



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

REVISED

RESOLUTION NO. 061-10

(Condition II.D.2)

16 S. LA CUMBRE ROAD

MEDICAL MARIJUANA STOREFRONT COLLECTIVE DISPENSARY PERMIT

DECEMBER 15, 2010

APPLICATION OF HEATHER POET FOR SANTA BARBARA PATIENTS GROUP,
16 S. LA CUMBRE ROAD, APN 051-021-003, C-P AND SD-2 ZONES, GENERAL PLAN
DESIGNATION: GENERAL COMMERCE/COMMUNITY SHOPPING CENTER
(MST2009-00522)

The proposed project consists of the establishment of a Medical Marijuana Storefront Collective Dispensary within an existing 1,000 square foot commercial building located at 16 S. La Cumbre Road.

The discretionary application required for this project is a Medical Marijuana 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 Guidelines Section 15301 (Existing Facilities).

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, five people appeared to speak in favor of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, December 7, 2010.
2. Site Plans
3. Correspondence received in support of the project:
 - a) Derek A. Westen, 1800 Jelinda Drive, Santa Barbara, CA 93108.
 - b) John Demourkas, Owner of Yanni's Mackenzie Market, 3102 State Street, Santa Barbara, CA 93105.
 - c) Nolan Brooks, 3114 State St, #B, Santa Barbara, CA 93105.
 - d) Edward Beltran, Tiberon Tavern, 3116 State Street, Santa Barbara, CA 93105.
 - e) Hiey Ly, Today Nails, 3114 State Street, Santa Barbara, CA 93105.
 - f) Manuela Brumm, Brummis, The German Taste, 3108 State Street, Santa Barbara, CA 93105.
4. Correspondence received in opposition to the project:
 - a) Paula Westbury, P.O. Box 1201, Santa Barbara, CA 93102.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

I. Approved the subject application making the following findings and determinations:

A. Storefront Collective Dispensary Permit (SBMC §28.80.100)

1. As conditioned, the dispensary permit complies with the limitations on the permitted locations of a dispensary pursuant to Section 28.80.050 of the Zoning Ordinance, as described in Section VII.A of the Staff Report.
2. The dispensary permit complies with the criteria set forth in Section 28.80.070 (Criteria for Review of Collective Dispensary Applications by the Staff Hearing Officer) of the Zoning Ordinance, as explained in Section VII.C of the Staff Report and the Applicant's submittal.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

A. **Operation of the Storefront Collective Dispensary Contingent upon Compliance with the Limitation on the Maximum Number of Dispensaries.** The operation of this dispensary shall not commence and no building permit may be issued for the tenant improvement associated with this use until such time that, including the subject dispensary, no more than the maximum number of Storefront Collective Dispensaries allowed by the Medical Marijuana Storefront Collective Dispensary Ordinance in the City would be in operation.

B. **Approved Dispensary.** The applicant shall operate the dispensary in accordance with the application information and plans submitted to the Planning Division November 8, 2010.

C. **Building Permit Required.** Prior to commencement of business operations, the tenant improvements in conformance with the floor plan submitted November 8, 2010, or as modified City Building Official, shall be completed and shall have cleared final building inspection. The applicant shall obtain a Building Permit for said tenant improvements.

D. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant project design approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.

1. **Security Cameras.** The owner shall provide a revised floor plan with additional security cameras to provide coverage of all exterior walls to the satisfaction of the Police Department.
2. **Landscape Plan.** The owner shall provide a planting plan for the existing planters on the La Cumbre Road frontage.

Bicycle Parking. The applicant shall work with the property owner and City Transportation Planning staff to explore opportunities to provide bicycle parking on the subject parcel.

- E. **Management Requirements.** Within 30 days of approval, the Applicant shall submit a revised application to include the following changes:
1. A clear statement that the Dispensary shall not have a physician on-site to evaluate patients and provide a Compassionate Use Act recommendation for the use of medical marijuana; and
 2. A list of products, goods, and services requested to be sold commercially at the dispensary subject to review and approval by the Planning Division.
- F. **Parking Lot Signage.** The applicant shall work with the property owner and City Transportation Planning staff to review the adequacy and visibility of parking lot signage intended to limit the use of the parking lot to patrons and tenants of the subject parcel.
- G. **Alarm System Permit.** Applicant shall apply for 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.
- H. **Management Requirements.** The Storefront Collective Dispensary operations shall be maintained and managed on a day-to-day basis in compliance with the operational standards and requirements of Municipal Code Section 28.80.080.
- I. **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.

This motion was passed and adopted on the 15th day of December, 2010 by the Staff Hearing Officer of the City of Santa Barbara.

