



City of San Juan Bautista

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AGENDA

HISTORIC RESOURCES BOARD MEETING

CITY HALL COUNCIL CHAMBERS
311 Second Street
San Juan Bautista, California

TUESDAY ~ AUGUST 1, 2017

In compliance with the American with Disabilities Act, if you need special assistance to attend or participate in the meeting, please call the City Clerk's Office at (831) 623-4661, extension 13 at least 48 hours prior to the meeting.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the meeting and City Hall at 311 Second Street, San Juan Bautista, California during normal business hours.

1. Call to Order

Pledge of Allegiance

Roll Call

6:00 PM

2. Public Comment

3. Informal Project Review

Any potential and/or future project applicant may present their project to the HRB for Informal Project Review for the purpose of gaining information as preliminary feedback only. No formal application is required and no action will be taken by the HRB on any item at this time.

4. Action Items

All matters listed under the Consent Agenda may be enacted by one motion authorizing actions indicated for those items so designated. There will be no separate discussion of these items unless requested by a member of the HRB, a staff member, or a citizen.

A. Approve Affidavit of Posting Agenda

5. Public Hearing Items

A. Consider a Conditional Use Permit (CUP 2017-61) for a Medical Clinic in the Historic District at 301 Third Street (APN 002-170-005) and make a recommendation to the Planning Commission. Applicant: Mandisa Snodey

B. Consider a Conditional Use Permit for On-Site Alcohol Sales at 106 Third Street and make a recommendation to the Planning Commission. Applicant: Sean Fitzharris

6. Comments

A. Historic Resources Board Members

B. City Manager

C. Community Development Director

7. Adjournment

AFFIDAVIT OF POSTING

I, TRISH PAETZ, DO NOW DECLARE, UNDER THE PENALTIES OF PERJURY THAT I AM THE DEPUTY CITY CLERK IN THE CITY OF SAN JUAN BAUTISTA, AND THAT I POSTED THREE (3) TRUE COPIES OF THE ATTACHED HISTORIC RESOURCES BOARD MEETING AGENDA. I FURTHER DECLARE THAT I POSTED SAID AGENDA ON THE 26th DAY OF JULY 2017, AND I POSTED THEM IN THE FOLLOWING LOCATIONS IN SAID CITY OF SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA.

1. ON THE BULLETIN BOARD AT CITY HALL, 311 SECOND STREET.
2. ON THE BULLETIN BOARD AT THE CITY LIBRARY, 801 SECOND STREET.
3. ON THE BULLETIN BOARD AT THE ENTRANCE TO THE UNITED STATES POST OFFICE, 301 THE ALAMEDA

SIGNED AT SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA, ON THE 26th DAY OF JULY 2017.



Trish Paetz, Deputy City Clerk

CITY OF SAN JUAN BAUTISTA

HISTORIC RESOURCES BOARD

STAFF REPORT

DATE: August 1st, 2017

SUBJECT: Conditional Use Permit – 301 Third Street

Applicant: Mandisa Snodey

Zoning: Mixed Use/Historic District/Nationally Recognized Historic District

Assessor Parcel No.: 002-170-005

Size: 0.3636 acres

Existing Land Use: Commercial

Environmental Review: This Conditional Use Permit is Categorically Exempt under Section 15332 of the California Environmental Quality Act, "In-Fill Development Projects."

Details: The applicant is requesting a conditional use permit for a medical clinic at 301 Third Street. The medical clinic will be made up of licensed physicians providing recommendation services.

Background: The applicant came into City Hall on May 18th, 2017, to renew/update her business license for the Closet Under the Stairs Apothecarium. There were two parts to the update of her business license:

- 1) Change of address
 - a. The applicant proposed moving the business to 301 Third Street
- 2) Change of use
 - a. The use proposed by the applicant at the new address involved the addition of a licensed physician, which was not a part of her existing business

The City's business license states that "*Change of use or business location renders this license null and void,*" so in order to issue a new business license, City Staff requested that the applicant submit a description of the business being proposed for 301 Third Street in order to verify that the use was permitted

in that location. City Staff determined the addition of the licensed physician, who would be consulting with 'patients' and issuing recommendation letters, made the use fall into a grey area in terms of permitted or conditional uses in the Mixed-Use zone, so the applicant was advised that they needed to get a use determination from the Planning Commission in order to move forward with the relocation and modification of her business.

In the meantime, City Staff issued another business license to the applicant, which will have to be modified based on the determination made by the Planning Commission. This does not create a conflict, however, because it is clearly stated in San Juan Bautista Municipal Code §3-3-200 "Purpose" that:

The payment of a business tax required by this Chapter, and its acceptance by the City, and the issuance of a business license to any person shall not entitle the holder thereof to carry on any business unless he has complied with all of the requirements of the San Juan Bautista Municipal Code and all other applicable laws, nor does the issuance of a license allow a business to be carried on in any building or on any premises designated in such business license where such building or premises are situated in a zone or locality in which the conduct of such business is in violation of this code or any law.

A use determination is critical in establishing whether or not the proposed business will be permitted, conditionally permitted, or not permitted at 301 Third Street.

The applicant's request for a use determination was added to the agenda for the regular Planning Commission meeting on June 6th, 2017. At the meeting, it was tabled by the Planning Commission pending the Marijuana Forum that was scheduled for June 14th, 2017, guidance from the City Attorney (who was not present at the June 6th meeting), and the preliminary City Council review of current and proposed ordinances and policies related to marijuana.

Subsequently, the applicant asked if she could have her request for a use determination put before the City Council so that she would not experience a delay in opening her proposed business. The applicant's use determination request was put on the City Council agenda for their regular meeting on June 20th, 2017, as item 7F under Action Items.

At the June 20th, 2017, meeting, the City Council declined to take up Item 7F, stating that it was a land use issue and therefore should be ruled on by the Planning Commission first. They directed the Planning Commission to take up this item at their next meeting (special or regular) and make a determination. If

the applicant disagrees with the ruling she can then appeal the decision to the City Council.

At the regular Planning Commission on July 10th, 2017, the Planning Commission decided to continue the item to the August 1st, 2017, due to confusion over new information that was presented after the packet was sent out.

After the July 10th, 2017, meeting, the applicant met with City staff several times to discuss options for moving forward. In an effort to simplify the process, the applicant decided to move the Mariposa Center and Secret Pathway segments of her business to a different location and expand the licensed physician/recommendation letter segment to include multiple physicians. Having multiple physicians on site unquestioningly qualifies the use as a 'medical clinic,' and therefore the applicant is now applying for a conditional use permit for that use.

Findings: If the Planning Commission decides to issue a conditional use permit, they must make the findings listed in SJBMC §11-20-030 based on substantial evidence in view of the whole record. The Planning Commission must find that:

- A. That the use is necessary or desirable in relation to the purposes and intent of the San Juan Bautista General Plan, zoning ordinance, and the economic, social, and environmental status of the City;
- B. That the use will be properly related to other uses, transportation facilities, and other public facilities in the area, and will not cause undue environmental impacts relating to noise, odor, pollution, etc.; and
- C. That the use will not adversely affect the health or safety of persons living or working in the vicinity, or be materially detrimental to the public welfare of the City and its residents.

Conditions of Approval: Due to the fact that medical marijuana dispensaries are currently illegal in the City of San Juan Bautista and the proposed use provides services closely linked to those of medical marijuana dispensaries, if the Planning Commission chooses to issue a Conditional Use Permit for this use, they should consider the possibility of attaching conditions of approval to the permit that will ensure those uses remain separate. The conditions can also include provisions that allow for easier and more effective monitoring and enforcement. Those conditions could include:

- A condition stating that the permit will be revoked if any marijuana or marijuana product is sold or changes hands on the site.
- A condition requiring that the exterior storefront windows along the Mariposa Street and Third Street frontage shall be kept free from obstructions or non-transparent materials (such as display cases, posters,

applied window tint, etc.) to a degree that provides public safety officers with direct lines of sight into the establishment.

- A condition, based on the items listed in California Health and Safety Code §11014.5 (of the Uniform Controlled Substances Act) and SJBMC Chapter 5-14 "Sale and Display of Narcotic and Other Paraphernalia," prohibiting "drug paraphernalia" on the site.
- Any other conditions that either limit the allowed activities or define/clarify the parameters within which the use will be allowed.

Action Required:

1. Verify posting of notice of public hearing
2. Open the Public Hearing
3. Receive staff report and supporting documents
4. Receive written comments, e-mail communication, oral testimony and public input.
5. Close the public hearing
6. If, based upon independent review and judgment of the staff report, written comments, email communication, and oral testimony on the project, the Historic Resources Board supports the proposed use of 301 Third Street as a medical clinic, they should take the following actions.
 - A. Recommend that the Planning Commission adopt Resolution 2017-XX, "A Resolution of the Planning Commission of the City of San Juan Bautista approving a Conditional Use Permit for a medical clinic at 301 Third Street," Project No. 2017-82. (Assessor Parcel No. 002-160-003).

Attachments:

California Health and Safety Code §11014.5
San Juan Bautista Municipal Code Chapter 5-14

HEALTH AND SAFETY CODE - HSC

DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651]

(Division 10 repealed and added by Stats. 1972, Ch. 1407.)

CHAPTER 1. General Provisions and Definitions [11000 - 11033]

(Chapter 1 added by Stats. 1972, Ch. 1407.)

11014.5.

(a) "Drug paraphernalia" means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this division. It includes, but is not limited to:

- (1) Kits designed for use or marketed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits designed for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
- (3) Isomerization devices designed for use or marketed for use in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.
- (5) Scales and balances designed for use or marketed for use in weighing or measuring controlled substances.
- (6) Containers and other objects designed for use or marketed for use in storing or concealing controlled substances.
- (7) Hypodermic syringes, needles, and other objects designed for use or marketed for use in parenterally injecting controlled substances into the human body.
- (8) Objects designed for use or marketed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (A) Carburetion tubes and devices.
 - (B) Smoking and carburetion masks.
 - (C) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
 - (D) Miniature cocaine spoons, and cocaine vials.

- (E) Chamber pipes.
- (F) Carburetor pipes.
- (G) Electric pipes.
- (H) Air-driven pipes.
- (I) Chillums.
- (J) Bongs.
- (K) Ice pipes or chillers.

(b) For the purposes of this section, the phrase "marketed for use" means advertising, distributing, offering for sale, displaying for sale, or selling in a manner which promotes the use of equipment, products, or materials with controlled substances.

(c) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Instructions, oral or written, provided with the object concerning its use for ingesting, inhaling, or otherwise introducing a controlled substance into the human body.
- (3) Descriptive materials accompanying the object which explain or depict its use.
- (4) National and local advertising concerning its use.
- (5) The manner in which the object is displayed for sale.
- (6) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
- (7) Expert testimony concerning its use.

(d) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

(Added by Stats. 1982, Ch. 1278, Sec. 1.)

Chapter 5-14
SALE AND DISPLAY OF NARCOTIC AND OTHER PARAPHERNALIA

Sections:

Article 1. Definitions

[5-14-100](#) Definition – Drug paraphernalia store.

[5-14-105](#) Definition – Drug paraphernalia.

Article 2. License Required

[5-14-200](#) License required.

[5-14-205](#) Minors.

[5-14-210](#) Sale and display – Signs.

[5-14-215](#) Prior convictions.

[5-14-220](#) Prior revocation of license.

[5-14-225](#) Procedures applicable.

[5-14-230](#) Nuisance. .

Article 1. Definitions

[5-14-100](#) Definition – Drug paraphernalia store.

As used herein, "drug paraphernalia store" shall mean any establishment or place where drug paraphernalia is displayed, grouped, advertised, or promoted for the purpose of sale, either as a primary business or as an incident of some other business. "Drug paraphernalia store" as used herein does not include an establishment or place specifically licensed or authorized by the state or federal government or any agency thereof to sell or offer for sale marijuana, hashish, cocaine, or any controlled substance as defined in the Health and Safety Code of the State of California, when drug paraphernalia is displayed, advertised, or promoted for the purpose of sale to persons authorized by prescription or otherwise to legally possess such marijuana, hashish, cocaine, or other such controlled substance with which the drug paraphernalia item is so used; nor does "drug paraphernalia store" include any establishment or place licensed by the state or federal government, or any agency thereof to lawfully sell drug paraphernalia.

5-14-105 Definition – Drug paraphernalia.

As used herein, “drug paraphernalia” means any of the following when displayed, grouped, advertised or promoted for sale:

(A) Any item whether useful for non-drug-related purposes or not, which is displayed, grouped with other items, advertised, or promoted in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, manufacturing, preserving, **inhaling, injecting or ingesting** of marijuana, hashish, cocaine, or any controlled substance as defined in the Health and Safety Code of the State of California.

(B) Any item, whether useful for non-drug-related purposes or not, which is designed, decorated or adorned in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, **inhaling, injecting, or ingesting** of marijuana, hashish, cocaine, or any controlled substance as defined in the Health and Safety Code of the State of California.

(C) Any item defined by any statute of the State of California as drug paraphernalia.

Article 2. License Required

5-14-200 License required.

Every person conducting or managing a drug paraphernalia store shall first procure a license, and pay in addition to any other fees required by law, a license fee in the amount of one hundred dollars (\$100.00).

5-14-205 Minors.

Any person engaged in, conducting, managing or carrying on a drug paraphernalia store, shall not (a) permit persons under the age of eighteen (18) years of age to enter, unaccompanied by his or her parent or legal guardian, any area of such establishment or store, where such person under the age of eighteen (18) years may view drug paraphernalia; (b) sell drug paraphernalia to any person under the age of eighteen (18) years of age.

5-14-210 Sale and display – Signs.

Any drug paraphernalia store licensed under the provisions of this Chapter shall maintain a sign posted in reasonably visible and legible words to the effect that drug paraphernalia are sold or offered for sale and that minors, unless accompanied by a parent or legal guardian, are excluded.

5-14-215 Prior convictions.

No person shall be eligible for a license to conduct or manage a drug paraphernalia store if such person has been convicted of violating Sections 11351, 11352, 11353, 11354, 11359, 11360, 11361 and 11364 of the California Health and Safety Code.

5-14-220 Prior revocation of license.

No person shall be eligible for a license to conduct or manage a drug paraphernalia if such person has violated Section 11364.5 of the Health and Safety Code or any local ordinance regulating the sale and/or display of drug paraphernalia and, as a consequence of such violation has had revoked any license, permit or entitlement issued by a city, county, or city and county for the privilege of engaging in such a business.

5-14-225 Procedures applicable.

The procedures for issuance, investigation, denial, revocation, suspension and renewal of licenses provided in Chapter 3-3 SJBMC shall be applicable to licenses issued hereunder.

5-14-230 Nuisance.

In addition to any other remedy provided by law, the sale, or the exhibition or display for purposes of sale, of drug paraphernalia, as defined herein, in violation of this Chapter, is hereby declared to be a public nuisance and may be abated pursuant to the provisions of Section 731 of the Code of Civil Procedure.

Legislative History: Ord. 96-05 (5/21/96).

CITY OF SAN JUAN BAUTISTA

HISTORIC RESOURCES BOARD

STAFF REPORT

DATE: August 1st, 2017

SUBJECT: Conditional Use Permit – 106 Third Street

Applicant: Sean Fitzharris

Zoning: Mixed Use

Assessor Parcel No.: 002-200-003

Size: 6,809.6652 ft²

Existing Land Use: Mixed Use

Environmental Review: This Conditional Use Permit is Categorically Exempt under Section 15332 of the California Environmental Quality Act, "In-Fill Development Projects."

Details: The property is located in the Mixed Use zone in the Historic District near the northeast corner of the intersection of Franklin Street and Third Street. It is bordered by commercial uses to the east (Doña Esther's) and west (Visions of Christmas) and residential to the north.

The applicant is requesting a conditional use permit for on-site sales of alcoholic beverages. In the use matrix located in San Juan Bautista Municipal Code §11-02-050, the proposed use is listed as "C, P" for the Mixed Use zone. This is confusing, as "Conditional" and "Permitted" are mutually exclusive categorizations.

Another issue complicating the matter is that the Aimee June wine tasting room was allowed to open as a "Permitted" use.

Analysis: Due to the fact that SJBMC §11-02-050 is unclear as to whether or not the proposed use is conditional or permitted, City staff requested that the applicant apply for a conditional use permit for the property. This permit will cover both businesses on the property and allow the Historic Resources Board

and Planning Commission to have input on/oversight over the sale of alcohol on the site.

The site already has the Aimee June wine tasting room, so the addition of the Brewery 25 beer tasting room will give the location similar offerings to what The 18th Barrel offers at the other end of downtown. While some may argue that the downtown has a high concentration of establishments that serve alcohol, the creation of a historic downtown that features local beer and wine makes it a much more desirable destination for many visitors, who can stay at local hotels, do walking tours of the city, sample offerings from local breweries and wineries, and dine at local restaurants during their stay in San Juan Bautista.

Procedure: Chapter 11-20 of the San Juan Bautista Municipal Code describes the procedure for handling use permit applications. Under SJBMC §11-20-020, the Planning Commission may “*approve, approve with conditions, or disapprove a use permit,*” and they may also “*impose such reasonable conditions as it deems appropriate, including but not limited to issues such as duration of activities, and dedications or improvements of public facilities, site, structure and landscaping features and design related to the findings specified in SJBMC 11-20-030.*”

The Planning Commission must carefully consider the potential impacts of the proposed use and how those impacts could potentially be mitigated by conditions attached to the use permit (eg- limited hours of operation, safety upgrades, installation of curb and gutter, etc.).

Findings: In order to issue a conditional use permit, the Planning Commission must also make the findings listed in SJBMC §11-20-030 based on substantial evidence in view of the whole record. The Planning Commission must find that:

- A. That the use is necessary or desirable in relation to the purposes and intent of the San Juan Bautista General Plan, zoning ordinance, and the economic, social, and environmental status of the City;
- B. That the use will be properly related to other uses, transportation facilities, and other public facilities in the area, and will not cause undue environmental impacts relating to noise, odor, pollution, etc.; and
- C. That the use will not adversely affect the health or safety of persons living or working in the vicinity, or be materially detrimental to the public welfare of the City and its residents.

Parking: The biggest challenge for many businesses and/or new uses in downtown zoning districts such as ours is the requirement to provide adequate parking as required by the local municipal code. In the San Juan Bautista Municipal Code §11-11-160 “Number required – Other uses,” this use falls under

the category of "Restaurant, soda fountain, bar, cocktail lounge, or similar establishment for the sale and consumption of food or beverage on the premises not in a shopping center." This use requires:

1. One (1) space for each sixty (60) square feet of dining area, plus one (1) additional space for each three (3) employees or fraction thereof

The usable 'dining area' of the two tasting rooms is ~1,150 ft². Therefore the requirement is 19 spaces, plus one additional spot for employee parking for each establishment, which brings the total to 21.

There are, however, exceptions to the general on-site parking requirements for businesses in the Mixed-Use zone that allow them to count spaces within a certain distance from the parcel toward their required number of parking spaces. SJBMC §11-11-120 "Mixed use district" states that:

For parcels with mixed use development within the MU district, the number of on-street parking spaces for standard-sized vehicles within one hundred fifty feet (150') of a parcel, or the number that will be within one hundred fifty feet (150') upon completion of planned street/parking improvements, whichever is greater, may be counted toward the required number of parking spaces for commercial or mixed uses.

There are 39 existing on-street parking spaces within 150' of the parcel at 106 Third Street that the applicant can count towards the parking requirement. This exceeds the required number of 21 spaces under SJBMC §11-11-160, and therefore this new use satisfies the parking requirement.

Recommendation:

Staff has reviewed the application for a Conditional Use Permit, and recommends that the Historic Resources Board recommend that the Planning Commission approve CUP 2017-81.

Conditions of Approval: Staff also recommends the inclusion of the following hours of operation as conditions of approval of the use permit:

1. Hours of operation will be between 11 a.m. and 10 p.m.

Action Required:

1. Verify posting of notice of public hearing
2. Open the Public Hearing

3. Receive staff report and supporting documents
4. Receive written comments, e-mail communication, oral testimony and public input.
5. Close the public hearing
6. Based upon your independent review and judgment of the staff report, written comments, email communication, and oral testimony on the project, the Historic Resources Board should take the following actions.
 - A. Recommend that the Planning Commission adopt Resolution 2017-XX, "A Resolution of the Planning Commission of the City of San Juan Bautista approving a Conditional Use Permit for on-site sales of alcoholic beverages at 106 Third Street," CUP No. 2017-81. (Assessor Parcel No. 002-200-003)