

## RESOLUTION NO. PC -2023

### RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION APPROVING USE PERMIT 1-23 (UP 1-23), CANNABIS BUSINESS PERMIT 1-23 (CBP 1-23), VARIANCE 2-23 (VAR 2-23) FOR EMERALD TRIANGLE CANNABIS AT 546 S. MAIN ST.

**WHEREAS**, Emerald Triangle Cannabis (“Applicant”), submitted an applicant for: a Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), Variance 2-23 (VAR 2-23) to operate a retail cannabis business in an existing retail building; and

**WHEREAS**, 546 S. Main St., Fort Bragg, California (Assessor Parcel Numbers: 018-020-48) is in the Highway Visitor Commercial (CH), Inland Zone and no changes to the site’s current zoning designation are proposed under the Project; and

**WHEREAS**, the Project is subject to the Fort Bragg Inland General Plan and Inland Land Use and Development Code (ILUDC); and

**WHEREAS**, the project is exempt from CEQA under 15301 Class 1 Existing Facilities; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on October 11, 2023, to consider the Project, accept public testimony; and

**NOW, THEREFORE, BE IT RESOLVED** that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project applications; all site plans, and all reports and public testimony submitted as part of the Planning Commission meeting of October 11, 2023 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

Approval of VAR 2-23 to allow the operation of Emerald Triangle Cannabis at 546 S. Main St, Fort Bragg, based on the following findings (18.71.0070):

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
- b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
- c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

Approval of Use Permit 1-23 and CBP 1-23 to allow the operation of Emerald Triangle Cannabis at 546 S. Main St, Fort Bragg, based on the following findings and determinations from: ILUDC 18.71.060(F) regarding the Use Permit:

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).
6. The proposed use complies with the Specific Land Use Standards for Cannabis Retail Business in Section 18.42.057
7. The proposed use complies with Municipal Code Section 9.30 Cannabis Businesses.

The EMERALD TRIANGLE CANNABIS project is also subject to the following general findings and determinations, based on analysis and testimony presented at the October 11, 2023 hearing, incorporated herein:

1. The foregoing recitals are true and correct and made a part of this Resolution;
2. The documents and other material constituting the record for these proceedings are located at the Community Development Department;
3. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the General Plan, Inland Land Use and Development Code (ILUDC) and the Fort Bragg Municipal Code;
4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
5. 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.

**BE IT FURTHER RESOLVED** that the Fort Bragg Planning Commission does hereby approve Use Permit Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), Variance 2-23 (VAR 2-23) to operate a retail cannabis business in an existing retail building at 546 S. Main St., Fort Bragg, subject to the following conditions:

### **SPECIAL CONDITIONS**

1. Prior to issuance of the Use Permit, CBP and Variance, the applicant shall replace all non-compliant external lights with downward facing night-sky compliant lights at the front and exterior of the building.
2. The applicant shall install a 6-foot-high security fence along the east and south parcel boundary to minimize any potential impacts to the Sea Star Studios Youth Center.
3. Prior to issuance of the Use Permit, the applicant shall install a sign on the building that limits entrance to those over 21 years of age.

### **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 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.
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).

**BE IT FURTHER RESOLVED** that this Resolution shall become effective immediately upon its passage and adoption.

The above and foregoing Resolution was introduced by \_\_\_\_\_ seconded by \_\_\_\_\_, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 11<sup>th</sup> day of October 2023, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**RECUSE:**

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**Jeremy Logan, Chair**

**ATTEST:**

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**Maria Flynn, Administrative Assistant**