

CITY OF ALAMEDA PLANNING BOARD  
**DRAFT RESOLUTION**

APPROVING USE PERMIT APPLICATION PLN18-0410 TO ALLOW THE OPERATION OF A CANNABIS RETAIL DISPENSARY AT 1528 WEBSTER STREET THAT WILL FEATURE CANNABIS RETAIL, ON-SITE CONSUMPTION OF CANNABIS AND CANNABIS PRODUCTS, AND OFF-SITE DELIVERY SERVICE

WHEREAS, on September 11, 2018, Main Street Supply LLC submitted an application for a Use Permit to allow the operation of a Cannabis Retail Dispensary, with on-site consumption of cannabis and cannabis products, and off-site delivery service, at 1528 Webster Street; and

WHEREAS, on February 21, 2019, the application was deemed complete; and

WHEREAS, the project site is designated as Community Commercial in the General Plan; and

WHEREAS, the project site is located within the C-C, Community Commercial Zoning District, and pursuant to Section 30-10.1(g) of the Alameda Municipal Code (AMC), Cannabis Retail is conditionally permitted in the C-C Community Commercial Zone; and

WHEREAS, the Planning Board held a public hearing on March 11, 2019 and reviewed the application for a use permit, PLN18-0410, and all applicable material including public comments.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds that the following findings can be made in support of the Use Permit approval:

- 1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development.**

The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project architecture, aesthetics, and operations are harmonious with the community and surrounding development. The proposed land use is a retail use, the same as a pharmacy or the building's previous bank use. Customers visit the business to purchase a product or conduct business. The Cannabis Retail dispensary operations will be conducted entirely within the existing building. Exterior alterations are limited to new signage and window screening to obscure interior areas designated for on-site consumption from public view. Both the City's Cannabis Business Ordinance (AMC Section 6-59.1 *et seq.*) and conditions of approval of this permit require the applicant to provide a security plan for review and approval by the Chief of Police, which includes a full-time private security guard to maintain existing conditions in the public right of way adjacent to the business.

**2. The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.**

The project site is located on Webster Street, which is an urban commercial main street that is fully developed and does not require additional service facilities on-site. The site is served by AC Transit bus routes 20, 51A, 96, and O. Although this property and many properties on the Webster Street business corridor were developed with no onsite parking, a City-owned public parking lot is located approximately 250 feet (a one-block walk) from the project site in addition to on-street parking on Webster Street. The project is conditioned to pay for bicycle racks to increase availability in the Webster Street business district. The project is further conditioned to join the Alameda Transportation Management Association, which is the City's Transportation Demand Management program that will provide all full-time and part-time employees with one AC Transit EasyPass. Therefore, the proposed use will be served by adequate transportation and service facilities, including pedestrian, bicycle, and transit facilities.

**3. The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy.**

The proposed use, with all conditions, will not adversely affect property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy. The project, through the conditions of approval of this use permit and subsequent Cannabis Business Operators Permit, will implement a series of Good Neighbor Policies to address any potential nuisances. These policies address potential outdoor nuisances including safe exterior lighting; odor control; on-site noticing for patrons to deter smoking, cannabis consumption in public spaces; and at least one security guard to enforce these policies. Inside the building, the applicant is also required to install odor control, filtration, and ventilation system(s) to control odors, humidity, and mold so that odor generated inside the property is not detected outside the property. Violations of the conditions herein or of the general conditions in AMC Section 6-59.10 are grounds for the City to take enforcement action, including the issuance of administrative citations, and to revoke or modify this use permit.

**4. The proposed use relates favorably to the General Plan.**

The project relates favorably to General Plan Policy 2.5.a, which calls for providing enough retail business and services to provide Alameda residents with a full range of services; General Plan Policy 2.5.i which calls for supporting, encouraging, and fostering new retail development to serve the West End of Alameda. The project is conditioned to provide funding for new bicycle racks and to join the Alameda Transportation Management Association, which relates favorably to Implementing Policy 2.5.s, which calls for improving public transit service and transit facilities in retail areas. The funding for bicycle racks will provide new transit facilities within the Webster Street business district and membership in the Alameda Transportation Management Association will result in the distribution of an AC Transit EasyPass to each employee, which will

increase demand for public transit in the Webster Street business district; and

BE IT FURTHER RESOLVED, the Planning Board finds this project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15183 (projects consistent with General Plan and Zoning). As a separate and independent basis, the Planning Board finds this project categorically exempt from environmental review pursuant to CEQA Guidelines section 15301 (existing facilities) – operation, permitting or leasing of existing private structures involving negligible or no expansion of use beyond that which exists.

BE IT FURTHER RESOLVED that the Planning Board hereby approves Use Permit PLN18-0410, subject to the following conditions:

1. **Vesting:** This use permit shall terminate one (1) year from the date of its granting, unless actual construction or alteration, or actual commencement of the authorized activities, has begun under all required, valid permits or approvals within such period, including without limitation the granting of a regulatory permit pursuant to Article XVI (Cannabis Businesses) of Chapter VI (Business, Occupations, and Industries) of the Alameda Municipal Code (AMC), hereafter referred to as the Cannabis Business Operators Permit. Pursuant to AMC Section 30-10.1(1).2, the applicant may seek a one-time one (1) year extension to the use permit for good cause by filing a written request to the Planning Director along with applicable filing fees but may only do so no earlier than sixty (60) days prior to expiration of the initial one (1) year term.
2. **Compliance with Plans:** Any modification of this site shall be in substantial compliance the plans submitted February 20, 2019, by Dustin Moore, on file in the City of Alameda Planning, Building, and Transportation Department, except as modified by the conditions listed in this resolution.
3. **Hours of Operation:** Business hours shall be limited to between 9:00 AM and 9:00 PM. Deliveries shall not be accepted between the hours of 10:00 PM and 7:00 AM.
4. **Window Screening:** Plans submitted for the Operators Permit and Building Permits should show how public facing windows will be screened to obscure on-site consumption from the public rights-of-way, developed in consultation with the West Alameda Business Association and approved by the Planning Division. Prior to issuance of a Certificate of Occupancy, the applicant shall install the approved method of screening.
5. **Bicycle Racks:** Prior to issuance of building permits the applicant shall coordinate with the City's Public Works Department and the West Alameda Business Association to determine appropriate locations for two (2) bike racks. Prior to issuance of a Certificate of Occupancy for the subject business, the applicant shall pay an amount equivalent to the cost to purchase and install two (2) inverted-U style bike racks into the City's bike rack fund. Prior to issuance of building permits the applicant shall provide two (2) long-term interior bike storage spaces to the satisfaction of the City's Transportation Coordinator.
6. **Alameda Transportation Management Association Membership:** The applicant shall join the Alameda Transportation Management Association (ATMA) that will provide

one AC Transit EasyPass or equivalent pass to each full-time and part-time employee of the business. Proof of ATMA membership shall be provided prior to building permit final (Certificate of Occupancy).

7. **Compliance with All Applicable Laws:** Applicant must comply with all applicable laws, including without limitation, the AMC provisions applicable to the project generally or the use or operation of the project site in particular (commercial cannabis activity), any implementing regulations adopted by the City (as amended), and State law and regulations governing cannabis (as amended), all of which is incorporated by this reference. And, specifically, the applicant must comply with the following:
  - a. **Cannabis Business Operators Permit (Operators Permit):** The applicant/operator must obtain and maintain an Operators Permit that is in compliance with AMC Section 6-59.10 et seq.
  - b. **Security/Lighting Plan:** The security plan shall include a lighting plan that ensures adequate lighting for exterior areas outside the premises to the satisfaction of the City, and shall show compliance with subsections (c) and (f) of AMC Section 30-5.16 (Performance Standards for New Buildings and Uses) to the satisfaction of the Planning, Building and Transportation Director.
  - c. **Security Guard:** The security plan shall include a list of duties to be carried out by a minimum of one uniformed security guard that will comply with AMC Section 6-59.10(q)(3), in addition to the following requirements:
    - i. Advise patrons of the business not to double park directly in front of street frontage of the business.
    - ii. Enforce or address litter cleanup in front of the street frontage of the business.
  - d. **Business License.** Obtain a Business License and timely pay all applicable fees from the Alameda Finance Department.
8. **Posted Notices:** The applicant shall post, provide adequate lighting for, and maintain at all times notices on the premises that provide the following information:
  - a. Direct patrons to not litter or block driveways.
  - b. Direct patrons to not block driveways or double park.
  - c. Advise patrons of the prohibition on loitering.
  - d. Advise patrons that smoking or consumption of cannabis or cannabis products is prohibited in public places.
  - e. "No Smoking" signs in compliance with AMC Section 24-11.
9. **Compliance with Conditions:** Failure to comply with any conditions stated herein may result in issuance of a citation and/or modification, suspension, or revocation of the Use Permit. Upon receipt of three valid complaints due to business operations in violation of AMC Section 6-49.10 or these conditions of approval all commercial cannabis activities shall cease until a revocation hearing is conducted by the Planning Board.

10. **Revocation:** This Use Permit may be modified or revoked by the Planning Board, pursuant to AMC Section 30-21.3d should the Planning Board determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.
11. **Indemnification:** To the maximum extent permitted by law, the applicant, or its successors in interest, shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Council, the Alameda City Planning Board and its respective agents, officers, and employees (collectively called "City") from and against any and all loss (direct or indirect), damages, liability, claim, judgment, action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, an approval or related decision by the City relating to a development-related application or implementation of an approved development-related project. The City shall promptly notify the applicant of said Action and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code section 66020(a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of section 66020, the applicant will be legally barred from later challenging such fees or exactions.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Community Development Department a written notice of appeal stating the basis of appeal and paying the required fees.

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