



City of Santa Barbara California

II. F.

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: June 10, 2009
AGENDA DATE: June 17, 2009
PROJECT ADDRESS: 500 N. Milpas St. (MST2009-00155)
Santa Barbara Patients' Collective Health Cooperative (SBPCHC)
Medical Cannabis Dispensary

TO: Staff Hearing Officer

FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *DK*
Kelly Brodison, Assistant Planner *KAB*

I. PROJECT DESCRIPTION

The project consists of establishment of a medical cannabis dispensary within an existing 1,110 square foot tenant space at 500 N. Milpas Street. The applicant has submitted an operational plan that details how the business would be operated to comply with Chapter 28.80 of the City of Santa Barbara Zoning Code. With regard to security, there would be fourteen (14) cameras set up to monitor the inside and outside of the building to insure that no loitering, nuisances, or criminal activity occurs in and around the building. The commercial space is currently vacant awaiting issuance of this permit.

II. REQUIRED APPLICATIONS

The discretionary application required for this project is a Medical Cannabis Dispensary Permit (MCDP) (SBMC §28.80.030).

III. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project, making the findings contained in Section VI of this Staff Report, and subject to the conditions of approval in Exhibit A.

APPLICATION DEEMED COMPLETE: May 14, 2009
DATE ACTION REQUIRED: November 10, 2009

IV. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant: Gil Garcia	Property Owner: Ann Elizabeth Leslie 2005 Trust
Parcel Number: 031-241-038	Lot Area: 2,920 sq. ft
General Plan: General Commerce	Zoning: C-2
Existing Use: Commercial/Vacant	Topography: Flat
Adjacent Land Uses:	
Northeast - Commercial	Southeast - Commercial
Northwest - Commercial/Residential	Southwest - Commercial

B. PROJECT STATISTICS

	Existing and Proposed
Building Size	1,110 sq. ft.
Proposed Tenant Space	1,110 sq. ft

The proposed project is a commercial use that, with the issuance of the dispensary permit, would meet the land use requirements of the C-2 Zone.

V. ISSUES

1. LOCATION LIMITATIONS FOR DISPENSARIES

Pursuant to Section 28.80.060 of the City Zoning Code, a dispensary may be located on parcels fronting on Milpas Street between Carpinteria Street and Canon Perdido Street. In addition, dispensaries are not permitted within 500 feet of a park, school, or other dispensary. The subject site meets these requirements as well.

2. CRITERIA FOR ISSUANCE OF A DISPENSARY PERMIT

Section 28.80.090 (B) of the City Zoning Code lists the criteria for issuance of a dispensary permit. The Staff Hearing Officer, or the Planning Commission on appeal, shall consider the following criteria in determining whether to grant or deny a dispensary permit:

1. *That the dispensary permit is consistent with the intent of the state Health & Safety Code for providing medical marijuana to qualified patients and primary caregivers, and the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.*

The operational plan submitted by the applicant and the applicant's responses to the limitations of Section 28.80.060 of the City Zoning Code, indicate the intent and purpose of the dispensary is to provide medical marijuana to qualified patients and primary caregivers. The applicant has passed the required background check, and the proposed security measures have been found to be adequate by the Police Department. Record keeping requirements will allow the city to monitor and audit the proposed use as necessary. Therefore, this criterion has been met.

- 2. That the proposed location of the Dispensary is not identified by the City Chief of Police as an area of high crime activity (e.g., based upon crime reporting district/statistics as maintained by the Police Department).*

The project was routed to the Police Department, whose personnel conducted a site investigation. The area is not considered to be an area of high crime activity based upon crime reporting statistics. Therefore, this criterion has been met.

- 3. For those applicants operating other Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area or to the applicant's existing dispensary location.*

According to the applicant, he has not previously operated dispensaries within the City. Therefore, this criterion does not apply to this applicant.

- 4. That all required application fees have been paid and reporting requirements have been satisfied in a timely manner.*

The applicant has submitted all required application fees. No reporting requirements are required at this time. Therefore, this criterion has been met.

- 5. That issuance of a dispensary permit for the dispensary size requested is justified to meet needs of the community.*

The proposed dispensary size of 1,110 net square feet is the minimum necessary to safely and efficiently run a dispensary at this corner location. Because this commercial lease space is on the corner of Haley and Milpas Streets, the proposed dispensary has frontage and windows on both streets. This dispensary will have the main entry at the corner storefront and the customers will move through the dispensary and exit at the rear of the building. The applicant has proposed this system to avoid cross traffic between customers entering and exiting the building. There is a reception space with a waiting area. Patients will be screened prior to being allowed to enter the dispensary area and seats will be provided for patients waiting to be screened. New patients of the cooperative may enter the registration office directly from the reception area. Also, the proposal is to use an existing commercial space and will not by increasing the floor area or commercial square footage within the City. Therefore, this criterion has been met.

6. *That issuance of the dispensary permit would serve needs of City residents within a proximity to this location.*

The Applicant will serve the needs of City residents within its proximity by employing a bilingual Community Liaison with responsibilities to include developing and maintaining relationships with local community organizations. There are no other dispensaries within 500 feet of this location. Therefore, the dispensary would serve the needs of local residents.

7. *That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule or regulation, and no significant nuisance issues or problems are anticipated or resulted, and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.*

The project site is on a C-2 zoned lot and is within an area of the City that allows Medical Cannabis Dispensaries (See Exhibit D). No prohibitions for a dispensary at this location were identified in any local, state, statute or rule or regulation. To prevent nuisance issues, the security measures include alarm systems, security cameras and patient screening. The front entry of the dispensary has large windows and has good visibility from Milpas Street for police surveillance. No smoking or use of marijuana is permitted on the premises and the applicant is required to control loitering and nuisances in the surrounding areas. There is another dispensary located at 331 N. Milpas, however, this location is more than 500 feet away. Therefore, this criterion has been met.

8. *That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.*

See finding #7 above. The applicant has contacted a security systems installation consultant in order ensure that the security plan, site plan and floor plan incorporate features necessary to assist in reducing potential crime-related problems. These measures include fourteen (14) video cameras, trained security personnel and state-of-the-art security systems. Therefore, this criterion can be been met.

9. *That all reasonable measures have been incorporated into the security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference with the operation of another business.*

The site plan indicates that the applicant will install eight (8) security cameras within the business premises in order to monitor the lobby and the dispensary area. The applicant has also

stated that he proposes to place six (6) outside cameras, two (2) along the Milpas Street frontage, two (2) along the Haley Street frontage and two (2) at the rear of the building.

The applicant proposes to have a main host who will conduct screening of all visitors upon entrance to the facility, and a second security person will patrol the parking lot, the rear exit and the property surrounding the building. The security personnel's responsibilities will include enforcing the requirements to disallow cannabis use on the site, control of conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, cannabis use in public, or creation of a public or private nuisance, or interference with the operation of another business. Signs indicating that patrons are not to use the product on-site and patrols of the surrounding areas should insure that the patrons' conduct is controlled.

The applicant has proposed a floor plan that will allow for circulation between the front and the rear entrances of the building to eliminate cross traffic between patients. Therefore, this criterion has been met.

10. That the dispensary would not adversely affect the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance; or that the dispensary will generally not result in repeated nuisance activities, including disturbances of the peace, illegal drug activity, cannabis use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

See 7-9 above. On-site security is required to patrol outside areas to ensure no one is loitering outside the premises. The proposed hours of operation are to be 11 a.m. to 8 p.m. six (6) days a week. Therefore, there should be no late night disturbances associated with this business. If any of the above conditions result from this business, the City would have the ability to revoke this permit, or modify the conditions of the permit to correct any problems that might arise. Therefore, this criterion has been met.

11. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.

No provisions of any code, condition of a City-issued permit, or any other local or state law, regulation or order or any condition imposed by permits issued in compliance of those laws has been identified. A condition of approval is included that the use complies with the said requirements for any future issued conditions on any permits. Therefore, this criterion has been met.

12. That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

No false statements of fact or omissions have been discovered by staff. This finding must be based on the information provided in the application package and any testimony presented by the applicant at the SHO hearing. The SHO must make this finding based on a judgment of the facts as stated within the entire record.

13. That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.

The applicant has passed the background check. Per the applicant's statements, the applicant has not engaged in any unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City of Santa Barbara in the past. Therefore, this criterion has been met.

ENVIRONMENTAL REVIEW

Staff has determined that the project qualifies for an exemption from further environmental review under Section 15301 (Existing Development) of the California Environmental Quality Act (CEQA) Guidelines. The project involves a new commercial use in a commercial tenant space within an existing commercial building.

VI. FINDINGS

The Staff Hearing Officer finds that the project complies with the requirements of Chapter 28.80 of the City Zoning Code for regulation of medical cannabis dispensaries. Specifically:

- a. The dispensary permit complies with the limitations on the permitted locations of a dispensary pursuant to Section 28.80.060 of Zoning Ordinance.
- b. The dispensary permit complies with the criteria set forth in Section 28.80.090 (Criteria for Review of Dispensary Applications) of the Zoning Ordinance, as explained in the Staff Report and the Applicant's submittal.
- c. This dispensary permit is approved conditioned upon compliance with the operational requirements specified in Section 28.80.070 of the Santa Barbara Municipal Code and the conditions of approval outlined in Exhibit A.

Exhibits:

- A. Conditions of Approval
- B. Applicant letter dated June 1, 2009
- C. Site Plan and Floor Plans (under separate cover)
- D. Application package/Operational Plan
- E. Medical Cannabis Dispensaries Allowed Location Downtown Map