

RESOLUTION NO. 20-115

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS GRANTING A USE PERMIT FOR A CANNABIS RETAIL, MANUFACTURING (VOLATILE AND NON-VOLATILE), AND DISTRIBUTION FACILITY

WHEREAS, the applicant, Tyler Pearson, filed an application for a minor use permit with the Mendocino County Department of Planning and Building Services to allow for a cannabis retail, manufacturing (volatile and non-volatile, and distribution facility, 1.5± mi. south of the Laytonville center, on the east side of US Highway 101 (US 101), 0.2± mi. north of its intersection with Vincent Ln. (private), located at 43045 Highway 101, Laytonville (APN: 035-150-25); General Plan RMR; Zoning UR:40; Supervisorial District 3; (the "Project"); and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on December 19, 2019, to solicit public comments on the Project, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally and in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, in accordance with applicable provisions of law, the Board of Supervisors held a public hearing on September 1, 2020, at which time the Board of Supervisors heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Board of Supervisors has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Board of Supervisors regarding the Project.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors make the following findings based on the evidence in the record:

- 1. General Plan & Zoning Consistency Findings:** By separate action, the subject property has been reclassified and rezoned to Rural Community (RC) and the RC general plan and zoning classification are consistent with one another, per MCC, Division I, §20.220.005, the General Plan-Zoning Compatibility Chart and Mendocino County General Plan Table 3-1. Following the general plan amendment and rezoning of the property the Use Permit request to operate a cannabis retail, manufacturing, and distribution business is consistent with the general plan and zoning requirements.
- 2. Use Permit Findings:** The Project satisfies the Use Permit required findings per the Mendocino County Code §20.196.020 as follows:

A. That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;

The intended uses are compatible with the general uses of the Rural Community Land Use Designation and are permitted in the Rural Community zoning district by MCC Section 20.243.

B. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;

The property already operates a cannabis processing business which utilizes existing water, septic, and access to US 101. No concerns were expressed regarding the utilities, access, or drainage of the parcel by any referral agency.

C. That such use will not, under the circumstances of that particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;

An initial study was completed and, by separate action, a Negative Declaration was adopted finding the proposed project would have a less than significant impact to the environment. The proposed use of a cannabis business is less intensive than other permitted uses generally allowed in the Rural Community zoning district, thus the project will not be a detriment to the wellbeing of surrounding neighbors or the environment. The project is being approved subject to the attached Conditions of Approval.

D. That such use preserves the integrity of the zoning district.

The Rural Community (RC) zoning district is intended to insure that new developments, particularly commercial and limited industrial uses, are compatible in scale, function and character in those communities where this district is applied. The proposed cannabis retail, manufacturing and distribution facility provides a new development that is compatible with the community in terms of its size and function and provides services to the cannabis industry which operates in that community area. The proposed use will preserve the RC district by further diversifying uses in the Laytonville Community Planning Area and provides the opportunity for a mixture of uses on the site, consistent with the intent of the RC district.

- 3. Environmental Protection Findings:** An Initial Study was conducted and a Negative Declaration prepared for the Project in accordance with CEQA, which determined the Project will not have any significant adverse impacts on the environment.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby grants the requested Use Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto; provided, however, that the Use Permit shall become effective as of the effective date of the ordinance adopting the rezone of the subject property from Upland Residential (UR) to Rural Community (RC).

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other materials which constitutes the record of proceedings upon which the Board of Supervisors' decision herein is based. These documents may be found at the Office of the Clerk of the Board of Supervisors, 501 Low Gap Road, Room 1010, Ukiah, CA 95482.

The foregoing Resolution introduced by Supervisor Brown, seconded by Supervisor McCowen, and carried this 1st day of September, 2020, by the following vote:

AYES: Supervisors Brown, McCowen, Haschak, Gjerde, and Williams
NOES: None.
ABSENT: None.

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

JOHN HASCHAK, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

EXHIBIT A

CONDITIONS OF APPROVAL GP_2019-0005 / R_2019-0006 / U_2019-0009

SEPTEMBER 1, 2020

APPROVED PROJECT DESCRIPTION: The proposed project consists of three request components. 1) A general plan amendment to change a portion of the subject parcel from a Remote Residential (RMR) designation to a Rural Community (RC) designation; 2) a rezone to change a portion of the subject parcel from the Upland Residential (UR) zoning district to the Rural Community zoning district (RC); and 3) a use permit to allow for retail, manufacturing (volatile and non-volatile), and distribution.

CONDITIONS OF APPROVAL:

****All of the below conditions are predicated on the successful General Plan Amendment and Rezoning of the property as approved by the Board of Supervisors and shall only apply to the Use Permit aspects of the proposed project.****

STANDARD CONDITIONS

1. The permit shall become effective on the 11th day after Planning Commission approval and shall expire and become null and void at the expiration of two years after the effective date except where use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division I of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Planning Commission.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required permits from the Building Inspection Division of the Department of Planning and Building Services for all construction, structural modifications, establishment of signs and compliance with handicapped accessibility for the facility if required.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or 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, or the operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal

determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

Aesthetics:

8. All external lighting shall be shielded and downcast to prohibit light from being cast beyond the property boundaries. Outdoor lighting shall be turned off at 7:00 p.m. in the evenings and not be turned back on until the following day after 6:00 a.m. in the morning. (Twenty-four hour security lighting would be exempt from this time requirement; however any exterior security lighting installed on the property shall utilize motion-sensor activation). All lighting along the property boundaries shall be setback a minimum of 20 feet from all property lines.

Biological Resources:

9. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$ 2,404.75 OR CURRENT FEE shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within 5 days of the final approval of this project by the County. Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this Condition.**

Cultural & Tribal Resources:

10. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

Hazards & Hazardous Materials:

11. A Hazardous Materials Management Plan approved by the Department of Environmental Health shall be approved, maintained and complied with for the duration of the project.

Cannabis Facility:

12. The cannabis facilities shall implement the following security measures:
 - a. Sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products.
 - b. Security measures to prevent individuals from remaining on the premises of the facility if they are not engaging in activity expressly related to the operations of the facility.
 - c. Storing all cannabis and cannabis products in a secured and locked room, safe, or vault and in a manner sufficient to prevent diversion, theft, and loss.

- d. Diversion, theft, loss, or any criminal activity involving the facility or any other breach of security must be reported immediately to law enforcement.
13. A valid Mendocino County Cannabis Facilities Business License for the subject property shall be issued and kept current by the Mendocino County Tax Collector, and a copy of said license shall be submitted to the Department of Planning and Building Services prior to the operation of the business.
14. No public events, as described in Section 20.168.020 of the MCC, are authorized by this permit. Any public event shall require an Administrative Permit or Use Permit from the Mendocino County Department of Planning & Building Services.
15. It shall be the responsibility of the applicant to adhere to all applicable regulations of Section 6.36 of the Mendocino County Code.
16. It shall be the responsibility of the applicant to adhere to all applicable regulations of Section 10A.17 of the Mendocino County Code.
17. If permitted in the Rural Community (RC) zoning district in the future, it shall be the responsibility of the applicant to adhere to all applicable regulations of Section 20.242 of the Mendocino County Code.
18. It shall be the responsibility of the applicant to adhere to all applicable regulations of Section 20.243 of the Mendocino County Code.