City of Santa Barbara
California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 010-16
118 N. MILPAS STREET
STOREFRONT COLLECTIVE DISPENSARY PERMIT
MARCH 17, 2016

APPLICATION OF RYAN HOWE, 118 NORTH MILPAS STREET, 017-091-016, C-2 COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL/MED HIGH RESIDENTIAL (MST2015-00319)

On January 20, 2016, the Staff Hearing Officer approved an application for a Medical Marijuana Storefront Collective Dispensary at 118 North Milpas Street. On January 28, 2016, Mr. Peter Dal Bello filed an appeal of the Staff Hearing Officer's approval. A public hearing will be held for the Planning Commission to hear the appeal of the Staff Hearing Officer's approval of the proposed Medical Marijuana Storefront Collective Dispensary. The project includes operations and security plans, interior floor plan improvements, and minor exterior alterations and landscaping for the existing commercial building.

The discretionary application required for this project is a Storefront Collective Dispensary Permit (SBMC §28.80.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(a), Existing Facilities.

WHEREAS, the Planning Commission has held the required public hearing on the above appeal, and the Appellant was present.

WHEREAS, 12 people appeared to speak in favor of the appeal, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, March 10, 2016
2. Site Plans
3. Correspondence received in support of the appeal:
   a. Richard Garrett, via email
   b. Anonymous, hand-delivered
   c. Petition with 44 signatures, hand-delivered

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

I. Denied the appeal and upheld the Staff Hearing Officer's decision of approval of the Dispensary making the following findings and determinations:

The application complies with the location criteria of SBMC §28.80.050, as outlined in Section V.A of the SHO staff report, and with the criteria for issuance of a Storefront Collective Dispensary permit set forth in SBMC §28.80.070.B, as explained in Section V.B of the SHO staff report and the applicant's submittal. The approval includes compliance with the Staff Hearing Officer's conditions of approval as listed below.

II. Said approval is subject to the following conditions:

A. **Approved Dispensary.** The applicant shall operate the dispensary in accordance with Chapter 28.80 of the Santa Barbara Municipal Code, and in accordance with the application information and plans approved by the Staff Hearing Officer on January 20, 2016.

B. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Permits.

a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.

b. Submit an application for and obtain an **alarm system permit. Said alarm system shall be installed and registered per Municipal Code Chapter 9.100 and shall meet the requirements of the Santa Barbara Police Department.**

c. Submit an application for and obtain a Public Works Permit (PBW) for the construction Work and Temporary Traffic Control in the Public Right-of-Way.

Details on implementation of these steps are provided throughout the conditions of approval.

C. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Community Development Department.**

a. **Elimination of Curb Cut.** The existing curb cut and driveway apron shall be removed and replaced with curb, parkway, and sidewalk constructed to City Standards.

b. **Trash Enclosure and Trash Handling.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and locked and screened from view from surrounding properties and the street.

c. **Operating Plan.** The Operating Plan shall be amended as follows:

(1) A minimum of two (2) security guards shall be on duty during operating hours. In the event of guards taking breaks or escorting staff off the premises, backup guard(s) shall be provided to maintain the two-guard minimum during operating hours.

(2) After hours security camera monitoring shall have a 24 hour remote live feed to the offsite security monitoring firm.

(3) Explain that upon joining the Collective, a registered member may obtai medical marijuana as a qualified patient or primary caregiver only after an

initial waiting period of 24 hours after their initial in-person visit to the Dispensary for the purposes of joining the Collective

(4) A complete list of available products (including edibles), merchandise, and services to be sold, offered, or provided at the Dispensary shall be provided to Community Development Department staff.

(5) Clarify that marketing concepts such as concerts, "street walk", and lectures will be conducted at offsite locations, not at the dispensary premises.

(6) Clarify what rules of conduct "specifically including the points on the attachments" (page 21 of the Operation Plan) will be specified on a large sign displayed in the waiting room

(7) Note that Canopy will post in a conspicuous location inside the dispensary a State Law Compliance Warning.

(8) All qualified patients and primary caregivers shall enter the Storefront Collective Dispensary through the front doors outside of the secured fenced garden/wellness area. The secured outside gate to this area shall be used for exit only.

(9) On trash collection days, the Storefront Collective Dispensary Management shall remove the trash and recycling containers from the secured fenced area and place them in an area outside of the secured fenced area for servicing by the waste hauler. The trash and recycling containers shall be returned to the trash/recycling enclosure within the secured fenced area by the Storefront Collective Dispensary Management prior to the close of the Dispensary that same day. Waste hauler personnel shall not enter the controlled premises of the dispensary.

(10) The Patient Agreement Form shall be amended as follows:

i) Add acknowledgement by the patient or primary caregiver of the Canopy's zero tolerance policy regarding loitering and using cannabis products or alcohol on or within 200 feet of the property including zero tolerance of use during any onsite class/lecture (educational, yoga, meditation, etc). In the event of loitering or a cannabis use infraction, membership in this Collective shall be terminated.

ii) Add acknowledgement and agreement by the patient or primary caregiver that they understand that they are limited to membership to only one collective within the City of Santa Barbara per 28.80.080.G.5.

d. **Patient Agreement Form.** The Patient Agreement Form shall be amended as follows:

(1) Add acknowledgement by the patient or primary caregiver of the Canopy's zero tolerance policy regarding loitering and using cannabis products or alcohol on or within 200 feet of the property including zero tolerance of use

during any onsite class/lecture (educational, yoga, meditation, etc). In the event of loitering or a cannabis use infraction, membership in this Collective shall be terminated.

(2) Add acknowledgement and agreement by the patient or primary caregiver that they understand that they are limited to membership to only one collective within the City of Santa Barbara per 28.80.080.G.5.

e. **Interior Signage.** The interior signage related to the rules of conduct, state law warning, prohibition of minors without parent/guardian, and hours of operation shall be reviewed and approved by the Community Development Department.

f. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____
Property Owner Date

_____
Contractor Date License No.

_____
Architect Date License No.

_____
Engineer Date License No.

D. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number(s), and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.

E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Alarm System.** Register and install an alarm system per the requirements in SBMC Chapter 9.100.

2. **North Milpas Street Public Improvements.** The Owner shall submit an application and Public Works plans for construction of improvements along the property frontage on North Milpas Street. Plans shall be submitted separately from plans submitted for a Building Permit and shall be prepared by a licensed civil engineer registered in the State of California. As determined by the Public Works Department, the improvements shall include the elimination of the existing 10-ft driveway apron with the replacement of a new 6-ft sidewalk, parkway and new curb and gutter per City standards. Tim Downey, Urban Forest Superintendent, Tel. (805) 564-5592, needs to be contacted in regards to the tree right next to the existing driveway apron in the Public Right-of-Way.

3. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60.

F. **General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.

2. **Approval Limitations.**

   a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.

   b. All buildings, parking areas and other features shall be located substantially as shown on the plans approved by the Staff Hearing Officer.

   c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

G. **Litigation Indemnification Agreement.** In the event the Staff Hearing Officer's approval of the permit is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

H. **Annual Review of Collective Dispensary Operations.** No later than one year after the issuance of the Certificate of Occupancy, or final building inspection signoff, and annually thereafter, the Storefront Collective Dispensary Management shall submit to the Community Development Department for an annual review of the operation for full compliance with the operational and recordkeeping requirements of Chapter 28.80, including but not limited to, compliance with Section 28.80.080.H, and verification that all persons employed or volunteering at the Storefront Collective Dispensary have not been convicted of or on probation for a crime related to the possession, sale, or distribution of controlled substances. A fee in an amount established by resolution of the City Council may be required in order to reimburse the City for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any Storefront Collective Dispensary which, upon completion of an annual review, is found not to be in compliance with the requirements of this Chapter or which is operating in a manner which constitutes a public nuisance.

I. **Maintenance of Cultivation Records.** The Storefront Collective Dispensary Management shall maintain on-site (i.e., at the Property designated for the operation of the Storefront Collective Dispensary) the medical marijuana cultivation records of the Collective. These records shall be signed under penalty of perjury by each Management Member responsible for the cultivation and shall identify the location or locations within the counties of Santa Barbara, Ventura, or San Luis Obispo at which the Collective's medical marijuana is being cultivated. Such records shall also record the total number of marijuana plants cultivated or stored at each cultivation location. The Storefront Collective Dispensary shall also maintain an inventory record documenting the dates and amounts of medical marijuana cultivated or stored at the Dispensary Property, if any, as well as the daily amounts of Medical Marijuana distributed from the permitted Dispensary.

II. **NOTICE OF STOREFRONT COLLECTIVE DISPENSARY PERMIT APPROVAL TIME LIMITS:**

The Staff Hearing Officer action approving the Storefront Collective Dispensary Permit shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

This motion was passed and adopted on the 17th day of March, 2016 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.

Julie Rodriguez, Planning Commission Secretary

4/7/16
Date

PLEASE BE ADVISED:

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.