



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 041-17
2609 DE LA VINA STREET
STOREFRONT COLLECTIVE DISPENSARY PERMIT
JUNE 7, 2017

**APPLICATION OF IHAB GHANNAM, 2609 DE LA VINA STREET, APN 051-292-003, C-2
COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH
RESIDENTIAL (MST2016-00202)**

The project proposes a Medical Marijuana Storefront Collective Dispensary in an existing commercial space, and includes an operations plan, interior floor plan improvements, minor exterior alterations, and security improvements to the existing commercial building. The application was revised based on comments from the Planning Commission on a prior application at an appeal hearing on January 14, 2016 and the last SHO hearing.

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 Staff Hearing Officer 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 8 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, February 22, 2017
2. Staff Report with Attachments, April 19, 2017
3. Staff Report with Attachments, May 31, 2017
4. Site Plans
5. Correspondence received in support of the project:
 - a. Alfred Neale
 - b. Michael Delgado
 - c. Kate and Russ Carter
6. Correspondence received in opposition to or with concerns on the project:
 - a. Deborah Bertling
 - b. Deedee Underwood
 - c. Ann J. Adams
 - d. Melissa Cunningham
 - e. Peter Candy
 - f. Florence J. Sanchez

- g. Cate Nelson
- h. Thomas Byrne
- i. Anna Marie Byrne
- j. Nancy Patterson
- k. Lisa Rengal
- l. Isabelle Greene
- m. Bill Weil
- n. Bill Richardson
- o. Alex Noormand and Tracy Clark
- p. Tara Haaland-Ford
- q. Nora Gallagher
- r. Geoff Hendershot
- s. Teri Zanini

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

- I. Issued the Storefront Collective Dispensary Permit with Conditions, making the finding that the application complies with the location criteria of Santa Barbara Municipal Code (SBMC) §28.80.050, as outlined in Section VI of the written Staff Report, dated February 22, 2017, and with the criteria for issuance of a Storefront Collective Dispensary permit set forth in SBMC §28.80.070.B, as explained in Section VI of the written Staff Report, dated February 22, 2017, 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) 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. **Approved Dispensary.** The applicant shall operate the dispensary in accordance with Chapter 28.80 of the SBMC, and in accordance with the application information and plans approved by the Staff Hearing Officer on March 1, 2017.
- B. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

Permits.

- 1. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
- 2. 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. Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Community Development Department prior to the issuance of any permit for the project. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **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.
 2. **Application/Operating Plan/Security Plan.** The documents shall be amended as follows:
 - a. Security shall include operable cameras and a metal detector to the satisfaction of the Chief of Police. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days.
 - b. This facility shall also include alarms and two unarmed security guards who are licensed by the State of California. One security guard shall be on duty at the premises 24 hours a day, seven days a week, the other shall be on duty at the facility at least ½ hour prior to the opening of the dispensary until at least ½ hour after the closing of the dispensary. The security guards should only be engaged in activities related to providing security for the facility, except on an incidental basis. In the event of guards taking breaks or escorting staff/clients off the premises, backup guard(s) shall be provided to maintain the two-guard minimum during operating hours.
 - c. The Owner/Permittee shall install bullet resistant glass, plastic, or laminate shield at the reception area to protect employees.
 - d. Lighting shall be provided to illuminate the interior of the Dispensary, facade, and the immediate sounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
 - e. The final Security Plan shall be reviewed and approved by the Santa Barbara Police Department (SBPD). All recommendations of the SBPD shall be incorporated into the Security Plan.
 - f. The final documents shall be revised to reflect the application as it was approved by the Staff Hearing Officer, including the following:
 - (1) Page 13 of the Medical Marijuana Storefront Collective Dispensary Permit Application, revise (ii) to be consistent with the wording of bullet 4 on page 4 of Exhibit 7, Operations Plan, of the Medical Marijuana Storefront Collective Dispensary Permit Application.

- (2) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 3, revise fifth paragraph to state that instead of the indicated "...two security guards at the Location at all times" to indicate that only one security guard is required 24 hours per day and the other the security guard will be on duty at the premises at least ½ hour prior to the opening of the dispensary until at least ½ hour after the close of the dispensary.
- (3) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 4, second full paragraph. Remove reference that the rear door from exterior of the building will require a key and indicate that the door will be not operable from the outside (i.e. no exterior handle, key or keyless locks).
- (4) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 5, top of page. Also indicate that the security guard near the entrance of the dispensary shall be equipped with a metal-detecting device to screen all persons entering the building, consistent with the security plan.
- (5) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 10. Move the last solid bullet, starting with "A management member shall..." to page 9 and have it be located within the first three bullet points.
- (6) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 16, second full paragraph, clarify that the physician's recommendation is no more than 12 months old instead of each member's status because each member's status is required by SBMC Chapter 28.80 to be verified at each visit.
- (7) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 18, first paragraph under "Security Guards," correct the typographical error by changing "with" to "will."
- (8) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 5 of the "Santa Barbara Collective Membership Agreement & Registration Form," move D.17 up to Section C.
- (9) Exhibit 7 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 11 of the "Santa Barbara Collective Membership Agreement & Registration Form," number 4 "Minors on Premises Policy," indicate that this signage will also be posted on the exterior.
- (10) Exhibit 8 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 3, number 6.iv, remove

reference that the door could be opened from the outside with a key as this door is required to not be operable from the exterior.

(11) Exhibit 8 to the Medical Marijuana Storefront Collective Dispensary Permit Application, page 4, under "Floating Security Guard," change reference to the 2000 block of De La Vina to the 2600 block.

3. **Exterior Rear Door.** The rear exterior door shall be not operable from the outside (i.e. no exterior handle, keyhole, keyless entry, etc.)
4. **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.
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. **Police Department Inspection.** A Crime Prevention Through Environmental Design (CPTED) review shall be completed by the Santa Barbara Police Department prior to final inspection sign-off or certificate of occupancy for the dispensary.
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.** The staff of the Community Development Department and the Police Department are hereby authorized to conduct an annual review of the operation of each permitted Storefront Collective Dispensary within the City for full compliance with the operational and recordkeeping requirements of SBMC Chapter 28.80, including specifically, annual 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 Storefront Collective Dispensary Permit Annual Financial Audit fee has been established by resolution of the City Council 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.** Every permitted Storefront Collective Dispensary 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.

- III. 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:

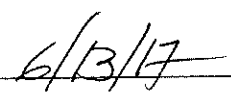
1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

This motion was passed and adopted on the 7th day of June, 2017 by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.



Kathleen Coe, Staff Hearing Officer Secretary



Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action, your next administrative step should be to apply for **Architectural Board of Review (ABR)** approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **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
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