

RESOLUTION NO. RES-2022-135

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 FLORA TERRA, AN APPROXIMATELY 1,140-SQUARE FOOT CANNABIS RETAIL FACILITY, LOCATED AT 1226 4TH STREET, ASSESSOR'S PARCEL NUMBER 009-112-028; FILE NO. CUP21-061

WHEREAS, on July 6, 2021, an application was submitted requesting the approval of a Conditional Use Permit for Flora Terra, a Cannabis Retail facility providing products for medical and adult use, to be located at 1226 4<sup>th</sup> Street, also identified as Sonoma County Assessor's Parcel Number 009-112-028; and

WHEREAS, on August 16, 2021, a Neighborhood Meeting was held to introduce the proposed Cannabis Retail facility to neighbors; and

WHEREAS, on March 24, 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 March 24, 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, Resolution No. RC-2022-009, for the Flora Terra dispensary; and

WHEREAS, on April 1, 2022, an Appeal application was submitted to the City of Santa Rosa requesting that the City Council, "order a study of the impacts, influence, and infringements the project [Flora Terra] will have on the historical [McDonald Preservation] district." and

WHEREAS, on June 21, 2022, the Council of the City of Santa Rosa held a duly noticed public hearing and considered the Appeal of the Planning Commission action approving a Conditional Use Permit for Flora Terra, a Cannabis Retail facility, all comments made at the public hearing, and all other information in the administrative record.

NOW, THEREFORE, BE IT RESOLVED 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 filed by Robert Jacobsen, upholds the Planning Commission's action approving a Conditional Use Permit for Flora Terra, a Cannabis Retail facility, and makes the following findings and determinations:

- A. The proposed dispensary is consistent with the General Plan land use designation of Retail and Business Services and any applicable specific plan. The Project implements several General Plan policies by providing diversity in and increasing employment

opportunities; by facilitating the retention and expansion of local business operators; and by placing a retail use meeting everyday needs of Santa Rosa residents within walking distance of residential neighborhoods and along an arterial street where it is easily accessible. The subject site is not within the boundary of a specific plan area.

- B. The proposed Cannabis Retail facility (dispensary) use is allowed within the General Commercial (CG) zoning district and complies with all other applicable provisions of the Zoning Code and the City Code. The dispensary use is permitted through the approval of a Conditional Use Permit in the CG zoning district and, as conditioned, the Project is required to remain in compliance with Zoning Code Chapter 20-46, which provides operating standards for all cannabis uses.
- 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 Cannabis Retail facility is proposed in an existing 1,140-square foot commercial building located on an arterial street. The location is easily accessed and provides onsite parking in compliance with Zoning Code Chapter 20-36, and additional street is available. The Project site plan provides circulation and emergency access, and the project materials have been reviewed by the Traffic Division, Fire Department and Engineering Development Services and conditioned appropriately.
- D. The site is physically suitable for the type, density, and intensity of the proposed Cannabis Retail facility, including access, utilities, and the absence of physical constraints. Site circulation includes adequate parking in compliance with Zoning Code Chapter 20-36; the Project site plan allows for emergency access; the application materials include an Odor Mitigation Plan, prepared by Jason Vander Veen, Mechanical Engineer, dated July 2, 2021, stating the dispensary will be equipped with a carbon filtration system, the cannabis industry gold standard, to ensure odors will be contained within the building; the application materials also included a traffic analysis conducted by W-Trans, dated January 22, 2022, that concluded there would not be a significant impact stating “the Project would be expected to generate 13 more daily trips on average compared to the prior restaurant use, including one more trip during the a.m. peak hour and 16 more trips during the p.m. peak hour;” and water, sewer and emergency services are all available at subject site.
- 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 dispensary is located on an arterial street in an area designed by the General Plan Land Use Diagram for commercial uses. An Odor Mitigation Plan, prepared by Jason Vander Veen, Mechanical Engineer, dated July 2, 2021, concluded that the installation of a charcoal filtration system “will ensure that there will be no cannabis odors detectable outside the facility, avoiding any impact on neighbors.” The project narrative discusses a security system that complies with the requirement set forth in Zoning Code Chapter 20-46, including onsite security personnel, 24-hour security cameras, robbery alarm system, secure storage for all cannabis products and waste, and commercial-grade locks on all windows and doors.

F. The Project has been found in compliance with the California Environmental Quality Act (CEQA):

Pursuant to CEQA Guidelines Section 15301, the Project is categorically exempt because it involves only 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 another where only minor modifications to the structure will be 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 Retail and Business Services and the zoning designation of General Commercial.
- The property is less than five acres and is within Santa Rosa City limits.
- The site is completely developed with no potential habitat for endangered, rare or threatened species.
- The site is currently served by all utilities and services.
- Re-tenanting the space will not result in any significant effects pertaining to noise, traffic, air quality, or water quality.
  - A traffic analysis conducted by W-Trans, dated January 22, 2022, concluded that traffic impacts would be less than significant stating “the Project would be expected to generate 13 more daily trips on average compared to the prior restaurant use, including one more trip during the a.m. peak hour and 16 more trips during the p.m. peak hour;”
  - An Odor Mitigation Plan, prepared by Jason Vander Veen, Mechanical Engineer, dated July 2, 2021, concluded that the installation of a charcoal filtration system “will ensure that there will be no cannabis odors detectable outside the facility, avoiding any impact on neighbors.

Pursuant to section 15183, the Project qualifies for streamlined 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 General Industrial 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.

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 finds and determines that the said Conditional Use Permit for Flora Terra, an approximately 1,140-square foot Cannabis Retail facility, 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.

BE IT FURTHER RESOLVED that the Council approves Flora Terra, 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.

**EXPIRATION AND EXTENSION:**

2. 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.
3. 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:**

4. Obtain a building permit for the proposed project.

**ENGINEERING DIVISION:**

5. Compliance with Engineering Development Services Exhibit A, prepared by Cleve Gurney, dated October 22, 2021, attached hereto and incorporated herein.

**PLANNING DIVISION:**

6. The Project site plan as presented for issuance of a building permit shall be the same as that approved by the Planning Commission, date-stamped received on July 6, 2021. Any future additions, expansions, remodeling, etc., will be subject to review and approval of the Planning Division.
7. Exterior modifications shall require some level of Design Review.

8. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080),
9. Compliance with Zoning Code Chapter 20-46, which provides operating standards for cannabis uses.
10. Compliance with the Noise Ordinance, City Code Chapter 17-16.
11. The building and site landscaping shall be maintained in good condition. All debris onsite shall be removed daily.
12. All outdoor refuse receptacles shall be maintained within a completely screened structure or area. The design of the screened structure or area shall be approved by the Planning Division prior to issuance of a building permit and be consistent with the applicable requirements of Zoning Code.
13. All project details shall be in accordance with the restrictions and limitations of the City Zoning and Uniform Building Codes, as well as the City's Design Review Guidelines.
14. All exterior lighting shall be shown and specified on the plans submitted for issuance of a building permit and in compliance with Zoning Code Sections 20-30.080 (Outdoor lighting) and 20-46-050 (General operating requirements for cannabis uses).
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. A planning sign permit application is required for all signs.
17. NATURAL RESOURCES:
  - A. Advisement. The applicant, its successors, heirs, assigns or transferees are advised in writing that this approval or permit prior to the start of any construction may be subject to certain other clearances, approvals, permits, or authorizations by state and/or federal agencies. The applicant shall acknowledge in writing receipt of the above advisement.
  - B. Mitigation requirement. The City's approval or permit is valid only if the applicant, its successors, heirs, assigns or transferees, comply with the terms, conditions and mitigations set forth in any clearance, permit or approval except that any permit condition or mitigation that requires project redesign shall trigger a review by the City of Santa Rosa Director of Community Development to determine if the project as redesigned is consistent with the original approval. A project that the City determines is not consistent with the City approval shall not be granted subsequent

entitlements, such as approval of improvement plans and final maps, but excluding grading or building permits of any type. Such a project would have to be resubmitted to the City and reviewed by the City as a new project, including the submittal of a new application and fees.

- C. Power to stop work if violation occurs. Nothing in this approval shall prevent the City of Santa Rosa from exercising its power to stop work in instances where a violation of state or federal law is brought to the City's attention.
- D. No building or grading permit of any type shall be issued by the City until a required federal or state, as applicable, clearance or authorization, with or without conditions, has been filed with the City.

IN COUNCIL DULY PASSED this 21st day of June, 2022.

AYES: (6) Mayor C. Rogers, Council Members Fleming, MacDonald, N. Rogers, Schwedhelm

NOES: (0)

ABSENT: (1) Council Member Sawyer

ABSTAIN: (1) Vice Mayor Alvarez

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

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

Exhibit A - Engineering Development Services