



City of San Leandro

Meeting Date: October 5, 2017

Staff Report

File Number: 17-374

Agenda Section: PUBLIC HEARINGS

Agenda Number: 6.C.

TO: Board of Zoning Adjustments

FROM: Cynthia Battenberg
Community Development Director

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TITLE: PLN17-0012; Consideration of a Conditional Use Permit for a proposed 7,704± square-foot medical cannabis dispensary within an existing commercial and industrial building at 3089 Teagarden Street zoned IG - Industrial General District. A medical cannabis dispensary is a conditionally permitted use on the subject property. Alameda County Assessor's Parcel Number 77B-1201-027-15, -16; Davis Street Wellness Center Inc. (applicant) and The Davis Street Community Center Inc. (property owner).

SUMMARY AND RECOMMENDATIONS

The applicant (Davis Street Wellness Center) and property owner (The Davis Street Community Center) are proposing a 7,704 square foot medical cannabis dispensary located within an existing 22,512 square-foot multi-tenant commercial-industrial building at 3089 Teagarden Street, currently occupied by the Davis Street Family Resource Center (DSFRC), a social services provider. San Leandro Zoning Code Section 2-706.B.16 requires approval of a Conditional Use Permit prior to establishment of a Medical Cannabis Dispensary in the IG Industrial General District.

The subject property, 3073 to 3089 Teagarden Street, consists of a single-story multi-tenant commercial/industrial building located on the south side of Teagarden Street, about 290± feet west of the intersection with Alvarado Street (each unit in the building has a separate address). The building is approximately 22,512 square feet and was originally constructed in 1973. The building has a shared off-street parking lot. The proposed tenant space for the Davis Street Wellness Center at 3089 Teagarden is on the east side of the building. This tenant space is currently used as the administrative offices for the Davis Street Family Resource Center. The Davis Street Family Resource Center will continue to remain in the adjacent space at 3081 & 3079 Teagarden Street and recently leased 3077 Teagarden Street, also in the same building. The applicant has submitted plans proposing to refresh the east corner façade and add minimal landscaping to the site. The applicant also has submitted plans proposing to modify the existing parking spaces and truck loading areas in order to provide additional on-site parking.

Based on staff's analysis of the submitted application, as detailed further in this report, staff is unable to make the required findings to support a recommendation for the proposed medical cannabis dispensary at this location. As a result, staff recommends that the Board of Zoning Adjustments make a motion to adopt Resolution 17-002 and the attached Findings of Fact, denying the project.

The Board's decision may be appealed to the City Council within 15 days in accord with the appeal process outlined under Article 28 of the Zoning Code.

APPLICANT'S SUPPORTING STATEMENT

See Attached Applicant Statement.

RELATIONSHIP TO SURROUNDING AREA

The subject site, 3089 Teagarden Street, consists of a tenant space within a multi-tenant commercial-industrial building located on the south side of Teagarden Street, one parcel west of Alvarado Street. Each tenant within the existing building has a separate street address ranging from 3073 to 3089 Teagarden Street. All of the tenants within the building share a common parking lot. The subject property is zoned IG Industrial General District, as are the immediate neighboring properties to the north, south, and east. The adjacent property to the west is zoned IP Industrial Park District. Neighboring properties to the east and west primarily consist of multi-tenant commercial-industrial buildings that support uses including building materials sales & installation, light manufacturing, warehouses, wholesale businesses, trucking terminals, furniture sales, and a boxing gym/fitness center. The neighboring properties to the north and south are freight trucking terminals with parcel shipping, processing and warehousing. An apprenticeship training center is located further north near the corner of Alvarado and Teagarden Street.

BACKGROUND

The single-story multi-tenant commercial-industrial building on the subject property, comprising approximately 22,512 square feet, was originally constructed in 1973. The tenant space for the proposed medical cannabis dispensary is currently used as the administrative offices serving the adjacent Davis Street Family Resource Center. The subject property consists of a single multi-tenant building with multiple addresses, ranging from 3073 to 3089 Teagarden Street, which houses a number of different tenants, including a social services provider (Davis Street Family Resource Center), a wholesale ribbon business (Ribbon Connections Inc.), and a security contractor (G4S Secure Integration LLC). Davis Street Family Resource Center is the main tenant at the site, occupying 55% of the building.

All of the tenants in the building share a common parking lot accessed by a driveway at each end of the building. The shared parking lot is currently striped for parking and has multiple existing loading docks facing the rear property line to the south. The east end of the parking lot is also shared with Sunway Floors and Cabinets, Inc., an adjacent flooring business at 3075 Alvarado, which has a rear loading dock and storage yard opposite the proposed cannabis dispensary. The subject site is not fenced with the exception of a partial 3-foot tall chain link fence separating a

portion of the parking area from an adjacent trucking terminal along the rear of the property and a fenced enclosure behind the adjacent flooring business to the east. The front of the building is landscaped along Teagarden Street.

A medical cannabis dispensary is defined in the Zoning Code as “*a collective, or cooperative, or other non-profit or for profit entity qualified or permitted to do business in the State of California and the City of San Leandro that distributes, dispenses, stores, exchanges, processes, delivers, makes available, transmits and/or gives away cannabis (“marijuana”) for medicinal purposes to four (4) or more qualified patients and/ or primary caregivers pursuant to California Health and Safety Code Sections 11362.5 and 11362.7 et seq.*”

Medical cannabis is a policy issue that has undergone substantial public debate in San Leandro and for which the City Council has rendered various policy decisions. Below is a summary of some key milestones:

July 16, 2012: City Council directed the City Council Rules and Communications Committee to work with staff on an ordinance that would permit the establishment and operation of medical cannabis dispensaries within the City.

February 12, 2013: City Council holds special Town Hall meeting to receive public input on the draft dispensary ordinance

December 16, 2013: City Council approves medical cannabis ordinance to facilitate the approval, regulation, and operation of one medical cannabis dispensary in San Leandro. Included in the ordinance is a requirement that the dispensary use be subject to a conditional use permit.

February 18, 2014: City Council appropriated \$50,000 towards the initial costs of implementing the ordinance. Following issuance of a Request for Proposals, staff entered into an agreement with ICF Resources, LLC to assist in the ordinance’s implementation. ICF was selected based upon its extensive experience and expertise in project management support for governmental agencies, and specifically in evaluating the operations of medical cannabis dispensaries.

September 15, 2014: City Council adopted the evaluation criteria that ICF and staff proposed for screening applications to inform the City Manager’s recommendation.

December 15, 2014: A request for applications from parties interested in serving as San Leandro’s dispensary operator was released.

January 2015 - August 2015: The City received applications from 15 teams. City staff and ICF reviewed and scored the applications, interviewed teams, and conducted site visits.

September 8, 2015: City Council awarded the first medical cannabis dispensary permit to Harborside San Leandro.

June 6, 2016: City Council adopted various amendments to the dispensary ordinance, including a provision that allowed for the issuance of a second dispensary permit.

July 18, 2016: City Council awarded a second medical cannabis dispensary permit to the Davis Street Wellness Center. The potential dispensary sites presented to the City Council included 765-767 Marina Boulevard and 1244 Doolittle Drive.

October 17, 2016: City Council awarded a third medical cannabis dispensary permit to Blum San Leandro, to be effective on June 1, 2017.

The City Council granted Davis Street Wellness Center the City's second medical cannabis dispensary permit on July 18, 2016. During the hearing, the potential dispensary locations Davis Street Wellness Center presented to the Council included 765-767 Marina Boulevard and 1244 Doolittle Drive. Of the two locations, Davis Street Wellness Center preferred the 765-767 Marina Boulevard location. However, it was later determined that the 765-767 Marina Boulevard location did not comply with the distance requirements established in the Ordinance because the site was located about 970 feet from the north-western corner of the Boys and Girls Club of San Leandro. The Municipal Code and Zoning Code both require a minimum of 1,000 feet between a dispensary and a youth center, which is defined as a facility that serves youth 18 years of age or under. The alternative site at 1244 Doolittle Drive complied with the distance requirements but was too small for the proposed level of activity and had insufficient parking to accommodate a medical cannabis dispensary. The site at 3089 Teagarden was not discussed or presented to the City Council as a potential location at the July 18, 2016 meeting. Establishing a final location was not required at the time of the City Council's approval. The requested conditional use permit is the final step in the land use entitlement process for a proposed medical cannabis dispensary.

DETAILS OF THE PROPOSAL

Davis Street Wellness Center is a medical cannabis and infused-product distribution clinic (medical cannabis dispensary) proposing to operate a new dispensary at 3089 Teagarden Street. The proposed medical cannabis dispensary would be located adjacent to its community benefits partner, the Davis Street Family Resource Center. According to the applicant statement, the proximity between the Davis Street Wellness Center and the Davis Street Family Resource Center would enable the Davis Street Wellness Center "to seamlessly execute our vision of creating a welcoming, respectful, and clinical experience." A goal of the Davis Street Wellness Center from the applicant statement is "to ensure sick patients who are poor and disenfranchised have access to a safe clinical environment and because it is adjacent to a social service agency, will also benefit from services that will help them improve their health outcomes."

Davis Street Wellness Center is proposing to occupy approximately 7,704 square feet of interior tenant space within an existing approximately 22,512 square-foot building, currently occupied by the Davis Street Family Resource Center, a social services provider. Davis Street Family Resource Center is the primary building occupant; it owns or leases approximately 55% of the building. Of the 7,704 square feet of space, approximately 3,958 square feet would be used as retail space for the dispensary; 2,727 square feet for office area; and 1,020 square feet for storage. The cannabis and cannabis products would be sourced from local vendors within the

Davis Street Wellness Center membership collective, and would be exchanged on-site. Davis Street Wellness Center would be open seven days a week from 9:00 a.m. to 8:00 p.m.

Davis Street Wellness Center's main point of entry at the subject site would be on the east side of the building, adjacent to the shared driveway. Overall, the multi-tenant site has proposed 105 shared vehicle parking spaces with 5 bicycle parking spaces. Minimal structural changes are proposed to the building exterior. Improvements proposed for the site include: nominal landscaping improvements; restriping of the parking spaces; a bicycle parking rack; modifying a truck loading dock; new exterior floodlights; exterior wall signage; and onsite security.

Davis Street Wellness Center anticipates 25-30 patients per day in the initial 6-12 months of operations. Patient visits are expected to grow gradually over a two-year period until reaching an average of 250 patient visits per day. Davis Street Wellness Center expects that patient visits will be busiest on the weekends and in the evenings. The applicant has stated that the use of medical cannabis and loitering would not be allowed on the premises.

Davis Street Wellness Center has provided a detailed operational plan with security measures in its submitted Applicant Statement (attached). The plans include provisions for secure windows, alarm systems, security cameras, lighting, and an access card system for employees. Visitors and vendors will be required to sign-in, wear a badge, and be escorted within the dispensary. The dispensary would employ three unarmed security guards during business hours, including one stationed in the dispensary reception area to monitor patient access. Cannabis sales to patients are proposed to be tracked and monitored to discourage abuse. A secure interior loading area will be provided for deliveries.

Davis Street Wellness Center anticipates a staff of 17 full-time employees, of which 10-12 are expected to be on site during business hours, 9:00 a.m. to 8:00 p.m. It has been indicated in the applicant statement that transit passes would be offered to employees. The subject property is not located within proximity to an AC Transit bus stop, the nearest of which is located approximately 0.9 miles away at Williams Street/Alvarado Street (Line 75) and Washington Avenue/Floresta Boulevard (Line 85). The San Leandro BART station is approximately 1.5 miles away from the subject site. San Leandro LINKS, a free shuttle service, is available from the San Leandro BART station to a nearby stop at the north corner of Alvarado Street and Teagarden Street during regular commuting hours, with the last shuttle departing before 7:00 p.m.

STAFF ANALYSIS

Medical cannabis dispensaries are a sensitive land use. Because of the controlled substance they provide and cash-only business model, their security and location merits a greater level of scrutiny and concern. They also remain an untested land use in San Leandro. While three dispensaries have been selected by the City Council to receive a dispensary permit, only one has obtained a Conditional Use Permit and none of the three have opened for business. Given their unique challenges, it is in the City's interest to ensure that medical cannabis dispensaries are responsibly and securely established in accord with the City's policies.

In order for the Board of Zoning Adjustments to approve a Conditional Use Permit, findings of fact must be made to support its decision. In the Board of Zoning Adjustments' analysis of the

proposed Davis Street Wellness Center medical cannabis dispensary, staff has not been able to make findings of fact to support a recommendation of approval. This stems from two basic concerns with the proposed application:

- The proposed Davis Street Wellness Center medical cannabis dispensary has not been found to be compatible with adjacent uses.
- The proposed Davis Street Wellness Center medical cannabis dispensary does not have secure off-street parking.

Compatibility with Adjacent Uses

The proposed addition of a medical cannabis dispensary at this location poses compatibility concerns. The Davis Street Family Resource Center is the primary tenant within the proposed multi-tenant building. The Davis Street Family Resource Center is a social services organization that provides comprehensive family medical services; family support services; substance abuse service referrals; therapy & counseling; wellness workshops; support groups; a food pantry; clothing assistance; case management; workplace assistance and job training. The Davis Street Family Resource Center primarily serves underprivileged families, children, and vulnerable individuals who could be adversely affected by the close proximity of a medical cannabis dispensary. Staff is concerned with the disparate combination of a family social services organization and medical cannabis dispensary operating from within the same building.

Staff is also concerned with the interaction between the different uses and business that operate at this location. The proposed Davis Street Wellness Center medical cannabis dispensary proposes to share an unsecured parking lot and common outdoor areas with the Davis Street Family Resource Center and three other adjacent light industrial businesses. An adjacent flooring business, a ribbon wholesaler and Davis Street Family Resource Center's food pantry all utilize loading docks within the shared parking lot. Based on the proposed layout and shared parking arrangement, families utilizing the services provided by the Davis Street Family Resource Center will be in contact with those customers entering and exiting the medical cannabis dispensary. Further, the similarity of the names between Davis Street Family Resource Center and Davis Street Wellness Center could foreseeably cause confusion when customers, patients and clients come to visit the site.

While the proximity of an adjacent medical cannabis dispensary could benefit and provide convenience for certain adult patients, staff finds that the use would not be compatible or appropriate for families seeking medical or social services provided by Davis Street Family Resource Center.

Conformance with Parking Requirements

The application of the provisions of the Parking Ordinance are necessary for the safe and secure operation of a medical cannabis dispensary. The applicant's parking analysis states the on-site parking requirements will be met, with the 105 vehicle parking spaces and 5 bicycle parking spaces proposed in the shared parking lot (Exhibit B).

According to the applicant's statement, Davis Street Wellness Center expects to have 10 to 12 employees working on-site, processing 7,000 patient transactions each month and 250 patient transactions each day once the business is established. Each of these patients would have appointments scheduled within a 30 minute window. Staff is concerned that, although the minimum parking requirements will be met, the scale of patient and employee activities involved at this location will put a strain on parking availability. The limited pool of available on-site parking for the dispensary will be shared with three other tenants. The site plan submitted by the applicant does not indicate if any specific parking spaces would be assigned or allocated to the proposed dispensary or the other tenants. Ideally, a medical cannabis dispensary would have a private secure parking area for the exclusive use of patients and employees. The proposal has not been able to provide secured or gated private on-site parking.

Staff also has concerns with other businesses utilizing the shared parking lot. The eastern half of the shared parking lot's driveway is shared with the rear of the adjacent Sunway Floors Cabinets Inc., a flooring and building materials business that fronts Alvarado Street. This business's outdoor storage yard and loading bay faces the side and rear of the proposed dispensary location. The loading bay is only accessible from the dispensary's shared parking lot and staff has noted the driving aisle is regularly used to load and unload truck trailers. Patients and employees will share the parking lot with forklifts and trucks providing deliveries to the rear of the flooring business, the food pantry operated by the Davis Street Family Resource Center and the adjacent ribbon wholesaler. The proposed parking lot plan (Exhibit B) provides additional parking spaces by reducing or removing loading areas to comply with the City's minimum parking requirements.

Teagarden Street has a high concentration of employment and customer traffic due to the combination of light industrial, office and retail uses, some of which have inadequate on-site parking. This is exacerbated by a number of older legal non-conforming uses and buildings in the vicinity. Street parking on Teagarden Street is the most convenient location for dispensary patients to park, but it will be a challenge for the dispensary to provide security in this area. Staff further believes there will be very limited overflow parking available for dispensary patients and employees during regular business hours, should the shared parking lot exceed capacity.

Conformance with Distancing Requirements

The Zoning Code contains strict distancing requirements prohibiting Medical Cannabis Dispensaries from being located within 1,000 feet of a youth center. Both the Davis Street Family Resource Center (3081, 3079, & 3077 Teagarden Street) and The Kennel Boxing Gym (3051 Teagarden Street) provide a portion of their services to youth under the age of 18 and are located within 1,000 feet of the proposed medical cannabis dispensary. However, staff does not interpret them as being "youth centers" because they do not primarily serve youth. Thus, this prescriptive distancing requirement is not applicable. That said, it is the responsibility of the Board of Zoning Adjustments to consider the compatibility of adjacent land uses when making a decision.

In order to issue a Conditional Use Permit, the Zoning Code requires findings of fact that the proposed use *"will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City."*

Summary and Findings

In summary, staff is unable to make findings that the proposed location of the medical cannabis dispensary will be compatible with adjacent land uses, particularly the Davis Street Family Resource Center, which assists underprivileged families, children, and vulnerable individuals. The proposed medical cannabis dispensary does not provide secure and exclusive parking for dispensary patients and employees. The proposed location within a multi-tenant building puts a number of conflicting land uses within close proximity to one another. Although the proposal complies with the minimum on-site parking requirements, the medical cannabis dispensary is anticipated to generate a high demand for parking. Lastly, security is a major concern given the contrasting variety of activities and uses at the proposed multi-tenant location.

GENERAL PLAN CONFORMITY

The subject property is designated as Light Industrial in the City's General Plan Land Use Diagram. The General Plan provides that uses in the Light Industrial area should produce minimal off-site impacts. The General Plan identifies the following policy when evaluating off-site impacts:

Policy LU-10.2 - Off-Site Impacts. "Consider the setting and context of each site when evaluating proposals for development in industrial areas. The potential for impacts on adjacent uses, including the potential for land use conflicts and increased parking demand and truck traffic, should be a key consideration."

Chapter 3 of the General Plan further states that "Light Industrial areas may contain wholesale activities, distribution facilities, research and development or e-commerce uses, business services, technology, and manufacturing operations which produce minimal off-site impacts. Campus-style industrial parks and professional offices also are permitted. A limited range of commercial uses also is permitted in these areas."

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS

In 2010, the San Leandro City Council authorized a \$500,000 loan to the Davis Street Family Resource Center using federal Community Development Block Grant (CDBG) funds to enable the purchase of the 3081 Teagarden Street property, a portion of which is now proposed for use as the cannabis dispensary. The loan was structured such that it would be forgiven by \$25,000 per year over a 20-year period, provided that there was no default or breach of the loan agreement by Davis Street Family Resource Center during that period of time. The adopted loan agreement, which was fully executed and signed by the City as well as the Davis Street Family Resource Center, contained various requirements and covenants, some of which placed restrictions on the use of the property. Included in those covenants was a requirement that the property remain in compliance with all federal laws applicable to the property.

Because the Davis Street Family Resource Center utilized a loan from the City of San Leandro using federal funding to finance the purchase of the 3081 Teagarden property, it is the City's opinion that the Davis Street Family Resource Center may not legally utilize any portion of the property as a cannabis dispensary without first repaying the outstanding loan balance. As such, if

the City were to authorize a conditional use permit for the proposed use, then a condition of approval would need to be included that mandates acceleration of the loan repayment prior to issuance of any building permits for the dispensary.

PUBLIC OUTREACH

This item received standard noticing for the October 5, 2017 Board of Zoning Adjustments hearing, including a legal advertisement in the East Bay Times Daily Review newspaper, the posting of notices at City Hall and on the property, and mailing notification to business and property owners within 500 feet of the subject property. Also, attached is a public comment letter received on September 28, 2017 from the Teamsters Joint Council No. 7.

ENVIRONMENTAL REVIEW

Staff recommends that the Board of Zoning Adjustments find this item to be statutorily exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 18, Section 15270 "Projects Which Are Disapproved."

RECOMMENDATION

Staff has concerns with the addition of a medical cannabis dispensary at the proposed location and is unable to make the required findings to support a recommendation. Staff recommends the Board of Zoning Adjustments motion to adopt Resolution 17-002 and the attached Findings of Fact to deny the project.

ATTACHMENTS

Vicinity Map
Applicant Statement
Resolution 17-002
Exhibit A - Vicinity Map, Site Map, Project Data (CUP-1)
Exhibit B - Parking Plan (CUP-3)
Exhibit C - Landscape Plan (CUP-4)
Exhibit D - Building Elevations & Signage (CUP-5)
Exhibit E - Proposed Rendering, Existing Photos, Deferred Items (CUP-6)
Exhibit F - Security Plan (CUP-7)
Exhibit G - Suite 3079 & 3077 Floor Plans (CUP-8)
Exhibit H - Photometric Plan
Public Comment from Teamsters Joint Council No. 7

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