



CITY OF OAKLAND
Office of the City Administrator

SPECIAL ACTIVITY PERMITS

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November 16, 2022

FINDINGS AND RECOMMENDATION OF HEARING OFFICER ON APPLICATION OF OAKLYN LEGACY HOLDINGS, LLC DBA ROSE MARY JANE FOR A CONDITIONAL PERMIT TO OPERATE A CANNABIS DISPENSARY AT 6405 SHATTUCK AVENUE, OAKLAND, CA 94609

A public hearing on the above application was held on October 17, 2022 via Zoom. Presented below are the findings and recommendation of the Hearing Officer:

FINDINGS

1. Oaklyn Legacy Holdings submitted a dispensary permit application under the name EFFET LLC (EFFET) in February 2020 in response to the Office of the City Administrator's Request for Permit Applications (RFPA) that sought applicants to operate eight new dispensary permits.
2. City staff reviewed and scored its application and determined EFFET qualified as an equity-owned business as defined by OMC 5.80.
3. City staff informed EFFET that its application was eligible for a public drawing from which the City would select four equity applicants to proceed to RFPA Phase Three: Site Identification.
4. On May 22, 2020 EFFET was one of the four equity applicants selected via the dispensary public drawing.
5. City staff then informed EFFET that it was eligible to proceed to RFPA Phase Three: Site Identification.
6. After initially identifying a property on Ford Street, EFFET underwent a public hearing and was conditionally approved to operate a dispensary at 1211 Embarcadero. Subsequently, EFFET informed City staff that it was unable to reach a final agreement with the landlord of 1211 Embarcadero.

7. EFFET then submitted a letter of intent to lease 6405 Shattuck Avenue for operating a dispensary and requested to undergo the public hearing process for that site.
8. A mapping of this address revealed no sensitive uses as defined by OMC 5.80 within 600 feet path of travel.
9. 6405 Shattuck Avenue was previously the site of a dispensary operated by another operator, Oakland Organics.
 - a. During the 2018 public hearing to approve Oakland Organics' use of 6405 Shattuck, neighbors at the time expressed concerns regarding customers the dispensary driving while intoxicated and getting into car accidents with children playing in the neighborhood. The Special Activity Permits Division has no knowledge of these concerns ever becoming a reality during Oakland Organics' multiyear operation at 6405 Shattuck Avenue.
10. Due to COVID-19 Shelter in Place Restrictions prohibiting in-person gatherings, a public hearing on this matter was scheduled via Zoom on October 17, 2021.
11. Notice of the public hearing was timely provided to neighboring property owners within 300 feet, the applicant, and posted on the premises.
12. Prior to the public hearing, the Special Activity Permits Division received one email expressing support while requesting that the operator landscape the Shattuck Avenue side of the proposed dispensary.
13. At the public hearing Gary (North) Roberson, Morgan Sokol, and John Underwood presented on behalf of EFFET, doing business as Rose Mary Jane. Mr. Roberson described his deep Oakland roots and experiences being criminalized for cannabis in Oakland; Ms. Sokol detailed Rose Mary Jane's local hiring practices; and Mr. Underwood described the security measures and building improvement they intend to make, including no exterior cannabis marketing.
14. Three speakers spoke in support and two spoke in opposition to the proposal.
 - a. Those in support emphasized Rose Mary Jane's local hiring work, positive operations at their Harrison street location, and that no one operator should be responsible for solving crime in Oakland.
 - b. Those in opposition expressed concerns that a dispensary will negatively impact neighbors in light of the prior dispensary operator at 6405 Shattuck being burglarized.
15. EFFET responded to the concerns expressed by stating that they will approach security differently than the prior operator, they are more locally based, and that they will add overnight security if needed.

APPLICABLE LAW

- OMC 5.80.020(D)(1) Unless the City Administrator in his/her discretion determines that the location will not impact the peace, order and welfare of the public evidence that the proposed location of such dispensary is not within six hundred (600) feet of a public or private school providing instruction in kindergarten or grades 1 to 12,

inclusive (but not including any private school in which education is primarily conducted in private homes), another dispensary or youth center, unless the school or youth center moved into the area after the dispensary was issued a permit under this Chapter. The distance between facilities shall be measured via path of travel from the closest door of one (1) facility to the closest door of the other facility unless otherwise prescribed by state law. The proposed dispensary must be located in a commercial or industrial zone, or its equivalent as may be amended, of the City.

- OMC 5.80.020(E) Applications for dispensaries shall be subject to a public hearing with public notice of the hearing in accordance with [Section 5.02.050](#).... The City Administrator shall be the investigating official referred to in [Section 5.02.030](#) to whom the application shall be referred.
- OMC 5.02.060 The City Administrator, or the investigating official acting thereon, shall deny the granting of any permit applied for if it shall appear to his or her satisfaction that the applicant has not complied with the provisions of this Code which directly pertain to the maintenance or conduct of the business, establishment, place, or other thing in question or for the violation of any law appertaining thereto... In granting or denying such permit, and in specifying the conditions, if any, upon which it is granted, the City Administrator or other official acting thereon, shall consider all pertinent facts which may concern the health, safety, and general welfare of the public, and shall exercise a reasonable and sound discretion in the premises.

DISCUSSION

The purpose of the hearing was to determine if the property at 6405 Shattuck Avenue is a suitable location to operate a cannabis dispensary. 6405 Shattuck Avenue is situated in a commercial zone and no sensitive uses as defined by the City's dispensary ordinance, OMC 5.80, are within 600 feet path of travel. Furthermore, a dispensary previously operated at this location.

While neighbors in opposition to the proposal raise legitimate concerns about armed burglaries of cannabis businesses that have taken place since the summer of 2020, there is nothing in the record to indicate that 6405 Shattuck or EFFET are uniquely unsuited to situate or operate a dispensary, respectively. For example, following the public hearing the hearing officer requested all police reports related to 6405 Shattuck during the operation of Oakland Organics' dispensary. The Oakland Police Department produced two reports, one from June 2020 when caravans of burglars targeted various dispensaries across the Bay Area and the other report described a burglary in November 2021 in which burglars targeted both Oakland Organics and a nearby dispensary in Berkeley. Thus, there are no reports of anything uniquely unsafe associated with this location. Likewise, there is no record of EFFET failing to comply with relevant laws nor Rose Mary Jane operating a dispensary on Harrison Street that is less safe than other dispensaries.

It is also helpful to recall that a calls for service analysis conducted prior to the COVID-19 pandemic found that the operation of a dispensary reduced crime in the vicinity.¹ This

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

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.

Accordingly, the hearing officer is inclined to conditionally approve the proposed dispensary at 6405 Shattuck. As part of the dispensary permit process, 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.

RECOMMENDATION

For the reasons stated above, the hearing officer recommends that the City Administrator conditionally approve Oaklyn Legacy Holdings, LLC, doing business as Rose Mary Jane, to operate a cannabis dispensary at 6405 Shattuck Avenue. Final approval shall be contingent upon approvals of the building, fire, finance and police departments.



GREG MINOR, HEARING OFFICER

11.16.22

DATE