

RESOLUTION NO. RES-2021-231

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA DENYING TWO SEPARATE APPEALS AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR OLD SCHOOL CANNABIS TO ALLOW 2,350-SQUARE-FEET OF RETAIL (DISPENSARY) WITH DELIVERY AND ONSITE CONSUMPTION; 17,120-SQUARE-FEET FOR COMMERCIAL CULTIVATION (5,001-SQUARE-FEET OR GREATER); 870-SQUARE-FEET FOR DISTRIBUTION; 500-SQUARE-FEET OF MANUFACTURING – LEVEL 2 (VOLATILE) WITHIN AN EXISTING BUILDING, LOCATED AT 100 SEBASTOPOL ROAD; ASSESSOR’S PARCEL NO. 125-181-023; FILE NO. CUP21-027

WHEREAS, on March 9, 2021, an application was submitted requesting the approval of a Conditional Use Permit for Old School Cannabis to operate a cannabis facility that will include 2,350-square-feet of Retail (Dispensary) with Delivery and onsite consumption; 17,120-square-feet for Commercial Cultivation (5,001-square-feet or greater); 870-square-feet for Distribution; 500-square-feet of Manufacturing – Level 2 (volatile), within an existing vacant building on property located at 100 Sebastopol Road, also identified as Sonoma County Assessor's Parcel Number 125-181-023 (Project); and

WHEREAS, the City of Santa Rosa scheduled a duly noticed public hearing on the Project for the regularly scheduled September 9, 2021 Planning Commission hearing; and

WHEREAS, on September 8, 2021, Planning staff received a request from the public for English to Spanish translation service during the presentation of the Project at the September 9, 2021 Planning Commission hearing; and

WHEREAS, on September 9, 2021, the Planning Commission held a duly noticed public hearing on the Project and after consideration of Planning staff’s recommendation to continue the project to the next Planning Commission hearing, the Planning Commission voted to continue the public hearing to the next regularly scheduled Planning Commission hearing date of September 23, 2021 to allow for translation services; and

WHEREAS, on September 23, 2021, the Planning Commission held a duly noticed public hearing with English to Spanish translation service on the application at which time all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, at that meeting on September 23, 2021, the Planning Commission, after due consideration, investigation, and study made by itself and on its behalf and due consideration of all evidence and reports, approved the Project, subject to a 10-day appeal period; and

WHEREAS, on September 30, 2021, Duane DeWitt filed an appeal of the Planning Commission’s action, seeking review by the City Council, pursuant to City Code Chapter 20-62; and

WHEREAS, on October 4, 2021, Evette Minor filed a second, independent appeal of the Planning Commission's action, also seeking review by the City Council, pursuant to City Code Chapter 20-62.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa, after consideration of the appeals 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 two appeals, which were filed by Duane DeWitt and Evette Minor separately, affirms the decision of the Planning Commission, and makes the following findings and determinations:

- A. The proposed Project is allowed in the Light Industrial (IL) 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 Light Industrial Zoning District, which implements the General Industry General Plan land use designation, and allows cannabis retail dispensary, and delivery with the approval of a major Conditional Use Permit; and
- B. The proposed Project is consistent with the General Plan land use designation of General Industry, which is applied to areas that are intended for industrial 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 Industrial 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. While the larger vicinity of the project site hosts a variety of commercial, residential, and industrial uses, the site is located on a block predominately occupied by light industrial uses. The applicant proposes to reoccupy and renovate an existing building that was built in the 1960s. The Project is supported by a well-designed, shared parking area; security measures including lighting, restricted access for employees, refuse disposal areas, on-site security personnel, surveillance cameras and security fencing and gates. The onsite consumption lounge will be located beyond the security checks at the entrance of the retail facility, adjacent to the light rail line along the east property line. The onsite consumption use is required to comply with Chapter 9-20 of the City's Smoking Regulations Code. Furthermore, the project site is in the Light Industrial zoning district. The entrance to the retail dispensary is visible from the street and the proposed project is compatible with the existing uses to the north, east, and west of the project site, and is adequately screened and separated from the residential uses located to the east. In addition to the City Code requirements, the consumption lounge complies with the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), in that the consumption lounge will be an enclosed patio, not visible from any public place and the applicant has no plans to sell alcohol or tobacco on the premises. 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 the uses 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 Light Industrial 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. The proposed Project will have on-site security personnel that will monitor the parking lot to prevent loitering, consumption of cannabis or other nuisance activities. In addition, with the proposed odor control measures, the proposed operational procedures, including site and building security, storage and waste handling, inventory tracking, hours of operation, and age/medical restrictions, and compliance with all applicable state and local regulations, the proposed Project will not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, or welfare, or materially injurious to persons, property or improvements in the vicinity; and
  
- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA):
  - a) The proposed project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303 in that it involves a change of use, which will require minor exterior modifications to the structure/site.
  
  - b) The proposed project 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.
  
  - c) The Project qualifies for a Class 32 exemption under CEQA Guidelines Section 15332 (In-fill Development Projects) in that:
    - i. The Project is consistent with Santa Rosa General Plan 2035 and the current City of Santa Rosa Zoning Code;
  
    - ii. 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;
  
    - iii. The Project site has been previously developed and has no value as habitat for endangered, rare or threatened species. The Project site was previously filled and is encircled by constructed roadways;
  
    - iv. The Project will not result in any significant effects relating to traffic (per focused traffic study, dated June 30, 2021), noise, air quality, or water quality; and
  
    - v. 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.

- d) The Project qualifies for an exemption pursuant to CEQA Guidelines Section 15183 in that the Project is consistent with the City's General Plan and the Roseland Area/Sebastopol Road Specific Plan for which EIRs were prepared and certified and, as evidenced by the special studies prepared for the Project, the Project does not contain conditions, nor would it result in any of the following effects.
- i. There are no project specific effects which are peculiar to the Project or its site, and which the General Plan or Specific Plan EIRs failed to analyze as significant effects. The subject property is no different than other properties in the surrounding area, and there are no Project specific effects that are peculiar to the Project or its site. The project site is located in an area developed with industrial uses. The property does not support any peculiar environmental features, and the Project would not result in any peculiar effects. In addition, all Project impacts were adequately analyzed by the specific plan and General Plan EIR.
  - ii. The project site is within the planning boundaries of the Roseland Area/Sebastopol Road Specific Plan, adopted in 2016, and was analyzed by the Specific Plan EIR (State Clearinghouse No. 2016012030). The General Plan was amended in 2016 to incorporate the land use and housing policies of the Specific Plan. As noted earlier the Project is consistent with the Specific Plan land use policy. As such, the effects of the future development of the Roseland Village project, including the proposed subdivision and planned higher density mixed use development, was fully analyzed. The Project does not include any new land use that could create an effect that has not been previously analyzed by the Specific Plan or General Plan.
  - iii. There are no potentially significant off-site and/or cumulative impacts which the General Plan or Specific Plan EIRs failed to evaluate. The proposed Project is within the scope of the General Plan and Specific Plan EIRs and would represent a small part of the growth that was forecast for build-out of the General Plan. The General Plan and Specific Plan EIRs considered the incremental impacts of the future development, such as the Project and planned Roseland Village project, and no potentially significant off-site or cumulative impacts have been identified which were not previously evaluated.
  - iv. Effects that are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

- v. The applicant provided a focused traffic study, prepared by W-Trans on July 30, 2021. The study did not reveal any new information or condition that suggests a previously identified significant effect is more severe than determined at the time the General Plan or Specific Plan EIR were certified.
- e) 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 the Council upholds the decision of the Planning Commission and approves a Conditional Use Permit for the Old School Cannabis Project subject to each of the following conditions and the conditions set forth in Exhibit A to this Resolution:

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 9, 2021.
3. The operator shall obtain Design Review in compliance with 20-52.030 for exterior changes, as necessary.

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. 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.
7. Compliance with all applicable operational provisions of Zoning Code Chapter 20-46 is required.
8. Bike parking shall be installed in compliance with Zoning Code Chapter 20-36.
9. Plans submitted for building permits shall include an exterior lighting plan in compliance with Zoning Code Section 20-30.080.
10. No signs are approved as part of this Conditional Use Permit. All signs require a separate review process and both Planning and Building permits.

11. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080).

12. 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.

**BUILDING DIVISION:**

13. Obtain a building permit for the proposed project.

**ENGINEERING DIVISION:**

14. Compliance with all conditions as specified by the attached Exhibit "A" dated July 26, 021.

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 14th day of December, 2021.

AYES: (4) Council Members Fleming, N. Rogers, Sawyer, Schwedhelm, Tibbetts

NOES: (1) Council Member Tibbetts

ABSENT: (0)

ABSTAIN: (2) Mayor C. Rogers, Vice Mayor Alvarez

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
City Clerk Mayor

APPROVED AS TO FORM: \_\_\_\_\_  
City Attorney

Exhibit A – Planning & Economic Development Department Engineering Development Services Division Conditions to Old School Cannabis Tenant Improvement 100 Sebastopol Rd CUP21-027