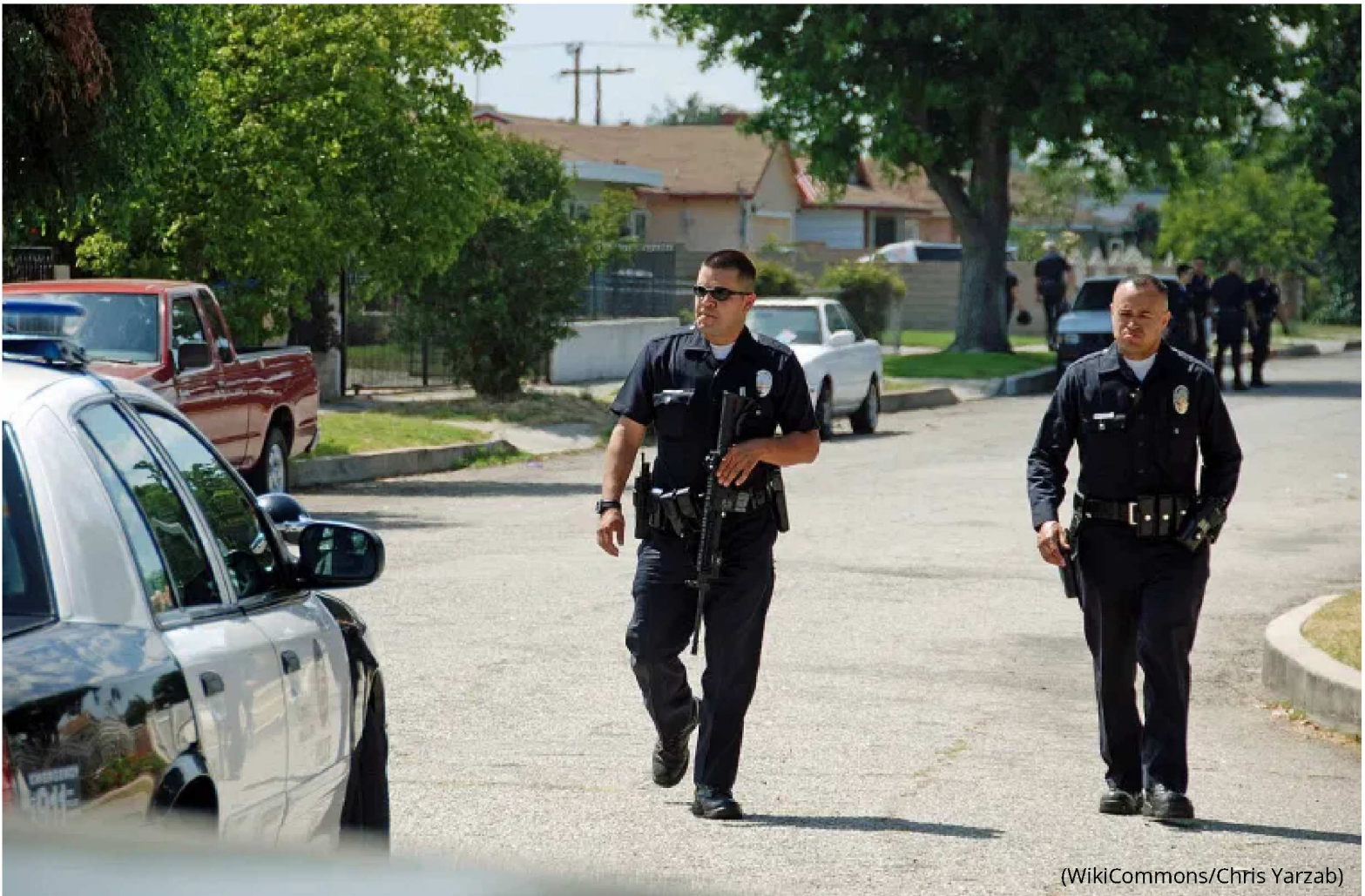
Stephanie Neil, compliance and inventory manager for Fidus, said she started training with firearms after “someone came at me with a butcher knife” when she was shopping in Portland. But she says she didn’t pursue a concealed carry license because, “I don’t even think I would be capable of making a decision in the moment.”

Bontecou of the Oregon Retailers of Cannabis Association said it’s “tragic” that dispensary workers “even have to consider arming themselves to be



# LA WEEKLY

(<https://www.laweekly.com/>)



(WikiCommons/Chris Yarzab)

# THIEVES TARGET POT INDUSTRY ACROSS CALIFORNIA — AND L.A. — IN NEW CRIME WAVE



JIMI DEVINE (<https://www.laweekly.com/guest-author/jimi-devine/>) x SEPTEMBER 9, 2019



(<https://www.facebook.com/seragombarino/>)

U=<https://www.laweekly.com/twibody/https://www.laweekly.com/thieves-target-pot-industry-across-california-and-l-a-in-new-crime-wave/>)

<u>TARGET-POT-</u>	<u>TARGET-POT-</u>	<u>TARGET-POT-</u>
<u>INDUSTRY-</u>	<u>INDUSTRY-</u>	<u>INDUSTRY-</u>
<u>ACROSS-</u>	<u>ACROSS-</u>	<u>ACROSS-</u>
<u>CALIFORNIA-</u>	<u>CALIFORNIA-</u>	<u>CALIFORNIA-</u>
<u>AND-L-A-IN-</u>	<u>AND-L-A-IN-</u>	<u>AND-L-A-IN-</u>
<u>NEW-CRIME-</u>	<u>NEW-CRIME-</u>	<u>NEW-CRIME-</u>
<u>WAVE/)</u>	<u>WAVE/)</u>	<u>WAVE/)</u>

Los Angeles is no stranger to the recent crime wave targeting California’s booming cannabis industry.

It’s now commonly known that the neighborhoods around cannabis dispensaries tend to be safer than their counterparts due to features like security guards, surveillance, and good lighting. But a recent wave of crime across the state is proving the giant piles of cash that bankless retailers are forced to hold on to are luring criminals looking for a quick big score.

The year has seen numerous robberies in [The Emerald Triangle](https://kymkemp.com/2019/08/14/legal-cultivator-ripped-off-for-30-pounds-of-wedding-cake-this-morning/) (<https://kymkemp.com/2019/08/14/legal-cultivator-ripped-off-for-30-pounds-of-wedding-cake-this-morning/>), [Sacramento](https://www.sacbee.com/news/local/crime/article229439304.html) (<https://www.sacbee.com/news/local/crime/article229439304.html>), [Oakland](https://sanfrancisco.cbslocal.com/2018/12/06/hayward-oakland-stockton-marijuana-crime-attack/) (<https://sanfrancisco.cbslocal.com/2018/12/06/hayward-oakland-stockton-marijuana-crime-attack/>), [Los Angeles](https://losangeles.cbslocal.com/2019/08/29/man-fatally-shot-in-south-la-marijuana-dispensary-2-detained/) (<https://losangeles.cbslocal.com/2019/08/29/man-fatally-shot-in-south-la-marijuana-dispensary-2-detained/>), and all points in between. These have included stick-up kids getting away with 20 pounds of flower with a retail value of \$156,000 and the cracking of a safe by someone a bit more technically adept in a separate incident. That latter effort was said to score \$161,000 destined to be taxes. Sacramento industry insiders say two places were hit in the same night.

“Last year a delivery service in Sac was robbed of \$250k worth of product. When they called police and it was on a weekend, they sent out a volunteer to take fingerprints,” said Jacqueline McGowan, founder of 8,000-strong California — City & County Regulation Watch Facebook group. “They didn’t care that the company had video of the robbers”

including pictures of their cars and license plates. Would a jewelry store owner have been told that detectives don't work on weekends?"

Sacramento is also home to the California Bureau of Cannabis Control. We reached out to the state to ask if they keep an eye on how the policies being developed in Sacramento are impacting public safety across the state; the BCC told *L.A. Weekly* they do not compile that data.

### An L.A. Problem Too

Moving closer to home, we asked the Los Angeles Department of Cannabis Regulation if they'd been monitoring the situation. While they weren't, there was a quick handoff to the Los Angeles Police Department and we started getting answers pretty quick.

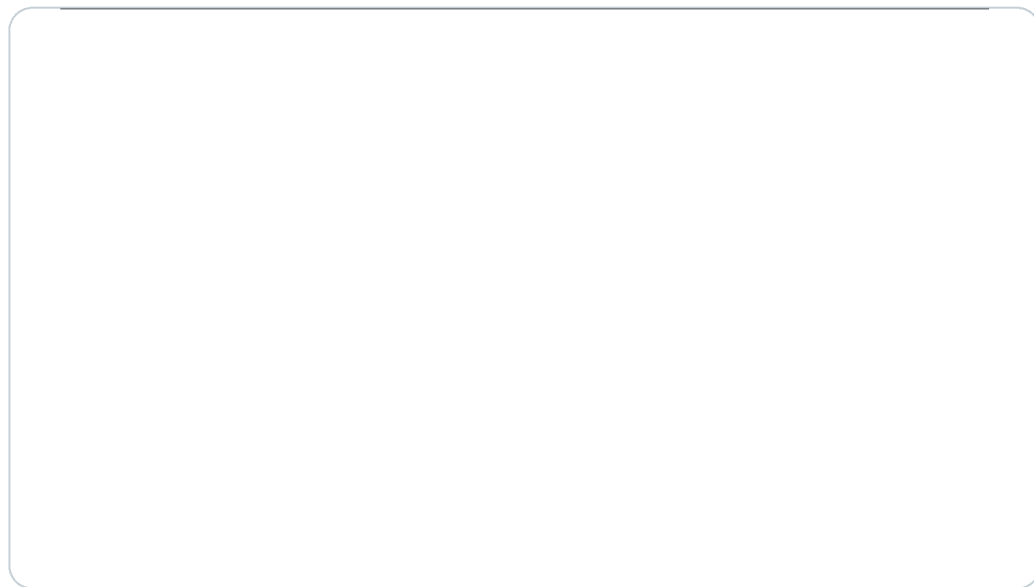
The LAPD reviews from local operators have gone a bit better than for some of their peers up north. "LAPD is always very cool if we have an issue. Matter of fact check out this pic of them in our lobby when the alarm went off. I'd say we are well protected!" said Buds & Roses president Aaron Justis. "They caught the burglars. They didn't catch them in the act but with our footage and other dispensaries footage, they identified the guy."



**LAPD HQ**   
@LAPDHQ



Caught on Video -- Three suspects forced their way into a marijuana dispensary at a strip mall on PCH in Harbor City. Their getaway car was a possible Jaguar with tinted windows & chrome rims. Any info contact LAPD Harbor Burglary Detectives 310-726-7850 [bit.ly/2vMuQTD](https://bit.ly/2vMuQTD)



9:18 PM · Aug 15, 2018



 49  9  Share this Tweet



While the analyst supporting the LAPD Gang and Narcotics Division Cannabis Support Unit wasn't available to give the exact breakdown of crime in L.A. between licensed and unlicensed operators, Detective Vito Ceccia told *L.A. Weekly* his "well-educated" guess was the lion's share of robberies are happening at unlicensed locations. The police end up there on calls despite the obvious consequences of them coming in and realizing the lack of a permit.



*Buds and Roses*

Ceccia provided the Year to Date L.A. Crime Stats for all crimes at cannabis facilities, regardless of their legality, as of September 4, 2019. The LAPD has tracked 20 robberies, 30 aggravated assaults, 3 burglary/theft from motor vehicle crimes, 15 theft-related crimes, and 57 burglaries. This totals out to about 77 property crimes and 50 violent crimes.

Those numbers also top last year's. The total number of crimes by late September 2018 was 105, according to the data the LAPD provided Crosstown (<https://xtown.la/2018/09/28/the-lapd-is-there-to-protect-your-cannabis/>). 70 of those crimes happened in a retail or medical dispensary.

Then on top of all those numbers are the many crimes that go unreported.

For the most part, the officers are familiar with their divisions. They already know who is operating without a license according to Ceccia. Regardless of the legality of a dispensary operation, if there is any kind of crime it's put on LAPD's radar locally within the division.

We asked what LAPD is doing to get licensed operators ahead of the curve in protecting their operations. Ceccia says while the licensed operators do fall victim to crime, "they're more diligent about how they control their money."

When asked about general banking issues in the industry leading to tempting piles of cash for would-be robbers, Ceccia said alternatively from beliefs by many industry advocates he thinks licensed operators are depositing their money regularly, much of the time with armed transport.

"It's not someone with a duffel bag throwing it in the trunk just bringing it to a house or other location," Ceccia said. "The city is allowing [operators] to pay their taxes with that cash, so obviously some of the money is going to that."

Ceccia says the lack of security measures at unlicensed locations make them a bigger target and more likely to be a victim than those who have jumped through the hoops of the permitting process. "But when you say both of them are victims of robberies, absolutely," Ceccia said, "When the robbery occurs it's usually for the product, the money, or both."

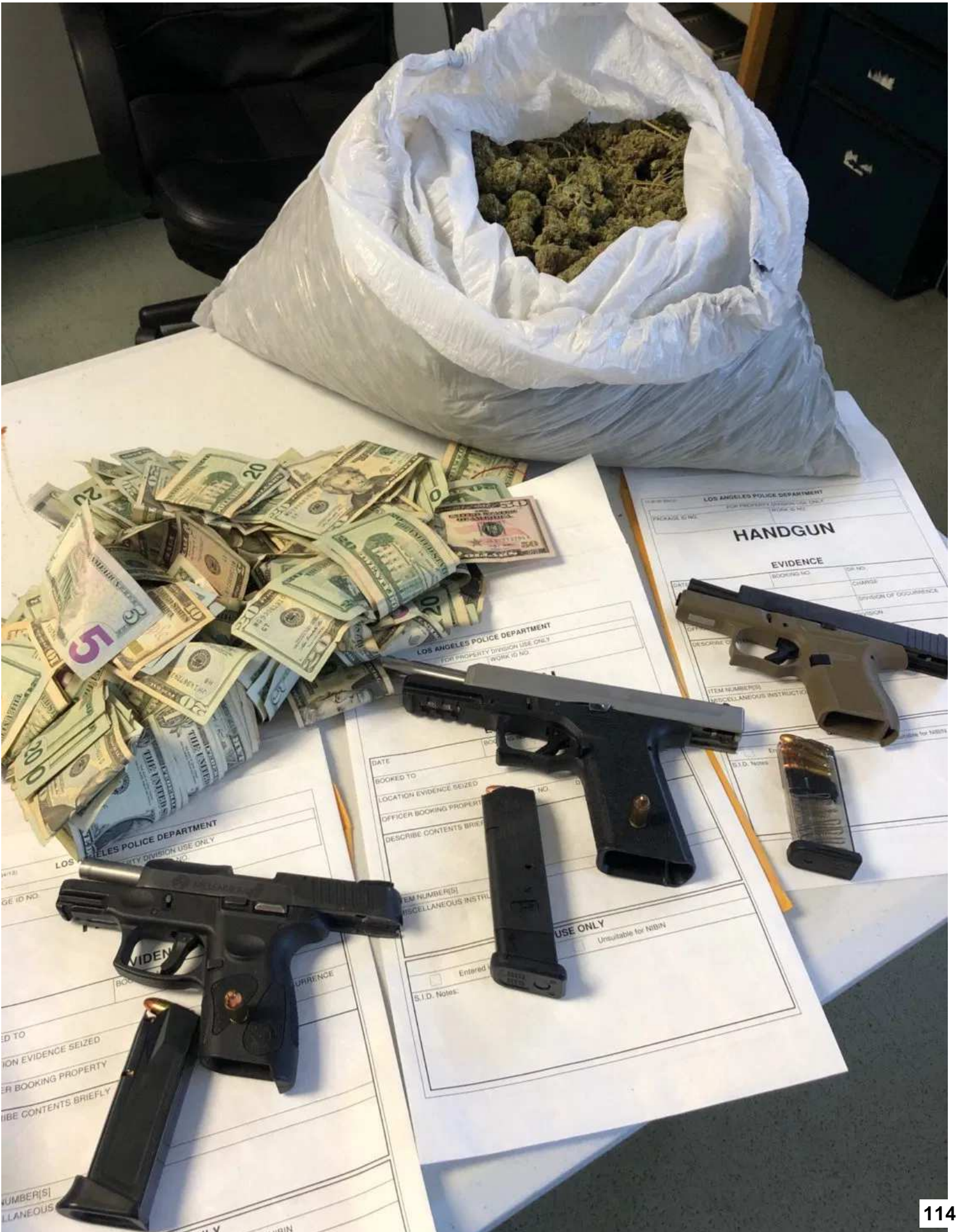
We asked Ceccia if it was difficult to work with legacy operators that have been traditionally wary of cooperation with law enforcement given the decades they spent in California's black, then grey, market to what we have now.

"From my perspective, being a plain-clothed investigator that has been doing police work for almost 25 years, I haven't received or heard about that much resistance or anxiety when I go into one of these locations," Ceccia replied. He says most of them are good partners to the city, law enforcement, their communities, and "as far as I can tell transparent in their operations because they're doing everything they're supposed to be doing."

Ceccia went on to note on the transition of the times.

"You gotta understand, when you get a police officer that's more than five years on the job, it's like a cultural punch in the gut. You gotta understand for someone like myself doing this for 25 years; sales, transportation, possession for sales was always a felony. It was always a good felony."





(Courtesy of LAPD)

Ceccia claimed officers spent most of their time going after people with the intent to distribute. “Now you tell someone who has been working narcotics the last 10, 15, 20 years. ‘Hey this is no longer a felony’ and someone who has been working patrol that this is no longer a felony, initially it’s hard to wrap your head around.”

Ceccia says legacy operators have to understand certain members of the police department have to go through an acclimation period. “Where they get used to it.”

Ceccia says now it’s similar to a lot of the codes they enforce around alcohol and tobacco.

“As new officers come on and the mindset changes, that apprehension is going to go away. But I think on both sides of the fence there’s that apprehension. Some people in law enforcement may not fully accept the current state of affairs. Then you have legacy operators who at one time may have been operating in the shadows and now they’ve done everything they’re supposed to do, they have a license, but they’re still leery anytime a black-and-white pulls up near their store.”

Ceccia believes part of the stress on local operators is due to federal regulations. He thinks despite President Donald Trump and his Department of Justice reaffirming they won’t be going after state-legal operators, things could change in an instant at the federal level. Ceccia says he gets that concern is part of the problem. “I mean you just never know. If I were one of those legacy operators I’d be more fearful of that happening than local law enforcement.”

### **The Dual Advocate**

Dale Schafer has watched the evolution of marijuana in California from both sides of the fence. Both as a lawyer representing members of the law enforcement community, and as a medical marijuana activist hit with a five-year mandatory minimum prison sentence (<https://www.eastbayexpress.com/oakland/what-five-years-in-prison-taught-california-former-dispensary-owner-dale-schafer-and-why-hes-thinking-about-getting-back-into-the-marijuana/Content?oid=4806997>) alongside his wife and fellow activist Dr. Marion “Mollie” Fry. They were released in late 2015 and Schafer immediately got back into the industry.

“I’ve been inside law enforcement politics. I used to represent cops. I still have connections to law enforcement, old friends. We still talk about issues in law enforcement. So I have that perspective, then I went through the colon of the criminal justice system and spent some time in prison. So I’ve looked at it from that angle,” Schafer told *L.A. Weekly* in a phone interview.

Schafer says he has seen the best kind of cooperation take place when it comes to the cannabis industry and cops, but has also seen “knucklehead tribalism.”

“The coordination is not always what we may want to see on the enforcement side,” Schafer said, “There are obviously some people out there we need to figure out how to grab. So the issue of law enforcement resources being used for crimes in this industry is not one where you’re going to find a lot of support in law enforcement.”





*Schafer family (Courtesy of Heather Schafer)*

Schafer believes a lot of people just “check off the box” with their security plans. The expert Schafer works with on security plans is a former cop. “He’s been frustrated. He’s written security plans from the perspective of ‘I want to protect your business from criminals I know are coming’ and businesses don’t want to invest or maybe don’t have the money to invest in that deeper level of security.”

But when someone comes in and steals cash and/or a \$100,000 or more in product operators outlooks on preparations change.

“There is a ton of money from the industry going to the coffers of different jurisdictions, and one would expect we have at least the attention of law enforcement to put some resources toward the industry,” Schafer said, “But that’s not how the politics are working on the cop side.”

Since a decent amount of the money coming in is going directly to law enforcement, we asked Schafer what it would take to get less supportive agencies to be more protective of their own new revenue stream? Or does it simply not balance out to how much was being raked in under full-court press prohibition? Is there an incentive to protect these businesses?



“The short answer is no,” Schafer replied, “Inside the politics of law enforcement there is a feeling that the stoners won. It’s hard to get anyone to put it into those kind of words, but the war on drugs was a moneymaker for law enforcement.”

Schafer didn’t want to use the word gravy train, but if you were cooperating with federal and state policy targeting cannabis and other drugs when enforcement really geared up you got money in your coffers. “Prop. 64 pulled the rug out from under enforcement and justification for resources to go after marijuana,” he said.

Inside law enforcement special interests groups the conversation has changed to how are they going to move on from this transition in enforcement paradigms? “Who’s getting paid? Do I get a chance if I’m just writing up misdemeanor cultivation cases?”

“Cops get points for the things they do, it’s kind of like the military. They like you to tell us they went out and got bodies,” Schafer said, “Well, misdemeanor bodies aren’t going to get you as far as felony bodies. It’s not simple, but there are a lot of pieces to this. And on the law enforcement side, they watched after SB 420. The industry started spraying starter fluid and just took off.”

Schafer said from law enforcement’s perspective it was out of control, “cops got their asses kicked a number of times so they didn’t quite know what to do with enforcement.” This led to paths like zoning enforcement, “then we eventually got regulations the state would soft enforce through fines and revocations.”

After all this, Schafer said it’s important for businesses to understand they have to protect themselves first. If they rely on law enforcement, depending on the willingness of the agency, they could be let down.

Schafer says as legalization has rolled out from the bigger cities to smaller rural areas, gangs have figured out how to target the industry. Schafer doesn’t know how or why but suspects it’s simple because how accessible the operators’ security plans are to the public or any of the various places involved in the vetting process.

“As with anything, employees will waggle their tongues for money. Inside information can get out. These businesses are being hit in ways that would make someone in law enforcement or security think these people are investigating and perhaps gaining information from employees. They got a plan, they’re going to be able to come in and hit you, and law enforcement isn’t going to be able to stop that unless they really track people down and put resources in. And then we’re back to who is going to do this?” said Schafer with a laugh.

We asked Schafer if the giant piles of cash sitting around to pay taxes played a role in the motivations of criminals.

“That’s hard to know,” he replied. He spoke on a client in Sacramento that had recently been robbed. “They got hit and I don’t think they were lax in security or anything like that, but banking is a terrible problem.”

Schafer next weighed in on if regulators at the state and local level are doing anything to push operators to secure their cash? He said no, “right now the state is more reactionary.”

“They still haven’t onboarded enough employees to carry out the programs they’re mandated to carry out,” Schafer said, “The state, almost by its nature, is not doing enough. If there really was liaisons and cooperation between the state, operators, and law enforcement for this kind of activity there would be alerts out. There would be notifications out. There would be hyper-alertness that, ‘hey someone in your area got hit. Be on alert.’ That’s left up to operators in competition with each other to let somebody else know. And I don’t think that’s a long term sustainable situation.”

## Federal Solutions

One of the fastest solutions to not allowing criminals to get their hands on the giant piles of cash is for them not to exist in the first place. The National Cannabis Industry Association weighed in on how things are going on Capitol Hill in regards to banking access.

“This is first and foremost an issue of lack of access to banking and financial services,” NCIA Media Relations Director Morgan Fox told *L.A. Weekly*. “No other businesses apart from banks themselves are forced to keep large amounts of cash on hand and make themselves targets, and cannabis businesses should not be forced to protect themselves like banks just to be able to operate normally. Hopefully Congress will address this issue and move to pass the SAFE Banking Act when they return to DC next week.”

Fox said the heavy financial burdens placed on cannabis businesses at the local, state, and federal level also plays a role.

“High tax rates are forcing businesses to keep way more cash on hand than they would normally need to, and it is certainly contributing to making them targets for crime. But it is not just taxes,” Fox said, “No banking means they have to keep payroll and all other expenses on hand, as well as reserves to cover unexpected costs. It is an untenable situation, but one which can be easily rectified by lawmakers.”

The nation’s oldest marijuana reform organization has also been pushing the issue of banking access and its relationship to public safety as well. NORML [testified to the United States Senate](https://norml.org/pdf_files/testimony/Senate_2019_NORML_Federal_testimony_banking.pdf) ([https://norml.org/pdf\\_files/testimony/Senate\\_2019\\_NORML\\_Federal\\_testimony\\_banking.pdf](https://norml.org/pdf_files/testimony/Senate_2019_NORML_Federal_testimony_banking.pdf)) Committee on Banking, Housing, and Urban Affairs last month on the subject.

NORML’s California-based Deputy Director Paul Armentano told *L.A. Weekly* federal lawmakers are mandating that this rapidly growing multi-billion dollar industry operate on a cash-only basis in “an environment that makes businesses more susceptible to theft and more difficult to audit.”

Armentano went on to note the current status of banking and associated lack of merchant services also places the safety and welfare of these businesses’ customers at risk, “as they must carry significant amounts of cash on their persons in order to make legal purchases at retail facilities. Similarly, it needlessly jeopardizes the safety of retail staffers, who are susceptible to robbery.”

“No industry can operate safely, transparently, or effectively without access to banks or other financial institutions and it is self-evident that this industry, and those consumers that are served by it, will remain severely hampered without better access to credit and financing,” Armentano said, “Ultimately, Congress must amend federal policy so that these growing numbers of state-compliant businesses, and those millions of Americans who patronize them, are no longer subject to policies that needlessly place them in harm’s way.”

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safe.” But he said their lives are “literally at risk” and they’re frustrated by how the Portland Police Bureau has handled the robberies.

“There is a perception, whether it’s accurate or not, that we’re easy targets because the police do not do adequate policing,” he said.

Portland Police public information officer Lt. Greg Pashley said there are 814 officers assigned to protect a city of about 600,000 residents.

“There are fewer sworn employees working for the Police Bureau than an any time in modern history, which has a big impact on our ability to provide the kind of service the community expects and we wish we could provide,” he said. “So, it is probably true to say that the police aren’t doing enough. We are doing what we can with the resources we have.”

Lt. Pashley said that while it is lawful for Portlanders to possess firearms, “we urge those who do, to exercise great caution.”

Bontecou wants Congress to pass the SAFE Banking Act, which would legalize cannabis financing and reduce dispensaries’ reliance on cash.

But Born says the cannabis itself is a tempting target, especially for thieves from prohibition states like Kansas and Texas.

“We need to take away the perceived value of the jar on my shelf,” he said. “SAFE Banking would be huge, but on the other hand, people need to access it in the state they want, and eliminate the black market.”



**Aaron Smith**

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**From:** [Pat Bell](#)  
**To:** [CDD User](#)  
**Subject:** Appeal to Approve Minor Use Permit 1-21 (MUP 1-21)  
**Date:** Tuesday, June 22, 2021 5:34:30 AM

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I am asking the Planning Commission to reverse their decision to permit the use of the building at 144 N Franklin Street as a cannabis dispensary with delivery service. I live directly behind this building and know that giving Sovereign this permit will negatively impact the quality of my life, my property value, and my safety. My concerns include increased pedestrian and vehicular traffic and noise, but more importantly, my personal and my neighbors' safety living near a cash only business with the potential for robberies and other violent crimes. The lure of cash and the knowledge that cannabis dispensaries are reluctant to involve law enforcement will lead to increased crime in this neighborhood. Most of the homes are owner-occupied. We have invested in our properties. A cannabis dispensary does not fit in this neighborhood due to the potential threat to our safety and our quality of life. Please reconsider and reverse your decision to allow Sovereign to open a cannabis decision in our neighborhood.

Patricia M. Bell  
147 N McPherson Street

Sent from my iPad





05/07/2021

Dear John Smith/Community Development Department,

I am a local business owner and resident of Fort Bragg, I own the property located at 144 N Franklin St..

When I was approached by Sunshine Holistic to lease the building at 144 N Franklin St, my first reaction was that I would need to go to the city and see if this project would be within the city guidelines. I went to the city and asked several questions.

Is this allowed?

Should I have any concerns?

What is the procedure?

I was told that it was not only allowed but that the city was onboard with the dispensaries coming into the city limits and it appeared that there was a standard procedure to follow for the permit. There were no red flags with this project and the permit process should go smoothly.

I then called my insurance company and went over the details with them to make sure the building would be properly insured.

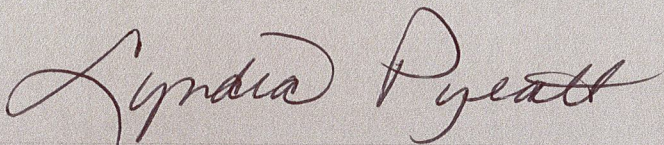
I called my local bank and set up a meeting to go over the plan and confirmed the banking process.

After doing my homework, feeling confident that there were no issues, I contacted Sunshine Holistic and told them that I would lease them the space.

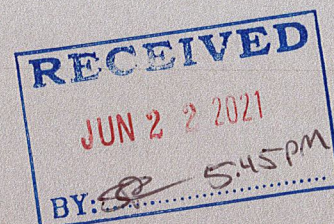
This is a viable business joining and giving support to the other local businesses and at the same time filling a vacant building on Franklin St.

I also have a business within 1 block of this location and the upgrades and security that is in the plan for 144 N Franklin Street will be a positive addition to the surrounding area.

Thank you,



Lyndia Pyeatt





**From:** [Lemos, June](#)  
**To:** [Peters, Sarah](#)  
**Subject:** FW: Add to June 23rd planning commission agenda packet  
**Date:** Tuesday, June 22, 2021 2:25:54 PM

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**From:** Jay Koski <jaynscout95@gmail.com>  
**Sent:** Tuesday, June 22, 2021 12:58 PM  
**To:** Lemos, June <JLemos@fortbragg.com>; Gurewitz, Heather <Hgurewitz@fortbragg.com>; Miller, Tabatha <TMiller@fortbragg.com>; Peters, Lindy <LPeters2@fortbragg.com>; Norvell, Bernie <Bnorvell2@fortbragg.com>; Albin-Smith, Tess <Talbinsmith@fortbragg.com>; Morsell-Haye, Jessica <Jmorsellhayes@fortbragg.com>; Rafanan, Marcia <Mrafanan@fortbragg.com>  
**Subject:** Add to June 23rd planning commission agenda packet

I can't understand why no matter what happens when it comes to opposals to this project It always comes back to Heather Gutierrez. When is the city going to put a fresh set of eyes on it. It's very obvious where Heather stands on this project since the very beginning she just pushes it through, her recommendations are always approval approval approval on everything not considering any of the complaints or petitions that the people of the city have pushed forward against this project. This location is already been denied once by the planning commission and the city council. When a project is appealed by the people or the applicant you need to put a new person on the project not the same person who has been controlling it from the beginning because all you are getting is the same result as when the projects started and the complaints are not even considered or addressed by Heather. She keeps saying that it fits the scope of the previous businesses that have been in this location how can you compare marijuana to pizza or an ice cream shop or a floor store there's no comparison it's apples and oranges and she's trying to say these are like the same types of retail businesses. This project once again needs to be denied it does not belong near single family dwellings or our neighborhood grocery store post office or bank.

Jay Koski

**From:** [Jacob Patterson](#)  
**To:** [Peters, Sarah](#)  
**Cc:** [CDD User](#)  
**Subject:** Final Written Public Comment -- 6/23/21 PC Mtg., Item No. 6B, MUP 1-21  
**Date:** Wednesday, June 23, 2021 1:01:08 PM  
**Attachments:** [20210623 Public Comment MUP 1-21.pdf](#)

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Planning Commissioners,

Attached is my final written public comment for the public hearing tonight. Per Chair Logan's request, I have refrained from attaching the referenced staff report for the prior MUP for the Bakery on Main Street but I encourage the Planning Commission to review the linked document to see how the City has interpreted and applied the required findings for past MUP reviews of cannabis dispensaries.

Thank you for your consideration of these comments.

Best regards,

--Jacob



June 23, 2021

Dear Fort Bragg Planning Commission,

I would like to take this opportunity to write to the Planning Commission in support of the appellants and to raise several points concerning this appeal of Minor Use Permit (MUP) 1-21 for your consideration during tonight's public hearing. First, I will address apparent problems with staff's recommended interpretation of the City's code as applied to this proposed project. Second, I will address several purported facts presented in the staff report that are not accurate and which are material to the necessary analysis and on which the staff recommendations are based. Finally, I will address the CEQA analysis offered in the agenda materials prepared by City staff.

### **1. Staff's Recommended Interpretation of the City's Code**

Staff offers their interpretation of the City's code as it relates to the requested MUP but that interpretation is neither reasonable nor does it comport with applicable rules used to interpret statutes, codes, and ordinances, at least not in my opinion. While I agree it is true that courts will generally defer to the City's reasonable interpretations of its own ordinances, local interpretations are only given deference if they follow the normal and applicable rules of statutory interpretation. These rules described below (also called "canons") should be considered by the Planning Commission as you evaluate the staff recommendations and public comments concerning this entitlement review.

**Literal Rule** – The review authority interprets based on the plain language of the code (i.e., the literal and ordinary meaning). Interpretation starts with this approach and you only move onto the other rules if following the literal rule leads to obvious unintended consequences or results that run counter to the underlying purpose of the ordinance.

**Golden Rule** – The review authority interprets based on legislative intent where applying the literal rule would have an absurd or obnoxious result that undermines the intent of the ordinance. This interpretive approach is used when the literal rule is inappropriate.

**Mischief Rule** – The review authority interprets the code to extend the language to fill in gaps or loopholes in the ordinance as written because failing to do so would undermine the overall purpose. This interpretive approach is used when the literal rule and golden rule don't apply because the code does not address the particular situation but what is under consideration clearly relates to the topics covered by the code; it is a pragmatic approach to interpretation. This can occur, for example, when a code provides a list of exceptions to the standard rule (e.g., the exemptions in the draft formula business ordinance) and that list omits the particular circumstances currently under consideration that are substantively similar to what is explicitly listed in the code. In that case, a new similar exception can be read into the code to cover the present situation.

**Purposive Approach** – Derived from the mischief rule to interpret code within the context of the adopting ordinance’s purpose, including extraneous information from the legislative history of the ordinance. This comprehensive interpretive approach replaces the other three hierarchical “rules” with a single integrated process that focuses on implementing the purpose in addition to the technical language of the ordinance.

Other sub-rules of statutory interpretation apply, which have been developed through case law, etc., and they are informative to the matter under consideration tonight.

The rule against surplusage requires interpretive bodies to give each word and clause of an ordinance operative effect, if possible. Stated another way, you should not interpret any code provision in a way that would render it or another part of the code inoperative or redundant.

The connected grammatical rules, the last antecedent and series-qualifier cannons, provide that a limiting clause or phrase should ordinarily be read as modifying only the noun or phrase that it immediately follows (i.e., the closest clause in the sentence) unless the sentence is structured to clearly apply the limiting clause to the entire list of items (e.g., through punctuation like a comma or semicolon separating the limiting clause from the final item in the list of relevant terms or provisions). Accordingly, when you are faced with a list of terms in the code (e.g., separate and distinct findings), you should read and interpret each term to convey some distinct meaning relative to the other terms.

In addition, continuing to follow local precedent is an important consideration because the City should be consistent in how it interprets and applies the same provisions of the code to different projects over time or it is susceptible to allegations of arbitrary and capricious decision-making where some projects are being treated differently than other, similarly situated, projects. That is, once a particular interpretation is established, future application of that provision to should employ the same interpretation.

In this case, each finding must be interpreted to require supporting analysis and conclusions about that particular finding that will not make other findings duplicative, redundant or unnecessary and which is consistent with prior permit reviews. For example, the Planning Commission is tasked with two separate findings, that (1) “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” and (2) “The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.” These separate findings must be interpreted to require different analysis for each finding that addresses the plain language of the finding as well as the underlying purpose of the finding in a way that is not redundant the analysis supporting other findings and which does not render as “surplus” any term or provision in the code.

The first of the findings mentioned above is primarily about whether the proposed use is allowed in the applicable zoning district. The second of these findings is about if the specifics of the proposed activity is compatible with the nearby land uses. Unfortunately, and in violation of

the basic rules of statutory interpretation, including those described above, staff's interpretation of the second finding focuses on precisely what the first finding is about: whether or not the zoning applicable to this location allows the proposed land use, including an irrelevant (IMO) discussion about potential buffer zones that is based on a false assumption that buffer zones were considered and rejected by the City when the ordinance was adopted or that this finding has anything to do with buffer zones, which it does not.

Staff's recommended interpretation likely is not reasonable, in part, because the relatively narrow focus of the analysis on what the zoning allows does not reflect the underlying purpose of requiring the second finding in addition to the first finding and because staff's interpretation effectively renders the second finding redundant to the first rather than interpreting each finding in such a way to have distinct and independent meaning. Staff's recommended interpretation is also not consistent to prior MUP reviews, including the City's prior interpretation of the same code language regarding these particular findings during the two prior MUP reviews for cannabis dispensaries that were approved at the administrative level.<sup>1</sup> As such, the Planning Commission should reject staff's recommended interpretation of these code provisions and seriously consider the positions advanced by the appellants and neighbors to this proposed project.

Moreover, it is important to recognize that the City did not decide to treat cannabis retail the same as other types of retail establishments because other retail is permitted by right within Central Business District (CBD) zoning, whereas cannabis retail requires heightened review and an MUP before it is permitted anywhere, including property zoned CBD. This heightened review requires that each of these findings are met and advances the underlying purpose of the adopting ordinance, which was to recognize that while cannabis retail is generally appropriate for CBD zoning, it can only be approved if the City determines these specific findings can be made and to ensure that the dispensary will not be incompatible with the neighboring uses. Other standard retail uses do not go through that heightened review process with a few minor exceptions (e.g., drive-through retail or retail that is 10,000 sq. ft or larger, which require a use permit and the same findings as cannabis retail). Interpreting the code to effectively treat cannabis retail as being allowed anywhere other retail uses are permitted, violates the rules of interpretation because it renders the code language requiring heightened review and these specific findings redundant and superfluous to other findings and provisions of the code (i.e., mere surplusage). Thus, staff's recommended interpretation is not reasonable or consistent with the rules of statutory interpretation and the Planning Commission should base its determination on an interpretation of the code that treats different code provisions as having distinct purposes and meanings rather than repeating required analytical topics that are addressed elsewhere in the code.

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<sup>1</sup> See, e.g., the staff report for MUP 1-20 concerning the Bakery on Main Street, available in the City's Legistar archive at: <https://cityfortbragg.legistar.com/View.ashx?M=F&ID=8237009&GUID=9D8085D9-4C15-449E-AE1D-8A9F2A337BDB>.

## **2. Inaccurate but Material Facts**

The staff report includes and bases its recommended actions on three purported facts that are inaccurate or false. Since these facts are material to the analysis, that is the conclusions depend on these facts being true, the recommendations should be rejected and the Planning Commission should instead base its conclusions on accurate facts and circumstances and resulting analysis that incorporates accurate information. (This is distinct from issues of interpretation where different analysis and conclusions are possible because there are multiple reasonable ways to evaluate the relevant topic.) Permit reviews only work as intended if relevant facts under consideration are true and accurate.

First, the staff report (but not the draft resolution, which does not address the topic of CEQA review at all so the Planning Commission is not actually making any findings related to CEQA) asserts on page 13 that the project is “exempt from CEQA under section 15301 Existing Facilities” and “There are no exceptions to the exemption and there are no potential significant environmental impacts from this project.” However, asserting that there are no exceptions to the exemption is not an accurate statement because categorical exemptions, including the cited exemption for existing facilities, are subject to numerous potential exceptions, each of which must be analyzed prior to any attempt to rely on the categorical exemption. Among these exceptions to categorical exemptions is the “unusual circumstances exception” which was discussed in detail in the public comment from Gene and Diana Mertle and incorporated into the appeal itself even though it was not addressed in the staff report at all, including its total omission from the table summarizing the different issues raised in the appeal even though the appeal raises this specific issue. Other exceptions to relying on categorical exemptions include projects that may impact historic resources but none of these exceptions have been analyzed or discussed, instead the staff report falsely asserts that “There are no exceptions to the exemption” but the Planning Commission should reject that conclusion because it is based on a incorrect statement.

Second, the staff report on page 4 asserts that “The City Council discussed, considered and rejected imposing buffers for cannabis uses” but that is not an accurate statement. It is true that the Planning Commission and City Council discussed specific language staff included in the original draft of the ordinance that was based on a state-recommended but not required provision to impose a defined buffer between commercial cannabis uses and places where children congregate (e.g., schools and day care centers) but neither the Planning Commission nor the City Council discussed or considered the broader topic of buffers, including buffers between cannabis retail and residential uses.<sup>2</sup> The state has recommendations that specifically

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<sup>2</sup> Page 10 of the staff report for MUP 1-20, summarizes the local legislative history regarding the consideration of buffer zones as follows: “The ILUDC permits cannabis retail uses in the various commercial zoning districts with approval of a Minor Use Permit. The State of California prohibits cannabis retail uses within a 600-foot radius of a

apply to residential buffers but residential buffers were never included in the draft ordinances prepared by prior staff nor was the topic discussed, considered or rejected during the adoption of the ordinances. In fact, the concept that neighbors could raise issues regarding compatibility with surrounding land uses was discussed and emphasized during the Council adoption of the ordinance as part of why an MUP is required for cannabis retail rather than just allowing cannabis retail by right. Far from rejecting the concept that residential uses might be incompatible with cannabis retail, the City Council actually emphasized that this specific issue could and would be addressed through the heightened review process that applies to MUPs.

Third, the staff report asserts that the existing land uses surrounding the proposed project are commercial to the east and residential to the south. The neighbors and appellants to the east of the project can attest that their land uses are residential and not commercial and that fact is central to the issues before the Planning Commission in this appeal. Likewise, the existing land use to the south of the proposed project are commercial (a barbershop, vacant store front, art gallery, and print shop).

### **3. Staff's Recommended CEQA Analysis**

One of the grounds of this appeal is that the CEQA exemption suggested by staff is not applicable to this project because applicable exceptions to relying on that categorical exemption apply to the project, namely the unusual circumstances exception from categorical exemptions. As mentioned above, staff asserts that "There are no exceptions to the exemption and there are no potential significant environmental impacts from this project." This is incorrect both factually and logically based on appropriate and relevant analysis. Moreover, even if the project could rely on the cited categorical exemption, it would not be exempt from CEQA; appropriate reliance on an applicable categorical exemption only means that the project is exempt from further environmental review under CEQA because the City has determined that further, more detailed review is not necessary based on the facts and circumstances presented by the project.

Contrary to staff's assertion, and in line with the positions taken by Councilmember Tess Albin-Smith when she voted to uphold the Planning Commission's denial of this applicant's first application for permits for a commercial cannabis business at this location, proposed development on this site and location within the City's historic downtown should not attempt to rely on categorical exemptions from further environmental review under CEQA because the

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school, day care center, or youth center that is in existence at the time the license is issued. However, the state will waive this prohibition if a local jurisdiction specifies a different radius. The City Council considered this issue when adopting the local cannabis business ordinance, and elected to not limit a cannabis business' location based on its proximity to schools, day cares or youth centers. The Council was concerned that in a City so small, these proximity prohibitions could make it nearly impossible to establish a cannabis retail use. ¶ Nonetheless, applications for Minor Use Permits can be denied if the review authority finds that the proposed location of the use is incompatible with existing and future land uses in the vicinity. Additionally, special conditions may be placed on a permit approval to mitigate any potential impacts to nearby properties."



unusual circumstances exception to categorical exemptions arguably apply to this site. Staff did not address the unusual circumstances exception or any other potentially applicable exemption in any of their analysis but the Planning Commission should consider these exemptions as you review this appeal on its merits because this specific issue was raised in the appeal.

Best regards,

A handwritten signature in black ink, appearing to read 'J.R. Patterson', with a long horizontal stroke extending to the right.

Jacob R. Patterson