

# Mono County Community Development Department

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## Planning Division

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**REVISED (changes in red)**

May 16, 2019

To: Mono County Planning Commission  
From: Bentley Regehr, Planning Analyst  
Re: Use Permit 19-006 / Tioga Green Cannabis Retail

### Recommendation

It is recommended the Planning Commission take the following actions:

1. Revoke Use Permit 34-06-05 for a drive-through restaurant;
2. Find that the project qualifies as a Categorical Exemption under CEQA guideline 15303 and instruct staff to file a Notice of Exemption;
3. Make the required findings as contained in the project staff report; and
4. Approve Use Permit 19-006 subject to Conditions of Approval.

### Project Overview

The project proposes to convert an existing vacant 690-square foot building into a commercial cannabis retail use. The proposal is located at 51005 Highway 395 south of the Lee Vining commercial core and gains access from Utility Road. Modifications to the property include interior remodeling of the existing structure, the addition of a storage shed, new signage, and paving and lighting for the parking area.

All applications for commercial cannabis activity must be approved through a Conditional Use Permit (CUP) process. A CUP for retail cannabis must demonstrate adequate plans for site control, setbacks, odor control, signage, visual screening, lighting, parking, and noise.

The parcel was previously approved for a drive-through restaurant via Use Permit 34-06-05. All conditions and approvals related to Use Permit 34-06-05 are to be revoked with the approval of Use Permit 19-006.

The project qualifies for a Class 3 CEQA exemption (CEQA Guidelines, 15303), as it involves the conversion of a small structure without expansion of the building footprint.

### Project Setting

The project is located at 51005 Highway 395 (APN 021-080-022) in Lee Vining. The majority of parcels along the Highway 395 corridor through Lee Vining are designated commercial. The

land immediately surrounding the parcel is owned by Southern California Edison, including the power facility directly across Highway 395. The nearest residential land use designation is over 2,000 feet away. Access to the business is gained off Utility Road.

**Figure 1: Location of parcel, 51005 Highway 395, Lee Vining**



*Parcel location highlighted in blue*

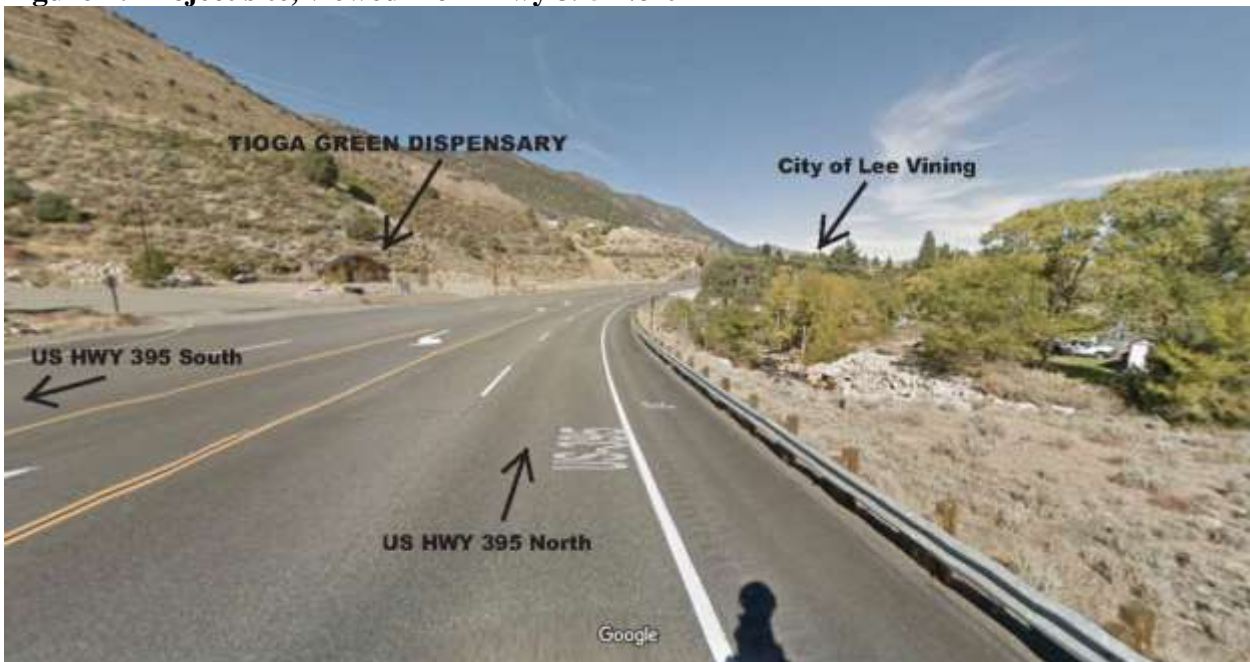
**Figure 2: Project location and surrounding land use designations**



**Figure 3: Existing structure, looking south**



**Figure 4: Project site, viewed from Hwy 395 North**





**Figure 5: Project site, as viewed from Hwy 395 South**



## **General Plan Consistency**

The General Plan Land Use Designation for this property is Commercial (C). According to the Mono County General Plan, “the ‘C’ designation is intended to provide for a wide range of uses and service for the resident and visitor including retail, business and professional uses and services in community areas....” Permitted uses subject to a use permit under the Commercial land use designation include retail trade, services, and business services. The proposed development is also consistent with Mono Basin Community Plan policies contained in the Mono County General Plan Land Use Element.

## **Mono County Land Use Element, Countywide Land Use Policies**

**Objective 1.L:** Provide for commercial cannabis activities in Mono County in a way that protects public health, safety, and welfare while also taking advantage of new business and economic development activities.

Policy 1.L.3: Avoid, reduce, and prevent potential issues specific to commercial cannabis activities that may adversely affect communities.

Policy 1.L.4: In recognition of the potential economic benefits of this new industry, encourage the responsible establishment and operation of commercial cannabis activities.

The Use Permit and Operation Permit processes evaluate and attempt to reduce potential issues specific to cannabis. A responsible cannabis establishment has the potential to enhance and diversify the Lee Vining economy.

**Objective D:** Provide for commercial development to serve both residents and visitors.

Policy 1: Concentrate commercial development within existing communities.

**Action 1.1:** Designate a sufficient amount of commercial land within communities to serve the needs of residents and visitors.

The proposal provides a commercial operation unique to the Mono Basin planning area that serves both residents and visitors. The project is located within close proximity to the Lee Vining commercial core.

## **Mono Basin Community Plan**

**Goal 2:** Grow a sustainable local economy with diverse job opportunities that offers year-round employment and wages that reflect the cost of living in the area.

**Objective A:** Plan for a diversified, sustainable economy.

Policy 1: Achieve a more-diversified economy and employment base consistent with the small-town, rural nature of the Mono Basin.

**Objective C:** Diversify the existing economic base and employment opportunities to achieve a more sustainable economy.

Policy 2: Encourage and support new business development and entrepreneurial efforts that contribute to a mix of uses and services, and a wider range of employment opportunities.

Policy 5: Support the revitalization of Main Street.

**Action 5.2:** Explore options for encouraging and facilitating the use of vacant commercial space for new businesses.

Policy 7: Encourage businesses and services to remain open year round

The proposal takes advantage of an existing vacant commercial space along the Lee Vining Main Street corridor. The project contributes to a more diverse economy for the Mono Basin and offers additional year-round employment.

## **Use Permit Findings**

In accordance with Mono County General Plan, Chapter 32, Processing-Use Permits, the Planning Commission may issue a Use Permit after making certain findings.

Section 32.010, Required Findings:

1. *All applicable provisions of the Mono County General Plan are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features because:*
  - a) Cannabis retail is permitted in commercial designations, subject to Use Permit under Chapter 13, Cannabis Regulations.

- b) Adequate site area exists for the proposed use. The project proposes no physical expansion of the main structure and the addition of a 10' x 10' shed does not restrict use of the property. The shed meets all setback requirements.
  - c) The site provides adequate parking. The retail area requires one space for every 200 square feet of gross leasable area and warehouse space requires one space for every 1,000 square feet of gross floor area. The retail area does not exceed 400 square feet and storage does not exceed 1,000 square feet, meaning at least three spaces and a loading area is required. As shown on the site plan (see Attachment 1), the project proposes four spaces, including one ADA space, and a loading area. Improvements to the existing parking area include paving, lighting, and the addition of a curb-feature to ensure all stormwater drains to the on-site detention basin.
  - d) The location of the proposed project is consistent with the Mono Basin Community Plan's intent of concentrating resident- and visitor-oriented services in close proximity to the Lee Vining commercial core.
2. *The site for the proposed use related to streets and highways is adequate in width and type to carry the quantity and kind of traffic generated by the proposed use because:*
- a) The parcel is accessed by Utility Road and is adequate for the kind of traffic generated by the proposed use. Parking is sufficient for employees and visitors.
  - b) All construction will occur within the parcel boundaries and will not interfere with the Highway 395 right of way.
3. *The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located because:*
- a) The proposed use is not expected to cause significant environmental impacts. There will be no expansion of the existing building. Paving and the addition of a storage shed will occur on previously disturbed areas.
  - b) The proposed project is a conforming use according to the Mono County General Plan's Land Use Element. The use permit process provides the public the opportunity to comment on the proposal. Public noticing was provided in The Mammoth Times and The Sheet (see attachment 2) and mailed to property owners within 300 feet of the site. No comments have been received.
4. *The proposed use is consistent with the map and text of the Mono County General Plan because:*
- a) Retail cannabis operations are permitted in commercial land use designations, given they meet the criteria set forth by Chapter 13, MCC 5.60, and state licensing.
  - b) The project is located within the Mono Basin Planning Area. The Mono Basin Community Plan encourages providing a wide range of commercial uses and services for residents and visitors. The project provides an unfilled service for residents and visitors of Lee Vining.

## Compliance with Mono County General Plan Chapter 13, Cannabis Regulations

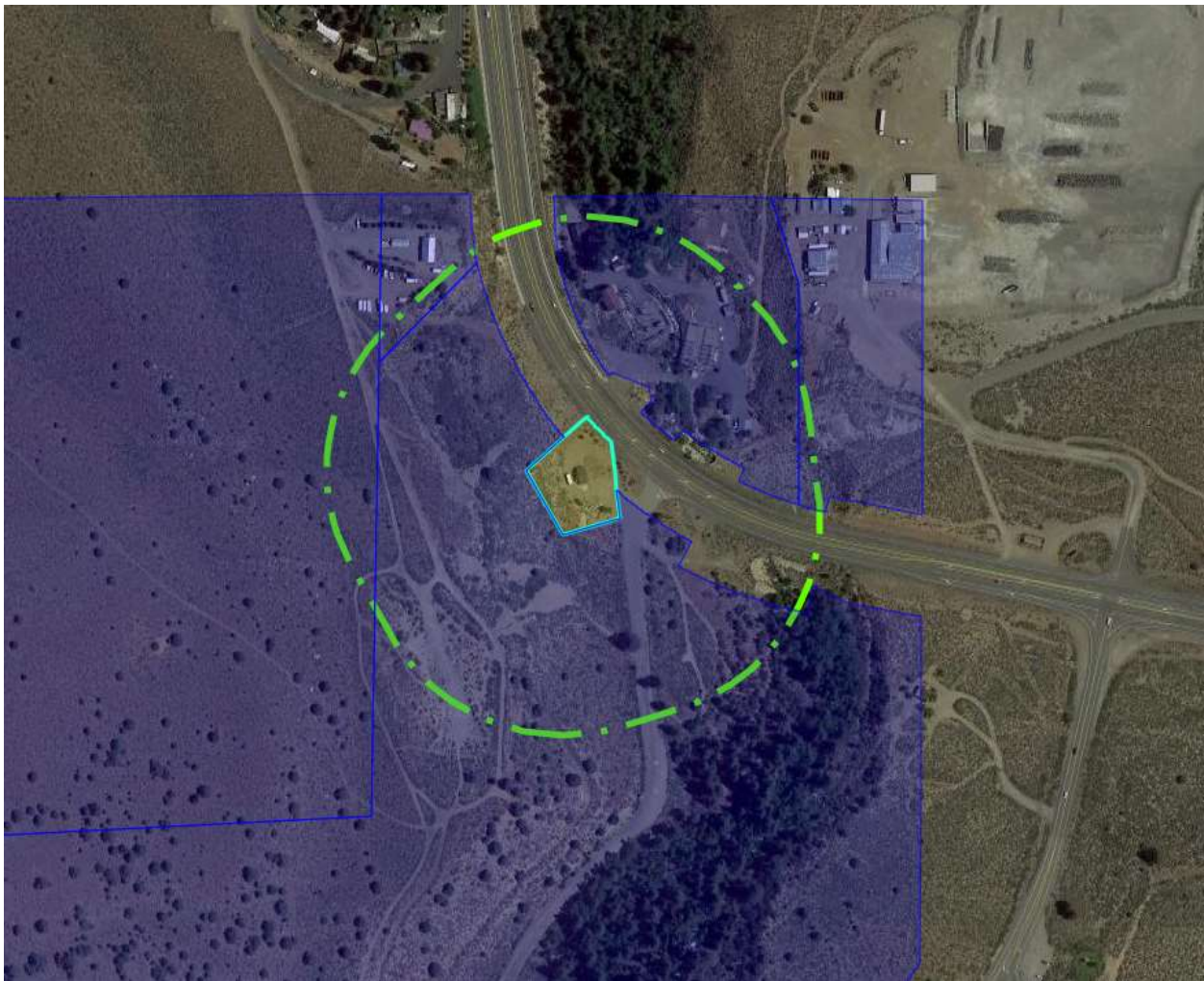
In addition to General Plan policies and regulations, commercial cannabis activities shall comply with Chapter 13. The following general standards and requirements apply to all commercial cannabis activities permitted in the county:

### 13.070.C. Site control

*No commercial cannabis activity shall be allowed within six hundred (600) feet of schools providing instruction to kindergarten or any grades 1 through 12, day care or youth centers, parks, ballfields, playgrounds, libraries, community centers, and licensed child care facilities.*

None of the above-mentioned facilities are located within 600 feet of the site. Lee Vining Elementary is approximately 1,400 feet from the project site. Lee Vining High School, Library, and Community Center are all at least 3,000 feet from the site.

**Figure 6: 600 ft. radius around project location**



### **13.070.D. Setbacks**

*All commercial cannabis activities shall meet existing setbacks established in General Plan Chapter 4 – Land Use Designations and 4.120 Yards and Setbacks.*

The structure currently meets setback standards for commercial designations (10' front, 5' rear, 0' side) and the proposal does not include expansion of the building footprint (see attachment 1: site plan). The proposed storage shed also meets setback standards.

Freestanding signs will, at a minimum, meet the five-foot required setback. Sign setbacks will likely be greater to accommodate snow removal services.

### **13.070.E. Odor control**

*An odor mitigation plan is required to demonstrate that odors generated by the commercial cannabis activity shall not unreasonably impact adjacent properties and uses, or that odor mitigation measures are not applicable due to lack of cannabis-related odor generation, location or siting, design features, or other factors.*

The project is for retail only with no associated growing operation. The store will only sell pre-packaged products from licensed distributors. Consumption of products, including smoking or use of vaporized concentrated products is prohibited on-site. Odor mitigation measures are not applicable due to lack of cannabis-related odor generation.

### **13.070.F. Signage**

*A Sign Plan shall be required to demonstrate compliance with General Plan Land Development Regulations, Chapter 4.190 Signs, and Chapter 7 Signs.*

The project proposes the addition of three signs – one attached to the building and two freestanding at the property line located along Highway 395. All signs will be 25 square feet, be constructed out of wood, and have the same design (Figure 9). All signs will not contain any depictions of cannabis. Attached signs may occupy one square foot for each two lineal feet of business frontage upon which the sign is located (General Plan, 07.030.A.). With a business frontage of 190 feet, the building is allowed as sign of up to 95 square feet.

The two freestanding signs will be located at the northeast and southeast corners of the parcel along Highway 395. Freestanding signs may occupy one square foot for every three lineal feet of street frontage (General Plan, 07.030.C.), meaning the combined area of the freestanding signs may not exceed 95 square feet. Also, in accordance with 07.030.C., the signs will not exceed 20 feet in height and will have a minimum setback of five feet.



**Figure 7: Proposed location of freestanding signs**



**Figure 8: Location and approximate size of proposed attached sign.**



**Figure 9: Proposed sign design. All three signs are 25 square feet each and have the same design.**



### **13.070.G. Visual screening**

*All Cannabis, Cannabis Products and Cannabis Accessories shall be screened from view from a public right of way to the best of the Permittee's ability.*

The proposal states that the interior layout will not allow for any cannabis products to be visible from the street and no cannabis products will be placed in the existing display window.

### **13.070.H. Lighting**

*All commercial cannabis activities shall comply with General Plan Land Use Element Chapter 23 – Dark Sky Regulations regardless of activity type or Premise location.*

Lighting for Tioga Green will conform with Chapter 23, Dark Sky Regulations. The project will install directional lighting with shielding for signage, walkways, and the building exterior.

Lighting is shown in the attached site plan (Attachment 1).

### **13.070.I. Parking**

*A Parking Plan depicting availability and requirements for parking shall be submitted. The Plan shall demonstrate the provision of adequate on-site parking for all employees and allow for loading and unloading.*

The site provides adequate parking (see Attachment 1: Site Plan). The retail area requires one space for every 200 square feet of gross leasable area and warehouse space requires one space for every 1,000 square feet of gross floor area. The retail area does not exceed 400 square feet and storage does not exceed 1,000 square feet, meaning at least three spaces and a loading area is required. The project proposes **four spaces**, including **one** ADA space, and a loading area.

Improvements to the existing parking area include paving, lighting, and the addition of a curb-feature to ensure all stormwater drains to the on-site detention basin.

### **13.070.J. Noise**

*Noise generation shall comply with the Mono County General Plan Noise Element and Mono County Code, Chapter 10.16.*

The project is not expected to generate noise beyond that of similar commercial operations in the Lee Vining commercial core.

## **Environmental Review**

The project qualifies for a categorical exemption from the provisions of CEQA as the project is considered a Class 3 – Conversion of Small Structure (CEQA Guidelines, 15303). A Class 3 exemption consists of construction and location of limited number of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Class 3 categorical exemptions specifically include stores, motels, offices, restaurants or similar structures not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. The project proposes no expansion to the building footprint or modifications to the exterior of the structure. The retail use is consistent with current and historical uses for the property.

### **Attachments**

Attachment 1 – Site Plan

Attachment 2 – Noticing

# MONO COUNTY

## Planning Division

### DRAFT NOTICE OF DECISION & USE PERMIT

**USE PERMIT:** 19-006

**APPLICANT:** Cory Zila

**ASSESSOR PARCEL NUMBER:** 021-080-022

**PROJECT TITLE:** Tioga Green Cannabis Retail

**PROJECT LOCATION:** 51005 Highway 395, Lee Vining, CA

#### CONDITIONS OF APPROVAL

See attached Conditions of Approval

ANY AFFECTED PERSON, INCLUDING THE APPLICANT, NOT SATISFIED WITH THE DECISION OF THE COMMISSION, MAY WITHIN TEN (10) DAYS OF THE EFFECTIVE DATE OF THE DECISION, SUBMIT AN APPEAL IN WRITING TO THE MONO COUNTY BOARD OF SUPERVISORS.

THE APPEAL SHALL INCLUDE THE APPELLANT'S INTEREST IN THE SUBJECT PROPERTY, THE DECISION OR ACTION APPEALED, SPECIFIC REASONS WHY THE APPELLANT BELIEVES THE DECISION APPEALED SHOULD NOT BE UPHeld AND SHALL BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

#### DATE OF DECISION/USE PERMIT APPROVAL: EFFECTIVE DATE USE PERMIT

This Use Permit shall become null and void in the event of failure to exercise the rights of the permit within one (1) year from the date of approval unless an extension is applied for at least 60 days prior to the expiration date.

Ongoing compliance with the above conditions is mandatory. Failure to comply constitutes grounds for revocation and the institution of proceedings to enjoin the subject use.

#### MONO COUNTY PLANNING COMMISSION

**DATED:** May 16, 2019

cc: X Applicant  
X Public Works  
X Building  
X Compliance



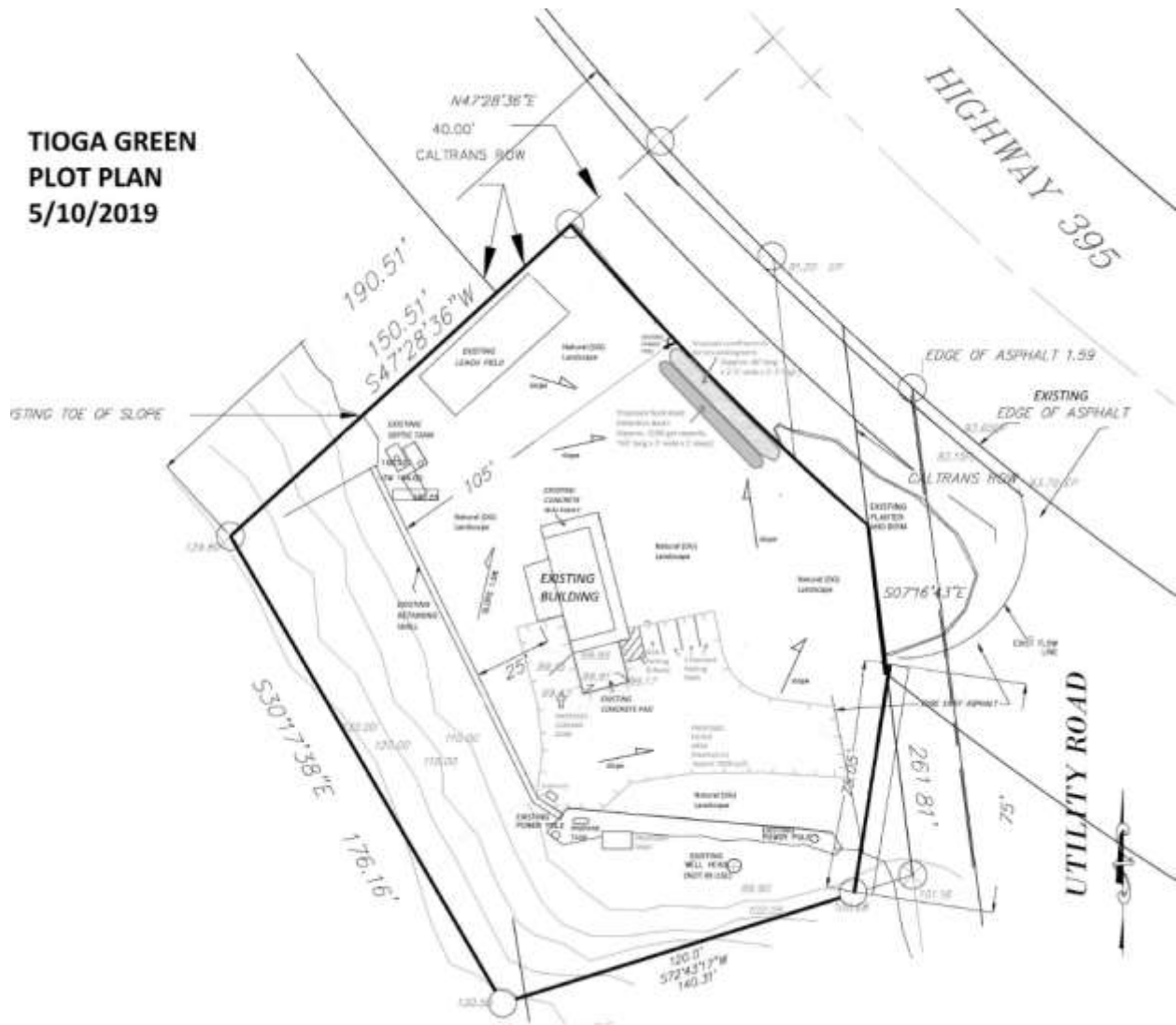
**Conditions of Approval:**  
**Use Permit 19-006/Tioga Green Cannabis Retail**

- 1) All development shall meet requirements of the Mono County General Plan, Mono County Code, and project conditions.
- 2) Project shall comply with Chapter 13, Cannabis Regulations.
- 3) Project shall obtain a Mono County Operation Permit prior to use.
- 4) The project shall be in substantial compliance with the site plan as shown on Attachment 1 found in the staff report.
- 5) Construction for the project shall be contained within the boundaries of the parcel. All construction activities within the Highway 395 right-of-way must obtain an encroachment permit from Caltrans.
- 6) A curb or similar feature shall border the paved parking area to ensure all stormwater drains to the on-site detention basin.
- 7) Freestanding signs shall have a setback exceeding the five foot minimum standard in order to accommodate snow removal services.
- 8) Signage shall reflect the dimensions and design shown in the staff report. Any expansion or relocation of signs must be approved by the Planning Commission. Changes in copy are subject to the Operation Permit.
- 9) Exterior of the building and accessory shed shall follow Mono County Design Guidelines, including the use of earth tones and non-reflective materials.
- 10) Project shall provide at least three 10' x 20' parking spaces and a loading area.
- 11) All exterior lighting shall be shielded and directed downward to comply with Chapter 23, Dark Sky Regulations.
- 12) On-site consumption of cannabis products is prohibited.
- 13) There shall be no expansion of cannabis uses without approval from the Mono County Planning Commission.
- 14) Applicant shall obtain operation permit, cannabis state license, business license, and all other required approvals prior to operation.
- 15) Project is required to comply with any requirements of the Lee Vining Fire Protection District. The applicant shall provide a "will serve" letter from the Lee Vining Fire Protection District indicating the FPD will provide service to the project.

- 16) Project is required to comply with any requirements of the Lee Vining Public Utility District. Applicant shall gain approval for service through the PUD and the Local Agency Formation Commission (LAFCO) prior to approval of a Mono County Cannabis Operation Permit.
- 17) Project shall comply with all Mono County Building Division, Public Works, and Environmental Health requirements.
- 18) Project shall comply with all conditions in Use Permit 19-006. Use Permit 34-06-05 is revoked.
- 19) If any of these conditions are violated, this permit and all rights hereunder may be revoked in accordance with Section 32.080 of the Mono County General Plan, Land Development Regulations.

**Attachment 1 – Site Plan**

**TIOGA GREEN  
PLOT PLAN  
5/10/2019**



**Attachment 2 - Noticing**

MONO COUNTY  
PLANNING COMMISSION

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Mammoth Lakes, CA 93546  
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Date: April 30, 2019  
To: The Sheet  
From: CD Ritter  
Re: Legal Notice for the **May 4** issue.  
Invoice: Cara Isaac, PO Box 347, Mammoth Lakes, CA 93546

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**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that Mono County Planning Commission will conduct a public hearing **May 16, 2019**, at Board of Supervisors Chambers, Mono County Courthouse, Bridgeport, CA, to consider the following: **10:10 a.m. CONDITIONAL USE PERMIT 19-002/Walker River Farms:** Proposal for a cannabis microbusiness on an Agriculture (AG-10) parcel located at 1129 Larson Lane, Coleville (APN 002-110-021). The cannabis canopy will be roughly 8,600 square feet. The entire operation consists of four buildings (20x64 feet each). Microbusiness activities include cultivation, distribution, and non-storefront retail. A CEQA 15183 exemption is proposed. **10:30 a.m. CONDITIONAL USE PERMIT 19-006/Tioga Green & REVOCATION OF CONDITIONAL USE PERMIT 34-06-05/Hebert:** Conversion of an existing vacant 690-square foot commercial building into cannabis retail and revocation of the existing use permit for a drive-through restaurant. The proposal is located at 51005 Highway 395 (APN 021-080-022) south of Lee Vining commercial core and gains access from Utility Road. Modifications to the property include interior remodel of existing structure, addition of storage shed, new signage, and paving and lighting for parking area. A Class 3 CEQA exemption is proposed. Land use designation is commercial (C). **10:50 a.m. VARIANCE & USE PERMIT/3D Housing Development:** Conditional Use Permit 18-017 proposes a five-unit housing project on the corner of Howard Avenue and Bruce Street in the community of June Lake. Each unit is approximately 800 square feet. Variance 18-001 is a request for a zero setback from the top of a bank/water course for two units and a portion of the parking area. The watercourse runs along the eastern portion of the project site. The parcel is 0.43 acres in size (APN 015-103-022) and has a land use designation of Multi-Family Residential High (MFR-H). A CEQA exemption 15183 is proposed. Project files are available for public review at the Community Development Department offices in Bridgeport and Mammoth Lakes. INTERESTED PERSONS may appear before the Planning Commission to present testimony or, prior to or at the hearing, file written correspondence with: Secretary to the Planning Commission, PO Box 347, Mammoth Lakes, CA 93546. If you challenge the proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to Secretary to the Planning Commission at, or prior to, the public hearing.

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