



# CITY OF PETALUMA

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Councilmembers

November 15, 2022

Heather Kratt  
H&H Estate  
PO Box 750354  
Petaluma, CA 94954

**RE: The Floodway, proposed Conditional Use Permit**  
APN: 007-422-028  
File No. PLUP-2022-0027

Dear Ms. Kratt:

Planning staff have received your Minor Conditional Use Permit application (City Application No. PLUP-2022-0027) and required cost recovery deposit for a proposed project at 4951 Stony Point Road (APN: 007-422-028, referred to in your application as 4875 Petaluma Blvd North) in Petaluma. The Project Statement and Tentative Site Layout describe using the site as a “community marketplace” to host mobile food vendors, artisans, artists, food growers and producers, local beer and wine producers, musicians, and such – all of a mobile or transient nature – on a daily basis. They also indicate that any structures utilized would be temporary and removable in a flood situation. Before billing the project’s cost recovery fund to cover the staff time to route the project for Citywide review and continued Planning review your proposed Conditional Use Permit for the “community marketplace”, staff wanted to communicate our concern about the CUP request for a community marketplace at this location for the reasons described below.

When reviewing a project for compliance with the Implementing Zoning Ordinance (IZO), staff considers both the proposed land use and the physical development needed to support the proposed use. Based upon staff’s initial review of your application, we would categorize the proposed land use as *General Retail* in that it involves the selling of many lines of merchandise. *General Retail* uses are typically open to the public and operate 5-7 days per week for 8-10 hours per day, similar to your proposal. Most *General Retail* uses occupy commercial structures on sites developed with parking, driveways, pedestrian access facilities and access to utilities provided. You clearly indicate that your project does not propose permanent construction or site development.

As your Project Statement notes, the parcel is located entirely within a *Floodway* District (FW) and is zoned *Floodway*. Implementing Zoning Ordinance (IZO) [Section 6.050\(A\)](#) states that since the regulatory *Floodway* is “an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, no encroachments within Floodway lands are permitted; including fill, new construction, intensification of existing use, change to more intensive use, substantial improvements, and other development.”

**Community Development  
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*Floodway* zoning does recognize that some uses may be appropriate. As outlined in IZO Section 6.050(B) uses are limited to activities such as open space and agricultural uses not requiring a fence or closed building, circuses, carnivals, and other similar transient amusement enterprises provided a zoning permit has been obtained from the Community Development Department, and any other open type of use as determined by the Zoning Administrator (Director of Planning) to be of the same general character as these permitted uses. Planning staff note that:

- The *General Retail* use that you are proposing is not consistent with agricultural activities or transient amusement enterprises;
- While one may consider the proposed community marketplace concept to be an “open type of use,” a reoccurring daily operation would not be considered transient, and the zoning permit required for transient uses cannot be obtained for longer than 60 days per year; and
- Operation of a General Retail use of the scope and intensity that you propose would require site development in the form of parking, driveways, pedestrian walkways, and installed utilities in order for it to support essential public safety, health, and welfare needs.

Additionally, land uses that may be allowed within the *Floodway* through approval of a Conditional Use, as allowed by IZO [Section 6.050.\(C\) 1-4](#), are limited to:

1. Open air public and private recreational facilities such as parks, golf courses, and athletic fields,
2. Private and public docking, mooring, and boat launching facilities,
3. Above-ground public utility and private service facilities such as water and sanitation pipelines, roads, bridges, and similar facilities, and
4. Improvements in stream channel alignment, cross section, and capacity including modification of riverbank and flood protection.

The proposed community marketplace does not appear to fit within the uses allowed for consideration through the Use Permit process.

In summary, the proposed community marketplace on the parcel at 4951 Stony Point and within the boundaries of the *Floodway* is not a land use that the City’s Implementing Zoning Ordinance allows as a permitted use or upon obtaining a Zoning Permit or a Conditional Use Permit. Based on this staff is not able to support the Conditional Use Permit as requested.

You may wish to consider the short-term Zoning Permit vehicle (IZO [Section 7.070](#)) as a possible means of proposing a community marketplace at the site, but of a lesser extent; including not more than 60 days in the year and outside of the defined rainy season. Should you pursue the short-term Zoning Permit approach, full review would then occur by the various City Departments. As early notes, Planning would anticipate that proposed hours of operation would need to be minimized, parking provision and drive aisle accessibility would need to be detailed and code compliant, and aesthetics would need to be detailed and considered.

If you would like to move forward with your application, by directing deposit of the initial deposit on the staff time and materials to process the application, City staff will need to deny the administrative application. That denial could then be appealed to the Planning Commission for

their consideration as to whether a community marketplace within the *Floodway* is (1) permissible within the constraints of the IZO and, if so, then (2) a desired use within the *Floodway*.

I expect that this information is a great disappointment. We hope that you will take this information as constructive and in the spirit of minimizing your application deposit costs. We have not charged the project's cost recovery fund for the preparation of this correspondence, but we must do so if the application proceeds.

If you have any questions regarding this letter, please contact me at [trobbe@cityofpetaluma.org](mailto:trobbe@cityofpetaluma.org) or at (707) 778-4318.

Sincerely,

A handwritten signature in cursive script that reads "Tiffany S. Robbe".

Tiffany Robbe  
Deputy Planning Manager

Copy: Andrew Trippel, Planning Manager  
Heather Hines, Interim Community Development Director