

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA APPROVING A CONDITIONAL USE PERMIT FOR PHENOTOPIA DISPENSARY, A COMMERCIAL CANNABIS RETAIL (DISPENSARY) AND DELIVERY USE IN 2,172 SQUARE FEET OF AN EXISTING BUILDING - LOCATED AT 443 DUTTON AVE., UNIT 11; APN: 125-111-039; FILE NUMBER CUP18-057.

WHEREAS, an application was submitted requesting the approval of a Conditional Use Permit for Phenotopia Dispensary, to allow a medical and adult use cannabis retail (dispensary) facility and delivery at 443 Dutton Ave., Unit 11, also identified as Sonoma County Assessor's Parcel Number 025-111-039;

WHEREAS, 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, the Planning Commission has considered the application, staff reports, oral and written, the General Plan and zoning on the subject property, testimony, written comments, and other materials presented at the public hearing;

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-52.050 (Conditional Use Permit), the Planning Commission of the City of Santa Rosa finds and determines:

- 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 in that the commercial *Cannabis Retail (Dispensary) and Delivery* use will occupy 2,172 square feet of a 26,288 square-foot existing commercial shopping center in a General Commercial (CG) Zoning District, which is allowed subject to Planning Commission approval of a Conditional Use Permit;
- B. The proposed use is consistent with the General Plan and any applicable specific plan in that the commercial *Cannabis Retail (Dispensary) and Delivery* use is 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 is implemented by the General Commercial (CG) Zoning District in which the proposed use is located;
- 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 in that the commercial *Cannabis Retail (Dispensary) and Delivery* use is allowed under Section 20-23.030 Table 2-6 with approval of a Conditional Use Permit. The existing site is located within the

General Commercial (CG) Zoning District. As such, the area is suitable for the use and the proposed hours of operation daily from 9:00 a.m. to 9:00 p.m. for the retail (dispensary) and delivery operations 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 commercial retail dispensaries with delivery;

- 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 2,172 square-foot retail space in shopping center. Vehicular and pedestrian access to the site is provided from Dutton Avenue and Sebastopol Road, the site is accessible by bicycle, and it is within a quarter mile of public transit. The project plans demonstrate compliance with all operational standards as specified in Zoning Code Section 20-46. The building and site, as conditioned, will be 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 in that The proposed project will be consistent with the surrounding land uses to the north, west, and south, which are within the General Commercial (CG) Zoning District and occupied by a variety of commercial retail sales and services uses. The proposed retail use is consistent with other commercial retail sales and services uses operating in the surrounding area.

The Odor Mitigation Plan has been certified by a licensed professional engineer, verifying that the proposed odor control and mitigation plan meets, or exceeds, the requirements of the City of Santa Rosa for cannabis odor mitigation.

As required in Zoning Code Section 20-46.050(G), the applicant has provided a Security Plan. The applicant has indicated that in accordance with Bureau of Cannabis Control Regulations Section 5045, security guards will be present at the retail premises during hours of operation. The applicant will provide and install a variety of security devices to ensure that only authorized personnel have access to the office and the stock/POS room where cannabis is stored, and all access points from outside the facility will have both locks and alarms. The facility will have a comprehensive surveillance system monitored by an outside agency 24/7. In addition to surveillance system, a comprehensive electronic security system, including third party monitoring, will be provided. All cannabis/cannabis product waste and associated water will be stored in a manner that prevents diversion, theft, loss, hazards and nuisance.

Sited on a corner parcel, the existing shopping center is oriented toward the public rights-of-way with parking areas clearly visible from the building and public rights-of-way.

Adjacent development is commercial in nature and uses at these locations are commercial. The proposed area for retail/dispensary activity within the building is highly visible, which enhances security due to public exposure and provides 24-hour security personnel with clear sight lines.

The subject property is located at least 800 feet from the parcel lines of Roseland Charter School at 100 Sebastopol Rd. and Roseland Elementary School at 950 Sebastopol Road. This exceeds the minimum 600-foot separation required under both State of California and the City of Santa Rosa regulations.

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, and the project must meet Health and Safety Code requirements.

- F. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and staff has determined that the project qualifies for a Class 1 Categorical Exemption under CEQA Guidelines Section 15301 Existing Facilities in that the project is the use of an existing structure involving negligible expansion of use.

The project qualifies for a Class 3 Categorical Exemption under CEQA Guidelines Section 15303 Conversion of Small Structures in that the project involves a change of use, which will not require exterior modifications.

The project qualifies for a Class 32 Categorical Exemption under CEQA Guidelines Section 15332 infill development in that 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; is 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.

Staff 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 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 a Conditional Use Permit for Phenotopia Dispensary to allow a commercial *Cannabis Retail (Dispensary) and Delivery* use at 443 Dutton Ave., Unit 11, is approved subject to each of the following conditions:

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

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. All work shall be done according to the final approved plans dated received April 19, 2018.
3. A building permit shall be obtained for the project.
4. The selling of edibles requires a County Environmental Health Department permit. The County's permit is a separate process from the City's building permit process, but the building permit will not be issued prior to County Health Department approval.
5. Storage or use of any hazardous materials at the site may require a Hazardous Materials Inventory Statement to be submitted to the Fire Dept. for review via the California Environmental Reporting System (CERS). Materials in excess of the permitted amounts will require a Hazardous Materials Management Plan to be submitted to the Fire Dept. for review and approval and may require payment of Hazardous Material Use or Hazardous Waste Generator permit fees.
6. Facility shall comply with the requirements of "Building and Fire Code Requirements for Cannabis Related Occupancies" including General Requirements and those specific to Manufacturing. See <https://srcity.org/2515/Commercial-Cannabis-Application-Support>.

EXPIRATION AND EXTENSION:

7. 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.
8. 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.

ENGINEERING DIVISION:

9. Compliance with all conditions specified by Engineering Development Services Exhibit "A" dated July 22, 2019, attached hereto and incorporated herein.

PLANNING DIVISION:

10. Obtain a Sign Permit prior to installation of any signs. In accordance with Zoning Code Section 20-46.080(F)(11), advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center is prohibited.
11. 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.
12. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080.)
13. Install at least seven (7) new bicycle parking spaces at locations convenient to the project site and existing retail uses, subject to Planning approval.
14. PROJECT DETAILS:
 - A. 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.
 - 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.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds and determines this entitlement to use would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above said conditions are invalid, this entitlement to use would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 12th day of September, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
PATTI CISCO, CHAIR

ATTEST: _____
CLARE HARTMAN, EXECUTIVE SECRETARY

Exhibit: Engineering Development Services Exhibit A