

RESOLUTION NO. RES-2022-233

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA DENYING AN APPEAL AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR JANE DISPENSARY TO ALLOW 1,997-SQUARE-FEET OF CANNABIS RETAIL FACILITY (DISPENSARY) WITH DELIVERY - LOCATED AT 4040 HIGHWAY 12 (SONOMA HIGHWAY) - FILE NO. CUP21-071

WHEREAS, an application was submitted requesting the approval of a Conditional Use Permit for Jane Dispensary to operate a 1,997-square-foot Cannabis Retail Facility (Dispensary) with Delivery within a 4,776-square-foot multi-tenant commercial building, located at 4040 Highway 12, also identified as Sonoma County Assessor's Parcel Number 032-500-040; and

WHEREAS, on September 22, 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, on September 22, 2022, 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 approved a Conditional Use Permit for Jane Dispensary; and

WHEREAS, on October 3, 2022, an Appeal application was submitted to the City of Santa Rosa requesting that the City Council overturn the Planning Commission's determination and deny the project [Jane Dispensary]; and

WHEREAS, on December 6, 2022, the City Council of the City of Santa Rosa held a duly noticed public hearing and considered the Appeal of the Planning Commission action of approving a Conditional Use Permit for Jane Dispensary, a Cannabis Retail Facility (Dispensary) with Delivery, all comments made at the public hearing, and all other information in the administrative record.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa, 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 Zoning Code, Chapter 20-46 (Cannabis), Sections 20-46.040 and 20-46.080, and 20-62.030 (Processing of Appeals), hereby denies the Appeal and upholds the Planning Commission's approval of a Conditional Use Permit for Jane Dispensary, a cannabis retail facility (dispensary) with delivery, based on the following findings:

- A. The proposed use is allowed within the Neighborhood Commercial (CN) Zoning District and complies with all other applicable provisions of this Zoning Code and the City Code. Zoning Code Section 20-23.030 Table 2-7 lists allowable uses within the Neighborhood Commercial Zoning District, which implements the Retail and Business Services General Plan land use designation. The proposed commercial cannabis retail (dispensary) use with

delivery will occupy 1,997-square-feet of an existing 4,776-square-foot multi-tenant 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 use is consistent with the General Plan land use designation of Retail and Business Services. The proposed 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. The proposed project is allowed under Section 20-23.030 Table 2-7 of the City Zoning Code with approval of a Conditional Use Permit. The project site is developed for commercial uses with a total of 36 vehicle parking spaces, including 2 ADA accessible spaces. No additional parking is required for this project per Zoning Code Section 20-36.040. 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 north side of the building and is visible from Highway 12. The proposed project is compatible with the existing adjacent uses on the property and is adequately screened from the residential uses located to the south; 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. The proposed project plans comply with all operational standards as specified in Chapter 20-46. 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. The applicant has provided an Odor Mitigation Plan certified by a licensed engineer ensuring that all mitigation controls are sufficient to mitigate odors. The project is compliant with Zoning Code Section 20-46.050(G) which states that Cannabis Businesses shall provide adequate security on the premises, including lighting and alarms, to ensure the public safety and the safety of persons within the facility and to protect the premises from theft. A security plan has been provided by the applicant which states that hired security personnel will be on-site during hours of operation and will track and monitor the entryway and the parking lot. Additionally, the project shall have video surveillance, intrusion detection systems and outdoor security lighting. There are no schools or established cannabis dispensaries within 600 feet of the subject property; and
- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and 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 no expansion of use. Historically, the site has operated as a retail location open to the general public.

- 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 (Infill 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 Neighborhood Commercial (CN) and dispensaries are a 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 one multi-tenant commercial building 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 January 27, 2022, concludes the Project would result in a less-than-significant transportation impact on VMT. The proposed project will occupy 1,997-square-foot of an existing 4,776-square-foot multi-tenant commercial building and most of 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. Staff have 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 the Council of the City of Santa Rosa finds that the said Conditional Use Permit for Jane Dispensary, a 1,997-square-foot Cannabis Retail Facility (Dispensary) with Delivery, located at 4040 Highway 12 (Sonoma Highway), would not be approved but for the applicability and validity of each and every one of the below conditions and that if any one or more of the below conditions are determined invalid, this Conditional Use Permit would not have been approved without requiring other valid conditions for achieving the purposes and intent of such approval.

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BE IT FURTHER RESOLVED that the Council of the City of Santa Rosa approves Jane Dispensary, subject to 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. 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 building permits for the proposed project.

**ENGINEERING DIVISION:**

6. Compliance with all conditions as specified by the attached Exhibit "A" dated December 7, 2021.

**FIRE DEPARTMENT**

7. Compliance with all conditions as specified by the attached Exhibit "B" dated October 26, 2021.

**PLANNING DIVISION:**

8. 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.
9. The sale of any cannabis related paraphernalia products must comply with the City's zoning code and any other applicable State regulations.

10. Compliance with all applicable operational provisions of Zoning Code Chapter 20-46 is required.
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.
12. At least 2 bike parking spaces shall be installed in compliance with Zoning Code Chapter 20-36.
13. All exterior lighting shall comply with Zoning Code Section 20-30.080.
14. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080).

IN COUNCIL DULY PASSED this 6th day of December, 2022.

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

NOES: (2) Mayor C. Rogers, Council Member MacDonald

ABSENT: (1) Vice Mayor Alvarez

ABSTAIN: (0)

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

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

Exhibit A – Department of Planning & Economic Development Engineering Development Services Tenant Improvement Conditions for Jane Dispensary

Exhibit B – Fire Department Memorandum, dated October 26, 2021, regarding Jane Dispensary Application