

# Capitola Planning Commission

## Agenda Report



**Meeting:** April 4, 2024

**From:** Community Development Department

**Address:** 2175 41<sup>st</sup> Avenue, Suite A

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**Project Description:** Application #24-0070 for a Conditional Use Permit and Master Sign Program to transfer the location of an existing retail cannabis establishment (The Hook) from the current 4170 Gross Road location to 2175 41st Avenue, Suite A. Both locations are in the Regional Commercial (C-R) zoning district. The proposed relocation is not in the Coastal Zone.

**Recommended Action:** Staff recommends the Planning Commission approve Application #24-007 based on the Conditions and Findings of Approval.

**Property Owner:** Novin Properties, INC

**Representative:** Bryce Berryessa, Filed: 2/16/2024

**Background:** The applicant was approved to operate a retail cannabis business at 4170 Gross Road on December 5, 2019.

On February 16, 2024, the applicant submitted a new application to relocate the business to 2175 41<sup>st</sup> Avenue, Suite A. The City's Retail Cannabis Licensing Regulations do not require issuance of a new retail license to transfer to a new location, but does require a new Conditional Use Permit to review the new location.

**Discussion:** The existing structure at 2175 41<sup>st</sup> Avenue is a one-story commercial building with four tenant spaces. The lot is flanked by Men's Warehouse to the south, a dental office to the north, and a residential neighborhood to the west. The building has no ingress/egress at the rear.

### Retail Cannabis License

Capitola Municipal Code (CMC) Chapter 5.36 titled Retail Cannabis Licenses contains the licensing requirements for retail cannabis businesses. Chapter 5.36 sets the maximum number of retail licenses at two within City limits.

Pursuant to section 5.36.030(A)(10): "A cannabis retailer license does not run with the property. Licensees may change locations contingent upon obtaining a letter of referral from the City's Chief of Police, a conditional use permit for the new location, and approval from the state licensing agency for the new location."

Currently, the two retail licenses within the City are held by The Hook at 4170 Gross Road and Apothecarium at 1850 41<sup>st</sup> Avenue. The Hook is seeking a CUP to relocate the establishment. The Apothecarium is currently in transition related to ownership but not location. Transfer of ownership requires review and approval by the Police Department but does not require review by Planning Commission.

### Conditional Use Permit

Under Capitola Municipal Code (CMC) §17.24.020(D)(1)(b), Retail Cannabis in the C-R Zoning District requires a conditional use permit. In order for the Planning Commission to approve a conditional use permit application for a retail cannabis establishment, the project must meet the following standards:

1. Distance from Schools and Churches. Retail cannabis establishments are not permitted within a path of travel of 1,000 feet from any schools and churches. The path of travel shall be measured following the shortest path of travel along a public right-of-way from the property line of the proposed retail cannabis establishment parcel to the church or school.

Staff Analysis: 2175 41<sup>st</sup> Avenue is not within a path of travel of 1,000 feet from any schools or churches. The nearest school is Opal Cliffs Elementary School, which is over 4,000 feet away.

2. Distance between Retail Cannabis Establishments. A retail cannabis establishment shall not be located within a path of travel of 500 feet of another retail cannabis establishment. Path of travel is measured from the retail establishment suite on a multi-tenant property or the structure for a single-tenant property.

Staff Analysis: 4170 Gross Road is approximately 1,450 feet from the other permitted retail cannabis establishment at 1850 41<sup>st</sup> Avenue.

3. Independent Access. A retail cannabis establishment shall have an independent exterior entrance that is not shared with any other business or residence.

Staff Analysis: 2175 41<sup>st</sup> Avenue, Suite A has an independent exterior entrance that is not shared with any other business or residence.

#### Parking

The subject brick façade building includes a 9,539-square-foot commercial building at 2155, 2165, and 2175 41<sup>st</sup> Avenue with four commercial tenant spaces. The subject tenant space was previously used by the self-service laundry business in the adjacent tenant space. Self-service laundry is classified as a “personal service” in the Zoning Ordinance and requires parking at a ratio of 1 parking space per 300 square feet of personal service. Retail uses also require 1 parking space per 300 square foot retail, so a change of use from personal service to retail is not an intensification of use and no additional parking is required pursuant to CMC Section 17.76.020(B)(2). Additionally, the total building size of 9,539 square feet and combination of retail and personal service uses yields a parking requirement of 32 parking spaces at a 1:300 square foot ratio. The existing parking lot has 32 onsite parking spaces and is compliant.

#### Master Sign Permit

Pursuant to CMC Section 17.80.130.B, a master sign program is required for a commercial use with four or more tenants. The commercial building at 2175 41<sup>st</sup> Avenue recently completed a tenant improvement to create four commercial tenant spaces and therefore is required to have a master sign program. The three existing tenants have one wall sign above each establishment. The applicant is proposing one monument sign and one window sign for the new tenant space. Suite A will be the only tenant permitted to have a monument sign. The property owner has agreed to this limitation for the monument sign (Attachment 4).

### Monument Sign

- 1 monument sign hand-painted aluminum
- 5.5 feet in diameter
- Mounted at 6 inches above final grade (top of sign shall not exceed eight feet above adjoining sidewalk)
- Sign Area: 23.76 square feet
- Located 5 feet behind the sidewalk per 17.80.80.C.7



### Window Sign:

- 1 window sign above entrance door
  - Green Cross
  - Sign Area 3 square feet
  - Plexiglass with painted black wood frame
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- Total Signage not to exceed 27 square feet

Master Sign Programs are required to comply with the design standards of CMC Section 17.80.130.F. as listed in underline below:

1. Master sign programs shall feature a unified and coordinated approach to the materials, size, type, placement, and general design of signs proposed for a project or property. Master sign programs may allow for variety in the design of individual signs.

Staff analysis: The subject property was developed in 1962 and the three original tenant spaces mounted their signs to center on the dominant, three-arch features. The new and smaller tenant space at 2175 41<sup>st</sup> Avenue, Suite A is proposing a monument sign and a window sign to avoid disruption of the coordinated approach of the existing signage.

2. A master sign program may deviate from standards contained in this chapter relating to permitted sign height, number of signs, sign area, and type of sign. A master sign program may not allow prohibited signs as identified in CMC Section 17.80.060 (Prohibited signs).

Staff analysis: The City's sign code allows one square foot of signage for every linear foot of tenant or building frontage with a cap of the total combination of site signage at 50 square feet. The three existing tenant signs are nonconforming and far exceed the 50 square foot maximum. However, collectively, the signs are far less than the linear frontage of the building and they do not appear out of scale with the building. The Master Sign Program allows 2175 41<sup>st</sup> Avenue, Suite to have signage in accordance with the current sign code relative to the unit's linear frontage and avoids disrupting the established pattern of wall signage at the property.

### **CEQA:**

This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations. The proposed project involves a retail use occupying an existing commercial space previously occupied by a personal service use. The project includes no additional floor. No adverse environmental impacts were discovered during project review by Planning staff or the Planning Commission.

### **CONDITIONS OF APPROVAL**

1. The project approval consists of a conditional use permit and master sign permit for the relocation of an existing retail cannabis establishment (The Hook) from 4170 Gross Road to 2175 41<sup>st</sup> Avenue. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on April 4, 2024, except as modified through conditions imposed by the Planning Commission during the hearing.

2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans.
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
5. Prior to issuance of building permit, all Planning fees associated with Permit #24-0070 shall be paid in full.
6. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
7. The business owner shall apply for a Building Permit to install or relocate the existing secondary means of egress (door), prior to opening for business.
8. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between 9 AM and 4 PM or emergency work approved by the Building Official. §9.12.010B
9. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director and Chief of Police. Upon evidence of non-compliance with conditions of approval of the Conditional Use permit and/or the retail cannabis license, or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director and Chief of Police. Failure to remedy a non-compliance in a timely manner may result in conditional use permit revocation and retail cannabis license revocation.
10. This permit shall expire on April 4, 2026, if the applicant has not obtained a referral from the Chief of Police and the appropriate state license(s) for retail sales of cannabis as required under Capitola Municipal Code §5.36.030(A)(10). The applicant shall have an approved building permit and construction underway within 24 months of the Conditional Use approval date to prevent permit expiration.
11. Upon receipt of a certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
12. Signs shall be reviewed under a separate application.
13. The Conditional Use Permit shall only be valid as long as the commercial space is occupied by a business possessing a valid Retail Cannabis License from the City of Capitola.

14. The City's Community Development Department shall conduct a final inspection of the secondary egress, prior to opening for business.

### **FINDINGS FOR CUP**

**A. The proposed use is allowed in the applicable Zoning District.**

Community Development staff and the Planning Commission have reviewed the project. The proposed conditional use permit to relocate an existing retail cannabis business comply with the standards of the C-R zoning district. The project secures the purpose of the General Plan and design policies and regulations adopted by the City Council.

**B. The proposed use is consistent with the General Plan, Local Coastal Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.**

Community Development staff and the Planning Commission have reviewed the application for a conditional use permit for the relocation of an existing retail cannabis business. The project complies with all applicable provisions of applicable city standards.

**C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.**

Community Development staff and the Planning Commission have all reviewed the project. The proposed conditional use permit to relocate a retail cannabis business will be compatible with the properties and improvements in the vicinity.

**D. The proposed use will not be detrimental to the public's health, safety, or welfare.**

Community Development staff and the Planning Commission have all reviewed the project. The proposed conditional use permit to relocate a retail cannabis business will not be detrimental to the public's health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

**E. The proposed use is properly located within the City and adequately served by existing or planned services and infrastructure.**

Community Development staff and the Planning Commission have reviewed the use and location. The use meets the applicable distancing standards and is adequately served by existing infrastructure.

### **FINDINGS FOR SIGN PERMIT**

**A. The proposed signs are consistent with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.**

The proposed signage is consistent with the General Plan, Local Coastal Program, and the Zoning Ordinance with the approval of the Master Sign Program. The Master Sign Program for this property allows for a coordinated approach to allow signage for the new tenant spaces without disrupting the existing symmetry and balance of the established building signage.

**B. The proposed signs comply with all applicable standards in CMC Chapter 17.80 (Signs).**

CMC Chapter 17.80 allows for the establishment of Master Sign Programs to manage multi-tenant properties. Master Sign Programs are specifically allowed to deviate from CMC Chapter 17.80 to achieve a customized approach for signage of more complicated properties.

**C. The proposed sign will not adversely impact public health, safety, or general welfare.**

The proposed signs will not have an adverse impact on public health, safety, or welfare. The signs are non-illuminated and comply with size and placement allowances for the respective tenant space.

**D. The number, size, placement, design, and material of the proposed signs are compatible with the architectural design of buildings on the site.**

The Master Sign Program is intended to address the unique architecture and established symmetrical design of the wall signage at the property. The tenant space at 2175 41<sup>st</sup> Avenue, Suite A is only allowed to install a monument sign and window signage to respect the established aesthetic of the site.

**E. The proposed signs are restrained in character and no larger than necessary for adequate identification.**

The proposed signage complies with the allowed signage square footage pursuant to CMC Chapter 17.80 for the respective tenant space and is nonilluminated.

**Attachments:**

1. Tenant Space Plans
2. Tenant Sign Exhibit
3. Master Sign Program
4. Owner Letter

Report Prepared By: Brian Froelich, Senior Planner

Reviewed By: Julia Gautho, City Clerk

Approved By: Katie Herlihy, Community Development Director