

OLYMPIA HEARING EXAMINER DECISION

Community Planning & Development 601 4th Avenue E. – PO Box 1967 Olympia WA 98501-1967 Phone: 360.753.8314

Fax: 360.753.8087
cpdinfo@ci.olympia.wa.us
www.olympiawa.gov

July 31, 2014 2014

Greetings,

Subject: GREEN LADY INC

Case# 14-0062

The enclosed decision of the Olympia Hearings Examiner hereby issued on the above date may be of interest to you. This is a final decision of the City of Olympia.

In general, any appeal of a final land use decision must be filed in court within twenty-one days. See Revised Code of Washington, Chapter 36.70, for more information relating to timeliness of any appeal and filing, service and other legal requirements applicable to such appeal. In particular, see RCW 36.70C.040.

Please contact the City of Olympia, Community Planning and Development Department, at 601 4th Avenue E or at PO Box 1967, Olympia, WA 98507-1967, by phone at 360-753-8314, or by e-mail at cpdinfo@ci.olympia.wa.us if you have any questions.

Sincerely

STEVEN FRIDDLE Principal Planner

Community Planning & Development

Phone: 360-748-3386/Fax: 748-9533

1	BEFORE THE CITY OF OLYMPIA HEARINGS EXAMINER					
2	IN RE:)	HEARING NO. 14-0062			
3	GREEN LADY COMMERCIAL CANNABIS RETAILS SALES,)	FINDINGS OF FACT, CONCLUSIONS OF LAW			
45	Applicant.)	AND DECISION			
6	APPLICANT: Green Lady, Inc. P. O. Box 574 Grapeview, Washington 98546					
7		wasning	gton 98546			
8	REPRESENTATIVES:					
9	Michael Redman					
0	P. O. Box 5/4					
1	Grapeview, Washington 98546					
2	SUMMARY OF REQUEST:					
3	A Conditional Use Permit to convert 744 square feet of an existing 4,200 square foot commercial building into a Licensed Recreational Cannabis retail store.					
4	LOCATION OF PROPOSAL:					
5	3044 Pacific Avenue East SUMMARY OF DECISION:					
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8	The permit application is approved subject to conditions.					
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20	BACKGROUND					
21	The Applicant, Green Lady, Inc., has obtained a license from the State of Washington					
22	Liquor Control Board to operate a recreati	Liquor Control Board to operate a recreational cannabis retail store, one of two such licenses				
	issued for the City of Olympia. The Applicant wants to open a store at 3044 Pacific Avenue Eas					
23	but must first obtain a Conditional Use Pe	but must first obtain a Conditional Use Permit.				
25						
	Findings of Fact, Conclusions of Law and Decision - 1		CITY OF OLYMPIA HEARING EXAMINER 299 N.W. CENTER ST. / P.O. BOX 939 CHEHALIS, WASHINGTON 98532			

As noted in the Staff Report, the Liquor Control Board imposes a significant list of conditions and requirements for the operation of any recreational marijuana retail store. The Applicant has met these requirements. The Applicant proposes to convert 744 square feet of an existing 4,200 square foot tire shop for retail sales of marijuana. The proposed site contains a fairly nondescript commercial building. The majority of the building is currently used by an existing tenant, Rodriguez Tire Shop. The Applicant would utilize the remaining unoccupied portion of this building. The site is located along Pacific Avenue in a commercial neighborhood with an eclectic assortment of businesses and services, the most notable of which is the

headquarters of the Liquor Control Board next door to the site.

The proposed facility will have very limited signage and will not display any products in its windows. There will be a single entry point for customers who will enter into a vestibule to be checked by a security person. No minors will be allowed unless accompanied by adults. Once customers have passed through security they will be ushered into a waiting room. From there they will be taken into the sales room one at a time to speak to a sales clerk. The sales room will only have samples of products. Product will be maintained in a separate, secured storage room. The entire facility will have extensive surveillance and all inventory will be closely monitored and tracked.

City Staff met with the neighborhood association to review the project. Approximately twelve commercial neighbors attended the meeting. The neighborhood association does not oppose the project and there has been no other public opposition to it.

The public hearing commenced at 6:30 p.m., on Monday, July 28, 2014, in the Planning Hearing Room in the City Hall. The City appeared through Steve Friddle, Principal Planner for the City. The Applicant appeared through Michael Redman and Isaac Leff. Testimony was received from the City through Mr. Friddle as well as Darren Nienaber, Assistant City Attorney.

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Testimony from the Applicant was received from Mr. Redman and Mr. Leff. A verbatim
recording was made of the public hearing and all testimony was taken under oath. Documents
considered at the time of the hearing were the City Staff Report including all attachments, all of
which had been received prior to the hearing. No additional documents were admitted as
exhibits during the hearing. The Hearing Examiner visited the site prior to the public hearing.

Mr. Friddle testified briefly regarding the City's Staff Report and recommendations. Mr. Friddle noted that the primary responsibility for regulating this business is through the State Liquor Control Board but that it also must comply with the City's Comprehensive Plan, Environmental Regulations and Unified Development Code. Mr. Friddle testified that the project, as conditioned, will comply with all of these requirements and recommended approval of the requested permit subject to thirteen conditions. The City's proposed conditions are consistent with those imposed by the Liquor Control Board. The City's conditions require proper licensing, limited display and signage, proper ventilation and noise control, prohibitions on unaccompanied minors and the consumption of products on site, thorough monitoring, limitations on hours of operations, and proper disposal of all waste. The City's additional conditions 10 through 13 address possible expansion of the facility at a later date. Mr. Friddle notes that the only difference between the regulations imposed by the Liquor Control Board and the City is that the City restricts hours of operation from 8:00 a.m. to 9:00 p.m. (not 10:00 p.m. as allowed by the Liquor Control Board).

Following Mr. Friddle's testimony Mr. Leff and Mr. Redman spoke on behalf of the application. Mr. Leff noted that the Applicant is one of two approved for retain operations within the City. He further noted that the proposed use is heavily regulated by the Liquor Control Board including: no minors unless accompanied by adults; no advertising directed toward minors; various site restrictions; thorough recordkeeping; no firearms on site; no

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consumption of product on site; intensive surveillance of the site; and careful reporting and tracing of all sales and inventory. Mr. Leff also noted that the Applicant is restricted to one sign with no more than 1,600 square inches of area, or roughly 3 feet by 3 feet. This sign will only bear the business name and will not provide any other advertising. Mr. Leff concluded his testimony by acknowledging that the Applicant has no objection to the conditions requested by City Staff.

Following the Applicant's presentation the hearing was opened for public testimony. The only member of the public present was Grace Cox. Ms. Cox works at the food co-op immediately across Pacific Avenue from the site. She had no objection to the proposed use but simply wished to express her ongoing concern over the need to improve pedestrian safety along Pacific Avenue, especially as new businesses are brought into the neighborhood.

As earlier noted, State regulations prohibit unaccompanied minors from entering; prohibit weapons on the premises and further prohibit any consumption of product on the site. At the same time, however, these regulations also prohibit signage that would better notify customers of these requirements. Having a security person at the entrance will ensure that minors are not allowed and that firearms are kept out of the premises, but there is no effective mechanism for ensuring that customers will not consume products on the site once they have left the building. In order to better enforce this requirement I have suggested that a sign be posted inside the building next to where customers will exit, advising them that the purchased product may not be consumed on the site. The City Staff joins in this suggestion and the Applicant has no objection. Accordingly, the Application should be approved subject to the thirteen conditions requested by City Staff and the additional fourteenth condition that the Applicant post a sign next to the exit warning customers that no purchased product may be consumed on the premises.

I therefore make the following:

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FINDINGS OF FACT

- 1. The Applicant, Green Lady, Inc., requests a Conditional Use Permit in order to convert 744 square feet of an existing building into a Commercial Licensed Recreational Cannabis retail store, located at 3044 Pacific Avenue East.
- 2. The Findings of Fact contained in the foregoing Background section are incorporated herein by reference and adopted by the Hearing Examiner as his own Findings of Fact.
 - 3. The proposed site is zoned High Density Corridor-4.
 - 4. The proposed use is exempt from SEPA regulation.
- 5. Notification of the public hearing was mailed to the parties of record, property owners within 300 feet and recognized neighborhood associations, posted on the site and published in The Olympian in conformance with Olympia Municipal Code 18.78.020.
- 6. Commercial retail sales are a permitted use in the project's zoning district, and the existing building complies with the development standards for setbacks, height, development coverage, and parking.
- 7. The City's Comprehensive Plan does not contain any specific policies concerning cannabis although it does contain general policies concerning retail sales within the HDC-4 zoning district. The application, as conditioned, meets these requirements.
- 8. The Staff Report, at page 3, contains Findings related to compliance with regulations imposed by the State of Washington Liquor Control Board. The Hearing Examiner has reviewed those Findings and adopts them as his own Findings of Fact.
- 9. The Staff Report, at page 5, contains Findings related to compliance with the conditional use requirements of OMC 18.48. The Hearing Examiner has reviewed those Findings and adopts them as his own Findings of Fact.

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- 6. No consumption of marijuana, products containing marijuana or alcohol on the premises is allowed and there shall be no other associated use such as a smoking room, dance or performance space, private club, open-to-the-public nightclub, cabaret, tavern, or similar establishment pursuant to OMC 18.51.040(B)(6).
- 7. The retail store shall have an operating security and alarm system that is monitored by twenty-four (24) hours a day and that includes a video recording system that monitors production, storage, and point of sale areas. All video recordings must be continuously recorded twenty-four (24) hours a day and must be kept for a minimum of forty-five (45) days on the licensee's recording device. All videos are subject to inspection by the Olympia Police Department upon request pursuant to OMC 18.51.040(B)(7).
- 8. A retailer may be open only between the hours of 8 a.m. and 9 p.m. pursuant to OMC 18.51.040(B)(8).
- 9. All waste products shall be disposed of in a secure manner that would prevent exposure to the public or create a nuisance pursuant to OMC 18.51.040(C)(1)(ii).
- 10. Any floor area or site alterations expansion or modification shall be submitted to the Site Plan Review Committee (SPRC) for review. Expansions or modifications shall be consistent with the original conditions of approval and applicable regulations.
- 11. If proposed, the Applicant shall apply for and receive building permits for any structural alterations, tenant improvements, building façade changes or signs. Such building permit applications shall include applicable Design Guidelines consistent with building permit application for compliance with Basic Commercial Design Criteria Chapter 18.110 and the Commercial Design Criteria High Density Corridor Chapter 18.130.

1	12. Noncompliance with the conditions of the permit shall be grounds for rehearing				
2	before the Hearing Examiner pursuant to OMC 18.48.060.				
3	13. This Conditional Use Permit may be transferrable provided that the transferee				
4	complies with each of the conditions. If at any time the conditional use no longer complies with				
5	the conditions of the permit, the owner shall be declared in violation of this title and shall be				
6 7	subject to its penalties, suspension or revocation pursuant to OMC 18.48.060.				
8	14. The Applicant shall be required to place a sign near the exit to the building				
9	warning customers that consumption of purchased products may not be consumed on site.				
10	DECISION				
11	Subject to the Conditions the requested Conditional Use Permit is approved subject to				
12	the foregoing Conditions.				
13	DATED this <u>30</u> day of July, 2014.				
14	K				
15	Mark C. Scheibmeir				
16	City of Olympia Hearing Examiner				
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18	RECONSIDERATION/APPEAL				
19	This is a final decision of the City. Any party may file a Motion for Reconsideration				
20	within 10 days of service of this decision in accordance with OMC 18.75.060. Appeals shall be made to Superior Court pursuant to provisions of Chapter 36.70C RCW. The filing of a Motion for Reconsideration is not a prerequisite for seeking judicial review. If a Motion for Reconsideration is filed, the time for filing an appeal shall not commence until disposition of the Motion.				
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IA HEARING EXAMINER ENTER ST. / P.O. BOX 939 **CHEHALIS, WASHINGTON 98532** Phone: 360-748-3386/Fax: 748-9533