



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 009-15

3617 STATE STREET

STOREFRONT COLLECTIVE DISPENSARY PERMIT

JUNE 4, 2015

APPLICATION OF JOSEPH ALLEN, 3617 STATE STREET, APN: 051-051-005, C-P/SD-2 RESTRICTED COMMERCIAL/ SPECIAL DISTRICT 2 "UPPER STATE STREET AREA" ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH RESIDENTIAL (MST2014-00438)

Proposal for a Medical Marijuana Storefront Collective Dispensary Permit. The dispensary would be located in an existing tenant space in Ontare Plaza. Interior improvements are proposed.

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 categorically exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(a).

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

WHEREAS, no one appeared to speak in favor of the application, and 3 people appeared to speak in opposition thereto or with concerns, and the following exhibits were presented for the record:

1. Staff Memorandum with Attachments, May 28, 2015.
2. Site Plans
3. Correspondence received in opposition to the project or with concerns:
 - a. Travis Bower, via email
 - b. Beverly Johnson Trial, via email

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

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

STOREFRONT COLLECTIVE DISPENSARY PERMIT (SBMC §28.80.070)

The application complies with the location criteria of SBMC §28.80.050, as outlined in Section V.A of the written Staff Report, dated April 8, 2015, 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 written Staff Report, dated April 8, 2015, and the applicant's submittal.

- II. Said approval is subject to the following conditions:

- A. **Approved Dispensary.** The applicant shall operate the dispensary in accordance with the Chapter 28.80 of the Santa Barbara Municipal Code, and in accordance with the application information and plans approved and modified by the Staff Hearing Officer on April 15, 2015 and amended by the Planning Commission on June 4, 2015.

- B. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:
1. Record any required documents (see Recorded Conditions Agreement section).
 2. Permits.
 - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
 - b. If applicable, submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.
 - c. 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.

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

- C. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on April 15, 2015 is limited to the improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara. The improvements consist of an interior tenant improvement and exterior security lighting and cameras.
 2. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
 3. **Trash Enclosure Provision.** 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 screened from view from surrounding properties and the street.
- D. **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. **List of Products, Goods, and Services.** A list of products (including edibles), goods, and services requested to be sold at the Dispensary shall be submitted to the Planning Division for review and approval.

- b. **Operations Plan.** Provide a revised and updated Operation’s Plan incorporating the following additional requirements:
 - (1) A sign shall be displayed on the storefront that states the dispensary does not allow members under the age of 21.
 - (2) The exterior glass shall not be tinted because this may impede visibility into the dispensary.
 - (3) A minimum of two security guards shall be on duty to provide security during entirety of the dispensary’s open hours. Security shall patrol the exterior of the property a minimum of once an hour.
 - (4) The Applicant shall correct any inconsistencies in the operations plan.
 - (5) The trash receptacle used by the dispensary shall be locked at all times.
 - (6) Caregivers for collective patients shall undergo the same background checks as collective members.
 - (7) The rear door shall be used for emergency egress only, but may be used for trash disposal as needed.
 - (8) In addition to the sign posted in the dispensary indicating that no patient, qualified caregiver or staff may consume, eat, or smoke cannabis on the premises, a map shall be provided for members to define the premises to consist of a 400 foot radius around the dispensary, as well as the neighborhood immediately to the south of Ontare Plaza. This map shall be attached to the Patient’s Agreement Form and acknowledged in members’ records. The restriction on use of cannabis would not apply to collective members who live within this mapped area to consume their cannabis in their own homes.
 - (9) The Applicant will amend their operations plan item related to SBMC §28.90.090.F.1, on page 19 of the Operations Plan from “The SBPCHC has no plans to sell specific products....” to “The SBPCHC will not sell specific products...”
 - (10) The Applicant will amend their operations plan item related to SBMC§28.90.080.G.3 on page 21 of the Operations Plan to strike the phrasing “unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.”, leaving only “No cultivation shall occur at the Property of the Collective.”
2. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition C “Recorded Conditions Agreement” to the Community Development Department prior to issuance of any building permits.
3. **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.

E. **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.

F. **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. **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.

G. **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, roadways, 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.

H. **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 4th day of June, 2015 by the Planning Commission of the City of Santa Barbara, by the following vote:

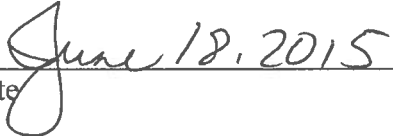
AYES: 6 NOES: 1 (Jordan) ABSTAIN: 0 ABSENT: 0

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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



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.