

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF A USE PERMIT AND DESIGN REVIEW APPROVALS TO OPERATE A MEDICAL CANNABIS CULTIVATION FACILITY IN AN INDUSTRIAL GENERAL (IG) ZONE AT 7979 SOUTH AIRPORT WAY

The applicant, Ryan Neilsen, applied for a Use Permit to operate a medical cannabis cultivation facility in an Industrial General (IG) zone at 7979 S. Airport Way. The cultivation activity will take place in a new, approximately 35,640 square foot prefabricated green house, with 21,524 square feet dedicated to cannabis cultivation in accordance with Stockton Municipal Code section 16.80.195.B.6; and

The subject dispensary complies with the provisions of Stockton Municipal Code (SMC) Section 168.80.195, Medical Cannabis Businesses - Permitting, and all minimum separation requirements from sensitive uses and other restrictions; and

The Stockton Police Department has reviewed the required security plan for the subject facility, and the proposed security plan meets the Police Department standards and includes provisions for security guards, access controls, video surveillance, and lighting; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

The City Council hereby denies the appeal and upholds the Planning Commission's approval of a Use Permit and design review approvals to operate a medical cannabis cultivation facility in an Industrial General (IG) zoned property located at 7979 South Airport Way based on the following findings of fact and conditions of approval:

GENERAL FINDINGS

1. The proposed use is allowed within the subject zoning district with the approval of a use permit and complies with all other applicable provisions of this Development Code and the Municipal Code because medical cannabis cultivation is allowed in a zone with a Use Permit and operating permit and meets all of the requirements under SMC 16.80.195(B).

2. The proposed use would maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located because operating a facility engaged in industrial processing is consistent with the Industrial General (IG) zoning district, where processing uses are permitted, and with the surrounding industrial

land uses. The proposed use would strengthen the surrounding neighborhood by turning a vacant site into usable industrial space, and the proposed security would serve to further enhance the surrounding neighborhood.

3. The proposed use would be consistent with the general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan because the project is an industrial land use consistent with the Industrial land use designation of the General Plan and it is consistent with General Plan Goal LU-5 to encourage, facilitate, and assist the location of new industry and the expansion of existing industry. The project is consistent with LU-5.5 Compatible land uses because the project is separated from sensitive uses like residential zones, educational, and healthcare facilities. And the applicant has proposed 24-hour security, surveillance, and odor control measures that would minimize pollutants and increase the safety of the surrounding neighborhood.

4. The subject site would be physically suitable for the type and density/intensity of use being proposed including the provision of services (e.g., sanitation and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.) The project has been analyzed by all departments and it has been determined all streets and public access ways is adequate to serve the proposed project. The site will have access to City water services and the Municipal Utilities Department has approved the septic system and retention basin on site for gray water and waste.

5. The establishment, maintenance, or operation of the proposed use at the location proposed and for the time period(s) identified, if applicable, would not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, peace, or general welfare of persons residing or working in the neighborhood of the proposed use because operations are being carried out indoors, in an industrial zone away from public view; appropriate security provisions have been incorporated into the project operations plan, including both electronic surveillance and on-site security personnel procedures; and adequate odor controls have been incorporated to avoid objectionable odor emissions from the facility.

6. The design, location, size, and operating characteristics of the proposed use would be compatible with the existing, and future land uses on-site and in the vicinity of the subject property because the project is an industrial land use, which is compatible with the surrounding industrial and agricultural land uses. The proposed use is also consistent with the existing general plan designation and zoning. Further the development and use of the vacant land would serve to enhance the neighborhood.

7. The proposed action would be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The proposed use qualifies for CEQA Categorical Exemption under section 15332 Class 32, for Infill Development Projects, because the development is consistent with the City of Stockton General Plan, is located in an urbanized area on a site less than 5 acres. And

the applicant will obtain San Joaquin Multi Species Habitat Conservation Plan (SJMSCP) clearances prior to construction to ensure the site is not a habitat for endangered species.

8. In accordance with SMC section, 16.90.020A.5 the City finds, based on substantial evidence in the record, that the property is located in an area of potential flooding of three feet or less from a storm event that has a 1-in-200 chance of occurring in any given year, from sources other than local drainage. The substantial evidence in the record consists of the effective 200-year floodplain map and data, determined by the Director.

Design Review Findings

Staff recommends that the Planning Commission approve the Architectural Design Review, attached as Exhibit 1 and incorporated herein, based on the following findings and Conditions of Approval:

1. The proposed development is consistent with all applicable provisions of this Development Code and other applicable City ordinances; because the proposal is consistent with the Citywide Design Guidelines that are used to meet requirements of Design Review as outlined in SMC section 16.120.020B.

2. The general design considerations, including the character, quality, and scale of design are consistent with the purpose/intent of this chapter and the Guidelines and other design guidelines that may be adopted by the City; because the Architectural Review Committee (ARC) has reviewed the elevations for the proposed buildings, parking areas, access uses, architectural design in comprehensive manner. The commercial development will incorporate appropriate structures for the proposed use and provide an efficient site layout.

3. The architectural design of structures and their materials and colors are visually compatible with surrounding development. Design elements (e.g., awnings, exterior lighting, screening of equipment, signs, etc.) have been incorporated into the project to further ensure its compatibility with the character and uses of adjacent development; because the subject project addressed site context in the site plan and materials palettes as determined by ARC. The architectural style and layout would be compatible with buildings within the vicinity of the transit stop.

4. The location and configuration of structures are compatible with their sites and with surrounding sites and structures and do not unnecessarily block views from other structures or dominate their surroundings;

5. The general landscape design, including the color, coverage, location, size, texture, and type of plant materials, provisions for irrigation, planned maintenance, and protection of landscape elements have been considered to ensure visual relief, to complement structures, and to provide an attractive environment; because the proposed

landscape design will provide use of landscaping to enhance views of the site by screening unattractive elements such as trash enclosures, and parking areas.

6. The design and layout of the proposed project will not interfere with the use and enjoyment of neighboring existing or future development and will not result in vehicular or pedestrian hazards; the site is located off the main arterial reducing traffic to the site, signage will be used to prevent vehicular and pedestrian hazards.

7. The building design and related site plans, including on-site parking and loading, has been designed and integrated to ensure the intended use will best serve the potential users or patrons of the site. City staff has reviewed the site plan to ensure that the plans comply with the City Codes and provide the best service to the patrons of the site.

8. Special requirements or standards have been adequately incorporated, when applicable, into the building and/or site design (e.g., American Disabilities Act regulations, historic preservation, mitigation measures, open space, utilities, etc., because other standards will be reviewed by individual departments during plan check with Building Life and Safety Division.

CONDITIONS OF APPROVAL

1. Comply with all applicable Federal, State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.

2. In the event the operation of this use should prove detrimental to the health, safety, peace, or general welfare of the surrounding neighborhood, this Use Permit shall be subject to revocation or modification, as provided in the Development Code.

3. The Use Permit shall become effective following the completion of a ten-day appeal period following approval of the application.

4. The Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.

5. The owners, developers and/or successors-in-interest (ODS) shall be responsible for the City's legal and administrative costs associated with defending any legal challenge of the approvals for this project or its related environmental document.

6. All required elements of the mandatory Security Plan shall be approved by the Police Department and be in place prior to initiation of the subject use and all security guards employed at the subject dispensary shall be approved by the Police Department prior to the start of their employment.

7. The applicant shall post the name and phone number of the required on-site community relations staff on the exterior of the business, near the public entrance to the

facility. An answering machine or similar device shall be operational during all times that the business is closed. The posting shall also state that the Police Department may be contacted for emergency problems associated with the subject use, and that the Code Enforcement Division may be contacted to report non-emergency problems associated with the subject use. The notice should include 24-hour phone numbers for the Police Department and the Code Enforcement Division. A record of calls received by the dispensary's community relations staff/phone answering system shall be maintained and submitted to the Community Development Department as a part of all required reviews.

8. Cannabis edibles shall not be produced, prepared or stored on the premises.

9. The Fire Department shall be allowed to inspect the subject cultivation facility at any reasonable time to ensure compliance with all applicable provisions of the Fire Code, as well as other applicable codes, laws, and provisions, and is authorized to enforce those standards, as necessary.

10. The use of any open flame device, including, but not limited to, decorative candles, torches and cigarette lighters, shall be prohibited within the cultivation facility.

11. The establishment's operators and employees shall discourage loitering on or near the premises and ask persons loitering longer than 15 minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.

12. All signs shall be subject to approval by the Community Development Department.

13. An odor neutralizing system shall be utilized, installed, and maintained in the building and be subject to the approval of the Community Development Director and if required, the San Joaquin Valley Air Pollution Control District (SJVAPCD) prior to the initiation of the subject use. Any chemicals used to neutralize odors shall be non-toxic and shall not be noxious or offensive to persons residing or working in the vicinity.

14. Prior to the initiation of the subject use, the most current technology for a video surveillance system with at least a seven-day (7) continuous recording capability shall be in place. Video recordings shall be archived for at least 30 days. The video surveillance system shall cover the interior and exterior of the building, including the parking lot and entrances to the premises.

15. Prior to the initiation of the subject use, exterior areas of the premises shall be provided with sufficient lighting in a manner that provides adequate illumination for the operations of the medical cannabis cultivation facility while not spilling onto surrounding parcels and adjacent rights-of-way.

16. The property owner or business operator shall hire at least one uniformed,

licensed security guard to patrol the project site and the vicinity of the subject site during the business hours, including a one-half hour before and after the business's open and close.

17. The subject Use Permit shall be subject to a one-year review from the initiation of the proposed use.

PASSED, APPROVED, and ADOPTED: February 27, 2018.

MICHAEL D TUBBS
Mayor of the City of Stockton

ATTEST:

BRET HUNTER, CMC
City Clerk of the City of Stockton