



CITY OF OAKLAND
Economic and Workforce Development

SPECIAL ACTIVITY PERMITS

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FINDINGS AND RECOMMENDATION OF HEARING OFFICER ON APPLICATION OF PURPLE HEART PATIENT CENTER DBA PURPLE HEART FOR A CONDITIONAL PERMIT TO OPERATE A CANNABIS DISPENSARY AT 327-331 CASTRO, OAKLAND, CA 94607

A public hearing on the above application was held on December 21, 2021 via Zoom. Presented below are the findings and recommendation of the Hearing Officer:

FINDINGS

1. Keith Stephenson has operated the cannabis dispensary Purple Heart at 415 4th Street for over fifteen years.
2. In the fall of 2021 Mr. Stephenson inquired about potentially operating a dispensary at 327-331 Castro Street, a property owned by Mr. Stephenson, that has been sitting vacant.
3. A mapping of this address revealed no sensitive uses as defined by OMC 5.80 within 600 feet path of travel.
4. Due to COVID-19 Shelter in Place Restrictions prohibiting in-person gatherings, a public hearing on this matter was scheduled via Zoom on December 21, 2021.
5. Notice of the public hearing was timely provided to neighboring property owners within 300 feet, the applicant, and posted on the premises.
6. Prior to the public hearing, the Special Activity Permits Division received five emails in opposition to the proposed dispensary. All but one of the emails were from the same business. The emails objected to the dispensary due to lack of existing parking in the area and potential increase in crime in the area.
7. At the public hearing Mr. Stephenson presented on behalf of the dispensary. Mr. Stephenson did not offer a powerpoint or any pictures of the potential dispensary but rather emphasized that he has fifteen years-experience operating a dispensary and

mentioned that he will add cameras to the property and be a good neighborhood stakeholder.

8. Five speakers spoke in adamant opposition to the proposal. Speakers expressed concerns about the dispensary attracting crime, asked multiple questions about what type of building would be added to the property and where customers would park, and one speaker stated that they represented a nearby church who was against cannabis.
9. Mr. Stephenson had an opportunity to respond to the comments and questions raised by speakers.
10. Following the hearing the Special Activity Permits Division received one email from a neighbor expressing support for the dispensary in light of the fact that 327-331 Castro has been an eyesore consisting of an abandoned shack for over a decade.

DISCUSSION

The purpose of the hearing was to determine if the property at 327-331 Castro Street is a suitable location to operate a cannabis dispensary. Dispensaries are allowed in any commercial or industrial zone and 327-331 Castro Street is situated in an industrial zone with no sensitive uses as defined by the City's dispensary ordinance, OMC 5.80, within 600 feet path of travel. Nevertheless, below is a discussion of the questions and concerns explicitly and implicitly raised before and during the public hearing.

A. Parking

In terms of the concerns regarding parking availability, there is no requirement to provide additional parking upon a change of activity within an existing facility (OMC 17.116.020 (B)). Furthermore, requiring additional parking has been found to promote additional car travel (see Shoup, Donald, *The High Cost of Free Parking*, (2005) which would run counter to the City of Oakland's Equitable Climate Action Plan.

B. Questions Around Structures to be Developed

Speakers raised several questions about what type or types of building(s) will be developed before a dispensary opens onsite given the property's current state. Unfortunately, Mr. Stephenson did not offer any images of what the proposed dispensary would look like or offer an oral description. That said, Mr. Stephenson is subject to the same planning, building, and fire code requirements as anyone else in Oakland. If and when Mr. Stephenson adds any structure(s) onsite he will have to comply with any planning, building or fire permitting requirements that apply, including any public noticing and design review requirements.

C. Public Safety Impacts

With respect to public safety concerns, it is true cannabis businesses have been targeted by burglars and robbers in recent years. However, prior to recent burglaries of retail establishments, the operation of dispensaries in Oakland had reduced crime in their

surrounding area.¹ This reduction in crime is not surprising, given the security protocols in place at licensed dispensaries as well as the additional eyes on the street generated by these establishments. In this particular case, Mr. Stephenson also has fifteen years of experience operating a dispensary, leaving Purple Heart well aware of the security challenges involved with a dispensary.

In terms of the recent increase in burglaries of dispensaries, numerous non-cannabis retail businesses have also experienced the same. As a result, local and state resources are being made available to address this uptick in retail crime and improve the safety of these businesses and their surrounding neighborhoods.

Ultimately, dispensary applicants must undergo a security inspection by the Oakland Police Department and comply with any security recommendations, including providing onsite licensed security, cameras, security guards, and other preventative measures to discourage burglaries

D. Better Communication with Neighbors

A common thread throughout the public hearing and the various concerns raised by neighbors was the lack of communication between the dispensary operator and the neighbors of 327-331 Castro. Many of the issues raised could have and still can be addressed through respectful dialogue. Dialogue can answer questions, minimize confusion, and lead to improved outcomes.

RECOMMENDATION

For the reasons stated above, the hearing officer recommends that the City Administrator conditionally approve Purple Heart Patient Center, doing business as Purple Heart, to operate a cannabis dispensary at 327-331 Castro Street. This approval is contingent upon Purple Heart meeting with neighbors through the local Neighborhood Crime Prevention Council (NCPC) or an equivalent neighborhood organization approved by the Special Activity Permits Division on a quarterly basis after the issuance of the dispensary permit. The issuance of the dispensary permit shall be contingent upon approvals of the planning, building, fire, finance and police departments.



GREG MINOR, HEARING OFFICER

January 25, 2022

DATE

¹ City of Oakland Amendments to Medical Cannabis Ordinances Supplemental Report, April 26, 2016 Finance and Public Safety Committee, pp.2-3.