



**Conditional Use Permit
Staff Report and Recommendation**
Community Development Department, Planning Division

REPORT DATE: September 7, 2018

HEARING DATE: September 17, 2018

LAND USE REQUEST: Planning Commission review and approval of a conditional use permit for a recreational cannabis dispensary

FILE NUMBER(S): 311-18-000017-PLNG

PROPERTY LOCATION: 3331 Pacific Avenue

LEGAL DESCRIPTION: Washington County Tax Lot 1N332CC03800

OWNER/APPLICANT(S): Applicant: Mildred White, BAMA Architecture
7350 SE Milwaukie Avenue, Portland, Oregon 97203
Property Owner: Ace Holdings LLC
PO Box 417, Gaston, Oregon 97119

COMPREHENSIVE PLAN MAP AND ZONING MAP DESIGNATIONS: Comprehensive Plan Map Designation: Community Commercial
Zoning Map Designation: Community Commercial

APPLICABLE STANDARDS AND CRITERIA: Forest Grove Development Code:
§10.2.220 Conditional Use Review Criteria
§10.2.400 et. seq. Site Development Review
§10.3.300 et. seq. Community Commercial Zone
§10.8.100 et. seq. Access and Circulation
§10.8.500 et. seq. Off-Street Parking and Loading
§10.8.710(B) Building Design Standards
§10.8.1100 General Marijuana Development Standards
§10.8.1110 Marijuana Retailer Standards

REVIEWING STAFF: James Reitz (AICP), Senior Planner

RECOMMENDATION: Staff recommends approval with conditions

I. LAND USE HISTORY

The building proposed for this conditional use permit was constructed prior to 1980. It has been occupied by various uses, including several restaurants. It has most recently been occupied by a physical therapist's office.

This application is for a conditional use permit to allow for a recreational cannabis dispensary. Development Code (DC) §10.3.320 Table 3-10 *Commercial and Mixed Use Zones – Use Table* lists recreational marijuana retailer as a conditional use in the Community Commercial zoning district, per Footnote #7. DC §10.2.210 *Procedure* authorizes the Planning Commission to act on a request for a conditional use permit after holding a public hearing pursuant to Type III review procedures. Because this activity requires a conditional use permit review, all associated reviews (site plan approval and building design review) are also subject to Planning Commission review, pursuant to DC §10.1.510.

Public notice for this application was mailed to property owners and residents within 300 feet of the site on August 27, 2018, as required by DC §10.1.160. Notice of this request was also provided to the Plans Review Board, and published in the *News Times*. These comments were received from the Plans Review Board:

Building Division: *Provide a copy of the OLCC letter of acceptance of design at plan submittal.*

Engineering Department: *The following items must be submitted and approved prior to issuance of the building permit:*

- 1. Submit a Service Provider Letter or proof that one is not required per CWS Design and Construction (D&C) Standards §3.02.1.*
- 2. Plan submittal shall meet requirements of CWS D&C Standards §2.*
- 3. Applicant shall design and construct a private water quality facility per CWS D&C Standards §4.05.2.*
- 4. Applicant shall submit an executed Private Storm Water Facilities Agreement, CWS D&C Standards §2.08.2.*
- 5. Applicant shall submit a drainage report to the Engineering Department, which shall comply with CWS D&C Standards R&O 17-5 as specified in §2.04.2.m.*
- 6. Applicant shall submit a Private Water Quality Facility Maintenance Plan, which shall comply with CWS D&C Standards R&O 17-5 as specified in §2.04.2.n.*

One additional Engineering Department comment regarding vehicular access is discussed in the Traffic and Circulation section below.

Light and Power Department: *The existing electrical service is a 3-phase, 30kVA, 120/208 transformer bank. Assuming that the meter base does not move from the current location, this connection may remain or be replaced with a single-phase service depending on the electrical requirements of the new facility.*

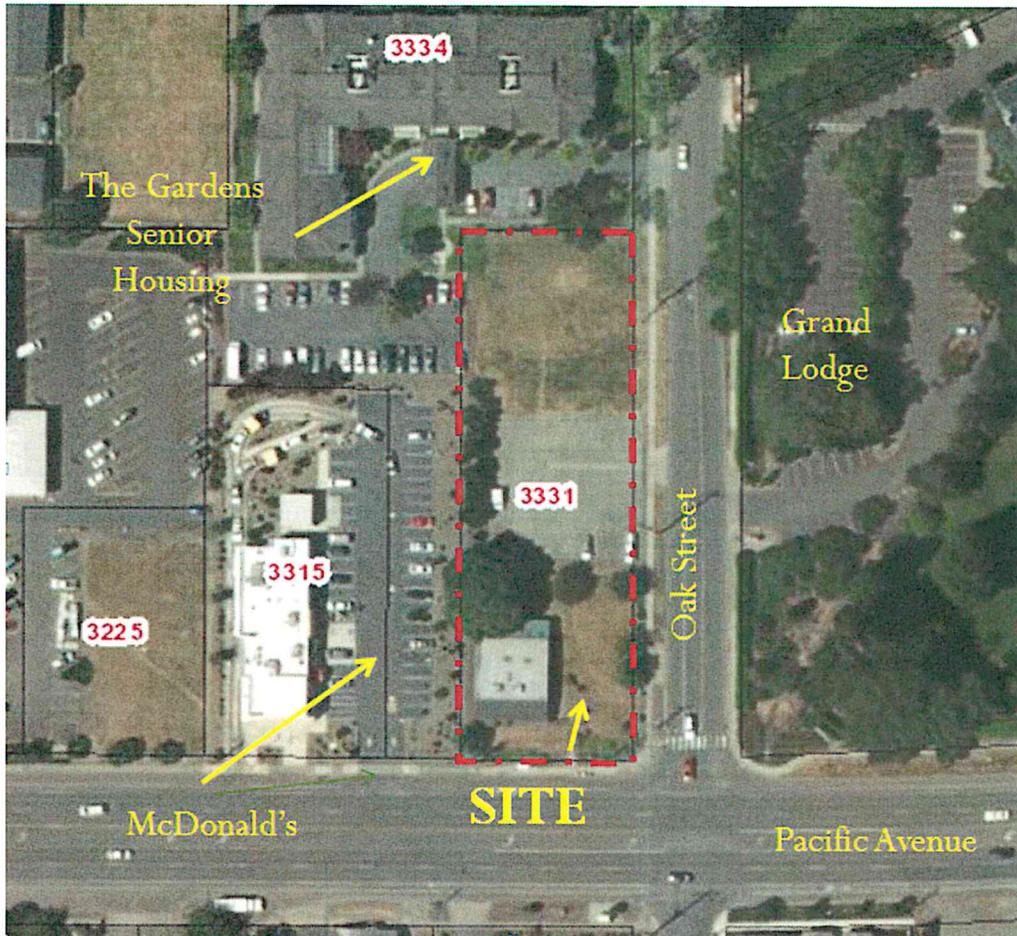
No issues or concerns were registered by the Fire, Police or Public Works departments. As of the writing of this report, no comments have been received from the public.

II. PROJECT DESCRIPTION AND ANALYSIS

- A. Description of Proposal: This application is for a retail cannabis dispensary in an existing building located at 3331 Pacific Avenue. The interior would be remodeled, and the facades facing both Pacific Avenue and Oak Street would be modified with new storefronts to provide a more retail appearance. A new entry door would be installed in the east façade, facing into an expanded car park. A second driveway to Oak Street is proposed that would utilize an existing drive approach. New landscaping and signage would also be installed.
- B. Site Examination: The site is approximately 0.98 acres in area. It has been partially improved with a 2,440-square-foot building (according to Washington County records) and a car park of 18 spaces. Some of the car park curbing is in disrepair; it is proposed to be removed and replaced with the new landscaping. At least one Oak Street sidewalk panel is cracked and settling which will need to be repaired. Whatever landscaping that may have been installed adjacent to the car park along Oak Street is no longer extant. Approximately 30% of the site is lawn, located at the northern end of the property. The site fronts both Pacific Avenue and Oak Street. Both street frontages have been fully improved with curbs, gutters and sidewalks. The Pacific Avenue sidewalk is curb-tight with no street trees. The Oak Street sidewalk is located along the property line, but no street trees have been installed in the parkway.
- C. Comprehensive Plan Designation and Zoning of Site and Area

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Site	Community Commercial	Community Commercial	Physical Therapist's Office
North	High Density Residential (HDR)	Residential Multi-Family High Density (RMH)	Senior Assisted Living Facility
South	Community Commercial (CC)	Community Commercial (CC)	General Commercial
East	Community Commercial (CC)	Community Commercial (CC)	McMenamin's Grand Lodge
West	Community Commercial (CC)	Community Commercial (CC)	McDonald's Restaurant

The image below shows the subject property in relation to the surrounding area. As the image shows, the subject property fronts Pacific Avenue between Oak Street and McDonald's Restaurant. McMenamin's Grand Lodge is located across Oak Street to the east, and The Grove and The Gardens senior housing complex is located to the north.



- D. Architecture: The proposed site for the conditional use is an existing, flat- and shed-roofed building. It is faced with a combination of brick and lap siding, with a few windows facing either street. The applicant proposes to remodel the building by installing storefront systems with larger expanses of glazing that would face both Pacific Avenue and Oak Street (see images below).

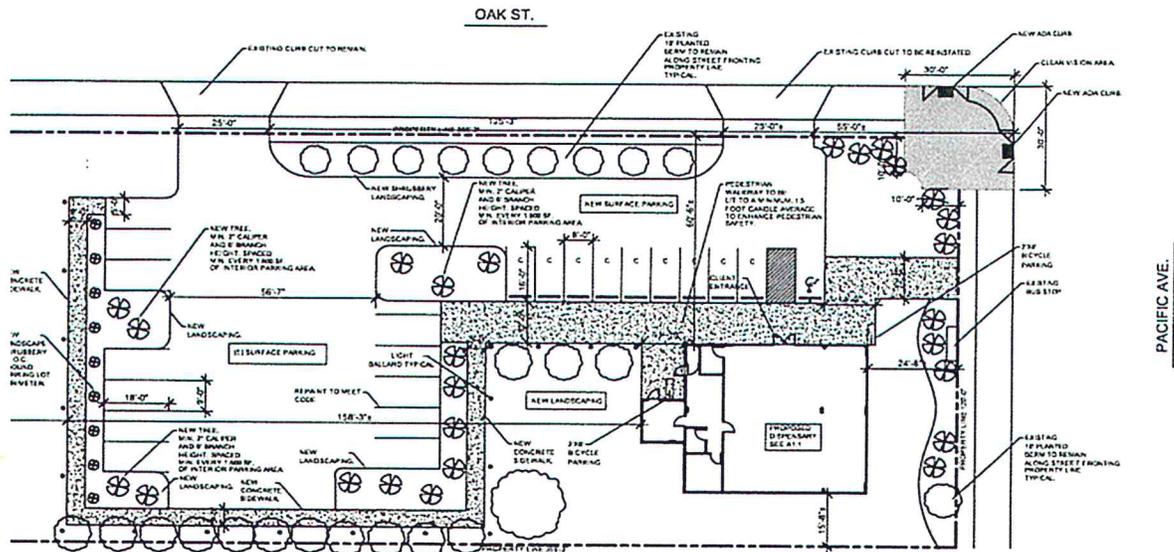


Existing Pacific Avenue façade (above) & the proposed façade rendering (below)



- E. Traffic and Circulation: While the site has a Pacific Avenue address, it abuts and takes vehicular access from Oak Street, which is a designated Collector street on the Forest Grove Transportation System Plan. Both streets have been improved to City standards.

Two drive approaches have been installed along Oak Street, but only the northerly approach is used. The applicant proposes to also use the south drive approach, which has not been active for more than 28 years (see images below). This driveway would be located about 25 feet from the Pacific Avenue right-of-way.



Proposed Site Plan (above) and Oblique Aerial View (below)



As noted above, Oak Street is a designated Collector street. DC §10.8.130(C)(3) stipulates that "No portion of a curb cut shall be located closer to an intersecting street right-of-way line than 50 feet on a collector street."

Furthermore, as can be seen in the image above, the site is adjacent to the southbound Oak Street left-turn refuge lane. This segment of Oak Street has a posted speed limit of 25 mph. The Engineering Department has noted that:

The left-turn lane pocket on Oak Street consists of a storage length and deceleration length. Oregon DOT Traffic Line Manual – 2018 Edition Revision 1, June 2018, states that the storage length shall be determined by a traffic study and that the lane shall not be shorter than 100 feet, which accounts for one car and one truck. According to the ODOT Traffic Line Manual at the design speed of 25 mph, the deceleration distance is 120 feet, resulting in a total length of 220 feet needed for the left-turn lane pocket. The AASHTO Policy on Geometric Design of Highways and Streets states that the storage length may be based on the number of turning vehicles that may arrive in a 2-minute period within the peak hour for an un-signalized intersection. The time interval may need to be changed to some other interval based on the opportunities to complete the left-turn maneuver. A traffic study would define the type and quantity of vehicles using this left-turn lane pocket during the peak hour, which would then set the storage length, while the deceleration distance would remain unchanged.

Because the south driveway would be less than 50 feet from the Pacific Avenue right-of-way, activating its use would require Planning Commission approval of a variance. If the applicant wishes to apply for a variance, then this hearing will need to be continued to consider that application in conjunction with the site and design review process. If a variance request is filed, it would also need to include a traffic study to address the ODOT and AASHTO standards noted by the Engineering Department above.

Absent a variance application, staff is recommending a **condition** that the existing south drive approach be removed and the parkway restored, as required by Forest Grove Code (FGC) §151.068 *Discontinuance of Driveway Use*. This section notes that “*When a property has a driveway that is discontinued or abandoned or the use of the property changes, the curb line shall be made to conform to applicable driveway provisions of the city within 60 days after discontinuance of the driveway use.*”

- F. Parking: DC §10.8.515 *Off-Street Parking Requirements* stipulate a minimum of 3.7 and a maximum of 5.1 off-street parking spaces per 1,000 square feet of gross floor area for General Retail – Sales Oriented uses. As the building has 2,440 square feet of floor area, 9 spaces would be required and a maximum of 12 spaces allowed.

At present there are 18 parking spaces (there appears to be 20 because the ADA accessible space and aisle have not been maintained). The applicant proposes to reduce the number of stalls in the existing car park to 12 through the installation of landscaping, and to construct 10 new stalls on the east side of the building, for a total of 22, including a new ADA space located adjacent to the new Oak Street building entry.

DC §10.8.520(C) and (D) *Modification of Maximum Off-Street Parking Requirements* allows for an increase in the maximum parking of up to 15%, or up to 25% for “overflow parking areas”. Based on the General Retail – Sales Oriented uses, that would allow for 14 spaces (at the 15% standard) or 15 spaces (at the 25% standard), provided that a parking analysis is provided that demonstrates compliance with the Adjustments or Variance criteria of DC §10.2.120 or §10.2.720 respectively. As the applicant has not requested a modification of the maximum off-street parking requirement, the Commission does not have the ability to grant a modification at this time. Staff is therefore proposing a **condition** that the number of parking spaces be reduced to no more than 12 spaces.

- G. Environmental Quality: There is no City record of any prominent environmental conditions on this property. As noted above, because the proposed use would redevelop the site, it would become subject to the Clean Water Services code provisions as listed in the Engineering Department's review. Staff has included a **condition** to require compliance with CWS standards.
- H. Public Services: The site has existing utility connections. All utilities (water, storm drainage, sewer, and power) are available. Capacities are adequate to serve the proposed use. Police, fire, and sanitation services are available and are also adequate to serve the proposed use.
- I. Landscaping: The site plan includes a schematic landscape plan (see sheet SD1.1 Site Plan). Staff is proposing a condition to require a more detailed landscape plan demonstrating compliance with DC §10.8.405 *Applicability*, DC §10.8.410 *General Provisions*, DC §10.8.420 *Landscaping Requirements by Zone*, and DC §10.8.545 et. seq. *Landscaping and Screening of Parking and Loading Areas*. Furthermore, DC §10.5.120(A)(1) *Street Trees* requires that "All development projects fronting on a public or private street more than 100 feet in length ... shall be required to plant street trees." Because the Oak Street frontage is 355 feet in length, the project is subject to this provision. Due to the presence of overhead utility lines, small trees would be most appropriate. DC §10.5.120(A)(4)(a) stipulates that small trees "shall be spaced no greater than 20 feet apart." Staff has included a proposed **condition** to do so, with the added provision that spacing may be adjusted to avoid conflicts with other public improvements.

III. APPROVAL CRITERIA, FINDINGS AND ANALYSIS

Conditional Use Review Criteria (Development Code §10.2.220)

A. Physical Compatibility

1. The proposed use will be compatible with adjacent developments based on characteristics such as site size, building scale and style, setbacks, and landscaping; or
2. The proposed use will mitigate differences in appearance or scale through setbacks, screening, landscaping, and other design features.

Applicant's Response: *This proposal is to utilize an existing commercial structure for use as a recreational cannabis dispensary. The building will be modified to better fit the commercial character of the site and area by creating an attractive and physically compatible commercial storefront and surface parking area that will meet the desired character and intent of the Pacific Avenue frontage as well as the landscaping, setbacks, and massing of adjacent properties. Neighboring properties include a drive-through restaurant, a hotel and dining venue, as well as other commercial establishments. The rear of the lot has a large open green space as well as adequate screening to separate the residential character of the residential side streets to the rear.*

Findings: No changes to the site size, building scale, or setbacks are proposed. The building style would be modified with new storefront systems in both the Pacific Avenue and Oak Street facades that would incorporate more of the Design Elements of DC

§10.8.710(B)(3), including a minimum of 50% transparency/window openings on the ground floor facades of buildings that are 5,000 square feet or less.

New landscaping is proposed in the existing car park and along the Oak Street frontage. With the **condition** to also install street trees in the Oak Street parkway, the development would be physically compatible with adjacent developments.

Conclusion: The proposed building elevations are compatible with adjacent developments. The site plan also shows landscaping that would improve compatibility with the surrounding area. With the **condition** to also install street trees in the Oak Street parkway, these criteria are met.

B. Public Services

1. The transportation system is capable of safely supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability, on-street parking impacts, access requirements, neighborhood impacts, and pedestrian safety.

2. Public services for water supply, sanitary sewer, storm water disposal, police and fire protection are capable of serving the proposed use and previously approved uses.

Applicant's Response: *The main site frontage is located on Pacific Avenue/OR 8. The road in question has four lanes, including a protected center turn lane. The site will utilize existing driveway access from the lower classification Oak Street as to maximize pedestrian and commuter safety. There is an existing screened bus stop located on the Pacific Avenue frontage. This proposal includes upgrades to create an attractive, well-lit pedestrian walkway from the front door of the dispensary to the bus stop. This proposal includes upgrades to the existing parking lot as to create screening, lighting, and striping, and design pursuant to the development code to ensure that off-street parking is minimized to the extent practical to increase the livability of the neighborhood. No increase in parking spaces is requested.*

The site is an existing commercial use compatible with the neighborhood. This proposal will not assert any adverse effects to any public utilities as no increase in plumbing fixtures or other utility-using elements are proposed. The proposed tenant is a well-established industry leader in providing safe and secure recreational cannabis throughout the state of Oregon with a history of meeting and exceeding state and local jurisdiction standards regarding recreational marijuana for safety of all individuals. All standards pursuant to (the) marijuana development code will be met. The proposed tenant will also hire a third-party security company to provide continued support in meeting these standards.

Finding: The site abuts and takes vehicular access from Oak Street, which is a designated Collector street on the Forest Grove Transportation System Plan. Two drive approaches have been installed along Oak Street, but only the northerly approach is used. The applicant proposes to also use the south drive approach, which is located only about 25 feet from the Pacific Avenue right-of-way.

DC §10.8.130(C)(3) stipulates that "No portion of a curb cut shall be located closer to an intersecting street right-of-way line than 50 feet on a collector street." Because the drive approach is less than 50 feet from the Pacific Avenue right-of-way, this drive approach

should be removed and the parkway restored, as required by Forest Grove Code (FGC) §151.068 *Discontinuance of Driveway Use*.

Finding: Redevelopment of the building with a retail use is not expected to have any effect on public services for water supply, sanitary sewer, or storm water disposal. Neither the Police nor Fire departments registered any concern with this application. Both departments are capable of serving the proposed use.

Conclusion: With the **condition** to remove the south drive approach and restore the parkway, the transportation system serving the subject property is capable of safely supporting the proposed use.

Conclusion: Public services for water supply, sanitary sewer, storm water disposal, police and fire protection are capable of serving the proposed use.

C. Livability

The proposed conditional use will not have significant adverse impacts on the livability of nearby lands due to:

- 1. Noise, glare from lights, late-night operations, odors, and litter; and**
- 2. Privacy and safety issues.**

Applicant's Response: *The proposed use will not decrease the livability of the site or area. The site will be well lit to the standards of the development code. The site will also maintain hours of operation pursuant to state law which will eliminate any late-night operations. The site will be properly maintained, and the site regularly cleaned as to minimize any possible litter. Mandated carbon filters will be installed as well as "No Smoking" signs, ensuring that odor is mitigated to the extent practical. All site and building lighting will be installed so that it will minimize glare. All site lighting will be bollard lighting; no pole lighting is proposed. Third party security will minimize any safety issues.*

Finding: Proposed hours of operation would be between 8 a.m. and 10 p.m., so no adverse impacts related to late-night operations are anticipated. The entrance and parking area would be lit with existing street lights, an existing yard light, and new bollard lighting at the pedestrian level. None would be expected to create glare. State-mandated carbon filters will be installed to ensure that odor is mitigated, and all cannabis-related products will be disposed of off-site at the applicant's distribution center which will minimize potential litter. This criterion is therefore met.

General Standards for All Marijuana Facilities (DC §10.8.1100)

- A. The application shall demonstrate compliance with the locational requirements of ORS 475B and must maintain State certification at all times.**

Applicant's Response: *Nectar understands:*

- *Hours of Operation (will not be open between 10 pm and 8 am)*
- *Products sold will be enclosed in a bag with an OLCC card outlining safety requirements for minors*
- *A City Business is required*
- *Entrance and parking areas will be well lit*

- *This business is not a home occupation nor will there be a drive-up facility*

Finding: Under ORS 475B the licensee must maintain compliance with all applicable State of Oregon licensing requirements. This includes being subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.

Conclusion: This standard is met through State of Oregon licensing requirements.

B. Marijuana-related activities are prohibited on publicly-owned lands.

Applicant's Response: *This is understood.*

Finding: The subject property is privately owned.

Conclusion: This standard is met.

C. Entrances and off-street parking areas shall be well-lit and not visually obscured from public view / right-of-way. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances. Interior building lighting, exterior building lighting and parking area lighting shall be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual at a distance of no less than forty (40) feet. Exterior lighting shall be provided in accordance with required security measures and shall be continuously maintained.

Applicant's Response: *All parking areas will be well-lit, the landscaping will be maintained, and interior lighting will be sufficiently bright as well as exterior lighting. All this will be in place for final inspection.*

Finding: The car park is presently illuminated with a yard light mounted on the utility pole by the north driveway in addition to street lights along both frontages. The applicant also proposes to install bollard lighting at the car park and along the walkway to improve pedestrian-level visibility. New shrubbery is proposed around the perimeter of the car park, but it is not expected to visually obscure the site or the building. The new building entrance facing Oak Street would be readily visible from both Oak Street and Pacific Avenue.

Conclusion: The entrances and off-street parking area would be well-illuminated and not visually obscured. This criterion is met.

D. The facility must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.

Applicant's Response: *All cannabis-related products will not be disposed of on-site but (will) be returned to Nectar's distribution center.*

Finding and Conclusion: As all cannabis-related products will be disposed of off-site at the applicant's distribution center, this criterion is met.

E. All hazardous materials shall be stored and processed in a manner approved by the City Fire Marshal. Hazardous waste shall be disposed of properly through a properly licensed solid waste disposal or recycling facility.

Applicant's Response: *We (do) not anticipate having any hazardous material on-site.*

Finding and Conclusion: The application is for a retail recreational cannabis facility. Since there will be no storage or processing of hazardous materials, this criterion is met.

- F. A pre-application conference and conditional use approval (§10.2.200 et. seq.) is required for any marijuana producer, processor, wholesaler, or testing laboratory. A neighborhood meeting may be required as part of the pre-application process pursuant to §10.2.200 et. seq.**

Applicant's Response: *A pre-application conference was held on July 25, 2018.*

Finding and Conclusion: This criterion is met.

- G. The City shall not issue any other permit for development until final conditional use approval has been granted.**

Applicant's Response: None.

Finding: The applicant is aware that no development permits will be issued until final conditional use approval has been granted.

Finding and Conclusion: This criterion will be met with conditional use permit approval.

- H. Any person or property in violation of §10.8.1100 et. seq. is subject to abatement and assessment by the City under the abatement procedures of Forest Grove Code §91.050 – §91.054.**

Applicant's Response: None.

Finding and Conclusion: This standard addresses future compliance and does not apply to the conditional use permit application. This standard is not applicable.

Marijuana Retailers (DC §10.8.1110)

A medical marijuana dispensary and marijuana retailer activities shall comply with the following design standards and operational requirements in addition to all other applicable City requirements:

- A. May not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.**

Applicant's Response: *(Nectar) will not be open between 10 p.m. and 8 a.m.*

Finding and Conclusion: As the proposed cannabis retailer will be closed between 10 p.m. and 8 a.m., this criterion is met.

- B. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.**

Applicant's Response: None.

Finding: The proposed site at 3331 Pacific Avenue is a permanent building. No outdoor storage of merchandise, raw materials or other material is proposed. This criterion is met.

- C. Any modification to the site or the exterior of the building housing the facility must be consistent with the Design Standards of §10.8.700 et. seq. Security bars or grates on windows and doors are prohibited unless integrated into the design.**

Applicant's Response: None.

Finding: The standards of DC §10.8.710(B) *Building Design Standards for Commercial Development* apply to this application as follows:

1. Building Orientation

- a. Design and construct buildings so that at least one façade is within sixty (60) feet of a dedicated public street right-of-way line.**

Finding: No new building is proposed. This standard is not applicable.

- b. Design and construct a minimum of one primary building entrance for each building ground floor use or tenant along a public right-of-way or internal roadway built to City public street engineering standards.**

Finding: The primary building entrance will face Oak Street and connect to the Pacific Avenue right-of-way with a 12-foot-wide walkway, which will also connect with the car park. This standard is met.

2. Massing and Form

- a. Provide changes in the depth of the façade plane in excess of two (2) feet for all building walls more than 75 feet in length.**
- b. Maximum length of building facades shall be 200 feet.**
- c. Roofline heights must be varied a minimum of 2 feet for building facades greater than 75 feet in length.**
- d. Provide vertical partitioning of facades by using columns, pilasters and other vertical elements a minimum of every twenty-five (25) feet.**
- e. Articulation of building fronts through changes in depth or building relief (e.g. windows, doors, cornices, columns, a change in materials) shall occur a minimum of every fifteen (15) feet in the horizontal or vertical dimensions.**

Finding: No changes to the building's massing and form are proposed. These standards are not applicable.

3. Design Elements

- a. Every building elevation adjacent to a street with a horizontal dimension of more than 100 feet shall have a building entrance.**

Finding: The building has a horizontal dimension of less than 100 feet. No changes to the building's horizontal dimensions are proposed. This standard is not applicable.

- b. Building facades adjacent to sidewalks or pedestrian connections must include weather protection canopies or awnings along at least 75% of the length of the ground floor façade.**

Finding: The building's façade is not adjacent to the sidewalk, but it is adjacent to the pedestrian walkway connecting the Pacific Avenue sidewalk to the car park. As such, an awning over at least the building entrance is required, and staff has recommended a **condition** of approval for that additional design element.

- c. Incorporate a minimum of 50% transparency/window openings on the ground floor facades of buildings that are 5,000 square feet or less, or 20% transparency/window openings for buildings greater than 5,000 square feet facing the public right-of-way. For a building that faces two streets, the requirement shall apply to the predominant street or as determined by the Director where both streets are considered similar.**
- d. Windows shall not be reflective, tinted or treated in such a way as to block views into or out of windows unless for energy or security purposes.**
- e. Windows must be recessed a minimum of 4 inches from building facades.**

Finding: The existing building does not comply with these standards. The applicant proposes to install new storefront systems in both the Pacific Avenue and Oak Street facades with window openings that would equal or exceed 50% of the facades. The windows would not be treated to block views. These standards are met.

- f. Materials such as synthetic stucco (EIFS, Dryvit, etc.) are prohibited at the ground floor.**
- g. Vinyl cladding of the building façade is prohibited at ground floor.**

Finding: None of the above materials are proposed. These standards are not applicable.

4. Compatibility

- a. Any building or portion of a building that is less than 50 feet from existing residential dwellings must not be higher than 15 feet above the top of the roofline of the nearest existing dwelling.**
- b. When adjacent to existing residential development, all commercial structures with floor areas less than 20,000 square feet of total building area must provide a gabled element to the parapet or roof.**

Finding: No changes to the building's roof structure are proposed. These standards are not applicable.

5. Safety

- a. **Security gates or bars on windows or doors are prohibited along ground floors of commercial buildings, excluding loading and storage areas.**
- b. **Motion activated security lighting is prohibited along building facades that front onto public rights-of-way.**

Finding: No security gates, bars, or motion-activated lighting is proposed. These standards are not applicable.

- c. **Public access shall be provided to all commercial uses that provide plazas, squares, or courts intended for food, beverage or entertainment uses.**

Finding: No food, beverage or entertainment uses are proposed. This standard is not applicable.

- d. **Parking lots or roadways shall not be gated or secured excluding loading and storage areas or residential parking areas.**

Finding: The car park is not proposed to be gated. This standard is met.

Design Elements – Conclusion: With the condition to install an awning over the building entrance, these provisions are met.

D. The dispensary or retail operation may not have facilities for drive-up use.

Applicant's Response: *This business is not a home occupation nor will there be a drive-up facility.*

Finding: No drive-up facility is proposed. This standard is met.

E. The dispensary must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.

Applicant's Response: *All cannabis-related products will not be disposed of on-site but (will) be returned to Nectar's distribution center.*

Finding and Conclusion: As all cannabis-related products will be disposed of off-site at the applicant's distribution center, this criterion is met.

F. A medical marijuana dispensary may not locate within 1,000 feet from a school (public or private). A medical marijuana dispensary may not locate within 1,000 feet of another medical marijuana dispensary. Distance shall be measured property line to property line.

Applicant's Response: None.

Finding: This criterion is not applicable to a recreational cannabis retailer.

G. A recreational marijuana retailer may not locate within 1,000 feet of a school (public or private). Distances shall be measure property line to property line.

Applicant's Response: None.

Finding: Joseph Gale School at 3130 18th Avenue is the closest to the proposed retail outlet. It is located more than 1,000 feet away. This criterion is met.

IV. ALTERNATIVES

The Planning Commission has the following alternatives available:

1. Approve the application as submitted by the applicant; or
2. Approve the application with conditions; or
3. Continue deliberations to a date certain (required if the applicant wishes to submit a variance application for the south driveway); or
4. Deny this request.

V. RECOMMENDATION

Based on the information provided in the application and the findings above, staff recommends approval of the application for a conditional use permit for the proposed retail cannabis dispensary at 3331 Pacific Avenue, with the following conditions:

1. The applicant is bound to the project description and all representations made by the applicant during the application and decision-making proceeding.
2. The applicant shall comply with all applicable City building and development standards, including all dimensional standards and public works specifications, including:
 - a. Submittal of a Service Provider Letter or proof that one is not required per CWS Design and Construction (D&C) Standards §3.02.1.
 - b. Plan submittal shall meet requirements of CWS D&C Standards §2.
 - c. Applicant shall design and construct a private water quality facility per CWS D&C Standards §4.05.2.
 - d. Applicant shall submit an executed Private Storm Water Facilities Agreement, per CWS D&C Standards §2.08.2.
 - e. Applicant shall submit a drainage report to the Engineering Department which shall comply with CWS D&C Standards R&O 17-5 as specified in §2.04.2.m.
 - f. Applicant shall submit a Private Water Quality Facility Maintenance Plan which shall comply with CWS D&C Standards R&O 17-5 as specified in §2.04.2.n.
3. All defective sidewalk panels shall be brought up to standard, in compliance with FGC §151.005 *Repair of Sidewalks by Adjacent Property Owners*.
4. The south drive approach shall be removed and the curb and parkway landscaping restored, pursuant to FGC §151.068 *Discontinuance of Driveway Use*.

5. Street trees shall be installed in the Oak Street parkway in compliance with DC §10.5.120(A)(4)(a). Spacing may be adjusted to avoid conflicts with other public improvements.
6. Submit a detailed landscape plan demonstrating compliance with DC §10.8.405 *Applicability*, DC §10.8.410 *General Provisions*, DC §10.8.420 *Landscaping Requirements by Zone*, and DC §10.8.545 et. seq. *Landscaping and Screening of Parking and Loading Areas*.
7. Off-street parking shall be reduced to 12 spaces, in compliance with DC §10.8.515 *Off-Street Parking Requirements*.
8. Install an awning over the building entrance in compliance with DC §10.8.710(B)(3)(b).
9. Ongoing compliance with DC §10.8.1100 *General Standards for All Marijuana Facilities* and DC §10.8.1110 *Marijuana Retailers*.
10. Ongoing compliance with applicable state law including Oregon Revised Statutes (ORS) 457B (Cannabis Regulation) and Oregon Administrative Rules Chapter 845, Division 25 as may be amended.
11. As authorized by Oregon Administrative Rules Chapter 845, Division 25, the licensed premise is subject to inspection by authorized local government officials to determine compliance with local health and safety laws.

VI. EXHIBITS

The following exhibits were received, marked, and entered into the record as evidence for this application at the time this staff report was written. Exhibits received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

- Exhibit A** Conditional Use Permit narrative and application materials, prepared and submitted by the applicant
- Exhibit B** PowerPoint Slides

EXHIBIT 1

Conditional Use Permit Narrative And Application Materials

BAMA Architecture and Design LLC

August 09, 2018

Conditional Use Narrative

Applicant: Mildred White
BAMA Architecture and Design
7350 SE Milwaukie Ave.
Portland, OR 97202

Below is a narrative for Conditional Use Review in the City of Forest Grove for a Recreational Cannabis Dispensary located at 3331 Pacific Ave.

Review Criteria:

A. Physical Compatibility:

1. The proposed use will be compatible with adjacent developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping; or

2. The proposed use will mitigate differences in appearances or scale through setbacks, screening, landscaping, and other design features.

This proposal is to utilize an existing commercial structure for use as a recreational cannabis dispensary. The building will be modified to better fit the commercial character of the site and the area by creating an attractive and physically compatible commercial storefront and surface parking area that will meet the desired character and intent of the Pacific Avenue frontage as well as the landscaping, setbacks, and massing of adjacent properties. Neighboring properties include a drive thru restaurant, a hotel and dining venue, as well as other commercial establishments. The rear of the lot has a large open green space as well as adequate screening to separate the residential character of the residential side streets to the rear.

B. Public Services

1. The transportation system is capable of safely supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability, on-street parking impacts, access requirements, neighborhood impacts, pedestrian safety; and

2. Public services for water supply, sanitary sewer, storm water disposal, police and fire protection are capable of serving the proposed use and previously approved use.

BAMA Architecture and Design LLC

The main site frontage is located on Pacific Avenue/OR-8. The road in question has four lanes, including a protected center turn lane. The site will utilize existing driveway access from the lower classification Oak Street as to maximize pedestrian and commuter safety. There is an existing screened bus stop located on the Pacific Avenue frontage. This proposal includes upgrades to create an attractive, well lit pedestrian walkway from the front door of the dispensary to the bus stop. This proposal includes upgrades to the existing parking lot as to create screening, lighting, and striping, and design pursuant to the development code to ensure that off-street parking is minimized to the extent practical to increase the livability of the neighborhood. No increase in parking spaces is requested.

The site is an existing commercial use compatible with the neighborhood. This proposal will not assert any adverse effects to any public utilities as no increase in plumbing fixtures or other utility using elements are proposed. The proposed tenant is a well-established industry leader in providing safe and secure recreational cannabis throughout the State of Oregon with a history of meeting and exceeding state and local jurisdiction standards regarding recreational marijuana for safety of all individuals. All standards pursuant to marijuana development code will be met. The proposed tenant will also hire a third-party security company to provide continued support in meeting these standards.

C. Livability.

- 1. Noise, glare from lights, late night operations, odors, and litter; and*
- 2. Privacy and safety issues.*

The proposed use will not decrease the livability of the site or area. The site will be well lit to the standards of the development code. The site will also maintain hours of operation pursuant to state law which will eliminate any late-night operations. The site will be properly maintained, and the site regularly cleaned as to minimize any possible litter. Mandated carbon filters will be installed as well as 'No Smoking' signs, ensuring that odor is mitigated to the extent practical. All site and building lighting will be installed so that it will minimize glare. All site lighting will be bollard lighting, no pole lighting is proposed. Third party security will minimize any safety issues.



MARIJUANA STANDARDS

Code 10.8.1100

**3331 Pacific Avenue
Forest Grove, 97116**

- A. The application shall demonstrate compliance with the locational requirements of ORS 475B and must maintain State certification at all times.**

Nectar understands:

- Hours of Operation (will not be open between 10 pm and 8 am)
- Products sold will be enclosed in a bag with an OLCC card outlining safety requirements for minors
- A City Business License is required
- Entrance and parking areas will be well lit
- This business is not a home occupation nor will there be a drive-up facility

- B. Marijuana-related activities are prohibited on publicly-owned lands.**

This is understood.

- C. Entrances and off-street parking areas shall be well-lit and not visually obscured from public view / right-of-way. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances. Interior building lighting, exterior building lighting and parking area lighting shall be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual at a distance of no less than forty (40) feet. Exterior lighting shall be provided in accordance with required security measures and shall be continuously maintained.**

All parking areas will be well-lit, the landscaping will be maintained, and interior lighting will be sufficiently bright as well as exterior lighting. All this will be in place for final inspection.

- D. The facility must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.**

All cannabis related products will not be disposed of on site but returned to Nectar's distribution center.

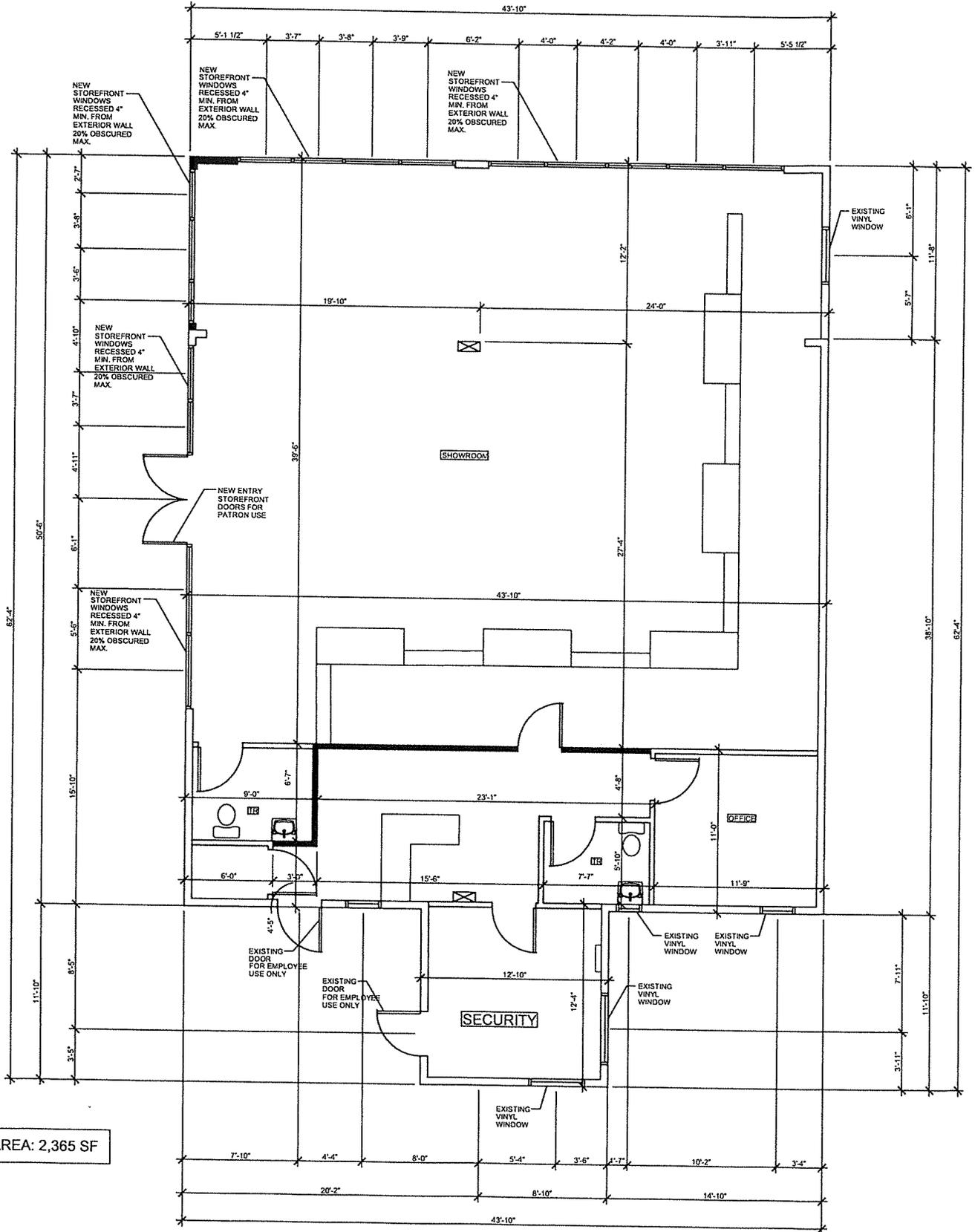
- E. All hazardous materials shall be stored and processed in a manner approved by the City Fire Marshal. Hazardous waste shall be disposed of properly through a properly licensed solid waste disposal or recycling facility.**

We not anticipate having any hazardous material on site.

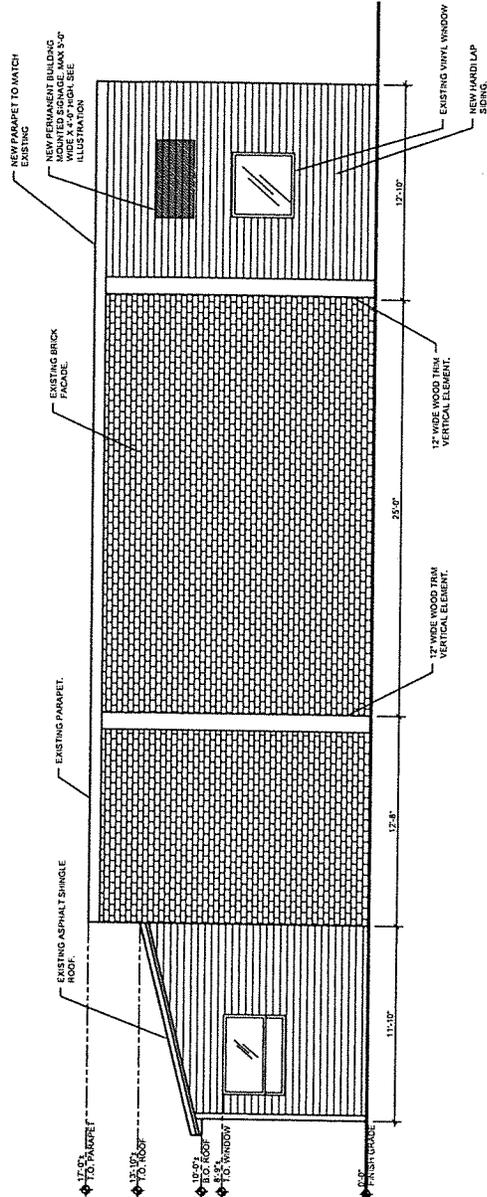
- F. A pre-application conference and conditional use approval (§10.1.200 et. seq.) is required for any marijuana producer, processor, wholesaler, or testing laboratory. A neighborhood meeting may be required as part of the pre-application process pursuant to §10.1.220 et. seq.**

If deemed necessary, a pre-application conference application is attached.

- G. The City shall not issue any other permit for development until final Conditional Use approval has been granted.**
- H. Any person or property in violation of §10.8.1100 et. seq. is subject to abatement and assessment by the City under the abatement procedures of Municipal Code §5.270 through 5.290.**

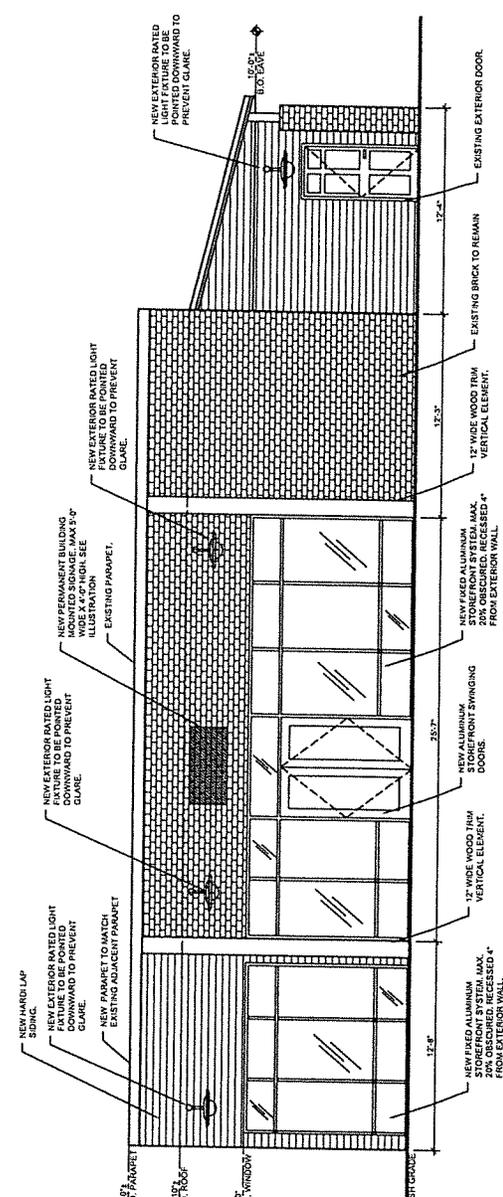


TOTAL FLOOR AREA: 2,365 SF

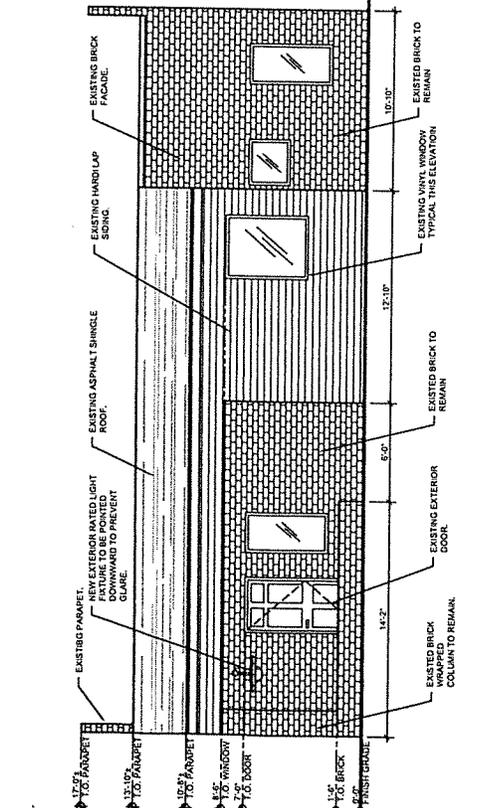


2 WEST ELEVATION
SCALE: 1/4" = 1'-0"

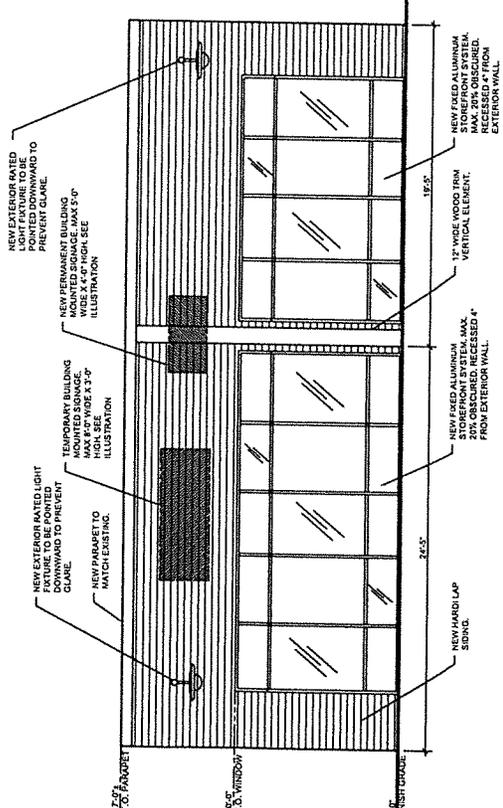
FRONT FACADE WALL AREA: 741 SF
EXISTING FRONT DOOR GLAZING: 55 SF
STORE FRONT DOOR GLAZING: 55 SF



4 EAST ELEVATION
SCALE: 1/4" = 1'-0"

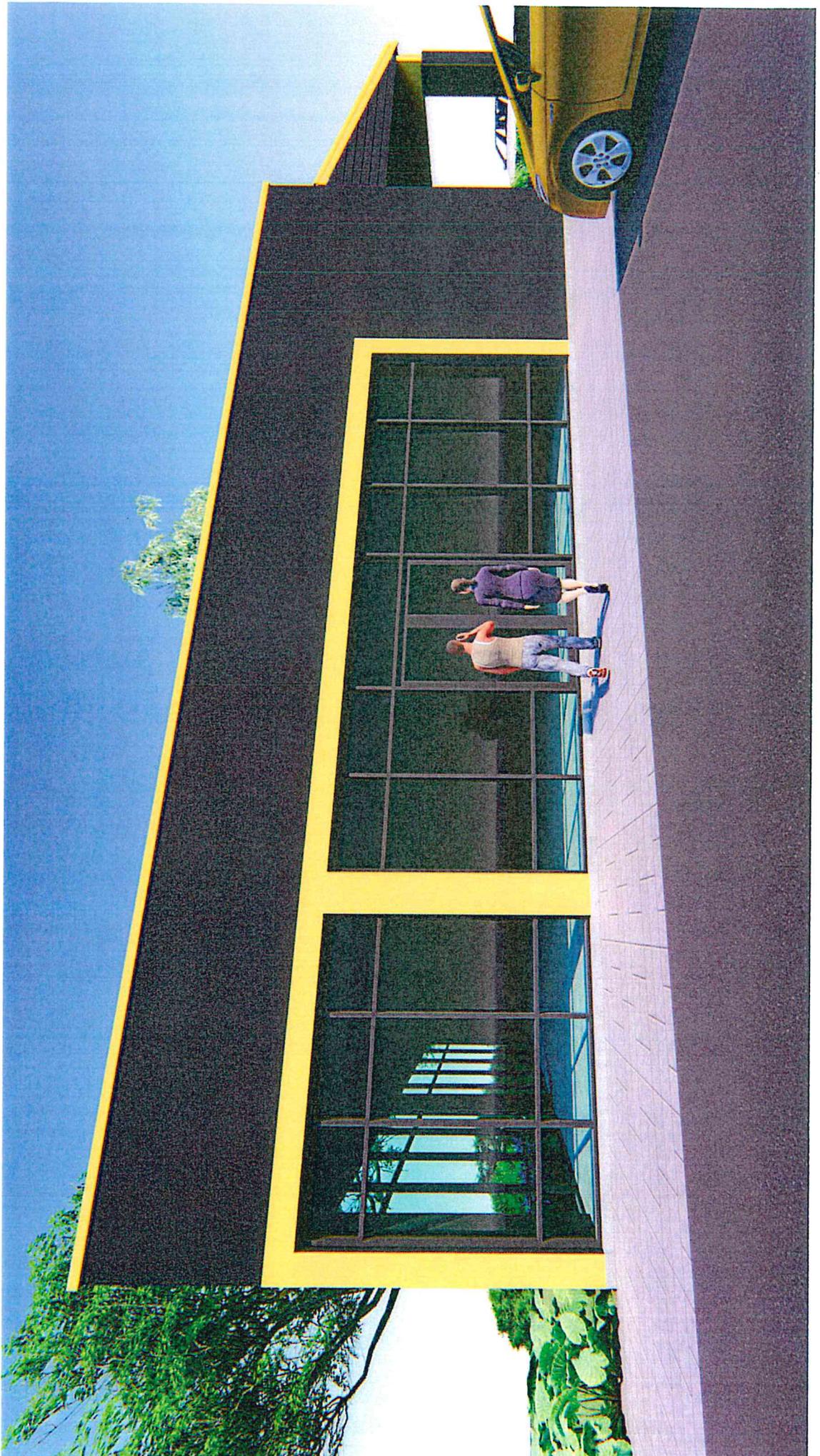


1 NORTH ELEVATION
SCALE: 1/4" = 1'-0"

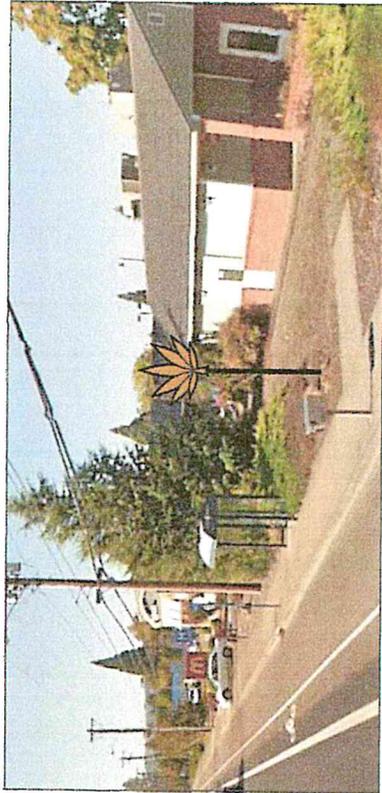


3 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



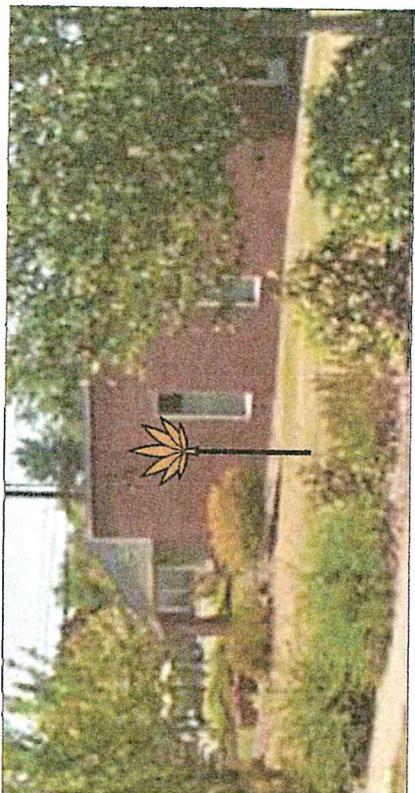






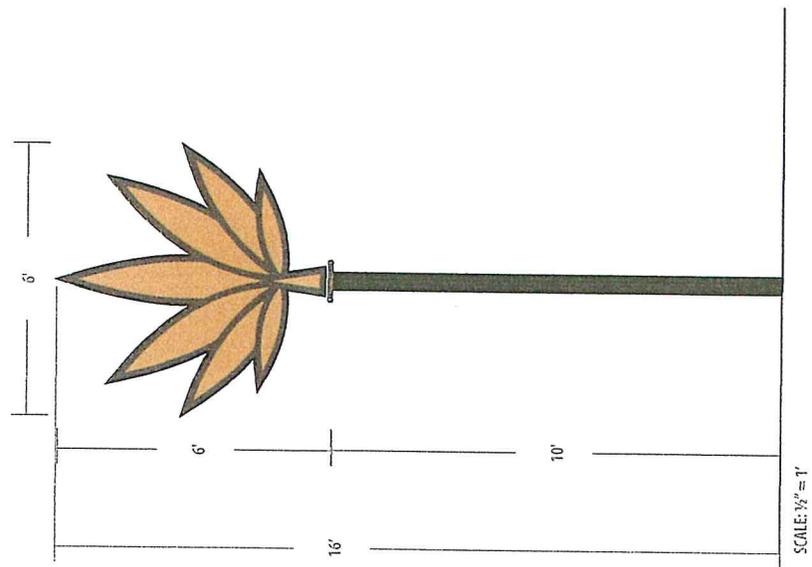
PACIFIC AVE ELEVATION

SCALE: 3/32" = 1'



OAK ST ELEVATION

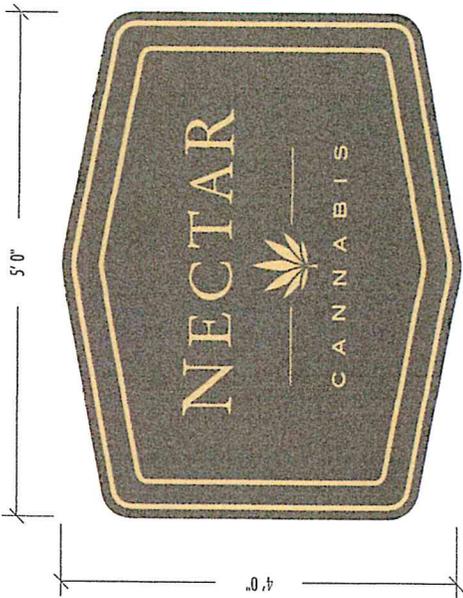
SCALE: 3/32" = 1'



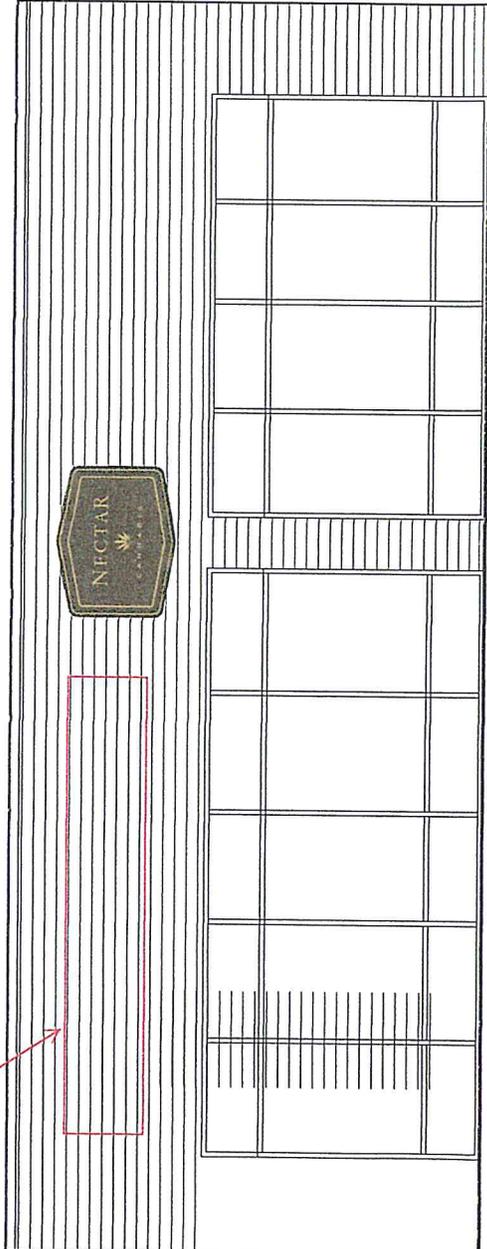
SCALE: 3/32" = 1'

 4051 W. 1st Ave. Eugene, OR 97405 (541)-484-1482	Project: Nectar Cannabis Forest Grove	Scale: NOTED	J/O# xxxxxx	Designer: D. Cullane	Sales Rep: MD	Date: 8.8.2018
	IMAGE KING SIGNS					

SOUTH ELEVATION -



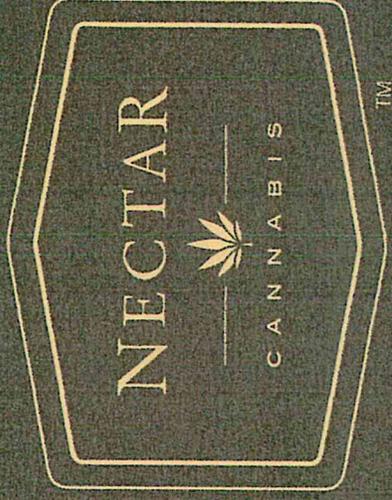
TEMPORARY
BANNER
LOCATION



TEMPORAY BANNER - BEFORE OPENING
8'-0" LONG X 3'-0" TALL
MOUNTED ON SOUTH BUILDING FACE

NOW OPEN!

7 AM - 10 PM • NECTARPDX.COM



TEMPORAY BANNER - BEFORE OPENING
8'-0" LONG X 3'-0" TALL
MOUNTED ON SOUTH BUILDING FACE

OPENING SOON!

7 AM - 10 PM • NECTARPDX.COM

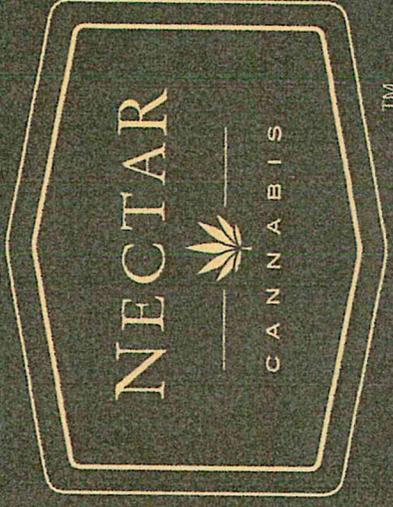
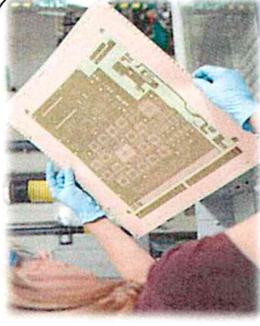


EXHIBIT 2

PowerPoint Slides



PLANNING COMMISSION MEETING

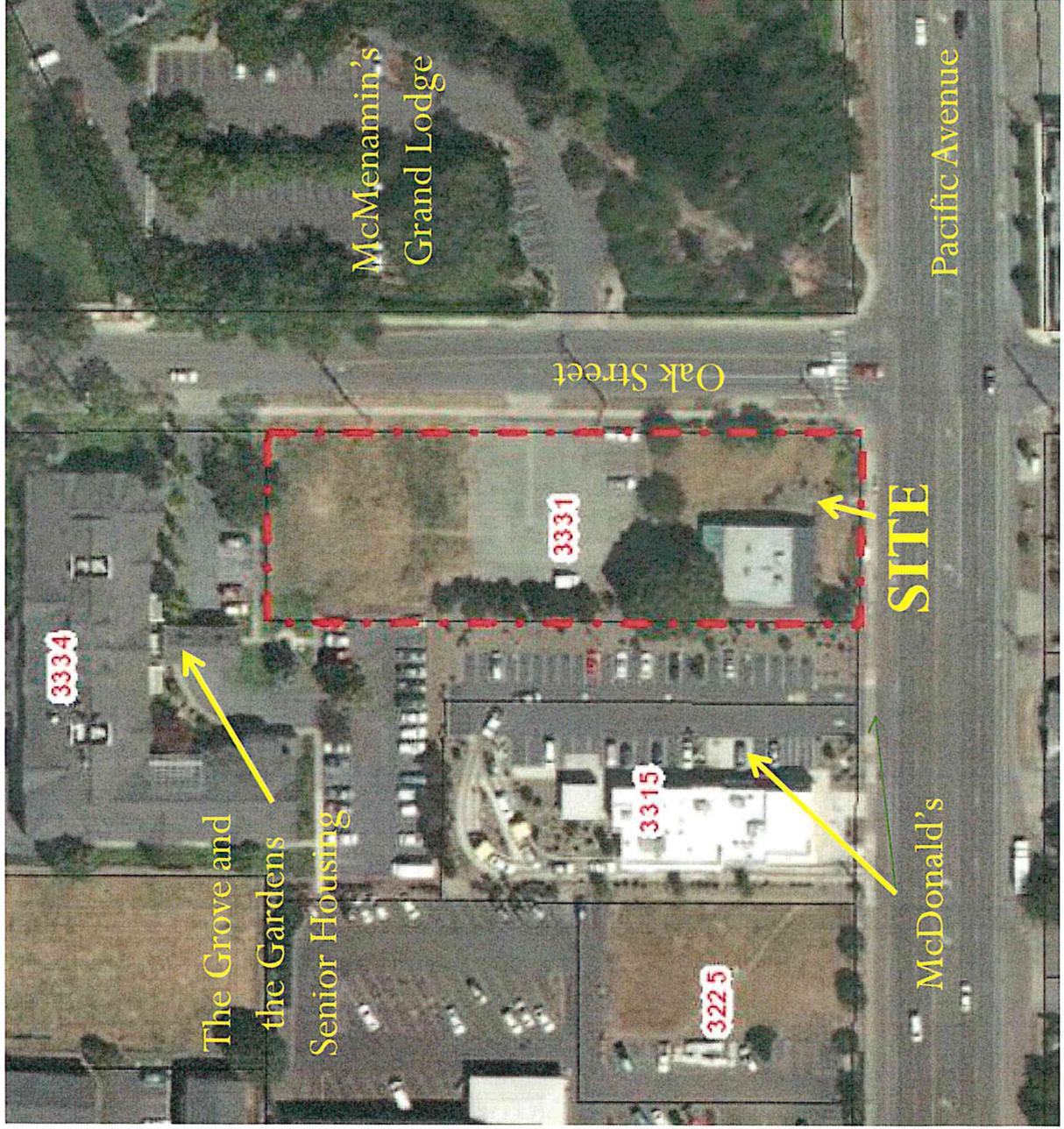
September 17, 2018

NECTAR RECREATIONAL CANNABIS DISPENSARY CONDITIONAL USE PERMIT

James Reitz (AICP), Senior Planner

A place where families and businesses thrive.

Aerial View - Neighborhood



Aerial View - Site



A place where families and businesses thrive.

Site View

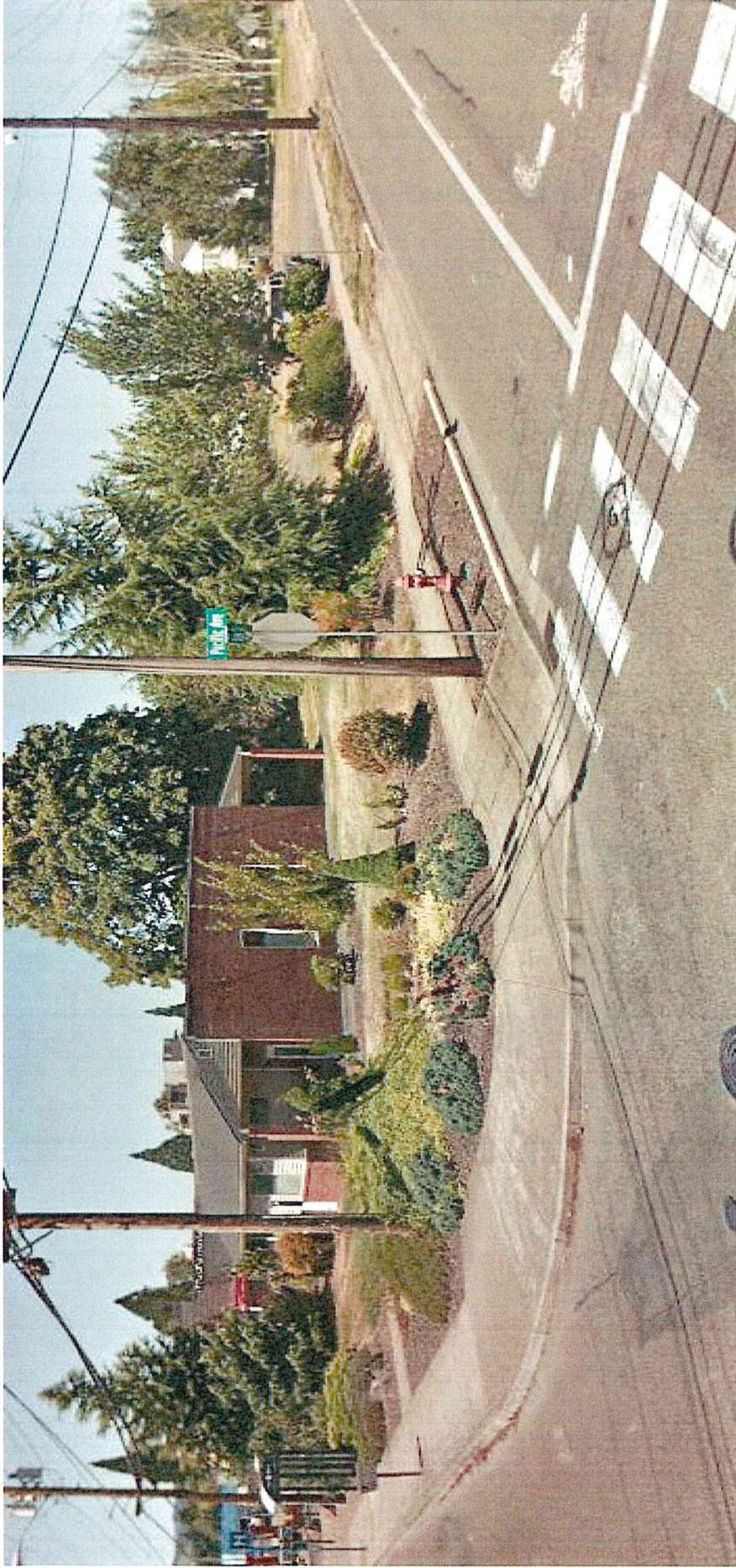
Pacific Avenue Frontage



A place where families and businesses thrive.

Site View

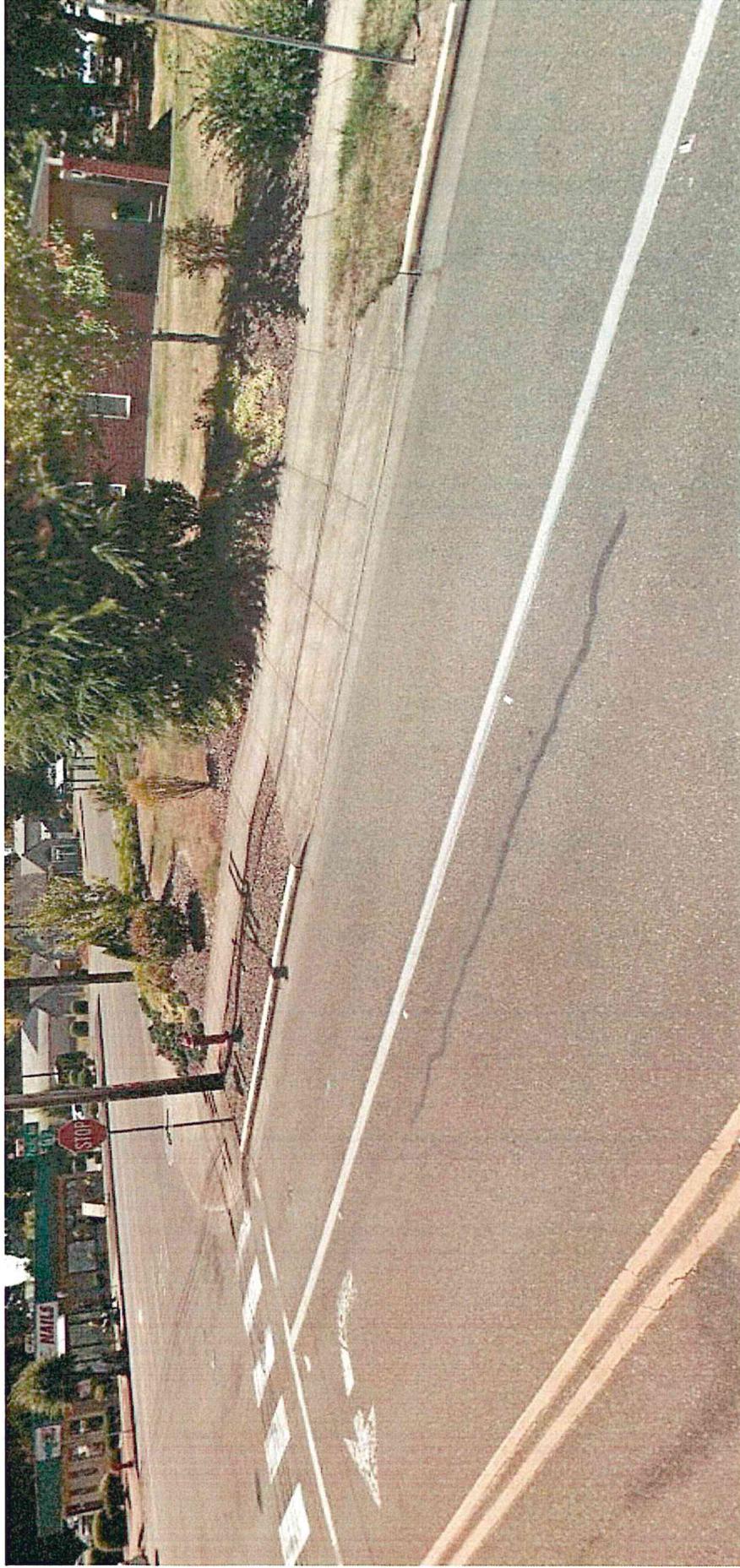
Pacific Avenue / Oak Street Intersection



A place where families and businesses thrive.

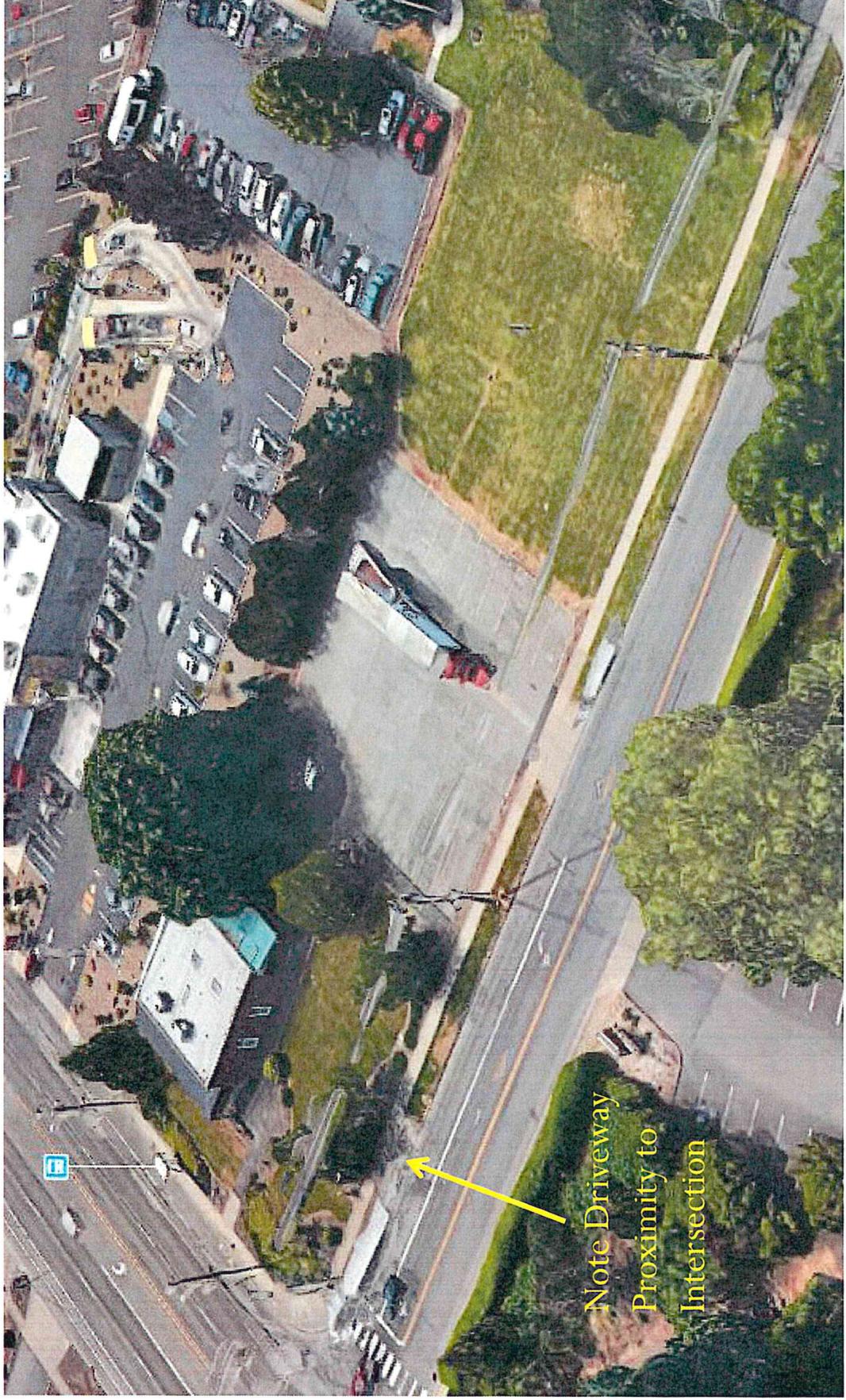
Site View

Pacific Avenue / Oak Street Intersection – Note Driveway Location



A place where families and businesses thrive.

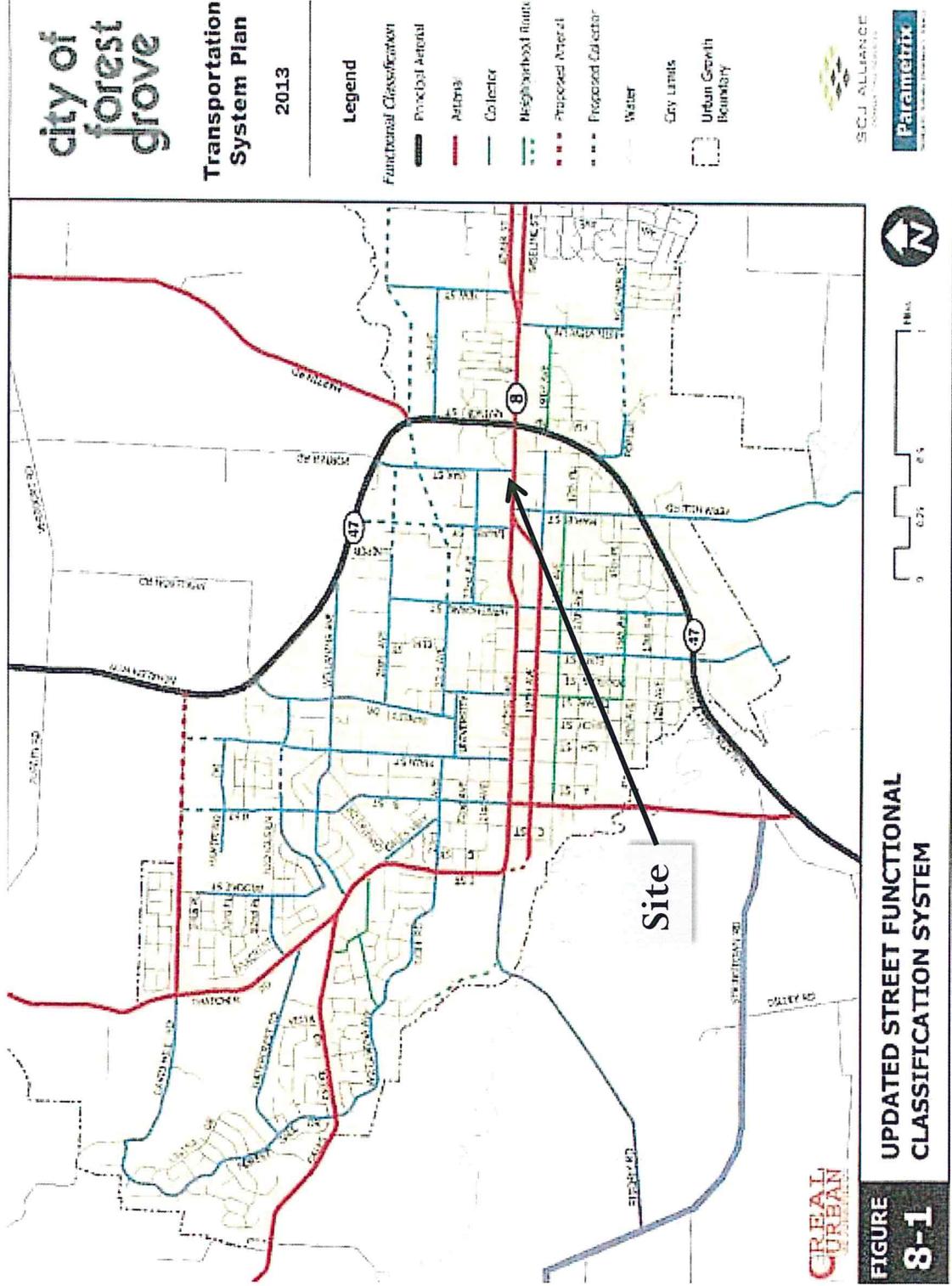
Oblique Site View



Note Driveway
Proximity to
Intersection

A place where families and businesses thrive.

TSP Figure 8-1



A place where families and businesses thrive.

Architectural Rendering

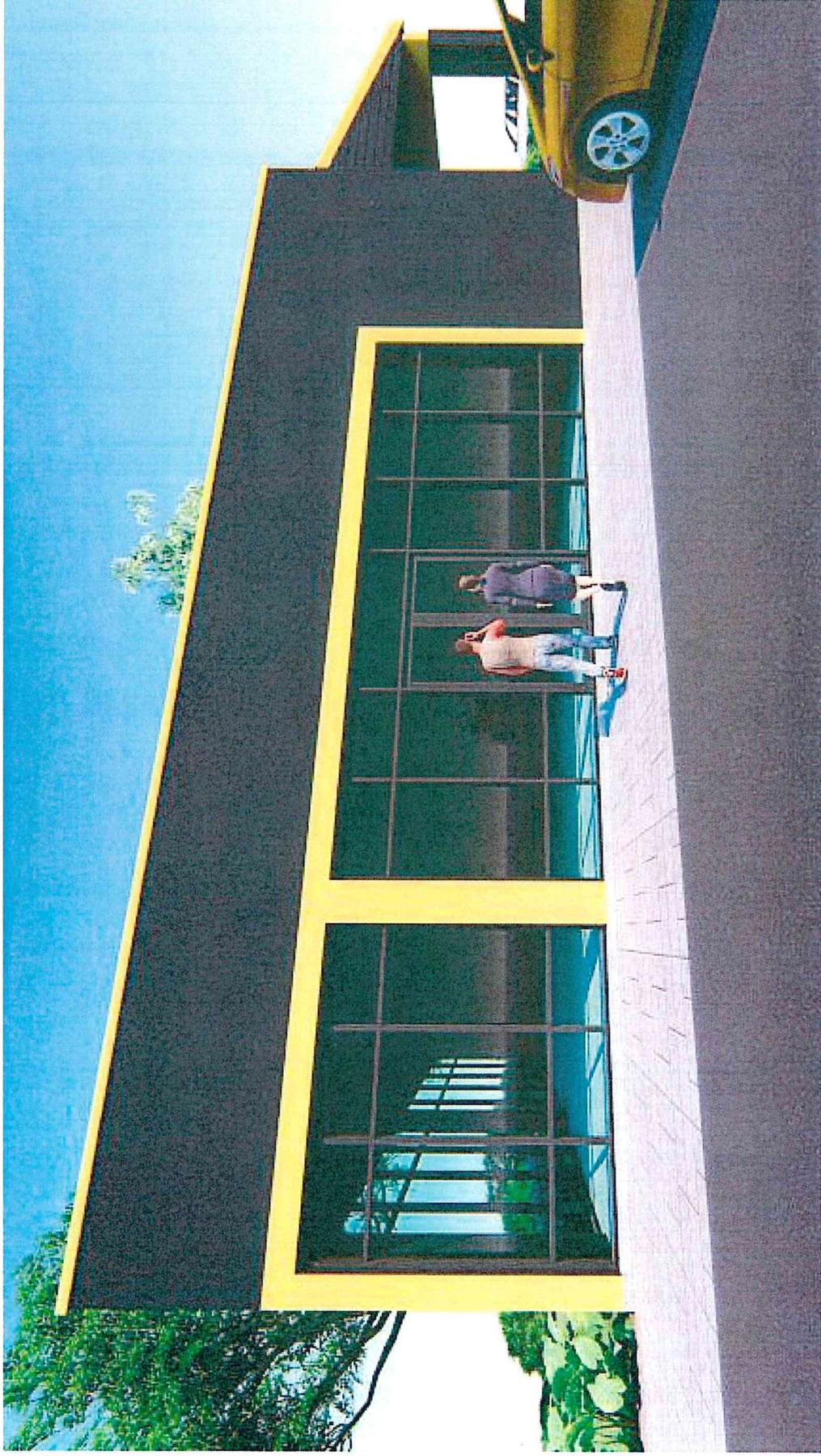
Pacific Avenue and Oak Street Facades



A place where families and businesses thrive.

Architectural Rendering

Oak Street Facade



A place where families and businesses thrive.

Architectural Rendering

View South From Car Park



A place where families and businesses thrive.

Recommendation

In addition to the standard conditions for site review and retail cannabis dispensaries noted in the staff report (pp. 17-18 Conditions 1-2 and 9-11), staff recommends approval of the conditional use permit for Nectar Cannabis with these conditions:

- All defective sidewalk panels shall be brought up to standard.
- The south drive approach shall be removed and the curb and parkway landscaping restored.
- Street trees shall be installed in the Oak Street parkway. Spacing may be adjusted to avoid conflicts with other public improvements.
- Submit a detailed landscape plan.
- Off-street parking shall be reduced to 12 spaces.
- Install an awning over the building's entrance.