

FINDINGS

Commercial Cannabis Use Permit CCUP19-0005/Medical Marijuana Caregivers Association Planning Commission/September 22, 2022

1.0 CEQA FINDINGS

- 1.1 This project is found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15270(b) of the CEQA Guidelines where the agency can determine that the project cannot be approved. The project is unapprovable due to inconsistency with Section 130.41.100(4)(G) of the Zoning Ordinance.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department, Planning Services Division, at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 2.2.1.2.

General Plan Policy 2.2.1.2 identifies that the purpose of the Commercial (C) land use designation is to provide for a full range of commercial retail, office, and service uses to serve the residents, businesses, and visitors of El Dorado County. Lands designated as C considered appropriate within Community Regions, Rural Centers and Rural Regions.

Rationale: Commercial cannabis retail is a use consistent with this policy with the issuance of a CCUP. The site is within the Cameron Park Community Region. The proposed project is compatible with the land use designation.

2.1 The project is inconsistent with General Plan Policy 2.2.5.2.

This policy requires that all applications for discretionary projects or permits shall be reviewed to determine consistency with the policies of the General Plan.

Rationale: Staff has prepared this section on General Plan findings to document the project's inconsistency with the policies of the General Plan.

2.3 The project is inconsistent with General Plan Policy 2.2.5.21.

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses.

Rationale: The proposed cannabis retail sales business may be detrimental to the public health, safety, and welfare or injurious to the neighborhood. Section 130.41.100(4)(G) of the Zoning Ordinance is a mandatory and specific policy and the project as submitted is inconsistent with this policy. Exhibit H is a letter dated December 1, 2021, from the Sheriff's Office that determined that the applicant does not meet the minimum requirements for the background portion of the application process. The letter further states that the Sheriff's Office does not recommend further processing of the application. The County has determined that information in the background check makes it more likely than not that any amount of funding for the operation will be or was derived from illegal activity or because the criminal history or other information discovered in the background check of an owner or spouse of an owner weighs against the owner's trustworthiness or ability to run a legal business in compliance with all regulations, including but not limited to the risk of involvement or influence by organized crime, prior convictions involving controlled substances or violent crimes, the likelihood that sales and income will not be truthfully reported, or the risk that cannabis will be illegally provided or sold to individuals under the age of 21.

3.0 ZONING FINDINGS

3.1 The project is inconsistent with Section 130.41.100(4)(G)

Section 130.41.100(4)(G) (Commercial Cannabis Background Check) of the Zoning Ordinance states that no Commercial Cannabis Use Permit may be issued until a background check of all owners and the Designated Local Contact is completed with review and recommendation by the Sheriff's Office, including but not limited to criminal history, fingerprinting, and any pending charges. The applicant shall be responsible for the cost of the background check. The County may deny an application based on the results of a background check if the County determines that information in the background check makes it more likely than not that any amount of funding for the operation will be or was derived from illegal activity or because the criminal history or other information discovered in the background check of an owner or spouse of an owner weighs against the owner's trustworthiness or ability to run a legal business in compliance with all regulations, including but not limited to the risk of involvement or influence by organized crime, prior convictions involving controlled substances or violent crimes, the likelihood that sales and income will not be truthfully reported, or the risk that cannabis will be illegally provided or sold to individuals under the age of 21.

Rationale: Section 130.41.100(4)(G) of the Zoning Ordinance is a mandatory and specific policy and the project as submitted is inconsistent with this policy. Exhibit H is a letter dated December 1, 2021, from the Sheriff's office that determined that the applicant does not meet the minimum requirements for the background portion of the application process. The letter further states that the Sheriff's Office does not recommend further processing of the application. The County has determined that information in the background check makes it more likely than not that any amount of funding for the operation will be or was derived from illegal activity or because the criminal history or other information discovered in the background check of an owner or spouse of an owner weighs against the owner's trustworthiness or ability to run a legal business in compliance with all regulations, including but not limited to the risk of involvement or influence by organized crime, prior convictions involving controlled substances or violent crimes, the likelihood that sales and income will not be truthfully reported, or the risk that cannabis will be illegally provided or sold to individuals under the age of 21. The recommendation of denial is due to the inconsistency with this policy.

4.0 CONDITIONAL USE PERMIT FINDINGS 130.52.021(C)

4.1 The issuance of the permit is inconsistent with the General Plan.

The proposed use is inconsistent with the policies and requirements of the General Plan as discussed in the General Plan section of this staff report.

4.2 The proposed use would be detrimental to the public health, safety, and welfare or injurious to the neighborhood.

The proposed cannabis retail sales business may be detrimental to the public health, safety, and welfare or injurious to the neighborhood. Section 130.41.100.4.G of the Zoning Ordinance is a mandatory and specific policy and the project as submitted is inconsistent with this policy. Exhibit H is a letter dated December 1, 2021, from the Sheriff's Office that determined that the applicant does not meet the minimum requirements for the background portion of the application process. The letter further states that the Sheriff's Office does not recommend further processing of the application. The County has determined that information in the background check makes it more likely than not that any amount of funding for the operation will be or was derived from illegal activity or because the criminal history or other information discovered in the background check of an owner or spouse of an owner weighs against the owner's trustworthiness or ability to

run a legal business in compliance with all regulations, including but not limited to the risk of involvement or influence by organized crime, prior convictions involving controlled substances or violent crimes, the likelihood that sales and income will not be truthfully reported, or the risk that cannabis will be illegally provided or sold to individuals under the age of 21. The recommendation of denial is due to the inconsistency with this policy.

4.3 **The proposed use is specifically permitted by Conditional Use Permit.**

The proposed commercial cannabis retail storefront complies with the requirements of Zoning Ordinance Section 130.41.300.7, subject to a Commercial Cannabis Use Permit and Commercial Cannabis Annual Operating Permit under Section 130.41.100. A Commercial Cannabis Use Permit shall be subject to Article 5 of Title 130 of the County Code (Application Forms, Submittal Process, and Fees), unless provided otherwise herein. It shall be treated as a Conditional Use Permit under Section 130.52.021 (Conditional Use Permits), subject to the public hearing procedures and recommendation from the Planning and Building Director and decision by the Planning Commission.