



Legislation Details (With Text)

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**Title:** PLN17-0023; Consideration of a Conditional Use Permit for a proposed 13,015± square-foot medical cannabis dispensary with manufacturing and production kitchen, within an existing industrial building at 1911 Fairway Drive zoned IG - Industrial General District. A medical cannabis dispensary is a conditionally permitted use on the subject property. Alameda County Assessor's Parcel Numbers 77A-646-17-2, -3; Blüm San Leandro (applicant) and Fairway Medical Plaza, LLC (property owner).

**Indexes:**

**Code sections:**

**Attachments:** 1. Vicinity Map, 2. Applicant Statement, 3. Recommended Findings of Fact, 4. Recommended Conditions of Approval, 5. Exhibits A-L

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2/1/2018	1	Board of Zoning Adjustments	Received and Filed	

**PLN17-0023;** Consideration of a Conditional Use Permit for a proposed 13,015± square-foot medical cannabis dispensary with manufacturing and production kitchen, within an existing industrial building at 1911 Fairway Drive zoned IG - Industrial General District. A medical cannabis dispensary is a conditionally permitted use on the subject property. Alameda County Assessor's Parcel Numbers 77A-646-17-2, -3; Blüm San Leandro (applicant) and Fairway Medical Plaza, LLC (property owner).

**SUMMARY AND RECOMMENDATIONS**

The applicant (Blüm San Leandro) and property owner (Fairway Medical Plaza, LLC) are proposing a 13,015± square-foot medical cannabis dispensary with manufacturing and production kitchen within an existing industrial building at 1911 Fairway Drive. San Leandro Zoning Code Section 2-706.B.18 requires approval of a Conditional Use Permit prior to establishment of a Medical Cannabis Dispensary in the IG Industrial General District.

Staff believes that, with the recommended Conditions of Approval that pertain to parking and compliance with Chapter 4-33 of the San Leandro Municipal Code, the proposed medical cannabis dispensary with manufacturing and production kitchen uses would operate in an orderly manner on the property and would be compatible with adjacent commercial and industrial uses, without detriment or burden to the immediate area.

Staff recommends that the Board of Zoning Adjustments:

- A) Adopt the California Environmental Quality Act categorical exemption;
- B) Adopt the recommended Findings of Fact; and

C) Approve Conditional Use Permit PLN17-0023 subject to the attached recommended Conditions of Approval.

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 at 1911 Fairway Drive consists of two parcels with an existing industrial building located at the rear of the property. The subject site is located on the north side of Fairway Drive between Merced Street and Nicholson Street. The subject property is zoned IG Industrial General District, as are the immediate neighboring properties to the north, south, east and west. An adjacent property to the east is also zoned IP Industrial Park District. The neighboring property to the west has a restaurant use. The property to the north is used by a food processor and contractor. Across Nicholson Street to the east of the subject site is a warehouse wholesale/distribution company. To the south across Fairway Drive is an AT&T facility used for storage and vehicle parking.

## **BACKGROUND**

The single-story industrial building on the subject site, comprising of approximately 13,015 square feet, was constructed in 1968. The site is currently vacant and has been used for a variety of industrial uses in the past. Previous uses of the site included industrial equipment sales, printing services, manufacturing, contractors, construction supplies, and wholesale distribution.

The existing site is fenced in front of the building with a landscape setback. Parking is also provided at the front of building. The site has five driveways with ingress and egress points on both Fairway Drive and Nicholson Street. Two of the driveways lead to alleyways along the side and rear of the building. The alley at the rear of the building is shared with adjacent property on Nicholson Street.

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 leading up the award of the medical cannabis dispensary permit to Blüm San Leandro:

*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 the second medical cannabis dispensary permit to the Davis Street Wellness Center.

*September 18, 2016:* City Council adopted amendments to the dispensary ordinance, including a provision that allowed for the issuance of a third dispensary permit and eliminated the requirement that dispensaries be located 1,000 feet from one another.

*October 17, 2016:* City Council awarded the third medical cannabis dispensary permit to Blüm San Leandro.

## **DETAILS OF THE PROPOSAL**

Blüm San Leandro is a medical cannabis dispensary that is proposing to operate a new dispensary with manufacturing and production kitchen at 1911 Fairway Drive. Blüm San Leandro is proposing to occupy an approximately 13,015 square foot existing industrial building with secure on-site parking. Blüm San Leandro will be the sole occupant of the building and the site and will operate seven days a week from 9:00 a.m. to 8:00 p.m. Manufacturing at the site will include cannabis extracts, such as oils and the kitchen will produce edible goods. Per the municipal code, a medical cannabis dispensary is permitted to have limited manufacturing of cannabis products.

Blüm San Leandro anticipates 60 patients per day initially. Patient visits are expected to increase over a three year period reaching an average of 300 patient visits per day. Blüm San Leandro estimates that each patient visit will be about 5-15 minutes in duration. Blüm San Leandro anticipates an initial staffing of 13 employees, growing to up to 21 employees by the end of the third year of operations.

The site will have 28 vehicle parking spaces and 3 bicycle parking spaces. The site is close to both AC Transit and San Leandro Links bus stops at Fairway Drive and Merced Street. Minimal structural

changes are proposed to the building exterior. Improvements proposed for the site include: a refresh of the façade with new paint, light fixtures, Hardie board panels; landscaping improvements and concrete planters; new fencing; restriping of the parking lot; a bicycle parking spots; exterior wall signage and monument sign; and onsite security.

## ANALYSIS

This site is appropriately designed and situated for a medical cannabis dispensary. As required by the San Leandro Municipal Code, the subject site for the medical cannabis dispensary is least one thousand feet from a public or private school, public library, youth center (serving youth ages eighteen and under), parks and recreation facilities, facilities for religious worship and incidental religious education, and five hundred feet from a residential zone. Per the zoning code, a medical cannabis dispensary is permitted to conduct limited manufacturing, including baked medicinal products (i.e., brownies, bars, cookies, cakes), tinctures and other non-refrigerated type items for sale at a dispensary.

The proposal includes using the existing building and site upgrades (landscaping, parking lot striping, façade refresh, etc.) to ensure that the medical cannabis dispensary is compatible with surrounding uses. The rehabilitation and addition of approximately 2,495 square feet of landscaping (which exceeds the minimum site landscaping requirement for the IG District) along the street frontages of Nicholson Street and Fairway Drive, are important curb appeal improvements for the site. Landscaping includes water efficient landscaping such as groundcover, shrubs, and trees.

The parking requirement for a medical cannabis dispensary is 1 parking space per 200 square feet of retail sales and services area. Blüm San Leandro is required to have a total of 27 parking spaces. A total of 28 vehicle parking spaces, 3 bicycle parking racks and a secure interior loading area will be provided at the site. New striping for the parking lot and a reduction in number of driveways are among the proposed improvements. The San Leandro Links provides a free shuttle service from the San Leandro BART station to a nearby stop at Fairway Drive and Merced Street during regular commuting hours. There is also bus service available within one block of the project site via AC Transit Bus Line 75.

The Alameda County Fire Department and the City of San Leandro Engineering staff have reviewed the proposed parking configuration and find it acceptable for emergency vehicle requirements and regular traffic access and transit requirements. The proposal has also been reviewed by various City Departments and the recommended Conditions of Approval ensure adherence to City codes, policies, and regulations to ensure the use is compatible with surrounding industrial and commercial uses.

A medical cannabis dispensary is a conditionally permitted use within the IG Industrial General Zoning District. Uses are conditionally permitted whenever the Board of Zoning Adjustments has deemed that they would be compatible in a subject district through Conditions of Approval that allow such use to operate harmoniously with the surrounding area. It is in the City's interest to ensure that the proposed medical cannabis dispensary is responsibly and securely established in accord with the City's codes and policies. Staff has prepared recommended Conditions of Approval for the proposed medical cannabis dispensary. The recommended conditions include the following:

- Applicant shall obtain the necessary permits to operate the medical cannabis dispensary in the City of San Leandro, including a San Leandro Business License and any necessary permits

required under State law or regulations.

- Existing fencing along the perimeter shall be removed and replaced with wrought iron, tubular steel or aluminum, or a similar fencing material approved by the Zoning Enforcement Official, constructed a minimum 8 feet in height and shall meet setbacks.
- High resolution security cameras and alarm system shall be installed, maintained, and operated 24 hours a day, 7 days a week to monitor the exterior of the entire building, product receiving areas, and interior areas where patients and visitors are allowed.
- Products, pallets, and containers shall not be stored in the parking lot or in the required off-street parking spaces. Delivery vehicles shall use the secure indoor loading area and shall be prohibited from parking in the surface parking lot.
- Applicant's Membership Agreement shall include a provision that prohibits medical cannabis use in the shared parking lot and in the public right-of-way in the immediate and surrounding neighborhoods.

With the incorporation of the recommended Conditions of Approval and adherence to the California Health and Safety Code regulations, California Attorney General Guidelines, and San Leandro Municipal Code, the findings before the Board of Zoning Adjustments state that the use will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the area.

## **GENERAL PLAN CONFORMITY**

The Board of Zoning Adjustments finds that the operation and conditions of the proposed medical cannabis dispensary, manufacturing, and production kitchen at 1911 Fairway Drive will be consistent with established General Plan policies. The subject property is designated General Industrial in the City's General Plan Land Use Diagram. Chapter 3 of the General Plan states that: "General Industrial areas may contain a wide range of manufacturing, transportation, food and beverage processing, technology, warehousing, vehicle storage, office-flex, and distribution uses. Such uses are subject to performance standards to avoid adverse off-site effects. A limited range of commercial uses also is permitted in these areas."

The proposed dispensary has features of a pharmacy and retail store which are considered commercial uses. The proposed manufacturing and production kitchen are consistent with the manufacturing and food and beverage processing uses identified in the General Plan. The Board of Zoning Adjustment finds that any potential impacts and conflicts with the properties or improvements in the area will be mitigated through the recommended Conditions of Approval. The Board of Zoning Adjustment finds that the proposed medical cannabis dispensary at this site ensures that the following General Plan policies are achieved: Policy LU-7.2 Adaptive Reuse; Policy LU-7.3 Zoning Flexibility; and Policy LU-8.2 Aesthetics.

## **PUBLIC OUTREACH**

This item received standard noticing for the February 1, 2018 Board of Zoning Adjustments hearing, including a legal advertisement in the East Bay Times 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. No public comments were received at the time of the filing of this report.

## ENVIRONMENTAL REVIEW

The Board of Zoning Adjustments finds that this item (PLN17-0023) is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15301 (a) as interior and exterior alterations to an Existing Facility.

## RECOMMENDATION

The use as proposed conforms both to the City Zoning Code and to the General Plan. Any potential planning issues associated with this application will be addressed by the implementation of the recommended Conditions of Approval and performance standards in the San Leandro Municipal Code. Staff therefore recommends that the Board of Zoning Adjustments:

- a) Adopt the findings that this project is exempt under the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15301 (a) as interior and exterior improvements to an Existing Facility;
- b) Approve the attached Recommended Findings of Fact for a Conditional Use Permit for PLN17-0023; and
- c) Approve Conditional Use Permit PLN17-0023 subject to the Recommended Conditions of Approval.

## ATTACHMENTS

Vicinity Map  
Applicant Statement  
Recommended Finds of Fact  
Recommended Conditions of Approval  
Exhibit A - Project Information & Index (A00)  
Exhibit B - Existing Site Plan (A0)  
Exhibit C - Proposed Site Plan (A1)  
Exhibit D - Site Easements Exhibit (A1.2)  
Exhibit E - Existing Floor Plan (A2)  
Exhibit F - Elevations and Signage (A4)  
Exhibit G - Elevations and Signage (A5)  
Exhibit H - Facade Render (A6)  
Exhibit I - Site Photos (A7)  
Exhibit J - Preliminary Landscape Plan (L1.0)  
Exhibit K - Preliminary Landscape Plan Photos (L1.1)  
Exhibit L - Parking Lot Photometry (E-17.5.3)

### PREPARED BY:

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