

RESOLUTION NO. 11935

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA APPROVING A CONDITIONAL USE PERMIT FOR FOX DEN, INC. TO OPERATE A CANNABIS RETAIL (DISPENSARY) AND DELIVERY BUSINESS, WITHIN AN EXISTING BUILDING LOCATED AT 4036-B MONTGOMERY DRIVE; ASSESSOR'S PARCEL NO. 013-284-012; FILE NO. CUP18-076

WHEREAS, an application was submitted requesting the approval of a Conditional Use permit for Fox Den, Inc., a 1,773 square foot medical and adult use cannabis retail and delivery business comprised of a lobby (288 square feet), retail (918 square feet), and office, utility rooms, hallways and restrooms (567 square feet), with daily operating hours from 9 a.m. to 9 p.m., for the property located at 4036-B Montgomery Drive, also identified as Sonoma County Assessor's Parcel Number 013-284-012; and

WHEREAS, 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 cannabis retail dispensary and delivery business is allowed in the Neighborhood Commercial (CN) zoning district and complies with all other applicable provisions of this Zoning Code and the City Code. Zoning Code Table 2-6 lists allowable uses within the Neighborhood Commercial Zoning District, which implements the Retail and Business Services General Plan land use designation, and allows cannabis retail and delivery with the approval of a major Conditional Use Permit; and
- B. The proposed cannabis dispensary and delivery facility is consistent with the General Plan land use designation of Retail and Business Services, which is applied to areas that are intended retail, restaurant and commercial service uses. On December 19, 2017, the City Council adopted Ordinance No. ORD-2017-025 finding cannabis retail (dispensaries) and delivery uses appropriate in areas designated as Retail and Business Services on the land use diagram; 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. The site is surrounded by commercial uses and while a pre-school is located behind the proposed

dispensary to the south, there are no setback requirements to preschools and the Project is oriented to the north and away from the pre-school and there are no doors, windows or other openings on the south wall of the dispensary. 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 Project plans demonstrate compliance with all operational standards as specified in Zoning Code Chapter 20-46, and the subject site is within a fully developed area zoned for office uses; 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. With the proposed odor control measures; the proposed operational procedures including site and building security, storage and waste handling, inventory tracking, and age/medical restrictions; and compliance with all applicable state and local regulations, the proposed Project is consistent with surrounding land uses, including the abutting pre-school use to the south. On-site security personnel will monitor the parking lot located behind the building to prevent loitering, consumption of cannabis or other nuisance activities.
- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA). and qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 in that it involves minor modifications to an existing facility, with no expansion of use.

Pursuant to CEQA Guidelines Section 15332, the project qualifies for a categorical exemption as infill development as it is located on a site of less than five acres, within City limits, substantially surrounded by urban uses, with no value as habitat for endangered, rare or threatened species, adequately served by necessary utilities and public services, and the project has no foreseeable significant adverse impacts to traffic, noise, air quality or water quality:

- Biology. The Project site is covered by an existing building and parking lot and has no habitat value. No trees or other vegetation will be removed from the site as a part of the Project.
- Noise - The proposed Project will operate within an existing building, which will not result in excessive noise on the exterior of the building and will operate within hours established for Retail Cannabis in Zoning Code Section 20-46.080(4
- Air Quality/Odor - The letter addressed to the City of Santa Rosa, dated April 13, 2018, from TEP Engineering, Inc. discusses in detail the design of the carbon filtration system that will be installed, pursuant to Zoning Code Section 20-46, at

the Project site; and

- Water – There are no changes in impervious surfaces or stormwater drainage proposed. In addition, the site has municipal water and wastewater service.

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 the Project to allow cannabis retail (dispensary) and delivery services, 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. All work shall be done according to the final approved plans dated received April 20, 2018.
3. The address shall be displayed in a prominent location on the street side of the property. The numbers shall be no less than 6-inches in height and shall be of a contrasting color to the background to which they are attached. The address shall be illuminated during hours of darkness per City "Premises Identification" requirements.

EXPIRATION AND EXTENSION:

4. This Conditional Use Permit shall be valid for a two-year period.
5. 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.

PLANNING DIVISION:

6. Design Review is required for any exterior modifications.

7. An acoustic study shall be provided with plan sets submitted for building permits for all exterior mounted equipment, including HVAC equipment, and enclosure for said equipment, in compliance with the Noise Ordinance, City Code Chapter 17-16. The Project is required to comply with Residential sound levels along the west, south and east property lines.
8. Compliance with all applicable operational provisions of Zoning Code Chapter 20-46 is required.
9. Bike parking shall be installed in compliance with Zoning Code Chapter 20-36.
10. Plans submitted for building permits shall include an exterior lighting plan in compliance with Zoning Code Section 20-30.080.
11. No signs are approved as part of this Conditional Use Permit. All signs require a separate review process and both Planning and Building permits and shall be consistent with the requirements of Zoning Code Section 20-46.080(F) which prohibits cannabis retail facilities from advertising or marketing cannabis products within 1,000 feet of a day care, a school providing instruction in kindergarten or any grades 1 through 12, playground or youth center.
12. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080).
13. **PROJECT DETAILS:**
 - A. 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.
 - B. Permitted days and hours of operation for retail sales and deliveries are seven days a week 9 a.m. to 9 p.m.

PUBLIC WORKS/ENGINEERING DIVISION:

14. To minimize potential conflicts between vehicles pulling into and out of the parking stalls in the garage, the first employees to arrive at the site should be instructed to park in the stalls near the rear of the garage, as these will be the most difficult to navigate.
15. The first 20 feet of the curb southwest of the exit driveway shall be painted red or signed for no parking.

BUILDING DIVISION:

16. Obtain a building permit for the proposed project.

FIRE DEPARTMENT

- 17. Facility shall comply with the requirements of “Building and Fire Code Requirements for Cannabis Related Occupancies” including General Requirements and those specific to Dispensary. See <https://srcity.org/2515/Commercial-Cannabis-Application-Support> .
- 18. Twelve inch illuminated building address characters shall be provide per Fire Dept. standards. Installation to comply with California Fire Code as amended by the Santa Rosa City Code. Six-inch numeric or alpha-numeric shall be provided for suites.
- 19. Storage or use of any hazardous materials at the site may require a Hazardous Materials Inventory Statement to be submitted to the Fire Dept. for review via the California Environmental Reporting System (CERS). Materials in excess of the permitted amounts will require a Hazardous Materials Management Plan to be submitted to the Fire Dept. for review and approval and may require payment of Hazardous Material Use or Hazardous Waste Generator permit fees.

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 24th day of January 2019 by the following vote:

AYES: (5) Chair Cisco, Vice Chair Weeks, Commissioner Kalia, Commissioner Okrepkie, and Commissioner Peterson.

NOES: (0)

ABSTAIN: (0)

ABSENT: (2) Commissioner Duggan and Commissioner Edmondson

APPROVED: 
PATTI CISCO, CHAIR

ATTEST: 
CLARE HARTMAN, EXECUTIVE SECRETARY