

# City of Talent

Community Development Department - Planning



## STAFF REPORT

Type III Land Use Application — Planning Commission

Date: October 14, 2016

Item: CUP 2016-004, Recreational Marijuana Retail Business

Applicant: Grateful Meds, LLC.  
Brent Kenyon  
2021 W. Main St.  
Medford, OR 97501

Agent: Robert A. Graham, Jr.  
Evergreen Law Group, LLC.  
542 Washington Street, STE 104  
Ashland, OR 97520

Property Owner: Peter & Deborah Pollard  
P.O. Box 938  
Talent, Oregon 97540

Requested Action: Operation of a State-regulated, OLCC-licensed recreational marijuana retail business.

Assessor's Map Number: 38-1W-25B, Tax Lot 2801

Site Location: 630 S. Pacific Hwy. Unit G

Zoning: CH (Commercial Highway)

Deemed Complete: October 3, 2016  
Notice Mailed: October 3, 2016

120-Day Limit: February 3, 2017

## REQUEST

The request is for a Conditional Use Permit to operate a State-regulated, OLCC licensed recreational marijuana retail business.



## PROPERTY CHARACTERISTICS

The site is located on S. Pacific Hwy., north of the Arnos Rd. intersection. The subject parcel is roughly rectangular in shape with an area of approximately 9,240 square-feet (sq. ft.). The zoning designation is Commercial Highway (CH), as are the adjacent properties. The subject parcel contains a single warehouse style building built in 1991.

## BACKGROUND

The subject parcel is zoned Commercial Highway (CH) and has allowed medical dispensaries or recreational sales of marijuana in the zone since December 5, 2014 subject to Section 8-3L.2 of the Talent Zoning Code. The applicant maintains that the retail sales of cannabis has occurred at this location since the medical marijuana dispensary opened in 2014 in accordance with Oregon Medical Marijuana Program (OMMP) regulations and that retail sales of medical cannabis was neither allowed nor disallowed in the Talent Zoning Code at the time the business began operations. However, the OMMP program at that time did not allow for “retail” sales of medical cannabis to the general public, and only allowed for reimbursement.

In 2014 when the applicant began operating the medical marijuana facility, the OMMP disallowed the sales of marijuana for a profit and retail licensing by the Commission was not available. Operators of a medical marijuana facility were only able to be reimbursed by patients for the cost of supplies and utilities associated with the production of his or her medical marijuana; the Act did not allow reimbursement for labor or any other costs.

When the medical marijuana facility began operations in 2014, it served only a limited population of OMMP card holders, and because of this is not classified as a pre-existing retail operation.

The applicant stated that Grateful Meds, LLC. began selling limited recreational marijuana products to consumers over the age of 21 in February 2016 after the OLCC implemented the recreational marijuana retail sales program. Since Staff has determined that retail operations by both State and local definitions were not taking place prior to December 5, 2014 when revisions to the City's Zoning Code were adopted, and since the sales of retail marijuana has not been approved through a conditional use permit review, the use is being conducted in violation of the City zoning code.

In order to ensure equity among business owners of the same use, staff addressed the standard criteria for a conditional use permit.

**Wastewater Service**

Wastewater service is currently being provided to the subject parcel by Rogue Valley Sewer Service (RVSS).

**Stormwater**

Stormwater on the site is directed to an open ditch paralleling S. Pacific Hwy.

**Water Service**

Water service is currently being provided to the subject parcel by the City of Talent.

**APPROVAL CRITERIA**

- 8-3D.4 – Commercial Highway Zone
- 8-3L.1 – Site Development Plan
- 8-3L.2 – Conditional Use Permit

**AGENCY COMMENTS**

Jackson County Fire District 5 and Rogue Valley Sewer both responded to request for comments, but provided no additional comments from what was previously stated for the other recreational businesses.

**PUBLIC COMMENTS**

As of the date of this staff report, no public comments have been received.

**RECOMMENDATION**

Based on the findings for the Conditional Use Permit stated in the Proposed Final Order, staff recommends **APPROVAL** of the Conditional Use Permit, with conditions outlined in the Proposed Final Orders.

## ATTACHMENTS

The following information was submitted regarding this application:

- Applicant Statement
- Applicant's Supplemental Statement
- Revised Site Plan
- Agency Comments
- Proposed Final Order

  
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Zac Moody, Community Development Director

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10/14/2016

Date

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Staff has recommended this proposal for approval, but it will require at least one public hearing before the Planning Commission for a decision. The Talent Zoning Code establishes procedures for quasi-judicial hearings in Section 8-3M.150.

**A public hearing on the proposed action is scheduled before the Planning Commission on March 24, 2016 at 6:30 PM at the Talent Town Hall.**

For copies of public documents or for more information related to this staff report, please contact the Community Development Director at 541-535-7401 or via e-mail at [zmoody@cityoftalent.org](mailto:zmoody@cityoftalent.org).