

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

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

**PRESENT: Supervisors**

**ABSENT:**

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

RESOLUTION AFFIRMING THE DECISION OF THE PLANNING COMMISSION AND  
APPROVING THE APPLICATION OF TAMMY MURRAY FOR CONDITIONAL USE  
PERMIT DRC2010-00070 REGARDING THE ESTABLISHMENT OF A MEDICAL  
MARIJUANA DISPENSARY

The following resolution is now offered and read:

WHEREAS, on November 3, 2011, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the “Planning Commission”) duly considered and approved the application of Tammy Murray for Conditional Use Permit DRC2010-00070 for the establishment of a medical marijuana dispensary; and

WHEREAS, Barbara Mann 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 March 6, 2012, and determination and decision was made on March 6, 2012; and

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

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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 should be approved based upon 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 the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That this project qualifies for a Categorical Exemption (Class Three) 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.
4. That the appeal filed by Barbara Mann is hereby denied and the decision of the Planning Commission is affirmed, and that the application of Tammy Murray for Conditional Use Permit DRC2010-00070 is hereby approved based upon the findings of fact and determinations set forth in Exhibit A and the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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.

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Chairperson of the Board of Supervisors



**EXHIBIT A – FINDINGS**  
**Conditional Use Permit DRC2010-00070 (Murray)**

*CEQA Exemption*

- A. The project qualifies for a Categorical Exemption (Class Three) 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.

*Conditional 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 and adjusted in Finding G below, 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 Ordinance and Building Code requirements designed to address health, safety and welfare concerns, including limited hours of operation.
- 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 both residential and commercial uses. The medical marijuana dispensary will be also be located in an existing residence 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 South 4<sup>th</sup> Street, a local road constructed to a level able to handle any additional traffic associated with the project. In addition, all “member” visits of this medical marijuana dispensary will be by appointment only, at approximately 15 minute intervals with a maximum number 35 member visits per day.

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*Adjustments*

G. The application of the special use standard from LUO Section 22.30.225 – General Retail subsection c.1, which requires medical marijuana dispensaries be located a minimum of 1,000 feet from any pre-school, elementary school, high school, library, park, playground, recreation or youth center, is unnecessary and shall be waived. This determination and the waiver are based on the location of the proposed medical marijuana dispensary in relation to the public park (Oceano Park). The actual distance of 922 feet between the dispensary and the public park is considered substantial. Significant separation between the proposed medical marijuana dispensary and the park is provided by Highway 1, the rail road, rail road right of way and 4<sup>th</sup> Street. There is also substantial topographic elevation change between the subject property and the public park, providing both a visual and physical barrier. Based on these specific site characteristics the waiver of the 1,000 foot distance requirement of LUO Section 22.30.225, c.1. is appropriate.

H. Based on the specific site characteristics, the project, including the proposed modifications to the standards of this Chapter, will satisfy all mandatory findings required for Conditional Use Permit approval by Section 22.62.060.C.4.

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**EXHIBIT B - CONDITIONS OF APPROVAL**  
**Conditional Use Permit – DRC 2010-00070 (Murray)**

**Approved Development**

1. This approval authorizes:
  - a. a 470 square foot medical marijuana dispensary (MMD), the partial conversion of the existing residence into a commercial building consisting of 470 square feet of commercial space, 235 square feet of residential space, 226 square feet of shared employee/residential space and a new 75 square foot ADA compliant restroom.
  - b. The Medical Marijuana Dispensary must abide by the following limitations on use:
    - i. Hours of operation are limited to 11:00 a.m. to 6:00 p.m. seven days per week.
    - ii. No person under the age of 18 (eighteen) 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 Dispensary property.
  - c. All staff/employees employed by the Medical Marijuana Dispensary must be 21 years of age or older.
  - d. All “member” visits to this medical marijuana dispensary will be by appointment only, at approximately 15 minute intervals with a maximum number of 35 car visits per day.
  - e. A security plan shall be submitted to the Department of Planning and Building.

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

**Improvements to Existing Structure**

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations and landscape plan.
3. **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**

4. **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.

**Services**

5. **At the time of application for construction permits**, the applicant shall provide a letter from the Oceano Community Services District stating they are willing and able to service the property.

**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.

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

7. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before **establishment of the use**. If bonded for, landscaping shall be installed within 60 days after final building. All landscaping shall be maintained in a viable condition in perpetuity.
8. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from CalFire of all required fire/life safety measures.
9. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
10. **Prior to occupancy or final inspection**, 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. Name and phone number of Sheriff's Department contact must be provided so that notification can be confirmed.
11. **Prior to occupancy of structure associated with this approval**, 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 are as follows:

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

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- b. Notice that there is no consumption of medical marijuana in the vicinity of the Dispensary.

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

- 12. The applicant shall maintain the privacy fence located along the eastern and southern property lines.
- 13. 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.
- 14. 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.
- 15. 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.