

RESOLUTION NO. RES-2017-074

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA DENYING AN APPEAL AND APPROVING A CONDITIONAL USE PERMIT FOR FLEURON INC. FOR A MEDICAL CANNABIS COMMERCIAL CULTIVATION FACILITY - LOCATED AT 60 MAXWELL COURT; APN: 010-131-033 - FILE NUMBER CUP16-087

WHEREAS, an application was submitted on December 8, 2016, and revised on February 1, 2017, requesting the approval of a Conditional Use Permit for Fleuron Inc. for a medical cannabis commercial cultivation facility, as described by the revised Project description depicted by the revised project plans, dated January 31, 2017, and submitted on February 1, 2017, to be located within an existing 10,972 square foot light industrial building at 60 Maxwell Court, also identified as Sonoma County Assessor's Parcel Number(s) 043-134-013 ("Project"); and

WHEREAS, on October 9, 2007, the City Council adopted the Downtown Station Area Specific Plan ("Specific Plan") to establish a planning framework that supports transit use and pedestrian activity through new residential and retail mixed use development and defined land use planning sub-areas including the Railroad Corridor Subarea which includes the Project and the predominantly industrial lots to the east, west and north of the Project and bounded by College Avenue, North Dutton Avenue, W 9th Street and the SMART railroad, known as the Maxwell Court Neighborhood; and

WHEREAS, the Specific Plan placed virtually all of the Railroad Corridor Subarea, including the entirety of the Project site and the Maxwell Court Neighborhood, within the Transit Village Medium land use designation, and established the Specific Plan's land use goal to allow existing industrial uses to continue in the interim as new development in this subarea transitions to mixed use residential, with ground floor neighborhood retail, by the end of the General Plan 2035 planning horizon; and

WHEREAS, on November 3, 2009, the City Council adopted the Santa Rosa General Plan 2035 and, in doing so, incorporated the policies and land use designations of the Specific Plan including the land use goals of the Railroad Corridor Subarea; and

WHEREAS, on August 31, 2010, the City Council approved Ordinance 3950 to amend the zoning text and map to add the Transit Village – Residential (TV-R) primary zoning district and the Station Area (-SA) combining zoning district to the Title 20 of the Santa Rosa Code (Zoning Code) and to replace the Planned Industrial (PM) zoning over the Project site and the Maxwell Court Neighborhood with the TV-R-SA zoning; and

WHEREAS, on August 31, 2010, the City Council approved Ordinance 3951 to amend the zoning text and map to establish the Limited Light Industrial (-LIL) combining zoning district and place this zoning designation on the Project site and the Maxwell Court Neighborhood to allow existing industrial uses located in this area continue as allowed uses, as stated by Zoning Code Section 20-28.070.A, to "...*maintain a vibrant and thriving industrial area, while also allowing the uses permitted in the primary zoning district, Transit Village-Residential, to be developed with ultimate conversion to Transit Village Residential within the life of the Santa Rosa General Plan 2035.*"; and

WHEREAS, On February 23, 2016, the City Council adopted an interim zoning ordinance, which added Chapter 20-46 (Medical Cannabis Cultivation) to the Zoning Code, allowing commercial cultivation of medical cannabis with a Minor Use Permit or Conditional Use Permit, depending on the size of the proposed facility, in the Light Industrial (IL) and General Industrial (IG) zoning districts, and the Limited Light Industrial (-LIL) combining zoning district (Zoning Code Chapter 20-46.030); and

WHEREAS, On December 7, 2016, a duly noticed Neighborhood Meeting was held and the Project was presented to members of the public in attendance and the Project applicant and representatives received public comments regarding the Project; and

WHEREAS, On December 8, 2016, the applicant submitted a Minor Use Permit application with a Project description, dated December 8, 2016, and Project plans, dated November 7, 2016, for the commercial cultivation of medical cannabis within an existing 10,000 square foot commercial building, located at 60 Maxwell Court; and

WHEREAS, On February 1, 2017, the applicant submitted a revised application, including a revised Project description, date stamped January 30, 2017, and revised Project plans, dated January 31, 2017, seeking a Conditional Use Permit for a medical cannabis commercial cultivation use that exceeds 10,000 square feet as required by Zoning Code Section 20-46.030.A.2; and

WHEREAS, On March 9, 2017, the Planning Commission held a duly noticed public hearing on the Project application at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, on March 9, 2017, the Planning Commission considered the Project application, at which time they received written and oral reports of staff, testimony, and other evidence presented by all those who wished to be heard on the matter; and

WHEREAS, on March 9, 2017, 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 application; and

WHEREAS, on March 20, 2017, an appeal, filed by the appellant, Richard Deringer, representing Odyssey Development Company, was submitted to the City Clerk; and

WHEREAS, on May 16, 2017, the Council of the City of Santa Rosa, held a duly noticed public hearing to consider the appeal application at which time they received written and oral reports of staff, testimony, and other evidence presented by all those who wished to be heard on the matter; and

WHEREAS, after due consideration, investigation, and study made by itself and on its behalf and due consideration of all evidence and reports offered the Council of the City of Santa Rosa does find and determine, pursuant to City Code Section 20-52.050 (Conditional Use Permit), the following:

- A. The Project is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the City Code in that the proposed Fleuron Inc. medical cannabis commercial cultivation facility will be located within an existing 10,972 square-foot industrial building in the Transit Village-Residential - Station Area - Limited Light Industrial zoning district, which is permitted under City Code Chapters 20-28 and 20-46, subject to approval of a Conditional Use Permit;
- B. The Project is consistent with the General Plan and any applicable specific plan in that in enacting its medical cannabis commercial cultivation regulations, the City has identified medical cannabis cultivation to be an appropriate use in industrial zones, including the Limited Light Industrial (-LIL) combining zoning district. The Limited Light Industrial (-LIL) combining district allows such manufacturing/processing -light industrial type uses to reoccupy existing buildings to maintain the Maxwell Court neighborhood as a vibrant and thriving industrial area, while also allowing the uses permitted in the primary zoning district, Transit Village-Residential, to be developed with ultimate conversion to Transit Village Residential within the life of the Santa Rosa General Plan 2035. The Project is conditioned to be conducted with odor control and noise reduction measures, as well as a security plan consistent with the applicable underlying General Plan goals and policies and the associated Transit Village Medium General Plan land use designation;
- C. The design, location, size, and operating characteristics of the Project would be compatible with the existing and future land uses in the vicinity in that the proposed use will be located within an existing 10,972 square-foot building within the Maxwell Court neighborhood, which includes a mix of light manufacturing, warehousing, distribution and automotive repair related uses, with residential uses across W 9th Street to the south. The operation of the Project with security, odor and noise controls, its location next to and access from Maxwell Court, and its separation from nearby residential areas and schools, including 325-feet from the West End Neighborhood, and 1,750-feet from Abraham Lincoln Elementary School will ensure the Project will be compatible with existing and future land uses in the vicinity;
- D. The Project site is physically suitable for the type, density, and intensity of use being proposed with the Project, including access, utilities, and the absence of physical constraints in that the proposed cannabis cultivation facility will be conducted entirely within an existing 10,972 square-foot industrial building, including all growing, harvesting, packaging and shipping functions. Access to the Project site is provided via Maxwell Court, and the building will be fully accessible pursuant to American's with Disabilities Act (ADA) standards, though no public access will be permitted due to the nature of the Project and for security purposes. All necessary utilities are available at the Project site, including water, wastewater, storm drainage and Pacific Gas and Electric (PG&E) services;
- 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 in that the Project will be consistent with industrial land uses to the east, west, and north, which are all within the same Transit Village-Residential - Station Area - Limited Light Industrial zoning district, and the Project will not create a nuisance, or be injurious or detrimental to the residents living in the West End Neighborhood located on the south side of W 9th Street through the implementation of security, odor and noise controls; and

- F. The Project has been reviewed in compliance with the California Environmental Quality Act (CEQA) in that the Project is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301, which applies to use of existing facilities involving no expansion of the facility. The Project involves use of an existing 10,972 square-foot industrial building, which was previously occupied by a large format graphic production company, for a commercial cannabis cultivation facility, with no proposed building expansion or significant exterior building renovations that would intensify the light industrial/industrial use of the building.

NOW, THEREFORE, BE IT 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 the Council of the City of Santa Rosa does hereby deny the appeal and approve the Conditional Use Permit for Fleuron Inc. for a medical cannabis cultivation facility, as described by the revised project description, date stamped January 30, 2017, and depicted by the revised project plans, dated January 31, 2017, and submitted on February 1, 2017, to be located within an existing 10,972 square foot light industrial building located at 60 Maxwell Court, also identified as Sonoma County Assessor's Parcel Number 010-131-033, subject to each of the following conditions:

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. 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.
3. Compliance with State and local licensing requirements, including the following:
 - a. The operator shall be required to obtain a State license once they become available, and shall comply with any applicable state licensing requirements, such background checks, criminal history limitations, as well as operational standards and locational criteria.
 - b. The operator shall be required to obtain any necessary agency permits and approvals for the proposed operation, which may include the Regional Water Quality Control Board.
 - c. Multiple medical cannabis uses and licenses proposed on this site shall occur only if authorized by the Medical Marijuana Regulation and Safety Act (MMRSA, also known as the Medical Cannabis Regulation and Safety Act or MCRSA) and the City of Santa Rosa and only if all uses proposed are allowed pursuant to the City's Zoning Code.

4. Compliance with operational security and safety measures:
 - a. Management Information. The names and addresses of the person or persons having the management or supervision of applicant's business shall be provided to the Police Department.
 - b. Minors. (1) It is unlawful for any permittee, operator, or other person in charge of a medical cannabis operation to employ any person who is not at least 18 years of age. (2) Persons under the age of 18 shall not be allowed on the premises of the medical cannabis operation unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian. (3) The entrance to the medical cannabis operation shall be clearly and legibly posted with a notice indicating that person under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.
 - c. Odors Control. The medical cannabis operation shall have an air treatment system that ensures odors of cannabis are not detected outside of the building in accordance with Condition 17.A.
 - d. Security Plans. The medical cannabis operation shall provide adequate security on the premises including lighting and alarms, to insure the safety of persons and to protect the premises from theft. These plans shall remain updated and secured on file in the Department of Planning and Economic Development.
 - e. Security Cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities. Cameras shall remain in active, operable condition and shall be monitored by a third-party professional security company 24 hours a day, 7 days a week.
 - f. Security Video Retention. Security video shall be maintained for 90 days.
 - g. Alarm System. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. Santa Rosa City Code Section 6-68.130 requires that an alarm permit be obtained prior to installing an alarm system.
 - h. The operator shall comply with any applicable additional operational conditions or performance measures adopted by subsequent ordinances of the City regulating medical cannabis.
5. Transfer of ownership or operator:
 - a. The permittee shall not transfer ownership or control of a medical cannabis operation or transfer a medical cannabis operation permit to another person unless and until the transferee obtains an amendment to the permit from the Planning and Economic Development Department stating that the transferee is now the permittee. Such an amendment is obtained through the issuance of a Zoning Clearance that documents the transfer and commits the transferee to compliance with each of the conditions of the original permit.

EXPIRATION AND EXTENSION:

6. 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.
7. 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:

8. A building permit is required to confirm appropriate occupancy and shall be required, even if no tenant improvements are planned.

ENGINEERING DIVISION:

9. Compliance with all conditions as specified by the attached Exhibit "A" dated January 12, 2017.

PLANNING DIVISION:**10. SITE PLANNING:**

- A. The final site plan shall identify trash enclosure locations and provide design details as part of the required security plan.
- B. Fencing and gate details at the site and around the project building and rear parking areas shall be included in the required project security plan.
- C. Truck deliveries and pick-up plans shall be included in the required project security plan.
- D. 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.
- E. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080),

11. 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. The design of all fencing, sound walls, carports, trash enclosures, and similar accessory site elements shall be compatible with the architecture of main buildings and shall use similar materials. The design must be approved by the Planning Division prior to issuance of a building permit.
 - C. All roof appurtenances, accessory equipment, and meters must be totally screened from public view by an architecturally design element approved by the Design Review Board or Planning Division.
 - D. All outdoor storage of materials or refuse bins/cans 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.
12. FENCING:
 - A. Exterior fencing and locked gates shall be maintained at all times to ensure provision of security to the property. This shall include a minimum six-foot tall metal or secure wire fence at all locations, and such additional fencing requirements may be imposed through the project's final security plan. Gate access shall only be available to staff at the facility and emergency personnel.
13. LANDSCAPING:
 - A. All required landscaping and irrigation must be installed prior to occupancy per the approved final plans.
 - B. Construction drawings submitted for issuance of a building permit shall include final landscape and irrigation plans, except where not required.
 - C. All landscaping must be continuously maintained in a healthy and attractive condition, free of weeds and debris, in accordance with the approved plans. Dead and dying plant materials shall be replaced with healthy specimens as necessary.
14. LIGHTING:
 - A. Adequate external lighting shall be provided for security purposes. The lighting shall be sufficient to provide illumination and clear visibility to all outdoor areas, with minimal spillover on adjacent properties. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood.
 - B. All exterior lighting shall be shown and specified on the plans submitted for issuance of a building permit.
 - C. Light sources shall be concealed from public view.
 - D. All lighting shall be directed toward the subject property and away from adjacent properties.
 - E. The mounting height of lighting fixtures in parking and storage areas shall not exceed 16-feet in height. Lower mounting heights are encouraged.
15. PARKING:
 - A. The parking lot shall be constructed to City standards.
 - B. The parking lot shall be provided with concrete curbing around all planter areas unless specifically approved by the Planning and Economic Development Department in some other fashion.

- C. The parking lot shall be striped according to City standards and all handicapped and compact spaces shall be identified and marked accordingly.
 - D. 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. **SIGNING:**
- A. No exterior signs, banners, or the like are approved with this permit. A planning sign permit application is required for all signs.
 - B. Sign permit approval shall be obtained prior to application for a building permit.
 - C. Building permits for sign installations shall be separate permits from other building permits issued for construction.
17. **ODOR CONTROL:**
- A. Odor control shall be regulated and maintained such that the odors of medical cannabis are not detected outside of the building. This shall include the applicant's proposed air quality filtration system, installed, operated and maintained consistent with manufacturer specifications and provisions.
18. **NOISE CONTROL:**
- A. Prior to the issuance of a building permit to install any air conditioning equipment associated with the project, the applicant shall provide manufacturer specifications of the proposed equipment and other measures, including but not limited to shielding and sound mats, that will help to ensure noise levels will not exceed noise level that is normally acceptable for residential uses consistent with the City's General Plan Noise and Safety Element.

FIRE DEPARTMENT

- 19. Proposed Site fencing will limit required Fire apparatus access to both this building and the one at 363 West 9th Street. CA Fire Code requires apparatus access ("Fire Lane") to within 150 feet hose-pull distance of all first floor exterior walls of all structures. Dead-end fire lanes over 150 feet in length shall have an apparatus turn-around per current Fire Dept. standards. Fences and gates limiting Fire apparatus access shall be approved by the Fire Dept. and may be required to have electric operators with strobe actuators and "Knox" key overrides.
- 20. Entire building under roof (including "Sally Port") shall be protected with an automatic fire sprinkler system designed and installed per NFPA 13. Sprinkler system shall be supplied by an Underground Fire Main designed and installed per NFPA 24 and monitored by a Waterflow Fire Alarm per NFPA 72 and the CA Fire Code. Separate and additional permits from the Fire Department are required to install Underground, Sprinkler, and Fire Alarm systems.

Applicant is advised that the following Fire Department **General Conditions** apply to this project:

- 21. Storage or use of any hazardous materials at the site will require a Hazardous Materials Business Plan to be submitted to the on-line reporting program at <http://cers.calepa.ca.gov/>. The Fire Department will review for approval. Materials on site in excess of threshold quantities will require a Hazardous Materials Permit to be

submitted to the Fire Department for review and approval and require payment of Hazardous Material Management Plan fee.

22. Addressing per current Fire Department standards shall be provided.

SONOMA COUNTY DEPARTMENT OF HEALTH SERVICES

23. Submit a site operational waste management plan for review and approval by the Sonoma County Department of Health Services prior to commencing operation.

BE IT FURTHER RESOLVED that the Council does hereby deny the appeal and upholds the decision of the Planning Commission to approve Conditional Use Permit CUP 16-087.

IN COUNCIL DULY PASSED this 16th day of May, 2017.

AYES: (6) Mayor Coursey, Vice Mayor Tibbetts, Council Members Olivares, Rogers, Sawyer, Schwedhelm

NOES: (0)

ABSENT: (1) Council Member Combs

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney

Exhibit A: Exhibit "A" Dated January 12, 2017 – 60 Maxwell Ct. Fleuron, Inc CUP16-087