

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUSIE MURRAY, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT
SUBJECT: FLORA TERRA 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 of Robert Jacobsen and uphold the Planning Commission's decision to approve a Conditional Use Permit for Flora Terra, a Cannabis Retail facility (dispensary), at 1226 4th Street.

EXECUTIVE SUMMARY

On March 24, 2022, the Planning Commission unanimously approved a Conditional Use Permit for Flora Terra, a 1,140-square foot dispensary at 1226 4th Street, Assessor's Parcel Number 009-112-028. On April 1, 2022, the City Clerk's Office received an Appeal application, prepared by Robert Jacobsen, requesting to "order a study of the impacts, influence, and infringements the Project will have on the Historical [McDonald Preservation] District."

BACKGROUND

On July 6, 2021, the Project application was submitted to Planning and Economic Development requesting the approval of a Conditional Use Permit for a Cannabis Retail facility. The application was deemed complete on January 31, 2022.

On August 16, 2021, a Neighborhood Meeting (NM) was held to introduce the Project to neighbors. The comments received during the NM are discussed in the Public Comments section of this report.

On November 5, 2021, a Notice of Application was mailed to property owners and occupants of properties within 600 feet.

On March 24, 2022, the Planning Commission unanimously approved a Conditional Use Permit for the Flora Terra Dispensary project.

On April 1, 2022, an appeal of the Planning Commission's March 24, 2022, decision was received.

PRIOR CITY COUNCIL REVIEW

None.

ANALYSIS

The appellant has provided the following grounds for appeal in his April 1, 2022, Appeal application:

1. The Project impacts on the McDonald Historical District have not been studied, nor have the valuation of properties of homes (impacts – test valued) been analyzed for the historical district.

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

The subject property is located in an area designated by the General Plan for Retail and Business Services, which is intended for retail and service enterprises, office and restaurant uses. The site zoning is General Commercial (CG), which is consistent with the General Plan. The property is not within a preservation district.

Zoning Code [Section 20-23.080](#), Table 2-6 provides permit requirements for a Cannabis Retail (dispensary) use: a Conditional Use Permit (CUP) is required in the CG zoning district.

Zoning Code [Chapter 20-46](#) provides regulations for all cannabis uses, and Section 20-46.080 provides requirements that are specific to Cannabis Retail uses. Section 20-46.080(D) states Cannabis Retail shall be subject to the following location requirements:

1. Overconcentration. To avoid overconcentration, a Cannabis Retail use shall not be established within 600 feet of any other Cannabis Retail use established within and permitted by the City of Santa Rosa. The Department shall establish evaluation criteria and selection procedures as necessary to avoid overconcentration of Cannabis Retail uses where competing applications are submitted within a 600-foot radius of each other.
2. Setback to schools. Cannabis Retail shall be subject to a 600-foot minimum setback from any K-12 "school," as defined by the [Health and Safety Code](#) Section 11362.768.
3. Measurement of distance. The distance between Cannabis Retail and a school shall be made in a straight line from the boundary line of the property on which the

Cannabis Retail is located to the closest boundary line of the property on which a school is located.

4. Location of a new school after permit issued. Establishment of a school within the required setback of a Cannabis Retail facility after such facility has obtained a Conditional Use Permit for the site shall render the Cannabis Retail facility legal non-conforming and subject to the protections and provisions of Chapter [20-61](#) (Non-Conforming Uses, Structures and Parcels).
5. Visibility of entrance. The storefront entrance of a Cannabis Retail facility shall be in a visible location that provides an unobstructed view from the public right-of-way.

The Zoning Code does not regulate proximity to preservation districts.

The ground for appeal implies an impact to property values for properties within the McDonald Preservation District. A financial analysis is not required for the analysis of a CUP. Pursuant to Zoning Code [Section 20-52.050](#), the following six findings must be made prior to approving a CUP:

- The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the City Code;
- The proposed use is consistent with the General Plan and any applicable specific plan;
- 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 site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints;
- 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; and
- The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The Planning Commission concluded that all findings can be met as demonstrated on the attached Resolution No. PC-2022-009.

FISCAL IMPACT

Denial of the Appeal and approval of this project will not impact the General Fund.

ENVIRONMENTAL IMPACT

The Project has been found in compliance with the California Environmental Quality Act

(CEQA):

Pursuant to CEQA Guidelines Section 15301, the Project is categorically exempt because it involves only minor modifications to an existing structure.

Pursuant to CEQA Guidelines Section 15303, the Project is categorically exempt because it involves the conversion of an existing structure from one use to a another where only minor modifications to the structure will be made.

Pursuant to CEQA Guidelines Section 15332, the Project is categorically exempt as infill development.

- The use is consistent with the General Plan land use designation of Retail and Business Services and the zoning designation of General Commercial.
- The property is less than five acres and is within Santa Rosa City limits.
- The site is completely developed with no potential habitat for endangered, rare or threatened species.
- The site is currently served by all utilities and services.
- Re-tenanting the space will not result in any significant effects pertaining to noise, air quality, or water quality.
- A traffic analysis conducted by W-Trans, dated January 22, 2022, concluded that the proposed project would be expected to generate 13 more daily trips on average compared to the prior restaurant use, including one more trip during the a.m. peak hour and 16 more trips during the p.m. peak hour. Since the project would result in fewer than 250 new daily trips and fewer than 50 new peak hour trips, an operational analysis is not required under the City's TIS Guidelines.

Pursuant to section 15183, the Project qualifies for streamlined review because it is consistent with the General Plan for which an Environmental Impact Report (EIR) was certified by Council in 2009. In December 2017, Council enacted comprehensive regulations for cannabis. Analysis concluded that cannabis-related uses were similar in terms of environmental impacts to other allowable uses in the General Industrial zoning district.

No further environmental review is necessary for the Project as analysis has confirmed that there are no new environmental effects, or environmental effects of greater severity, peculiar to the parcel or the project that were not analyzed and addressed in a prior EIR.

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).

NOTIFICATION

All noticing for the Public Hearing was done in compliance with Zoning Code [Chapter 20-66](#), including a mailed Notice of Public Hearing (Notice) to owners and occupants of properties within 600 feet of the Project site; a published Notice in the Press Democrat; two Public Hearing signs posted on the Project site; a physical copy of the Notice posted at City Hall's noticing kiosk; and a virtual copy of the Notice posted at www.srcity.org,

ATTACHMENTS

- Attachment 1: Disclosure Form
 - Attachment 2: Location Map
 - Attachment 3: Project Narrative, provided by applicant
 - Attachment 4: Project Plans, prepared by Motive, dated November 15, 2021
 - Attachment 5: Odor Mitigation Plan, prepared by Jason Vander Veen, Mechanical Engineer, dated July 2, 2021
 - Attachment 6: Traffic Analysis, prepared by W-Trans, dated March 8, 2022
 - Attachment 7: Public Correspondence (received prior to the March 24, 2022, Planning Commission hearing)
 - Attachment 8: Planning Commission Resolution No. PC-2022-009
 - Attachment 9: Appeal Application, submitted by Robert Jacobsen, stamped received on April 1, 2022
 - Attachment 10: Appeal Application, date-stamped received April 1, 2022
 - Attachment 11: Public Correspondence (received after the Planning Commission hearing)
- Resolution: Appeal (Denial)

CONTACT

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