

**TOWN OF PARACHUTE, COLORADO
PLANNING COMMISSION
RESOLUTION NO. 2020-01-PC**

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF PARACHUTE, COLORADO RECOMMENDING THE TOWN COUNCIL APPROVE WITH CONDITIONS A SPECIAL USE PERMIT AND SITE-SPECIFIC DEVELOPMENT PLAN FOR LOT 6, BLOCK 3 OF THE PARACHUTE PARK PUD IN THE TOWN OF PARACHUTE FOR A RETAIL MARIJUANA CULTIVATION FACILITY AND MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION OPERATION.

WHEREAS, pursuant to the Parachute Municipal Code (“PMC” or “Code”), Emergent Investment Partners, LLC (the “Applicant”) submitted an application for a special use permit and site specific development plan for a retail marijuana cultivation facility (large and small) and medical marijuana optional premises cultivation operation (large and small) (the “Application”) related to property described as Lot 6, Block 3 of the Parachute Park PUD and identified by Garfield County Parcel No. 2409-123-02-006 (the “Property”);

WHEREAS, C&B Land Holdings, LLC (the “Owner”) owns the Property and authorized the Application;

WHEREAS, the Applicant is under contract to purchase the Property from the Owner;

WHEREAS, pursuant to the Review Procedures Chart (Table 1.1) at Section 15.01.220 of the Code, an application for special use permit is a two-step review process and the Planning Commission reviews an application and makes a recommendation to the Town Council;

WHEREAS, the Applicant wishes to construct a structure or structures to accommodate retail marijuana cultivation facility (large and small), retail marijuana product manufacturing facility, medical marijuana optional premises cultivation operation (large and small), medical marijuana infused products manufacturer, and retail marijuana store;

WHEREAS, the Property is zoned Service Commercial (SC) District; however, Applicant has submitted an application to rezone the Property as Limited Industrial (LI) Zone District;

WHEREAS, pursuant to Schedule of Uses contained at Section 15.02.230 of the Code, retail marijuana cultivation facility (large and small) and medical marijuana optional premises cultivation operation uses (large and small) are special uses in the Limited Industrial (LI) District;

WHEREAS, the remaining proposed uses, including a retail marijuana store, are uses by right in these zone districts; however, there is presently a moratorium on issuing any licenses for retail marijuana stores under Title 6 of the Code;

WHEREAS, pursuant Section 15.02.210.A of the Code, uses designated as special uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed use, its relationship to surrounding land uses and its impact on traffic capacities, potential environmental effects, compatibility with the neighborhood, and conformance with the comprehensive plan;

WHEREAS, pursuant to Section 15.02.210.C of the Code, in considering an application for special use, the Planning Commission and Town Council shall consider: (1) the compatibility of the use with adjacent uses and adjacent zone districts, as applicable, including the use's potential traffic generation, noise, lighting, parking requirements, and general deleterious effects on such adjacent uses and properties; (2) conformance with the comprehensive plan; and (3) the applicant's history of zoning compliance within the Town;

WHEREAS, pursuant to Section 15.02.210.D of the Code, the Town Council may impose conditions on a special use approval designed to lessen the adverse impacts, if any, of the special use, to protect the health, safety and welfare of Town residents, and to ensure compliance with all other applicable provisions of the Code;

WHEREAS, pursuant to Section 15.01.260 of the Code, a land use approval for a special use shall be 1 year; however, if, within the duration of the approval, no required subsequent application has been filed, or authorized use established or building permit or other development action taken, the approval shall expire, except, for good cause, the granting authority may grant a single extension of the approval for a time period not to exceed the amount of the initial approval's duration;

WHEREAS, pursuant to Section 15.02.210.E of the Code, the Town Council may, in its discretion, specify that the length of the special use approval: (1) be personal to the original applicant, (2) run with the original location for which the permit is approved, or (3) be otherwise transferable, upon such terms and conditions specified by the Town Council; and, in the absence of any specific findings or orders of Town Council concerning the length of an approved special use, the special use approval shall be deemed to be non-transferable and personal to the applicant;

WHEREAS, pursuant to Sections 15.01.420 and 15.01.270.F of the Code, approval of a special use pursuant to PMC Section 15.02.210 shall be considered a site specific development plan, approval of which creates a vested property right for a period of three (3) years, which may be extended where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions;

WHEREAS, a vested property right means the right to undertake and complete development and use of property under the terms and conditions of a site-specific development

plan and be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the Town;

WHEREAS, pursuant to Section 15.01.270.G of the Code, the Town may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions may, at the option of the Town Board, after public hearing, result in the forfeiture of vested property rights;

WHEREAS, the Planning Commission of the Town of Parachute reviewed the Application at a public meeting, finds the Application in conformance with the review criteria set forth in Section 15.02.210.C as it relates to the retail marijuana cultivation facility (large and small) and medical marijuana optional premises cultivation operation (large and small) uses and recommends the Town Council approve of the Application for a special use permit for retail marijuana cultivation facility (large and small) and medical marijuana optional premises cultivation operation (large and small), subject to the conditions set forth in **Exhibit A**, which is incorporated herein (the "Conditions").

NOW THEREFORE, BE IT RESOLVED, BY THE PLANNING COMMISSION OF THE TOWN OF PARACHUTE, COLORADO THAT:

Section 1. Recitals. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Recommendations.

- a. The Planning Commission hereby recommends the Town Council approve/issue a special use permit for retail marijuana cultivation facility (large and small) and medical marijuana optional premises cultivation operation (large and small) uses on the Property, constituting a site-specific development plan and creation of a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, subject to the conditions set forth on **Exhibit A**. The Planning Commission also recommends a vested rights period associated with approval of this site-specific development plan of 3 years, which shall run to the benefit of the Property.
- b. The Planning Commission recommends that the Town Council deny the Application with respect its request "that the Town grant Emergent the right to build and license a retail marijuana store on Lot 6," which is outside the jurisdiction of a special use application.

SO RESOLVED by a vote a vote of 3 to 0, of the Planning Commission of the Town of Parachute, at a regular meeting held at Town Hall in the Town of Parachute, Colorado, on the 9th day of January, 2020.

**PLANNING COMMISSION OF THE
TOWN OF PARACHUTE, COLORADO**



By [Signature]
Chair

ATTEST:

[Signature]
Town Clerk

EXHIBIT A

1. The special use permit shall only be effective in the event the Town Council approves a rezoning for the Property.
2. A six-foot (6') high screened fence that meets Code standards shall enclose that section of the Property that is proposed for active use for the marijuana cultivation uses (building and refuse area) as shown on the Application.
3. In addition to all requirements of the Code and any requirements imposed by operation of state or local law, no building permits shall be issued for the Property until Applicant submits a detailed Site Plan subject to review and conformance with Section 15.01.215 of the Code and the Development Standards set forth in Chapter 15.04 of the Code, as applicable, including but not limited to: General Architectural Standards as necessary (Section 15.04.310), Landscape Plan (15.04.170), Lighting Plan (15.04.175), Parking Standards (15.04.210), Drainage (15.04.140), Utilities (15.04.165), Signage (Chapter 15.060), and traffic impacts.
4. Prior to the commencement of any construction activities or subsequent uses, Applicant shall obtain all necessary and required permits and approvals, including but not limited to a building permit in accordance with Section 15.01.210 of the Code.
5. At time of Site Plan or Building Permit submittal, Applicant will provide a plan by a qualified professional that will provide specifications for a state-of-the-art odor reduction system.
6. Applicant will submit with the Site Plan Review or Building Permit set appropriate engineering and documentation in connection with erosion control, the site and grading plan, confirmation of trash and utility areas and details as well as complete building design and engineering package.
7. Prior to placing the Property to any marijuana use, Applicant or Applicant's operating tenant shall be required to obtain the necessary license for a Retail Marijuana Establishment or Medical Marijuana Establishment, as applicable, under Chapter 6.11 of the Code.
8. The Applicant shall comply with Section 15.07.305 – General Requirements for all Uses throughout the life of the project.
9. All use of the site shall conform to adopted Fire Codes applicable to the Town of

Parachute and recommendations on emergency access and other appropriate safety measures as suggested by the Grand Valley Fire Protection District and the Town of Parachute Police Department.

10. A resolution approving the Application shall be recorded in the public records of Garfield County.
11. Applicant shall reimburse the Town for any and all fees, including consulting costs and attorney fees, incurred in the review of the Application.
12. Applicant shall indemnify and hold the Town harmless from any and all claims against or losses of any nature whatsoever incurred by the Town arising under or resulting from development of the Property.
13. All representations of the Applicant made in the Application and in statements during the public meeting before the Planning Commission and public hearing before Town Council, either in writing, orally, or reflected in the minutes, shall be considered conditions of approval with which the Applicant shall comply.

ACKNOWLEDGED AND ACCEPTED

Applicant