

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA MAKING FINDINGS AND DETERMINATIONS AND APPROVING A CONDITIONAL USE PERMIT FOR GREEN PEN DISPENSARY, A CANNABIS RETAIL (DISPENSARY) WITH DELIVERY IN AN EXISTING 2,943 SQUARE-FOOT BUILDING INCLUDING A RECIPROCAL PARKING AGREEMENT WITH THE ADJACENT PROPERTY AND A 25% PARKING REDUCTION - LOCATED AT 353 COLLEGE AVENUE AND 349 COLLEGE AVENUE - ASSESSOR'S PARCEL NUMBERS 180-750-046 AND 180-750-048 - FILE NUMBER CUP18-080

WHEREAS, on April 18, 2018, Green Pen LLC, submitted an application requesting approval of a Conditional Use Permit to allow a medical and adult use cannabis retail dispensary with delivery at 353 College Avenue, also identified as Sonoma County Assessor's Parcel Number 180-750-046 and to allow reduced on-site parking; and

WHEREAS, on March 14, 2019, the Planning Commission held a duly noticed public hearing on the application at which the Planning Commission requested additional information regarding the on-site circulation, increased pedestrian traffic impacts to passing motorists, and the effects of the delivery on P.M. Peak Hour Trips and continued the item to a date uncertain; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the application on September 12, 2019 at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the Planning Commission denied the Project by a vote of two (2) yes, two (2) no, one (1) absent, and two (2) abstain; and

WHEREAS, on September 23, 2019, an appeal of the Planning Commission's denial of the Project to City Council was filed by the applicant; and

WHEREAS, on December 30, 2020, the applicant withdrew their appeal to Council to provide a revised project to take back to the Planning Commission for review of the Conditional Use Permit; and

WHEREAS, on January 27, 2021, a revised application was submitted requesting the approval of a Conditional Use Permit for Green Pen Dispensary to operate a 2,943 square-foot cannabis retail (dispensary) and delivery business with a parking reduction of three (3) spaces or 25% to be located at 353 College Avenue, also identified as Sonoma County Assessor's Parcel Number(s) 180-750-046 with parking on the adjacent lot located at 349 College Avenue, also identified as Sonoma County Assessor's Parcel Number 180-750-048; and

WHEREAS, on February 5, 2021, a Notice of Application was mailed to owners and occupants within 600 feet of the Project's parcel lines; and

Resolution No. _____

WHEREAS, on February 24, 2021, a Neighborhood Meeting was held to introduce the revised Project to the neighborhood and interested parties; and

WHEREAS, on July 22, 2021, 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, 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

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:

1. 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 proposed cannabis retail (dispensary) and delivery use would occupy an existing 2,943 square-foot building in the CG-H (General Commercial - Historic) zoning district, which is allowed subject to Planning Commission approval of a Conditional Use Permit. The application complies with zoning district requirements and all other applicable provisions of the Zoning Code and City Code; and
2. The proposed use is consistent with the General Plan and any applicable specific plan in that the proposed commercial cannabis retail (dispensary) and delivery use is consistent with the applicable underlying General Plan goals and policies related to economic vitality and the associated Retail and Business Service General Plan Land Use Designation that is implemented by the General Commercial (CG) zoning district in which the proposed use is located; and
3. 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 proposed cannabis retail (dispensary) with delivery use is allowed under [Section 20-23.030 Table 2-6](#) with approval of a Conditional Use Permit. The Project is located within the General Commercial-Historic (CG-H) zoning district. As such, the area is suitable for the use as proposed and the hours of operation are within those permitted in [Section 20-46.080\(F\)\(4\)](#).

The Project is supported by an existing commercial building and shared parking area; security measures including lighting, restricted access for employees, refuse disposal areas, on-site security personnel, and surveillance cameras. The entrance to the retail dispensary is visible from the street and the proposed project is compatible with the existing commercial corridor along College Avenue. Therefore, the design, location, size and operating characteristics of the Project will be compatible with existing and future land uses in the vicinity; and

Resolution No. _____

4. 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 2,943 square-foot building and adequate vehicular access to the site is provided from Glenn Street with a safe exit onto College Avenue. 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 and compliant with the Americans with Disabilities Act (ADA) standards. All necessary utilities are available at the project site, including water, wastewater, storm drainage, gas and electric services; and
5. 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, which include a variety of commercial, office retail, and business uses. The site is located on a commercial corridor on College Avenue with Highway 101 located to the west of the project site.

A Focused Traffic Study by W-Trans, dated July 1, 2021, indicates that the proposed use would not cause safety concerns as it relates to traffic and access to the site and would result in less than 50 new Peak Hour Trips. The Focused Traffic Study also analyzed Vehicle Miles Traveled (VMT) and concluded that the Project is considered local-serving retail, which identifies Projects as having up to 10,000 square feet of gross floor area, as not contributing to new trips in the region, but change where existing customers shop within the region and often shorten trip lengths. Because the proposed use is 2,943 square feet, it is reasonable to conclude that the project would have a less-than-significant transportation impact on VMT. Additionally, the Focused Traffic Study has been reviewed and approved by the City's Traffic Engineering Division.

As required in [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 personnel will be provided. The facility will have a comprehensive surveillance system monitored by an outside agency 24/7. All cannabis product waste will be stored in a manner that prevents diversion, theft, loss, hazards and nuisance.

Per 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.

No other cannabis related uses are proximate to the Project site. The closest school to the subject property is located approximately 1,225 feet from the parcel lines of St. Luke Lutheran School, which exceeds the minimum 600-foot separation required under both State and City of Santa Rosa regulations.

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 9 – Certified Odor Mitigation Plan dated April 4, 2018).

Resolution No. _____

The Project has been Conditioned to limit distributor delivery hours to avoid any nuisance noises outside of normal operating hours; and

6. Due to special circumstances associated with the operation of the use at its location, the proposed use will generate a parking demand different from the standards specified in § 20-36.040 - Table 3-4; and the number of parking spaces approved will be sufficient for its safe, convenient, and efficient operation of the use in that A Focused Traffic Study prepared by a licensed W-Trans engineer, dated July 1, 2021, concluded that the parking supply is adequate for the proposed use because (1) the availability of delivery service reduces the parking demand; (2) the site location is accessible by alternative modes of transportation including pedestrian, bicycle, and transit service, that will reduce vehicular traffic to the site and (3) hours of operation would allow customer access during a 12-hour period, as opposed to an eight-to-nine hour period. These special circumstances associated with the operation of the use at this location would generate parking demand different from parking ratio requirements, and nine (9) parking spaces as proposed would be sufficient for its safe, convenient, and efficient operation of the use; and
7. 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 in that the project is located within an existing structure involving a negligible expansion of an existing use that will not result in significant impact(s).

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

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.); and

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 Green Pen LLC, to allow a cannabis retail (dispensary) with delivery and a parking reduction of three (3) spaces or 25%, be located at 353 College Avenue with five (5) parking spaces at 349 College Avenue, is approved subject to each of 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.

Resolution No. _____

2. All work shall be done according to the final approved plans dated May 12, 2021.

EXPIRATION AND EXTENSION:

3. 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.
4. 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:

5. Obtain all required building permits for the proposed project.

ENGINEERING DIVISION:

6. Comply with Engineering Development Services Exhibit A, dated April 22, 2021, attached hereto and incorporated herein as Exhibit A.

PLANNING DIVISION:

7. Compliance with all applicable operational provisions of Zoning Code Chapter 20-46 is required.
8. Compliance with City Graffiti Abatement Program Standards for Graffiti Removal (City Code 10-17.080.)
9. 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.
10. No signs are approved as part of this Conditional Use Permit. All signs require a separate review process and both Planning and Building permits.
11. Exterior lighting shall be in compliance with Zoning Code Section 20-30.080.
12. All roof appurtenances, accessory equipment, and meters shall be totally screened from public view by an architectural design element approved by the Design Review Board or Planning Division.
13. A reservation of access easement for the proposed circulation shall be recorded prior to issuance of building permits.
14. A reservation covenant for off-site parking shall be recorded prior to issuance of building permits.

Resolution No. _____

15. As identified in the W-Trans Focused Traffic Study, dated July 21, 2021, the four (4) onsite parking spaces and five (5) offsite adjacent parking spaces located at 349 College Avenue shall include signing on site indicating 30-minute parking limits for customers and enforced by the cannabis retail operator.
16. The Project shall provide 12 covered bicycle parking spaces as proposed in the Project Description.
17. Two (2) parking spaces on the parcel at 349 College Ave. shall be designated and signed as reserved for the existing office use. These reservations of parking spaces may specify a timeframe for which parking is reserved so that the spaces can be used by customers visiting 353 College Ave. outside of reserved hours.
18. Obtain a Minor Landmark Alteration Permit for removal of the planter strip and new parking area on the property located at 349 College Avenue, to accommodate the proposed onsite circulation.
19. As requested by the Ridgway Historic Preservation District Neighborhood Association, the Project shall repaint the building located at 353 College Avenue a neutral color.
20. Employee parking shall be encouraged at offsite locations that are not on public streets adjacent to the project site.
21. All cannabis product deliveries to the dispensary shall be limited to the hours of 6 a.m. to 10 p.m. daily.
22. All other commercial/non-cannabis deliveries to the dispensary shall be no earlier than 8 a.m. daily.

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 22nd day of July, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Resolution No. _____

APPROVED: _____
KAREN WEEKS, CHAIR

ATTEST: _____
ANDREW TRIPPEL, EXECUTIVE SECRETARY

ATTACHMENT: EXHIBIT A