

FINDINGS

Commercial Cannabis Use Permit CCUP19-0002/Pure Life Planning Commission/December 9, 2021

1.0 CEQA FINDINGS

- 1.1 Commercial Cannabis Use Permit (CCUP) CCUP19-0002 is Categorically Exempt pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines. Section 15301 categorically exempts the “permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” As an example, section 15301 includes “[a]dditions to existing structures provided that the addition will not result in an increase of more than: (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or (2) 10,000 square feet if: (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and (B) The area in which the project is located is not environmentally sensitive.” Here, the Project proposes no alterations to the existing structure and the only expansion of use is to include sale of adult-use recreational cannabis and additional office space in an existing structure. While regulated separately, adult-use recreational cannabis and medicinal use cannabis involve the same types of products and the retail use involves the same type of use. No alterations to the structure are required to issue the Commercial Cannabis Use Permit. This CEQA finding is also based on the cannabis retail sales use proposed as being in compliance with the El Dorado County’s General Plan and Zoning Ordinance, including the County’s Commercial Cannabis Regulatory Program. The property is zoned, planned and developed for commercial uses. The 0.22 acre site also meets all the development standards for the Commercial Main Street zone district. The subject property is served by public water and wastewater facilities. No environmentally sensitive habitat areas are located onsite or within the immediate vicinity. The proposed exemptions are not affected by the Public Resource Code section §15300.2 limitations to categorical exemptions, including limitations related to location, cumulative impact, significant effect due to unusual circumstances, scenic highway, hazardous waste site, or historical resources as discussed in the Commercial Cannabis Use Permit findings below.
- 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 Diamond Springs Community Region. The proposed project is compatible with the land use designation.

2.2 The project is consistent 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 consistency with the policies of the General Plan.

2.3 The project is consistent 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 project site is fully developed. The adjoining properties are similarly zoned and designated as Commercial-Main Street and Commercial. Residential uses are located adjacent to the project site and no land use conflicts are anticipated. Therefore, the project has been located and designed to be compatible with adjoining land uses.

2.4 The project is consistent with General Plan Policy 5.1.2.1

General Plan Policy 5.1.2.1 requires a determination of the adequacy of the public services and utilities to be impacted by that development.

Rationale: The project site currently utilizes El Dorado Irrigation District (EID) water and sewer services. No change in the use of water, sewer, and or electrical services is proposed beyond what is currently being utilized on the project site.

2.5 The project is consistent with General Plan Policy 5.2.1.2.

General Plan Policy 5.2.1.2 requires that adequate quantity and quality of water for all uses, including fire protection, be provided with proposed development.

Rationale: The project was reviewed by the Diamond Springs-El Dorado Fire Protection District (DSEDFPD), and EID for adequate public services capacity. The project is consistent with this policy.

2.6 The project is consistent with General Plan Policy 5.7.1.1.

General Plan Policy 5.7.1.1 (Fire Protection in Community Regions) requires the applicant to demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection would be provided concurrent with development.

Rationale: DSEDFPD currently provides fire protection service to the project site. DSEDFPD had no comments on the project.

2.7 The project is consistent with General Plan Policy 6.2.3.2.

Policy 6.2.3.2 (Adequate Access for Emergencies) requires the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Rationale: DSEDFPD reviewed the application materials and have not provided any project specific requirements. Development of the site was previously approved by the DSEDFPD.

2.8 The project is consistent with General Plan Policy TC-Xa.

- (1) Traffic from residential development projects of five or more units or parcels of land shall not result in, or worsen, Level of Service F (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county.

Rationale: This policy does not apply, as this Project for a commercial cannabis retail use is not a residential project.

- (2) The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at Level of Service F without first getting the voter's approval.

Rationale: This is not applicable as the Project is not requesting any modifications to Table TC-2.

- (3) Intentionally blank as noted in the General Plan.

- (4) Intentionally blank as noted in the General Plan.

- (5) The County shall not create an Infrastructure Financing District unless allowed by a 2/3rds majority vote of the people within that district.

Rationale: This is not applicable as the Project is not requesting the County create an Infrastructure Financing District.

- (6) Intentionally blank as noted in the General Plan.
- (7) Before giving approval of any kind to a residential development project of five or more units or parcels of land, the County shall make a finding that the project complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs.

Rationale: The project will not create residential parcels; therefore, this policy does not apply.

2.9 The project is consistent with General Plan Policy TC-Xb.

Policy TC-Xb ensures that potential development in the County does not exceed available roadway capacity.

Rationale: This policy is not applicable as this policy refers to the County preparing a Capital Improvement Program (CIP), preparing a Traffic Impact Mitigation (TIM) Fee Program, and monitoring traffic volumes.

2.10 The project is consistent with General Plan Policy TC-Xc.

Policy TC-Xc directs that developer paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development.

Rationale: This policy is not applicable as this policy directs how the County will pay for building the necessary road capacity.

2.11 The project is consistent with General Plan Policy TC-Xd

Level of Service (LOS) for County-maintained roads and state highways within the unincorporated areas of the county shall not be worse than LOS E in the Community Regions or LOS D in the Rural Centers and Rural Regions except as specified in Table TC-2. The volume to capacity ratio of the roadway segments listed in Table TC-2 shall not exceed the ratio specified in that table. Level of Service will be as defined in the latest edition of the Highway Capacity Manual (Transportation Research Board, National Research Council) and calculated using the methodologies contained in that manual. Analysis periods shall be based on the professional judgement of the Department of Transportation which shall consider periods including, but not limited to, Weekday Average Daily Traffic (ADT), AM Peak Hour, and PM Peak hour traffic volumes.”

Rationale: This project will not worsen (as defined by General Plan Policy TC-Xe) Level of Service (LOS) for any county maintained road or state highway. The Project is for continued operation of an existing retail and delivery use. The Department of Transportation determined that a traffic impact study was not required for this application.

2.12 The project is consistent with General Plan Policy TC-Xe.

For the purposes of this Transportation and Circulation Element, “worsen” is defined as any of the following number of project trips using a road facility at the time of issuance of a use and occupancy permit for the development project:

- A. A 2 percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily, or
- B. The addition of 100 or more daily trips, or
- C. The addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour.

Rationale: This project will generate fewer than 10 trips in the peak hour, and fewer than 100 daily trips. The thresholds in criteria A, B or C of this policy are not met. The Department of Transportation determined that a traffic impact study was not required for this application.

2.13 The project is consistent with General Plan Policy TC-Xf

At the time of approval of a tentative map for a single family residential subdivision of five or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain Level of Service standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at 10-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County’s 10-year CIP.

For all other discretionary projects that worsen (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain Level of Service standards detailed in this Transportation and Circulation Element; or (2) ensure the construction of the necessary road improvements are included in the County’s 20-year CIP.

Rationale: The project will not worsen traffic on the County road system. The Department of Transportation determined that a traffic impact study was not required for this application. Therefore this policy does not apply.

2.14 The project is consistent with General Plan Policy TC-Xg.

Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.

Rationale: Department of Transportation has determined that that there are no improvements necessary to mitigate the effects of traffic from the project.

2.15 The project is consistent with General Plan Policy TC-Xh

All subdivisions shall be conditioned to pay the traffic impact fees in effect at the time a building permit is issued for any parcel created by the subdivision

Rationale: This project will pay TIM fees at the time a building permit is issued if permits are required. TIM fees were paid at the time that the existing structure was developed.

2.16 The project is consistent with General Plan Policy TC-Xi

General Plan TC-Xi directs the County to coordinate and work with other agencies to plan for the widening of U.S. Highway 50.

Rationale: This policy is not applicable to the project as it is directed to the County to coordinate with other agencies.

3.0 ZONING FINDINGS

3.1 The project is consistent with Chapter 130.22.

Chapter 130.22 (Commercial Zones) prescribes a matrix of allowed uses, site-specific development standards for new lots, allowed uses and associated structures within the Commercial-Main Street (CM) Zone District.

Rationale: The proposed operation of commercial cannabis retail is allowed within the Commercial-Main Street (CM) zone district with approval of a CCUP. The project site was developed consistent with approval of Design Review application DR07-0004. No external changes have been made or are proposed for the existing buildings and site.

3.2 The project is consistent with Section 130.41.300.4.C.

Section 130.41.300.4.C requires commercial cannabis activity authorized under this

Section shall not be located within 1,500 feet from any school, school bus stop, place of worship, park, playground child care center, youth-oriented facility, pre-school, public library, licensed drug or alcohol recovery facility, or licensed sober living facility. The section further requires that with the exception of the Meyers Community Center (MAP-1) zoning district, a commercial cannabis activity authorized under this Section shall not be established on any parcel containing a dwelling unit used as a residence or within 500 feet of a residential zoning district.

Rationale: The project is within 600 feet of a place of worship and approximately 85 feet from a residential zone district. A residential use is directly adjacent to the project parcel. Zoning Ordinance Section 130.41.100.4.C states, “Any setback for a commercial cannabis activity may be reduced in a Commercial Cannabis Use Permit so long as the applicant demonstrates that the actual setback will substantially achieve the purpose of the required setback and that the parcel was owned or leased by the applicant before voter approval of the ordinance from which this Section is derived on November 6, 2018”.

On May 13, 2014 (Legistar item #13-1174) the Board found the existing medical cannabis distribution facility (retail storefronts) was substantially consistent with section 130.14.250(2)(D) of the El Dorado County Code. This action by the Board confirms that the project was owned or leased by the applicant before voter approval of the ordinance from which this Section is derived on November 6, 2018. A copy of the lease was submitted and reviewed by Planning Services and the BOS at the time of this BOS action. Continued operation was reviewed by the County each year that the State processed a yearly provisional medical cannabis sales license.

The proposed cannabis retail sales business is only accessible to persons with a medical recommendation or those 21 years and older. Security staff located near the business entrance verifies customer’s age and/or medical recommendation and manages the public access area. The County has not received any residential neighborhood complaints since the use initiated in 2011. The use does not include any on-site cannabis cultivation, processing or manufacturing. All cannabis products are pre-packaged according to state regulations. No on-site cannabis consumption is proposed or allowed. Granting the Use Permit will not be detrimental to the public, or health, welfare or safety or cause adverse impacts to the public, site or surrounding commercial area based on the proposed cannabis retail business site plan, floor plans, and the plan of operations. As noted in the previous Findings of Approval, the project is consistent with the General Plan and Zoning Ordinance. The applicant has demonstrated that the actual setback will substantially achieve the purpose of the required setback.

3.3 The project is consistent with Section 130.41.300.4.E.

Section 130.41.300.4.E: “Lighting”, states that security lighting for any building utilized for commercial cannabis activities authorized under this Section shall be motion activated and all outdoor lighting shall comply with Article 3, Chapter 130.34 (Outdoor Lighting).”

Rationale: The project site was developed consistent with approval of Design Review application DR07-0004. No external changes have been made or are proposed for the existing buildings and site. The site currently does not have outdoor lighting installed in the parking areas. Outdoor lighting is limited to wall-mounted lighting which was reviewed for consistency at the building permit stage for compliance with the approved Design Review. No additional lighting would be proposed as part of this application.

3.4 The project is consistent with Chapter 130.36 Signs.

Chapter 13.36 states the purpose of this Chapter is to establish sign regulations that are consistent with the goals, objectives and policies of the El Dorado County General Plan and the County's visual and aesthetic goals, and provide adequate identification for establishments. Specifically, this Chapter regulates the size, quantity, and location of signs to maintain and enhance the visual appearance of the County (Goal 2.7), regulates the location, number and size of highway signs and, to the extent allowable by law, eliminates billboards along identified scenic and historic routes (Objective 2.7.1).

Rationale: The project site was developed consistent with approval of Design Review application DR07-0004. No external changes have been made or are proposed for the existing buildings and site. Existing signage is limited to wall-mounted free standing signage. No additional signage would be proposed as part of this application. Wall-mounted and free standing signage for future tenants may be administratively approved by the Director of Planning and Building.

3.5 The project is consistent with Chapter 130.35 Parking.

Chapter 130.35 states this Chapter contains standards for off-street parking requirements for residential and non-residential uses. Additional standards for the design for the required parking for new development are found in the adopted Parking and Loading Standards (Resolution 202-2015).

Rationale: The project site was developed consistent with approval of Design Review application DR07-0004. No external changes have been made or are proposed for the existing buildings and site. The project site currently provides 10 parking spaces between the two buildings. The available parking and loading areas meet the requirements of the Zoning Ordinance as the four suites that occupy the existing building would require 10 parking spaces for the existing and proposed uses. Additionally, on-street parking is available directly in front of the subject site with a possibility of providing space for three to four vehicles. No modification or reduction in the off-street parking would occur as part of this CCUP application.

3.6 The project is consistent with Section 130.41.300.4.G.

Section 130.41.300.4.G requires 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: The El Dorado County Sheriff's Office has completed the interim background review and determined that all applicable persons have met the minimum requirements and recommended further processing of the application (Exhibit I).

3.7 The project is consistent with Section 130.41.300.7.A and 130.41.300.7.D

Section 130.41.300.7.A of the Zoning Ordinance states the following, "Retail sale storefront facilities open to the public for the sale of commercial cannabis may only be permitted in the Community Commercial (CC), Regional Commercial (CR), General Commercial (CG), Industrial Low (IL), and Meyers Community Center (MAP-1), zone districts subject to a Commercial Cannabis Use Permit and Commercial Cannabis Annual Operating Permit under Section 130.41.100". Further Section 130.41.300.7.D states, "Provided that the application for a Commercial Cannabis Use Permit is received within 45 days of the availability of applications for retail sale, the County shall first review and take action on the application of any retail facility that was issued a valid temporary license from the Bureau of Cannabis Control (BCC) by July 17, 2018 and continuation

within a zone inconsistent with those authorized under this Section may be permitted for those retail facilities as part of the Commercial Cannabis Use Permit as a legal non-conforming use under Article 6, Chapter 130.61 (Nonconforming Uses, Structures, and Lots).”

Rationale: The intention of Zoning Ordinance section 130.41.300.7.D was to allow the continued operation and application submittal of a CCUP for those existing retail operations that were inconsistent with the zone districts within Section 130.41.300.7.A. The project parcel being within the CM zone district would be inconsistent if newly proposed, however the site was issued a license from the BCC before July 17, 2018 and this application was received within 45 days of the availability of applications for retail sale. Therefore, the request for a CCUP at the project site is consistent with the County’s Zoning Ordinance and specifically Chapter 130.41.

3.8 The project is consistent with Section 130.41.100.4.H.

Concentration of commercial cannabis activities and proximity to an existing or proposed commercial cannabis activity shall be considered in determining whether to grant a Commercial Cannabis Use Permit.

Rationale: The subject project site is within 2.7 miles, or 3.5 driving miles, of the closest commercial cannabis use. The nearest commercial cannabis use is a retail storefront within the City of Placerville. There would be no anticipated significant land use incompatibilities or significant impacts to public health resulting from the density of proposed and existing commercial cannabis activities.

4.0 CONDITIONAL USE PERMIT FINDINGS 130.52.021.C

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

The proposed use is consistent with the policies and requirements of the General Plan as discussed in the General Plan section of this staff report. The proposed use is consistent with all applicable policies as set forth in Finding 2.0 above.

4.2 The proposed use would not be detrimental to the public health, safety, and welfare or injurious to the neighborhood.

The proposed cannabis retail sales business is only accessible to persons with a medical recommendation or those 21 years and older. Security staff located near the business entrance verifies customer’s age and/or medical recommendation and manages the public access area. The County has not received any residential neighborhood complaints related to the existing commercial cannabis retail use.

The layout, location, size, and operating characteristics of the proposed cannabis business will be compatible with the existing property and surrounding commercial land uses. The proposed cannabis retail sales business will be located and operated in a portion of an existing, developed commercial property that is zoned for the use. The project meets or exceeds all the development standards for the Commercial-Main Street zone district.

The application materials describe the proposed business operations, business hours, and security. A detailed security plan has been reviewed for implementation by the El Dorado County Sheriff's Office as part of the Commercial Cannabis Annual Operating Permit (CCAOP) application. Hours of operation for retail sale are limited to commencing at 8:00 a.m. and ending at 8:00 p.m. The use does not include any on-site cannabis cultivation, processing or manufacturing. All cannabis products are pre-packaged according to state regulations. No on-site cannabis consumption is proposed or allowed. Based on the business scale and operation, the project will not significantly increase the demand on public facilities such as roads, water and sewer.

The project meets current development standards for the Commercial-Main Street zone district. The proposed cannabis business will be located at a developed, approved commercial property in the downtown area that is served by public streets and utilities. There are no physical constraints or other unique site characteristics that preclude the use of the existing retail commercial business. No interior or exterior improvements are proposed. An on-site security staff located near the front entrance will screen clients as they enter the retail area.

The proposed number of employees and working hours will be consistent with other small commercial businesses operating in the area. The plan of operations addresses potential operational concerns relating to inventory control and security. The hours of operation are consistent with other commercial businesses in the vicinity, and will not cause significant levels of traffic, parking demand for the area. Although all cannabis products are prepackaged, air ventilation equipment will be required to prevent odor emissions from on-site cannabis sales if found to be a nuisance. Granting the Commercial Cannabis Use Permit will not be detrimental to the public, or health, welfare or safety or cause adverse impacts to the public, site or surrounding commercial area based on the proposed cannabis retail business site plan, floor plans, building elevations, and the plan of operations. As noted in the previous Findings of Approval, the project is consistent with the General Plan and Zoning Ordinance.

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.