

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUZANNE HARTMAN, CITY PLANNER
PLANNING AND ECONOMIC DEVELOPMENT
SUBJECT: JANE DISPENSARY APPEAL

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning Commission and the Planning and Economic Development Department that the Council, by resolution, deny the appeal and uphold the Planning Commission decision to approve a Conditional Use Permit for Jane Dispensary, a Cannabis Retail Facility (Dispensary) with Delivery, at 4040 Highway 12.

EXECUTIVE SUMMARY

On September 22, 2022, the Planning Commission unanimously approved a Conditional Use Permit for Jane Dispensary, a 1,997-square-foot space within an existing 4,776-square-foot multi-tenant commercial building located at 4040 Highway 12, Assessor's Parcel No. 032-500-040. On October 3, 2022, the City Clerk's Office received an Appeal application, prepared by Peter Spoerl, appealing the Commission's decision.

BACKGROUND

On August 12, 2021, the Project application was submitted to the Planning and Economic Development Department requesting the approval of a Conditional Use Permit for a Cannabis Retail Facility (Dispensary) with Delivery. The application was deemed complete on August 30, 2022.

On November 22, 2021, a Neighborhood Meeting was held to introduce the proposed project to neighbors. The comments received during the Neighborhood Meeting are discussed in the Public Comments section of this report.

On September 9, 2022, a Notice of Application was mailed to property owners and occupants of properties within 600 feet of the project site.

On September 22, 2022, the Planning Commission unanimously approved a Conditional Use Permit for the proposed Cannabis Retail Facility (Dispensary) with Delivery.

On October 3, 2022, an appeal of the Planning Commission's September 22, 2022, decision was received by the City Clerk's office.

PRIOR CITY COUNCIL REVIEW

Not applicable.

ANALYSIS

The appellant has provided the following grounds for appeal in their October 3, 2022, Appeal application:

1. The Planning Commission did not consider the applicants past history of hosting consumption in their dispensaries.
2. The Planning Commission did not consider the outstanding code enforcement action pending against the applicant for violations of a similar project contemplated by the proposed Conditional Use Permit.
3. The project's odor control letter from the licensed engineer did not account for on-site consumption as required under the code.
4. The project was not reviewed for traffic safety impacts associated with on-site cannabis consumption.
5. The neighborhood compatibility of the project was not reviewed for compatibility with on-site cannabis consumption.
6. The staff report, presentation, and the applicant's application specifically state no on-site consumption is proposed despite the applicant's history of on-site consumption in stores within Santa Rosa thus denying the neighbors and Planning Commission the proper information to consider the project proposal.

The following provides Planning staff's response to the grounds for appeal:

As part of staff's analysis of the Conditional Use Permit application, a review of City records, including any pending Code Enforcement violations, was performed. As of the date that the application was submitted, on August 12, 2021, there were no open Code Enforcement cases related to the property at 4040 Highway 12. Further, prior to and during the September 22nd Planning Commission Meeting, no public comments were submitted regarding concerns of any Zoning Code violations related to this operator. City Code Section [20.050.080\(A\)\(5\)\(a\)](#) states that "the Director shall not find an

application complete, and shall not process the application any further if conditions exist on the site in violation of this Zoning Code or any permit or other approval granted in compliance with this Zoning Code, unless the project proposed in the application includes the correction of the violations.” As noted, following a thorough review of City records, there are no existing Zoning Code violations on the subject site. The Code Enforcement case cited in the grounds for appeal was in reference to a different Jane Dispensary site, and therefore, is not part of the consideration for this Conditional Use Permit.

The applicant stated in their Project Description that no on-site consumption was proposed. As such, no operational plan, security protocols or specific extensions of such provision is required of the applicant. The Project was determined by City staff to be compatible with the surrounding neighborhood. Further, the following six findings were made by the Planning Commission in approving the Conditional Use Permit. The Council must also make the following findings to deny the appeal and uphold the approval.

1. The proposed use is allowed within the Neighborhood Commercial (CN) Zoning District and complies with all other applicable provisions of this Zoning Code and the City Code. Zoning Code Section 20-23.030 Table 2-7 lists allowable uses within the Neighborhood Commercial Zoning District, which implements the Retail and Business Services General Plan land use designation. The proposed commercial cannabis retail (dispensary) use with delivery will occupy 1,997-square-feet of an existing 4,776-square-foot multi-tenant commercial building in the Neighborhood Commercial (CN) zoning district, which is allowed subject to Planning Commission approval of a Conditional Use Permit;
2. The proposed use is consistent with the General Plan land use designation of Retail and Business Services. The proposed use is consistent with the applicable underlying General Plan goals and policies related to economic vitality and the associated Retail and Business Services land use designation;
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity. The proposed project is allowed under Section 20-23.030 Table 2-7 of the City Zoning Code with approval of a Conditional Use Permit. The project site is developed for commercial uses with a total of 36 vehicle parking spaces, including 2 ADA accessible spaces. No additional parking is required for this project per Zoning Code Section 20-36.040. The Project complies with the general operating requirements for cannabis businesses and the operating requirements specific to medical and adult use cannabis retail dispensaries. The entrance to the retail dispensary is located on the north side of the building and is visible from Highway 12. The proposed project is compatible with the existing adjacent uses on the property and is adequately screened from the residential uses located to the south;

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints in that the proposed use will be located entirely within an existing commercial building. The proposed project plans comply with all operational standards as specified in Chapter 20-46. All necessary utilities are available at the project site, including water, wastewater, storm drainage, gas and electric services;
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located. The applicant has provided an Odor Mitigation Plan certified by a licensed engineer ensuring that all mitigation controls are sufficient to mitigate odors. The project is compliant with Zoning Code Section 20-46.050(G) which states that Cannabis Businesses shall provide adequate security on the premises, including lighting and alarms, to ensure the public safety and the safety of persons within the facility and to protect the premises from theft. A security plan has been provided by the applicant which states that hired security personnel will be on-site during hours of operation and will track and monitor the entryway and the parking lot. Additionally, the project shall have video surveillance, intrusion detection systems and outdoor security lighting. There are no schools or established cannabis dispensaries within 600 feet of the subject property; and
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and qualifies for the following exemptions:
 - Class 1 Categorical Exemption under CEQA Guidelines Section 15301 in that the project involves minor interior modifications to an existing facility, with no expansion of use. Historically, the site has operated as a retail location open to the general public.
 - Class 3 Categorical Exemption under CEQA Guidelines Section 15303 in that the project involves a change of use, which will require only minor exterior modifications to the structure/site.
 - Class 32 Categorical Exemption under CEQA Guidelines Section 15332 (Infill Development Projects) in that:
 - a) The Project is consistent with Santa Rosa General Plan 2035 and the current City of Santa Rosa Zoning Code. The site is zoned Neighborhood Commercial (CN) and dispensaries are a permitted use through a Major Conditional Use permit;
 - b) The Project is located within City of Santa Rosa jurisdiction, on a project site of no more than five acres substantially surrounded by urban uses;
 - c) The project site is currently developed with one multi-tenant commercial building and parking lot, and does not have any habitat

value for endangered, rare, or threatened species;

- d) The Project will not result in any significant effects relating to traffic, noise, air quality, or water quality. The Traffic Report prepared by W-Trans, dated January 27, 2022, concludes the Project would result in a less-than-significant transportation impact on VMT. The proposed project will occupy 1,997-square-feet of an existing 4,776-square-foot multi-tenant commercial building and most of the work will take place inside the building, and all the work will be required to meet the City noise ordinance. Based on the certified Odor Control Plan, the Project will not emit cannabis-related odors. The City Sewer Treatment facility will treat any wastewater; and
- e) The Project site is located in a developed area where it can be adequately served by all required utilities and public services. Staff have reviewed the plans and conditions the project appropriately.

The City has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines Section 15300.2.).

FISCAL IMPACT

Denial of the Appeal and approval of the Conditional Use Permit will not impact the General Fund.

ENVIRONMENTAL IMPACT

The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and staff has been determined that the project qualifies for three categorical exemptions pursuant to CEQA Guidelines Section 15301, 15303, and 15332, which are further described in the Analysis Section of this Staff Report. The City has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines Section 15300.2.)

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

All noticing for the Public Hearing was done in compliance with Zoning Code [Chapter 20-66](#), including a mailed Notice of Public Hearing to owners and occupants of properties located within 600 feet of the Project site; a published Notice of Public Hearing in the Press Democrat; two Notice of Public Hearing signs posted at the Project

site; a physical copy of the Notice of Public Hearing posted at City Hall's noticing kiosk; and a virtual copy of the Notice of Public Hearing posted at www.srcity.org.

ATTACHMENTS

- Attachment 1: Disclosure Form
- Attachment 2: Location Map
- Attachment 3: Project Narrative, provided by applicant
- Attachment 4: Focused Transportation Study, prepared by W-Trans, dated January 27, 2022
- Attachment 5: Project Plans, prepared by Luna Design, dated August 12, 2021
- Attachment 6: Project Security Plan
- Attachment 7: Odor Mitigation Plan, prepared by Matthew Torre, Professional Engineer, dated June 15, 2021
- Attachment 8: Appeal Application, submitted by Peter Spoerl, stamped received on October 3, 2022
- Attachment 9: Planning Commission Resolution No. PC-2022-029

Resolution: Appeal (Denial) / Exhibit A / Exhibit B

CONTACT

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