



# City of Fort Bragg

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

## Meeting Agenda Special City Council

**THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS  
THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1  
AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR  
AGENCY**

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Wednesday, September 1, 2021

6:00 PM

Via Video Conference

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### Special Meeting

#### CALL TO ORDER

#### ROLL CALL

#### PLEASE TAKE NOTICE

*Due to state and county health orders and to minimize the spread of COVID-19, City Councilmembers and staff will be participating in this meeting via video conference. The Governor's executive Orders N-25-20, N-29-20, and N-08-21 suspend certain requirements of the Brown Act and allow the meeting to be held virtually.*

*The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public Comment regarding matters on the agenda may be made by joining the Zoom video conference and using the Raise Hand feature when the Mayor or Acting Mayor calls for public comment. Any written public comments received after agenda publication will be forwarded to the Councilmembers as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, California. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except those written comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application. Public comments may be submitted to City Clerk June Lemos at [jlemos@fortbragg.com](mailto:jlemos@fortbragg.com).*

#### ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.  
When: Sep 1, 2021 06:00 PM Pacific Time (US and Canada)  
Topic: Special City Council Meeting*

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

*<https://us06web.zoom.us/j/88598145090>*

*Or Telephone:*

*Dial +1 253 215 8782 or +1 346 248 7799 (\*6 mute/unmute, \*9 raise hand)  
Webinar ID: 885 9814 5090*

**TO SPEAK DURING THE PUBLIC COMMENT PORTION OF THIS AGENDA VIA ZOOM, PLEASE JOIN THE MEETING AND USE THE RAISE HAND FEATURE WHEN THE MAYOR OR ACTING MAYOR CALLS FOR PUBLIC COMMENT.**

#### DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

**1. PUBLIC HEARING**

1A. [21-464](#) Receive Report, Conduct Public Hearing, and Consider Upholding or Denying the Appeal of the Planning Commission's Decision to Deny Minor Use Permit Application 1-21 (MUP 1-21) for a Cannabis Dispensary at 144 N. Franklin Street

- Attachments:** [09012021 Staff Report MUP1-21](#)  
[ATT 1 - Application for MUP 1-21](#)  
[ATT 2 - MUP 1-21 NOFA](#)  
[ATT 3 - Appeal to Planning Commission](#)  
[ATT 4 - 06232021 MUP 1-21 Staff Report](#)  
[ATT 5 - Planning Commission Resolution](#)  
[ATT 6 - Sunshine Holistic Appeal 8-9-2021](#)  
[ATT 7 - Map of Residential Properties in CBD](#)  
[ATT 8 - Resolution Upholding PC Decision](#)  
[ATT 9 - Resolution Overturning PC Decision](#)  
[Public Comment - Sunshine Holistic](#)  
[Letter from Applicant-Appellant 8-30-2021](#)  
[Staff PPT Presentation](#)  
[Applicant PPT Presentation](#)

**ADJOURNMENT**

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 August 27, 2021.

\_\_\_\_\_  
June Lemos, CMC  
City Clerk

**NOTICE TO THE PUBLIC:**

**DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:**

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection upon making reasonable arrangements with the City Clerk for viewing same during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at <https://city.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: 21-464**

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**Agenda Date:** 9/1/2021

**Version:** 1

**Status:** Public Hearing

**In Control:** Special City Council

**File Type:** Resolution

**Agenda Number:** 1A.

Receive Report, Conduct Public Hearing, and Consider Upholding or Denying the Appeal of the Planning Commission's Decision to Deny Minor Use Permit Application 1-21 (MUP 1-21) for a Cannabis Dispensary at 144 N. Franklin Street



**AGENCY:** City Council  
**MEETING DATE:** September 1, 2021  
**DEPARTMENT:** Community Development  
**PRESENTED BY:** H. Gurewitz  
**EMAIL ADDRESS:** hgurewitz@fortbragg.com

## AGENDA ITEM SUMMARY

### **TITLE:**

Receive Report, Conduct Public Hearing, and Consider Upholding or Denying the Appeal of the Planning Commission's Decision to Deny Minor Use Permit Application 1-21 for a Cannabis Dispensary at 144 N. Franklin Street

### **ISSUE:**

The Community Development Department (CDD) received an application for a Minor Use Permit (Attachment 1) from Sunshine Holistic filed by Brandy Moulton on February 11, 2021 requesting a Minor Use Permit (MUP) to operate a Cannabis Dispensary at 144 N. Franklin St.

CDD reviewed the application and determined that the project was approvable. The application was deemed complete on March 24, 2021. A public hearing with the Fort Bragg Planning Commission was scheduled. Due to an issue with noticing, the hearing was canceled. Based on Council reiterating direction that they want minor use permits to be reviewed by staff, the application was sent to the acting Director for decision. A Notice of Pending Action was properly noticed and an administrative public hearing was requested and held on May 18, 2021. After the hearing, the application was approved by the acting Community Development Director (Attachment 2) 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.

A timely appeal of the decision was received on May 26, 2021 from Gene & Dianna Mertle, Jay Koski, Jean Cain, Sarah Macy, Carrie Hull, James Matson, and Patricia Bell. (Attachment 3).

The Planning Commission held a public hearing for the appeal on June 23, 2021. The Commission overturned the administrative decision, denied the application, and referred the matter to staff to draft a resolution.

The Planning Commission held a meeting on July 14, 2021. At that meeting a motion was passed that City staff modify the Resolution to include only the two findings that the Planning Commission made during the meeting on June 23, 2021 and strike everything that was not part of the specific findings made during that meeting. On July 21, 2021, the Planning Commission met again, but did not vote on the final resolution. On August 6, 2021, the Planning Commission met again and adopted the Resolution (Attachment 5) upholding the appeal and denying the project.

On July 6, 2021, the City of Fort Bragg received a timely appeal of the Planning Commission decision from applicant Brandy Moulton, CEO of Sunshine Holistic (Attachment 6). A hearing was scheduled for August 9, 2021 with the Fort Bragg City Council. At the meeting, City Council opened the public hearing and continued it to a date certain, September 1, 2021. An additional appeal was submitted by Brandy Moulton on August 9, 2021, amending the initial appeal to include the adoption of the Planning Commission's resolution.

Notice of this hearing was posted at the property and duly noticed as required by the Inland Land Use and Development Code (ILUDC) Section 18.92.

**ANALYSIS:**

The Planning Commission upheld the appeal and denied the application for MUP 1-21 for two reasons as stated in the resolution:

1. There was not sufficient evidence that the required noticing for the Minor Use Permit and the Minor Use Permit Administrative Hearing, and the Minor Use Permit Appeal were properly posted at the property.
2. The proposed use is not compatible with the existing and future land uses.

**Finding #1 - Noticing**

The City's Planning Application requires a declaration of posting with a dated signature. The declaration states:

*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: (Describe location where notice is posted).*

When the applicant filed the Minor Use Permit (MUP) application, they reused and edited a prior application, but did not update the signatures or the dates.

Planning Commission communicated that the signature, which was dated November 17, 2019 did not provide sufficient evidence that the notice was posted in February of 2021, when the application was received because the 2019 signature page was for the previously denied permit application and not for the current submittal. This concern was raised after members of the appellant team indicated that they did not see the notice posted and staff could not validate its posting. There remains no evidence of whether sufficient noticing for the MUP or the MUP administrative hearing was posted on-site or not.

After the meeting, staff reviewed the application materials again. When Sunshine Holistic filed the first application, there was no Cannabis Business Permit (CBP) Application. However, when they filed the second application, the new application was required. The applicant submitted a CBP Application at the same time as the MUP application. The CBP has the same declaration of posting as the MUP. The declaration on the CBP was signed and dated February 17, 2021 (Attachment 6).

A public hearing was originally scheduled with the Planning Commission on April 28, 2021. However, the public hearing notices were sent a day late and did not meet the requirements of 18.96.020(B)(2). When this was brought to the attention of staff by members of the public, the hearing was cancelled.

An administrative public hearing was held on this project on May 18, 2021 prior to the Director's approval. No concerns regarding public noticing of the administrative hearing were raised prior to or at the May 18th administrative hearing.

On or before June 13, 2021, a notice should have been posted on the property for the appeal hearing with the Planning Commission. Staff did not inform Ms. Moulton of this requirement nor did staff post the notice. The Planning Commission meeting on June 23, 2021 is the only meeting held where it is certain that no notice was posted at the property.

In her letter of appeal, Brandy Moulton and Jennifer Brown provided signed statements that the notice was properly posted for the initial hearing(s). Notice of this hearing, originally scheduled for August 9<sup>th</sup> and continued to September 1<sup>st</sup>, was posted at the property on July 23, 2021.

#### Finding #2 - Incompatibility with Neighborhood

The Planning Commission concluded that *the design, location, size, and operating characteristics of the proposed activity are NOT compatible with the existing and future land uses in the vicinity because testimony presented by appellants provided compelling evidence that the proposed project would be incompatible with the mixed-use neighborhood which consists of commercial properties as well as heavily populated residential properties.*

There is no definition in the ILUDC for a "mixed-use neighborhood," only the term "mixed use project" which has no relevance to this discussion as it refers to multiple uses on one single parcel. However, the Inland General Plan, page 2-10, Commercial Land states:

*"The goals and policies in this section ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community. There are also policies encouraging mixed use and infill development to strengthen the other commercial areas of the City."*

Inland General Plan's Land Use Element Policy LU-3.2 states, *"Mixed Uses: Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area."*

Policy LU 3.2 and the above paragraph about the Central Business District (CBD), both indicate that the General Plan prioritizes commercial activity in the Central Business District.

Additionally, ILUDC Section 18.22.020(C) 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 City of Fort Bragg has both single-family and multi-family residences throughout downtown and in the other commercial districts in the City; there are at least 44 in the Central Business District (see Attachment 7). In the past year, the Planning Commission has authorized two (2) additional use permits for converting existing commercial spaces to residential units. These land use entitlements ensure these structures remain occupied and also meet housing goals. Prioritizing residential uses in commercial zones could create an economic burden on the CBD by limiting opportunities to only businesses that are “compatible” with residential properties. Arguably, Policy LU 3.2 intends to protect economic activity in the commercial district by stating that retail is the primary function of the area.

Staff has historically used the primary function of a district (and goals for future uses/functions) to measure compatibility of proposed uses. This interpretation was supported by a previous decision by the Planning Commission and upheld by the City Council in 2018, with the approval of Use Permit 1-18, to allow a bar with music at 338 N. Franklin St. despite the objection of the neighbors whose homes were across the alley from the proposed location.

Furthermore, the appellants of the administrative decision speculated that a cannabis dispensary would draw more crime and cause more harm on the neighborhood. Staff has taken this concern seriously. Prior to the Planning Commission meeting, staff checked with the police department and reviewed crime statistics for the two existing dispensaries before and after the dispensary opened. In both cases there was no increase in crime related or unrelated to the dispensary.

Additional concerns were expressed that the dispensary would be a target for robberies and that perpetrators fleeing the crime scene would pose a danger to residents. This concern was also taken seriously. Staff checked with the Police Department and obtained the following information:

- There are three bars in the Central Business District which only accept cash. There have been no robberies at any of these locations over the last ten years (length of time requested).
- Over the last ten years a book store, a cinema, an antique store, a bank, and a pharmacy have been robbed.

Based on this information, it is not reasonable to assume that a dispensary would be more likely to be robbed than any other retail establishment. Additionally, there are several logistical reasons why a secure dispensary located in downtown Fort Bragg would be a poor target for cannabis theft.

In developing Municipal Code Chapter 9.30 Cannabis Businesses and Inland Land Use and Development Code Section 18.42.057, Specific Land Use Standards for Cannabis Businesses, the City Council has provided more stringent requirements for a cannabis dispensary than any other downtown business that are also heavily regulated by the state.

The dispensary would have a lower impact in both noise and traffic than a restaurant which is a historic and allowable use. It would also have a lower impact than the bar that was approved in 2018 despite similar neighboring concerns. It is a retail store selling a controlled substance with adequate measures in place, which is compatible with other retail or commercial uses in the area.

The staff report from June 23, 2021 (Attachment 4) provides a detailed analysis of the project including consistency with the Inland General Plan and the ILUDC.

**RECOMMENDED ACTION:**

Reopen the public hearing (that was continued on August 9), receive the staff report, take public comment, and consider the appeal of the Planning Commission's decision which overturned the administrative decision and denied the Minor Use Permit Application MUP 1-21 for a cannabis dispensary at 144 N. Franklin St.

**ALTERNATIVE ACTION(S):**

Continue the hearing to a later date.

**FISCAL IMPACT:**

N/A

**GREENHOUSE GAS EMISSIONS IMPACT:**

N/A

**CONSISTENCY:**

See Attachment 4 for the June 23, 2021, staff report which contains the full consistency analysis. The proposed project is consistent with the Inland General Plan and the Inland Land Use and Development Code.

**IMPLEMENTATION/TIMEFRAMES:**

The approval or denial of this permit will be effective immediately.

**ATTACHMENTS:**

1. Application for Minor Use Permit MUP 1-21
2. Notice of Final Action
3. Appeal to Planning Commission
4. Staff Report to Planning Commission Appeal Hearing on June 23, 2021
5. Planning Commission Resolution PC 09-2021
6. Sunshine Holistic Appeal(s) to City Council
7. Map of CBD with Residential Properties
8. City Council Resolution Upholding Planning Commission Decision
9. City Council Resolution Overturning Planning Commission Decision

**NOTIFICATION:**

1. Brandy Moulton, Applicant/Appellant
2. Jacob Patterson, Representative of Appellants of the administrative decision

3. Gene and Diane Mertle, Bruce Koski, and the Appellants of the Administrative Decision

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.)

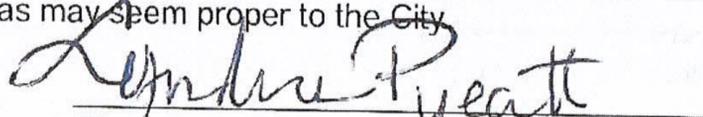
Convert existing retail building into cannabis retail dispensary

## 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.

  
Signature of Applicant/Agent

11/17/19  
Date

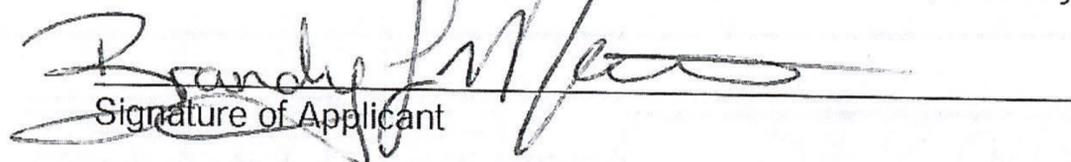
  
Signature of Property Owner

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.

  
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.

  
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)

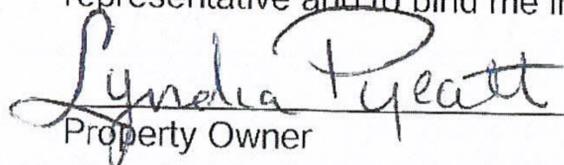
  
Property Owner/Authorized Agent

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.

  
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

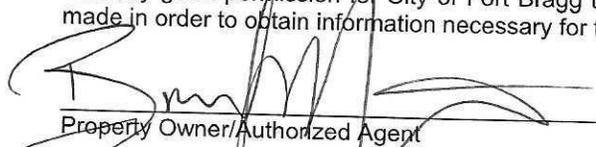
### PROJECT DESCRIPTION

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

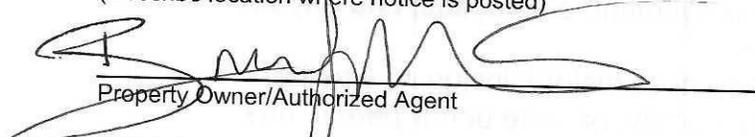
NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

**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)

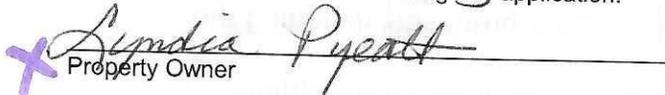
  
Property Owner/Authorized Agent

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



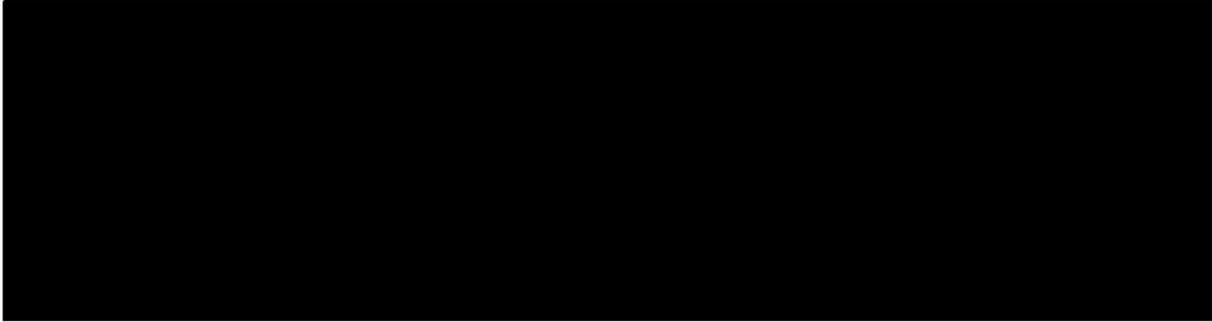
**CITY OF FORT BRAGG**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
416 North Franklin Street  
Fort Bragg, CA 95437  
Tel: (707) 961-2827  
Fax: (707) 961-2802  
<http://city.fortbragg.com>

## **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



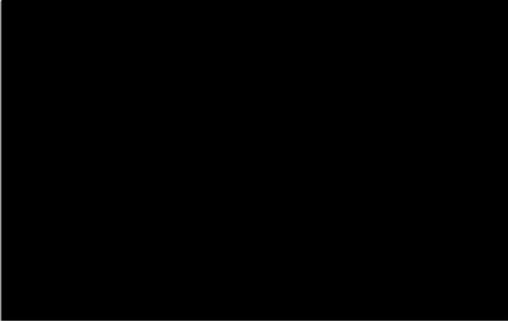
Date Printed: 02/11/2021 18:30  
Receipt Date: 02/11/2021 6:30 PM  
Receipt No. 00424941

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
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Total		1,901.00
Cash		0.00
Check	1174	1,901.00

Change 0.00

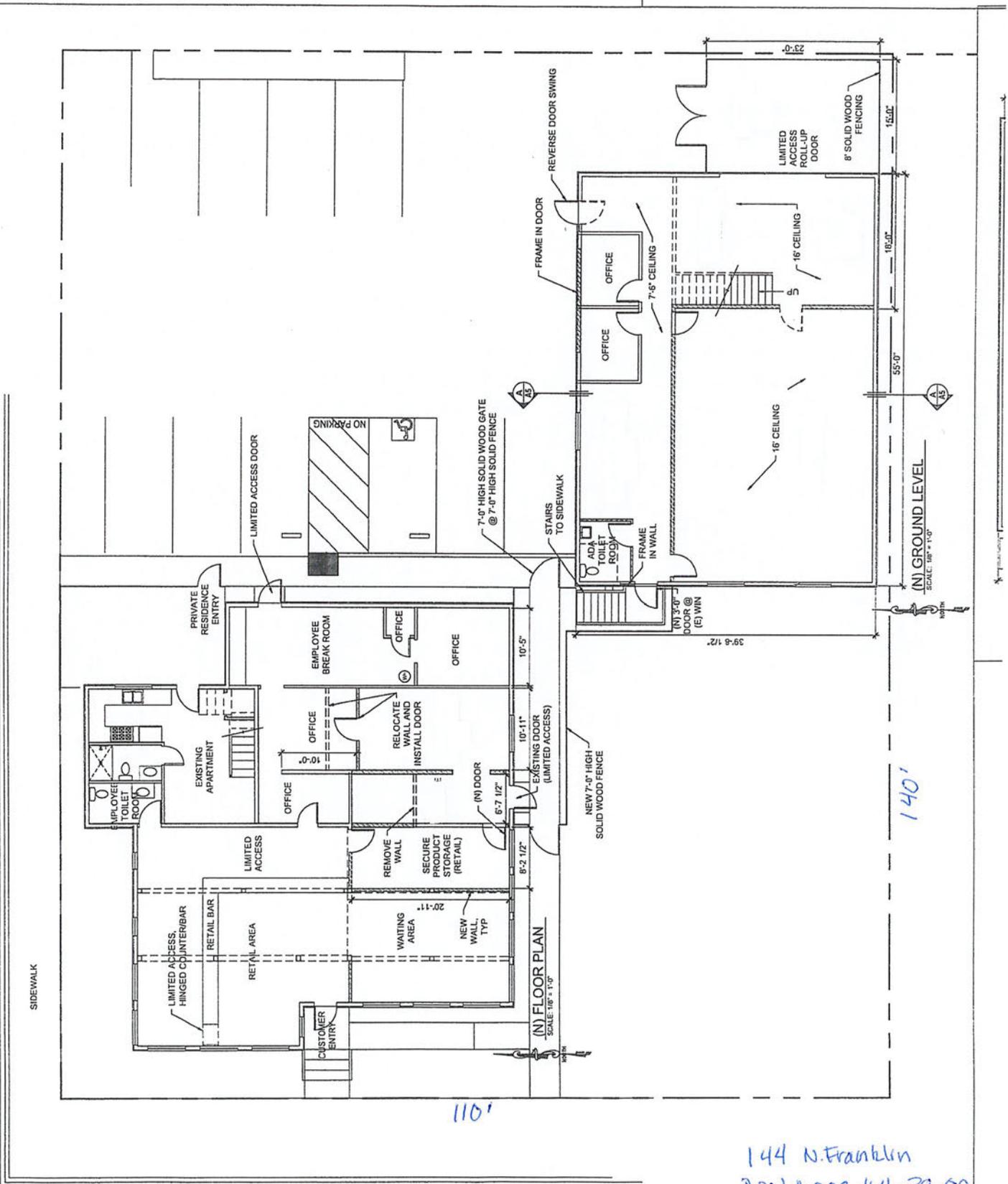
SEA



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.

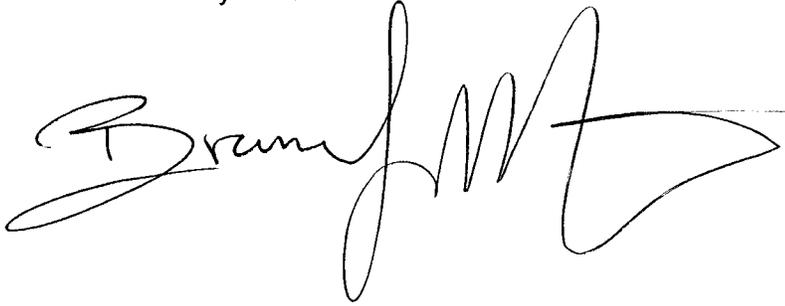
Here is a photo of the existing sign



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

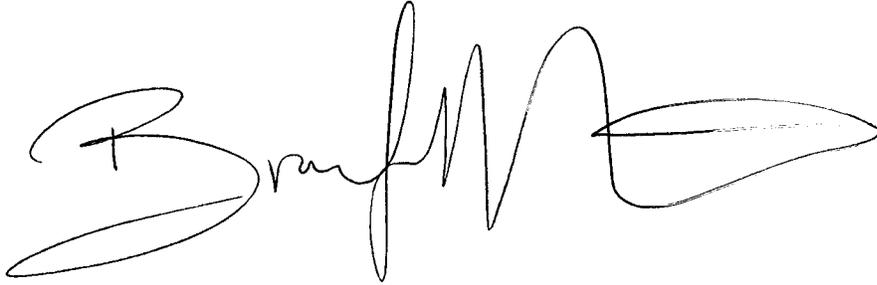
Criminal history

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 fluid and cursive, with the first name "Brandy" written in a larger, more prominent script than the last name "Moulton".

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

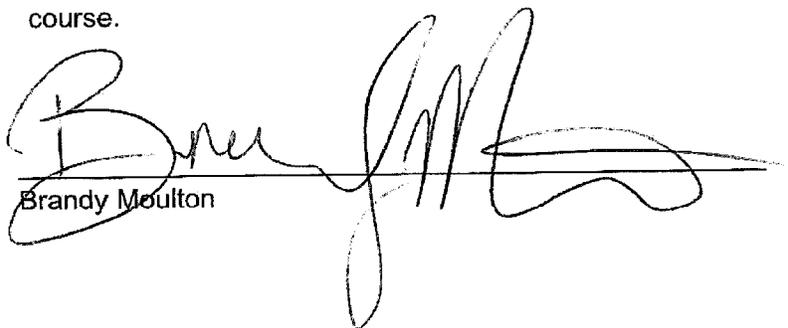
### Cannabis Business History

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".

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

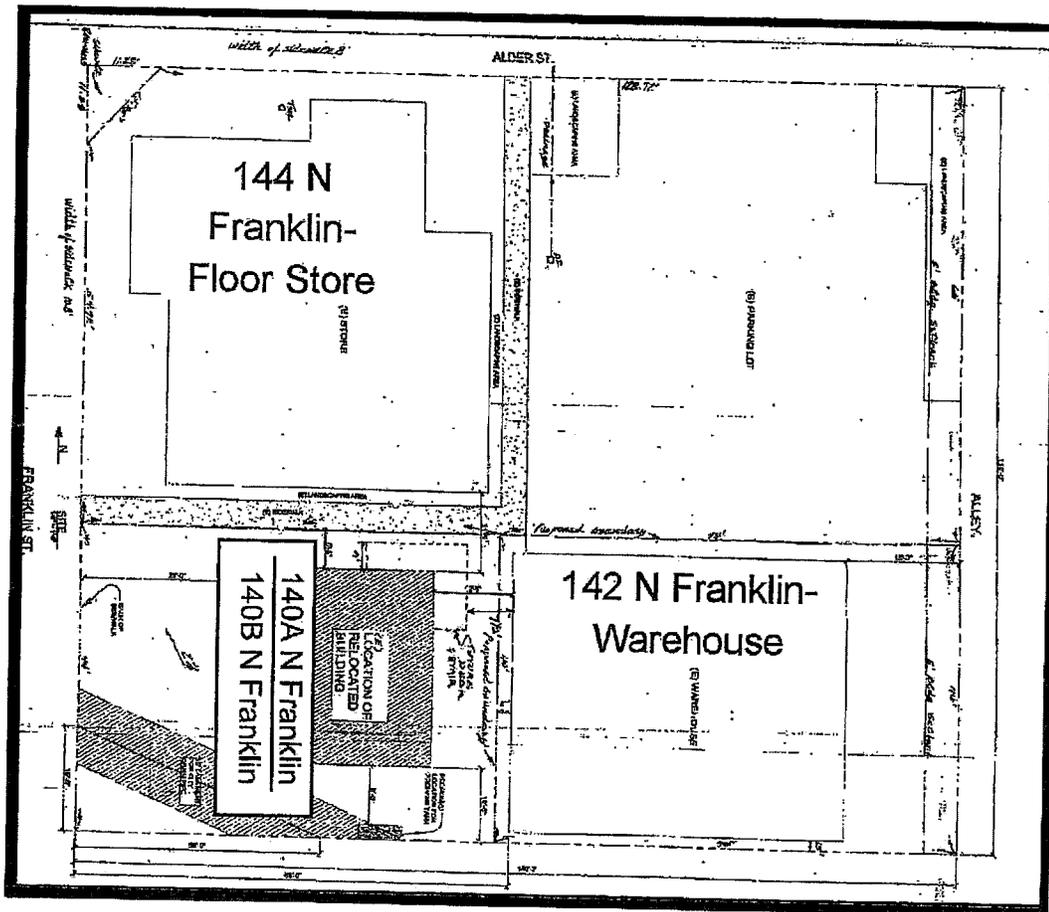
Incorporated August 5, 1889  
416 N. Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802

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

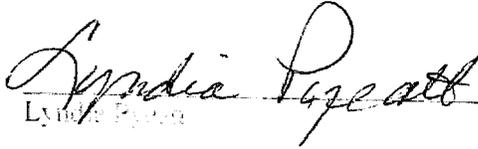


December 11, 2019

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

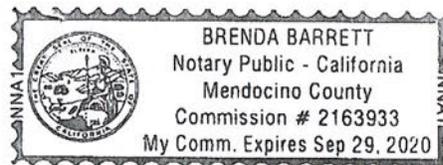
On Dec 11, 2019 before me, Brenda Barrett Notary Public  
(insert name and title of the officer)

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

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**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

5/19/2021  
\_\_\_\_\_  
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 Mertzl JAY Koski Patricia M Bell

MAILING ADDRESS: 190 Elkhorn Way

CITY: Fort Bragg STATE & ZIP CODE: CA 95437

TELEPHONE #: 707 964 0798 FAX #: dmertzl@sbcglobal.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 Mertzl  
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.

City of Fort Bragg Community Development Department,

MUP 1-21

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

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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

☺

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 <a href="#">18</a> (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

**RESOLUTION NO. PC 09-2021**

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

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

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

**WHEREAS**, the Planning Commission upon holding the hearing on June 23, 2021 determined that there was not sufficient evidence that the required noticing for the Minor Use Permit, the Minor Use Permit Administrative Hearing, and the Minor Use Permit Appeal were properly posted at the property; and

**WHEREAS**, the approval of a project requires that all findings for a Minor Use Permit be made; and

**WHEREAS**, at the public hearing the appellant presented compelling evidence that the proposed project would be incompatible with the mixed-use neighborhood which consists of commercial properties as well as heavily populated residential properties;

Planning Commission established the following finding c. could not be made:

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

**NOW, THEREFORE, BE IT RESOLVED** that pursuant of all the evidence presented on June 23, 2021, both oral and documentary, and further based on the recitals as stated above, Minor Use Permit 1-21 is denied subject to the provisions of the City of Fort Bragg Municipal Code Title 18 Inland Land Use Development Code based on the following findings:

1. There was not sufficient evidence that the required noticing for the Minor Use Permit, the Minor Use Permit Administrative Hearing, and the Minor Use Permit Appeal were properly posted at the property.
2. The proposed use is not compatible with the existing and future land uses.

The above and foregoing Resolution was introduced by Commissioner Logan, seconded by Commissioner Roberts, and passed and adopted at a special meeting of the Planning Commission of the City of Fort Bragg held on the 5<sup>th</sup> day of August 2021, by the following vote:

AYES: Rogers, Roberts, Logan.  
NOES: None.  
ABSENT: Andreis.  
ABSTAIN: None.  
RECUSED: Miklose.



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Jeremy Logan, Chair

ATTEST:



---

Sarah Peters, Administrative Assistant

RECEIVED

AUG 09 2021

CITY OF FORT BRAGG  
CITY CLERK

AUSTIN LEGAL GROUP

LAWYERS

3990 OLD TOWN AVE, STE A-101

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August 9, 2021

Writer's Email:  
gaustin@austinlegalgroup.com

June Lemos  
City Clerk  
City of Fort Bragg  
416 North Franklin Street  
Fort Bragg, CA 95437

VIA EMAIL ONLY

**RE: Brandy Mouton's Appeal of Planning Commission's Decision to Deny MUP 1-21  
Cannabis Retail Project at 144 N. Franklin St.**

Dear City Clerk:

Austin Legal Group represents the applicant, Brandy Moulton ("Applicant"), with respect to her application for a minor use permit to operate a cannabis retail store at 144 N. Franklin Street ("MUP 1-21" or "Project").

At the City's request, the Applicant is providing, for a second time, her appeal of the June 23, 2021 Planning Commission decision to deny MUP 1-21 which was previously filed with the City Clerk on July 6, 2021 ("Appeal"). Applicant's acquiescence to provide the City with this courteous copy of the Appeal does not act as a waiver to any applicable local or State statutory or regulatory time processing requirements. In other words, the effective appeal date of the June 23, 2021 Planning Commission denial decision is July 6, 2021. The date of this letter cannot and should not be used for any time processing requirements applicable to this Project's required review process.

Sincerely,  
AUSTIN LEGAL GROUP, APC



Gina M. Austin, Esq.

Enclosure: Sunshine Holistic July 6, 2021 Appeal

RECEIVED

JUL 06 2021

CITY OF FORT BRAGG  
CITY CLERK

FOR CITY USE ONLY:

File # 387-21/E

Date Filed: 7.6.2021

Received by: Jemos

APPEAL OF PLANNING COMMISSION DECISION

APPELLANT(S): Sunshine Holistic (Brandy Moulton)

MAILING ADDRESS: 18601 N Hwy 1 #166

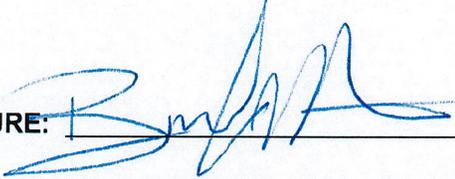
CITY: Fort Bragg STATE & ZIP CODE: CA 95437

TELEPHONE #: 707-223-1129 FAX #: \_\_\_\_\_

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.)

Appeal of the Planning Commission's action on June 23, 2021 regarding  
Item 6B - Minor Use Permit No. 1-21.

Please see letter attached for appeal reasons.

APPELLANT(S) SIGNATURE: 

DATE: 7.6.21

DATE: \_\_\_\_\_

FOR CITY USE ONLY:

Fee Paid \$1,000.00 \$1,000.00 (#110-0000-3998)

Receipt # 00437799

Date: 7.6.2021

Notice of Public Hearing:

Mailed () Date: 7.23.2021

Published () Date: 7.29.2021

Posted () Date: 7.23.2021

CITY COUNCIL ACTION:

9.1.2021 @ 6 PM

DATE: \_\_\_\_\_

Approve: \_\_\_\_\_

Deny: \_\_\_\_\_

Table: \_\_\_\_\_ Until \_\_\_\_\_

Receive & File: \_\_\_\_\_



City Clerk  
City of Fort Bragg  
416 North Franklin Street  
Fort Bragg, CA 95437

**RE:** Sunshine Holistic’s Appeal of the June 23, 2021 Planning Commission’s Decision to Uphold Appellant’s Appeal and Deny Minor Use Permit Application No. 1-21 (“MUP 1-21”)

Dear City Council,

I, Brandy Moulton, as the Chief Executive Officer and owner of Sunshine Holistic, appeal the Planning Commission’s June 23, 2021 decision to uphold the appeal submitted by Gene Mertle and Jay Koski (“Appellant”) and deny MUP 1-21.

The basis for the Planning Commission’s decision to uphold the Appellant’s appeal and deny MUP 1-21 is unclear, vague, and ambiguous. **Accordingly, Sunshine Holistic is appealing the Planning Commission’s June 23, 2021 decision to deny MUP 1-21 in its entirety.**

The Planning Commission did not articulate the specific reasons for granting the appeal and the record is devoid of facts to support its decision. In light of the arbitrary and capricious nature of the Planning Commission’s decision, I am left to guess at the basis for their decision based upon comments made during the hearing. In doing so, I can specify the following reasons for my appeal:

1. An unsupported assertion was made by Jacob Patterson that the “Notice of Pending Permit” for MUP 1-21 was not properly posted. Contrary to this assertion, the Notice of Pending Permit was posted on February 12, 2021.

Please see the signed declarations attached to this letter attesting to this posting. Please also see the February 17, 2021 signed Declaration of Posting that was part of the staff materials provided to the Planning Commission.

Even if the notice was defective, pursuant to the Fort Bragg Municipal Code, this is not a basis for granting the appeal.

2. Appellant arbitrarily objected to the design, location, size, and operating characteristics of the proposed project. No evidence was provided to support this assertion. The Zoning Ordinance specifically allows for cannabis retail stores in the Central Business District (“CBD”) with a minor use permit. The General Plan provides that the CBD supports mixed uses of retail stores and residences, *so long as the mixed-use does not conflict with the primary retail function of the CBD*. It would be counter-intuitive for the City to pass Ord. 952-2019 to allow for cannabis retail in the CBD while simultaneously finding the use incompatible with the neighboring land uses.
3. The Planning Commission arbitrarily held that our operating plan was not sufficient enough to ensure that the business would not endanger the public welfare. No evidence was provided or used to support this assertion about our project.

Contrarily, our submitted MUP 1-21 application (which was part of the staff materials provided to the Planning Commission) includes several security measures we intend to incorporate at our proposed facility. We are also subject to several operational restrictions at both the local and State level which ensures that commercial cannabis businesses are not detrimental to the public welfare.

4. The Planning Commission improperly considered issues outside the scope of its jurisdiction. Fort Bragg Municipal Code section 18.92.030(C) provides that an appeal shall be limited to issues raised at or before the May 18, 2021 administrative hearing.

The Planning Commission engaged in and provoked unwarranted considerations including, but not limited to:

- a. Repeatedly considering information provided within the previous minor use permit application MUP 4-20;
- b. Requesting and discussing crime statistics for unrelated cannabis retail operations;
- c. Inquiring about the City's process on receiving cannabis tax money in light of the status of federal legalization;
- d. Inquiring about the Planning Commission's authority to inspect cannabis businesses employee lists; and
- e. Inquiring about the Planning Commission's authority to deny MUP 1-21 based on the required background check process despite the City Attorney's repeated statements that such considerations were outside the scope of the Planning Commission's review.

These unwarranted comments, considerations, and requests should be disregarded because the Planning Commission lacked jurisdiction to consider those issues.

5. All of the evidence in the record supports the necessary required findings for MUP 1-21.

Appellant cannot simply make assertions that are contrary to, and unsupported by, the evidence in the record, and the Planning Commission cannot overturn the Community Development Director's project approval based on these unsupported assertions.

Supplemental information to further support our appeal bases shall be submitted closer to the City Council hearing date as is expressly permitted by the City.

Thank you,

Brandy Moulton  
CEO of Sunshine Holistic

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.

**TYPE OF CANNABIS BUSINESS ACTIVITIES TO BE CONDUCTED AT THE PROJECT ADDRESS** (Check all applicable boxes and indicate square footage of activity)

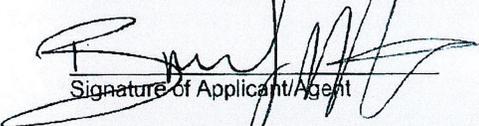
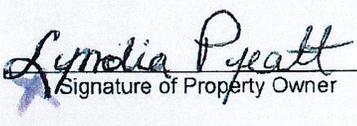
Type of Activity	CA State License Type/ Number	License Dates valid (MM/DD/YY – MM/DD/YY)	Total Sq. Footage for Use
PROCESSING			
MANUFACTURING Level 1 or 2 (circle)			
WHOLESALE/ DISTRIBUTION			
RETAIL	✓		1560 sq feet
RETAIL – DELIVERY ONLY			

Attach a copy of all current/pending licenses specific to the project site to this application.

If required to register for California Cannabis Track-and-Trace System, have you done so?  Yes  No

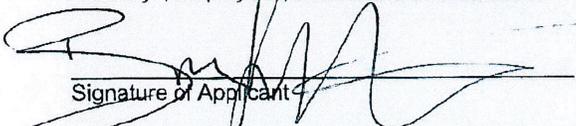
**CERTIFICATION**

I hereby certify, under penalty of perjury that all the information contained in this application is true and correct. 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.


2-17-21

2/18/21  
 Signature of Applicant/Agent      Date      Signature of Property Owner      Date

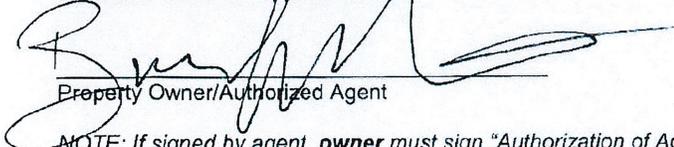
**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

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 Chapters 17.70.060 and 18.70.060 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, attorneys 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], but not sole, negligence on the part of the City, its agents, officers, attorneys, employees, boards and commissions.


2-17-21  
 Signature of Applicant      Date

**SITE VIEW AND INVESTIGATION AUTHORIZATION**

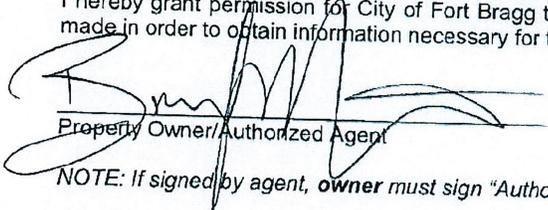
I hereby grant permission for City staff and hearing bodies to enter upon and site view the premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision. Additionally, I grant permission for City staff and hearing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


2-17-21  
 Property Owner/Authorized Agent      Date

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

**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

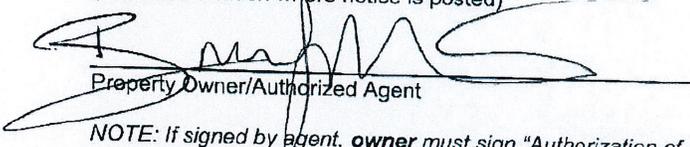
NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

**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.

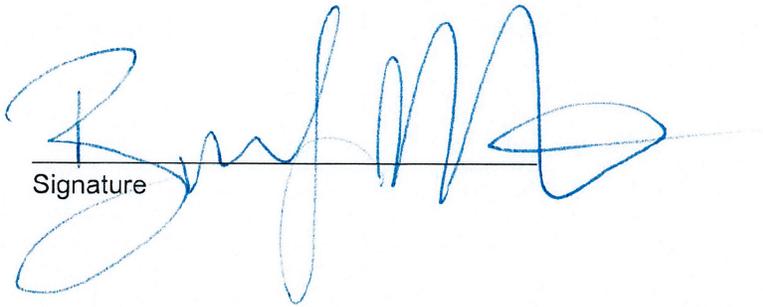
**AUTHORIZATION OF AGENT**

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

Syndia Pyzall  
Property Owner

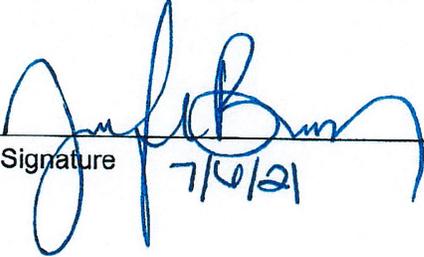
2/18/21  
Date

I, Brandy Moulton, attest that the Notice of Pending Permit was posted on February 12th, 2021 in the west facing window next to the main entrance.

A handwritten signature in blue ink, appearing to be 'Brandy Moulton', written over a horizontal line. The signature is stylized and cursive.

Signature

I, Jennifer Brown, work at 144 N Franklin Street in Fort Bragg and do confirm that the Notice of Pending Permit was posted in February and remained posted for several months.

  
Signature \_\_\_\_\_  
7/4/21

Date Printed: 07/06/2021 12:00  
Receipt Date: 07/06/2021 12:00 PM  
Receipt No. 00437799

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

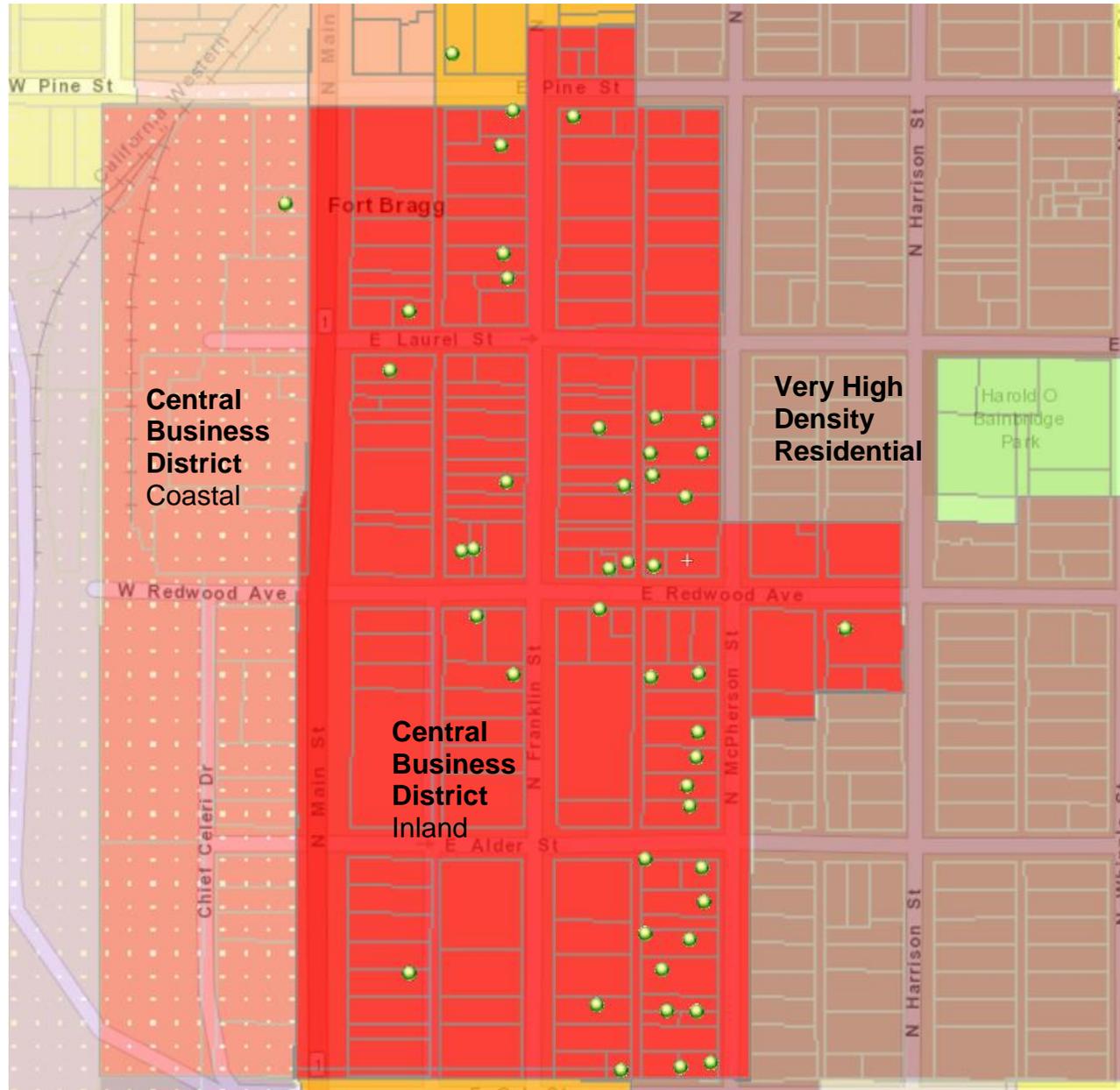
CR		1,000.00
MiscReven		
Appeal of Plan		
ning Commissio		
n 6/23/21 Item		
68		1,000.00
-----		
Total		1,000.00
Cash		0.00
Check	11	1,000.00

Change 0.00

SEA  
Customer #: 017429  
18601 N Highway 1  
PMB 166  
Fort Bragg, CA 954378759

Cashier: counter  
Station: CH1298

# Single Family and Multi-Family Residences in the Central Business District



**RESOLUTION NO. \_\_\_\_-2021**

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

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

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

**WHEREAS**, the City Council upon holding the hearing on September 1, 2021, determined that there was not sufficient evidence that the required noticing for the Minor Use Permit and the Minor Use Permit Administrative Hearing were properly posted at the property; and

**WHEREAS**, the approval of a project requires that all findings for a Minor Use Permit be made; and

**WHEREAS**, at the public hearing the appellant has not presented compelling evidence that the proposed project would be compatible with the mixed-use neighborhood which consists of commercial properties as well as heavily populated residential properties;

The City Council established the following required finding for approving a Minor Use Permit, finding c. could not be made:

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

**NOW, THEREFORE, BE IT RESOLVED** that pursuant of all the evidence presented on September 1, 2021, both oral and documentary, and further based on the recitals as stated above, Minor Use Permit 1-21 is denied subject to the provisions of the City of Fort Bragg Municipal Code Title 18 Inland Land Use Development Code based on the following findings:

1. There was not sufficient evidence that the required noticing for the Minor Use Permit and the Minor Use Permit Administrative Hearing were properly posted at the property.
2. The proposed use is not compatible with the existing and future land uses.

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

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

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

\_\_\_\_\_  
**BERNIE NORVELL**  
Mayor

**ATTEST:**

\_\_\_\_\_  
**June Lemos, CMC**  
City Clerk

**RESOLUTION NO. \_\_\_\_-2021**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

---

**BERNIE NORVELL**  
Mayor

**ATTEST:**

---

**June Lemos, CMC**  
City Clerk

**From:** [Jacob Patterson](#)  
**To:** [Lemos, June](#); [Munoz, Cristal](#)  
**Cc:** [Miller, Tabatha](#); [Smith, John](#); [O'Neal, Chantell](#); [Gurewitz, Heather](#)  
**Subject:** Public Comment -- MUP 1-21 August 9, 2021 appeal before the City Council  
**Date:** Friday, July 30, 2021 4:15:40 PM

---

City Council and Staff,

Although the agenda packet will not be published for this appeal concerning MUP 1-21 until August 4, 2021 or thereafter, I reviewed the appeal form and letter submitted by Brandy Moulton as CEO of Sunshine-Holistic on July 6, 2021 and would like to submit these comments for the City's consideration as the agenda materials are prepared.

## **INTRODUCTION:**

The July 6, 2021 appeal letter noted that Brandy Moulton intends to submit additional supplemental information to support Sunshine-Holistic's appeal bases closer to the hearing, implying that additional information or documentation could bolster or provide support for the grounds of appeal she provided on July 6, 2021. Rather than waiting for and responding to that additional information, I want to respond to the specific grounds she raised in the letter now because regardless of what additional support Sunshine-Holistic offers, none of the bases for appeal are sufficient to support the City Council upholding her appeal of the Planning Commission's unanimous denial of the requested permits. In short, no amount of additional support could ever be provided that would provide an adequate basis for the City Council to uphold her appeal and overturn the decision of the Planning Commission so there is no reason to wait to analyze the specific grounds of appeal raised in the existing letter.

The July 6, 2021 appeal letter raises 5 separate grounds of appeal, although none of these bases provide adequate grounds to appeal the Planning Commission's decision and her appeal should (actually must) be denied. The appeal appears to be premised on the false assumption that the original staff recommendations and suggested supporting analysis in the staff report presented to the Planning Commission are controlling or dispositive. This is not the case, staff recommendations, including the staff analysis provided in the staff report, are only recommendations to the review authority and do not have any controlling weight that constrains the decision-making authority of the Planning Commission, who unanimously disagreed with the staff analysis and recommendations. The Planning Commission's decision is the binding decision of the City at this point and their interpretation of the applicable code requirements and Inland General Plan constitute the official position of the City.

Staff's prior recommended interpretations were explicitly rejected by the Planning Commission and the fact that the applicant disagrees with the Planning Commission's legal and factual determinations and prefers the original staff recommendations, does not provide a basis to uphold their appeal because their appeal attacks that prior decision as not being supported by evidence in the record when it is adequately supported by evidence in the record. This is true even if there are alternative conclusions or determinations that could also plausibly be supported by evidence in the record because the question presented on an appeal to the City Council is not whether or not the City Council would have come to a different conclusion or interpreted the code in a different way than the Planning Commission, the question presented to the City Council is if the Planning Commission's decisions are adequately supported based on the evidence in the record and concerning the grounds raised in this appeal.

In short, falsely claiming that there is no support in the record for the Planning Commission's decision does not make that claim true or accurate nor does it provide a valid basis for this appeal, particularly when the Planning Commission discussed the need for support in the record and they were advised by the City Attorney that their two findings of denial were adequately supported and that either basis would have been valid grounds on its own for the Planning Commission to deny the requested permits. Moreover, the City Attorney elaborated that the lack of all required notices could not even be overturned on an appeal to the City Council if the notices had not actually been posted when they were required to be posted on or around the project site (i.e., there is no way to correct past procedural defects concerning public notices that were required to be posted in the past).

### **APPEAL BASIS 1:**

The first finding of denial related to the inadequate public notices for the entitlement review because the ILUDC requires all relevant notices for the various stages of the entitlement review to be physically posted on or around the project site in a conspicuous location. The Planning Commission considered this issue as raised by the appellants and determined that there was inadequate evidence in the record that all such notices had been physically posted on the site as required and that the permits should be denied because of the lack of required notices. Although the Planning Commission went on to discuss the Declaration of Posting found in the application form, which applies to the Notice of Pending Permit but not to the other notices that the Code requires to be posted at the project site, the presence or absence of that Declaration of Posting was not the determining factor in the Planning Commission deciding to deny the permit because the notices had not been posted as required even though it was relevant to the overall discussion of this particular issue.

The applicant/appellant alleges that this first finding supporting the denial of the permits should be reversed because she claims that the Notice of Pending Permit was actually posted on February 12, 2021 and the Declaration of Posting was signed as of February 17, 2021. What the appellant doesn't recognize is that doesn't address or undermine the Planning Commission's finding in any way because it only relates to the Notice of Pending Permit and has nothing to do with the series of public notices that the ILUDC requires to have been posted at various stages in this entitlement review.

These other notices that required to be posted on the project site include:

1. The Notice of Public Hearing for the public hearing before the Planning Commission that was originally scheduled on April 28, 2021 concerning this permit before staff decided to shift the review from the Planning Commission to an administrative review after the City failed to provide timely public notice of that public hearing and an objection was raised concerning that inadequate notice by one of the concerned neighbors.
2. The Notice of Pending Action for the potential administrative approval of the permits (unless an interested person requested a staff-level administrative public hearing on the permits).
3. The Notice of Public Hearing for the staff-level administrative public hearing that was requested by some of the neighbors to the project and during which those neighbors objected to the City granting the permits for all reasons brought up in public comments to date, which includes the prior objection concerning the City's failure to comply with the public notice requirements set out in the ILUDC.

4. The Notice of Public Hearing for the appeal of the staff-level approval of MUP 1-21 scheduled before the Planning Commission.

None of these notices were posted on or around the project site prior to the dates of the pending action or subsequent public hearings up to and including the public hearing before the Planning Commission on June 23, 2021 and there is no evidence in the record to support that they were actually posted. In fact, the appeal incorrectly quotes me as having stated something that I never said, which can be verified by simply watching the meeting video where I can be heard clearly identifying the issue as the "notices" not being physically posted rather than what the appeal alleges I stated, which was only that the "Notice of Pending Permit" had not been posted on the site.

Furthermore, my oral testimony is also not an unsupported assertion, it is me providing evidence of my personal observations that no notices were posted on or around the project site based on a series of visits I personally made to the project site when I frequently visited the adjacent Post Office to pick up mail from my PO Box. I offered my oral testimony as evidence of the lack of required notices for the Planning Commission's consideration. As such, even if the original Notice of Pending Permit had actually been posted on the inside of the front window of the proposed building to be used for this project, as is alleged in Item #1 in the appeal, that doesn't provide a valid basis to overturn the Planning Commission's determination that the required notices had not been physically posted on the or around the project site as required by the ILUDC because the Declaration of Posting of the Notice of Pending Permit does not cure the lack of physical posting of the subsequent notices that were also required by the ILUDC.

Item #1 of the appeal also incorrectly asserts that defective notice is not a valid basis for the Planning Commission's earlier decision to grant the neighbors' appeal without providing any citation to support that assertion. There is no citation likely because that is simply inaccurate and in conflict with the accurate legal advice provided by the City Attorney that the Planning Commission could grant the appeals and deny the permits for that reason alone even without considering the other grounds presented by the appellants in that hearing. As mentioned above, he even emphasized that the actual lack of compliant notice (rather than merely a lack of evidence in the record demonstrating that the required notices actually occurred) is not even something that could be corrected if the applicant tried to appeal the Planning Commission's decision to the City Council, which they have now done. The City Council cannot retroactively fix the defective notice and this current appeal cannot be successful because none of the required public notices subsequent to the Notice of Pending Permit were posted as required (i.e., not only is there not evidence in the record that this series of notices was actually posted, there is evidence in the record that those notices were not posted).

#### **APPEAL BASIS 2:**

Item #2 in the appeal relates to the second finding made by the Planning Commission when they denied the requested permits, which was their determination, based on the evidence in the record, including the written public comments and the oral testimony of the neighbors, that the proposed dispensary was not compatible with the existing and future land uses in the vicinity of the project. The appeal incorrectly asserts that that finding was not supported by evidence in the record but, again, that is simply not true. The Planning Commission specifically pointed to the supporting evidence as being the written and oral comments that raised specific concerns about the project not being compatible with their existing residential land uses across the alley

in the vicinity of the project site. That is, in fact, the supporting rationale for the Planning Commission's determination that they could not make the finding that was required in order for them to approve the project. The adequacy of this support and the finding of denial was specifically reviewed by the City Attorney during the Planning Commission meeting and he advised them that it was adequate and defensible.

Although not discussed at length, the Planning Commission rejected staff's interpretation of what that particular finding requires, which is good because staff's interpretation was fatally flawed and legally indefensible because it effectively would have rendered that finding to be irrelevant and redundant to the separate question of whether or not the proposed use is permitted or potentially permitted in this particular zoning district. The appeal reasserts that flawed and incorrect interpretation as being valid in an attempt to overturn the Planning Commission's determination that the dispensary was not compatible with the nearby residential uses despite the fact that the CBD is a mixed use district that includes both commercial and residential uses.

The appellant suggests that the fact that dispensaries are potentially permitted in the CBD if a Minor Use Permit is granted means that all dispensaries should be determined to be compatible with the neighboring land uses but that suggestion is incorrect because it fails to understand the entire context of why a Minor Use Permit and all of the specific findings and required to be made before a particular dispensary can be permitted in a specific location, which was explicitly discussed by the Planning Commission during their deliberations. Minor Use Permits are required when the specifics of a proposal need to be evaluated in order to determine if that particular proposal may be permitted in the particular location. The question is not whether or not a hypothetical dispensary could possibly be permitted in the CBD zone in general, the question presented is whether or not all of the required MUP findings can be made, which includes evaluating the specifics of the proposed dispensary to determine if it is compatible with the actual land uses that exist near the proposed project site.

The Planning Commission considered all the evidence and agreed with the neighbors who objected to the proposed dispensary being located next to their property and residences and who provided specific reasons why the proposed dispensary was, in fact, incompatible with the existing and future land uses in the vicinity so that required finding could not be made. Such specific reasons were the unique nature of cannabis retail compared to other types of retail (which are actually permitted by right rather than only potentially permitted if, and only if, each required finding can be made to support granting the necessary MUP for this project) and how that created increased concern about safety due to the illegal nature of commercial cannabis under federal law that results in large amounts of cash and cannabis material itself being on site at the dispensary, which is an attractive target for armed robberies of a cannabis retail establishment compared to a non-cannabis retail site that doesn't have large amounts of liquid cash or cannabis potential thieves may target. These concerns were further supported by relevant news articles and statistics submitted via public comments. As such, and contrary to the assertions in the appeal, the Planning Commission's determinations and decision were not arbitrary and capricious and they were supported and justified by evidence in the record.

### **APPEAL BASIS 3:**

Item #3 in the appeal alleges that the Planning Commission arbitrarily held that the operating plan was not sufficient to ensure that the business would not endanger the public welfare, which concerns another required finding for an MUP that was the subject of the earlier appeal

before the Planning Commission. Although these issues were discussed by the Planning Commission and two of the three commissioners participating in the decision indicated they did not think that required finding was justified, this was not actually one of the reasons the Planning Commission denied the permits so this alleged basis for this new appeal is invalid and irrelevant. The Planning Commission voted to deny MUP 1-21 based on two findings of denial but neither finding had anything to do with this topic.

#### **APPEAL BASIS 4:**

Item #4 is similarly misguided and cannot provide a valid basis for the current appeal because none of the listed considerations were incorporated into the reasons why the Planning Commission decided to deny MUP 1-21. First of all, several of the items listed are not actually outside the scope of the Planning Commission's jurisdiction as is alleged in the appeal but even if they were irrelevant to the entitlement review and outside the scope of what can be considered by the review authority, none of the topics was cited by the Planning Commission as a reason for their denial nor do they relate to the two specific findings the Planning Commission actually made when they denied MUP 1-21. No amount of additional supporting evidence the applicant/appellant can provide will turn this into a valid basis for an appeal or provide a basis for the City Council to overturn the decision of the Planning Commission.

#### **APPEAL BASIS 5:**

Item #5 is not actually a separate basis for the appeal and is merely a repetition of an aspect of their other more specific bases. It is also a false assertion that "all of the evidence in the record supports the necessary required findings for MUP 1-21" when there is ample evidence in the record to support the the two findings of denial the Planning Commission made when they evaluated the sufficiency of the evidence before them and determined that (1) the required notices had not been posted on the project site as is required by the ILUDC, and (2) that the proposed dispensary is not compatible with the existing and future land uses in the vicinity.

Although there is certainly some evidence in the record that could have been used to support one or more of the required findings that were not at issue during the appeal hearing before the Planning Commission, there is also ample evidence in the record, as evaluated by the Planning Commission, that they could not actually make all of the required findings. The Planning Commission recognized that approving MUP 1-21 would have required them to make all of the required findings and once they determined that they could not make at least one of the required findings, they could not approve MUP 1-21. They discussed several of the required findings but ultimately determined they would base their decision on finding that they could not make the required finding that the dispensary was compatible with neighboring land uses and that the notices for the entitlement review had been defective.

#### **CONCLUSION:**

The applicant/appellant has not presented any evidence to support reversing either of the Planning Commission's two well-reasoned and supported findings of denial and they cannot do so even through supplemental submissions because the question on an appeal is not whether or not a different conclusion could have been made based on evidence in the record; the question is whether or not the conclusion that was reached was adequately supported. In this case both findings of denial were adequately supported by evidence in the record, as evaluated and verified by the City Attorney at the Planning Commission hearing, and the

support is found in the written and oral comments provided throughout the review process up to that point, including through my own testimony at the hearing concerning me personally observing the failure to post the series of required notices or around the project site in a conspicuous location.

Regards,

--Jacob

## Lemos, June

---

**From:** Linda Jo Stern <lindajostern@gmail.com>  
**Sent:** Friday, July 23, 2021 4:16 PM  
**To:** Lemos, June  
**Subject:** minor use permit appeal for Sunshine Holistic

Good afternoon, June. I respectfully submit my comments that the decision (denial) of the Planning Commission should stay as is. We do not need any additional retail cannabis dispensaries in our town. Thank you.

*Linda Jo*

Linda Jo Stern, MPH  
617-435-8412 (mobile)

**From:** [Philip Sharples Litho](#)  
**To:** [Lemos, June](#)  
**Subject:** MUP 1-21  
**Date:** Wednesday, July 28, 2021 9:24:06 AM

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I have no objection to this business being granted a permit to operate.

Philip Sharples  
707-485-2047  
litho@mcn.org

## Lemos, June

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**From:** Bill Mann <authorbillmann@gmail.com>  
**Sent:** Monday, August 9, 2021 11:53 AM  
**To:** Lemos, June  
**Subject:** CANNABIS APPLICATION AND APPEAL, 144 N. FRANKLIN ST.  
**Attachments:** CANNABIS APPEAL LETTER.docx

Ms. Lemos:

Please include the ATTACHED LETTER to the ongoing public record, and city council members packets, prior to tonight's 6 P.M. city council meeting. This regards the SUNSHINE CANNABIS APPLICATION AND APPEAL

(not certain about the proper MUP #, please record appropriately). Let us know if any further action required.

Thank you, sincerely,

Bill Mann

Susanne Rogers



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August 2, 2021

[jlemons@fortbragg.com](mailto:jlemons@fortbragg.com)

Ms. Lemos:

Please post the following (ATTACHED) Letter into the public record, regarding Mup-1-21 (cannabis appeal), prior to scheduled City Council Meeting, August 9, 2021, 6 P.M.:

Mayor, Manager, Council:

As Central Business District residents, property owners, tax payers, vacant building renovators, future gallery and community hall operators – we urge you AGAIN – to reject the Appeal of Sunshine Holistic Cannabis, Retail, and Delivery Dispensary, wanting to locate at 144 N. Franklin St., (former Floor Store property and parcel).

Through several months and repeated rejections of the various contortions of the Applicant, we now ask you to REJECT the appeal with no further recourse, for any and all of the following previously established reasons:

- 1) Unanimous Rejection of application, Fort Bragg Planning Commission, supported by evidence.
- 2) Two Petitions opposing the location, containing approximately 200 protest signatures by CBD managers and owners along with neighborhood and surrounding residents.
- 3) Numerous Recorded Letters of Opposition to the former Floor Store Location, by CBD consumers and residents.
- 4) Lingering Questions, confusion, disinformation concerning omitted materials, completeness, notifications and about the legality of the application itself.
- 5) Safety Issues regarding children, adult pedestrians, and vehicles traveling from the high density neighborhood shouldering the Alleyway between Alder and Oak, immediately bordering the disputed dispensary location.
- 6) Security Issues, surrounding the probability of non depositable amounts of cash (federal law) and onsite storage of controlled cannabis substances. Legitimate concerns about the likelihood of armed robbery, invasions, etc., with two high occupancy pedestrian banks and federal post office in the immediate vicinity.
- 7) Auto/Truck Congestion, increased parking problems, unacceptable noise disturbances along Oak, Franklin, Alder, McPherson, Alder-Oak Alleyway, Community First Bank and Purity Food parking lots, resulting in incompatibility of the Project with the neighborhood existing and future land uses.
- 8) Failure to produce unbiased Impact Studies, including outright failure to canvas the residential neighborhoods and business district to be impacted.

We urge you to uphold the Planning Commission's thoughtful conclusion that the applicant/appellant does not meet the suitable neighborhood and land use requirements for permit. The Peoples expectation is that the Planning Commission is not your rubber stamp. They are your advance unit. They are here to tell you their findings – up close and personal. They are advising you at this very moment, that cannabis dispensary planning is about more than any one business's hopes for windfall sales tax revenue; or about any one civic leader's pet project. Please. . .listen to them. Otherwise, why have them

at all? When we worked the petition drive to oppose the floor store cannabis dispensary location (on file) - most signers despaired that our Council and City Administration tend to decide matters internally, for their own reasons. Or alternately as David Gurney jabbed in the Anderson Valley Advertiser, “. . .Fort Bragg’s civic leaders are showing all the signs of early onset dementia, by putting things in the wrong place. . .”

Now, again, with this location issue, the City finds itself at a critical planning juncture. There are many other suitable and less disruptive locations for this applicant’s dispensary; locations which do not threaten to rip a hole in an integral neighborhood. By taking this measured step – by planning instead of reacting – you, our leaders have a shining opportunity to work constructively with the neighborhood well being, and not against it - towards an improvement district to be envied by other sagging coastal towns. In the largest sense of doing the right thing at the right time - we implore you to abandon the current “us versus them” approach to government, in favor of the greater good for this neighborhood; for the Central Business District; and for the greater future of Fort Bragg.

Please take this historic moment to display sound mindedness and sensible leadership, by upholding the Planning Commission’s Unanimous Rejection of this application/appeal.

Sincerely and respectfully,

Bill Mann  
Susanne S. Rogers

**From:** [Jacob Patterson](#)  
**To:** [Lemos, June](#); [Munoz, Cristal](#)  
**Cc:** [O'Neal, Chantell](#); [Gurewitz, Heather](#)  
**Subject:** Public Comment -- 9/1/21 Special City Council Meeting for Appeal of MUP 1-21  
**Date:** Saturday, August 28, 2021 8:36:15 PM

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City Council,

I am compelled to write a public comment objecting to the staff report and recommendations being presented to you. This time, the agenda materials include particularly egregious misrepresentations, including presenting a resolution from the Planning Commission that does not reflect the actual resolution they adopted because it omits six critical words concerning the adequacy of the notice that just so happen to provide a reason that cannot be overturned on appeal. In this case, the issue is that the Planning Commission determined that all the required notices had not been posted on the site and they made a finding of denial for this project as follows: "There was not sufficient evidence that the required noticing for the Minor Use Permit, the Minor Use Permit Administrative Hearing, and the Minor Use Permit appeal were properly posted at the property." However, the resolution in your packet that staff included does not contain the actual finding made by the Planning Commission. It only mentions two of the three notices they actually cited in the findings. (This error was continued to the draft City Council resolution upholding the Planning Commission decision, which should be revised to include the same language as the actual Planning Commission resolution rather than what is included in the agenda packet.)

This appears to be intentional because the City was responsible for this notice along with the applicant and City staff likely recognize that failing to post these notices was a fatal flaw for this entitlement review that cannot be corrected, leaving the applicant without legitimate grounds to successfully appeal the Planning Commission's denial. However, a successful approval despite significant concerns from neighbors clearly appears the one and only goal of staff. In my opinion, this permit entitlement review has been manipulated and biased in favor of trying to justify approving this permit from the beginning, more so than any other recent entitlement review by the City and that apparently includes staff misrepresenting what occurred at the Planning Commission to the City Council and the public. This should not be tolerated and is a clear sign of a very dysfunctional Community Development Department. I am shocked that this kind of duplicitous behaviour is being allowed to occur and ask the City Council to seriously consider what should be done about it since this is being done on your watch but also to the City Council.

On a substantive note, the draft resolution overturning the Planning Commission decision provided by staff is fatally flawed because it fails to provide any supporting analysis or relevant reasoning for the main required finding that was at issue in the prior appeal before the Planning Commission, which was the basis for the other finding of the Planning Commission denying this permit. The suggested finding is written as follows: "The proposed use is compatible with the existing and future land uses because it is a pedestrian oriented retail business located in the downtown retail area of the Central Business District." However, this suggested finding is totally disconnected from what the finding is actually about. Nothing in this analysis relates to whether or not "The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity" which is what you are required to find in order to approve this permit. This finding would need to discuss these aspects of this specific proposal, including specifics of this particular location within the CBD rather than the generic information that is suggested for your consideration.

Even if you wanted to approve this permit, you would need to provide supporting analysis and explicitly justify this required finding. Moreover, please consider this comment as a reiteration of all prior objections to this permit raised in prior written and oral public comments during the entitlement review for this project (e.g., inadequate CEQA and improper noticing procedures), which are hereby incorporated by reference.

Finally, I am confused as to why staff thinks it is appropriate to basically act as the applicant's advocate and argue against the advice of the City Attorney provided at the Planning Commission's hearing and the well-reasoned and fully-supported determinations of the appropriate review authority, the Planning Commission. Her arguments appear to be that she is right and the Planning Commission and City Attorney got it wrong. This is a serious breach of staff's appropriate role in this appeal, which is to advocate for the City's position not undermine it, which demonstrates why it is not appropriate for the same staff person to provide the analysis at the different stages of the review because rather than providing an objective and unbiased analysis, she is just digging in her heels and failing to recognize that her prior work was not persuasive or even defensible--she didn't even bother to be informed about the required noticing or the required content for the application, which she determined was complete when various required items were omitted and still haven't been provided. This review should not have even proceeded because the application remains incomplete yet here we are. This is extremely concerning and becoming something of a pattern. Further, members of the public and neighbors to this project have been subjected to contempt and derision from the same City staff, who remarked that she would prefer not to have any public comment or input at the Planning Commission hearing despite the fact that the neighbors who would be most impacted by this project were in attendance to present their concerns to the Planning Commission. This attitude should not be tolerated or condoned.

Regards,

--Jacob

**From:** [Bill Mann](#)  
**To:** [Lemos, June](#)  
**Subject:** PUBLIC COMMENT/9/1/21 COUNCIL MEETING, RE: APPEAL MUP 1-21  
**Date:** Monday, August 30, 2021 10:31:15 AM  
**Attachments:** [Cannabis Final Meeting.docx](#)

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Ms. Lemos,  
Please enter the ATTACHED into packets, public record  
Thank you,  
Susanne Rogers  
Bill Mann



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RE: MUP 1-21 AGENDA PACKET (Sept. 1, Council Meeting)

Mayor, Council, Manager, Staff:

There are many reasons to resent the City's handling of the Sunshine Holistic applications and appeals, formally rejected by the Planning Commission. Two hundred reasons. That's the approximate number of Merchants, Managers, Property Owners, Citizens in general, and perhaps most importantly the Neighborhood Residents who quickly signed the Petitions opposing the Floor Store dispensary location at 144 N. Franklin Street. These signatures are part of the City of Fort Bragg Public Records.

We the petitioners must also cry foul at the process itself. Following each of the multiple Planning Commission rejections of the Sunshine applicant, City Staff have seemingly been instructed to take extreme measures to dismantle the commission's diligent findings. Why is this happening? Who is responsible for this short-changing of the democratic process? Many of us opposing the Floor Store dispensary location now suspect that certain members of the Mayor and Council are ruling by purely personal agenda, and *not* out of concern for the many people and businesses impacted by the ill-advised Sunshine application.

Most recently the Planning Commission boiled down its *unanimous rejection* of the latest Sunshine Appeal, for two solid reasons, each by itself a mandate for outright rejection of the applicant/appellant:

1. Improper execution of required Noticing, regarding the Application for Permit, and the public hearings associated with the permit process.
2. "Compelling evidence that the proposed project would be incompatible with the mixed use neighborhood. . .including the heavily populated residential properties. . ." (Direct quotation).

As if employed by the applicant, City Staff again assaulted the Planning Commission's conclusions with a hatchet of flawed and deliberately misleading rebuttals. We have *never* lived in a community where the administrative staff so independently sets about to completely change (rather than accept) the findings of the City's own planning commission. Who is behind this undermining of the Commission? And why?

More alarming is this Staff (CDD) appearance of tampering (by omission) with parts of the Planning Commission's Resolution, regarding the Improper Noticing, which the commission specifically voted to include in its resolution. This type of adulteration prevents the Council from properly discussing what is factual. It also further damages whatever public trust preceded the Sunshine dispensary application. If Mayor, Council, Manager, Staff credibility is to prevail – these poisonings of due process *must* stop.

Please hear our complaint and the complaints of the businesses and deeply impacted residential neighbors who have steadfastly opposed this proposed dispensary/delivery location. We (the neighborhood) cannot simply pick up and move. On the other hand, there *are* numerous alternative locations available for the applicants; locations which will not pose security, safety, and congestion risks that undeniably threaten to damage our already fragile neighborhood.

Warily,  
Susanne Rogers  
Bill Mann

**From:** [Bill Mann](#)  
**To:** [Lemos, June](#); [Norvell, Bernie](#); [Morsell-Haye, Jessica](#); [Rafanan, Marcia](#); [Albin-Smith, Tess](#); [Peters, Lindy](#); [Miller, Tabatha](#)  
**Subject:** PUBLIC COMMENT 9-1-21 Appeal of MUP 1-21  
**Date:** Monday, August 30, 2021 8:25:48 PM  
**Attachments:** [Sunshine Holistic Petition 2.pdf](#)  
[Sunshine Holistic Petition 1.pdf](#)

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City Council Members:

Please consider the attached petitions vehemently opposing the Sunshine Holistic dispensary and delivery location.

Susanne Rogers  
Bill Mann

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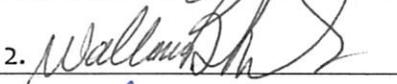
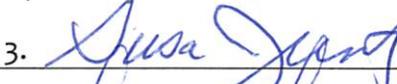
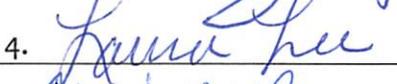


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## KEEP CANNABIS RETAIL, CULTIVATION AND/OR MANUFACTURING AWAY FROM RESIDENTIAL NEIGHBORHOODS

We, the undersigned, do **NOT** want to have a dispensary with cultivation and/or manufacturing at 144 N. Franklin Street in Fort Bragg, CA. We believe this location is not suitable given the proximity of two financial institutions, a government building (USPS), two hospitality centers for our homeless population, numerous single family homes that share an alleyway, and nearby apartment complexes, considered a high density residential area, that house families with small children.

I, the undersigned, declare that I am 18 years of age or older.

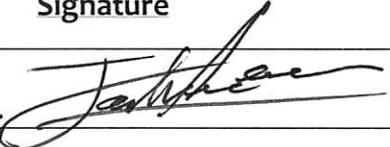
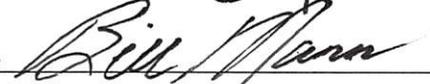
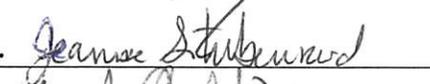
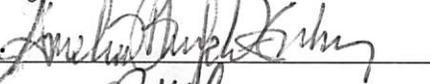
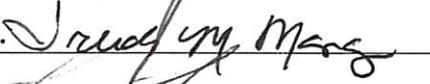
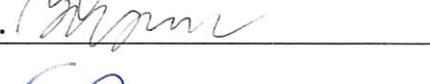
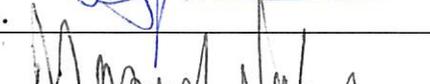
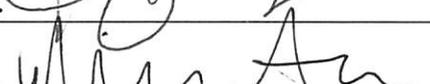
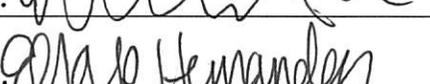
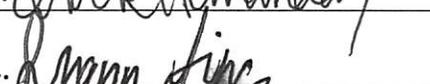
Signature	Printed Name	Address
1. 	DAVID C. CORDERO	350 DENNISON LN
2. 	WALLACE BAKER SR	180 LIVINGSTON ST.
3. 	SUSAN JONTZ	344 N. FRANKLIN STR
4. 	HAUNNA LEE	21595 FERSTER LN.
5. 	Michelle Braga	19260 Basin View Dr.
6. 	LINDA JORDAN	31291 THOMAS LANE
7. 	Dawn Ferreira	320 N. MURPHYSON ST
8. 	Donald Spear	455 1/2 HARRISON ST
9.		
10.		
11.		
12.		
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17.		



## KEEP CANNABIS RETAIL, CULTIVATION AND/OR MANUFACTURING AWAY FROM RESIDENTIAL NEIGHBORHOODS

We, the undersigned, do **NOT** want to have a dispensary with cultivation and/or manufacturing at 144 N. Franklin Street in Fort Bragg, CA. We believe this location is not suitable given the proximity of two financial institutions, a government building (USPS), two hospitality centers for our homeless population, numerous single family homes that share an alleyway, and nearby apartment complexes, considered a high density residential area, that house families with small children.

I, the undersigned, declare that I am 18 years of age or older.

Signature	Printed Name	Address
	Joshua House	181 Ebbing way.
	TEO Balassi	124 Franklin St.
	Ronald Barwick	180 Franklin St
	Bill MANN	120 N. FRANKLIN ST.
	Jeanne Stibenrauch	Business owner Mendo-Litho 100 N. Franklin St
	Amelia Blaufeld Gibney	Consultant Mendo Litho 100 N. Franklin St
	Phillip Johnson	CO OWNER 242 N FRANKLIN ST PRATTY
	Trudy M Morgan	BUSINESS OWNERS 235 N Franklin St.
	Laura Clark	Bus. Owner: 6:00 morning 333700 Boxe low F. B. CA 95721 profile
	Tyler Yeomans	119 North Franklin whitt B Tylens Computer Support
	Sarah DeAngelo	333 N Franklin St FB, Art Explorers
	Randy Johnson	CO OWNER Pratty 242 N. FRANKLIN ST.
	Margyrah Valenzuela	223 n. Franklin St FB
	Keilah Miller	729 West St. Fort Bragg CA
	Nirvana Andrade	411 South St <sup>CHASE Bank</sup> Fort Bragg CA 95437
	Elsa R. Hernandez	<sup>CHASE Bank</sup> 30900 Turner Rd. Fort Bragg CA 95437
	Suzann Lina	429 N Harold St FB Lee's Chinese

## KEEP CANNABIS RETAIL, CULTIVATION AND/OR MANUFACTURING AWAY FROM RESIDENTIAL NEIGHBORHOODS

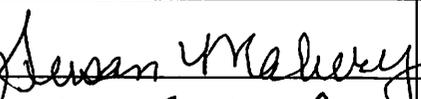
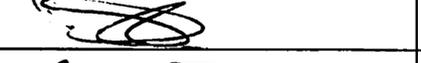
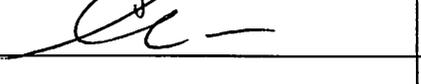
We, the undersigned, do **NOT** want to have a dispensary with cultivation and/or manufacturing at 144 N. Franklin Street in Fort Bragg, CA. We believe this location is not suitable given the proximity of two financial institutions, a government building (USPS), two hospitality centers for our homeless population, numerous single family homes that share an alleyway, and nearby apartment complexes, considered a high density residential area, that house families with small children.

I, the undersigned, declare that I am 18 years of age or older.

**Signature**

**Printed Name**

**Address**

Signature	Printed Name	Address
35. 	Susan Mabery	31636 Hwy 20 Fort Bragg CA 95437
36. 	Edward Mabery	31636 Hwy 20 Fort Bragg CA 95437
37. 	Allison Martin	141 E. Laurel St. Fort Bragg, CA 95437
38. 	Irene Jhang	349 Cypress St 95437 MCF Repair
39. 	Jose Perez	636 S. Franklin St
40. 	Carolyn Sutherland	20100 Lyta Way FB <del>conclini</del>
41. 	Marilyn Canclini	20661 Monsen Way <del>conclini</del>
42.		
43.		
44.		
45.		
46.		
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51.		

Canadian Pharmacy World, com

866-485-7979 ph

866 486 7979 fax

2 mos. 10/80

Good rx



**Petition Against Marijuana Dispensary/Grow Facility**  
 Southeast Corner of Franklin and Alder Street Fort Bragg, CA

This is where we live, shop, do our banking, go to the Post Office or just go for a walk downtown which is adjacent to this property. Please sign this petition if you live anywhere in the 95437 zip code and CONDUCT YOUR daily business in the city of Fort Bragg and don't believe this type of business should be permitted in our downtown business district and should be restricted to commercial industrial if within our city limits.

Printed Name	Signature	Address
James Matson	<i>James Matson</i>	248 Alder St. Fort Bragg, CA.
<i>Manuel Ornelas</i>	<i>Manuel Ornelas</i>	100 S. McPherson
MANUEL ORNELAS	<i>Manuel Ornelas</i>	200 N McPherson ST Fort Bragg CA 95437
Camec Hull	<i>Camec Hull</i>	155 N. McPherson St.
Cameron Hull	<i>Cameron Hull</i>	155 N McPherson st.
TERESA ORNELAS	<i>Teresa Ornelas</i>	300 N. McPherson ST.
ARON KNAPPEN	<i>Aron Knappen</i>	203 N HARRISON ST
Abbie Knapp	<i>Abbie Knapp</i>	203 N Harrison St.
RUBEN GONZALEZ	<i>Ruben Gonzalez</i>	210 N. McPHERSON
Amye Segura	<i>Amye Segura</i>	210 N. McPherson st.
Miguel Peen	<i>Miguel Peen</i>	210 N McPherson St
Luis Serra	<i>Luis Serra</i>	210 n McPherson ST.
ROSE GUININEZ	<i>Rose Guinez</i>	220 N McPherson St
Stu Bursen	<i>Stu Bursen</i>	300 Oak St.
Ken Nieminen	<i>Ken Nieminen</i>	543 Rwd Ave F.B.
JAY KOSKI	<i>Jay Koski</i>	143. n. McPherson F.B.
<del>Stu Bursen</del>		
Vincent Koski	<i>Vincent Koski</i>	143 N McPherson .FB

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Printed Name	Signature	Address
Greg Escher	<i>Greg Escher</i>	120 Jewett Dr./St.
Valerie Escher	<i>Valerie Escher</i>	120 Jewett St
Kathleen R. Grant	<i>Kathleen R. Grant</i>	32600 Old Willits Rd
Debbie Pearl Aguirre	<i>Debbie Pearl Aguirre</i>	32809 Hwy 20 #75 FB
JUDITH JUNG RITTER	<i>Judith Jung Ritter</i>	22161 Burrows Ranch Rd FB
Linda L. Dewey	<i>Linda L. Dewey</i>	22800 Hwy 20 #34-FB
PATRICIA L. PEARL	<i>Patricia L. Pearl</i>	20770 Peterson Ln #16.
Donna Howard	<i>Donna Howard</i>	604 S. Franklin St, F.B
Jan Vestal	<i>Janet R. Vestal</i>	Box 1524 FB CA 95437
Lisa Collette	<i>Lisa Collette</i>	201 Caples St #95437
Nick Patrick	<i>Nick Patrick</i>	1903 Babcock Ln Ft. Bragg
Bob Gastoni	<i>Bob Gastoni</i>	Duncan Apt.
JEFFREY S. GRANT	<i>Jeffrey S. Grant</i>	32600 OLD WILLITS RD. FORT BRAGG
Heroy Blane Pearl	<i>Heroy Blane Pearl</i>	20770 Peterson Ln FB 95437
Charlotte Horne	<i>Charlotte Horne</i>	43570 Comptche Rd. Mendocino 95460
WILBERT HORNE	<i>Wilbert A. Horne</i>	43570 COMPTCHE RD MENDOCINO CA, 95460
Holly Hawkins	<i>Holly Hawkins</i>	32280 Hwy 20 Sp 6 Fort Bragg
Annette Reynold	<i>Annette Reynolds</i>	815 C Sequoia Cir F. B. CA 95437
JEAN K Cain	<i>Jean K Cain</i>	143 1/2 N McPherson St Fort Bragg CA 95437
Edgar V. Grant	<i>Edgar V. Grant</i>	143 1/2 McPherson St, FB CA

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Printed Name	Signature	Address
<del>Bob</del> & Cindy Luzzi	Cindy Luzzi	101 Ebbing Way F.B
Teresa Heitmeyer	Teresa Heitmeyer	120 EBBING way
DOUGLAS HEITMEYER	Douglas Heitmeyer	120 EBBING WAY F.B.
Kelly Fawcett	Kelly Fawcett	20200 Hansen Road. FB
Heather Brown	[Signature]	112 N CARRY ST
Josh Brown	[Signature]	112 N. Carry St.
Jenny Kubo	[Signature]	170 S. Sanderson Way
Adam Kubo	[Signature]	170 S. Sanderson Way
Angela Silva	[Signature]	1010 E. Alder St
BARRY SILVA	[Signature]	1010 E. ALDER ST
MARIA E. George	Maria E George	130 EBBING way Fort BRAGG
MARK SWIGERT	Mark Swigert	180 EBBING WAY FORT BRAGG
Debbie Swigert	Debbie Swigert	180 Ebbing Way Fort Bragg
GENE A. MERTLE	Gene A Mertle	170 EBBING WAY FORT BRAGG
Laurie Ackerman	Laurie Ackerman	153 S. Harrison St
LEONARD DILL	Leonard Dill	161 EBBING WAY
STEVE KENNEDY	Steve Kennedy	25071 CHARLENE DR
JOAN DILL	Joan Dill	161 EBBING WAY, F.B.
David Goble	David Goble	30161 Sherwood Rd FB
Helen Marie Rogers	Helen Marie Rogers	191 Ebbing way

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Printed Name	Signature	Address
Sally Lambeth	<i>Sally Lambeth</i>	135 S. Sanderson Way
Dale F. Botsford	<i>Dale F. Botsford</i>	100 Noyd Hts. Dr. Fort Bragg
<del>XXXXXXXXXXXXXXXXXXXX</del>	<del>XXXXXXXXXXXXXXXXXXXX</del>	<del>XXXXXXXXXXXXXXXXXXXX</del>
LUMPOON BOTSFORD	<i>Lumpoon Botsford</i>	100 NOYD HTS DR
ARON WATSON	<i>Aron Watson</i>	16445 FRANKLIN RD F.B.
JILL JIMM	<i>Jill Jimm</i>	31780 Johnson Ln.
KRIS STRICKLAND	<i>Kris Strickland</i>	110 MINNESOTA AVE
<del>XXXXXXXXXXXXXXXXXXXX</del>	<del>XXXXXXXXXXXXXXXXXXXX</del>	<del>XXXXXXXXXXXXXXXXXXXX</del>
Philip Lamos	<i>Philip Lamos</i>	32600 Simpson Ln
Philip Lamos	<i>Philip Lamos</i>	42525 Bolander Dr. Mendoc
Clay Birchfield	<i>Clay Birchfield</i>	521 Cypress St FB.
STANLEY E. ANDERSON	<i>Stanley E. Anderson</i>	10751 DWYER LANE, FB
Rene Miller	<i>Rene Miller</i>	32625 Simpson Lane FB
Robert Horvat	<i>Robert Horvat</i>	320 S. McPherson FB
Ronald N. Mitchell	<i>Ronald N. Mitchell</i>	31375 Airport Rd. F.B. CA.
PATRICK WARD	<i>Patrick Ward</i>	P.O. BOX 1564 F.B. CA
James Goodall	<i>James Goodall</i>	541 S Franklin ST
Werner Bietz	<i>Werner Bietz</i>	20760 Peterson Ln
Janet Coe	<i>Janet Coe</i>	PO BOX 361 F.B.
Oran Botsford	<i>Oran Botsford</i>	100 Noyd Hts F.B.

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Printed Name	Signature	Address
LESLIE PIERCE		30441 Simpson Ln. FORT BRAGG CA. 95437
Ellen E. Boring		30441 Simpson Ln Fort Bragg, CA 95437
Beverly L. Fazio		30424 SIMPSON LN FORT BRAGG CA 95437
Betty L. Mattiuzzi		30400 Simpson Ln. Fort Bragg, CA. 95437
Dina Mattiuzzi		30400 Simpson Ln. Fort Bragg CA. 95437
Linda Thorstrom		295 75 Shorewood Fort Bragg, CA 95437
DAN CASTEL		425 WALL ST. FORT BRAGG CALIF 95437
JUSTIN PYLE		565 S. SANDERSON WAY FORT BRAGG CA 95437
TANESSA DELVITA		31051 Pudding Creek Road Fort Bragg, CA. 95437
CAROL SLAVIN		270 WALL ST FORT BRAGG CA 95437
Merlyn Larson		32800 Hwy. 20. Sp. 45
Sean Ayorre		1525 S. Sanderson way FB CA 95437
Renee Bore		525 S. Sanderson way
Tara Larson		72800 Hwy. 70 #45 FB
Brenda Rossi		300 OAK ST FB
Amanda Allen		300 OAK ST Fort Bragg
Shanana Rossi		300 OAK ST FORT BRAGG
Maryann		1250 WILLOW ST FORT BRAGG
Jennifer M. Cottrell		1250 WILLOW ST. FORT BRAGG





**From:** [Peters, Sarah](#)  
**To:** [Lemos, June](#)  
**Subject:** FW: Franklin street dispensary  
**Date:** Tuesday, August 31, 2021 9:57:43 AM

---

Hi June,

Forwarding a Public Comment from Jay Koski for 9/1/21 Special City Council Meeting on Sunshine Dispensary.

Thanks,

*Sarah Peters*

Sarah Peters  
Administrative Assistant  
City of Fort Bragg  
416 North Franklin Street  
Fort Bragg, CA 95437  
Phone: 707-961-2827 ext. 111  
Email: [speters@fortbragg.com](mailto:speters@fortbragg.com)  
City's website: <http://city.fortbragg.com/>



**From:** Jay Koski <jaynscout95@gmail.com>  
**Sent:** Tuesday, August 31, 2021 9:37 AM  
**To:** Gurewitz, Heather <Hgurewitz@fortbragg.com>; Norvell, Bernie <Bnorvell2@fortbragg.com>; Peters, Lindy <LPeters2@fortbragg.com>; Morsell-Haye, Jessica <Jmorsellhay@fortbragg.com>; Albin-Smith, Tess <Talbinsmith@fortbragg.com>; Rafanan, Marcia <Mrafanan@fortbragg.com>; Miller, Tabatha <TMiller@fortbragg.com>; Peters, Sarah <SPeters@fortbragg.com>  
**Subject:** Franklin street dispensary

This letter is to be attached to the north Franklin street dispensary appeal packet for the meeting on 9/01)21. This letter is in support of the people and the planning commission in the denial of the permit being appealed, this project has already been denied three different times. Even though the projects were slightly different it doesn't matter which project it was this is not the proper place for a marijuana type of business to be established. There have been petitions with a couple of hundred signatures, there have also been many letters opposing this project. The taxpay residence of this neighborhood and others have spoke loud and clearly about how they feel about the project in this location. The only choice for you to make is denial of the permit just like the three previous times it has been denied. Also this location should not be aloud because our community development committee has still not finished establishing the new cannabis regulations for the CBD. They have been dragging their feet on this for months. This is a family neighborhood which is not a desirable location for this type of project. So please support the tax paying citizens of this neighborhood by not approving this

project. We've all lived in this neighborhood for years and I believe we should have some rights to what is put right in our back yards. This is not a bunch of people acting like nimby, (not in my back yard) this is truly a project that does not fit this neighborhood by any means.

Jay. Koski

**From:** [Peters, Sarah](#)  
**To:** [Lemos, June](#)  
**Subject:** FW: Franklin street dispensary  
**Date:** Tuesday, August 31, 2021 9:57:43 AM

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*Sarah Peters*

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Administrative Assistant  
City of Fort Bragg  
416 North Franklin Street  
Fort Bragg, CA 95437  
Phone: 707-961-2827 ext. 111  
Email: [speters@fortbragg.com](mailto:speters@fortbragg.com)  
City's website: <http://city.fortbragg.com/>



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**Sent:** Tuesday, August 31, 2021 9:37 AM  
**To:** Gurewitz, Heather <Hgurewitz@fortbragg.com>; Norvell, Bernie <Bnorvell2@fortbragg.com>; Peters, Lindy <LPeters2@fortbragg.com>; Morsell-Haye, Jessica <Jmorsellhay@fortbragg.com>; Albin-Smith, Tess <Talbinsmith@fortbragg.com>; Rafanan, Marcia <Mrafanan@fortbragg.com>; Miller, Tabatha <TMiller@fortbragg.com>; Peters, Sarah <SPeters@fortbragg.com>  
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Jay. Koski

**From:** [Heather Montgomery](#)  
**To:** [City Clerk](#)  
**Subject:** Cannabis Application at 144 N. Franklin  
**Date:** Tuesday, August 31, 2021 2:46:28 PM

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I am writing to you today as a Fort Bragg local concerned about the ability of this county's government to come to decisions fairly and honestly on the already approved retail cannabis license at 144 N. Franklin.

For 24 years Sovereign has driven the local legal cannabis industry, supported patients and employees across the county, brought in tourism, and paved the way for every other dispensary and cultivation license in town. Sovereign has made every effort and remains compliant with all cannabis regulations, despite their ever changing and exhausting nature.

Last year the county allowed a recreational cannabis dispensary into the very same Central Business District that is being denied to Sovereign. This dispensary's location is on the main downtown road and also shares nearly the same name as the well known Fort Bragg Bakery; the allowance of such a location is in direct conflict with the reasons Sovereign has been given as to why they have been denied. The preferential treatment given to large, bank backed Southern California companies shows an obvious discrepancy in the fairness of this city's governing officials.

Some of the reasons that have been referenced in the denial are ludicrous and ignorant. There is no reason to believe that children will 'wander' into a dispensary located at 144 N. Franklin: a valid ID is required even to enter the building and there is a security guard on duty during all business hours. As with every cannabis facility, this location will be under 24 hours surveillance, operates only during business hours, and of course there is no consumption on sight, as stated in all California Cannabis regulations. All customer entrances of the building face not homes, but Franklin street; meaning that unless you drive by the front of the shop you will see signs of cannabis at all.

Unfortunately I have witnessed the bias of this city toward only a select few individuals with a personal dislike for cannabis. I too have a distaste: but for alcohol. I live a half block from the Tip Top lounge, but I feel in no way threatened or upset by the fact that there is a bar near my house, nestled in between two separate toy stores and an art based community center for special needs adults. I understand that it is in the Central Business District. I understand that they have paid for their licenses and follow all necessary regulations. I also understand that I have no right to kick out or deny a business simply because 'I don't like it'. I simply choose *not to enter an establishment that I do not patronize*.

I have worked for Brandy Moulton at Sovereign for three years. During those three years I have witnessed her tenacity, empathy, and courage in running a business in an industry that has been demonized for so long. I can say with the utmost confidence that Brandy truly loves this town and utilizes her business for as much local good as possible; she has paid off outstanding lunch debt for school children, organizes public space clean ups, supports all of her employees on a professional and personal level, and is passionate about the legalization of cannabis as an alternative to deadly prescription painkillers. So many of my own loved ones have found a better way to live with debilitating illnesses with the help of cannabis. When it all boils down, it is simply cruel that the needs of our local patients are being ignored simply

out of ignorance and personal vendetta.

As we all know, Fort Bragg is in trouble. So many storefronts in the Central Business District have been empty for months or years, turning the picturesque Franklin Street into a ghost town. Where is the sense rejecting jobs, commerce, and additional tourism to the immediate area? The amount of revenue collected from a single cannabis business in a single year greatly exceeds that of any other business. Where is the sense in denying the town of Fort Bragg the extra financial help that Sovereign would bring? Where is the sense in denying the people of Fort Bragg a safer, more accessible location for their medications? Unfortunately the luxury of having a vehicle is one that many locals here don't have.

As a local, my walk to work at the new location would lead me to shop for groceries at Purity, take my lunch at Los Gallitos, and send every curious tourist to each and every local shop within walking distance. Isn't 'keeping things local' what small towns like Fort Bragg focus on? If so, why are you okay with sending all of our cannabis tourism profits back to Southern California? Why not allow a Fort Bragg company the opportunity to keep that tourism revenue in town?

I can only hope that as elected officials you will understand that this company is a law abiding entity that has the legal right to continue with relocation. Please, do not let misinformation cloud what is a very obvious conclusion: 144 N. Franklin is zoned and appropriate for a legal cannabis dispensary, for which an application has already been approved.

Thank you,  
Make Good Choices,  
Heather Montgomery

Sovereign  
Retail Manager & Distribution Manager  
Distributor license: C11-0000020  
Retailer license: C10-0000271  
Instagram: sovereign\_707



**City Council Members:**

**8/31/2021**

I am writing this letter in regard to leasing the property at 144 N Franklin St to Sunshine Holistics.

Before considering renting this property to the dispensary, I visited the city hall several times, confirming that everything was legal, above board and acceptable to the guidelines. I checked with insurance, banking and everything I could think of. I was told there were ordinances in place and it is now legal for them to be within the city limits.

McPherson Street is residential from North to the South end. Franklin Street is commercial mixed with some houses toward the south end. I don't understand why some people on McPherson Street would be in control of a business renting a space on Franklin Street that is zoned commercial, as long as the business is within the codes and guidelines. I spoke with a neighbor near the dispensary on South Main Street (Emerald Triangle). There is a house next door and a house directly behind along with many houses on South Franklin St behind that dispensary. I didn't hear any mention of it not being compatible with the neighborhood. The dispensary on Main Street (The Bakery) has residential apartments very close by as they are upstairs in many of the neighboring buildings. That is the way our town was built.

There are people that rent properties on McPherson Street and I have never been notified of a new tenant moving in to any of the rental homes on McPherson behind 144 N Franklin St and I have never been asked if I approved of the tenant or if they affect my business in any way. The fact is, the people that own the houses have a right to rent out their home or second unit.

As far as the value of property being lowered due to a dispensary, I have not seen facts supporting that argument. I have had many people interested in the yellow house that is being remodeled next door to 144 N Franklin St. I make them aware that the dispensary is going through the permit process next door, many of them already know and I have not had negative responses. They still want to give me their information for when it is completed.

I was told that when the dispensaries were allowed to come inside the city limits they would be treated like any other retail business. Is that true? If so, will other people feel welcomed to start a business in our town?

I would like to see this decision for the permit based on codes, guidelines and facts, rather than personal views, opinions or personal interest.

Thank you,

A handwritten signature in black ink that reads "Lyndia Pyeatt". The signature is written in a cursive, flowing style.

Lyndia Pyeatt

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

---

Dear Joanna Gonzalez and the Fort Bragg Planning Commission:

I am a Fort Bragg resident writing in support of Sunshine Holistic's (DBA Sovereign) proposed plan for a cannabis business at 144 N. Franklin St. in Fort Bragg.

I am a business owner of The Floor Store which is located only one block from the proposed new location for Sovereign (Sunshine Holistic)

The security that will be installed and the well lit building will be a positive addition to the neighborhood. It will scale down on the loitering and hanging out that often occurs on that block. With many of the commercial down town buildings empty it would be a shame to add another one to the list , especially when there is a viable business willing to invest in renovating and upgrading the space.

The city has guidelines that have been approved for dispensaries to relocate into the city limits.

Sovereign contributes to and supports local businesses, keeping the revenue local.

I have welcomed them by leasing them the building, just as I would any other retail business.

Thank you,

Lyndia Pyeatt

**From:** [jaelene.reyes](#)  
**To:** [City Clerk](#)  
**Date:** Tuesday, August 31, 2021 2:36:17 PM

---

As as resident of Fort Bragg i live a block away from the post office. I never had any issues with a cannabis company. Soverigns should be treated as any other retail store. Lawful thing to do. Therefore I am comfortable and confident in Brandy's operation. Due to difficult times it will provide employment for over thirty people to support their families. Has significant tax revenue for our country which could redirected to the city. Not only Would help Local businesses have more people In their store. Soverigns has a compassion program that provides discounted or free products for the chronically ill who has low income. Even helps out the community by supporting Mendocino coast fund, Mendocino fire fund, Fort Bragg unified school, Autistic program they even paid it off. Theirs good people in the cannabis community.

Sent from my iPhone

**From:** [Wendy Maddux](#)  
**To:** [City Clerk](#)  
**Date:** Tuesday, August 31, 2021 2:14:45 PM

---

As a long term resident of Fort Bragg I have never had any issues or concerns about living near or around the businesses of the CBD including the existing cannabis dispensary. I believe sovereign would attract tourist and locals alike , and significantly increase traffic in the CBD substantial revenue for the city . Sovereign has a strong sense of community value and has demonstrated it by supporting many local charities. I am comfortable and confident in Brandy's proposed operations. She has a proven track record for safe cannabis operations and the state has several security requirements. Lawful retail operations are lawful retail operations, the cannabis dispensary should be treated as any other retail store.

**From:** [Braden Montgomery](#)  
**To:** [City Clerk](#)  
**Subject:** Retail dispensary in the CBD  
**Date:** Tuesday, August 31, 2021 3:12:33 PM

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To whom it may concern,

This letter is in regards to Sovereign moving a retail space to 144 N Franklin St. As a person who lives in the CBD, I look forward to seeing that area being rejuvenated. Currently it's mostly transients fighting and drinking near that location. As a retail operation who is required to have security. This will deter the preexisting crime in the area not create it. If 5 bars and another dispensary can exist without trouble. There is no reason this perfectly legal business can't occupy the same spaces. Fort Bragg desperately needs jobs. Sovereign already has a large base of employees and with this new larger location. It will only create more jobs.

Thank you,  
Braden Montgomery

**From:** [bethiebot](#)  
**To:** [City Clerk](#)  
**Subject:** Sovereign move to 144 N Franklin st  
**Date:** Tuesday, August 31, 2021 2:14:39 PM

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I was born and raised in Fort Bragg. I see no problem with Sovereign moving to Franklin Street, I feel like it would bring a lot of business and tourism to our local business owners in the central business district. The owners and employees of Sovereign are good people and they are part of our community. Some say that its not in keeping with the neighborhood when that neighborhood (the central business district) has two other dispensaries and at least three bars. Sovereign has supported our community in so many ways, like paying off the delinquent school lunch fees for the entire school district supporting the struggling families in our community.

**From:** [REDACTED]  
**To:** [City Clerk](#)  
**Subject:** Sovereign Relocation: Public Comment  
**Date:** Monday, August 30, 2021 5:35:52 PM

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Monday, August 30, 2021

To Whom it may concern,

As a resident of Fort Bragg my whole life, I've always known it to be a very accepting and loving community. It has always been a place of growth, new ideas, open arms, responsible citizens, and local businesses. One of the unique charms of Fort Bragg has been centered around local businesses and the community. Sovereign, a business founded in 1997 with its roots stemming from alternative medicine in Mendocino County, should be able to relocate to a more accessible location in town. Sovereign is a well-established and trusted dispensary that caters most towards those who need cannabis in order to function without chronic pain or other health-related issues.

The cannabis industry is a business, just as any other business or industry in town. Some may say that relocating the dispensary will somehow be an eye-sore or a danger to the surrounding areas. Assuredly this is not the case, as Sovereign has always supported a more classy atmosphere in-shop and smoking isn't even legally allowed on-site at the current location. Not to mention that the city has already said that 144 N Franklin is in the appropriate zoning area for such a business. Just as any other business in town, if one isn't interested in the product they won't be forced to go inside and be a part of it. Also, a valid ID is needed to enter the store, so no minors will be inside the building at any given time.

The current location for Sovereign is less suitable, as customers and employees occasionally have to interrupt traffic in order to cross the left lane to get to the parking lot. Having Sovereign in a better location in town would make it more accessible to those that need it. Circling back to community endeavors, Sovereign is known to support local charities while also having the ability to grow and continue bringing in tourists. Cannabis is taxed quite heavily, so it would stimulate the local economy even more than it already does.

If there were any dispensary that deserves a place in town it would be Sovereign.

Thank you,  
(Anonymous if possible)

[REDACTED]

**From:** [Adam Johnson](#)  
**To:** [City Clerk](#)  
**Subject:** Soverign retail cannabis dispensary  
**Date:** Tuesday, August 31, 2021 2:23:11 PM

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I am a local resident in Fort Bragg. I live by the Franklin st project and would like to see them get the storefront . COVID-19 has been hard for everyone during this time cannabis has been helping so many people deal with this tough time. Soverign has over 30 employees who work hard during this times of covid keeping food on the table and rent paid for their families. It would be beneficial to the community in ways of employment for people. Soverign would bring tourist and locals to the central business district. They are well known all throughout the state and country with numerous high times awards and emerald cup awards. I have drove down highway 20 and seen them picking trash up and helping the homeless. They have a strong sense for this community. They deserve this location for the coast!

Thank you,  
Adam Johnson

**From:** [Daniel Ramirez](#)  
**To:** [City Clerk](#)  
**Subject:** Sunshine holistic  
**Date:** Tuesday, August 31, 2021 2:22:50 PM

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As a Fort Bragg resident. I trust that brandy Moulton of sunshine holistic cannabis retail is a great addition to the Central Business District. It could help our city grow. I have no issue with cannabis or the sales of cannabis. I'm confident that Brandy Moulton knows what she is doing and can operate a cannabis retail, safe and maintain a secure environment.

**From:** [Daniel Humphries](#)  
**To:** [City Clerk](#)  
**Subject:** The Addition of Sovereign retail outlet in downtown Fort Bragg  
**Date:** Tuesday, August 31, 2021 2:40:18 PM

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To whom it may concern

I am a young adult and a long time local of the Mendocino coast and as a working class contributing member of society it is of mine and many of the same people in my demographics opinion that there is no significant reason as to not include the addition of a centrally located cannabis retail store in the greater central business district area of downtown Fort Bragg, as it is not a neighborhood and zoned appropriately. Fort Bragg and Mendocino County, specifically, are well known for the cultivation of high grade cannabis and the various byproducts thereof and as a result is arguably one of the main contributing factors to attracting tourists to this drying up little town, which we all can agree that the revenue they generate makes up a lot of our incomes and living wages. It stands to reason that there is some local concern about children or people under the state and government allowed age that would be allowed to come and go or enter without consent or knowledge of the owners or working staff which, I can not reiterate enough is entirely not an issue as by state law it is mandatory that every single employee working is required to have active security guard training, not to mention each entrance and exit is constantly monitored by a HDCCTV monitoring system which can be used to identify all parties involved if any product were to ever fall into the wrong hands. The very same thing could be said for a liquor store or a bar or tavern, not a single patron regardless of how old they look is allowed to purchase anything without presenting a valid state ID which proves they are 21 or older. That being said, it is not without reason to address and fully acknowledge the valid issue of intoxicants potentially falling into the hands of minors, which is of course entirely unacceptable. In the greater downtown area of Fort Bragg there is already two other corporation ran dispensaries and they generate an enormous amount of revenue for the county, the addition of another one downtown would not detract or subvert any business from them and would in fact most likely end up just bringing more money in to the town and area. I would implore that you reconsider your decisions to deny this entirely local establishment that provides work and living wages to over 30 local residents and give them the opportunity to grow and flourish and be allowed to continue to do such things as endorse Adopt a Highway clean up programs, contribute to the FBUSD Autism program and pay off the delinquent school lunch fees for the whole of Fort Bragg Unified School District. It is with great respect and acknowledgement of your concerns that I ask once more to reconsider and think of the good things that most certainly will come from allowing this new establishment, and to not focus on the potential bad things that could happen.

Regards, D.D.V.H.

**From:** [Megan Arana](#)  
**To:** [City Clerk](#)  
**Subject:** My Vote Downtown Sovereign  
**Date:** Wednesday, September 1, 2021 7:32:42 AM

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To whom it may concern,

I am writing this letter on behalf of Sunshine Holistic DBA Sovereign. My name is Megan Young. I am a business owner and commercial real estate owner in Fort Bragg, CA. I have been a business owner in Mendocino County for ten years. I recently purchased [319 Franklin St.](#) In the downtown business district and am working on renovating the location to move my business into. Franklin Street needs a lot of work from motivated business owners to revamp our downtown business district. Franklin St. Currently has many commercial vacancies and run down store fronts. We need more business downtown and I can't understand why an established business would be rejected to move their business downtown. Throughout the COVID-19 pandemic Cannabis Retail stores have been deemed "essential business." Dispensary's we're able to resume operations when many other retail stores and other non essential businesses could not open. I see that as a value to our downtown. The more essential businesses the better. I believe Sovereign would attract tourists and locals and significantly increase traffic in the CBD substantial revenue for the City.

I am comfortable and confident in Brandy's proposed operations. She has a proven track record for safe cannabis operations and the State has stringent security requirements.

Brandy is a motivated business owner and Super Woman. She is extremely active in the community on a personal and professional level.

I had hoped to speak publicly on this matter but I had a preexisting obligation out of town. Please approve her application at [144 N. Franklin St.](#) so she can help our community grow!!

Sincerely,

Megan Young  
Oasis, owner  
141 Boatyard Dr.  
319 Franklin St.  
Fort Bragg, CA 95437

[Sent from Yahoo Mail for iPhone](#)

**From:** [Layla B](#)  
**To:** [City Clerk](#)  
**Subject:** Support for Sovereign Dispensary  
**Date:** Tuesday, August 31, 2021 10:55:32 PM

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My name is Layla Brown and I am a lifelong resident of the Mendocino coast and an employee at Sovereign dispensary. I want to vocalize my support for the shop's proposed move into our town's central business district to a new location on Franklin street. I have been closely following the proceedings of this and seeing what the oppositions may be. Having grown up here I believe keeping our community alive and thriving is one of the top concerns that we should have and I believe that this business is one that not only draws in business to the area from tourism, but also provides so much for our local community.

Before applying to work for Sovereign I found myself in need of their products when I was diagnosed with leukemia. The gummies I purchased there provided a huge amount of relief during my chemotherapy treatments and allowed me to be able to maintain my appetite and actually rest. Now as an employee my world has been opened up to just how many people in our community use these products for medical reasons and how much it improves quality of life for so many. The current location of Sovereign is on the side of a dangerous and busy highway where it is difficult to turn in and out. I have seen many accidents occur with cars turning in and out. By allowing the shop to be downtown it would provide access to many more people who rely on cannabis.

One of the oppositions that I have seen frequently to this proposed move is that there will be issues with minors entering the store because it is in the downtown business area. Growing up here I never accidentally wandered into a bar or a dispensary because an ID must be checked at the door. Currently there are other dispensaries in the downtown district, including one directly on main street that many in our local area have actually confused with an actual "Bakery". It is strange to me that a dispensary with such a misleading name would be allowed while Sovereign, which is well established in our community has been blocked. The central business district is also residence to multiple bars some of which are on directly the same street as our local toy store. Often patrons of the bar are out front smoking cigarettes and being openly drunk in plain view of families. In accordance of state regulation cannabis businesses can have zero consumption on site and this is backed by 24 hour surveillance as well as a body guard during all business hours.

Finding a job during the Covid-19 crisis that is a safe and sustainable place to be employed has been difficult and Sovereign has provided me and many others with the income it takes to be able to live here and support our families and local economy.

Brandy Moulton the business owner of Sovereign has proven that she is a reliable and trustworthy business owner in our community and she continues to find ways to give back through the business. On my daily drive from Westport to Fort Bragg I see the "Adopt a Highway" sign where Sovereign supports highway 1 in the area that runs through Cleone. My family has even been personally affected by the kindness of this business when we were notified Sovereign had paid for the outstanding lunch bill of my younger brother and many other students at our local public schools. Since working here I have participated in community trash clean ups through the company and led by Brandy. It is ridiculous to me that our city has been so biased and short sighted that we have allowed other dispensaries with their companies tied to Southern California and out of town owners that have no ties or cares for our small town and its residents, many of which instead of providing much needed employment to locals have brought in managers and employees from out of the area.

I have no doubt that this business will continue to give back if we as a community can push for what is right and allow approval for the new location.

Please consider allowing this business to continue to grow and improve the lives of the people in our community.

To: City of Fort Bragg

From: Karen Deitz

Date: September 1, 2021

Re: Public Comment for MUP 1-21 Appeal

I am a long-time resident of Fort Bragg. Although, I do not live in Fort Bragg's downtown core, I frequently visit the Central Business District to shop at Purity, access the Post Office, and visit the Community First Credit Union at the intersection of Franklin and Alder Streets. During these visits I pass by the former Floor Store location at 144 N. Franklin Street.

In the past month, I observed a public hearing notice in the window concerning a proposed cannabis dispensary and minor use permit, MUP 1-21. Because I do not live in the immediate vicinity of 144 N Franklin Street, I did not receive any mailed notices about MUP 1-21. I have learned that the City Council meeting tonight is the last hearing about this project but there had been several prior meetings concerning MUP 1-21. I never observed any notices for those meetings in the windows of 144 N. Franklin Street during any of my frequent visits and did not participate in any of those prior meetings to share my views about this project.

Shouldn't the notices for these prior meeting have been posted in the window just like the current notice? If not, how are people like me who don't live nearby but frequently visit the site supposed to know that this is even being considered let alone know to participate in the meetings about this project? This doesn't seem right and I am concerned that the public was not made aware of this project that is being considered during the Covid-19 pandemic and that the appeal hearing tonight is too late to have the opportunity to effectively influence the outcome of MUP 1-21 since the more detailed discussion happened at the prior meetings not this more limited appeal. Shouldn't people like me have had the opportunity to speak before the Planning Commission too? Please consider this as you evaluate what to do about the current appeal.

Sincerely,

A handwritten signature in black ink that reads "Karen Deitz". The signature is written in a cursive, flowing style with a long, sweeping underline that extends to the right.

Karen Deitz

**From:** [Pat Bell](#)  
**To:** [Lemos, June](#)  
**Subject:** Appeal of Planning Commission decision  
**Date:** Wednesday, September 1, 2021 10:36:34 AM

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I am asking the City Council to uphold the Planning Committee's decision to reject Sovereign's permit to establish a cannabis dispensary with delivery at 144 North Franklin Street. I live less than 30' from this building. This cash only business is a threat to our safety and our quality of life. This is a neighborhood of families with young children and individuals who have invested time and money in their homes. This is quite simply not the location for a cannabis dispensary. The increased traffic and noise in an already busy neighborhood will negatively affect the character of our neighborhood.

Please support the vast majority of neighbors whose lives will be directly affected by your decision. We do not want this business in our neighborhood. Sovereign has other options in relocating their business while we do not.

Thank you.

Patricia Bell  
147 North McPherson Street

Sent from my iPad

**From:** [Jacob Patterson](#)  
**To:** [Lemos, June](#); [Munoz, Cristal](#)  
**Cc:** [O'Neal, Chantell](#); [Gurewitz, Heather](#); [Miller, Tabatha](#)  
**Subject:** Public Comment -- 9/1/21 Special City Council Meeting for MUP 1-21  
**Date:** Wednesday, September 1, 2021 1:36:51 PM

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City Council,

I am happy to declare this under penalty of perjury (although I don't believe the concept of perjury technically applies to City Council appeal hearings) that, to the best of my knowledge, the following is true and correct. My knowledge of the site conditions is based on personal observations obtained during visits to and inspections of the project site at 144 N. Franklin Street and the associated addresses for the two other buildings on the property.

The Notice of Pending Permit, which the applicant claims was posted in February but was not actually posted where she states, at least not for the period of time alleged in the signed statements submitted with her appeal. I am comfortable attesting to this because I personally visited this site and inspected all of the windows and doors, including the rear windows facing the parking area and the windows and doors on the other rear building closest to the alley, and no notices were ever posted in any location during the time this permit application was being processed beginning in February 2021 until after the issue of notices was raised at the Planning Commission appeal hearing on June 23, 2021. (That is, from early December 2020 through the present, although this second MUP application was filed in February 2021 so the earlier time period covered the first MUP application as well.) In fact, the only notice that had been posted anywhere on the project site prior to July 23, 2021, was posted for the prior similar MUP application in the western-facing window next to the main entrance that the applicant/appellant claims was posted there for several months. I observed that notice posted there for several months but it was taken down when the appeal for that different application was complete and the permits were effectively denied by the City Council on January 25, 2021 (technically through two failed motions so the Planning Commission decision to deny the permit remained in place). I personally inspected these windows and there was never another Notice of Pending Permit posted for the second MUP application.

Prior to the notice for this appeal by the applicant to the City Council that was posted on the window in both English and Spanish on July 23, 2021, there were never any notices posted in that location or in any other location for this second application for MUP 1-21. I can confidently affirm that is the case because I visit this site on a near daily basis when I pick up mail from my PO Box at the post office across the street and I take the time to inspect this site for notices. (I stopped doing this as diligently only after the notice for the current appeal hearing was posted in the window, affixed to the inside of the glass and only accessible from the interior of the building, which was also the case for the Notice of Pending Permit that was posted for the first application.) City staff acknowledge in tonight's staff report that the Notice of Public Hearing for the appeal of the administrative decision to the Planning Commission was never posted on the site.

On a different matter, I also want to attest that the letter from the applicant's attorney includes several material misstatements of alleged facts, on which they base some of their allegations of improper bias during the prior Planning Commission hearing. Namely, I do not share a household with Commissioner Roberts, who is my mother and landlord. I am her tenant and live in a completely separate household without commingled household finances. Further, Commissioner Roberts lives in a different non-attached house than I do, with a different street

address.

Regards,

A handwritten signature in black ink, appearing to read 'J.R. Patterson'. The signature is stylized with a large, looped 'J' and 'P', and a horizontal line extending from the end.

Jacob R. Patterson

**From:** [Jacob Patterson](#)  
**Subject:** MUP 1-21, Purpose of Minor Use Permits and Focus of the Review  
**Date:** Wednesday, September 1, 2021 2:19:56 PM

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City Council,

I want to highlight some language from the City's ILUDC that was emphasized by the Planning Commission during their review of MUP 1-21. Commissioner Roberts first quoted it but it was Commissioner Rogers who emphasized its importance relating to how persuasive the concerns from the neighbors were in light of the direction this section of the ILUDC was for the Planning Commission. Since this discussion is not reflected in the minutes and it wasn't discussed in tonight's staff report, I thought I should send it in for your consideration as well. I believe this is critical to keep this in mind as you consider the issues tonight.

Regards,

--Jacob

## 18.71.060 - Use Permit and Minor Use Permit



**A. Purpose.** A Use Permit or Minor Use Permit provides a process for reviewing uses and activities that may be appropriate in the applicable zoning district, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site.

**From:** [Jacob Patterson](#)  
**To:** [Lemos, June](#)  
**Subject:** One more, the last written comment for MUP 1-21  
**Date:** Wednesday, September 1, 2021 4:28:07 PM  
**Attachments:** [final comment re MUP 1-21.pdf](#)

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June,

The attached narrative is what I planned to say during oral comments tonight but I thought I should submit it because it is probably too long for my allotted time.

Thanks,

--Jacob

## **THIS ENTITLEMENT REVIEW PROCESS HAS BEEN TAINTED BY BIAS:**

One thing on which I agree with the applicant's attorney is that this entitlement review has been tainted by clear bias, although not for the reasons she suggests. Instead, it has been clearly biased in the applicant's favor and against any opposition to this project. City staff continue to undermine the Planning Commission and even the City Attorney's prior advice. The process was manipulated, including staff emailing the Planning Commissioners prior to the initial public hearing date telling them they did not need to attend because the meeting because it couldn't proceed due to inadequate notice and then their absence and lack of a quorum was used as an excuse to send the initial review authority back to a staff-level administrative hearing. Moreover, although Chair Logan and Commissioner Roberts did not actually express any bias against the applicant in their communications to the City Council attached to the letter from the applicant's attorney, which are about the prior minor use permit application and not MUP 1-21, I believe Councilmember Lindy Peters should recuse himself from this matter because of his wife's employment as the Administrative Assistant for the Community Development Department, a position which is directly involved in the noticing for this project as well as preparing the Planning Commission resolution. The notices and the accuracy of the resolution are both at issue in this appeal and he can hardly be considered impartial or unbiased if he is asked to evaluate whether or not the notices and resolution were prepared appropriately. This presents an unacceptable perception of bias and his participation is not legally required in order to retain a quorum of the City Council members present and able to hear this matter without apparent or potential conflicts-of-interest.

## **THE STAFF REPORT'S REFERENCE TO USE PERMIT 1-18 AND THE OTHER DISPENSARY IS A RED HERRING THAT SHOULD BE DISREGARDED:**

The discussion about Use Permit 1-18 actually supports why this appeal should not be successful rather than providing a basis to approve the requested permits. That use permit is in a completely different location in the heart of the commercial core of the CBD with limited exposure to nearby residential uses. This location is entirely different and is primarily a historic single-family residential neighborhood with very different building configurations. Moreover, those single-family homes were not constructed in the CBD and those residents did not all move to the CBD, the CBD came to those properties when the City rezoned the property thinking the commercial core might expand eastward due to hope-for but never-realized growth. That was a mistake and the historic uses in this small corner of the CBD remain primarily a residential neighborhood where bars, restaurants, and dispensaries are probably inappropriate and incompatible unlike in other areas within the CBD. The project under consideration with Use Permit 1-18 actually addressed the neighbors' concerns by incorporating significant special conditions to mitigate the impacts to allow the City to be able to approve it because of those special conditions that addressed the neighbor's concerns enough to justify making the required finding re compatibility. The Bakery cannabis dispensary on Main Street is easily distinguishable from this proposal. The upstairs apartments over store fronts are very different types of residential uses in a very different location in the

CBD, also in the heart of the commercial core. Moreover, those neighbors did not object to that proposal despite having the opportunity to do so. If those residents did not express concerns, why would the City find any reason to be concerned about the proximity of that different dispensary to those different residences? Here the neighbors have expressed numerous particular concerns, including the fundamental incompatibility of having to live what remains illegal activity under federal law. Just because something is legal locally and in California does not mean we have a right to impose federally-illegal businesses on residents in quiet, single-family homes and small multi-unit properties across the alley without a buffer and without any special conditions that even attempt to address their concerns.

### **INNACCURACIES IN THE LETTER FROM THE APPLICANT'S ATTORNEY UNDERMINE THEIR POSITIONS AND ARGUMENTS:**

In my opinion, the letter from the attorney of the applicant/appellant is rife with misstatements and internal contradictions. For example, the entitlement review history is incorrect because it asserts this permit should have been considered by the CDC (presumably the Community Development Committee) but that committee does not hear permit reviews. The City established the following review authority for Minor Use Permits: the Community Development Director, followed by the Planning Commission if appealed, followed by the City Council if appealed (although the Community development Director can elevate any MUP directly to the Planning Commission as he originally intended to do). The various hearings that are alleged to have been appropriate in the applicant's letter are incorrect (again, fictional hearings before the CDC are cited) and the notices for these fictitious hearings are alleged to have been posted on the site and otherwise properly noticed. These inaccurate statements undermine the credibility of the applicant's claims. The letter goes on to claim that the notice for the June 23, 2021 appeal hearing was properly noticed and posted on the project site and cites the affidavits as proof of this erroneous claim. These notices are distinct notices and the City staff report for this appeal hearing before the City Council affirmatively establishes that the notice for the June 23, 2021 appeal hearing was not posted on the project site. In fact, the applicant's letter earlier establishes that City staff did not notify the applicant of the requirement to post these notices but then contradicts this statement by asserting that the same notices they were not notified were required were somehow posted anyway. These internal contradictions in the letter from the applicant's attorney further undermine the credibility of the claims.

### **RENEWAL OF PRIOR OBJECTIONS AND SUBSEQUENT BUT SUBSTANTIALLY SIMILAR OBJECTIONS BASED ON NEW FACTS AND CIRCUMSTANCES:**

If this project is approved, the City Council would be abusing its discretion by attempting to rely on the cited categorical exemption for the same reasons listed in prior written public comments at earlier review stages. All prior objections to the potential approval of MUP 1-21 are hereby incorporated by reference as if written herein and all such objections are renewed and updated with all relevant facts that have occurred since the objections were originally raised at earlier stages in this entitlement review.

**From:** [Malcolm Smith](#)  
**To:** [City Clerk](#)  
**Subject:** Support for Sovereign Dispensary Application  
**Date:** Wednesday, September 1, 2021 6:08:47 PM

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Hi there,

I would like to throw my full support behind the application submitted by the Sovereign Dispensary. They are a super respectful company and the owners and employees are some of the nicest people with the neighborhoods best interests at heart.

The city staff fully supports the application!

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**Malcolm Smith**  
Chemical Engineer - Entrepreneur  
**M:** 612-889-4049

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August 30, 2021

Writer's Email:  
gaustin@austinlegalgroup.com

City Council  
City of Fort Bragg  
363 N. Main St.  
Fort Bragg, CA 95437

VIA EMAIL

**RE: September 1, 2021 City Council Meeting Agenda Item #1A  
Minor Use Permit 1-21 for Cannabis Retail at 144 N. Franklin St.**

Dear City Council:

Austin Legal Group represents the applicant, Brandy Moulton ("Applicant"), with respect to her application for a minor use permit ("MUP") to operate a cannabis retail store at 144 N. Franklin Street ("Project"). The purpose of this letter is to: (1) highlight the necessity of invalidating the Planning Commission's June 23, 2021 hearing; (2) address the arbitrary and capricious nature of the Planning Commission's decision to deny the Project; and (3) demonstrate this Project's compliance with the Inland General Plan, Central Business District, Inland Land Use and Development Code, and Municipal Code.

The Applicant has exhausted numerous resources attempting to obtain a MUP for its proposed cannabis business by strictly following all City laws, regulations, and procedures, but continues to be met with consistent restraint and improper behavior from the Planning Commission. As demonstrated within the Staff Report and this letter, each of the required findings can be made to approve this Project. Accordingly, Applicant respectfully requests City Council follow the recommendations of City Staff and the Community Development Director ("Director") and approve this Project.

**BACKGROUND**

**A. CITY OF FORT BRAGG'S ADOPTION OF ORDINANCE NO. 952-2019**

On August 28, 2019, the Planning Commission considered amendments to the Inland Land Use and Development Code ("ILUDC") and the Fort Bragg Municipal Code ("FBMC") to allow cannabis retail operations in certain zones, including the Central Business District ("CBD"). The amendments also proposed accessory uses to cannabis retail operations, including manufacturing, distribution, cultivation, and/or processing activities. At that time, Planning Commission agreed to eliminate proposed buffer restrictions, in part, to avoid disqualifying a majority of the CBD area. On November 12, 2019, City Council approved the amendments which were encompassed within City Ordinance No. 952-2019. On December 12, 2019, Ordinance No. 952-2019 became effective.

**B. APPLICANT'S FIRST MINOR USE PERMIT APPLICATION MUP 4-20.**

In September 2020, Applicant submitted a MUP application for cannabis retail with accessory uses of non-volatile manufacturing, distribution, nursery, and processing to be located within the CBD at 144 N. Franklin Street ("MUP 4-20"). Being the first cannabis retail MUP application which proposed accessory uses, the CDC scheduled the MUP application for a Planning Commission hearing.

On December 9, 2020, the Planning Commission denied MUP 4-20 stating that the proposed accessory uses and operations did not fit the ILUDC's definition of "accessory." Applicant appealed the Planning Commission denial to City Council. Both Commissioner Michelle Roberts and Commissioner Jeremy Logan submitted writings to City Council regarding the denial of MUP 4-20. On January 25, 2021, the City Council was unable to reach "3-0" majority decision required.<sup>1</sup> Consequently, the decision for MUP 4-20 was defaulted to the Planning Commission's December 9, 2020 denial decision.

**C. APPLICANT'S SECOND MINOR USE PERMIT APPLICATION MUP 1-21.**

Based on the Planning Commission's opposition of MUP 4-20's proposed accessory uses, Applicant submitted a new MUP application for a standalone cannabis retail operation on February 11, 2021. On February 12, 2021, Applicant posted the required Notice of Pending Permit on the front window of the proposed building. On or around May 3, 2021, the City distributed the required Notice of Pending Action and Applicant posted the Notice at the Project site. The Notice of Pending Action notified the public, including nearby neighbors, that the Project would be considered administratively unless a public hearing was requested. Shortly thereafter, neighbors to the Project requested a public hearing.

The City then mistakenly set the public hearing for the Planning Commission instead of the CDC. This led to noticing deadline issues of no fault to the Applicant. The noticing issue was soon remedied and the Notice of Public Hearing for the CDC hearing was re-scheduled for a later date, re-distributed, and posted at the Project site. On May 18, 2021, the CDC conducted the public hearing and determined that all of the required findings for this Project could be made and approved the Project. On May 19, 2021, the CDC distributed the Notice of Final Action to the Applicant and interested parties providing that his decision could be appealed to the Planning Commission.

On May 26, 2021, Gene Mertle, Jay Koski, James Matson, Carrie Hull, Patricia Bell, Sarah Macy, and Jean Cain (collectively referred to as "Neighbor Appellants") timely appealed the CDC's approval decision. The City subsequently distributed the Notice of Public Hearing for the June 23, 2021 Planning Commission hearing and Applicant posted it at the Project site.<sup>2</sup>

On June 23, 2021, the Neighbor Appellants appeal was heard by Planning Commission. The Planning Commission denied this Project on two grounds: (1) insufficient evidence to prove that the Applicant complied with the City's noticing requirements; and (2) proposed Project is incompatible with the surrounding uses within the CBD. The Planning Commission then held three separate meetings thereafter in order to finalize the drafting of this denial resolution (July 14, 2021, July 21, 2021, and August 5, 2021). Applicant filed a timely appeal of the Planning Commission's decision to the City Council. Applicant's City Council hearing was set for August 9, 2021, which was then continued to September 1, 2021.

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<sup>1</sup>At this meeting, Councilmember Morsell-Haye recused herself, and the City had a vacant City councilmember position.

<sup>2</sup> See Exhibit "A" Applicant's and Jennifer Brown's Notice Affidavits.

## DISCUSSION

### **A. PLANNING COMMISSION HAS VIOLATED APPLICANT’S RIGHT TO A FAIR AND NEUTRAL DECISION-MAKING BODY AND ITS DECISION SHOULD BE INVALIDATED.**

The Planning Commission’s review of this Project was riddled with unlawful procedure and behavior. This included multiple conflicts of interest, bias, failure to disclose documents, an inability to follow public hearing regulations, and an inability to promote the City’s tools of civility. Due to the Planning Commission’s failure to lawfully conduct a fair and neutral decision-making process, the City Council must disregard the Planning Commission’s June 23 deliberations and decision as they were conducted unlawfully and hold no merit.

#### **1. Conflicts Of Interest Exist Amongst The Planning Commission, And The Planning Commission Failed To Lawfully Handle Such Conflicts.**

Commissioner Jeremy Logan and Commissioner Michelle Roberts have a conflict of interest with respect to this Project. Both have demonstrated an unacceptable probability of bias against the Applicant which required disclosure of such conflict and subsequent recusal at the June 23, 2021 Planning Commission hearing. **Failing to recuse themselves stripped the Applicant’s right to a fair and neutral project review process.**

Planning commissioners often act in quasi-judicial capacities similar to judges.<sup>3</sup> When performing a quasi-judicial act, procedural due process principles apply.<sup>4</sup> Procedural due process requires impartial and non-involved reviewers.<sup>5</sup> The participation of a biased-decision maker is enough to invalidate a decision.<sup>6</sup> When proving that a decision-maker is biased, proof of actual bias is not required; only a showing of an unacceptable probability of actual bias.<sup>7</sup> An unacceptable probability of actual bias exists when city decision-makers actively advocate for or against a project before them, including the drafting and sharing of opposition points to other city decision-makers.<sup>8</sup>

(a) *An Unacceptable Probability Of Actual Bias Exists On Behalf Of Commissioner Roberts.*

**Commissioner Roberts’ son, Jacob Patterson, represents the Neighbor Appellants in their opposition to MUP 1-21. This in itself demonstrates an unacceptable probability of bias.**<sup>9</sup> Notwithstanding this, on August 5, 2021, Commissioner Roberts admitted to a “potential” conflict of interest on the basis that she receives income from her tenant (son Jacob Patterson) who represents the Neighbor Appellants in the MUP 1-21 matter.<sup>10</sup> **This conflict of interest was NEVER disclosed by Commissioner Roberts at the several other MUP 1-21 Planning Commission hearings.** Instead,

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<sup>3</sup>*Petrovich Development Co., LLC v. City of Sacramento* (2020) 48 Cal.App.5th 963, 973.

<sup>4</sup>*Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 482.

<sup>5</sup>*Id.* at 483.

<sup>6</sup>*Petrovich* at 973.

<sup>7</sup>*Id.*

<sup>8</sup>*Petrovich Development Co., LLC v. City of Sacramento* (2020) 48 Cal.App.5th 963.

<sup>9</sup>Section 170.1(a)(5) of the California Code of Civil Procedure requires the disqualification of a judge if the judge’s child is a lawyer in a proceeding before the judge. Although Commissioner Roberts is not a “judge” for purposes of Section 170.1, she sat in a very similar capacity, presenting the very same harms, Section 170.1 seeks to prevent.

<sup>10</sup> See August 5, 2021 City of Fort Bragg Planning Commission Meeting Recording re: Item 21-411.

Commissioner Roberts sat and heard all items related to MUP 1-21 in direct violation of the City's conflict of interest regulations.

The City of Fort Bragg adopted certain sections of the Fair Political Practices Commission ("FPPC") Regulations to govern its local conflict of interest concerns, including Cal. Code Regs., tit. 2, § 18730. Section 18730(b)(9) provides that no City employee shall participate in the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect on the City employee, or on an immediate family member.

Mr. Patterson has actively advocated for denial of MUP 1-21 before the Planning Commission, including before his mother, Commissioner Roberts. **Commissioner Roberts and Mr. Patterson live in the same household and Commissioner Roberts receives money from Mr. Patterson to live in this shared household.** Commissioner Roberts and Mr. Patterson have consistently expressed the same arguments against this Project. To illustrate, in mid-July, both found it necessary to clarify to the City that their "insufficient notice" argument applies to all City notices, and not just the Notice of Pending Permit.<sup>11</sup> It would be naïve to presume that Commissioner Roberts does not have an unacceptable probability of bias against the Applicant when her son is representing the opposition.

Moreover, Commissioner Roberts actively advocated for the denial of Applicant's previous MUP 4-20 application in both written and oral public comment to the City Council in her official capacity.<sup>12</sup> **This was gravely inappropriate.** Commissioner Roberts' letter to the Councilmembers provided thorough detail as to why denial was the "only course of action" and discouraged staff from recommending that City Council approve MUP 4-20. Commissioner Roberts attempted to disguise her letter for "background and informational" purposes, but the true intent of the letter is evident.

*(b) An Unacceptable Probability Of Actual Bias Exists On Behalf Of Commissioner Logan.*

Like Commissioner Roberts, Commissioner Logan actively advocated for the denial of Applicant's previous MUP 4-20 application to the City Council in his official capacity.<sup>13</sup> Commissioner Logan wrote an email to the Councilmember a day before the MUP 4-20 City Council hearing. Despite Logan highlighting the irregularity of his communication, he provided his own speculations as to the Applicant's proposed operations and his reasons for denial.

**Based on (1) Commissioner Roberts extremely close familial tie to the representative of the Neighbor Appellants, and (2) Commissioner Roberts' and Logan's affirmative steps to oppose the Applicants' projects, an unacceptable probability of bias exists and the Planning Commission's June 23, 2021 decision should be invalidated.**

2. **Commissioner Roberts Failed To Comply With Her Duties Under The California Public Records Act ("CPRA").**

Due to bias concerns, Applicant submitted a public records request with the City on Thursday, July 29, 2021 for all written communication received or sent by Commissioner Roberts with respect to MUP 1-21 ("PRR"). The City's response to the PRR included two documents: (1) a July 11, 2021 email from Commissioner Roberts to City Staff regarding the drafting of MUP 1-21 denial findings; and (2) a

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<sup>11</sup> See Exhibit "B" Patterson's July 24 email to the City re: notices; See July 14, 2021 Planning Commission special meeting video.

<sup>12</sup> See Exhibit "C" Commissioner Roberts public comment letter for January 25, 2021 City Council hearing.

<sup>13</sup> See Exhibit "D" Commissioner Logan's January 24, 2021 email to City Council.

July 21, 2021 email from Commissioner Roberts to City Staff regarding this same topic. The City then deemed its response complete and closed the PRR.

The CPRA provides that “access to information regarding the conduct of the people’s business is a fundamental and necessary right of every person in the state.”<sup>14</sup> When such information is requested, the City has a duty to promptly provide the documents unless one of the CPRA’s narrow exceptions applies.<sup>15</sup> There is a clear and obvious presumption for favoring disclosure of public records.

**The City’s response to the PRR request is at best disingenuous, dishonest at worst. Whether the City’s inadequate response to the PRR is disingenuous or dishonest, it is violative of the CPRA.**

First, Commissioner Roberts has sent and/or received several more written communications regarding MUP 1-21 that the City omitted in response to the PRR. Second, the Planning Commission has held a number of meetings regarding MUP 1-21 and none of these documents were included in response to the PRR. Third, Commissioner Roberts has expressly mentioned communications with the City Attorney regarding her conflict of interest. This is yet another example in which Applicant has been prejudiced by the Planning Commission.

3. **Planning Commission Improperly Considered Issues Outside The Scope Of Its Jurisdiction.**

Fort Bragg Municipal Code section 18.92.030(C) provides that an appeal shall be limited to issues raised at or before the initial public hearing. Despite multiple instructions provided by City Attorney Keith Collins and City staff, the Planning Commission engaged in considerations outside its scope of review including, but not limited to:

- Repeatedly considering information provided within the previous minor use permit application MUP 4-20;
- Requesting and discussing crime statistics for unrelated cannabis dispensaries;
- Inquiring about the City’s process on receiving cannabis tax money in light of the status of federal legalization;
- Inquiring about the Planning Commission’s authority to inspect cannabis businesses employee lists; and
- Inquiring about the Planning Commission’s authority to deny MUP 1-21 based on the required background check process.

**The Planning Commission’s improper discussions stole valuable consideration time from the Applicant and her Project review opportunity.** Pursuant to the limited scope of planning permit appeals, City Council should disregard any discussion or claims that relate to the above matters.

In light of the foregoing, it is clear the Planning Commission failed to provide Applicant with a fair and neutral review process. Accordingly, Applicant respectfully requests City Council to invalidate the Planning Commission’s decision and conduct this September 1st hearing without any deference to the Planning Commission’s deliberations or recommendations.

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<sup>14</sup>Gov. Code § 6250.

<sup>15</sup>Gov. Code § 6253.

**B. THE PLANNING COMMISSION'S DECISION TO DENY THE PROJECT WAS ARBITRARY AND CAPRICIOUS.**

Assuming *arguendo* that City Council decides that the Planning Commission lawfully participated as a fair and neutral decision-making body, the Planning Commission's decision to deny the Project shall hold no weight as the decision was based on mere neighbor speculations with no supporting evidence.

1. Applicant Complied With All Noticing Requirements.

If a public hearing is requested for a MUP application, the City requires the Applicant to post three separate notices during the project review phase:

- (1) Notice of Pending Permit: Posting is required after the application is submitted with the City;
- (2) Notice of Pending Action: Posting is required before the application is administratively approved by the City; and
- (3) Notices of Public Hearing: Posting is required before a public hearing is held on the application.<sup>16</sup>

**As thoroughly detailed in the Background section of this letter, Applicant complied with the City's posting requirements.**<sup>17</sup> Nevertheless, the Planning Commission held that the Project should be denied based on "insufficient evidence" that the City's noticing requirements were complied with. This was based on (1) unsupported assertions made by Commissioner Roberts son, Jacob Patterson, and last minute representative of the Neighbor Appellants; and (2) the Planning Commissioner's unwillingness to believe City Staff's and Applicant's testimony that all noticing requirements were complied with.

**The Planning Commission's reliance on Jacob Patterson's unsupported assertions for its "insufficient notice" decision was both arbitrary and capricious.** Accordingly, the City Council should disregard this meritless finding.

2. Notwithstanding The Above, Any Noticing Errors For This Project Are Not Proper Grounds for Denial.

Applicant complied with all noticing requirements. **Again, assuming arguendo that Applicant did not post any required notices, such failure could NOT serve as grounds for Project denial.** The City's regulations do not speak to the effect of a non-posted notice and the analysis therefore turns to California case law.

California courts have held that parties who seek to invalidate a decision based on a noticing error must show prejudice. A court will not overturn a local agency decision based on a noticing error unless the complaining party suffers substantial injury from the noticing error and a different result would have been probable had the noticing error not occurred. In *Towers v. County of San Joaquin*, the complaining party was aware of the at-issue project proceedings, made substantial comment regarding the project, and followed the matter until it was continued indefinitely at the third planning commission hearing.

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<sup>16</sup> ILUDC section 18.71.060(E)(2).

<sup>17</sup> See Exhibit "A" Applicant's and Jennifer Brown's Notice Affidavits.

Additionally, notice for that project's hearing was published through other means which provided adequate notice and met the minimum requirements of due process. Thus, the *Towers* Court rejected the petitioner's request to vacate the local agency's decision based on his "failure to provide notice" claim.<sup>18</sup>

**Here, the Neighbor Appellants have not suffered ANY injury from this Project's noticing components. Contrarily, Neighbor Appellants have been FULLY ENGAGED in the MUP 1-21 review process.** The Neighbor Appellants have actively submitted written comments, oral comments, and been present (virtually or in-person) at the applicable hearings and obtained their desired result at the Planning Commission hearing. Moreover, all required notices were properly mailed, posted by the City, and published within the local newspaper, Advocate News.

Based on (1) the Applicant's compliance with the City's noticing requirements, and (2) the Neighbor Appellant's continued knowledge and participation during the MUP 1-21 approval process, the City Council should disregard this red herring noticing claim.

3. **Project Is Compatible With The Existing And Future Surrounding Uses Of The Central Business District.**

Despite contrary evidence within the record, the Planning Commission held this Project incompatible with its surrounding uses. This finding is carelessly founded upon (a) unsupported assertions and mere speculations made by Neighbor Appellants; and (b) vague discussions and conclusory statements made by the Planning Commissioners. Nothing in the record demonstrates this Project's incompatibility with its existing and future surrounding uses of the CBD.

**Neighbor Appellants' claims of incompatibility are based on mere NIMBY ("Not in My Backyard") opposition, speculation, and opposition to cannabis in general.** In summary, the Neighbor Appellants' speculated that this Project would increase crime rates (with no evidence to support this), ruin the property values and integrity of the neighborhood (with no evidence to support this), and provided mere distaste towards cannabis and the proximity of cannabis operations in general. No factual or substantive testimony was provided to support the Project's incompatibility with its surrounding uses. This was further highlighted during the Planning Commission's deliberations, when Commissioner Roberts deemed the Project incompatible based on Neighbor Appellants' testimony and the proximity of nearby residences. Staff asked and recommended Commissioner Roberts to specify the reasons as to why she came to this finding. She did not.

The novelty of the commercial cannabis industry can create apprehension amongst some community members. However, both the State and local government have created laws and regulations, including locational requirements, to ensure the safety of the public health and welfare. To illustrate, the City of Fort Bragg only allows cannabis retail storefronts to operate within three zones: General Commercial, Heavy Commercial, and the Central Business District.<sup>19</sup> This greatly limits where a cannabis store can locate within the City.

Applicant is compliantly proposing a cannabis retail store within the CBD. The City established the CBD to ensure it remained the commercial core of the community.<sup>20</sup> It is intended to accommodate a number of pedestrian-oriented development, including retail stores.<sup>21</sup> **Although the CBD allows the mixed-use of retail and limited residential uses, the mixed-use must not conflict with the primary**

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<sup>18</sup>*Towers v. Cty. of San Joaquin* (2018) 2018 Cal. App. Unpub. LEXIS 791.

<sup>19</sup>Table 2-6 of ILUDC Section 18.22.030.

<sup>20</sup> City of Fort Bragg Inland General Plan Element 2 – Land Use PDF p. 13.

<sup>21</sup> ILUDC section 18.22.020(C).

**retail function of the CBD.**<sup>22</sup>Moreover, when a MUP or Use Permit application is being reviewed by the City for the CBD, the City must find that the new use complements the local, regional, and tourist-serving retail function of the CBD.<sup>23</sup>As a new cannabis retail storefront, this Project directly aligns and furthers the goals and policies of the CBD.

**Contrarily, residential uses do not align with the CBD and are extremely limited.** Prior to 2017, single residential units were **NOT** permitted within the CBD.<sup>24</sup>Now, single residential units are only permitted if (1) the single residential unit is an existing structure; (2) the single residential unit looks like a single residential unit; and (3) a Use Permit is issued to the owner.<sup>25</sup> The purpose of this ILUDC amendment was to provide a legal pathway for illegally non-conforming buildings which appeared and operated like single residential units in the CBD.<sup>26</sup> Accordingly, existing single residential units within the CBD are non-conforming and cannot be expanded upon or re-built. No new single residential units are permitted within the CBD. Single residential units do not support the ultimate goals and policies of the CBD. **Allowing non-conforming uses to prevent uses which will support and bolster the CBD is nonsensical.**

Applicant worked diligently to select a compliant location and has worked closely with City Staff to ensure its consistency with City laws and regulations. This property has a long history of retail use and does not border any of the City's residential zones. There are two buildings located on Applicant's proposed property. Applicant intends to use the building closest to N. Franklin Street; not the building closest to the residential properties. The building's entrance will face N. Franklin and will be equipped with and operated under several security measures. Nothing within the record suggests that this Project cannot co-exist with its neighboring land uses.

**It would be counter-intuitive for the City to pass Ordinance No. 952-2019 and allow for cannabis retail in the CBD while simultaneously finding the use incompatible with the neighboring land uses of the CBD.** Based on the lack of evidence to support the Planning Commission's finding, and this Project's clear compatibility with the CBD, City Council should disregard this basis for denial as it has no merit.

### **C. ALL OF THE REQUIRED MUP FINDINGS CAN BE MADE FOR THIS PROJECT.**

The Staff Report provides significant detail and analyses as to how this Project meets each of the required cannabis retail MUP findings. This section provides an overview of this Project's compliance with the required findings.

#### **1. This Project Is Consistent With The Inland General Plan, The ILUDC, And The Municipal Code.**

This Project is proposed at 144 N. Franklin Street located within the City's commercial zone - CBD. The CBD is the City's downtown commercial core. Specifically, N. Franklin Street houses several neighboring and compatible retail businesses such as eateries, retail clothing shops, gift shops, bars, theatres, and more.

Moreover, section 18.22.030(C)(3) requires that new uses within the CBD complement the local, regional, and tourist-serving retail function of the CBD. Applicant's proposed use directly aligns with this

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<sup>22</sup> City of Fort Bragg Inland General Plan Element 2 – Land Use PDF p. 14

<sup>23</sup> ILUDC section 18.22.030(C)(3).

<sup>24</sup>See 2014 adopted version of ILUDC – Chapter 18.

<sup>25</sup> Table 2-6 of ILUDC Section 18.22.030.

<sup>26</sup> March 22, 2017 Planning Commission Meeting Details - Attachment 2 - ILUDC Revisions Comment SP24.

objective of the CBD. The property is the ideal size for a cannabis retail storefront and provides plenty of parking for its proposed customers. As discussed above, residential uses within the CBD are greatly restricted and do not support the CBD's goals or policies.

Applicant's selected property clearly encompasses and promotes the policies and goals of the CBD and is compatible with its surrounding uses making it the ideal location for a cannabis retail space.

2. This Project Will Not Be Detrimental To The Public Health, Safety, And General Welfare Or To Its Surrounding Community.

Cannabis facilities are subject to several locational restrictions, operational restrictions, and safety requirements, including, but not limited to: strict zoning requirements; 24-hour security surveillance system; limited secured access areas; security guard; alarm systems; interior and exterior lighting; strict inventory tracking; and commercial grade lock requirements. These referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety, and general welfare of persons residing or working within the surrounding area.

Moreover, Applicant is an experienced commercial cannabis owner and operator of two cannabis businesses: (1) a cannabis cultivation operation in Mendocino County and (2) a cannabis retail delivery business in the City of Sacramento. Applicant has never received any warnings or violations from local or State regulators for either of her locations. Applicant is also licensed with the Bureau of Security and Investigative Services as a Private Security Employer making her an expert in best security practices. Applicant prides herself on operating facilities that are lawfully compliant while seamlessly integrating her business within the local communities she operates within.

**CONCLUSION**

The Applicant has faced several unwarranted obstacles throughout the City's Project review process. Specifically, the Planning Commission has committed a number of procedural and decision-making errors that require the invalidation of its June 23, 2021 Planning Commission decision.

As demonstrated above, the Project is consistent with the Inland General Plan and is fully compliant with the ILUDC and FBMC. The Project's compliance with all laws and regulations, along with the City-mandated conditions for several security measures, ensures this Project will not be detrimental to the public health, safety, and welfare. In light of this, the Applicant respectfully the City Council to follow the CDC's and Staff's recommendation and approve this Project.

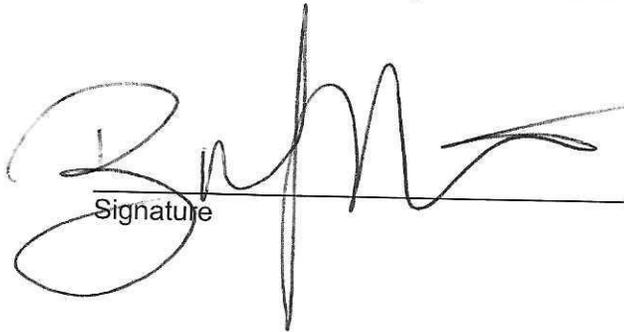
Sincerely,  
AUSTIN LEGAL GROUP, APC



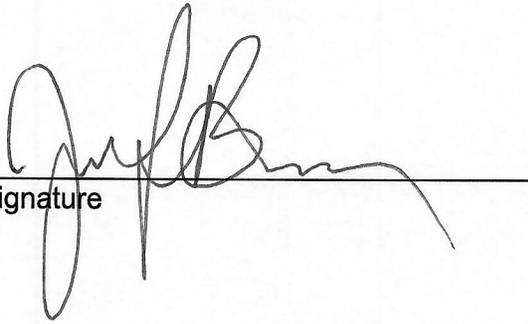
Gina M. Austin, Esq.

**EXHIBIT A**

I, Brandy Moulton, declare under penalty of perjury that all required notices for MUP 1-21 were properly posted at the project site in the west facing window next to the main entrance.

  
Signature

I, Jennifer Brown, declare under penalty of perjury that all required notices for MUP 1-21 were properly posted at the project site in the west facing window next to the main entrance.

  
Signature

## **EXHIBIT B**

**Brittany**

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**Subject:** Appeal of Planning Commission Denial of MUP 1-21

From: **Jacob Patterson** <[jacob.patterson.esq@gmail.com](mailto:jacob.patterson.esq@gmail.com)>  
Date: Sat, Jul 24, 2021, 9:51 AM  
Subject: Appeal of Planning Commission Denial of MUP 1-21  
To: <[brandy@sovereign707.com](mailto:brandy@sovereign707.com)>

Brandy,

I want to first ask if you are represented by an attorney in your appeal. If so, I can contact your attorney directly but this is the only contact I have for you in this matter. Please let me know if that is the case. If it is, you should forward this to them so they can advise you accordingly. I also recommend that you do not reply to this message and have your attorney's contact me if they want to clarify anything. I can be reached at 964-2417 or via email.

I read your appeal filed July 6, 2021 and want to clarify the noticing issue I mentioned during the public hearing since you refer to it in your appeal. I just reviewed the meeting video and I did not state what I am quoted as saying in your appeal letter. I mentioned the "notices" not the "Notice of Pending Permit", although the Planning Commission deliberations did discuss the application paperwork concerning the Declaration of Posting about the Notice of Pending Permit, which you included in your appeal. This is an important distinction because the Declaration of Posting in the City's planning permit application form packet refers to the Notice of Pending Permit not the series of public notices that applied to your proposed project. As you may recall, the City actually had noticing issues for the original public hearing that was originally scheduled to be heard by the Planning Commission, which resulted in them changing the review process to first include a staff-level administrative hearing. I believe that public notice hadn't been mailed to the neighbors in a timely manner as required by the City's code.

My oral comments about "notices" for the project referred to the series of different notices, including:

1. Notice of Pending Permit that you mentioned
2. Notice of Pending Action (the one that said people had to request a public hearing by a certain date or the permit would be administratively approved)
3. Notice of Public Hearing for the first staff-level administrative public hearing that was requested by the neighbors
4. Notice of Public Hearing for the hearing before the Planning Commission

Please see the below email I sent to Keith Collins, the City Attorney, clarifying my testimony at the hearing.

Regards,

--Jacob

**EXHIBIT C**

Fort Bragg City Council Meeting of Jan. 25, 2021

Comments from Michelle Roberts, Fort Bragg Planning Commissioner

Re: MUP 4 – 20

These comments are offered to provide background and information regarding the December 9, 2020, meeting of the Fort Bragg Planning Commission and its decision to deny MUP 4 – 20. Upon reading the staff report prepared for the Jan. 25<sup>th</sup> City Council and the application for appeal, I felt compelled to offer a more accurate and unbiased accounting of that meeting.

MUP 4 – 20 was escalated to the Planning Commission by City staff due to the discretionary nature of interpretation of accessory use. The December 9, 2020 staff report stated: “Minor Use Permits are typically processed at an administrative level and approved by the Director. This Minor Use Permit was escalated to the Planning Commission by the Director due to the discretionary nature of the interpretation of cannabis microbusinesses as accessory to a primary use...”

The Commission conducted a thorough meeting and public process before rendering its decision. We heard the staff report and ask clarifying questions; the applicant spoke and answered questions; we heard public comment and then thoughtfully deliberated the matter. What both the staff report and the applicant’s appeal letter neglect to focus on is the key reason for the denial. At the core of the motion and decision to deny the permit was the specific language of our code in defining “Accessory uses”. Article 10, §18.100.020 – Definitions of Specialized Terms and Phrases - defines it as follows: “Accessory Use. A use customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use nor serve property other than the parcel where the primary use is located.”

Upon questioning, the applicant clearly stated that cannabis plants would be started on-site in the nursery then transported to other sites for cultivation. While some harvested plants would eventually be brought back to the Franklin Street location for processing, plants would also be sold to other cultivators (as is also noted again in applicant’s appeal letter). Because the proposed use serves property other than the parcel where the primary use is located, the Commission determined that this does not meet the definition of accessory use per Article 10 and, therefore, we could not approve the project.

It is true that the Commission spend time discussing how to determine if a use is subordinate or incidental to a primary use in general, but those discussion were almost academic in nature since it became evident over the course of the meeting that the accessory uses which were the subject of MUP 4 – 20 clearly did not meet the definition. Since this issue of accessory use is likely to come up again in the future on other proposed projects, the Planning Commission would welcome the Council’s determination on clear criteria for evaluating “accessory”.

Staff and the applicant have made reference to §18.42.057(E) - Cannabis Retail, which provides examples of activities that may be accessory uses as a rationale for approving the application; however, the Commission clearly disagreed. This section also clearly states that Article 10 holds the definitive

meaning of accessory use. Since Article 10 clearly states that the use may not serve property other than the parcel where the primary use is located, the Commission appropriately followed our code and denied the permit. I would also point out that “may” indicates discretion and not an automatic approval and/or use by rights.

Please keep in mind that when there are conflicting requirements set out in our codes, we are required to apply the most restrictive code (see §18.10.040). In this case, that is Article 10 and the Planning Commission’s denial was the only course of action appropriate in this case. I cannot underscore how relevant the clear language of Article 10 was to our deliberation and ultimate decision.

During the deliberations, the Commission did also discuss that growing/cultivating cannabis is not permitted in the CBD per Use Table 2-6, Commercial Zoning Districts, nor, in fact, is there a cannabis cultivation ordinance currently in our codes. Since these uses would not be permitted as stand-alone uses and the Commission could not find these uses fit the definition of accessory in this specific case, the only appropriate course of action was the denial of MUP 4 -20.

I would also like to add that I was disappointed in the staff report for Jan. 25<sup>th</sup> as I feel it glosses over the main conclusions of the Planning Commission’s determinations for denial. The Planning Commission is the Review Authority in these matters. Staff have offered personal opinions, misinterpreted our codes and, I feel, misrepresented the critical points raised by the Commissioners during the December 9<sup>th</sup> meeting. My understanding of the role of staff is to present an accurate summary of the Planning Commission meeting to City Council, and neither be an advocate for the applicant nor encourage/recommend the City Council take a position in opposition to the Planning Commission’s decision. In doing so, I feel staff are undermining the authority of the Planning Commission.

Respectfully submitted,  
Michelle Roberts

**EXHIBIT D**

**From:** [Norvell, Bernie](#)  
**To:** [Lemos, June](#)  
**Subject:** Fwd: 1/25/21 Item 7A  
**Date:** Sunday, January 24, 2021 10:43:31 AM

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**From:** Jeremy Logan <[jeremy@mycolormill.com](mailto:jeremy@mycolormill.com)>  
**Date:** January 24, 2021 at 10:40:45 AM PST  
**Subject:** 1/25/21 Item 7A

Councilmembers,

I have deliberated writing this email since Thursday after reading the agenda for this week's City Council meeting. I am aware that it is somewhat irregular for a Commissioner to weigh in on the appeal of a decision made by the Planning Commission but I also feel an obligation, not to sway your opinion, but to clarify a nuance that I feel is missing from the staff's interpretation of our decision. I have spoken with City Manager Miller about this and under her guidance I believe that rather than bringing this to public comment it is more appropriate for me to address you all individually in an email. I hope that you will watch the video of the Planning Commission meeting on December 9th, 2020 and come to your own conclusions about our findings as well.

I would like to point out the definition of Accessory Use. In this context it is clear that a use cannot be seen as accessory if it, "serves property other than the parcel where the primary use is located." The applicant has stated that plants grown in the potential new location would be used to serve other outside facilities within her business. There is no guarantee that 100% of the products that result from plants taken off site will be brought back to the site for sale. In fact because she employs 40+ people in multiple locations it is reasonable to assume that a distribution mechanism already exists for her business and the likelihood of the plants never returning to the dispensary is high.

While staff has presented the Accessory Use argument as a matter of square footage percentages, the Commission's decision was also weighed heavily by the offsite use which has the potential to greatly benefit portions of the applicants business which do not reside in the proposed dispensary location.

Thank you all for your time. I hope that this has brought a little more clarity to this very important issue.

Sincerely,  
Jeremy Logan  
Chair of the Fort Bragg Planning Commission



# Application for MUP 1-21 Cannabis Dispensary at 144 N. Franklin St. Appeal

HEATHER GUREWITZ, MCRP

ASSOCIATE PLANNER

COMMUNITY DEVELOPMENT DEPARTMENT

# Project Status



- ▶ Application complete on March 24, 2021
- ▶ Administrative Public Hearing on May 18, 2021
- ▶ Administrative Approval on May 19, 2021
- ▶ Appeal received May 26, 2021
- ▶ Public Hearing with Planning Commission & Denial on June 23, 2021
- ▶ Appeal of Planning Commission Decision received July 6, 2021
- ▶ Planning Commission Resolution meetings on July 14, 2021, July 21, 2021
- ▶ Adoption of Resolution denying project on August 6, 2021
- ▶ Appellant resubmission of appeal received on August 9, 2021

# Project Description



- ▶ Retail Cannabis Dispensary at 144 N. Franklin St. with accessory delivery



# Basis of Planning Commission Denial



- ▶ There was not sufficient evidence that the required noticing for the Minor Use Permit and the Minor Use Permit Administrative Hearing were properly posted at the property.
- ▶ The proposed use is not compatible with the existing and future land uses.

*“Whereas, at the public hearing the appellant [of the administrative decision] presented compelling evidence that the proposed project would be incompatible with the mixed-use neighborhood which consists of commercial properties as well as heavily populated residential properties.”*

# Notice of Posting



- ▶ MUP Application Declaration dated November 17, 2019
- ▶ Cannabis Business Permit Declaration [not in original PC packet] dated February 17, 2021
- ▶ Two signed affidavits provided
  - ▶ Brandy Moulton
  - ▶ Jennifer Brown
- ▶ No notice was posted for appeal hearing on June 23, 2021. Applicant was not informed by staff to do so.
- ▶ Notice was posted for this appeal hearing on July 23, 2021

# Compatibility



- ▶ No definition for mixed-use neighborhood
- ▶ **Mixed Use Project.** A project that combines both commercial and residential uses, where the residential component is typically located above the commercial. Mixed use projects can also be located in separate buildings on the same parcel.

# Inland General Plan: Commercial Land



*“The goals and policies in this section ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community. There are also policies encouraging mixed use and infill development to strengthen the other commercial areas of the City.”*

# IGP Land Use Element Policy LU 3.2



*“Mixed Uses: Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area.”*

# Inland Land Use Development Code



18.22.020(C) *“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.”*

# Previous Code Interpretations



- ▶ Staff has historically used the primary function of a district (and goals for future uses/functions) to measure compatibility of proposed uses.
- ▶ Supported by a previous decision by the Planning Commission and upheld by the City Council in 2018, with the approval of Use Permit 1-18, to allow a bar with music at 338 N. Franklin St. despite the objection of the neighbors whose homes were across the alley from the proposed location.

# Public Safety



- ▶ Police have not seen an increase in crime related to existing dispensaries
- ▶ Targets of robbery have included a bookstore, cinema, antique store, bank, and pharmacy, (no bars nor dispensaries within last 10 years)
- ▶ Dispensaries are required to have very high security measures
  - ▶ Approved permit included an additional inspection for compliance by PD/CDD prior to occupancy.
- ▶ Retail dispensary will have lower impact on the neighborhood than a restaurant (former use on site) or the previously referenced bar

# CEQA Exempt



- ▶ Section 15303 – Conversion of structure
- ▶ No changes to physical building that could create an env. Impact (Aesthetics, bio, geo, soils, hydro, water, etc.)
- ▶ Evidence from existing dispensaries do not demonstrate significant increase in traffic, noise, or other activity that could result in environmental Impact
- ▶ A dispensary (unlike a cultivation or manufacturing) would not use any more water/utilities than a normal retail store and less than historic use of restaurant
- ▶ Previous business had delivery service, no increase in VMT

	Average annual usage (gallons)
Restaurant/Bar/ Bakery/Deli	150,250
All retail/wholesale, mixed commercial	42,650
Cannabis Dispensaries	11,400

# Project Compatibility & Compliance



- ▶ Proposed project complies with the requirements of Chapter 9.30 Cannabis Businesses
- ▶ Proposed project is consistent with the goals, policies, and programs of the Inland General Plan
- ▶ Proposed project is allowable with a minor use permit per the land use table in Section 18.22.030
- ▶ Proposed project complies with the requirements of the Inland Land Use Development Code including Section 18.42.057 Specific Land Use Standards for Cannabis Retail including Municipal Code Chapter 9.30

# Required Findings



- ▶ The proposed use is consistent with the General Plan and any applicable specific plan;
- ▶ 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 design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
- ▶ 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 proposed use complies with any findings required by § 18.22.030 (Commercial District Land Uses and Permit Requirements).



**Cannabis Retail Store - MUP 1-21**

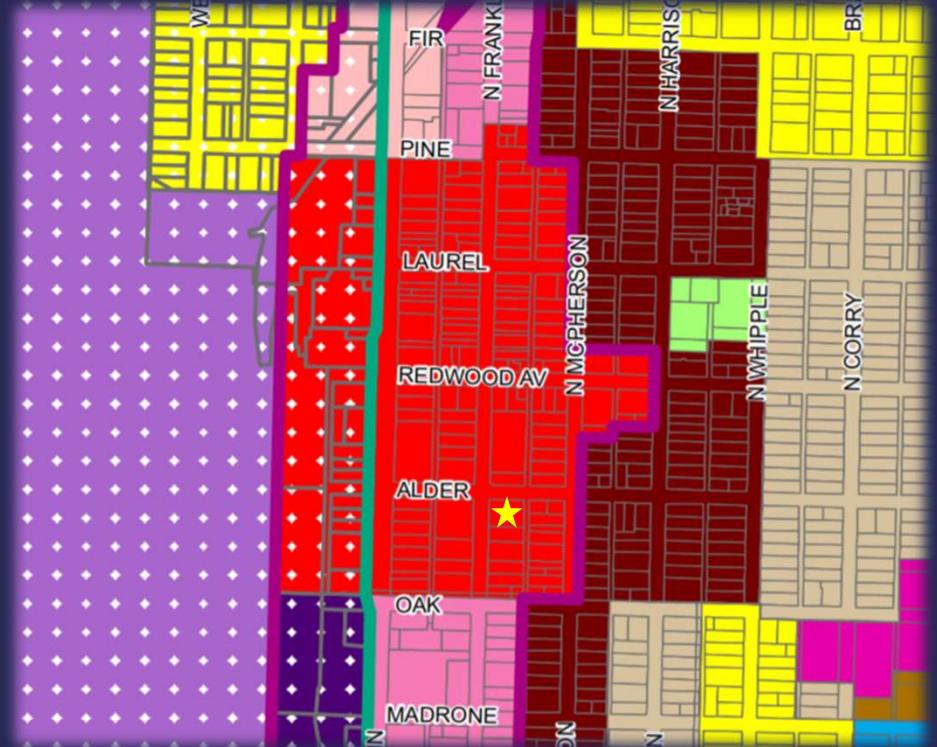
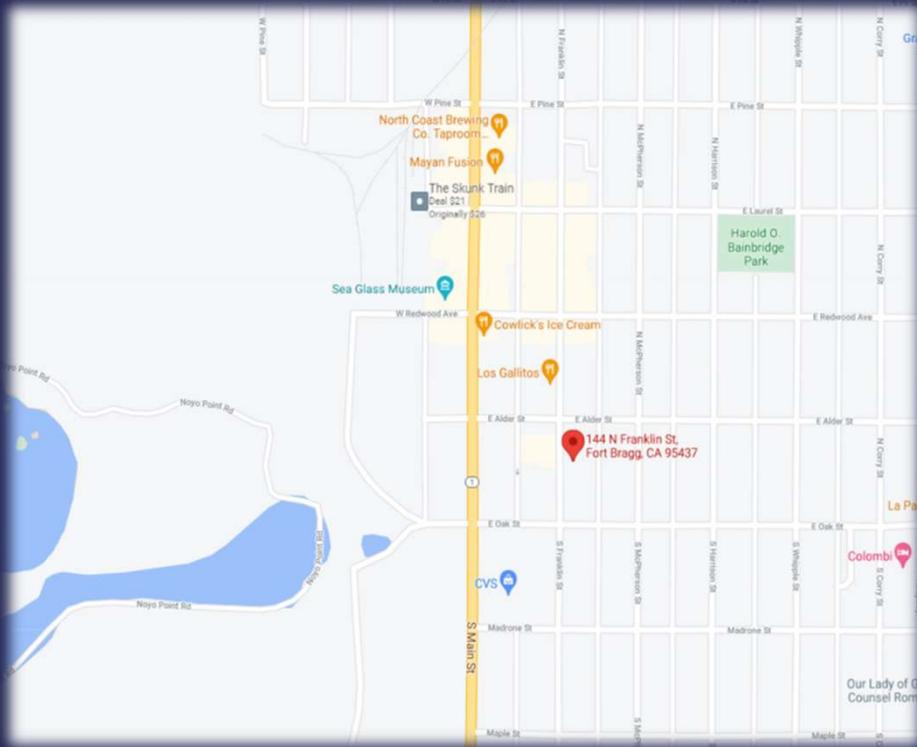
**144 N. Franklin Street**

**Brandy Moulton**

**Fort Bragg City Council Hearing**

**September 1, 2021**

# Project Location – Central Business District



# Project Details

## Cannabis Retail Storefront

retail sales floor, storage, office space, employee breakroom, restrooms

**Zone: Central Business District**

**Existing Use: Retail, Wholesale Distribution**

**Proposed Use: Retail**

**Parking: 1 per 400 SF of Floor Area**

**Experienced Cannabis Owner and Operator**

**Hours of Operations: 9am – 9pm**

# Security Features

 **24-Hour Security Surveillance**

 **Security Guard**

 **Secured Storage**

 **Interior & Exterior Lighting**

 **Alarm System**

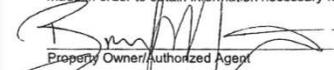
# Project Timeline

- **02/11/21: MUP Application Submitted**
  - **02/12/21: Notice of Application Posted**
  - **05/03/21: Notice of Pending Action Posted**
- **05/18/21: Admin Public Hearing – Project Approved**
- **06/23/21: Planning Commission Hearing – Project Denied**
- **07/14/21; 07/21/21; 08/06/21: Planning Commission Attempts To Finalize Findings Resolution**
- **08/09/21: City Council Hearing – Project Continued**
- **09/01/21: City Council Hearing**

# Declaration of Posting

## 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.

## DECLARATION OF POSTING

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

  
Property Owner

2/18/21  
Date

# Standard of Review

The Review Authority may “Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal, based upon findings of fact about the particular case. (Section 18.92.030(E)(1)(a).)

# History of Ordinance

- August 28, 2019 – Planning Commission Considers New Ordinance
  - Removes buffers for schools, playgrounds and daycare
  - Proposed allowing accessory uses
- November 12, 2019– City Council Approves Ordinance No. 952-2019
- December 12, 2019 – Ordinance No. 952-2019 Effective Date

# Location Compatibility

Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area

Land Use Element Policy 3.2

# Project's Location Compatibility

Consistent with Zoning Requirements and Inland General Plan and Surrounding Uses

- **Project located within Central Business District (CBD)**
  - **Designated as commercial core of City.**
  - **Supports a number of pedestrian-oriented development, including retail stores.**
  - **Supports mixed-use of retail and residential SO LONG AS residential uses do not conflict with primary retail function of CBD.**
  - **Project complements the local, regional, and tourist-serving function of CBD.**

MUP 1-20 342 N. Main Street



MUP 2-20 500 S. Main Street



# All of the Required MUP Findings Can Be Made

- Project is consistent with General Plan and Zoning requirements.
- Project's characteristics are compatible with surrounding uses.
- Project will not be detrimental to Public Health, Safety, or General Welfare and Surrounding Community.
- Project complies with general and cannabis-specific commercial land use requirements.
- Project complies with, and will continue to comply with, City's cannabis business operational requirements.

Questions?

The image features a dark blue background with the word "Questions?" in a white, sans-serif font. On the right side, there are several overlapping, semi-transparent geometric shapes in various shades of blue and teal, creating a modern, abstract design.