FOREST GROVE OREGON

Conditional Use Permit
Staff Report and Recommendation

Community Development Department, Planning Division

REPORT DATE:	May 7, 2021
HEARING DATE:	May 17, 2021
LAND USE REQUEST:	Conditional use permit for a marijuana retailer
FILE NUMBER(S):	311-21-000012-PLNG
PROPERTY LOCATION:	2420 Pacific Avenue
LEGAL DESCRIPTION:	Washington County Tax Lot 1S306AB04200
OWNER/APPLICANT(S):	Applicant: Arutyun Fotolyan 7806 Cherrystone Avenue Los Angeles, California 91402 Property Owner: Chad Davis 2808 19th Avenue Forest Grove, Oregon 97116
COMPREHENSIVE PLAN MAP DESIGNATION	Town Center Transition
ZONING MAP DESIGNATION	Town Center Transition
APPLICABLE STANDARDS AND CRITERIA:	Forest Grove Development Code: §17.2.220 Conditional Use Review Criteria §17.3.400 et. seq. Town Center Zones §17.8.500 et. seq. Off-Street Parking and Loading §17.8.1100 General Marijuana Development Standards §17.8.1110 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 in 2006 as an office for a housing construction firm. A shop building was also constructed at the same time; it is not part of this application.

This application is for a conditional use permit to allow for a marijuana retailer. Development Code (DC) §17.3.320 Table 3-12 *Town Center Zones – Use Table* lists marijuana retailer as a conditional use in the Town Center Transition zoning district, per Footnote #7. DC §17.2.210 *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.

Public notice for this application was mailed to property owners and residents within 300 feet of the site on April 27, 2021, as required by DC §17.1.160. Notice of this request was also provided to the Plans Review Board, and published in the *Forest Grove News-Times.*

No issues or concerns were registered by the Building, Engineering, Fire, Light and Power, 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 marijuana retailer in an existing office building located at 2420 Pacific Avenue. The interior would be remodeled while the exterior would remain unchanged. No changes to the car park or landscaping are proposed.

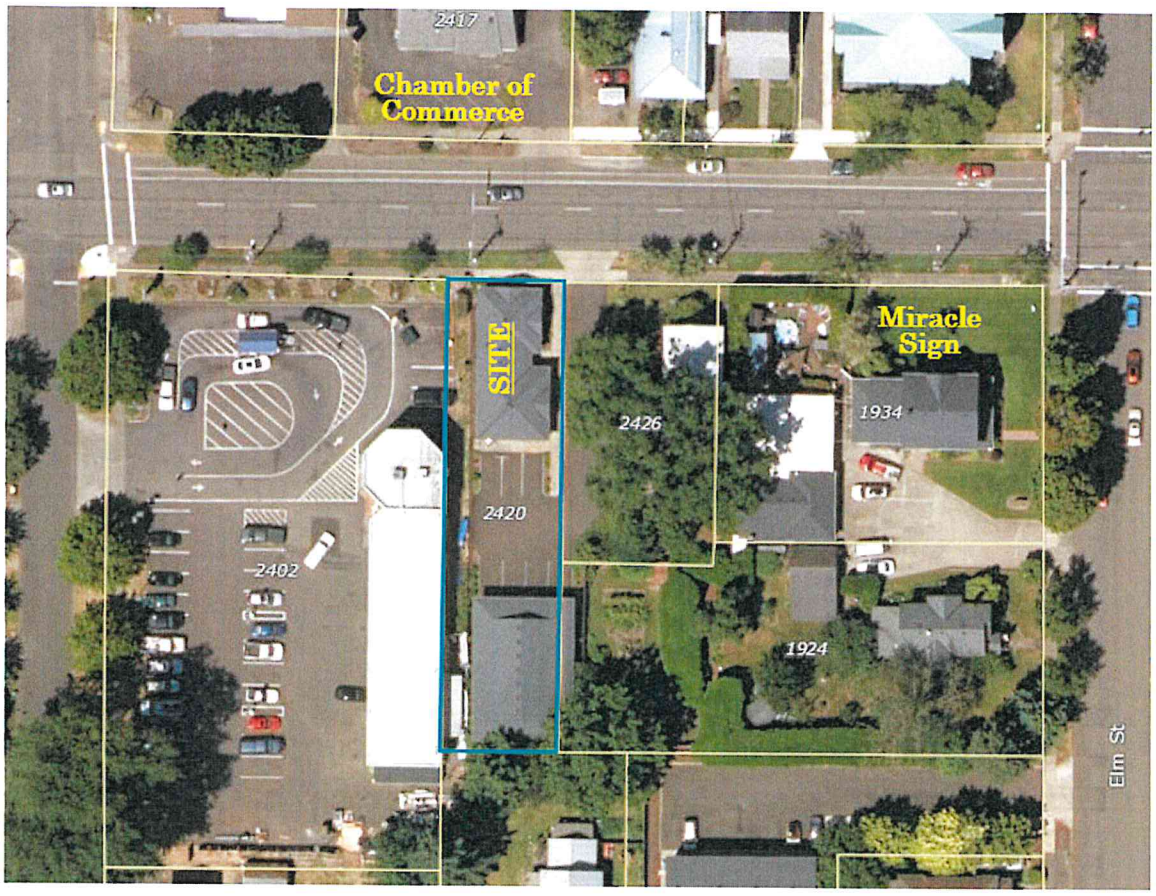
B. Site Examination: The site is approximately 0.23 acres in area. It has been fully improved with two buildings: a 1,554-square-foot building that is the site of the proposed retail shop, a 2,320-square-foot outbuilding, and a car park with 7 spaces. The outbuilding would continue to be used by the contractor for construction material and equipment storage.

The site fronts Pacific Avenue. It has been fully improved with curb, gutter and sidewalk; the street tree has died and will be required to be replaced.

C. Comprehensive Plan Designation and Zoning of Site and Area

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Site	Town Center Transition	Town Center Transition	Office
North	Town Center Transition	Town Center Transition	Chamber of Commerce
South	Town Center Transition	Town Center Transition	Residential
East	Town Center Transition	Town Center Transition	Residential
West	Town Center Transition	Town Center Transition	Auto Repair

The image below shows the subject property in relation to the surrounding area. As the image shows, the subject property fronts Pacific Avenue between Cedar and Douglas streets, across from the Chamber of Commerce.



D. Architecture: The proposed site for the conditional use is an existing building. It is faced with lap siding and masonry. Windows face Pacific Avenue, while the entrance faces the driveway. No changes to the architecture are proposed.

Pacific Avenue Façade

E. Traffic and Circulation: The site abuts and takes access from Pacific Avenue, which is a designated Arterial street on the Forest Grove Transportation System Plan. It has been improved to City standards. No frontage improvements are required at this time, aside from replacement of a dead street tree (pursuant to FGC §90.41 *Parkway – Abutting Owners Duty).*

F. Parking: As the site is located in the Town Center, DC §17.8.505(D) exempts all non-residential uses from having to provide off-street parking.

If the site were required to have off-street parking, DC §17.8.515 *Off-Street Parking Requirements* stipulates 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 1,554 square feet of floor area, 6 spaces would be required and a maximum of 8 spaces allowed. There are 7 spaces in the car park, and 1 on-street space abutting the site.

G. Environmental Quality: There is no City record of any prominent environmental conditions on this property.

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.

III. APPROVAL CRITERIA, FINDINGS AND ANALYSIS

§17.2.220 CONDITIONAL USE REVIEW CRITERIA

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: *The proposed use is physically compatible with surrounding developments based on size, appearance, setbacks and landscaping.*

Finding: No changes to the site, setbacks, landscaping or exterior building features are proposed.

Conclusion: The application is essentially for an interior tenant improvement, to convert the building occupancy type from office to retail. No exterior changes appear to be necessary as a result of this change of use. Thus, this criterion is 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: *Public services are currently supporting the building. It is connected to public water and sewer, transportation is already in place and will not be strained.*

Finding: The site abuts and takes vehicular access from Pacific Avenue, a designated Arterial street on the Forest Grove Transportation System Plan. No changes to vehicular access are proposed.

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. The Fire, Police and Public Works departments did not register any concern with this application. All departments are capable of serving 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 have significant adverse impacts on the livability of nearby lands due to noise, glare from lights, late-night operations, odors and litter; and privacy and safety issues.*

Finding: The site is located in the Town Center Transition zoning district, on a block developed with multiple residential, commercial, and auto-related uses. Proposed hours of operation would be between 9:00 a.m. and 9:30 p.m., so no adverse impacts related to late-night operations are anticipated. The entrance and parking area are already lit with existing street lights and on-building lighting; none would be expected to create glare. The applicant will be required to comply with State standards for odor mitigation, and all cannabis-related products will be disposed of on-site within the building, which will minimize potential litter. This criterion is therefore met.

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§17.8.1100 GENERAL STANDARDS FOR ALL MARIJUANA FACILITIES

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

Applicant's Response: *LSM will comply with ORS Chapter 475B and maintain state certification at all times.*

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: *The project site is not publicly owned.*

Finding and Conclusion: The subject property is privately owned. 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: *LSM will comply with all lighting and landscaping requirements before opening the retail location and maintain compliance while in operation.*

Finding and Conclusion: The entrance and off-street parking area are 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: *LSM will ensure the facility will provide a secure disposal or render impotent marijuana remnants or byproducts, or items with marijuana residue of any kind.*

Finding and Conclusion: As all cannabis-related products will be disposed of on-site, 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: *All hazardous waste will be stored, processed and disposed of in compliance with the City Fire Marshal and using a properly licensed solid waste disposal service.*

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 (§17.2.200 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 §17.2.200 et. seq.

Applicant's Response: *This facility will be a retail use so this criterion does not apply.*

Finding and Conclusion: This criterion is not applicable.

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

Applicant's Response: *LSM is not seeking any other permits.*

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

H. Any person or property in violation of §17.8.1100 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: *LSM understands and acknowledges the violation rules and does not object to abatement and assessment if they are found in violation.*

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

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§17.8.1110 MEDICAL MARIJUANA DISPENSARIES AND MARIJUANA RETAILERS

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: *The retail facility will be open from 9:00 a.m. to 9:30 p.m.*

Finding and Conclusion: As the proposed cannabis retailer will be closed between 9:30 p.m. and 9:00 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: *The location is a permanent building and there will be no outdoor storage.*

Finding: The proposed site at 2420 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 §17.8.700 et. seq. Security bars or grates on windows and doors are prohibited unless integrated into the design.

Applicant's Response: *LSM will comply with design standards and consult with the city planner before making any exterior modifications to the building.*

Finding: The standards of DC §17.8.710(B) *Building Design Standards for Commercial Development* apply to this application as follows:

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

Applicant's Response: *There will not be a drive up option.*

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

Finding and Conclusion: All cannabis-related products will be disposed of on-site. 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: *The facility is not within 1,000 feet of a school or dispensary.*

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: *The facility is not within 1,000 feet of a school.*

Finding: This criterion is met.

IV. ALTERNATIVES

The Planning Commission may:

1. Approve the application as submitted by the applicant; or
2. Approve the application with conditions; or
3. Continue deliberations to a date certain; 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 cannabis retailer at 2420 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 continue to comply with all applicable City building and development standards, including all dimensional standards and public works specifications, including replacement of the dead street tree031.

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 A

CONDITIONAL USE PERMIT NARRATIVE AND APPLICATION MATERIALS

2420 Pacific Ave Forest Grove

Addressing Development Code sections for Conditional Use approval at 2420 Pacific Ave Forest Grove, Oregon 97116.

17.2.220: Conditional use criteria:

A. The proposed use is physically compatible with surrounding developments based on size, appearance, setbacks and landscaping.

B. Public services are currently supporting the building. It is connected to public water and sewer, transportation is already in place and will not be strained.

C. The proposed use will not have significant adverse impacts on the livability of nearby lands due to noise, glare from lights, late-night operations, odors and litter; and privacy and safety issues.

17.2.340: Site plan submittal: There are two existing buildings on site. Buyer is not going to make any exterior modifications or expand the area the buildings occupy. The retail use for the property will only be in the building closest to Pacific Ave that is 1,555 sf.

17.2.440: Submittal requirements: Please see attached site plan.

17.8.1100: Marijuana facilities:

A. LSM will comply with ORS Chapter 475B and maintain state certification at all times.

B. The land is not publicly owned.

C. LSM will comply with all lighting and landscaping requirements before opening the retail location and maintain compliance while in operation.

D. LMS will ensure the facility will provide a secure disposal or render impotent marijuana remnants or byproducts, or items with marijuana residue of any kind.

E. All hazardous waste will be stored, processed and disposed of in compliance with the City Fire Marshall and using a properly licensed solid waste disposal service.

F. This facility will be retail so this does not apply.

G. LSM is not seeking any other permits.

H. LSM understands and acknowledges the violation rules and does not object to abatement and assessment if they are found in violation.

17.8.1110: Marijuana retailers:

A. The retail facility will be open from 9:00 am to 9:30 pm

B. The location is a permanent building and there will be no outdoor storage.

C. LSM will comply with design standards and consult with the city planner before making any exterior modifications to the building.

D. There will not be a drive up option.

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

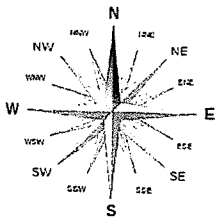
F. The facility is not within 1,000 feet of a school or dispensary.

G. The facility is not within 1,000 feet of a school.

17.8.515: Parking: The number of parking spots can be adjusted if necessary, to maintain compliance with this section of code.

SITE PLAN

Address: 2420 Pacific Ave
City, State, ZIP: Forest Grove, OR 97116
Country: USA
Scale 1":20'



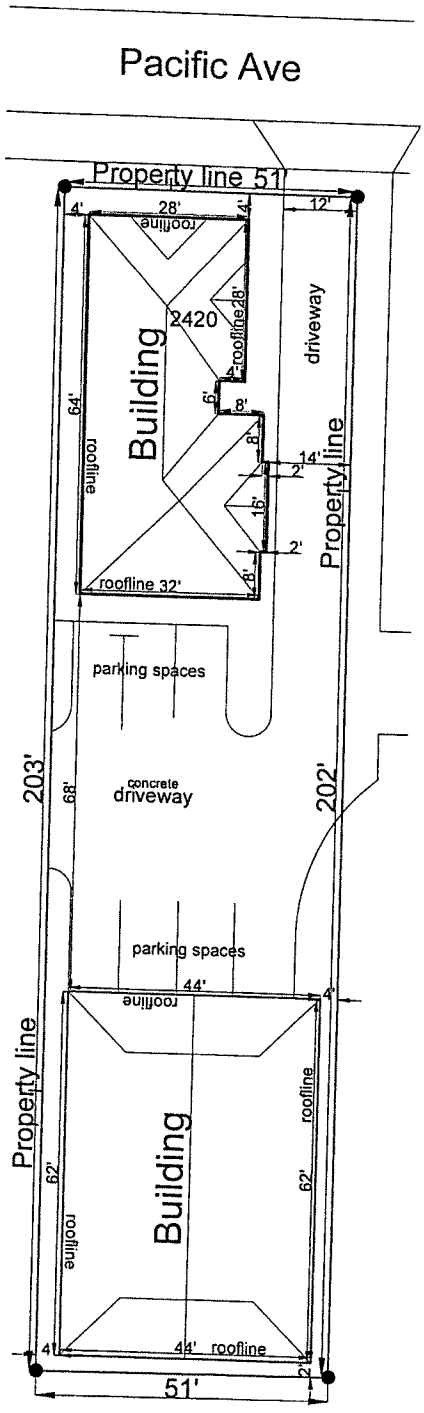


EXHIBIT B

POWER POINT

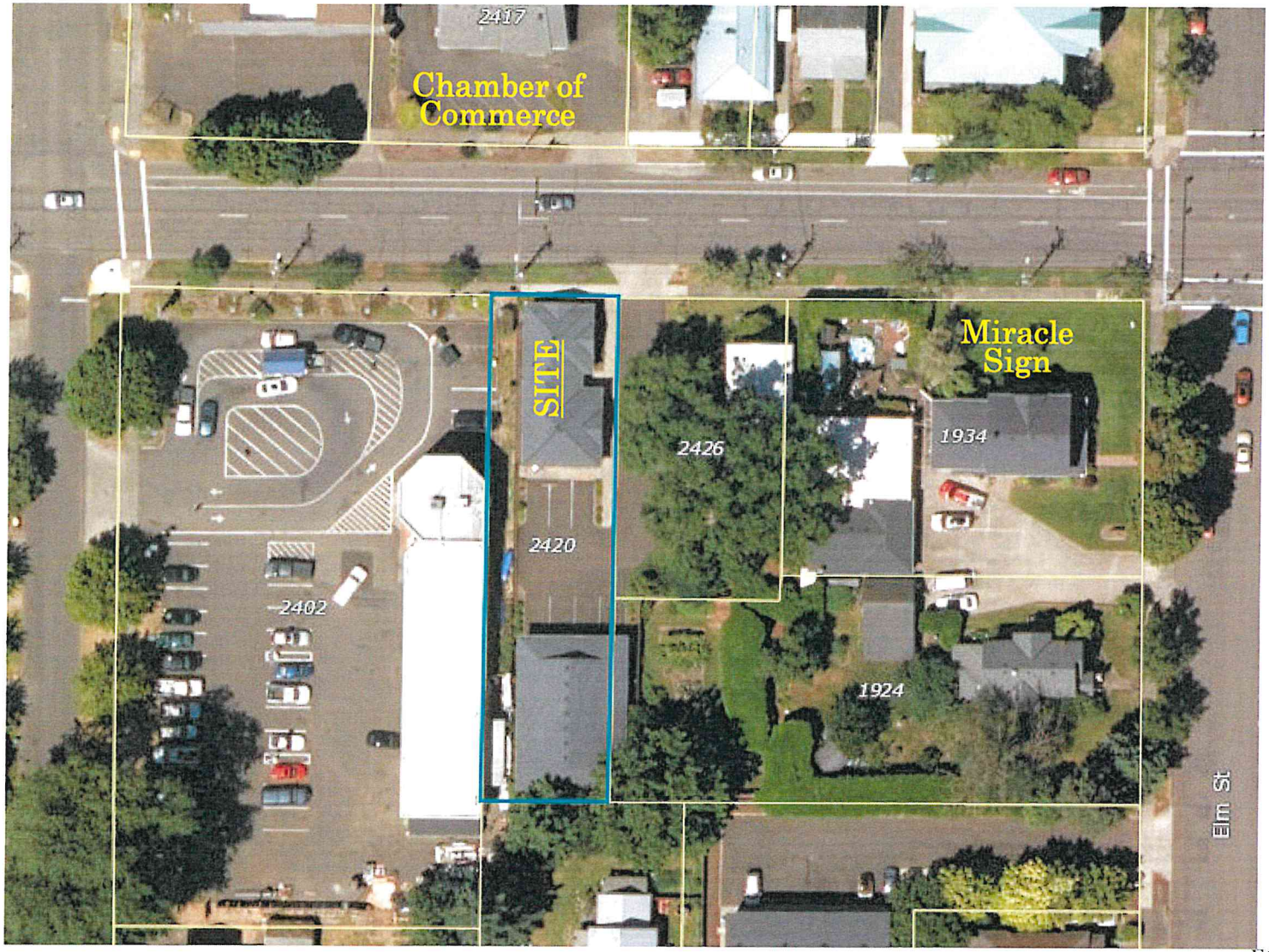
FOREST GROVE OREGON

Marijuana Retailer Conditional Use Permit @ 2420 Pacific Avenue

James Reitz, AICP
Senior Planner

05/17/21

Aerial View - Neighborhood



FOREST GROVE OREGON

Aerial View - Site

FOREST GROVE OREGON

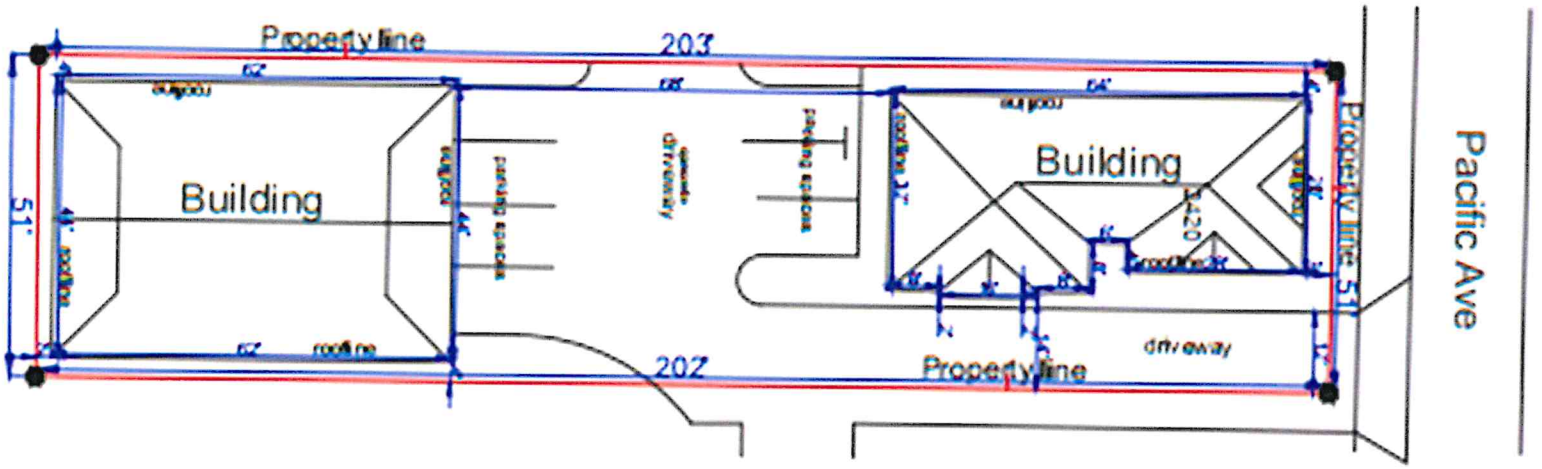
Existing Buildings

FOREST GROVE OREGON

Existing Building

FOREST GROVE OREGON

Site Plan



FOREST GROVE OREGON

Recommendation

Staff recommends approval of the conditional use permit for a marijuana retailer at 2420 Pacific Avenue with these 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 replacement of the dead street tree.