

**RESOLUTION NO. 48-2018**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF MARIJUANA USE PERMIT MUP-4-18 (FILE NO. 2018-025), SUBJECT TO CONDITIONS, FILED BY PHOG CENTER LLC, TO ESTABLISH AND OPERATE A MARIJUANA RETAIL OPERATION AT 2270 PALMETTO AVENUE (APN 016-294-570) AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

---

**WHEREAS**, the City of Pacifica's Zoning Regulations for Marijuana Operations are codified in Article 48 (Marijuana Regulations) of Chapter 4 of Title 9 of the Pacifica Municipal Code; and

**WHEREAS**, an application has been submitted to establish a Marijuana Retail Operation to sell medical cannabis products at 2270 Palmetto Avenue (APN 016-294-570) within the C-1 (Neighborhood Commercial) zoning district and CZ (Coastal Zone) and MO-SP (Marijuana Operation, Sharp Park Overlay District) overlay zoning districts; and

**WHEREAS**, the project requires approval of a Marijuana Use Permit (MUP) pursuant to Section 9-4.4803(b); and

**WHEREAS**, after holding a duly noticed public hearing on September 17, 2018, the Planning Commission of the City of Pacifica adopted Resolution No. 2018-002 approving Marijuana Use Permit MUP-4-18; and

**WHEREAS**, an appeal and supplemental appeal was filed by Adam Zollinger on September 27, 2018, and October 8, 2018 respectively, in opposition to the Planning Commission's action ("Appeal"); and

**WHEREAS**, the City Council of the City of Pacifica did hold a duly noticed public hearing on October 22, 2018, at which time it considered all oral and documentary evidence presented relating to the appeal, and incorporated all testimony and documents into the record by reference.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the City Council relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby deny the appeal and makes the following findings pertaining to its denial of the appeal of the Planning Commission's action to approve Marijuana Use Permit MUP-4-18:

1. Appellant's claim that Phog Center LLC ("Applicant") *"failed ... to comply with the deadlines for submission of the marijuana use permit application as set forth on the City of Pacifica's website and set forth in the applicable adopted ordinances"* is denied. Applicant complied with the deadline for submission of its marijuana use

permit application as required by Pacifica Municipal Code (PMC) section 9-4.4804(a)(2).

2. Appellant's claim that Applicant "*failed ... to comply with the deadlines for an extension of time for incomplete applications*" is denied. Applicant complied with the deadline for submission of its marijuana use permit application as required by Pacifica Municipal Code (PMC) section 9-4.4804(a)(2).
3. Appellant's claim that Applicant was "*improperly permitted to participate in the Lottery process for one of two permits to be issued*" for the MO-SP (Marijuana Operation, Sharp Park) overlay district is denied. The City properly conducted the random independent ranking process (Lottery) pursuant to PMC section 9-4.4804(a)(2)(iii).
4. Appellant's claim that "[t]he Planning Commission did not review Applicant's marijuana use permit application for completeness before the lottery on May 9, 2018," thus allowing an applicant who had "*failed to comply with the submittal requirements to participate in the [L]ottery (to the detriment of those who had complied), and the Planning Commission collected tens of thousands of dollars in fees from far more applicants than it could select by [L]ottery*" is denied. The City properly conducted the random independent ranking process (Lottery) pursuant to PMC section 9-4.4804(a)(2)(iii).
5. Appellant's claim that "[t]he Planning Commission failed to ensure that Lottery applicants with prior dispensary operation experience, operated within the confines of the law" is denied. The Planning Commission considered all relevant factors prior to granting approval of Marijuana Use Permit MUP 4-18 pursuant to PMC 9-4.4805(a)(1).
6. Appellant's claim that "[t]he Planning Commission "*approved retroactive changes to the text of the rules concerning incomplete submittals to "clarify" the existing law such that incomplete submittals would not be processed after the 10-day extension had lapsed. Despite the fact that the clarification did not substantively change existing law, the Planning Commission nevertheless approved [Applicant's] application*" is denied. The proposed ordinance, Text Amendment TA-112-18, would exempt Marijuana Use Permit MUP-4-18 from the proposed ordinance's provisions and would therefore not affect approval of MUP-4-18.
7. Appellant's claim that "[t]he Planning Commission's refusal to enforce the processes and ordinances it adopted for the marijuana use permit application detrimentally affected and unfairly prejudiced all other marijuana use permit applicants who complied with the submittal requirements but were not selected through the Lottery process" is denied. There is no evidence of detrimental effects or unfair prejudice as a result of the City's processing of marijuana use permit applications or its conduct of the Lottery. The City properly conducted the random independent ranking process (Lottery) and the Planning Commission considered all relevant factors prior to granting approval of Marijuana Use Permit MUP 4-18 pursuant to PMC 9-4.4805(a)(1).

8. Appellant's claim that "[t]he Planning Commission erroneously considered the untimely application of Applicant in contravention of the Planning Commission's own rules in PMC Section 9-4.4804" is denied. Applicant timely submitted Marijuana Use Permit MUP-4-18; Applicant made the application complete in accordance with currently codified provisions in the Marijuana Regulations; and, the Planning Commission properly considered and approved the application for Marijuana Use Permit MUP-4-18.
9. Appellant's claim that "[t]he Planning Commission failed to make adequate findings regarding [Applicant's] noncompliance with the deadlines as part of its decision to approve [Marijuana Use Permit MUP-4-18]" is denied. The Planning Commission based its approval of Marijuana Use Permit MUP-4-18 on adequate findings necessary for the approval as provided in the Marijuana Regulations.
10. Appellant's claim that "[a]pproval of [Marijuana Use Permit MUP-4-18] contravenes the proposed provisions of Text Amendment TA-112-18" is denied. The proposed ordinance, Text Amendment TA-112-18, would exempt Marijuana Use Permit MUP-4-18 from the proposed ordinance's provisions and would therefore not affect approval of MUP-4-18.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the finding that the project qualifies for a Class 1 categorical exemption under California Environmental Quality Act (CEQA) Guidelines Sections 15301, as described below:

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Class 1, (Existing Facilities). Class 1 exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.
2. The subject location of the proposed use is an existing mixed-use structure consisting of ground floor retail commercial uses and upper floor condominium residential uses. The proposed cannabis business would locate within one of two existing commercial lease spaces. Therefore, the proposed use would be consistent with a Class 1 exemption because it would involve only minor interior alterations, would not result in any physical construction outside the footprint of the existing structure except for installation of a wall sign, and would not result in a use of greater intensity than the type of retail commercial uses for which the structure was originally constructed.
3. The project also does not trigger any of the exceptions to the exemption outlined in CEQA Guidelines Section 15300.2, as described below:
  - Sec. 15300.2(a): There is no evidence in the record that the project would impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by

federal, State, or local agencies. The proposed project involves commencement of a cannabis retail business within an existing structure.

- Sec. 15300.2(b): There is no evidence in the record that successive projects of the same type in the area would have a significant environmental impact. The project involves the location of a cannabis retail business within an existing commercial tenant space. No recent projects of the same class have occurred within the vicinity of the project site.
  - Sec. 15300.2(c): There is no evidence in the record of any possibility that the project would have a significant effect on the environment due to unusual circumstances. The project site is zoned for commercial retail use and the cannabis business use proposed does not have any unique characteristics which could cause potentially significant environmental impacts.
  - Sec. 15300.2(d), (e) and (f): The project is not visible from Highway 1, which is an eligible scenic highway; does not involve a current or former hazardous waste site; and does not affect a historic resource (the building in which it is proposed was approved for construction in 2009). Therefore, the provisions of subsections (d) through (f) are not applicable to this project.
4. For the reasons set forth above, there is substantial evidence in the record to demonstrate the proposed project qualifies as a Class 1 exemption and none of the exceptions to application of an exemption are applicable.

**BE IT FURTHER RESOLVED** that the City Council finds that the appropriate parking standard for the Applicant's retail operation is the standard of one parking space per 300 square feet of gross leasable space which is applicable to traditional retail uses, and which is set forth in Section 9-4.2818(b)(2) of the Pacifica Municipal Code. However, notwithstanding Condition No. 5 of the City Council approval granted for construction of the subject building at 2270 Palmetto Avenue (APN 016-294-570) on July 27, 2009, which conditioned a restriction on allowed commercial uses "to those that require one parking space for each 300 square feet of gross leasable space, or less" and which included "those [uses] listed as permitted uses in the C-1 District and that are "visitor-serving" as defined in Section 9-4.4302(av) of the Pacifica Municipal Code"; the City Council hereby authorizes Applicant's Marijuana Retail Operation at the subject site as a non-visitor-serving use as provided in Section 9-4.4803(f).

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the following findings pertaining to approval of Marijuana Use Permit MUP-4-18:

**Standard Use Permit Findings (Section 9-4.3303)**

- (1) *That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City;*

As conditioned, the proposed Marijuana Retail Operation will not be detrimental to the health, safety, and welfare of the greater public. Its operation as a business selling

medical cannabis only will limit customers to those with a medical necessity for cannabis as verified by a physician, thus limiting the number of potential customers visiting the site. A restriction on adding non-medical cannabis sales into the business's operations will ensure proper review before expanding its customer base.

The Permittee has submitted a security plan that has been reviewed and approved by the Police Chief which will ensure safe operation of the facility. The security plan includes physical security measures such as closed circuit video cameras which will deter crime and assist with investigating any incidents which may occur. Any security guards at the site will remain indoors, thus providing a security benefit without altering the neighborhood character.

The business operations would be located entirely inside an existing commercial building. The tenant space does not include any outdoor patio space where clients might congregate to generate noise or litter. Further, the hours of operation would be from 10:00 a.m. to 8:00 p.m. for the retail storefront and deliveries which would prevent any potential noise impacts from affecting nearby residents or business owners at sensitive periods very early or very late in the day. Moreover, in addition to the authority granted in Section 9-4.4806(e) of the Pacifica Municipal Code to conduct staff-level annual reviews of the Marijuana Retail Operation, the Planning Commission will conduct the first annual review at a public hearing, thereby providing additional oversight to ensure compliance with all conditions of approval.

In light of these circumstances, the proposed marijuana operation will not result in any adverse impacts to the community.

- (2) *That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan; and*

The proposed cannabis business would be located entirely within an area designated "Commercial" in the neighborhood land use diagram of the General Plan and Local Coastal Plan (LCP). The use, if approved, would be consistent with the following two General Plan policies:

- *Community Design Policy 2: Encourage the upgrading and maintenance of existing neighborhoods.*

The proposed cannabis business would occupy a vacant commercial space, thereby improving commerce and activity along the Palmetto Avenue commercial district. It would also be the first business of its kind to lawfully be established in Pacifica, which would create a point-of-interest for qualified medical patients in the city and surrounding communities.

- *Community Facilities Policy 4: Meet basic social needs of City residents, such as transportation, housing, health, information and referral services, and safety, consistent with financial constraints.*

The proposed cannabis business would provide a lawful source of medical cannabis to Pacifica's residents, thereby helping to meet their health needs without a commitment of public financial resources. As expressed at the public hearings held during development of the City's marijuana ordinances as well as at the public hearing to consider this permit, many Pacifica residents rely on medical cannabis to treat various maladies.

The cannabis business would also be consistent with the City's LCP. The Plan Conclusions section of the LCP states that "neighborhood serving commercial uses to support local residents' needs shall be allowed ... but shall not predominate" (p. C-107). As noted above, a medical cannabis business would meet local residents' needs for lawful access to medical cannabis. Thus, commencement of the use would be consistent with the intended land use of this portion of the West Sharp Park neighborhood.

The proposed use has also undergone a thorough review by City staff including the Police Chief and Planning Department Staff to ensure consistency with the provisions of Ordinance Nos. 818-C.S. and 819-C.S. The Permittee has already obtained approval of Phases 1 and 2 of the application process and is seeking approval of Phase 3 of the process by City Council action on the subject Marijuana Use Permit. By submitting application materials which demonstrate an intention to comply with the City's ordinances regulating cannabis business activity, the Permittee's operation will comply with all applicable laws of the City governing cannabis-related activities.

For the reasons stated above, the proposed use is consistent with the applicable provisions of the General Plan, Local Coastal Plan, and other applicable laws of the City.

*(3) Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.*

The subject business does not propose to modify the building's exterior. When the City Council approved the building on appeal on July 27, 2009, it determined that the design of the building was consistent with the Design Guidelines. Therefore, the use applied for is consistent with the City's adopted Design Guidelines because it would not modify the building's exterior as authorized during design review and approval on July 27, 2009.

#### **Supplemental Marijuana Use Permit Findings (Section 9-4.4805(a)(1))**

*(1) The marijuana operation applicant has been placed on the marijuana qualified registration list, as defined in Title 4, Chapter 16.*

The Police Chief placed Phog Center, LLC on the Qualified Marijuana Registration List as Qualified Cannabis Registrant (QCR) #18-17 on May 1, 2018. Therefore, there is sufficient information to make this finding.

- (2) *The marijuana use permit application is complete and the applicant has submitted all information and materials required by Section 9-4.4804(c).*

The MUP application contains all the required information as determined after a review by Planning Department staff. The Planning Department deemed the application complete on August 28, 2018. Therefore, there is sufficient information to make this finding.

- (3) *The proposed location of the marijuana operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the marijuana operation's proposed proximity to a school, day care center, youth center, public park, playground, recreational center, school bus stop, premises frequented by children, religious establishment, or other similar uses.*

The proposed location is within a commercial area, and located in the MO-SP overlay district which is intended for Marijuana Retail Operations. In an effort to verify the presence of any of the sensitive uses identified within the area, Planning Department staff performed a visual inspection of the nearby area on August 27, 2018 beginning at 2:15 p.m. The inspection confirmed the proposed site is not located within 600 feet of a school or youth center, nor is it within 200 feet from any daycare center; the proposed site and business is consistent and complies with the locational limitations set forth in PMC section 9-4.4803(c)(2). The site is located approximately 250 feet from the Sharp Park Library at 104 Hilton Way and 380 feet from a public park at the intersection of Brighton Road and Palmetto Avenue. However, the proposed cannabis business is not likely to have a potentially adverse effect on the health, peace, or safety of persons, including children, at these two locations. There will not be an impact because of the small size and discrete appearance of the proposed cannabis business, as well as its location on the opposite side of the street from the library and the park. Moreover, these two sites are located more than 200 feet from the proposed cannabis business which is greater than the 200-foot buffer established in the ordinance from day care centers which routinely have concentrations of children.

Therefore, the proposed cannabis business is not anticipated to have any potentially adverse effect on health, peace, or safety due to its proximity to the enumerated sensitive uses.

- (4) *The proposed location of the marijuana operation is not likely to have a potentially adverse effect on the health, peace, or safety of persons due to the marijuana operation's proposed proximity to another existing or permitted marijuana operation.*

The proximity of the business in relation to other marijuana operations is not likely to have an adverse effect on the community. There are no other permitted Marijuana Operations within the City of Pacifica. There previously were three unpermitted Marijuana Retail Operations within the West Sharp Park neighborhood, including the Emerald Phog dispensary operating within the subject commercial space; however, all three have ceased operations as confirmed by Code Enforcement staff. Therefore, there is sufficient information to make this finding.

- (5) *The design of the storefront or structure within which the marijuana operation will operate is architecturally compatible with surrounding storefronts and structures in terms of materials, color, windows, lighting, sound, and overall design.*

The design of the storefront is architecturally compatible with the surrounding storefronts and structures. The City Council approved the existing building on appeal in 2009. The architectural integrity of the mixed-use building was reviewed and approved at that time. The Permittee has not proposed to alter the storefront in any way, meaning the architectural integrity of the storefront will remain. Conditions of approval would restrict any façade modifications without explicit City authorization, as well as limit the number of signs installed on the storefront. Therefore, there is sufficient information to make this finding.

- (6) *The proposed size of the marijuana operation is appropriate to meet the needs of the local Pacifica community for access to marijuana and that the size complies with all requirements of the City's Zoning Regulations.*

The size of the operation is appropriate and complies with the pertinent size requirements of the City. The interior of the commercial space meets all minimum dimensional requirements of the California Building Code including the minimum dimensions for an accessible restroom. Because the 642-square foot size of the proposed cannabis business is relatively small, it is unlikely to be oversized for the needs of the Pacifica community. The interior space would accommodate up to four waiting customers which the Permittee has indicated is adequate for its intended scale of business. The proposed cannabis business would also offer delivery service in order to serve many customers elsewhere other than the subject location. By providing this responsive service, the proposed cannabis business would meet the needs of disabled, elderly, or other persons who may be unable to visit the site to obtain medical cannabis. Reducing the number of customers visiting the site would also reduce potential impacts from noise, parking, and traffic. For these reasons, the proposed size of the marijuana operation is appropriate under the criteria of this finding.

- (7) *The location is not prohibited under the provisions of this article or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Regulations will be accomplished.*

The City Council is unaware of any local or state laws, rules, or regulations which would be violated by operation of the subject cannabis business in the identified location after it obtains a Marijuana Use Permit, Marijuana Public Safety License, and applicable license(s) from the State of California. Due to its sensible hours of operation, the small size, the adequacy of its internal layout to accommodate waiting customers, the provision of sufficient off-street parking, and the requirements of its security and operations plans, the proposed cannabis business is not likely or anticipated to cause significant nuisance issues or other deleterious effects on the surrounding neighborhood.



- (8) *The marijuana operation is not likely to have an adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises(especially late at night or early in the morning hours), lewd conduct, or police detentions or arrests.*

As described in the preceding finding, the sensible hours of operation, the small size, the adequacy of its internal layout to accommodate waiting customers, the provision of sufficient off-street parking, and the requirements of its security and operations plans, combine to suggest the proposed cannabis business will not have a detrimental effect on the surrounding area. In addition, the Pacifica Municipal Code prohibition on possession, distribution, or consumption of alcohol on the premises, and the prohibition on smoking, ingesting, or consuming marijuana on the premises, should serve to prevent excessive disturbances or illegal drug activity. Therefore, there is sufficient information to support a finding that the proposed cannabis business is not likely to have an adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises(especially late at night or early in the morning hours), lewd conduct, or police detentions or arrests.

- (9) *The marijuana operation is not likely to violate any provision of the Pacifica Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws.*

The Permittee has invested significant time and resources developing application materials suitable for City review and approval. These applications materials include, but are not limited to, a security plan, operations plan, parking and trip generation analysis, and floor plan. On this basis, the Permittee appears to be committed to operation of the proposed cannabis business in a manner consistent with the Pacifica Municipal Code, state law, and applicable terms of any permits issued. Therefore, there is sufficient information to make this finding.

- (10) *The applicant has not made a false statement of material fact or omitted a material fact in the application for a marijuana use permit, as known at the time of determination on the application.*

The Police Department and Planning Department staff who have reviewed the submitted application materials and communicated with the Permittee have not identified any instances wherein the Permittee has made a false statement of material fact or omitted a material fact in the application. Therefore, there is sufficient information to support a finding that the information submitted and statements made by the Permittee have been truthful up to and until the time of determination on the subject application.

(11) *The marijuana operation's site plan has incorporated features necessary to assist in reducing potential nuisance and crime-related problems. These features may include, but are not limited to, procedures for allowing entry; reduction of opportunities for congregating and obstructing public ways and neighboring property; and limiting furnishings and features that encourage loitering and nuisance behavior.*

The location of the proposed business does not feature fixtures or furnishings which would encourage customers to congregate in the business vicinity, such as chairs and benches. As mentioned above, the tenant space is relatively small, and would most likely not be able to physically support a large group of people to congregate indoors. Further, the project site does not include an outdoor space such as a patio which might encourage customers to congregate as most of the outside area is space available for parking or driveway access. Additionally, the existing tenant space includes large windows which, after the frosting is removed, will allow the Police Department to observe business activity from the public right-of-way to ensure public safety. Existing site landscaping in front of the store is low-growing and will not obstruct views through the window or provide a hiding place for criminals. The Permittee will also install sufficient video recording equipment to monitor the premises in order to determine crime and support any Police Department investigations into isolated crimes which may occur. Therefore, there is sufficient information to make this finding.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that based on the aforementioned findings, the City Council of the City of Pacifica approves and issues Marijuana Use Permit MUP-4-18 to establish and operate a Marijuana Retail Operation at 2270 Palmetto Avenue, subject to conditions of approval attached hereto as Exhibit A and hereby incorporated by reference.

\* \* \* \* \*

Passed and adopted at a regular meeting of the City Council of the City of Pacifica, California, held on the 22<sup>nd</sup> day of October 2018.

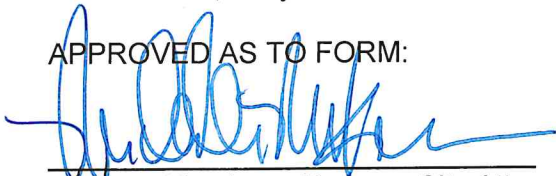
AYES, Councilmembers: DIGRE, KEENER, MARTIN, O'NEILL, VATERLAUS

NOES, Councilmembers: N/A

ABSENT, Councilmembers: N/A

ABSTAIN, Councilmembers: N/A

  
\_\_\_\_\_  
John Keener, Mayor

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Michelle Marchetta Kenyon, City Attorney

ATTEST:

  
\_\_\_\_\_  
Sarah Coffey, City Clerk

**Exhibit A**

**Conditions of Approval: File No. 2018-025- Marijuana Use Permit MUP-4-18, for the Phog Center LLC to Establish and Operate a Marijuana Retail Operation at 2270 Palmetto Avenue (APN 016-294-570)**

**City Council Meeting of October 22, 2018**

**Planning Division**

1. Development shall be substantially in accord with the plans stamped and received on September 12, 2018, except as modified by the following conditions.
2. The Permittee shall at all times maintain a valid Marijuana Public Safety License and a valid license(s)/permit(s) from the State of California. If at any time the Marijuana Public Safety License or State of California license(s)/permit(s) issued to the Permittee for the subject facility is/are revoked, expires, or otherwise rendered inoperative for any reason, this Marijuana Use Permit shall immediately become null and void and it shall not be possible to reinstate the Marijuana Use Permit. A temporary suspension of the Marijuana Public Safety License or State of California license(s)/permit(s) shall render the Marijuana Use Permit inoperative during the term of the suspension but the Marijuana Use Permit shall not be considered null and void during the suspension.
3. The Marijuana Use Permit is non-transferrable to any other person or entity.
4. The Marijuana Retail Operation shall operate consistent with all provisions of Article 48 of Chapter 4 of Title 9 applicable to Marijuana Retail Operations, as currently codified or as may be amended from time to time.
5. The Permittee shall operate and maintain the Marijuana Retail Operation in a manner which does not constitute a public nuisance.
6. The Marijuana Retail Operation shall operate in accordance with the Operations Plan received by the Planning Department and date-stamped April 20, 2018. An amendment to the Operations Plan to include non-medical cannabis sales shall be considered an amendment to the Marijuana Use Permit project description and will require a public hearing by the Planning Commission.
7. The Marijuana Retail Operation shall implement the Phase II Security Plan approved by the Police Department.
8. The approval or approvals is/are valid for a period of two years from the date of final determination. If the use or uses approved is/are not established within such period of time, the approval(s) shall expire unless Permittee submits a written request for an extension and applicable fee prior to the expiration date, and the Planning Director or Planning Commission approves the extension request as provided below. The Planning Director may administratively grant a single, one year extension provided, if in the Planning Director's sole discretion, the circumstances considered during the initial project approval have not materially changed. Otherwise, the Planning Commission shall consider a request for a single, one year extension.

9. The Permittee shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Permittee's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Permittee, City, and/or parties initiating or bringing such Proceeding. If the Permittee is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.
10. Prior to the issuance of a building permit for the proposed wall sign, the Permittee shall obtain approval of a master sign program encompassing all uses at the subject site in accordance with Section 9-4.2907(a) of the Pacifica Municipal Code. The Planning Director shall have final authority to review and approve the master sign program. Signs for the subject commercial space shall be limited to one business identification sign and the regulatory signs required by the Marijuana Regulations in Article 48 of Chapter 4 of Title 9 of the Pacifica Municipal Code. Additional signs, including window signs, shall be prohibited.
11. The hours of operation of the proposed business for purposes of retail sales and deliveries shall be limited to 10:00 a.m. through 8:00 p.m. daily. Staff of the Marijuana Retail Operation may occupy the subject site outside of those hours to perform administrative and maintenance functions customary for retail businesses, such as inventory management, cleaning, bookkeeping, etc.
12. All cannabis-related products shall be stored in air-tight containers which are completely sealed in order to minimize unpleasant odors.
13. Prior to operation, the Permittee shall remove the frosted glazing of the storefront window to ensure visibility into the tenant space, to the satisfaction of the Planning Director.
14. The Permittee shall not modify the colors, materials, or any other aspect of the building façade without written authorization from the City of Pacifica, except as explicitly authorized or required by these conditions of approval.
15. All outstanding and applicable fees associated with the processing of this project shall be paid within 30 days of the approval of Marijuana Use Permit MUP-4-18. The Marijuana Retail Operation shall not commence operations until such fees are paid.

**Building Division**

16. The Permittee shall ensure that the on-site accessible parking space shall be maintained as a van accessible space at all times.
17. The Permittee shall ensure the interior of the retail space is altered to be accessible to persons with disabilities in accordance with the California Building Code and all other applicable laws regulating accessibility for persons with disabilities.

**North County Fire Authority**

18. Fire Department approval is for retail only, and does not include approval for any hazardous or potentially volatile manufacturing processes.
19. If a fire sprinkler exists on premises, any changes in walls may require that the system be altered or extended under a fire permit.
20. Portable fire extinguishers(s) are required. Mount fire extinguishers three to five feet above the floor. The fire extinguishers shall be visible and accessible, and shall be field verified.
21. Clearly visible address identification is required to the satisfaction of the Fire Chief.
22. The doors shall be easily opened in one motion without special knowledge, key or effort per the California Building Code (CBC). The use of thumb operated deadbolts is prohibited unless integrated with latch.

**Engineering Division**

23. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices (BMPs) shall be implemented and the construction BMPs plan sheet from the countywide program shall be included in the project plans.
24. Roadways shall be maintained clear of construction materials, equipment, storage, and debris, especially mud and dirt tracked onto Palmetto Avenue. Dust control and daily road cleanup will be strictly enforced.
25. No private structures, including but not limited to walls, curbs, and fences shall encroach into the public right-of-way.
26. Prior to building permit issuance, revise the plans to include a note that states: "Existing curb, sidewalk or other street improvements adjacent to the property frontage that are damaged or displaced shall be repaired or replaced as determined by the City Engineer even if damage or displacement occurred prior to any work performed for this project."

**Conditions revised by the Planning Commission on September 17, 2018 and upheld by City Council on October 22, 2018 and applicable to Marijuana Use Permit MUP 4-18:**

27. As proposed by the Permittee at the Planning Commission public hearing on September 17, 2018, it shall amend its Operations Plan included as Exhibit B to Planning Commission Resolution No. 2018-002, to incorporate the following, to the reasonable satisfaction of the Planning Director:
  - A pledge to operate the Marijuana Retail Operation consistent with the hours of operation approved in the City-issued Marijuana Use Permit and as stated in Condition No. 11.
28. Any security guard operating in conjunction with the Marijuana Retail Operation shall be restricted to the interior of the commercial space. Any posting or stationing of such security guard outside the commercial space is prohibited.
29. Notwithstanding the authority granted to Planning Department staff to conduct annual reviews of marijuana operations in Section 9-4.4806(e) of the Pacifica Municipal Code, the Planning Commission shall conduct a single annual review of the subject Marijuana Retail Operation at a public hearing not less than one year but not more than two years after issuance of the Marijuana Public Safety License to the Permittee.

\*\*\* END OF CONDITIONS \*\*\*