

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA APPROVING A CONDITIONAL USE PERMIT FOR FLORA TERRA TO ALLOW A (TYPE 10) COMMERCIAL CANNABIS RETAIL (DISPENSARY) USE AND SALE OF CANNABIS SMOKING DEVICES WITHIN AN EXISTING 2,031-SQUARE-FOOT BUILDING LOCATED AT 4575 HIGHWAY 12, SUITE B; ASSESSOR'S PARCEL NO. 182-490-013; FILE NO. CUP21-097

WHEREAS, an application was submitted requesting the approval of a Conditional Use Permit for Flora Terra to operate a 2,031-square-foot cannabis retail (dispensary) use including sale of cannabis smoking devices on the property located at 4575 Highway 12, Suite B, also identified as Sonoma County Assessor's Parcel Number 182-490-013;

WHEREAS, on September 8, 2022 the Planning Commission held a duly noticed public hearing on the application at which all those wishing to be heard were allowed to speak or present written comments and other materials; and,

WHEREAS, the Planning Commission has considered the application, the staff reports, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and,

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-52.050 (Conditional Use Permit), the Planning Commission of the City of Santa Rosa finds and determines:

- A. The proposed use is allowed within the Neighborhood Commercial (CN) zoning district and complies with all other applicable provisions of the Zoning Code and the City Code. Zoning Code Table 2-6 lists allowable uses within the commercial zoning districts, which implement the Retail and Business Services General Plan land use designation. The project is consistent with Zoning Code regulations related to cannabis dispensary uses. The proposed commercial cannabis retail (dispensary) use will occupy 2,031 square feet of an existing commercial building in the Neighborhood Commercial (CN) zoning district, which is allowed subject to Planning Commission approval of a Conditional Use Permit; and
- B. The proposed Project is consistent with the General Plan land use designation, which is applied to areas that are intended for commercial uses. The 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; and
- C. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing, and future land uses in the vicinity in that the proposed Project is allowed under Section 20-23.030 Table 2-6 with approval of a Conditional Use Permit. In addition, the Project site is located at the corner of Highway 12 and Mission Boulevard within a neighborhood commercial center predominantly occupied by commercial uses. As such, the site is suitable for use as proposed, and the hours of operation are within those permitted in Section 20-46.080(F)(4).

The project site is developed for commercial uses with a total of 53 parking spaces, including three ADA accessible spaces. Per zoning code Section 20-36.040, *“When a building’s use changes to a new use, for example a retail use to a restaurant, without enlarging the space in which the use is located, there shall be no additional parking required for the new use, except that the new use shall comply with current ADA standards for parking, provided that any deficiency in parking is no more than 10 spaces, or a 25 percent overall reduction from standard parking requirements, whichever is greater.”* Therefore, no additional parking would be required for this project which is a re-tenanting with a retail use and compliance with parking requirements is satisfied.

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 south side of the building, visible from Highway 12, and the proposed Project is compatible with the existing commercial uses.

Additionally, the City’s Traffic Engineering Division has reviewed the Focused Transportation Study prepared by W-Trans, dated April 18, 2022, and requested no additional Traffic Study. The Study concludes that the proposed dispensary will have a lower parking requirement than the previous coffee shop use, so the existing supply is expected to continue serving the site adequately with the proposed use. Therefore, the design, location, size, and operating characteristics of the Project will be compatible with existing and future land uses in the vicinity; and

- D. 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. Adequate vehicular access to the site is provided from Mission Boulevard. The project plans demonstrate compliance with all operational standards as specified in Chapter 20-46. The building and site, as conditioned, will be fully accessible pursuant to Americans with Disabilities Act (ADA) standards. All necessary utilities are available at the project site, including water, wastewater, storm drainage, gas and electric services; and
- E. 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 in that as required by Section 20-46.050(G), the applicant has provided an Odor Mitigation Plan certified by a licensed engineer ensuring that all mitigation controls are sufficient to mitigate odors. Security personnel will be on-site during hours of operation that will track and monitor the entryway and the parking lot. In addition, a professionally monitored robbery alarm system, cameras, and security system will be installed to protect the premises from theft.

There are no schools within 600 feet of the subject property. Brush Creek Montessori and Madrone Elementary School are approximately 2,700 feet north of the project site, and Douglas L. Whited Elementary School is about 3,700 feet east of the project site. As such, the project is consistent with State and local regulations. Additionally, no other cannabis dispensary is within 600 feet of the Project site.

Per Section 20-46.050(E), the project is subject to Building and Fire permits. An annual Fire Department Operational Permit is required prior to operation, and the project must meet Health and Safety Code requirements; and

F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and staff has determined that the project qualifies for the following exemptions:

- Class 1 Categorical Exemption under CEQA Guidelines Section 15301 in that the project is located within an existing structure involving a negligible expansion of an existing use that will not result in significant impact(s).
- 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 (In-fill Development Projects) in that:
  1. The Project is consistent with Santa Rosa General Plan 2035 and the current City of Santa Rosa Zoning Code. The site is zoned CN and dispensaries are permitted use through a Major Conditional Use permit;
  2. 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;
  3. The project site is currently developed with two commercial buildings and parking lot, and does not have any habitat value for endangered, rare, or threatened species;
  4. 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 April 18, 2022, concludes the Project would result in a less-than-significant transportation impact on VMT, and the City's Traffic Division has reviewed the proposal and requested no additional Traffic Study. The proposed Project will occupy an existing building, and all 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
  5. The Project site is located in a developed area where it can be adequately served by all required utilities and public services. City staff has 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.)

BE IT FURTHER RESOLVED that this Conditional Use Permit is subject to all applicable provisions of the Zoning Code, including Section 20-54.100 (Permit Revocation or Modification).

BE IT FURTHER RESOLVED that a Conditional Use Permit for Flora Terra to allow a commercial cannabis retail dispensary use, including sale of cannabis smoking devices, at 4575 Highway 12, is approved subject to each of the following conditions:

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**

**GENERAL:**

1. Compliance with the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council at the time of Building Permit review and approval. All fees must be paid prior to issuance of a Building Permit.
2. Comply with all applicable federal, state, and local codes. Failure to comply may result in issuance of a citation and/or revocation of approval.

**EXPIRATION AND EXTENSION:**

3. This Conditional Use Permit shall be valid for a two-year period. If construction has not begun or if an approved use has not commenced within two (2) years from date of approval, this approval shall automatically expire and shall be invalid unless an application for extension is filed prior to expiration.
4. If implemented within the initial approval period in accordance with all conditions of approval, this Conditional Use Permit shall be valid for the duration of use.

**BUILDING DIVISION:**

5. Obtain a Building Permit for the proposed project.

**ENGINEERING AND FIRE DIVISIONS:**

6. Compliance with Engineering Development Services Exhibit A, dated May 2, 2022, attached hereto and incorporated herein.

**PLANNING DIVISION:**

7. The sale of any cannabis related paraphernalia products must comply with the City's zoning code and any other applicable State regulations.

8. Compliance with all applicable operational provisions of Zoning Code Chapter 20-46 is required.
9. The building materials, elevations, and appearance of this project, as presented for issuance of a building permit, shall be the same as that approved by the Planning Commission. Any future additions, expansions, remodeling, etc., will be subject to review and approval of the Planning Division.
10. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080).
11. All exterior lighting shall comply with Zoning Code Section 20-30.080.
12. At least 2 bike parking spaces shall be installed in compliance with Zoning Code Chapter 20-36.
13. All project details shall be in accordance with the restrictions and limitations of the City Zoning and California Building Codes, as well as the City's Design Review Guidelines.
14. Compliance with the City's Noise Ordinance in City Code Chapter 17-16 is required.
15. No signs are approved as part of this Conditional Use Permit. All signs require a separate review process and both Planning and Building permits. In accordance with Zoning Code Section 20-46.080(F)(11), advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center is prohibited.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds and determines this entitlement to use would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above said conditions are invalid, this entitlement to use would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 8<sup>th</sup> day of September 2022, by the following vote:

AYES: ()  
NOES: ()  
ABSTAIN: ()  
ABSENT: ()

APPROVED: \_\_\_\_\_  
KAREN WEEKS, CHAIR

ATTEST: \_\_\_\_\_  
CLARE HARTMAN, EXECUTIVE SECRETARY

ATTACHMENTS:

Exhibit A: Engineering Development Services Exhibit “A” dated May 2, 2022