

RESOLUTION NO. RES-2021-127

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA DENYING AN APPEAL AND APPROVING A CONDITIONAL USE PERMIT AND SITE PLAN DATED MARCH 25, 2021, FOR ALTERNATIVES EAST TO OPERATE A CANNABIS RETAIL FACILITY WITH DELIVERY SERVICE WITHIN A 2,449-SQUARE FOOT TENANT SPACE, LOCATED AT 2300 BETHARDS DRIVE, SUITE A, ASSESSOR'S PARCEL NO. 147-061-015, FILE NO. PRJ19-047

WHEREAS, on December 5, 2019, an application was submitted to the Planning and Economic Development Department requesting the approval of a Conditional Use Permit for a Cannabis Retail facility, providing both medical and adult use products, including delivery service and an area for onsite consumption, to be located at 2300 Bethards Drive, Suite A, also identified as Sonoma County Assessor's Parcel No. 147-061-015 (Project); and

WHEREAS, on January 20, 2020, the scope of the Project was changed eliminating the onsite consumption area, leaving only the retail store and delivery service considered under this application; and

WHEREAS, on February 25, 2021, the Planning Commission was scheduled to hold a public hearing on the Project but continued the item to a date certain of March 25, 2021, due to a noticing deficiency; and

WHEREAS, on March 25, 2021, 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, on March 25, 2021, the Planning Commission 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

WHEREAS, on March 25, 2021, the Planning Commission approved the Conditional Use Permit for the Project subject to a 10-day appeal period; and

WHEREAS, an appeal of the Planning Commission's action was filed by Elizabeth S. Hutton on behalf of Save our Neighborhoods (Appellant), seeking review by the City Council pursuant to City Code Chapter 20-62.

NOW, THEREFORE, BE IT RESOLVED that after consideration of the appeal and the reports, documents, testimony, and other materials presented, and pursuant to the requirements of Chapter 20 of the City Code, Zoning Code Sections 20-46.040 and 20-46.080, and 20-62.030 (Processing of Appeals), the City Council of the City of Santa Rosa denies the appeal, upholds the decision of the Planning Commission, and makes the following findings and determinations:

- A. 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 in that the proposed Cannabis Retail use with delivery service will operate out of an approximately 2,249-square foot area of a commercial building located within the Office Commercial (CO)

zoning district, which is allowed subject to a Conditional Use Permit. The Project has been reviewed in compliance with applicable provisions of the Zoning Code and City Code, and has been conditioned to remain in compliance with Zoning Code Chapter 20-46, which regulates cannabis-related uses; and

- B. The proposed use is consistent with the General Plan and any applicable specific plan. The Project site is designated as Office on the General Plan Land Use Diagram, which is intended for administrative, financial, business, professional, medical, and public offices in that the use is consistent with the applicable underlying General Plan goals and policies related to economic vitality, implemented by the Office Commercial zoning district, in which this site is located; and
- C. The design, location, size, and operating characteristics of the proposed dispensary with delivery service would be compatible with the existing and future land uses in the vicinity in that the business will occupy an approximately 2,250-square foot area within an existing commercial building. A traffic and parking analysis was conducted by W-Trans, dated March 9, 2021, which concluded that there would be less than 50 peak hour trips added during both AM and PM peak hours and an additional study is not required pursuant to the City's Standard Guidance for the Preparation of Traffic Impact Analysis; 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 site is located in a fully developed area where all utilities are available; the site plan provides clear circulation and adequate parking; and a Trip Generation Estimate, prepared by W-Trans, dated March 9, 2021, concluded that less than 50 peak hour trips would be added during both AM and PM peak hours, which does not trigger the need for additional study pursuant to the City's Standard Guidance for the Preparation of Traffic Impact Analysis; 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 the project has been reviewed by City Staff and conditioned to comply with all Building, Fire, and Environmental Health Codes; and
- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

Pursuant to CEQA Guidelines Section 15301, the Project is categorically exempt because it involves 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 are 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 Office

and zoning designation of Commercial Office; it occurs on property that is less than five acres within Santa Rosa City limits; it is completely developed with no habitat for endangered, rare threatened species; the site is currently served by all utilities and services; and re-tenanting the space will not result in any significant effects pertaining to noise, air quality, water quality or traffic. A Trip Generation Estimate, prepared by W-Trans, dated March 9, 2021, concluded that the Project will result in less than 50 new vehicle trips during both AM and PM peak hours. Pursuant to the City's *Standard Guidance for the Preparation of Traffic Impact Analysis*, further analysis is not required for projects that generate less than 50 new trip peak hour vehicle trips.

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).

Pursuant to CEQA Guideline Section 15183, the Project is exempt from further environmental 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 Commercial Office 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.

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 to operate a Cannabis Retail facility, providing medical and adult use products, including delivery service, to be located at 2300 Bethards Drive, Suite A, is approved subject to each of the following conditions:

DEPARTMENT OF COMMUNITY DEVELOPMENT

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. All work shall be done according to the final approved plans dated March 25, 2021, as presented to the Planning Commission.

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 building permits for the proposed project.

ENGINEERING DIVISION:

6. Compliance with Engineering Development Services Exhibit A, prepared by Jesus McKeag, dated December 2, 2020, attached hereto and incorporated herein as Exhibit A.

PLANNING DIVISION:

7. 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 appropriate review authority.
8. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080),
9. The Project shall remain in compliance with Zoning Code Chapter 20-46.
10. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises.
11. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.
12. All exterior lighting shall be shown and specified on the plans submitted for issuance of a building permits.
13. All lighting shall be directed toward the subject property and away from adjacent properties.
14. The mounting height of lighting fixtures in parking and storage areas shall not exceed 16-feet in height. Lower mounting heights are encouraged.
15. Bicycle parking shall be provided in accordance with Zoning Code requirements. The location and number of spaces shall be shown on the site plan submitted for issuance of a building permit.
16. No exterior signs, banners, or the like are approved with this permit. Separate Planning and Building sign permits are required for all signs.

FIRE DEPARTMENT:

- 17. Obtain fire permits for change of use in the building, which may require fire sprinklers if not already provided.

BE IT FURTHER RESOLVED that the Council finds and determines this entitlement 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 would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

IN COUNCIL DULY PASSED this 13th day of July, 2021.

AYES: (6) Mayor C. Rogers, Vice Mayor N. Rogers, Council Members Fleming, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (0)

ABSTAIN: (1) Council Member Alvarez

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney

Exhibit A - Engineering Development Services Exhibit A