



TOWN OF FAIRFAX

STAFF REPORT

March 2, 2022

TO: Mayor and Town Council

FROM: Linda Neal, Principal Planner
Janet Coleson, Town Attorney

SUBJECT: Adopt a resolution denying the application for a Commercial Medical Cannabis Business Permit, Design Review Permit, and Sign Exception Permit for a cannabis storefront retailer/adult use retail delivery-only business at 1930 Sir Francis Drake Boulevard

RECOMMENDATION

Review and adopt Resolution 22-15, Denying the Cannabis Business Permit, Design Review Permit and Sign Exception Permit for Element 7/Remedy Fairfax's proposed Medical Cannabis Storefront Retail/Adult-Use Retail Delivery-only business proposed at 1930 Sir Francis Drake Boulevard.

BACKGROUND

At the February 2, 2022, Town Council meeting the Town Council held a public hearing, closed the public hearing and brought the above referenced applications back to the Town Council for discussion and deliberation. After their discussion and deliberation, the Town Council continued the matter to the March 2, 2022 meeting and directed staff to return with a draft resolution denying the Commercial Cannabis Business Permit, Design Review Permit and Sign Exception Permit for Remedy Fairfax's proposed Medical Cannabis Storefront Retail/Adult-Use Retail Delivery-only business proposed at 1930 Sir Francis Drake Boulevard based on the findings articulated by the Council at the February 2, 2022 meeting.

DISCUSSION

Pursuant to Fairfax Town Code (FMC) Section 5.56.070(D) the Council has reserved the discretion to not grant any applications for Commercial Cannabis Business Permits in the interest of the health, safety and welfare of the Town. At the February 2, 2022 Council meeting, after holding a public hearing, taking public comment and then closing the public hearing, the Council discussed the only application before them from Element 7/Fairfax Remedy, and directed staff to return to the March 2, 2022 Council meeting with a draft Resolution denying the Commercial Cannabis Business Permit and accompanying Design Review Permit and Sign Exception Permit, pursuant to FMC Section 5.56.070(D). The Council's findings regarding the health, safety and welfare of the Town are contained in the draft Resolution.

The Town Council should review and approve the attached draft Resolution, with modifications, if appropriate, reflecting the Council's decision on the Element 7/Fairfax Remedy proposal for

a Medical Cannabis Storefront Retail/Adult-Use Retail Delivery-only business at 1930 Sir Francis Drake Boulevard.

For further information and past history on this proposal, the applicant's initial submittal materials can be accessed via the following links:

<https://www.townoffairfax.org/meetings/planning-commission-meeting-september-16-2021/#/tab-agenda-packet>

<https://www.townoffairfax.org/meetings/planning-commission-meeting-october-21-2021/#/tab-agenda-packet>

The staff report and attachments from the February 2, 2022, Town Council meeting can be accessed via the following link:

<https://www.townoffairfax.org/meetings/town-council-meeting-february-2-2022/#/tab-agenda-packet>

(Right click and click "open hyperlink" to get to the agenda and then scroll down to the 1930 Sir Francis Drake Boulevard item to access report and attachments).

Additional information on this item can be reviewed in the draft minutes from the February 2, 2022 Town Council meeting contained in the Town Council packet for this meeting on the Town website.

FISCAL IMPACTS

None.

ATTACHMENTS

Resolution 22-15

RESOLUTION 22-15

A Resolution of the Fairfax Town Council Denying a Commercial Cannabis Business Permit, Design Review Permit and Sign Exception Permit for a Medical Cannabis Dispensary/Adult Retail Delivery Only Business at 1930 Sir Francis Drake Boulevard

WHEREAS, the Town of Fairfax received an application (“Application”) to convert the structure at 1930 Sir Francis Drake Boulevard into a medical retail and adult use delivery only commercial cannabis business at 1930 Sir Francis Drake Boulevard from Element 7/Fairfax Remedy on January 6, 2020; and

WHEREAS, the submitted Application included requests for Design Review, a Sign Exception, and Commercial Cannabis Business Permits; and

WHEREAS, the Application includes the information provided in the applicant’s supplemental information containing table of contents sections 1 through 15, including 1) Remedy Fairfax Introduction, 2) Cannabis Application, 3) Planning Application, 4) Live Scans, 5) Business Formation Documents, 6) State License Application, 7) Business Plan, 8) Operating Plan, 9) Public Benefits Plan, 10) Sensitive Use Plans, 11) Site and Floor Plans, 12) Signage and Lighting Plan (with signage modified prior to building permit submittal to comply with Town Code any be one sign not to exceed six square-feet), 13)Traffic Study, 14) Security Plan, and 15) Letters of Support, the Architectural Plans by SKS architects, pages ESP, EC1, A0, A1 and A2 and the landscaping and irrigation plans by Roth/Lamotte Landscape Architecture, pages L0.0, L1.0 and L1.1 presented to the Town Council at the public hearing on 2/2/22.; and

WHEREAS, the Planning Commission held duly noticed Public Hearings on September 16, 2021 and October 21, 2021, and the Town Council held a duly noticed Public Hearing on February 2, 2022, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans and supplemental information provided by the applicant as well as testimony at the public hearing, the Town Council has determined, pursuant to Fairfax Town Code (FTC) Section 5.56.070(D), to exercise its discretion to not grant any applications for a Commercial Cannabis Business Permit, and specifically, this Application for a Commercial Cannabis Business Permit and accompanying Design Review Permit and Sign Exception Permit for a Medical Cannabis Dispensary/Adult Retail Delivery Only business at 1930 Sir Francis Drake Boulevard due to the detrimental impact on the health, safety and welfare of the Town; and

WHEREAS, the Town Council makes the following findings in support of the decision to not grant any applications for Commercial Cannabis Business Permits, and thereby any accompanying or supporting permits, at this time:

1) Although the Council previously approved the general location in and around 1930 Sir Francis Drake Boulevard (“Location”) as potentially appropriate for a storefront cannabis business since a) the Location is outside buffer areas surrounding sensitive uses, and b) the Council determined that Fairfax, a Town with a population of 7,605 could support a second cannabis business, based on the belief that other Marin County communities would approve their own local cannabis businesses. This has not happened and it appears the Town of Fairfax potentially could shoulder the traffic burdens of Marin County residents wanting to obtain legal medical cannabis in person. As a result, the Council now finds that a cannabis business at the Location would be detrimental to the health, safety and welfare of the community due to:

- i) the fact that even though the residents of Marin County voted in favor of legalization of both medical and adult use cannabis, the proposed Location would be one of the County’s only cannabis retail establishments; and
- ii) the anticipated amount of traffic detailed in the submitted traffic study does not adequately reflect the likely traffic impacts the proposed use would generate in the community from the increased traffic coming from outside the Town as a result of being one of the County’s only cannabis retail establishments; and
- iii) specifically, the combination of the expected increased number of vehicles coming from outside the Town and the high number of children and children on bicycles who normally congregate near the Location, would be likely to create a greater number of traffic accidents and an unsafe environment for children and others on bicycles, thereby creating detrimental impacts on the health, safety and welfare of the community; and

2) The area surrounding the Location is known for and is promoted as a lively, multi-aged, “Main Street” shopping area where residents and visitors of all ages congregate, meet and interact. The Council finds that the proposed signage and prohibition on loitering, the necessary security guards, alarms and security cameras are not conducive to an atmosphere of a small town’s downtown shopping and “town square” area that currently exists and that the Council wants to continue to promote at this Location and that therefore would be detrimental to the overall health, safety and welfare of the Town; and

3) The area surrounding and including the Location has been listed in the General Plan as an area where the Council desires to promote future higher density housing in order to both a) help meet the Town’s Regional Housing Needs Assessment (RHNA) numbers as well as b) contribute to the development of the amenity rich, lively, multi-aged, downtown retail/restaurant, transit core that this area represents for the Town. The Council finds that the increased number of vehicles coming from outside of the Town to one of the County’s only retail cannabis establishments, as well as the atmosphere created by the prohibition on loitering and the necessity for heightened security would have a negative impact on the health, safety and welfare of the increased number of residents living, working, meeting and socializing in this area; and

WHEREAS, The Town Council further finds that the aforementioned recitals are true and correct and are hereby incorporated into this Resolution.

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Fairfax hereby finds and determines as follows:

The application by Element 7/Fairfax Remedy for a Commercial Cannabis Business Permit and accompanying Design Review and Sign Exception Permits, for a proposed Medical Cannabis Storefront Retailer/Adult Use Delivery Only business at 1930 Sir Francis Drake Boulevard is hereby denied pursuant to Fairfax Town Code Section 5.56.070(D) and the above listed findings of detrimental impact on the health, safety and welfare of the Town, specifically the downtown commercial and adjacent neighborhood areas.

The foregoing resolution was adopted at a regular meeting of the Town Council held on the 2nd day of March in 2022, by the following vote:

AYES:

NOES:

ABSENT:

Mayor Stephanie Hellmann

Attest:

Michele Gardner, Town Clerk