

ATTACHMENT 1

**IN THE BOARD OF SUPERVISORS**  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

\_\_\_\_\_ day \_\_\_\_\_, 20\_\_

**PRESENT: Supervisors**

**ABSENT:**

RESOLUTION NO. \_\_\_\_\_

RESOLUTION DENYING THE APPEAL OF JAMES BIGELOW AND AFFIRMING THE DECISION OF THE PLANNING COMMISSION AND CONDITIONALLY APPROVING THE APPLICATION OF ETHNOBOTANICA FOR MINOR USE PERMIT DRC2014-00070

The following resolution is now offered and read:

WHEREAS, on July 9, 2015, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the Planning Commission) duly considered and conditionally approved the application of Ethnobotanica for Minor Use Permit DRC2014-00070; and

WHEREAS, James Bigelow has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on November 3, 2015, and a determination and decision was made on November 3, 2015; and

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WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed, and that the application (DRC2014-00070) should be approved subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That this project is found to be categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15303 (Class 3).
3. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A attached hereto and incorporated by reference herein as though set forth in full.
4. That the appeal filed by James Bigelow is hereby denied and the decision of the Planning Commission is affirmed and that the application of Ethnobotanica for Minor Use Permit DRC2014-00070 is hereby approved subject to the conditions of approval set forth in Exhibit B, attached hereto and incorporated by reference herein as though set forth in full.

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Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By:   
Deputy County Counsel

Dated: October 23, 2015

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STATE OF CALIFORNIA, )  
 ) ss.  
County of San Luis Obispo, )

I, \_\_\_\_\_, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of \_\_\_\_\_, 20\_\_.

County Clerk and Ex-Officio Clerk of the Board of Supervisors

(SEAL)

By \_\_\_\_\_ Deputy Clerk.

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**FINDINGS - EXHIBIT A**  
**Minor Use Permit DRC2014-00070 (Ethnobotanica)**

***CEQA Exemption***

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15303 because the project will be located within an existing structure and only involves a change in use. In addition, the project is located in an urbanized area not in close proximity to significant fish and/or wildlife habitat.

***Minor Use Permit***

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed medical marijuana dispensary, as proposed and conditioned, does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to and in compliance with Ordinance and Building Code requirements designed to address health, safety and welfare concerns, including limited hours of operation. Implementation of the project's security plan would minimize demands on law enforcement resources. The security plan includes indoor/outdoor video surveillance and alarm system by Sentinel Security and an onsite guard by Bomar Security for 10 hours per day, 7 days per week. Security will assist in opening and closing of the facility, including escorting employees to their vehicles after closing. Security will also be responsible for verifying that each person entering the facility is a medical marijuana patient, caregiver, employee, or other allowed person.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the medical marijuana dispensary will be located in the Commercial Service land use category in an area that contains primarily commercial uses. The medical marijuana dispensary will be also be located in an existing metal commercial building which is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Hutton Road, an arterial road constructed to a level able to handle any additional traffic associated with the project.

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**EXHIBIT B - CONDITIONS OF APPROVAL  
Minor Use Permit DRC2014-00070 (Ethnobotanica)**

**Approved Development**

1. This approval authorizes the establishment of a Medical Marijuana Dispensary and construction of related tenant improvements in an existing 2,636 square-foot commercial/office suite.
2. The Medical Marijuana Dispensary shall comply with the following limitations on use:
  - i. Hours of operation are limited to 11 a.m. to 6 p.m. seven days per week.
  - ii. No person under age of 18 shall be permitted in the dispensary at any time except in the presence of his/her parent or guardian.
  - iii. No retail sales of paraphernalia as defined in Health and Safety Code Section 11364.5 are permitted at the dispensary.
  - iv. No cultivation of medical marijuana is permitted at the dispensary or on the dispensary property.
  - v. All staff/employees employed by the Medical Marijuana Dispensary must be 21 years of age or older.

**Conditions required to be completed at the time of application for construction permits**

***Tenant Improvements***

3. **At the time of application for construction permits**, plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations, security plan, and landscape plan.
4. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

***Fire Safety***

5. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, that shall be prepared by the CalFire for this proposed project.

**Conditions to be completed prior to issuance of a construction permit**

***Fees***

6. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
7. **Prior to issuance of construction permits**, and in accordance with Title 13.01 of the County Code the applicant shall be responsible for paying to the Department of Public Works the South County Area 1 Road Improvement Fee for six (6) PM Peak Hour Trips

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(OEG Traffic Letter dated 4/24/15) prior to issuance of building permits and at the amount prevailing at the time of payment.

**Drainage**

8. **At the time of application for construction permits**, the applicant shall submit evidence to the Department of Public Works that all new structures comply with County flood hazard construction standards, Section 22.14.060. (The entire project site is located within a FEMA Flood Hazard Zone A designation as shown on FIRM Map Number 06079C1601F.)

**Conditions to be completed prior to occupancy or final building inspection /establishment of the use**

**Access**

9. **Prior to occupancy or final inspection/establishment of the use**, construct onsite signs and pavement markings at the most northerly driveway to identify it for site egress (exit) only. No signs or pavement markings may be placed in the public right-of-way without a valid encroachment permit.

**Fire Safety**

10. **Prior to occupancy or final inspection/establishment of the use**, whichever occurs first, the applicant shall obtain final inspection and approval from CalFire of all required fire/life safety measures.
11. **Prior to occupancy or final inspection/establishment of the use**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
12. **Prior to occupancy or final inspection/establishment of the use**, whichever occurs first, the applicant shall notify Sheriff's Department informing it of the name, location and contact information for the owner/operator of the Dispensary. This shall include contact information for the local manager. Name and phone number of Sheriff's Department contact must be provided so that notification can be confirmed.
13. **Prior to occupancy or final inspection/establishment of the use**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval. The conditions that must be completed prior to occupancy include but are not limited to the following:

The Dispensary, inside of the Dispensary itself, shall display in a manner legible and visible to its clientele:

- a. Notice that persons under the age of 18 (eighteen) are not allowed in the Dispensary except in the presence of his/her parent or guardian; and
- b. Notice that there is no consumption of medical marijuana in the vicinity of the Dispensary.

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**On-going conditions of approval (valid for the life of the project)**

14. The project shall be reviewed by the Planning Commission in a noticed public hearing, two years after operation of the use commences. The purpose of this review is to determine compliance with these conditions. The Planning Commission will have the option of suggesting modification of these conditions of approval at that time.
15. On-going condition of approval (valid for the life of the project). For the life of the project, the applicant shall implement the approved security plan, including but not limited to, an on-site security guard, high-definition camera plan with live streaming to the security company, outdoor lighting, security alarm system with motion detectors, secure product storage area and all other criteria specified in Land Use Ordinance Section 22.30.225(C)(4).
16. **On-going condition of approval (valid for the life of the project)**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage; tree planting; fences; etc. without a valid Encroachment Permit issued by the Department of Public Works.
17. **On-going condition of approval (valid for the life of the project)**, the property owner shall be responsible for operation and maintenance of public road frontage landscaping and irrigation systems in a viable condition and on a continuing basis into perpetuity.
18. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
19. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.
20. The applicant or current operator shall comply with all state laws applicable to its operation, including but not limited to the Medical Marijuana Regulation and Safety Act, and shall provide written evidence of such compliance to the Department of Planning and Building prior to issuance of building permits and annually thereafter. Any violation of state law shall be grounds for revocation of this permit.
21. The applicant shall, as a condition of approval of this permit, defend and indemnify, at his or her sole expense, the County of San Luis Obispo, its present or former officers, agents, or employees, against any action, proceeding, or claim brought by a third party challenging either the decision to approve this permit or the manner in which the County

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is interpreting or enforcing the conditions of this permit, or any other action by a third party relating to approval or implementation of this permit. The applicant shall indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of any such action. The County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition. This condition shall bind and inure to the benefit and burden of the applicant and any successors and assigns thereto.