



CITY OF OAKLAND
Economic and Workforce Development

SPECIAL ACTIVITY PERMITS

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FINDINGS AND RECOMMENDATION OF HEARING OFFICER ON APPLICATION OF LAKE MERRITT EQUITY LLC DBA ROSE MARY JANE FOR AN ONSITE CONSUMPTION PERMIT AT 2340 HARRISON, OAKLAND, CA 94612

A public hearing on the above application was held on June 28, 2022 via Zoom. Presented below are the findings and recommendation of the Hearing Officer:

FINDINGS

1. Lake Merritt Equity LLC applied for a dispensary permit in February 2020 as part of a Request for Permit Applications (RFPA) process that sought candidates to operate eight new dispensary permits. City of Oakland staff determined that Lake Merritt Equity LLC qualified as an equity owned business as defined by Oakland Municipal Code (OMC) 5.80 and ranked in the top four of all scored applications.
2. After identifying 2340 Harrison as the site of their dispensary, Lake Merritt Equity LLC underwent a public hearing via zoom on September 29, 2020 and the City of Oakland subsequently issued Lake Merritt Equity LLC, doing business as Rose Mary Jane, a dispensary permit in February 2022.
3. After a few months of operating, Rose Mary Jane submitted an application for an onsite consumption permit. Their application proposes only edible and beverage consumption of cannabis and includes anti-drugged driving strategies such as education and encouraging customers to take ride share.
4. Due to COVID-19 Shelter in Place Restrictions prohibiting in-person gatherings, a public hearing on this matter was scheduled via Zoom on June 28, 2022.
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 approximately three emails in opposition to the proposed dispensary, including a

letter from the Saint Paul's Towers Residents' Association. The emails primarily objected to excessive noise emanating from patrons at Rose Mary Jane's outdoor patio.

7. At the public hearing Erik Murray, Asha Manaktala, and Morgan Sokol presented on behalf of the dispensary. They emphasized the need for a safe legal space to consume cannabis, how no smoking will take place, how their staff will be trained in educating customers on dosage, and how Rose Mary Jane will post information on safe transportation options for customers.
8. Twenty-one public speakers spoke in support and two spoke in opposition to the proposal.
9. Those in opposition were residents of St. Paul's Towers, who stated that amplified sound at Rose Mary Jane has already had a negative impact on the two-hundred residents of their building and that they have had inconsistent communications with Rose Mary Jane's staff. Additionally, the two speakers expressed concern regarding drugged driving and children nearby observing cannabis consumption.
10. Those in support emphasized the importance of having a communal safe space for cannabis consumption, particularly in contrast with unregulated cannabis sales and consumption taking place in Oakland and around Lake Merritt. Supporters ranged from colleagues in the cannabis industry to neighbors to customers.
11. Following the public speakers, the hearing officer requested clarification on whether the consumption would be visible to the public and Rose Mary Jane staff confirmed it would not as it will take place behind large opaque walls.
12. Following the hearing the Special Activity Permits Division contacted Ms. Hilda Pressman, President of Saint Paul's Towers Residents' Council of the Residents' Association, to understand what permit conditions she would recommend to address concerns of excessive noise. Ms. Pressman recommended keeping all amplified sound indoors, limiting outdoor activities to 8pm, limiting the number of people outdoors, and having a consistent point of contact at Rose Mary Jane.

DISCUSSION

OMC 5.80.25 authorizes the City of Oakland to issue an onsite consumption permit to existing dispensaries in good standing following a public hearing and taking into consideration the operating history and business practices of the applicant, and any other factors that are deemed necessary to promote the peace, order and welfare of the public.

The significant amount of testimony in support of Rose Mary Jane's onsite consumption permit underscores the demand for legal spaces for community members to gather and consume cannabis. Cannabis consumption is prohibited in public housing and virtually all public spaces. As a result, unpermitted cannabis consumption (and sales) often take place in public, including areas near Rose Mary Jane. Rose Mary Jane's proposal offers a solution to this problem by providing secure space for people to consume regulated cannabis. Furthermore, Rose Mary Jane's proposal ensures that the cannabis consumption

will not be visible to children passing by, will not impact air quality due to the lack of smoking, and there are protocols in place to avoid drugged-driving.

Moreover, Rose Mary Jane is located in a D-BV-3 Commercial Zone, the Broadway Valdez District Mixed Use Boulevard, within the Valdez Triangle subarea. The Valdez Triangle subarea is intended to “create a recognized Oakland destination that provides a mix of uses that contributes to around the clock activity...create a destination retail district...encourage, support, and enhance a mix of small, medium, and large-scale retail, commercial, dining, entertainment...and visitor uses” (OMC 17.101C.010). Authorizing a unique gathering space for onsite consumption of cannabis infused beverages and edibles thus aligns with the underlying zoning by providing a destination retail and entertainment use.

At the same time, Rose Mary Jane’s neighbors at St. Paul’s Towers have raised legitimate concerns about the peaceful enjoyment of their homes that could be impacted by excessive outdoor noise emanating from Rose Mary Jane’s outdoor patio. Accordingly, the Hearing Officer recommends limiting amplified sound to inside the dispensary, limiting the hours of the outdoor patio space, and Rose Mary Jane assigning a clear contact for the public to contact regarding excessive noise concerns. Over time, the City can re-evaluate these restrictions, both in terms of their necessity and effectiveness, as well as whether they compromise the intent of the underlying zoning.

RECOMMENDATION

For the reasons stated above, the hearing officer recommends that the City Administrator conditionally a cannabis onsite consumption permit to Lake Merritt Equity LLC, doing business as Rose Mary Jane, at 2340 Harrison. The issuance of the onsite consumption permit shall be contingent upon approvals of the building and fire departments for any tenant improvements. Furthermore, the permit conditions shall include no smoking of cannabis, no amplified sound outdoors, no outdoor cannabis consumption after 8pm, and Rose Mary Jane shall designate one point of contact for noise complaints on its website and place of business who shall respond to complaints by the end of the following business day. Finally, the Hearing Officer recommends re-evaluating these permit conditions on a semi-annual basis.



GREG MINOR, HEARING OFFICER

July 14, 2022

DATE