APPLICATION OF RYAN HOWE, APPLICANT, MERRY MILPAS LLC, OWNER, 118 NORTH MILPAS STREET, APN 017-091-016, C-G (COMMERCIAL GENERAL) ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL/HIGH DENSITY RESIDENTIAL (PLN2015-00319)

The approved Medical Marijuana Storefront Collective Dispensary known as “The Canopy” proposes to amend its approved Dispensary Permit. Revisions are proposed to the Operations Plan and Security Plan, and would allow serving patients age 18 and over, would remove residency requirements for patients, and would increase security guard coverage. Other revisions consist of removal and additions of management members, and changes to the Canopy’s By-Laws, Board Resolutions, and Articles of Incorporation. The proposed changes, with City staff’s recommended revisions, would be consistent with current State Law and City Ordinance. No changes are proposed for the existing 2,264 square foot commercial building or the site.

The discretionary application required for this project is an Amendment to the Medical Cannabis Dispensary permit (SBMC §30.185.250.C).

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 no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Reports with Attachments dated, February 6, 2019, February 20, 2019, and March 6, 2019
2. Site Plans

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

I. Approved the subject application, making the findings and determinations that, as conditioned, the Amendment to the Medical Cannabis Dispensary permit to allow changes to the approved Canopy Medical Cannabis Storefront Dispensary Operation Plan & Application (Operations Plan) complies with the criteria for issuance of SBMC §30.185.250.G.2. The Operations Plan
and Storefront Dispensary continues: to be consistent with the intent of the Compassionate Use Act of 1996, the SB 420 Statutes, and MAUCRSA; to be in an area that is not identified by the City Chief of Police as an area of increased or high crime activity; to have a size and location that is appropriate to meet the needs of the community for access to medical marijuana; and, to likely have no potentially adverse effect on the health, peace, or safety of persons living or working in the surrounding area.

II. Said approval is subject to the following conditions:

A. The delivery service, including the delivery service security plan, shall comply with State Law and Santa Barbara Municipal Code §30.185.250 and shall be reviewed and approved by Chief of Police. Any future amendments shall be reviewed and approved by the Chief of Police prior to implementation.

B. No new members or primary caregivers shall be signed up online, through the delivery service, or at locations other than 118 N. Milpas Street. All new members and primary caregivers shall go to The Canopy storefront dispensary located at 118 N. Milpas Street and register in person following the protocols contained in Santa Barbara Municipal Code §30.185.250 and the conditionally approved Operations Plan.

C. The Permittee shall notify the City Community Development Director in writing within five days of suspension or revocation of a license issued by the State of California, or by any of its departments or divisions.

D. Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the Storefront Dispensary permit issued by the City of Santa Barbara until the State of California, or its respective department or division, reinstates or reissues the State license.

E. Should the State of California, or any of its departments or divisions, revoke or terminate the license of The Canopy, such revocation or termination shall also immediately revoke or terminate the Storefront Dispensary permit issued by the City of Santa Barbara.

F. Within 30 days of SHO action conditionally approving the revised Operations Plan, The Canopy Board of Directors shall take action to:

1. Remove Nicholas Sinclair Von Weisenberger, Steven Ruggieri, and Adam Hewett as Management Members and/or members of the Board of Directors, whichever is applicable.

2. Amend Sections 5.02. Elections, 5.03. Subordinate Officers, etc., and 5.04. Removal and Resignation of the Amended and Restated Bylaws of Canopy Club, Inc. to indicate the election, appointment, and/or removal of an Officer by a majority of the Directors.
shall not be effective until approved by the City of Santa Barbara pursuant to SBMC §30.185.250.

3. Amend Section 6.05. Amendments of the Amended and Restated Bylaws of Canopy Club, Inc. to recognize that any amendments to the Bylaws that are in conflict with SBMC §28.185.250 are not effective, and that any amendments to the Bylaws that are regulated by the provisions of SBMC §28.185.250 are not effective until approved by the City of Santa Barbara.

4. Terminate the Consulting Agreement with WAKKI, LLC as a manager and consultant and for the operation of the delivery service.

G. The following changes shall be made to The Canopy Medical Cannabis Storefront Dispensary Operation Plan & Application dated March 6, 2019:

1. Exhibit E - Canopy Delivery, Page 6, fourth bullet: Revise the sentence that states “In the case of a new member, make sure they understand there is a 24 hour waiting period and that they must visit the dispensary in person before a delivery can take place” to “In the case of a new member, tell the person that they need to come in person to The Canopy storefront dispensary to join and make sure they understand there is a 24 hour waiting period before a delivery can take place.”

2. Exhibit E - Canopy Delivery, Page 10, sixth bullet: Delete the rest of the paragraph after “When approaching any member any time, first ask to see their Government Issued ID.” Deliveries are only allowed for existing members and new members 24 hours after they join in person at The Canopy storefront dispensary.

H. Submit an updated “The Canopy Medical Cannabis Storefront Dispensary Operation Plan & Application” which reflects the requested revisions approved by the Staff Hearing Officer as well as the Conditions of Approval placed on the application prior to initiating any of the approved revisions to the Operations Plan & Application.

This motion was passed and adopted on the 13th day of March, 2019 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.

Heidi Reidel, Commission 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. 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.

3. NOTICE OF APPROVAL TIME LIMITS: The Staff Hearing Officer’s action approving the Dispensary Permit shall expire three (3) years from the date of the approval, per SBMC §30.205.120, unless:

   a. A building permit for the construction authorized by the approval is issued within thirty six months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;

   b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
      i. an Issuance of a Certificate of Occupancy for the use, or;
      ii. one (1) year from granting the approval.