



# Monterey County Planning Commission

## Agenda Item No. 4

Legistar File Number: PC 18-003

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**Introduced:** 1/2/2018

**Version:** 1

**Current Status:** Agenda Ready

**Matter Type:** Planning Item

### **PLN170093 - SALVATORE PALMA (HIGHER LEVEL CARE)**

Public hearing to consider allowing a commercial cannabis retailer use at 10665 Merritt Street, Castroville.

**Project Location:** 10665 Merritt Street, Castroville, Castroville Community Plan Area (APN: 030-161-008-000)

**Proposed CEQA action:** Categorically Exempt per Class 3, Section 15303 of the CEQA Guidelines

#### RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution to:

- a. Find that the project is the conversion of an existing small structure from one use to another, which qualifies for a Class 3 Categorical Exemption per Section 15303 of the CEQA Guidelines and none of the exceptions under Section 15300.2 apply; and
- b. Approve a Use Permit for cannabis retail sales at 10665 Merritt Street, Castroville.

The attached draft resolution includes findings and evidence for consideration (**Exhibit C**). Staff recommends approval subject to 11 conditions of approval including 6 conditions with mandatory requirements per the Monterey County Code.

#### PROJECT INFORMATION:

**Agent:** Salvatore Palma

**Property Owner:** Theodore Cominos

**APN:** 030-161-008-000

**Parcel Size:** 0.40-acre

**Zoning:** Community Plan or "CP"

**Plan Area:** Castroville Community Plan, North County Area Plan

**Flagged and Staked:** No

#### SUMMARY:

The applicant, Salvatore Palma with Higher Level of Care, requests, on behalf of Theodore Cominos (property owner), a Use Permit to allow an 800-square foot cannabis dispensary in the rear portion of a 1,855-square foot single-story, retail building located at 10665 Merritt Street, in Castroville. Higher Level Care is currently operating a commercial medical cannabis dispensary at 10665 Merritt Street in Castroville. Higher Level of Care is leasing the retail space, from the land owner and applicant for the Use Permit, Theodore Cominos.

#### DISCUSSION:

The Higher Level Care dispensary was established prior to the approval of the Monterey County Ordinance No. 5270 adopted by the Monterey County Board of Supervisors on July 12, 2016, which

regulates commercial cannabis activities in the inland unincorporated area of Monterey County (i.e., Chapter 21.67 of the Monterey County Code). Chapter 21.67.030.G requires commercial cannabis activities that were legally established prior to the effective date of Ordinance No. 5270 to obtain all required County permits, licenses, and entitlements, or to terminate their operations within one year.

The subject property is located at 10665 Merritt Street, within the mixed-use area of Castroville, north of Highway 183, between Speegle Street and Preston Street. Zoning on the property is Community Plan or “CP” which refers back to the specific development policies and standards adopted in the Community Plan for the parcel’s specific geographic area. In this case, the property is governed by the Castroville Community Plan or “CCP,” which classifies the land use designation of the property, located within the Merritt Street Corridor Opportunity Area, as Mixed Use (MU-C). Existing improvements on the 0.04-acre property include a 1,855-square foot, one-story retail building, parking area, signage, trash enclosure, and fencing at the north and east end of the subject property. A Use Permit is required for the commercial cannabis operation.

It should be noted that the proposed 800-square foot cannabis retailer is located at the rear of an existing 1,855 square foot retail building with an existing tobacco sales shop located at the front of the building. Per California State Law businesses selling dispensing marijuana cannot sell tobacco on the same premises. The applicant has agreed to remove the tobacco sales on the property before January 1, 2018. Two retail spaces would exist within the building. The retail uses are addressed in the General Development Plan attached (**Exhibit C-2**)

The cannabis application (**Exhibit C-2**) for the proposed Higher Level of Care retailer use describes the hours of operation, security protocols, patient verification, youth restriction procedures, product safety, packaging, supply chain information, record keeping, odor prevention measures if necessary, contact information for nuisance complaints, and other site information addressing operational standards including fire, health, and safety.

Based on the application materials submitted, staff finds that this application meets the regulations/standards for this use (zoning, setbacks, security, operations).

#### **Consistency with Section 21.67.040 for Cannabis Retailer**

- Location:
  - Land Use Designation in the CCP is Mixed Use
  - 1,706-feet from Castroville Elementary School in Castroville
  - 1,907-feet from North County Sports Complex at the historic Japanese school house in Castroville
  - 5 miles from Maestro Daniel drug abuse and addiction treatment in Salinas
  - No other permits have been granted for a retailer in Castroville
- Operating Standards:
  - Higher Level of Care has been and will continue to keep accurate records of all business operations and provides such records for inspection consistent with state law.
  - Higher Level of Care would continue to ensure that all cannabis and cannabis products at the retailer are cultivated, manufactured, transported, distributed, and tested by licensed and permitted facilities that maintain operations in full conformance with state

- and local regulations.
- Higher Level of Care does not and would not distribute any cannabis or cannabis product unless these products are labeled and in a tamper-evident package in compliance state laws and rules promulgated by the licensing authority.
- Storage of all cannabis and cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis and cannabis products used for display purposes, samples or immediate sale;
- Higher Level of Care will notify the Monterey County Sheriff's Office in the event of discrepancies, alteration of records, or security breach.
- Higher Level of Care has demonstrated that it can and will comply with the County's regulations, state law, and will respect the Federal Enforcement priorities for state legalized cannabis operations.
- Security:
  - On-site security personnel would be provided by Uretsky Security Company.
  - Security bars on the windows and doors will provide security after business hours
  - Limited access areas will be established for authorized retailer personnel only. Access to the rear of the building will be for employees only. Patrons will access from the Merritt Street entrance.
  - Deliveries will be secured and monitored with cameras.
  - Individuals will be prohibited from loitering on the premises of the retailer if they are not engaging in activity expressly related to the operations of the retailer.

The subject Use Permit would authorize a commercial cannabis retailer use at the site. The Use Permit runs with the land and not the business or property owner. Pursuant to Monterey County Code (MCC) Chapter 7.90, prior to beginning operation, the business operator would need to obtain and maintain a Commercial Cannabis Permit and a Business License from the County. After that, they would be required to obtain a State License. Condition of Approval No. 8 requires that appropriate licenses are obtained and maintained.

A draft resolution includes findings and evidence for consideration (**Exhibit C**). Staff has reviewed the proposed application and determined, as proposed and conditioned, the findings required to grant a Use Permit for a commercial cannabis retailer can be made in this case. As outlined below, the project has been found consistent with the requirements of Section 21.67 of Title 21.

A more detailed discussion is provided in **Exhibit B**.

#### CEQA

Section 15303 of the California Environmental Quality Act exempts the conversion of small structures, from one use to another, where only minor modifications are made to the exterior. The majority of the proposed modifications will take place within the interior of the structure for the dispensary. Minor modifications to the exterior will occur to allow for implementation of the proposed security measures. Approval of the permit would not result in an increase to the existing square footage of the building. Therefore, the project meets the exemption for requiring environmental review.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

Environmental Health Bureau  
RMA-Public Works  
RMA-Environmental Services  
Water Resources Agency  
North County Fire Protection District

The proposed project was reviewed by the Castroville Land Use Advisory Committee (LUAC) on August 7, 2017. Two members were in attendance and pursuant to Brown Act Rules, there was no quorum. However, the applicant made a presentation and the members present, acting as individuals and not as committee members, expressed that they find the project fits within the surrounding commercial area and is consistent with the Castroville Community Plan.

FINANCING:

Funding for staff time associated with this project is included in the 17-18 Adopted Budgets for RMA-Planning.

Prepared by: Craig Spencer, Senior Planner, x5233  
Reviewed by: Brandon Swanson, RMA Planning Services Manager  
Approved by: Carl Holm, AICP, RMA Director

The following attachments are on file with the RMA:

- Exhibit A - Vicinity Map
- Exhibit B - Discussion
- Exhibit C - Draft Resolution including:
  - Conditions of approval
  - Project Plans
  - Overview of Operational Plan