

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: KRISTINAE TOOMIANS, SENIOR PLANNER  
PLANNING AND ECONOMIC DEVELOPMENT  
SUBJECT: APPEAL OF CANNABIS POLICY SUBCOMMITTEE DECISION  
TO SELECT FRIENDS AND FARMERS (FORMERLY GREEN  
TROVE WELLNESS) TO MOVE FORWARD IN THE  
CONDITIONAL USE PERMIT ENTITLEMENT PROCESS FOR A  
PROPOSED COMMERCIAL CANNABIS ADULT USE RETAIL  
FACILITY, LOCATED AT 330, 358 YOLANDA AVENUE;  
ASSESSOR'S PARCEL NUMBERS 044-072-006, -007, & -008;  
FILE NO. CUP18-070

AGENDA ACTION: RESOLUTION

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RECOMMENDATION

The City Council's Cannabis Policy Subcommittee recommends that Council, by resolution, deny the appeal of CN Santa Rosa (Applicant A) and affirm the Cannabis Policy Subcommittee's decision to select Friends & Farmers (Applicant C) to move forward in the Conditional Use Permit Process for a proposed commercial cannabis adult use retail facility, located at 330 & 358 Yolanda Ave.

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EXECUTIVE SUMMARY

The City's Cannabis Retail Application Period for dispensaries and microbusinesses with retail closed on April 20, 2018. Applications deemed complete within the prescribed time period were also evaluated for potential overconcentration. If a proposed location is within 600 feet of another proposed or existing retail location, then the project(s) entered a competitive merit



Figure 1: Applicant A – CN Santa Rosa; Applicant C – Friends & Farmers

# YOLANDA/SANTA ROSA AVE CANNABIS CONCENTRATION APPEAL

## PAGE 2 OF 8

point based review process. Planning staff identified a total of 21 applications, representing 7 areas of overconcentration, for this track.

One of the areas of overconcentration included five proposed cannabis retail facilities on Santa Rosa and Yolanda Avenue. The applicants included: CN Santa Rosa (Applicant A), located at 2612 Santa Rosa Ave; Louies Gouies (Applicant B), located at 316 Yolanda Ave; Friends & Farmers (formerly Green Trove Wellness) (Applicant C), located 330 & 358 Yolanda Ave; Black Elm (Applicant D), located at 374 Yolanda Ave; Santa Rosa NKM (Applicant E), located at 468 Yolanda Ave.

A City Planning staff review team independently reviewed and scored the applications individually against four criteria that were identified in the *City's Cannabis Use Application Retail Use Requirements* (published on [www.srcity.org/cannabis](http://www.srcity.org/cannabis)), resulting in a staff recommendation to select the application with the highest-ranked average score. Points were awarded based on the quality and extent that an application addressed the merit criteria. Staff findings and applicant proposals were presented to the City Council's Cannabis Policy Subcommittee, who then selected which applications move forward with the Conditional Use Permit review process. Reviewers awarded CN Santa Rosa (Applicant A) 85 average points, and Friends & Farmers (Applicant C) 81.7 average points. A total of 100 points could be awarded for all criteria.



Figure 2: Consequence of choosing Friends & Farmers (Applicant C) is voiding CN Santa Rosa, Louies Gouies, and Black Elm. Santa Rosa NKM (Applicant E) is no longer competitive.

On November 14, 2018, staff recommended that the highest scoring applicant, Friends & Farmers (Applicant A), move forward. After hearing presentations from staff, the applicants, and the public, the Cannabis Policy Subcommittee, by motion, selected Friends & Farmers (Applicant C) to move forward in the Conditional Use Permit entitlement process, voiding CN Santa Rosa (Applicant A), Louies Gouies (Applicant B), and Black Elm (Applicant D). As a result of this decision, Santa Rosa NKM (Applicant E) is no longer in direct competition with another dispensary within 600 feet and can also move forward in the Conditional Use Permit process.

### BACKGROUND

On December 19, 2017, the City Council enacted comprehensive regulations for cannabis (ORD-2017-025), which occurred after the State of California approved the sale of cannabis for adult use. Per City Code section 20-46.080(D)(1), the Planning and Economic Development Department can: “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.”

On March 15, 2018, pursuant to Section 20-46.080 of the City’s Comprehensive Cannabis Ordinance, the Planning and Economic Development Department published the *Cannabis Use Application Retail Use Requirements*, which established a point based evaluation criteria process and selection procedures to avoid an overconcentration of Cannabis Retail uses, should competing applications be submitted within a 600-foot radius of each other. The evaluation process required that the applications be evaluated on four criteria. Points were awarded based on how effectively each application responded to or met the requirements for each criterion. The City’s Cannabis Subcommittee, comprised of three appointed City Council members, reviewed all applicants in this category and selected, at a public meeting, which applications could move forward in the Conditional Use Permit process, based on their ranking.

From April 9, 2018 to April 20, 2018, the City’s Planning and Economic Development Department accepted Conditional Use Permit applications for proposed commercial cannabis adult use retail facilities. Planning staff reviewed the applications to ensure that applicants submitted all the required checklist items.

On May 27, 2018, Planning staff issued incompleteness letters to CN Santa Rosa and Friends & Farmers (formerly Green Trove Wellness). The applicants were allotted 21 calendar days to respond to any items deemed missing, incomplete, or insufficient.

On June 27, 2018, Planning staff issued completeness letters to CN Santa Rosa and Friends & Farmers.

On November 14, 2018, staff recommended that CN Santa Rosa (Applicant A) move forward because they achieved the highest average score. After hearing presentations from staff, applicants, and the public, the Cannabis Policy Subcommittee, by motion, selected Friends & Farmers to move forward in the Conditional Use Permit entitlement process, voiding CN Santa Rosa (Applicant A), Louies Gouies (Applicant B), and Black Elm (Applicant D). As a result of this decision, Santa Rosa NKM (Applicant E) is no longer in direct competition with another dispensary within 600 feet and can also move forward in the Conditional Use Permit process.

On November 26, 2018, Tyler Champlis and Crystal Matter, representing CN Santa Rosa, filed an appeal of the Cannabis Policy Subcommittee’s decision based on eight grounds for appeal. The appeal questions the validity of the merit-based review process.

On December 28, 2019, Brandy Moulton, representing Black Elm (Applicant D) formally withdrew Conditional Use Permit File No. CUP18-067.

On January 15, 2019, Luis Chaves, representing Louies Gouies (Applicant B) formally withdrew Conditional Use Permit File No. CUP18-058.

1. PROJECT DESCRIPTION

A City review team independently evaluated five competitive applications proposed on Santa Rosa and Yolanda Avenue against four criteria that were identified in the *City's Cannabis Use Application Retail Use Requirements*. Points were awarded based on the quality and extent that an application addressed the merit criteria. Vague discussions and general lack of detail in the narrative tended to receive lower scores. Reviewers were looking for a thorough and thoughtful



Figure 3: CN Santa Rosa (Applicant A) to the north; Friends 7 Farmers (Applicant C) to the south

discussion that addressed each and every Merit Based Review Criterion. After each application was reviewed and scored, individually, staff compared the average scores to determine which application responded best to the merit-based review criteria, resulting in a staff recommendation to select the application with the highest-ranked average score. The three independent reviewers unanimously awarded Applicant A (CN Santa Rosa) with more points, based on how thoroughly the application addressed the Merit Based Review Criteria, pursuant to the City's *Cannabis Use Application Retail Use Requirements*.

Cannabis Retail Merit Based Review Criteria	A			
	CN Santa Rosa CUP18-053 2612 Santa Rosa Ave			
STAFF REVIEWER	REVIEWER 1	REVIEWER 2	REVIEWER 3	AVG
Local & State Compliance (20 points)	17	19	20	18.7
Site Management (20 points)	18	16	18	17.3
Neighborhood Compatibility (30 points)	25	21	27	24.3
Neighborhood Enhancement (30 points)	23	24	27	24.7
<b>TOTAL SCORE (Out of 100)</b>	<b>83</b>	<b>80</b>	<b>92</b>	<b>85</b>

Cannabis Retail Merit Based Review Criteria	B			
	Friends & Farmers (formerly Green Trove Wellness) CUP18-070 330 & 358 Yolanda Ave			
STAFF REVIEWER	REVIEWER 1	REVIEWER 2	REVIEWER 3	AVG
Local & State Compliance (20 points)	18	19	19	18.7
Site Management (20 points)	18	18	18	18
Neighborhood Compatibility (30 points)	18	26	27	23.7
Neighborhood Enhancement (30 points)	20	19	25	21.3
<b>TOTAL SCORE (Out of 100)</b>	<b>74</b>	<b>82</b>	<b>86.5</b>	<b>81.7</b>

2. Surrounding Land Uses

**CN Santa Rosa (Applicant A) – 2612 Santa Rosa Ave**

The proposed cannabis retail facility at 2612 Santa Rosa Ave is adjacent to a vacant lot to the north, a restaurant to the south, industrial uses to the east, and a funeral home/cemetery across the street to the west.

**Friends & Farmers (Applicant C) – 330 & 358 Yolanda Ave**

The proposed cannabis retail facility at 330 & 358 Yolanda Ave is adjacent to a single-family residence to the west, industrial uses to the north, south, and east.

3. Existing Land Use – Project Site

**CN Santa Rosa (Applicant A) – 2612 Santa Rosa Ave**

The proposed cannabis retail facility at 2612 Santa Rosa Ave is located on the east side of Santa Rosa Ave in a predominantly commercial area. The General Plan Land Use designation for the subject parcel and adjacent parcels is Retail & Business Services, and the zoning is General Commercial (CG). The applicant proposes to occupy the entirety of an existing vacant building.

**Friends & Farmers (Applicant C) – 330 & 358 Yolanda Ave**

The proposed cannabis retail facility at 330 & 358 Yolanda Ave is located on the south side of Yolanda Ave, in a predominantly industrialized area. The General Plan Land Use designation for the subject parcel and adjacent parcels to the north, west, and south is Retail & Business Services, and the zoning is General Commercial(CG). The General Plan designation for the adjacent parcels to the east is Light Industry, and the zoning is Light Industrial (IL). The applicant proposes to replace the existing building(s) with a new retail facility and associated parking lot.

## ANALYSIS

### Appeal Statement and Council Options

Pursuant to Zoning Code Chapter 20-62, appeals of decisions made by the Cannabis Policy Subcommittee shall be evaluated by the Council. The Council may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for appeal.

With respect to the Cannabis Policy Subcommittee, the Council may:

- Affirm, or reverse the action, the determination, or decision that is the subject of the appeal.

The appellant has provided the following four grounds for the appeal. The full appeal Statement is provided as an attachment. Staff responses follow each item.

- 1) *Applicant C failed to submit a complete application insofar as the application did not contain the building and site improvement plans raised during the November 14, 2018 hearing.*
- 2) *Applicant C failed to comply with the requirements for completing an incomplete application.*
- 3) *In its application, Applicant C misrepresented the site and building improvements and/or materially changed its application after the submission deadline, in contravention of the applicable rules and ordinances governing application approval.*
- 4) *Applicant C submitted late information that was considered by the Subcommittee, in violation of applicable rules and ordinances governing application approval.*
- 5) *The Cannabis Policy Subcommittee permitted and approved a material change to Applicant C's existing application in contravention of the established rules and ordinances governing application approval.*
- 6) *The Cannabis Policy Subcommittee permitted and approved a material change to Applicant C's existing application without a hearing on that change in contravention of the established rules and ordinances governing application approval.*
- 7) *The Cannabis Policy Subcommittee failed to apply the application requirements to Applicant C, which mandates that "providing false or misleading information during the application and/or permitting process **will** result in rejection of the application and/or nullification or revocation of any issued permit." (Cannabis Use Application Process and General Requirements, updated March 15, 2018) (Emphasis added.)*

- 8) *Applicant C was provided an unfair advantage in the application approval process due to Applicant C's attorney's affiliation with City of Santa Rosa Officials.*

Staff Response:

Planning staff reviewed and scored the applications against the *City's Cannabis Use Application Retail Use Requirements*. Late correspondence and information was not included as part of staffs' review. Planning staff recommended that CN Santa Rosa (Applicant A) move forward because the application achieved the highest average score. However, after hearing presentations from staff, applicants, and the public, the Cannabis Policy Subcommittee, by motion, opted to select Friends & Farmers (Applicant C) to move forward in the Conditional Use Permit entitlement process.

FISCAL IMPACT

Approval or denial of this appeal action does not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

The Subcommittee's recommendation is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378. Staff intends to perform a more thorough evaluation (including CEQA review) of the application that is successful in moving through to the Conditional Use Permit process.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On November 14, 2018, staff findings and applicant proposals were presented to the City Council's Cannabis Policy Subcommittee, who then, by motion, selected Friends & Farmers (Applicant C) to move forward in the Conditional Use Permit entitlement process, which would result in voiding CN Santa Rosa's Conditional Use Permit application.

ATTACHMENTS

Attachment 1 – Disclosure Forms

Attachment 2 – Location Map

Attachment 3 – Neighborhood Context Map

Attachment 4 – Appeal Statement, dated received on November 26, 2018

Attachment 5 – Staff Recommendation – Memo dated September 19, 2018

Attachment 6 – Scorecards for CUP18-053, CUP18-058, CUP18-070, CUP18-067 & CUP18-062

Attachment 7 – Application materials for CUP18-053 (Applicant A)

Attachment 8 – Plans for CUP18-053 (Applicant A)

Attachment 9 – Application materials for CUP18-070 (Applicant C)

YOLANDA/SANTA ROSA AVE CANNABIS CONCENTRATION APPEAL  
PAGE 8 OF 8

Attachment 10 – Plans for CUP18-070 (Applicant C)

Attachment 11 – Late correspondence for CUP18-070 (Applicant C)

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