



CITY OF OAKLAND
Office of the City Administrator

NUISANCE ABATEMENT • SPECIAL ACTIVITY PERMIT

1 Frank H. Ogawa Plaza, 11th Floor • Oakland, CA 94612

Greg Minor, Assistant to the City Administrator
email: gminor@oaklandnet.com

Phone: 510-238-6370
Fax: 510-238-7084

June 27, 2019

To Whom It May Concern:

The City Administrator has adopted the enclosed findings and recommendation of the Administrative Hearing Officer conditionally approving the application of Rickey McCullough to operate a cannabis dispensary at 4430-4432 and 4444 Telegraph Avenue with final approval contingent upon approvals of the building, fire, revenue, and police departments.

Pursuant to Oakland Municipal Code (OMC) Section 5.02.100 and OMC Section 5.80.070 any person excepting to the granting of a permit may appeal this action by filing with the City Administrator a written notice of such appeal setting forth the specific grounds thereof. **The appeal must be submitted no later than 5:00 p.m. on Friday July 12, 2019 to the following address:**

Office of the City Administrator, attn: Special Activity Permits Division
1 Frank H. Ogawa Plaza, 1st Floor, Room 123
Oakland, CA 94612

The appeal must include a \$763 special activity permit appeal filing fee in accordance with the City of Oakland Master Fee Schedule. Payment shall be made out to the City of Oakland via check or money order. After receipt of a timely appeal request and appeal fee, the appellant will be notified of an appeal hearing before an independent hearing officer.¹

Sincerely,

Greg Minor
Assistant to the City Administrator

¹ Per OMC Section 5.80.070, "The City Administrator's decision to issue or deny a permit shall be subject to an appeal by the Applicant pursuant to Section 5.02.100, except that the appeal authorized in Section 5.02.100 shall be to an independent hearing officer and not the City Council. The request for an appeal must be made in writing within fourteen (14) days of the City Administrator's decision. The decision of the independent hearing officer shall be final and conclusive."



CITY OF OAKLAND
Office of the City Administrator

NUISANCE ABATEMENT • SPECIAL ACTIVITY PERMIT

1 Frank H. Ogawa Plaza, 11th Floor • Oakland, CA 94612

Greg Minor, Assistant to the City Administrator
email: gminor@oaklandca.gov

Phone: 510-238-6370
Fax: 510-238-7084

June 7, 2019

**FINDINGS AND RECOMMENDATION OF HEARING OFFICER ON APPLICATION OF
RICKEY MCCULLOUGH FOR A PERMIT TO OPERATE A CANNABIS DISPENSARY AT
4430-4432 AND 4444 TELEGRAPH AVENUE, OAKLAND, CA 94609**

A public hearing on the above application was held on May 23, 2019 in Hearing Room 1, City Hall, 1 Frank H. Ogawa Plaza, Oakland, California. Present at the hearing were Rickey McCullough as well as two members of the public.

Presented below are the findings and recommendation of the Hearing Officer:

FINDINGS

1. Mr. McCullough filed a cannabis dispensary permit application in the fall of 2017 in response to the Office of the City Administrator's Request for Permit Applications (RFPA) that sought candidates to operate eight new dispensary permits.
2. Mr. McCullough applied as an equity applicant as defined by Oakland Municipal Code (OMC) 5.80 and 5.81.
3. City staff reviewed Mr. McCullough's dispensary permit application and determined it was complete and that Mr. McCullough submitted the required documentation to verify that its ownership qualified as equity under OMC 5.80 and 5.81.
4. City staff informed Mr. McCullough that he was eligible for a public drawing from which the City would select four equity applicants to proceed to RFPA Phase Three: Site Identification, in which applicants have up to ninety (90) days to identify a location for their cannabis dispensary that complies with the location restrictions under OMC 5.80.
5. On January 31, 2018 Mr. McCullough was one of the four equity applicants selected via the dispensary public drawing.
6. On or about April 26, 2018, within the Phase Three 90-day period, Mr. McCullough provided the Special Activity Permits Division in the Office of the City Administrator

with a letter of intent to purchase 2003 Telegraph Avenue for operation of a cannabis dispensary.

7. A public hearing regarding this proposed location then took place on June 7, 2018 and Mr. McCullough ultimately received conditional approval to operate a dispensary at 2003 Telegraph Avenue from the City Administrator on or about June 18, 2018.
8. Unfortunately, after receiving this approval, Mr. McCullough informed the City of Oakland that he was unable to purchase 2003 Telegraph Avenue and seeking an alternative location.
9. Eventually, Mr. McCullough identified 4430-4432 and 4444 Telegraph Avenue as an alternative site for his dispensary.
10. A mapping of these addresses revealed two sensitive uses nearby:
 - a. Oakland International High School, whose side door is more than 700 feet via path of travel and whose front door is more than 1,000 feet via path of travel from the proposed dispensary.
 - b. Oakland Field of Dreams, Rickey Henderson Field, whose home base is approximately 700 feet away via path of travel from the proposed dispensary.
11. Notice of the public hearing was timely provided to neighboring property owners within 300 feet, the applicant, and posted in the Oakland Tribune newspaper and on the City's bulletin board, as well as the premises.
12. Prior to the public hearing the Special Permits Division received a letter from the Temescal Telegraph Business Improvement District (BID) in support of the proposed dispensary and one email from a neighbor concerned about dispensary customers taking up parking in the Temescal neighborhood.
13. Mr. McCullough presented at the public hearing. His presentation provided an overview of the dispensary operation as well as his background in the cannabis industry. Mr. McCullough stated that he wanted his dispensary to have a positive impact on the community by removing trash and graffiti nearby, helping clean the future pedestrian plaza by the former Kasper's Hot Dog, and supporting maintenance of the Rickey Henderson Field nearby.
14. No speakers spoke in opposition to the proposal. Shifra de Benedictis-Kessner, Executive Director of the Temescal Telegraph BID, spoke in support of the dispensary and expressed excitement over the dispensary's potential to complement other shops and restaurants in the area.

DISCUSSION

The purpose of the hearing was to determine if the property at 4430-4432 and 4444 Telegraph Avenue is a suitable location to operate a cannabis dispensary. 4430-4432 and 4444 Telegraph Avenue is in a commercial zone and it includes a parking lot for use by dispensary customers. A dispensary at this location would also be the first in the Temescal neighborhood and thus realize the intent of City Council's 2016 amendments to extend the

areas in which cannabis retail businesses locate so as not to unduly concentrate dispensaries in downtown, West Oakland and East Oakland.

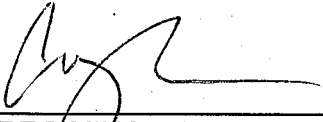
Although both a baseball field and school are situated nearby, the path of travel between the proposed dispensary and Oakland International High School is more than the 600 feet via path of travel as required by OMC 5.80.020, and the dispensary's commitment to support maintenance of the nearby baseball field should benefit youth in the area.

Further it is extremely unlikely that a dispensary at 4430-4432 and 4444 Telegraph Avenue will lead to any increase in youth consumption of cannabis. First, the dispensary will have identification protocols to ensure no youth purchase cannabis onsite. Second, the dispensary will have security outside the dispensary who can ensure that no customers attempt to resell any purchased cannabis to youth. Third, selling or allowing reselling of cannabis to youth would be grounds for revocation of the dispensary permit, an enormous deterrent that will influence all dispensary operations.

OMC 5.80.020(D)(1) allows the City Administrator to waive the 600-foot distance requirement between a dispensary and a youth center if the City Administrator determines that the location will not impact the peace, order and welfare of the public. In light of the factors discussed above, the hearing officer recommends waiving the 600-foot requirement and allowing Mr. McCullough operate a cannabis dispensary at 4430-4432 and 4444 Telegraph Avenue.

RECOMMENDATION

For the reasons stated above, the hearing officer recommends that the City Administrator conditionally approve Mr. McCullough to operate a cannabis dispensary at 4430-4432 and 4444 Telegraph Avenue with final approval contingent upon approvals of the building, fire, revenue and police departments.



GREG MINOR, HEARING OFFICER

6/7/19

DATE

cc via email:
City Administrator Sabrina Landreth
Councilmember Kalb
Captain Bolton, OPD
Officer Romero, OPD
CAO File

