



Town of Mammoth Lakes

Planning & Economic Development Commission Staff Report

Meeting Date: July 14, 2021

AGENDA TITLE: Consider approval of a Use Permit request (UPA 21-002) to allow a commercial cannabis cultivation, manufacturing, and distribution facility at 312 Commerce Drive, Units A and B in the Industrial Zone.

Applicant: Peter Sheldon

Property Owner: Stoltzfus Family Trust

REQUESTING DEPARTMENT:

Community & Economic Development

Report Prepared by: Michael Peterka, Assistant Planner

Report Approved by: Sandra Moberly, Community and Economic Development Director

OBJECTIVE:

1. Hear Staff presentation
2. Hold Public Hearing
3. Planning & Economic Development Commission (PEDC) discussion
4. PEDC action options:
 - a. Adopt the attached Planning and Economic Development Commission Resolution (the Resolution), making the required Use Permit findings with conditions as recommended by staff;
 - b. Adopt the Resolution with modifications; or
 - c. Deny the Resolution

SUMMARY:

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| Proposal: | The Applicant is requesting approval of a Use Permit for a commercial cannabis cultivation, manufacturing, and distribution facility within an existing structure in the industrial park. The business will be operated under the name Elevation Green, LLC. |
| Location: | 312 Commerce Drive, Units A and B |
| Size of Property: | 0.23 acres (10,019 square feet) |
| Zoning: | Industrial (I) |
| General Plan: | Industrial (I) |
| Environmental Review: | The project is considered exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities). |

KEY ISSUES:

1. Can the findings be made for approval of a Use Permit pursuant to Municipal Code (MC) Chapter 17.68 and Section 17.52.085.1?
2. Is the proposed project consistent with the California Environmental Quality Act (CEQA)?

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| I. INTRODUCTION AND BACKGROUND |
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BACKGROUND:

Zoning Code Amendment 17-002, which was adopted by the Town Council in 2017, updated the Town’s cannabis regulations and established the regulatory framework for cannabis businesses within the Town. The regulations allow for both adult-use and medicinal cannabis businesses and allow for cannabis cultivation (*indoor only*), manufacturing (*non-volatile only*), and distribution (*wholesale; no retail sales*) of cannabis products within the Industrial zone subject to issuance of a Use Permit.

The subject property is located at 312 Commerce Drive in the Industrial (I) zoning district. The site was developed in 1999 with an approximately 5,750 square-foot structure and three exterior parking spaces. The existing structure is divided into three leasable spaces of which the proposed cannabis business will occupy two of the spaces. The remaining space is occupied by a vehicle service business.

Prior Cannabis Use Permit(s)

A Use Permit for various commercial cannabis activities was previously issued for the subject site in 2016 (*UPA 16-004*) and subsequently amended in 2018 (*UPA 16-004a*); however, the Use Permit expired on March 13, 2021 due to inactivity and the cannabis business operations never commenced. The applicant for the current Use Permit proposal is the same applicant as the previous Use Permit, but the proposed cannabis activities differ, and the current Use Permit proposal should be considered on its own merits.

PROJECT PROPOSAL:

The Applicant is requesting approval of a Use Permit to operate a commercial cannabis business in accordance with the Town’s cannabis regulations. The proposed cannabis business will consist of cultivation, manufacturing, and distribution uses and be operated under the name Elevation Green, LLC.

The proposed cultivation operation will consist of four rooms with plants at different stages of growth and plants will be moved from room to room as they transition through various stages of growth. Once plants reach the final stage of growth, they will be moved to the Mature Canopy/Flower Room, which will accommodate a total of 126 mature plants. Plants will then be harvested, weighed, and hung to dry in the Drying and Harvest Storage Room. Once dried, the plants will be processed, weighed, and recorded in the track-and trace system. The product will then be packaged in bulk for wholesale to a manufacturer, packaged temporarily for use in Elevation Green LLC’s manufacturing operations, or packaged into final retail form.

The proposed manufacturing operation will produce the following cannabis goods: edibles; vape cartridges; disposable vape pens; infused and uninfused pre-rolls; and mechanical extracts. The manufacturing methods will not include volatile extraction, supercritical CO₂ extraction, or use of butane, propane, or ethanol solvents. For a detailed description of the manufacturing process for each product, refer to the Manufacturing Plan in **Attachment 2**.

The proposed distribution operation will consist of transporting cannabis and cannabis products to and from other licensed establishments and is required to adhere to all regulations set forth by the commercial cannabis licensing authorities, the Bureau of Cannabis Control, the Town of Mammoth Lakes, and all applicable state and local laws.

In addition to the cultivation, manufacturing, and distribution plans, the applicant also provided plans related to fertilizer management, inventory management, packaging and labeling, pest management, quality control, security and safety, and waste management. These plans can be viewed in **Attachment 2**.

TABLE 1: SURROUNDING LAND USES AND ZONING.

| Location | Zoning* | Adjacent Street | Land Use |
|----------|---------|-----------------|--|
| North | I | N/A | Industrial (tile shop, construction storage; laundry facility) |
| South | I | N/A | Industrial |
| East | I | Private Road | Industrial (automotive repair, construction storage) |
| West | I | N/A | Industrial |

*I = Industrial

General Plan

The General Plan land use designation for the site is Industrial (I) and *“allows a limited variety of light manufacturing and services uses that can be contained within wholly enclosed structures. Examples include heavy equipment storage and maintenance, batch plants, automotive repair and service, and similar uses conforming to design, screening, noise, and other standards.”* The proposed commercial cannabis uses on the site are classified as an “Industry, Manufacturing, and Processing Use” and therefore, are consistent with the Industrial land use designation.

Zoning Code

The proposed project is consistent with the applicable requirements of the Industrial (I) zoning district and the Municipal Code Commercial Cannabis Business requirements. A summary and analysis of the proposal and applicable requirements is detailed below.

TABLE 2: ZONING CODE CONSISTENCY

| General Information | | | |
|--|---|--|--|
| General Plan: Industrial (I) | | Specific Plan: N/A | |
| Zoning: Industrial (I) | | Overlay Zone/District/Master Plan: N/A | |
| Existing Land Use: Storage and vehicle service use | | Permits Required: UPA for commercial cannabis business | |
| Development Standards | | | |
| Standard | Required | Proposed/Provided | Complies? |
| Setbacks | N/A – No setback changes proposed | | N/A |
| Lot Coverage | N/A – No lot coverage changes proposed | | N/A |
| Building Height | N/A – No building height changes proposed | | N/A |
| Snow Storage | N/A – No snow storage changes proposed | | N/A |
| Parking Spaces | 5 spaces | 3 spaces | Existing non-conforming; No change in use proposed (i.e., will remain an Industrial use) |

II. ANALYSIS OF KEY ISSUES

KEY ISSUE #1: Can the findings be made for approval of a Use Permit pursuant to Municipal Code (MC) Chapter 17.68?

Use Permits are intended to review proposed land use activities which may be desirable in an applicable zoning district and compatible with adjacent land uses, but whose effects on site and surroundings cannot be determined before being proposed for a particular location. The process includes the review of the location, design, configuration, and potential impacts of the proposed use, to evaluate compatibility of the proposed use with the surrounding uses and the suitability of the use to the site. The following represents staff's analysis of the required Use Permit findings pursuant to MC §17.68.050 and MC §17.52.085.I.

Use Permit Findings:

- a. The proposed use is consistent with all applicable sections of the General Plan and Title 17 and is consistent with any applicable specific plan or master plan.**

The proposed project is consistent with the General Plan because the proposed commercial cannabis manufacturing and distribution facility will operate within the scope of the "Industry, General" use classification. Uses that are consistent with the "Industry, General" land use classification includes "Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials." The General Plan Land Use Goal L.5 ("Provide an overall balance of uses, facilities, and services to further the town's role as a destination resort community") recognizes that manufacturing land uses are appropriate and essential operations within the Industrial zoning district, providing the Town with an overall balance of uses while maintaining its destination resort community character.

The proposed use is consistent with the Zoning Code (Title 17 of the Municipal Code) because commercial cannabis cultivation, nonvolatile manufacturing, and distribution uses are permitted within the Industrial zoning district with approval of a Use Permit. Additionally, the proposed business operations are consistent with the "commercial cannabis cultivation," "commercial cannabis nonvolatile manufacturing," and "commercial cannabis distribution" use classifications provided in Municipal Code Section 17.144.040 and the regulations and operating standards specified in Municipal Code Section 17.52.085 (Cannabis – Commercial Businesses) and Chapter 5.38 (Commercial Cannabis Permits) for the various cannabis activities.

A determination as to whether the existing structure is consistent with the Industrial zone development standards, such as setbacks, height, and snow storage, is not necessary since the structure where the use will be operated is existing and no expansion or exterior alterations are proposed, and pursuant to MC §17.100.040.B.3, interior alterations that do no impact the exterior of a building are permitted to occur without limitation regardless of whether the structure is conforming or nonconforming. The existing parking on the project site is nonconforming since five (5) spaces are required based upon the applicable Industrial use parking ratio and only three (3) parking spaces are allocated to the two units. However, since the uses on the site are not changing (i.e., ongoing use of the site for Industrial uses), continued use of the site and structure is permitted pursuant to MC §17.100.030 since the structure is not being enlarged or altered. Therefore, the proposed use is consistent with all applicable development standards.

- b. The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health and safety nor materially injurious to properties or improvements in the vicinity.**

The proposed use will be operated in such a way that it will be compatible with surrounding land uses and will not be detrimental to the public health, safety, and welfare, nor will it be materially injurious to

properties or improvements in the vicinity because the proposed commercial cannabis cultivation, nonvolatile manufacturing, and distribution facility is in an appropriate location in the Industrial zoning district and will operate in accordance with the requirements set forth in Municipal Code §17.52.085.E (Regulations for Commercial Cannabis Cultivation), §17.52.085.F (Regulations for Commercial Cannabis Manufacturing), and §17.52.085.G (Regulations for Commercial Cannabis Distribution).

Tenant improvements are reviewed and inspected by the Building Division and the Mammoth Lakes Fire Protection District (MLFPD) to ensure all applicable Building Codes and Fire Codes are satisfied. MLFPD's conditions of approval included in this resolution require all life-safety measures to be verified prior to issuance of a certificate of occupancy.

A safety and security plan has been provided to the Town and identifies specific measures that will be used to monitor and restrict access to the structure on a continuous basis. The Police Department has reviewed and accepted the security plan with the addition of requiring window security on the office windows and a bollard in front of the roll up doors (*included as conditions of approval in **Exhibit A of Attachment 1***).

In addition to the use permit findings required by Municipal Code Section 17.68.050, a use permit for a commercial cannabis activity shall be approved only if all of the following additional findings can be made.

- c. The commercial cannabis business, as proposed, has demonstrated that it can and will comply with all of the requirements of the State and the Town for all of the commercial cannabis activities proposed.**

The application submittal provides detailed and complete information on how the applicant will comply with all the requirements of the State and the Town for the proposed commercial cannabis cultivation, manufacturing, and distribution uses. The applicant has applied to the State for an annual Microbusiness Type 12 indoor cultivation, manufacturing, and distribution license. Prior to the State issuing the annual license, the State will verify compliance with all of the State regulations, which includes verifying with the local jurisdiction that they are authorized for the requested cannabis uses. Lastly, as part of the annual commercial cannabis permit renewal process, the Town will verify compliance with applicable State and Town requirements through the annual regulatory audit and financial audit.

- d. The commercial cannabis business includes adequate measures that minimize, to the extent feasible, nuisance to the immediate neighborhood and community including, but not limited to, minimizing detection of odor from off-site, minimizing the effects of loitering, provision of adequate parking, and provision of adequate security measures.**

The location proposed for the commercial cannabis cultivation, manufacturing, and distribution use is accessed from a private road located off the main circulation street (Commerce Drive) which has little to no visibility to through traffic. The facility design does not draw attention to the operations that occur entirely within the enclosed structure, and there are no signs identifying the facility as a cannabis business.

The operation plan provides sufficient detail regarding operating procedures, and addresses minimizing detection of odor from off-site, preventing loitering, and providing adequate security measures. The security measures proposed for the facility adequately deter loitering, unauthorized access, and property crimes. The Police Department has reviewed and accepted the security plan and floor plan provided with the application.

Parking needs at the site are reduced by the fact that the facility is not open to the public and any unauthorized individuals/vehicles on the site will be contacted immediately by the facility manager. The facility currently provides three parking spaces and a separate loading area, which the applicant has indicated will provide sufficient parking for employees.

- e. **For cannabis cultivation facilities, a finding shall also be made that the cannabis cultivation facility includes adequate measures that minimize use of water for cannabis cultivation at the site.**

The cannabis cultivation facility will utilize water supplied from the Mammoth Community Water District's (MCWD) municipal water system. Water will be stored in a 55-gallon drum and a 150-gallon tank. Both the drum and tank will be equipped with automated valves that fill the containers and shut off when they are full. A drip watering system will be utilized to automate the watering of plants. This will ensure plants are not oversaturated, and excess water drainage is not produced. MCWD has reviewed the proposed water supply and wastewater systems and has determined that the systems will adequately minimize water use.

- f. **For cannabis manufacturing facilities, a finding shall also be made that the manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.**

The proposed manufacturing processes do not involve any volatile materials. Cannabis concentrates used in manufacturing will be obtained from licensed manufactures or produced through non-volatile mechanical extraction methods. The proposed equipment is reviewed by the Building Division and the Mammoth Lakes Fire Protection District to ensure that all applicable Building and Fire Codes are satisfied, and that the necessary fire and life-safety measures are in place prior to issuance of a certificate of occupancy.

KEY ISSUE #2: Is the proposed project consistent with the California Environmental Quality Act (CEQA)?

The project has been determined to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) of Title 14 of the California Code of Regulations. The categorical exemption described in CEQA Guidelines Section 15301 applies to projects that 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 or use beyond that existing at the time of the lead agencies determination, for which the State has determined to be a class of projects that will not have a significant effect on the environment. The project qualifies for this exemption because it involves the leasing of an existing private structure for the operation of a commercial cannabis cultivation, manufacturing, and distribution facility and does not include any expansion of the structure beyond that existing at the time of review. Additionally, none of the exceptions set forth in CEQA Guidelines Section 15300.2, which would preclude a project from using a categorical exemption, are applicable.

Therefore, the project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(2) since the project meets the criteria for use of the Existing Facilities categorical exemption (Class 1) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2. No additional environmental review is warranted or necessary.

AGENCY / PUBLIC COMMENTS

Staff routed the application to the Mammoth Lakes Police Department (MLPD), Mammoth Lakes Fire Protection District (MLFPD), and the Mammoth Community Water District (MCWD) for review. Comments were incorporated into the conditions of approval in the attached resolution or revisions were made to the project plans in response to the comments received.

The public was notified of the public hearing through the publishing of a public hearing notice in The Sheet newspaper on July 3rd and 10th and notices were mailed on June 29th to all property owners within 300 feet of the subject property. A total of 60 property owners were notified of the public hearing by mail. No public comments have been received as of the writing of this staff report.

III. STAFF FINDINGS AND RECOMMENDATION:

Staff finds that the proposed project meets the applicable requirements and recommends that the Planning and Economic Development Commission adopt the attached Planning and Economic Development Commission Resolution, making the required CEQA and Municipal Code findings, and approving Use Permit 21-002 with conditions as recommended by staff or with modifications.

Attachments

Attachment 1: Planning and Economic Development Commission Resolution

Attachment 2: Project Application Materials