

CITY OF SANTA ROSA
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
STAFF REPORT FOR PLANNING COMMISSION
December 13, 2018

PROJECT TITLE

JIVA LIFE, LLC

APPLICANT

Rajiv Pottabathni – Applicant

Guillermo Bravo - Representative

ADDRESS/LOCATION

1831 Guerneville Rd, Suite A

PROPERTY OWNER

Thomas Pierucci and Carrie Samuels-Pierucci

ASSESSOR'S PARCEL NUMBER

036-101-036

FILE NUMBER

CUP18-075

APPLICATION DATE

April 20, 2018

APPLICATION COMPLETION DATE

July 2, 2018

REQUESTED ENTITLEMENTS

Conditional Use Permit (CUP)

FURTHER ACTIONS REQUIRED

None

PROJECT SITE ZONING

CN (Neighborhood Commercial)

GENERAL PLAN DESIGNATION

Retail and Business Service

PROJECT PLANNER

Aaron Hollister

RECOMMENDATION

Approval

Agenda Item # 10.2
For Planning Commission Meeting of: December 13, 2018

CITY OF SANTA ROSA
PLANNING COMMISSION

TO: CHAIR EDMONDSON AND MEMBERS OF THE COMMISSION
FROM: AARON HOLLISTER, PLANNING CONSULTANT
SUBJECT: PLANNING AND ECONOMIC DEVELOPMENT
JIVA CONDITIONAL USE PERMIT

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Planning Commission, by resolution, approve a Conditional Use Permit to allow cannabis retail (dispensary) and delivery for medical and adult use.

EXECUTIVE SUMMARY

The applicant requests the approval of a Major Conditional Use Permit (CUP) to allow a Medical and Adult Use Cannabis Retail Dispensary with Delivery Services in an existing 2,917 square-foot tenant space within a larger 6,000 square-foot, multi-tenant commercial building on a 14,810 square-foot parcel that contains the commercial building and a surface parking lot. No changes are proposed to the building's exterior and no physical expansion of the building is proposed. The dispensary and delivery services will operate daily from 9 a.m. to 9 p.m. as allowed in Zoning Code Section 20-46.080(F)(4). The hours for inventory product delivery have been conditioned to allow for inventory delivery between 9 a.m. and 7 p.m.

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.

1. Project Description

The project proposes a Medical and Adult Use Cannabis Retail Dispensary Use with Delivery Services that is proposed to occupy a 2,917 square-foot commercial tenant space in a single-story, 6,000 square-foot, multi-tenant commercial building

in the CN Zoning District. Of the 2,917 square feet of tenant space, 2,181 square feet of space would be dedicated to retail and 736 square feet would be dedicated to secured storage areas. Hours of operation for the dispensary and delivery uses are proposed to be 9 a.m. to 9 p.m. daily, while the hours for inventory product delivery of product to the site has been limited between 9 a.m. and 7 p.m. The 14,810 square-foot property contains 26 off-street surface parking spaces of which the proposed use would have access to 12 spaces.

2. Surrounding Land Uses

North: Detached Single-Family Dwellings

South: Commercial Retail and Gas Station/Convenience Store

East: Attached Single-Family Dwellings

West: Gas Station and Convenience Store

The project site is located near the northeast corner of Guerneville and Marlow roads, which features commercial development at all four corners of the intersection. Gas stations/convenience stores are located on three of the corners and a neighborhood commercial shopping center is located at the southeast corner of the intersection with a grocery store anchor tenant. Single-family residential uses are located immediately to the north and east of the project site including detached single-family residential to the north and attached single-family residential to the east.

3. Existing Land Use – Project Site

The 14,810 square-foot project site is a developed commercial property that is occupied by a 6,000 square-foot, single-story commercial retail building and a surface parking lot containing 26 off-street parking spaces. The building is currently split into two tenant spaces – the subject tenant space, Suite A, which most recently contained a retail/office product repair business, and Suite B, which currently contains a pawn shop. Access to the site and the surface parking area is gained via two existing curb cuts on the project site's street frontage along Guerneville Road.

Project History

April 20, 2018	The CUP application was submitted to the Planning and Economic Development Department.
May 16, 2018	The Neighborhood Meeting was held. No members of the public attended the meeting and no public comments were received ahead of the meeting.
July 2, 2018	Notice of Complete Application was sent to the Applicant.

July 20, 2018 Notice of Application was circulated and no public comments were received.

PRIOR CITY COUNCIL REVIEW

None.

ANALYSIS

The project proposes the use of a Medical and Adult Use Cannabis Retail Dispensary with Delivery Services in a Neighborhood Commercial Zoning District. Adult Use and Medical Cannabis Retail Dispensaries with Delivery Services are allowed uses with the approval of a Conditional Use Permit.

The Project adheres to the Medical and Adult Use Cannabis Retail Operational requirements set forth in Section 20-46 of the Zoning Code. The Project does not include manufacturing, cultivation, on-site consumption, or testing of any kind.

1. General Plan

The project site is designated Retail and Business Services on the Santa Rosa General Plan 2035 Land Use Diagram. This classification is intended to accommodate retail and service enterprises, offices, and restaurants.

The following General Plan goals and policies are applicable to the proposed Medical and Adult Use Cannabis Retail Dispensary Uses:

LUL-I-1 Provide a range of commercial services that are easily accessible and attractive, that satisfies the needs of people who live and work in Santa Rosa and that also attracts a regional clientele.

EV-A Maintain a positive business climate in the community.

EV-A-1 Continue to promote Santa Rosa as the North Bay's premier location for technology, clean/green technologies, and entrepreneurial businesses, which create new products and business models that will attract national and international markets.

EV-A-5 Maintain diversity in the types of jobs available in Santa Rosa to lessen the impact of economic cycles.

EV-C Promote new retail and higher density uses along the city's

regional/arterial corridors.

EV-D-1 Continue to promote Santa Rosa's role as a regional center.

The Zoning Code specifically identifies the Neighborhood Commercial (CN) Zoning Districts as an area where Retail Cannabis Dispensary use would be appropriate. Although Cannabis uses are not explicitly addressed in the General Plan, the CN Zoning District is intended for many uses similar to Medical and Adult Use Cannabis Retail Dispensaries such as general retail.

Staff has determined that the proposed Medical and Adult Use Cannabis Retail Dispensary use is consistent with the applicable aforementioned General Plan Goals and Policies, and the associated Retail and Business Services General Plan Land Use Designation. The continued use would assist in maintaining the economic viability of the area and maintain the diverse types of employment opportunities available in the City, while remaining compatible with the surrounding businesses and neighborhoods through proposed operations and security measures.

2. Zoning

The project site is located within a Neighborhood Commercial (CN) Zoning District. Surrounding zoning districts include:

North: Rural Residential (RR-40)
East: Multi-Family Residential (R-3-18)
South: Neighborhood Commercial (CN)
West: Neighborhood Commercial

Zoning Code Section 20-23.020(B) describes the purposes of the Neighborhood Commercial zoning district and the manner in which the district is applied as follows:

CN (Neighborhood Commercial) district. The CN zoning district is applied to areas within and adjacent to residential neighborhoods appropriate for limited retail and service centers for convenience shopping. Uses in these centers are intended to provide for the day-to-day needs of local neighborhoods and workplaces, but not to be of such scope and variety as to attract substantial traffic volumes from outside the neighborhood. New development is encouraged to include both a residential and nonresidential component as noted by Section 20-23.030 (Commercial Land Uses and Permit Requirements). The CN zoning district is consistent with and implements the Neighborhood Shopping Center land use classification of the General Plan.

The City Council amended Zoning Code Section 20-24.030 to include Cannabis – Retail (dispensary) and Delivery uses, subject to an approved Major Conditional Use Permit, regardless of the size of the proposed use. Cannabis retail (dispensary) and delivery is an allowed use in the CN zoning district subject to discretionary approval of a conditional use permit when set back no less than 600 feet from a school and from any other cannabis retail use within and permitted by the City of Santa Rosa. “School” as defined by Health and Safety Code Section 11362.768 applies to this section of the Zoning Code.

Zoning Code Section 20-46.050 provides General Operating Requirements applicable to all Cannabis Businesses. Section 20-46.080 specifies additional operating requirements for Cannabis Retail (Dispensary). The applicant has demonstrated compliance with all General Operating Requirements and those specific to Cannabis Retail (Dispensary) and Delivery as required by Zoning Code Section 20-46.080 as further outlined below.

Additionally, JIVA is required to adhere to all State Bureau of Cannabis Control licensing and operating procedures, as well as City ORD-2017-025. The applicant will display copies of all State Licenses as well as all City and County permits.

Proximity to Schools

Both City and State regulations prohibit establishment and operation of a retail cannabis delivery within 600 feet of K-12 school as defined by Health and Safety Code Section 11362.768. To determine compliance with the 600-foot separation, measurements are taken from the closest property lines, not the closest structures. The school with the nearest proximity to the proposed use, Hilliard Comstock Middle School, is located 947 feet to the northeast of the project site. The next closest proximity schools, James Monroe Elementary School and Albert F. Biella Elementary School, are respectively located 1,050 feet to the northwest of the project site and 1,520 feet southwest of the project site. Furthermore, the school district did not offer any comments as a result of the project referral process. The project is consistent with the state and local school proximity regulations.

Concentration

The Zoning Code limits geographic concentration of cannabis retail facilities (dispensaries) by prohibiting dispensaries within 600 feet of each other. There are no other existing or proposed cannabis retail facilities within 600 feet of the subject site; therefore, the Project site is not located in an “over-concentration” area.

Employment

JIVA will complete background checks on all employees pursuant to State and City regulations. The project narrative, attached to this report, details hiring procedures, including background checks for all new employees. The proposed employment procedure complies with Zoning Code Section 20-46.

Odor Control

Zoning Code Section 20-46.050(H) requires cannabis businesses to “incorporate and maintain adequate odor control measures such that the odors of Cannabis cannot be detected from outside of the structure in which the Business operates.” To achieve compliance with Zoning Code and consistent with standard industry practices, carbon filtration through a dedicated exhaust fan and carbon filtration of re-circulated air are the proposed methods to control odors emitted from the facility. Administrative controls will be put in place to maintain the effectiveness of the carbon filtration system. Details of the filtration system and administrative controls are provided in the TEP Engineering letter dated May 5, 2018 (attached).

Outdoor Lighting

As a part of the project, the applicant proposes to comply with the requirements of Zoning Code Sections 20-30.080: *Outdoor Lighting* and Section 20-46.80. According to the Project narrative, all outdoor areas of the premises will be illuminated, including all points of ingress and egress with stationary, fully shielded lights directed away from adjacent properties and from the public right-of-way. The Zoning Code requires (at Section 20-30.080) that exterior lights be shielded and cast downward to avoid light or glare spilling onto neighboring properties. A recommended condition of approval is that the applicant provide with the building permit submittal, a detailed lighting plan in compliance with the Zoning Code.

Noise

Other than delivery vehicles, all operations are proposed to be located in the fully enclosed retail building on the site. Interior operations are not anticipated to generate excessive noise. The Project complies with the General Plan Noise and Safety Chapter 12-4, Land Use Compatibility Standards Figure 12-1 for Business Commercial uses where normally acceptable land use is acceptable and does not require special noise insulation requirements. The Project is located within an insulated building, which provides adequate sound dampening for a retail business. There are no existing or proposed generators on the premises. Additionally, the Project has been conditioned to restrict distributor/inventory delivery hours from 9 a.m. to 7 p.m., while the retail delivery services of the dispensary would be allowed from 9 a.m. to 9 p.m.

Security Plan

As required in Zoning Code Section 20-46.050(G), the applicant has provided a Security Plan that has been reviewed and determined to be adequate by City Staff.

Video Surveillance: To monitor the interior and exterior of the building, the applicant will install 24 security cameras that will run 24 hours a day, will be

maintained in good working condition, and will comply with standard industry format to support criminal investigations with recordings maintained for 60 days.

Alarm System: An internal alarm system will be installed and continually monitored by security personnel.

Secure Storage and Waste: Expired, opened, or otherwise unsellable cannabis products will be disposed of in secure waste containers. The operator will contract with permitted disposal transportation services when cannabis goods need to be removed in compliance with the California Code of Regulations.

Secure Entrance: All interior and exterior doors are proposed to be equipped with electrified door lock-sets. The doors to the dispensary property will be locked at all times. Secured reinforced steel doors are proposed at both building entrances and in select internal areas. Employees will be required to have identification badges at all times that will also allow access to areas with radio-frequency readers including the building entrances and select interior spaces. All members must show identification at the reception area before entry is granted.

Security Personnel: The dispensary proposes to have two security personnel on-site that will be present during all operating hours and will also monitor all exterior areas of the site.

Additional Security Measures: The exterior windows of the dispensary will be replaced with reinforced secured windows with locks.

Staff reviewed the applicant's Security Plan (confidential) and determined that the plan is adequate for this site and meets all requirements set forth in Section 20-46.050(G).

Delivery Services

JIVA will only sell and deliver cannabis goods that were received from a licensed distributor and are properly packaged and labeled by the manufacturer prior to sale.

The following procedures will apply:

- Delivery vehicles will be equipped with a lock-box secured inside the vehicle and dash-mounted video cameras.
- Drivers will be at least 21-years of age.
- Drivers will not carry goods, cash or a combination thereof in excess of \$3,000 at any time.
- Customers will be required to provide valid identification and sign for all deliveries.

JIVA will adhere to all delivery requirements established by City Council ORD-2017-025 Section 20-46.080(B) and Title 16 CCR Section 5415.

Special Events

A request for special events is not included with the project. If the applicant wishes to host a cannabis special event in the future, the applicant would be required to obtain a Temporary Use Permit, pursuant to Section 20-52.040 (Temporary Use Permit).

Storefront, Signage, and Window Treatments

All signs will be subject to Santa Rosa Zoning Code Section 20-38 and will be subject to a separate sign permit(s). JIVA will install a security window film to ensure products are not readily visible to the public.

Parking

Twenty-six off-street parking spaces are currently located on the project site and serve both of the commercial tenant spaces. Based on a floor area of 2,917 square feet, 12 parking spaces are required for the cannabis retail use (per Zoning Code Table 3-4). The other on-site retail space also has a parking requirement of 12 spaces. At least 12 of the 26 on-site spaces will be reserved for the proposed cannabis retail use. The project complies with the parking requirements of the Zoning Code.

3. Design Guidelines

Other than lighting, the applicant does not propose exterior modifications to the existing structure and design review is not required.

4. Historic Preservation Review Standards

Not Applicable

5. Neighborhood Comments

No neighborhood comments have been received at the time of the writing of this staff report.

FINDINGS REQUIRED FOR CONDITIONAL USE PERMIT

The Planning Commission must make all of the following findings as required in Zoning Code Section 20-52.050 (Conditional Use Permits), to grant the Major Conditional Use Permit. Each finding is followed by a staff response.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the City Code.**

Staff Response: The proposed Medical and Adult Use Cannabis Retail Dispensary with Delivery use will occupy 2,917 square feet of an existing building in the CN (Neighborhood Commercial) Zoning District, which is allowed subject to Planning Commission approval of a Major Conditional Use Permit.

- B. The proposed use is consistent with the General Plan and any applicable specific plan.**

Staff Response: The proposed Medical and Adult Use Cannabis Retail Dispensary with Delivery uses are consistent with the applicable underlying General Plan goals and policies related to industry, economic vitality, and the associated Retail and Business Services General Plan land use designation that allows retail and service enterprises, offices, and restaurants.

- 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.**

Staff Response: The proposed Medical and Adult Use Cannabis Retail Dispensary and Delivery is an allowed use under Section 20-33.030 Table 2-6 with approval of a Conditional Use Permit. The existing site is located within the CN (Neighborhood Commercial) Zoning District. As such, the area is well-suited for the use and the hours of operation are within those permitted in Zoning Code Section 20-46.080(F)(4). The project site is developed for a Retail use, and parking is adequate for the staffing and operations associated with the use. The project complies with the General Operating Requirements for Cannabis Businesses and those operating requirements specific to Medical and Adult Use Cannabis Retail Dispensary.

- 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.**

Staff Response: The proposed use will be located entirely within an existing 2,917 square foot commercial tenant space in a commercial retail building. Vehicular access to the site is provided via two existing access points located along the project's frontage on Guerneville Road. The Project plans demonstrate compliance with all operational standards as specified in Zoning Code Section 20-46. The building will remain fully accessible pursuant to Americans with Disabilities Act (ADA) standards. All necessary utilities are available at the project site, including water, wastewater, storm drainage, gas and electric 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.

Staff Response: The proposed project will be consistent with the surrounding land uses to the north, east, and south, which are within the CN – Neighborhood Commercial, RR-40 – Rural Residential, and R-3-18 Multi-Family Residential Zoning Districts, and comprise a wide variety of commercial uses, as well as attached and detached single-family dwellings.

The Odor Mitigation Plan has been certified by a licensed engineer ensuring that all mitigation controls are sufficient to effectively mitigate odors from all sources (see Attachment 6 – Certified Odor Mitigation Plan dated May 5, 2018). The project Security Plan seeks to effectively prevent theft or diversion of any cannabis or currency. The project Security Plan also proposes to discourage loitering, crime, and illegal or nuisance activities by having an existing interior and exterior camera surveillance system, on-site security personnel with nightly patrols, a professionally monitored alarm system, access controls, and secure storage and waste areas. Inventory controls will be implemented, employee safety and security operational procedures will be implemented, and delivery service operation standards and procedures will be implemented. The parking area for this business will be monitored by a security guard during normal business hours and a nightly patrol.

The existing building is set back approximately 70 feet from the habitable space in the residential neighborhood to the west, and is separated by a six to eight-foot tall fence. Per Zoning Code Section 20-46.050 (E), the project is subject to Building and Fire permits. Additionally, an annual Fire Department Operational Permit is required, as well as Health and Safety Code for this business.

F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The proposed project has been reviewed in compliance with CEQA. Refer to the Environmental Impact section of this report for further discussion.

ENVIRONMENTAL IMPACT

The project qualifies for Class 1 Categorical Exemption under CEQA Guidelines Section 15301 in that the project involves minor modifications to an existing facility and no expansion of use to the structure/site is proposed.

The Project qualifies for a Class 3 Categorical Exemption under CEQA Guidelines Section 15303 in that the Project involves a change of use, which will require minor exterior modifications to the structure/site.

Pursuant to CEQA Guidelines Section 15332, the project qualifies for a Class 32 Categorical Exemption as infill development as it is consistent with applicable General Plan Land Use Designation and Zoning District, is located on a site of less than five acres, within City limits, substantially surrounded by urban uses, with no value as habitat for endangered, rare or threatened species, adequately served by necessary utilities and public services, and the project has no foreseeable significant adverse impacts to traffic, noise, air quality or water quality:

- Biology – The project site is covered by an existing building and parking lot and has no habitat value. No trees or other vegetation will be removed from the site as a part of the project; and
- Traffic – The project will have a less-than-significant impact on traffic in that the project proposes an increase of AM and PM peak hour trips of less 50 trips as per the standards of the ITE Trip Generation Manual and consistent with the City's *Standards for the Preparation of Traffic Impact Analysis*. .
- Air Quality – The project would not result in impacts to air quality. The project is well below the project screening thresholds established by the Bay Area Air Quality Management District. Furthermore, an Odor Mitigation Plan was prepared and signed by Andrew Souza, PE, TEP Engineering, dated May 5, 2018, and was prepared in compliance with Zoning Code Section 20-46.
- Noise – The proposed Project will operate within an existing building, which will not result in excessive noise on the exterior of the building and will operate within the hours established for Retail Cannabis in Zoning Code Section 20-46.080(4) as outlined in an analysis dated May 5, 2018 prepared by TEP Engineering. Inventory delivery hours will be limited between 9 a.m. and 7 p.m. daily, while the dispensary and associated customer delivery hours would also be consistent with the hours of operation allowed by the Zoning Code which are 9 a.m. to 9 p.m. seven days a week; and
- Odor – An Odor Mitigation Plan was prepared and signed by Andrew Souza, PE, TEP Engineering, dated May 5, 2018, and was prepared in compliance with Zoning Code Section 20-46.
- Water – There are no changes in impervious surfaces or storm water drainage proposed. In addition, the site has municipal water and wastewater service.

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).

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

None.

NOTIFICATION

The project was noticed as a public hearing per the requirements of Chapter 20-66 of the City Code. Notification of this public hearing was provided by posting an on-site sign, publishing notice in a newspaper of general circulation, mailed notice to surrounding property owners, electronic notice to parties that had expressed interest in projects taking place in this geographic area of Santa Rosa, and bulletin board postings at City Hall and on the City website. Pursuant to Government Code Section 65091, where necessary, the City has incorporated notice procedures to the blind, aged, and disabled communities. These procedures include audio amplifier/assistive listening device support at public meetings, closed captioning, and optical character recognition conversion of electronic notices.

ISSUES

There are no unresolved issues remaining with the project.

ATTACHMENTS

Attachment 1 – Disclosure Form
Attachment 2 – Location Map
Attachment 3 – General Plan & Zoning Map
Attachment 4 – Project Narrative dated received April 20, 2018
Attachment 5 – Odor Control Plan dated May 5, 2018
Attachment 6 – Project Plans dated received April 20, 2018
Resolution – Conditional Use Permit

CONTACT

Aaron Hollister, Planning Consultant
AHollister@srcity.org
(707) 543-4634