



CITY OF OAKLAND
Department of Economic and Workforce Development

SPECIAL ACTIVITY PERMITS DIVISION
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FINDINGS AND RECOMMENDATION OF HEARING OFFICER ON APPLICATION OF E7 OAKLAND LLC FOR A PERMIT TO OPERATE A CANNABIS DISPENSARY AT 2054 MOUNTAIN BOULEVARD, OAKLAND, CA 94611

A public hearing on the above application was held on July 29, 2021 via Zoom. Presented below are the findings and recommendation of the Hearing Officer:

FINDINGS

1. E7 Oakland LLC (E7) filed a cannabis dispensary permit application in February 2020 in response to the Office of the City Administrator's Request for Permit Applications (RFPA) that sought candidates to operate eight new dispensary permits.
2. E7 submitted a scored dispensary permit application. City staff reviewed and scored its application and determined E7 qualified as an equity owned business as defined by OMC 5.80 and ranked in the top four of all scored applications.
3. City staff then informed E7 that it was eligible to proceed to RFPA Phase Three: Site Identification, in which applicants have up to one-hundred and twenty (120) days to identify an initial location for their cannabis dispensary that complies with the location restrictions under OMC 5.80.
4. Within the Phase Three 120-day period, E7 provided the Special Activity Permits with a letter of intent to lease a property on Leimert Blvd. for operation of a cannabis dispensary. After receiving concerns from neighbors of Leimert, E7 then submitted a letter of intent to lease 2054 Mountain Blvd. for their cannabis dispensary.
5. A mapping of this addresses revealed no sensitive uses as defined by OMC 5.80 within 600 feet path of travel.
6. Due to COVID-19 Shelter in Place Restrictions prohibiting in-person gatherings, a public hearing on this matter was scheduled via Zoom.

7. Notice of the public hearing was timely provided to neighboring property owners within 300 feet, the applicant, and posted on the premises.
8. Prior to the public hearing the Special Permits Division received emails both in support of and in opposition to the proposed dispensary.
9. At the public hearing Josh Black presented on behalf of E7. Assata Bilal, Brendan Royal, and Yolanda Shavies were also in attendance. Mr. Black provided background on E7, including its experience operating multiple stores across California and experience in non-cannabis industries, its work with UFCW, as well as E7's meetings and minimum standards agreement with Montclair Village Association (MVA).
10. At the hearing, ten speakers spoke in opposition to the proposed dispensary and five spoke in favor.
 - a. Those in opposition expressed concerns that a cannabis dispensary would be incompatible with Montclair's residential uses and children in the area, customers of the dispensary will consume cannabis nearby, cash on customers will encourage crime, and potential double parking by dispensary customers. Many of those in opposition mentioned their support for cannabis but that they just disapproved of a dispensary in Montclair.
 - b. Those in support emphasized that the Montclair Village has several vacancies, E7 will directly support the Montclair Village, that cannabis has been illegally sold and consumed in the area for years, and that many elderly Montclair residents will prefer having a dispensary nearby rather than having to travel to an industrial area. The MVA was among those that expressed their support for the proposal.
11. Following public comment, the Hearing Officer asked E7 for more information on the minimum standards agreement with the Montclair Village Association and how E7 will prevent youth consumption. E7 stated that the minimum standards agreement was still being finalized and that E7 could provide the final version once available. In terms of preventing youth consumption, E7 emphasized that IDs will be checked in the lobby area before customers can enter and that E7 is open to supporting youth prevention education efforts.
12. Following the public hearing, the MVA provided a copy of the E7 Community Benefits Agreement with the MVA and emphasized that the MVA believes E7 will compliment the retail mix in the Montclair Village as well as advance beautification, public safety and economic development initiatives. The Community Benefits Agreement includes a parking plan for E7 employees and customers, storefront exterior requirements, onsite security and cameras systems, staff volunteer commitments, plus financial support for local beautification and cannabis diversion education for minors.

DISCUSSION

The purpose of the public hearing process is to determine if the property at 2054 Mountain Blvd. is a suitable location to operate a cannabis dispensary. 2054 Mountain Blvd. is situated in a commercial zone and no sensitive uses are within 600 feet path of travel as defined by OMC 5.80. Nevertheless, the discussion below addresses the principal concerns

expressed by those in opposition to the dispensary: neighborhood character, parking, crime, and youth consumption of cannabis.

Neighborhood Character

Several speakers at the hearing and members of the public who emailed prior to the hearing argue that a dispensary would be inconsistent with the character of the Montclair neighborhood. 2054 Mountain Blvd. is in a CN-1 Neighborhood Commercial Zone and dispensaries are permitted in any commercial or industrial zone under OMC 5.80.020(D). Furthermore, a dispensary at this location would be the first above Highway 13 and thus realize the intent of City Council's 2016 amendments to the City of Oakland's dispensary ordinance, which removed a buffer requirement between dispensaries and residential zones to more equitably locate dispensaries across Oakland and not unduly concentrate dispensaries in downtown, West Oakland and East Oakland.¹

Parking

Some speakers raised concerns regarding potential traffic congestion and double parking resulting from a dispensary. Under the City of Oakland's Planning Code, 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,² which would run counter to the City of Oakland's Equitable Climate Action Plan. Nevertheless, E7 has agreed to a parking plan for its staff and customers through its Community Benefits Agreement, which will take advantage of multiple parking options in the Montclair Village.

Crime

Data from the City of Oakland's existing permitted dispensaries suggest that claims of increased crime due to the introduction of a dispensary are not necessarily true. For example, a 2016 City of Oakland analysis found that calls for service to the Oakland Police Department went down an average of 2.5% within 500 feet of City of Oakland licensed dispensaries the year after the dispensary opened compared to the year prior; in one instance calls for service dropped by almost 30 percent.³ This data 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.

It is true that burglars targeted cannabis businesses in the summer of 2020 during the civil unrest that followed the murder of George Floyd. However, these burglaries were a result of burglars taking advantage of an unprecedented wave in calls for service citywide, and cannabis businesses were far from the only target of burglars. Case in point, only one City of Oakland permitted dispensary had been burglarized between 2004-2020, whereas virtually all permitted dispensaries were burglarized in last week of May and first week of June 2020.

¹ Prior to the 2016 amendment, the City of Oakland required dispensaries be at least 1,000 feet from a residential zone. This resulted in the City's initial dispensaries disproportionately situating in downtown, West and East Oakland, and zero dispensaries locating in North Oakland, Lake Merritt, or above the 580 freeway.

² See Shoup, Donald, The High Cost of Free Parking, (2005).

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

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

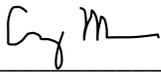
Youth Consumption

Another basis raised for opposing E7's dispensary was the possibility of increased youth consumption either directly or indirectly due to the operation of a dispensary in the Montclair Village. E7 will review the ID of anyone in their lobby before allowing entry into their store and there is a large disincentive for E7 to sell cannabis to minors as that will result in them losing their state and local licenses and ability to operate. Accordingly, it is highly unlikely E7 will sell any cannabis to minors. While the existence of a cannabis dispensary may alter the perception of cannabis for children who pass by a dispensary, when California and Oakland voters approved Proposition 64, the Adult Use of Marijuana Act of 2016, voters decided that it is acceptable to provide adults legal access to cannabis in the form of store front dispensaries. Moreover, to not allow legal spaces for cannabis would undermine the will of the people, particularly Oakland voters who voted overwhelmingly in favor of Proposition 64.⁴

All that said, E7 has committed to supporting cannabis youth prevention education in their Community Benefits Agreement. This education can address any indirect impacts on children resulting from the presence of a dispensary in Montclair Village.

RECOMMENDATION

For the reasons stated above, the hearing officer recommends that the City Administrator conditionally approve E7 Oakland LLC to operate a cannabis dispensary at 2054 Mountain Blvd. with final approval contingent upon approvals of the building, fire, revenue and police departments. Furthermore, the hearing officer recommends that the dispensary permit conditions incorporate E7's Community Benefits Agreement with the Montclair Village Association.



GREG MINOR, HEARING OFFICER

September 13, 2021

DATE

cc via email:
City Administrator Edward Reiskin
Councilmember Thao
CAO File

⁴ More than 77 percent of Oakland voters voted in favor of passing Proposition 64 in 2016.