



City Council Memorandum

To: Mayor Fasbender and City Council
From: John Hinzman, Community Development Director
Date: May 6, 2024
Item: Special Use Permit – Cannabis Retail Sales – Hamza Sumrin (H Tobacco) – 1310 Vermillion Street

Council Action Requested:

Take the following actions related to a Special Use Permit (SUP) for cannabis retail sales for Hamza Sumrin (H Tobacco) on property located at 1310 Vermillion Street and owned by The Invest Group LLC:

- 1) Hold a public hearing
- 2) Consider approval of the SUP

A simple majority is necessary for action. The public hearing at the City Council is necessary because the City failed to provide adequate notice prior to the Planning Commission Meeting.

Cannabis Business License – H Tobacco

On April 1, 2024 the City Council issued a cannabis retail license to H Tobacco. Consideration of the SUP by the Planning Commission should have occurred prior to Council consideration of the retail license. Staff apologizes for the error and has taken steps to ensure that future cannabis approvals include consideration by the Planning Commission prior to license issuance.

Advisory Commission Review:

The Planning Commission voted 5-0 to recommend approval of the request as presented at the April 22, 2024 meeting. No one spoke for or against the item during the public hearing. Planning Commission recommendation included an additional condition that the applicant obtain sign permits for signage already placed on the building.

Attachments:

- Resolution – SUP
- Planning Commission Staff Report – April 22, 2024

HASTINGS CITY COUNCIL

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HASTINGS GRANTING
A SPECIAL USE PERMIT FOR THE RETAIL SALE OF CANNABIS PRODUCTS AT
1310 VERMILLION STREET FOR HAMZIN SUMRIN (H TOBACCO)**

Councilmember _____ introduced the following Resolution and moved its adoption:

WHEREAS, Hamzin Sumrin has applied for a Special Use Permit for the retail sales of cannabis products at H Tobacco. The property is owned by The Invest Group LLC and generally located at 1310 Vermillion Street and legally described as the south 36 feet of Lot 12, Block 5 together with the north 44 feet of Lot 13, Block 5, TRIPPS ADDITION, Dakota County, Minnesota; and

WHEREAS, on April 22, 2024 the Hastings Planning Commission held a public hearing and recommended approval of the action as presented; and

WHEREAS, the April 22nd Planning Commission public hearing failed to meet the statutory requirements for publication of notice. An additional public hearing was held by City Council on May 6, 2024 which met statutory requirements.

WHEREAS, the City Council reviewed the request and concurs with the recommendation of the Planning Commission.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HASTINGS AS FOLLOWS:

That the City Council hereby approves the action as presented to the City Council subject to the following conditions:

- 1) Maintaining a Cannabis Products Retail License from the Hastings City Clerk’s Office.
- 2) Adherence to Hastings City Code Chapter 117 – Cannabis Businesses and Chapter 155.07, Subd. J – Cannabis Businesses.

- 3) Obtaining sign permits prior to issuance of the Special Use Permit. Signage was placed upon the building without proper permits.
- 4) Approval is subject to a one-year Sunset Clause; if operation does not commence within one year of City Council approval, the approval is null and void.

Council member _____ moved a second to this resolution and upon being put to a vote adopted by those present.

Adopted by the Hastings City Council on May 6, 2024, by the following vote:

Ayes:

Nays:

Absent:

ATTEST:

Mary Fasbender, Mayor

Kelly Murtaugh,
City Clerk

(City Seal)

I HEREBY CERTIFY that the above is a true and correct copy of resolution presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the 6th day of May, 2024, as disclosed by the records of the City of Hastings on file and of record in the office.

Kelly Murtaugh, City Clerk

This instrument drafted by:
City of Hastings (JH)
101 4th St. E.
Hastings, MN 55033



Planning Commission Memorandum

To: Planning Commission
From: John Hinzman, Community Development Director
Date: April 22, 2024
Item: Public Hearing – Special Use Permit (SUP) – Cannabis Retail Sales – H Tobacco -
 1310 Vermillion Street

REQUEST

The Planning Commission is asked to take the following actions related to the Special Use Permit (SUP) application of Hamzin Sumrin to conduct cannabis retail sales at H Tobacco located at 1310 Vermillion Street. The property is owned by The Invest Group, LLC:

- 1) Hold a public hearing.
- 2) Review the SUP application and provide a recommendation to City Council.

BACKGROUND INFORMATION

Cannabis Business Regulations

In November 2023, the City adopted [Chapter 155.07, Subd. J](#) of the Zoning Code to allow for Cannabis Businesses. The ordinance outlines performance standards and prohibited acts pertaining to cannabis. Cannabis sales were added as a Special Use permit in the C-3 Community Regional Commerce and C-4 Regional Shopping Center Districts. The City also adopted licensing requirements under City Code Chapter 117 that are similar to those adopted in the zoning code.

Cannabis Business License – H Tobacco

On April 1, 2024 the City Council issued a cannabis retail license to H Tobacco. Consideration of the SUP by the Planning Commission should have occurred prior to Council consideration of the retail license. Staff apologizes for the error and has taken steps to ensure that future cannabis approvals include consideration by the Planning Commission prior to license issuance.

Notification and Public Hearing

Notification of the request was mailed to all property owners within 350 feet. The notice included an invitation to the Planning Commission public hearing as well as another public hearing that would be held at the City Council prior to issuance of the SUP. Staff has not received any comments at this time.

Comprehensive Plan Classification

The 2040 Comprehensive Plan designates the property as Commercial. The proposed use is consistent with the plan.

Zoning Classification

The property is C-3 – Community Regional Commerce. The C-3 District allows for cannabis retailers as a special use.

Adjacent Zoning and Land Use

Direction	Property Use	Zoning	Comp Plan
North	Retail	C-3	Commercial
East	Vermillion Street Smokin Oak Restaurant	C-3	Commercial
South	Biermaier Financial	C-3	Commercial
West	Retail	C-3	Commercial

Existing Condition

H Tobacco has been in operation as a tenant in the retail space since January 2023. There have successfully passed three random compliance checks for tobacco and there have not been any violations.

SPECIAL USE PERMIT REVIEW**Background**

Hastings City Code Chapter 155.30, Subd. C.10 – allows cannabis retailers and edible retails as a “special use” within the C-3 Zoning District, subject to the requirements of 155.07, Subd. J as follows:

2. Performance Standards.

1. A cannabis business shall only operate in an authorized zoning district with approved State and local license or registration.
2. Any person selling or distributing cannabis products shall require proof of age by means of government issued photographic identification from the prospective purchaser showing purchaser is twenty-one (21) years old or older.
3. Signage identifying the legal sales age and the age verification requirement shall be posted at the point of sale. The required signage shall be posted in a manner so that it is clearly visible to anyone who is considering or making a purchase. The sign shall provide notice that all persons responsible for selling these products must verify the age of any person under thirty (30) years of age, by means of photographic identification required in this section, containing the bearer's date of birth.

4. Cannabis products must comply with the testing, labeling and packaging requirements in Minnesota State law. IX-01 (a,b)
5. No sales or distribution of intoxicating cannabis products shall be allowed at the licensed premises after 10:00 p.m. or before 8:00 a.m.
6. It shall be unlawful for a retailer to allow the sale of intoxicating cannabis products or cannabis related devices by any means whereby a customer has access to such items without having to request the item from the retailer or the retailer's employee. There shall be a physical exchange of the intoxicating cannabis product or cannabis-related devices between the retailer or the retailer's employee and the customer. All intoxicating cannabis products and cannabis-related devices shall be either store behind a counter or other area not freely accessible to customers, or in a storage unit or case not open and accessible to the general public.
7. All retail establishments of intoxicating cannabis products shall have a security plan approved by the Police Chief stating how the facility will address public health, welfare and safety concerns including, but not limited to security, fencing, lighting, window coverings, door placement, and landscaping.
8. Compliance Checks and Inspections

All licensed premises must be open to inspection by the local law enforcement or other authorized City officials during regular business hours. From time to time, but at least once per year, the City will conduct compliance checks on Retailers and Edible Retailers of intoxicating cannabis products by engaging persons between the ages of seventeen (17) and twenty-one (21) years, to enter the licensed premises to attempt to purchase intoxicating cannabis products. Persons used for compliance checks are not guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of intoxicating cannabis products when the items are obtained or attempted to be obtained as a part of the compliance check. No person used in compliance checks may attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check may answer all questions about the person's age asked by the retailer or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section prohibits compliance checks authorized by State or Federal laws for educational, research or training purposes, or required for the enforcement of a particular State or Federal law.

Analysis

- Cannabis sales are allowed as a special use within C-3 zoning district. Operational license for cannabis sales issued by City Council on April 1, 2024.
- The above are also part of the annual licensing requirements. The Hastings Police Department has approved the security plan for the facility and the business is subject to periodic review by the Hastings Police Department.

3. Prohibited Acts.

- a. It shall be unlawful for any person to sell, purchase, obtain or otherwise provide any intoxicating cannabis product to any person under the age of twenty-one (21).
- b. It shall be unlawful for any person under the age of twenty-one (21) to possess any intoxicating cannabis product. This chapter shall not apply to persons under the age of 21 lawfully involved in a compliance check.

- c. It shall be unlawful for any person under the age of twenty-one (21) to use or consume any intoxicating cannabis product, unless it is legally authorized medical cannabis. IX-01 (a,b)
- d. It shall be unlawful for any person under the age of twenty-one (21) attempt to disguise the person's true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with, to represent an age older than the actual age of the person, in order to purchase any intoxicating cannabis product.
- e. No adult-use cannabinoid or cannabis product may contain more than 0.3% of THC
- f. No edible cannabis product can contain an amount of THC that exceeds the per serving or per packaging requirements in Minnesota State law.
- g. No intoxicating cannabis product may be sold to an obviously intoxicated person or a person under the influence of a controlled substance.
- h. No one under the age of twenty-one (21) shall sell intoxicating cannabis products.
- i. Intoxicating cannabis products cannot be sold in vending machines, by transient merchants, peddlers, at a movable place of business, through a drive-through window, at special events, home occupations, by internet sales or delivery service.
- j. No sampling or free donation or distributions of intoxicating cannabis products is allowed.
- k. No sales of intoxicating cannabis products may be completed through self-check-out. The retailer or retailer's employee must process each transaction at a point of sale.

Special Use Permit Requirements

Special Use Permit review is outlined in Chapter 30.02, Subd. E.2.b.5 of the City Code and subject to adherence to the following (staff analysis appears in red)

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenient traffic flow and control, and access in case of fire or catastrophe; **Ingress and egress to the property will be unchanged and is served by a shared private parking lot entrance to Vermillion Street as well as other shared private routes and is adequate. The sale of cannabis products on site will not require changes to ingress and egress.**
2. Off-street parking and loading areas where required, with particular attention to division (E)(2)(b)5.a. above, and the economic, noise, glare, or odor effects of the special use on adjoining properties and properties generally in the district; **Parking and loading is adequate, and the proposed use will not require changes. The property is surrounded by other commercial uses.**
3. Refuse and service areas, with particular reference to items divisions (E)(2)(b)5.a. and (E)(2)(b)5.b. above; **The sale of cannabis products will not increase the need for refuse areas.**
4. Utilities, with reference to locations, availability, and compatibility; **Utility service is adequate and will not change with cannabis sales.**
5. Screening and buffering with reference to type, dimensions, and character; **Screening and buffering is adequate and will not change with cannabis sales.**
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district; **Staff is not aware of any changes to signage. Site would be limited to wall signage only.**
7. Required yards and other open space; **Yards and open space are unchanged.**

8. General compatibility with adjacent properties and other properties in the district. **IX.01 (a,b)**
Property abuts commercially zoned property on all sides.

Recommendation

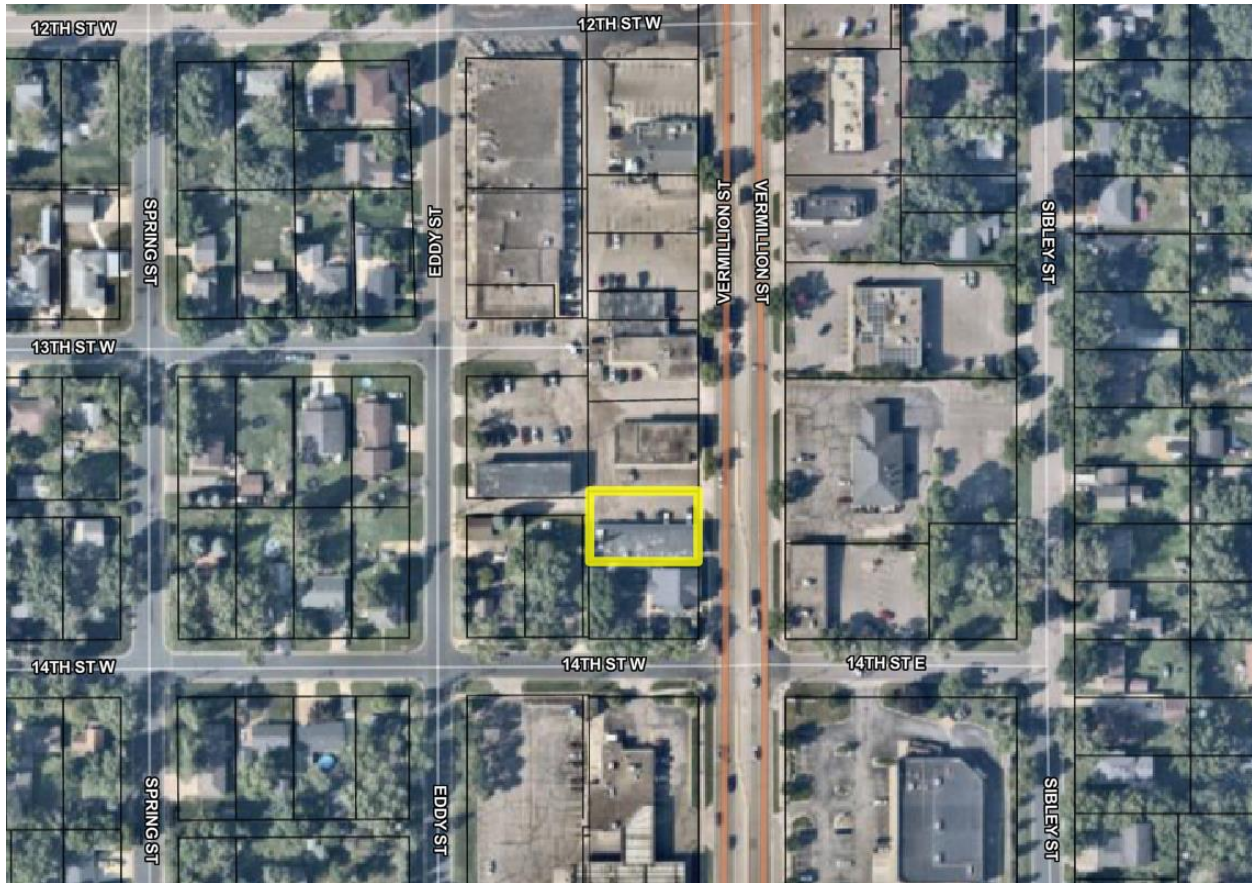
Approval of the Special Use Permit is recommended subject to the following requirements:

- 1) Maintaining a Cannabis Products Retail License from the Hastings City Clerk's Office.
- 2) Adherence to Hastings City Code Chapter 117 – Cannabis Businesses and Chapter 155.07, Subd. J – Cannabis Businesses.

Attachments

- Location Map
- Site Picture
- Application

LOCATION MAP



SITE PICTURE





City of Hastings Community Development Department

Land Use Application

Address or PID of Property: _____

Applicant Name: Hamza Sumrin
Address: 10126 Monroe St NE
Blaine, MN, 55434
Phone: 763-291-2741
Fax: _____
Email: Samhamza79@yahoo.com

Property Owner: The Invest Group LLC
Address: 3475 Vermillion St
Hastings, MN, 55033
Phone: 651-437-3700
Fax: _____
Email: Greg.Jablonske@edinarealty.com

Description of Request: Cannabis Product Retail Sales Application

If requesting site plan review of multi-family units (three or more attached), are the units intended to be for sale or rental units? _____

Check Applicable Line(s)		Please Note: All Fees and Escrows are due at time of application.	
<input type="checkbox"/>	Rezone \$500	<input type="checkbox"/>	Minor Subdivision \$500
<input type="checkbox"/>	Final Plat \$600	<input checked="" type="checkbox"/>	Special Use Permit \$500
<input type="checkbox"/>	Variance \$300	<input type="checkbox"/>	Comp Plan Amend. \$500
<input type="checkbox"/>	Vacation \$500	<input type="checkbox"/>	Lot Split/Lot Line Adj. \$75
<input type="checkbox"/>	House Move \$500	<input type="checkbox"/>	Annexation \$500 + \$5,000 escrow
<input type="checkbox"/>	Prelim Plat \$500 + \$5,000 escrow	<input type="checkbox"/>	EAW \$500 + \$5,000 escrow
<input type="checkbox"/>	Site Plan \$500 + \$5,000 escrow	<input type="checkbox"/>	Interim Use Permit \$500

Total Amount Due: \$ _____ Make checks payable to City of Hastings.
Most credit cards accepted, excluding escrow payments.

Please ensure that all copies of required documents are attached.

Hamza 4/10/24
Applicant Signature Date

Hamza 4/10/24
Owner Signature Date

Hamza Sumrin (owner)
Applicant Name and Title – Please Print

Hamza Sumrin
Owner Name – Please Print

OFFICIAL USE ONLY
File # 24-17
Fee Paid: PAID

Rec'd By: Stinson
Receipt # _____

Date Rec'd: 4/12/24
App. Complete: Complete

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making application for the described action by the city and that I am responsible for complying with all city requirements with regard to this request. This application should be processed in my name and I am the party whom the city should contact regarding any matter pertaining to this application.

I have read and understand the instructions supplied for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I will keep myself informed of the deadlines for submission of material and of the progress of this application.

I understand that this application may be reviewed by city staff and consultants. I further understand that additional information, including, but not limited to, traffic analysis and expert testimony may be required for review of this application. I agree to pay to the city upon demand, expenses, determined by the city, that the city incurs in reviewing this application and shall provide an escrow deposit to the city in an amount to be determined by the city. Said expenses shall include, but are not limited to, staff time, engineering, legal expenses and other consultant expenses.

I agree to allow access by city personnel to the property for purposed of review of my application and to erect a temporary sign indicating the application proposed.

Signature of applicant  Date 4/10/24

Name of applicant Hamza Sumrin Phone 763-291-2741
(Please Print)

Name and address of Contact (if other than applicant) _____

Phone Number

Date