

Maloney, Mike

From: Maloney, Mike
Sent: Wednesday, November 14, 2018 8:14 AM
To: Rogers, Chris; Sawyer, John; Olivares, Ernesto
Cc: Toomians, Kristinae; Rose, William; Hartman, Clare; Guhin, David; Gallagher, Sue; Crocker, Ashle
Subject: Late Correspondence item 3.4
Attachments: CUP18-078 Late Communication (470 Sebastopol Rd).pdf

Vice Mayor Rogers, Council Member Olivares, and Council Member Sawyer:

Attached please find late correspondence (letter in response to staff recommendation) submitted by the applicant for the proposed Cannabis Retail Dispensary at 470 Sebastopol Rd (CUP18-078 – Highway Retail Outlet). The late communication is related to one of the items under review by the Cannabis Policy Subcommittee, on Wednesday, 11/14: [3.4 CANNABIS RETAIL MERIT BASED REVIEW - CONCENTRATION AREA - SEBASTOPOL/DUTTON - 470 SEBASTOPOL RD \(CUP18-078\) - 443 DUTTON AVE \(CUP18-057\)](#).

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November 9, 2018

City of Santa Rosa
100 Santa Rosa Avenue
Santa Rosa, CA 95404

RE: Retail Application Review for 470 Sebastopol Road

To Whom It May Concern:

On November 8, 2018, the City released the results of a merit based review the Highway Retail Outlet (Highway) proposal at 470 Sebastopol Road and a competitive project submitted by Phenotopia at 443 Dutton Avenue. The results of the merit based review are based on inaccuracies and fail to objectively compare the projects. As discussed below, Highway's proposal is the far superior option.

A. Inaccuracies in Phenotopia's Application

The City's merit score of Phenotopia's project is based on inaccurate and misleading information.

1. Phenotopia Has No Retail Experience in North Bay Area

First, the criteria for "experience in operating a cannabis retail business in the North Bay area" was not satisfied by Phenotopia's proposal. The project narrative cites the experience of Johnny Nolen as having retail experience in the North Bay. However, this is highly misleading. Mr. Nolen is not an employee or principal of Phenotopia. In fact, Mr. Nolan is a Principal and COO of 421 Group, the permitting consultants. Mr. Nolen's bio in the submitted application is the same as the 421 Group website. The only actual employee or owner of Phenotopia is Padraic Fahey, who is a resident of Napa County with no North Bay retail experience stated. One would expect that had City staff identify this misleading information, and only considered the actual staff and ownership team, the score and comparative analysis would have been substantially different. Ultimately, Phenotopia has not presented any North Bay retail experience as part of their operations, other than their permitting consultants.

In comparison, Highway's owner has years of North Bay cannabis retail delivery service experience under the collective model. This is demonstrated by the many loyal customers and licensed operators who want to see this local business become compliant under the new commercial cannabis model.

2. Inaccurate Performance Timeline

Second, the “performance timeline from land use approval to plan check and construction to opening” cannot be satisfied as proposed by Phenotopia. In the project narrative, Phenotopia states, “Taking into account the variability of the planning process based on the likelihood of competing dispensaries with the retail concentration buffer, we are targeting a February 28, 2019 opening for the Phenotopia dispensary.” This timeline is virtually impossible and demonstrates a complete lack of understanding of the pathway to occupancy in Santa Rosa. Furthermore, Phenotopia’s timeline demonstrates a lack of understanding about state licensing and compliance. After January 1, 2018, the state will no longer issue or extend temporary licenses. There is no way for either local occupancy or state licensing to occur within the proposed timeframe.

Conversely, Highway presented a realist timeline of six months to obtain occupancy. In fact, Highway’s timeframe is conservative as the proposed facility requires no exterior and very little interior improvements. The exterior of the building needs no improvements and the interior is ready to occupy after building permits and inspections with few improvements. Highway’s performance timeline is more realistic due to the superiority of their facility.

3. Inaccurate Parking Information

Third, the “ease of parking” criteria cannot be assessed as it is based on inaccurate information included in Phenotopia’s application. On page five of the application, Phenotopia states that they have 136 customer parking spaces available. This is incredibly misleading, as the entire commercial property shares those spaces with 18 other stores and a fast-food restaurant. The application also states that 17 additional spaces are available behind the building for staff parking. Again, this is inaccurate as those spaces are for the entire 18 tenants to share. Phenotopia’s application fails to state how many spaces are available for their facility under the terms of their lease agreement, nor does this application state how much of a traffic impact the increased customers will create. The other existing tenants and the neighborhood will not benefit from by Phenotopia’s increased traffic and lack of onsite parking.

On November 9, 2018 at approximately 10:30 AM, the below photos were taken of the available parking at the proposed location. As demonstrated, Phenotopia’s facility does not have available parking for the proposed use. Staff was misled by the number of parking spots disclosed and was not justified in the resulting score for this criteria.

Unlike Phenotopia, Highway has ample parking with 22 dedicated parking spots for the facility, including one ADA space. Additionally, Highway provided a trip generation review by W Trans that found the proposed retail project would create less trips and a “less-than-significant” impact on traffic operation. Phenotopia included no such trip generation study.



4. Vague and Misleading Community Benefit

Fourth, the “community benefits e.g. employment opportunities, community programs and contributions” were based on Phenotopia’s inaccurate and misleading assertions. Phenotopia’s application proports to be “in communication” with a local nonprofit, which is not concrete enough to justify the score. Additionally, Phenotopia’s application again misled staff on the role of the actual applicant verses the hired permitting consultant. On page 40, Phenotopia’s project narrative lists the qualifications of a Community Liaison, who is actually a staff member of 421 Group, the permitting consultant, not an employee of Phenotopia. In the Staff’s merit based chart, the community liaison is characterized as a “business partner” of Phenotopia. A consultant should not be considered part of the applicant’s operation nor should a consultant be considered a business partner.

Additionally, Phenotopia proposes to hire locally by posting on Craigslist and by working with 421 Group. Throughout their application, Phenotopia relies on the services of a consultant 421 Group rather than provide concrete examples of how Phenotopia as an applicant merits their given score.

In contrast, Highway has proposed a dedicated space within their facility for training and workforce development. As noted by Terry Garrett in his letter of support for the Highway project, the training program will “assist with the “Roseland Redevelopment Plan” which looks to revitalize the corridor running along Sebastopol Road through “...economic development...and commercial revitalization.” Mr. Garrett further noted that, “Highway 420 specifically wanted to keep their business in the Roseland district because they share an immense connection with the community and businesses within the community.” This is of note because Highway has an existing track record of hiring staff from Roseland and will continue to hire staff that are Spanish speaking, a commitment not expressed by Phenotopia. This is actual community outreach based on the merits of the candidate, not exclusive reliance on permitting consultants.

B. Highway is the Superior Project

We urge the City to not be fooled by flashy graphic design and misleading statements, the merits of the proposal should be what is evaluated. Reliance on consultants to improve a merit score and including tables and graphs with non-germane information should not sway this decision. When examining the two proposals, Highway is objectively the superior project. The focus should be on the facts.

	Highway		Phenotopia	
North Bay Retail Experience on Staff	YES	Owner has years of cannabis retail experience	NO	No experience in owners or staff
Local Supply Chain Connections	YES	Letters of support and stated connections to local operators	NO	Connections in Southern California
Superior Facility	YES	Facility in excellent condition with no exterior and only minor interior improvements needed for occupancy	NO	Needs substantial improvements on interior and exterior of building
Bilingual Customer Service Staff	YES	Currently has bilingual staff and will continue to hire local bilingual staff	NO	Not proposed
Onsite Consumption/Safe Access	YES	Ample space for safe access	NO	Not proposed
Realistic Performance Timeline	YES	Six months or less	NO	Proposes February 2019, no realistic
Delivery Proposed/More Access	YES	Additional access for South West Santa Rosa	NO	Not proposed
Community Benefit Program Onsite	YES	Onsite space for workforce development and community benefit programs	NO	Only “communication” with nonprofits stated
Specific Local Hiring Plan	YES	Workforce training onsite will produce local hiring, outreach to community to find local staff	NO	Craigslist and consultants, no community-based plans

An objective examination of the two proposals also illuminates that Highway's proposal is far more aligned with the General Plan. For example, General Plan Section EV-B-4 includes: "Develop specific strategies to increase business-to-business commerce within Santa Rosa." Phenotopia states in their application under 'Strategic Partnerships' section: "We are evaluating partnerships and licensing agreements that will allow us exclusive technologies, products, and distribution rights throughout the state." This is not a plan to increase business-to-business in Santa Rosa. In Comparison, Highway has submitted several letters of support from local, licensed cannabis operators. With years of experience as a local cannabis collective, Highway has developed important business relationships with Santa Rosa and Sonoma County based businesses.

Additionally, Highway's facility needs no exterior improvements. The building exterior and interior are in excellent condition. The landscaping is mature and well maintained. The parking lot is well paved and has no cracks or impediments. The sidewalk and paved entry are in excellent condition. The entrance facility is easy to view and well lit. The interior was previously a retail space and will easily re-tenant as a cannabis retail facility. With minor tenant improvements, Highway's facility is ready to occupy. However, Highway received low scores for not detailing unnecessary improvements. This apparent implicit bias against a superior facility in favor of more expensive upgrades appears to be directly disadvantaging local existing business in favor of those from outside of Sonoma County. While all businesses should have an opportunity to succeed in Santa Rosa, when deciding who the "preferred" applicant is in this process, the General Plan and implementation of the Roseland Redevelopment Plan plus the comments and goals of the sub-committee clearly favor keeping the local business with support from neighbors and a connection to the community.

Why would an applicant need to discuss improvements that are not necessary? Highway submitted photos that demonstrated the superior condition of their building and landscaping. Those photos are included below. In comparing the two projects, staff made a grave error in scoring Phenotopia's speculative promised improvements higher than Highway's existing superior facility.





As demonstrated by this letter and the over 50 letters of support for Highway's project, the superiority is clear. We urge the City of Santa Rosa to reexamine the evaluation of these projects, take an objective look at the details of the application and the actual community support.

Please let me know if you have any questions about this letter. Thank you for your attention to this matter.

Sincerely,

Julie Mercer-Ingram