



Sonoma County Board of Zoning Adjustments STAFF REPORT

FILE: UPC17-0036
DATE: May 16, 2019
TIME: 2:00 pm
STAFF: Crystal Acker, Project Planner

Appeal Period: 10 calendar days

SUMMARY

Applicant/Operator: KJM Data and Research, LLC., Keenan Soares, Manager

Landowner: Industry West Commerce Center, LLC., Vincent M. Rizzo, Manager/Owner

Location: 256 Sutton Place, Suite 104, Santa Rosa

APN: 134-102-089

Supervisorial District No.: 5

Subject: Cannabis Use Permit for Indoor Cultivation, Processing, Non-Volatile Manufacturing, Distribution and Transportation

PROPOSAL: Request for a five-year limited term use permit for: 1) 15,390 square feet of indoor cannabis cultivation and 96 square feet of indoor wholesale nursery cultivation (total canopy area 15,486 square feet utilizing tiered racking systems), 2) 2,270 square feet of propagation, 3) on-site processing of site-grown plants, 4) non-volatile manufacturing, and 5) distribution/transportation within a total leased area of 23,111 square feet within an existing 103,043 square foot industrial building on an 11.3-acre Heavy Industrial zoned (M2) property. The applicant is currently operating 1,824 square feet of indoor cultivation and non-volatile manufacturing under the Penalty Relief program.

Environmental Determination: Categorically exempt per Section 15301(a) (Existing Facilities), as an existing facility involving negligible expansion of use in an existing industrial building involving only interior improvements.

General Plan Land Use: General Industrial (GI)

Specific/Area Plan: South Santa Rosa Area Plan



<u>Land Use:</u>	General Industrial
<u>Zoning:</u>	Heavy Industrial (M2), Riparian Corridor 100-foot development setback (RC100/25), Valley Oak Habitat (VOH)
<u>Ord. Reference:</u>	26-48-020(z) – Heavy Industrial Uses Permitted with a Use Permit; 26-48-030 – Heavy Industrial Building Intensity and Development Criteria; 26-88-250 – Commercial Cannabis Uses; 26-88-254 – Cannabis Cultivation-Commercial.
<u>Application Complete:</u>	December 21, 2018

RECOMMENDATION: Recommend that the Board of Zoning Adjustments approve the request, with conditions, for a five year limited-term Minor Use Permit for: 1) 15,390 square feet of indoor cannabis cultivation and 96 square feet of indoor wholesale nursery cultivation (total canopy area 15,486 square feet utilizing tiered racking systems), 2) 2,270 square feet of propagation, 3) on-site processing of site-grown plants, 4) non-volatile manufacturing, and 5) distribution/transportation within a total leased area of 23,111 square feet within an existing 103,043 square foot industrial building on an 11.3-acre Heavy Industrial zoned (M2) property.

EXECUTIVE SUMMARY: Staff is recommending approval of the cannabis Minor Use Permit application because:

- The project is consistent with the goals and objectives of the General Plan in that it will consist of a cannabis cultivation, processing, manufacturing, distribution, and transportation operation within an existing building connected to public sewer and water in an industrial area;
- The project is consistent with South Santa Rosa Area Plan policies and standards;
- Commercial cannabis cultivation, non-volatile manufacturing, and distribution/transportation are allowed uses in the Heavy Industrial zoning district (M2) and General Industrial land use designation (GI);
- The proposed project meets the development criteria of Sonoma County Cannabis Ordinance No. 6189 and will meet the operating standards of the Ordinance through compliance with recommended conditions of approval;
- The design, location, size, and operating characteristics of the project are considered compatible with the neighborhood and surrounding land uses in the vicinity.

ANALYSIS

Background:

Regulations. In October 2015, the Governor signed three bills into law collectively known as the Medical Cannabis Regulations and Safety Act establishing the State's first licensing system for commercial medical cannabis activity.

In November 2016, California voters approved Proposition 64, legalizing the adult use and possession of cannabis.

On December 20, 2016, the Sonoma County Board of Supervisors adopted the Cannabis Ordinance (No. 6189) to establish a comprehensive local program to permit and regulate medical cannabis to align with State Regulations. The ordinance was intended to preserve environmental resources, protect the health and safety of communities, and ensure the industry contributes positively to the economic vitality of the County.

In June 2017, the Governor signed a bill creating a single regulatory scheme for both medical and adult use cannabis businesses.

On October 16, 2018, the Sonoma County Board of Supervisors adopted an amendment to the Cannabis Ordinance (No. 6245), extending the maximum term of cannabis use permit from one year to five years, authorizing adult use in addition to medical with a use permit, increasing minimum parcel size in agricultural and resource zones, allowing non-flowering propagation up to 25% of the permitted cultivation area with a use permit, and clarifying a number of additional items, such as setbacks and definitions.

Application Processing. On August 30, 2017, a Minor Use Permit application was submitted for Indoor Cultivation, Wholesale Nursery Cultivation, Non-Volatile Manufacturing, and Distribution/Transportation.

On August 30, 2017, the applicant also submitted a Penalty Relief application to continue existing operations under the Penalty Relief Program, including 2,200 square feet of cultivation and non-volatile manufacturing.

On October 3, 2017, the Penalty Relief application was amended and resubmitted for 1,824 square feet of cultivation and non-volatile manufacturing. The amendment was submitted to more accurately represent the actual existing square footage of cultivation area.

On May 1, 2018, the application was deemed complete for processing.

On May 8, 2018, the application was sent out on agency referral.

On July 24, 2018, a site inspection was conducted by County staff.

On November 27, 2018, the application was amended to request a 5-year permit term, adult use, and indoor propagation.

On December 21, 2019, the amended application was deemed complete for processing.

On January 7, 2019, Permit Sonoma sent an Intent to Post a Notice of Hearing Waiver to the District 5 Supervisor's Office.

On January 16, 2019, Permit Sonoma posted a Notice of Hearing Waiver and mailed it to neighboring properties within 1,000 feet of the parcel boundaries.

On January 20, January 24, and January 26, 2019, three requests for public hearing were received (Exhibit J) citing crime, traffic on Moorland Avenue, noise, and air quality concerns.

On May 3, 2019, Permit Sonoma sent notification of the hearing date to neighboring properties within 300 feet of the parcel boundaries, and to all members of the public who had previously requested notice as an "interested party." Two public comments expressing traffic concerns have been received in response to the hearing notification. These letters are part of the administrative record and have been attached to this Staff Report for reference (Exhibit K).

Project Description: The applicant requests a five-year limited-term Minor Use Permit for indoor cannabis cultivation and indoor wholesale nursery cultivation, propagation, on-site processing of site-grown plants, non-volatile manufacturing, and distribution/ transportation within a 23,111 square foot leased premise in an existing 103,043 square foot industrial building on an 11.3-acre heavy industrial zoned (M2) property. The cannabis operation will consist of (see Exhibit B – Proposal Statement and Exhibit H – Floor Plans):

- 15,390 square feet of indoor cannabis cultivation
- 96 square feet of non-flowering indoor wholesale nursery cultivation
 - Total cultivation canopy area 15,486 square feet utilizing tiered racking systems
- 2,270 square feet of propagation (vegetative production of mother plants and clones to support the cultivation operation)
- 2,178 square feet of on-site processing of site-grown cannabis, consisting of trimming, drying, curing, weighing, and packaging
- 3,256 square feet of non-volatile manufacturing
- 243 square feet of distribution/ transportation
- Support spaces including storage, offices, break rooms, restrooms, hallways, and an electrical room, and a secure indoor loading area accessed by a roll-up door.

The applicant is currently operating 1,824 square feet of indoor cultivation and non-volatile manufacturing under the Penalty Relief Program.

Cultivation will occur using 3-tiered mobile racking systems. Mobile racks maximize cultivation space so that less walkway space is needed for cultivators to reach all plants. One full-width aisle is provided along one side and at the end of each cultivation room when all the racks are pushed together. When the end rack is pushed against the end wall, it creates a new aisle between the adjacent racks. Each additional rack can move along a track to provide a new aisle until reaching the opposite wall. Plants will be grown in soil medium in trays or containers. Proposed interior tenant improvements include construction of internal walls, installation of tiered racking systems, irrigation, and odor-controlling ventilation systems and energy-efficient lighting in cultivation rooms, installation of a building security system, and various building upgrades to meet code (e.g., fire sprinklers, extinguishers and lighted exit signs; ADA compliant path of travel and restrooms).

No external building improvements are proposed. The building is served by public water and public sewer provided by the City of Santa Rosa. Correspondence from the City of Santa Rosa indicates that, while the City does not provide project-specific "will serve" letters for water and sewer utility services, public water and sewer are currently provided to the operation and will continue to be available.

Hours of Operation. Indoor cultivation, processing, and manufacturing operations are proposed to occur 24 hours per day, 7 days per week, although generally the use will occur between 8:00 am and 5:00 pm. Typically, 2-3 employees would be present in the building overnight, partly for security, but also to monitor cultivation activities (e.g., automatic watering, temperature control, and lighting systems), and complete ongoing manufacturing processes (e.g., extraction runs started by not completed by 5pm). Deliveries and shipping/distribution operations are proposed from 8:00 am to 5:00 pm Monday through Friday. No outdoor activities are proposed.

Employees. The maximum employee number during peak harvest and processing operations will be 25 employees. The operation will not be open to the public.

Parking. 22 existing parking spaces are dedicated to the leased building space, which exceeds County parking requirements (17 spaces).

Site Characteristics: The parcel is located in the south Santa Rosa/Todd Road industrial area, about 1,300 feet west of the US Highway 101/Todd Road interchange and 0.5 mile south of Santa Rosa city limits (see Exhibit C – Vicinity Map). The parcel is fully developed, containing three industrial buildings, parking, and landscaping (see Exhibit F – Aerial Map and Exhibit I – Site Photographs). The project building is located in the center of the parcel. The building has no street frontage, but can be accessed from driveways at either Todd Road or Sutton Place.

Surrounding Land Use and Zoning: Land uses immediately surrounding the subject site are also zoned Heavy Industrial, including a variety of uses such as auto parts and repair (Santa Rosa diesel, Worldpac), industrial supply stores (Horizon distributors, Emser Tile, Graybar Electrical Supply, Daltile Sales and Services, American Refrigeration Supplies), and the Syar Industries asphalt plant.

The nearest single family Rural Residential (RR) zoning is about 120 feet to the east along Moorland Avenue. The SMART train runs along the east boundary of the property; the SMART train right-of-way and a Sonoma County Water Agency easement, together about 120 feet, separate the project parcel from the residential area.

DISCUSSION OF ISSUES

Issue #1: General Plan Consistency

The site's General Plan designation is General Industrial. All industrial uses involving the production or assembly of products may be allowed under this land use designation. Typical uses include manufacturing goods, warehousing, research facilities, machine shops, contractor's storage, processing plants, and offices incidental to the primary use. The General Plan includes a number of policies intended to facilitate jobs and services for county residents and businesses, and contains the following "Purpose and Definition" statement for General Industrial Areas:

Purpose and Definition. This category provides sites for industrial activities and employment that require urban services and that primarily serve an urban population. The intent of the category is to assure that industrial development is compatible with adjacent land uses, infrastructure and environmental quality. This category also may provide locations for workforce housing for persons employed in adjoining businesses.

Staff Comments: The proposed project would cultivate, process, manufacture, distribute and transport cannabis and cannabis-containing products consistent with the resource-related industrial uses contemplated by the General Plan. Processing of cannabis includes activities such as drying, trimming, and packaging, while manufacturing will be limited to producing concentrated cannabis oil by extraction with Level 1 non-volatile solvents.

Distribution includes storage of final cannabis products produced elsewhere, preparation of material for shipping, and the distribution of cannabis products to other licensed facilities.

Cannabis cultivation, processing, manufacturing, distribution, and transportation operations are similar to other warehousing and processing operations in the area.

In adopting the Cannabis Ordinance, the Board of Supervisors determined that cannabis uses are consistent with the overall goals, objectives, policies, and programs of the Sonoma County General Plan, and that cultivation, processing, manufacturing, distribution, and transportation operations are an allowed use in industrial zoning with a Minor Use Permit. Therefore, the proposed project does not conflict with the stated purposes and definitions.

Permitted Development Intensities and Criteria: The General Plan outlines a number of specific development criteria for General Industrial land uses to ensure land use consistency, including:

Public sewer and water services shall be available. The site is served by public sewer and public water services provided by the City of Santa Rosa. Correspondence from the City of Santa Rosa indicates that, while the City does not provide project-specific “will serve” letters for water and sewer utility services, public water and sewer are currently provided to the operation and will continue to be available.

In addition, the project will use water-efficient irrigation practices and a recirculating system of dehumidifiers and air conditioners to conserve water.

Maximum lot coverage shall not exceed 50 percent of the site. The parcel is fully developed. Three existing buildings total approximately 190,000 square feet (4.4 acres), which equates to about 39% of the 11.3-acre lot, in compliance with the General Plan.

Maximum building height shall not exceed 65 feet. The existing building is approximately 25 feet tall which complies with the General Plan maximum height limitation of 65 feet.

Development shall be compatible with the environment, urban services, and adjacent land uses. The project would occupy a portion of an existing structure, previously and currently utilized for industrial uses, without expanding the need for urban services. The project site is located in an area with industrial land uses. The surrounding area to the north, west, and south is heavy industrial.

The nearest sensitive use is the New Directions alternative school located at 3642 Standish Avenue, on an adjacent parcel to the west. The proposed operation is about 100 feet from the school building. The applicant has conducted outreach to this school, which has not submitted any comments or voiced any concerns about the operation. The next closest school, Amarosa Academy, is about 0.75 mile to the north. The nearest

public park is the Andy Lopez Unity Park about 1,500 feet to the north of the parcel, and about 2,300 feet from the operation. There are no treatment facilities within 2 miles.

Residentially-zoned land occurs to the east, between the project site and US Highway 101. Although nearby, the residential area is separated from the industrial area by the SMART train corridor and a Sonoma County Water Agency easement, about a 120-foot parcel separation distance. Existing landscaping is present along the east property boundary adjacent to the SMART train corridor and riparian trees occur along the Water Agency channel (See Exhibit I – Site Photographs), which together substantially screen the industrial building from view. In addition, the residences are oriented towards and located close to the Moorland Avenue residential street frontage. The nearest Moorland Avenue residence is about 400 feet to the east of the project parcel boundary; the nearest Todd Road residence is about 130 feet to southeast of the project parcel boundary (based on aerial mapping). The cannabis operation itself is further away due to its location on the western side of the existing industrial building complex, about 675 feet from the nearest Moorland Avenue residence and about 475 feet from the nearest Todd Road residence (see Exhibit F – Aerial Map). The operation is not likely to generate any significant traffic in the Moorland Avenue residential area because the primary building access is from Todd Road, which has a direct connection to Highway 101 and the secondary access from Sutton Place does not connect to Moorland Avenue. To further safeguard the residential area from project-related traffic impacts, Condition of Approval #13 prohibits all commercial vehicles associated with the operation from using Moorland Avenue.

The proposed operation will be entirely conducted inside an existing industrial building, separated from residential development by the building itself, the SMART train and water easement corridor, and the rear yards of the residential parcels. No project-related traffic impacts are anticipated on residential streets. Therefore, the design, location, size, and operating characteristics of the use are considered compatible with the existing and future industrial and residential land uses within the vicinity. The use would not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The project complies with General Plan compatibility requirements.

Planning Area Policy: The General Plan also identifies land use policies for specific planning areas. The Santa Rosa planning area includes Policy LU-16a:

Require full urban improvement standards and services for discretionary commercial, industrial and urban residential projects within the Urban Service Boundary.

The building is served by public sewer and water services, provided by the City of Santa Rosa. All other urban improvements (roads, stormwater control systems, etc.) are already present at the project site, in compliance with the General Plan.

Issue #2: South Santa Rosa Area Plan Consistency

The site's South Santa Rosa Area Plan land use designation is General Industrial. This land use designation is intended to accommodate heavy industrial uses, such as manufacturing and processing plants. Area Plan goals and policies focus on locating industrial uses in areas where public sewer, water, and transportation facilities are available, and ensuring compatibility with existing and projected surrounding land uses.

Staff Comments: The project site is located adjacent to other industrial uses in an area where public sewer, water, and transportation facilities are available. The operation is proposed in an existing building on a fully developed parcel. The three buildings were constructed in 2007, and meet all building code and site development standards. The primary site access is from Todd Road, a minor arterial road with a direct connection to US Highway 101. Industrial-zoned land and existing industrial uses surround the site to the north, west, and south. Residential zoning and residential uses to the east are separated from the project parcel by the building itself, the SMART train and water easement corridor, and the rear yards of the residential parcels. The project does not conflict with area plan land use goals.

Issue #3: Zoning Consistency

I) Heavy Industrial District (M2)

Commercial cannabis cultivation, processing, manufacturing, and distribution operations are allowed by Use Permit in the Heavy Industrial (M2) Zoning District, pursuant to the Cannabis Land Use Ordinance (Sonoma County Code Sections 26-88-250 through 254), which was adopted on December 20, 2016 (Ordinance No. 6189) and amended on October 16, 2018 (Ordinance No. 6245). The applicant requests a Minor Conditional Use Permit for an indoor cannabis cultivation, processing, manufacturing, distribution, and transportation operation. Pursuant to the development standards for the M2 zoning district (Sec. 26-48-030), all structures used for indoor cultivation and manufacturing shall comply with the following limits:

- 1) **Building Intensity:** 15,615,171 cubic feet (Maximum building height multiplied by the maximum lot coverage)

Staff Comment: The existing buildings are approximately 30 percent (4,750,000 cubic feet) of the allowable 15,615,171 cubic foot building intensity.

- 2) Maximum Building Height: Sixty-five feet (65').

Staff Comment: The height of the existing building is 25 feet, under the 65-foot threshold.

- 3) Minimum Lot size: Twenty thousand (20,000) square feet, provided that more than one building may be located on each lot.

Staff Comment: The lot is approximately 11.3 acres in size, exceeding the minimum lot size requirements.

- 4) Maximum Lot Coverage: Fifty percent (50%).

Staff Comment: The three existing buildings total approximately 190,000 square feet (4.4 acres), which equates to about 39% of the 11.3-acre lot, less than the 50% threshold.

- 5) Minimum Lot Width: Not less than eighty feet (80').

Staff Comment: The lot width is approximately 420 feet, greater than the minimum 80 feet.

- 6) Yard requirements: None, except where the lot abuts an R district.

Staff Comment: While the zoning code requires no setback, the South Santa Rosa Area Plan requires the following setbacks: 20 feet from front and rear property lines and 10 feet from side property lines. Building setbacks for the cannabis operation are greater than 50 feet from all property lines, and therefore, meet the requirements. There will be no expansion of the existing building.

- 7) Parking and Loading Requirements: Parking shall be required in accordance with Sonoma County Code Article 86.

Staff Comments: Parking regulations require 1 parking space per 500 square feet of manufacturing and 1 parking space per 2,000 square feet of warehousing. Manufacturing will occupy about 3,256 square feet of the proposed operation = 7 parking spaces required. The remainder of the building (19,855 square feet) is primarily used for cultivation and distribution operations, which are similar to and categorized with warehousing = 10 parking spaces required. One accessible parking space per 20 regular spaces is required. The applicant has 20 existing standard parking spaces and 2 ADA spaces dedicated to the leased building space, which exceeds County parking requirements (17 spaces + 1 ADA).

II) Cannabis Ordinance- Commercial Cultivation, Processing, Manufacturing, Distribution, and Transportation

Commercial cannabis cultivation, processing, manufacturing, and distribution operations are allowed by Use Permit in the Heavy Industrial (M2) Zoning District, pursuant to the Cannabis Land Use Ordinance (Sonoma County Code Sections 26-88-250 through 254), which was adopted on December 20, 2016 (Ordinance No. 6189) and amended on October 16, 2018 (Ordinance No. 6245). Cannabis cultivation operations must comply with the development criteria and operating standards within Sections 26-88-250 through 26-88-254 of the Zoning Regulations, including the following standards for indoor cultivation, processing, manufacturing, distribution, and transportation:

- 1) Development Criteria and Operating Standards: The Zoning Code provides a number of development criteria and operating standards intended to minimize environmental impacts. Applicable sections are discussed below.

Sec. 26-88-254. - Cannabis cultivation – Commercial.

(f) Development Criteria.

(3) Square Footage Limitations. The total combined square footage of the cultivation area shall not exceed the maximum size thresholds as defined in Table 1A-D Allowable Cannabis Uses and Permit Requirements which provides the maximum size per parcel.

(4) Propagation and Vegetative Production Area.

- a. Vegetative and other non-flowering propagative cannabis plant material may be cultivated for on-site use, subject to land use permit requirements as shown in Table 1A-D Allowed Cannabis Uses and Permit Requirements.*
- b. Additional propagation and vegetative production area may be considered with a use permit, not to exceed 25% of the permitted cultivation area, provided this plant material is kept in a separate, unique area away from flowering plants.*

(7) Property Setbacks- Indoor. All structures used for indoor cultivation shall comply with the setbacks for the base zone and any applicable combining zone. Structures associated with the cultivation shall not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.

(11) Biotic Resources. Proposed cultivation operations, including all associated structures, shall require a biotic resource assessment at the time of application that demonstrates that the project is not located within, and will not impact

sensitive or special status species habitat, unless a use permit is obtained. Any proposed cultivation operation, including all associated structures, located within adopted federal critical habitat areas must have either all appropriate permits from the applicable state and federal agencies with jurisdiction over the listed species, or a biotic assessment concluding that the project will not result in "take" of a protected wildlife species within the meaning of either the federal or California Endangered Species Acts.

(13) Property Setbacks-Riparian Corridor Stream Conservation Areas. Structures used for cultivation shall be located outside the Riparian Corridor Stream Conservation Areas (RC combining zone) and outside any designated Biotic Habitat area (BH combining zone). Outdoor cultivation areas shall conform to the agricultural Riparian Corridor setback set forth in Section 26-65-040. Outdoor cultivation areas shall conform to the wetland setback set forth in Section 36-16-120, unless a use permit is obtained.

(19) Lighting. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor and mixed light operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

(21) Security and Fencing. A Site Security Plan shall be required. All Site Security Plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Video must use standard industry format to support criminal investigations. Lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by non-invasive fire resistant vegetation and fenced with locking gates with a Knox lock. No outdoor or mixed light cultivation sites located on parcels adjacent to public parks shall be visible from trails or public access points. Razor wire and similar fencing shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for cultivation shall have locking doors to prevent free access.

(g) Operating Standards.

(2) Air Quality and Odor. All indoor, greenhouse and mixed light cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors humidity, and mold. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.

(3) Energy Use. Electrical power for indoor cultivation and mixed light operations including but not limited to illumination, heating, cooling, and ventilation, shall be provided by any combination of the following: (i) on-grid power with one hundred percent (100%) renewable source; (ii) on-site zero net energy renewable source; or (iii) purchase of carbon offsets of any portion of power not from renewable sources. The use of generators for indoor and mixed light cultivation is prohibited, except for portable temporary use in emergencies only.

(5) Hours of Operation. Outdoor harvesting activities and indoor or mixed light cultivation and processing activities may be conducted seven (7) days a week, twenty-four (24) hours per day as needed. Deliveries and shipping, and outdoor processing activities shall be limited to the hours from 8:00 a.m. to 5:00 p.m., unless a use permit is obtained.

(6) Noise Limits. Cultivation activities shall not exceed the General Plan Noise Standards Table NE-2, measured in accordance with the Sonoma County Noise Guidelines.

Staff Comments:

Square Footage Limitations (Sec. 26-88-254(f)(3)): Table 1C Allowable Cannabis Uses and Permit Requirements allows a maximum indoor cultivation area of 22,000 square feet in the Heavy Industrial (M2) zoning district. The proposed project includes a total indoor canopy cultivation area of 15,486 square feet, which is less than the maximum and complies with the Zoning Code.

Table 1C does not limit the size of manufacturing or distribution/transportation operations.

Propagation and Vegetative Production Area (Sec. 26-88-254(f)(4)): Propagation and vegetative production area up to 25% of the permitted cultivation area is allowed with a use permit, provided this plant material is kept in a separate, unique area away from flowering plants. The project proposal includes 2,270 square feet of propagation area, which is less the 25% maximum (3,872 square feet of propagation for 15,486 square feet of cultivation area) and meets ordinance requirements.

Property Setbacks (Sec. 26-88-254(f)(7)): Structures used for indoor cannabis operations must comply with the setbacks contained in the base zoning, General Plan, and applicable area plans. The most restrictive of these are required by the South Santa Rosa Area Plan: 20 feet from front and rear property lines and 10 feet from side property lines. Building setbacks for the cannabis operation are greater than 50 feet from all property lines.

Biotic Resources (Sec. 26-88-254(f)(11)): The Zoning Code requires that a project located within the boundary of an adopted federal critical habitat area must demonstrate compliance with applicable federal and state regulations, and must not result in take of a protected wildlife species. The site is located within the mapped boundary of federal Critical Habitat for the California tiger salamander. However, the entire project site is already developed with existing buildings and hardscape. The project will operate within an existing building. No habitat for the salamander exists on the parcel, and no impacts would occur, in compliance with the ordinance.

Lighting (Sec. 26-88-254(f)(19)): The Zoning Code requires that lighting be fully shielded, downward casting and not spill over onto structures, other properties, or the night sky between sunset and sunrise. No additional security lighting is proposed by the project, and all existing lighting is compliant with Zoning Code exterior lighting requirements.

Property Setbacks – Riparian Corridor Stream Conservation Areas (Sec. 26-88-254(f)(13)): The water agency channel to the east of the parcel has a designated 100-foot streamside conservation area setback. Based on aerial imagery analysis, the existing site development (paved parking) begins about 100 feet from the channel. No new impacts to the channel are proposed by the project, which will operate entirely within an existing building, in compliance with the ordinance.

Security and Fencing (Sec. 26-88-254(f)(21)): A Site Security Plan has been reviewed and approved for the project. In order to make the security measures difficult to defeat, part of the security protocol requires security plans to remain confidential, although a generalized description of the plan is included below.

The Plan includes exterior and interior video surveillance, which will record 24 hours per day, 7 days per week. Video will use standard industry format and footage will be kept for a minimum of 30 days in a secured location. The building will have an alarm system, and utilize specific access controls authorizing personnel to enter only specific areas of the building based on security clearance level. All cannabis and cannabis-containing products will be kept in a locked storage area, awaiting distribution to a permitted dispensary. All distribution and transportation operations will take place in a secure loading area inside the building accessed through an exterior roll-up door. Weapons and firearms are prohibited at the project site. Condition of Approval #20 limits the cash retained on this site to the minimum needed for daily operations,

and requires that all cash be placed in a secure location (e.g., locked drawer, safe, or similar storage cabinet with a locking mechanism). The Site Security Plan meets or exceeds the guidelines of the ordinance, and therefore, complies with the requirements of the Zoning Code.

Note that no fencing is required because all operations, including loading and unloading for the distribution operation, will occur inside the secure building.

Air Quality and Odor (Sec. 26-88-254(g)(2)): The Zoning Code requires that commercial indoor cultivation facilities be equipped with odor control filtration and ventilation systems. The applicant has proposed odor control devices and techniques, including odor absorbing ventilation, an exhaust filtration system, and a negative air-pressure system, which comply with air quality and odor control requirements. In addition, Condition of Approval #21 requires monitoring of odor control equipment and annual reporting.

Energy Use (Sec. 26-88-254(g)(3)): The Zoning Code requires that commercial cannabis cultivation operations be supplied by a power source that is 100 percent renewable. The applicant has provided evidence of enrollment in Sonoma Clean Power CleanStart, which complies with the Zoning Code energy use requirement. In addition, Condition of Approval #22 requires that a 100 percent renewable energy source be maintained and documentation provided each year that the permitted operation is active.

Hours of Operation (Sec. 26-88-254(g)(5)): The Zoning Code allows indoor cultivation, processing, and manufacturing activities to occur seven days a week, 24 hours per day as needed, but limits hours of operation for deliveries and shipping activities to the hours from 8:00 am to 5:00 pm, unless a use permit is obtained. Consistent with Zoning Code, indoor cultivation, processing, and manufacturing operations are proposed to occur 24 hours per day, 7 days per week, although generally the use will occur between 8:00 am and 5:00 pm. Typically, 2-3 employees would be present in the building overnight, partly for security, but also to monitor cultivation activities (e.g., automatic watering, temperature control, and lighting systems), and complete ongoing manufacturing processes (e.g., extraction runs started by not completed by 5pm). Deliveries and shipping/distribution operations will be limited to the hours of 8:00 am to 5:00 pm Monday through Friday by Condition of Approval #12. No outdoor activities are proposed.

Noise Limits (Sec. 26-88-254(g)(6)): Cannabis activities must comply with General Plan Noise Standards. Cultivation and manufacturing activities are not noise-generating, and will be conducted inside an industrial building adjacent to other industrial uses. No outdoor loading operations will occur, as the secure loading area is inside the building. The distribution/transportation component of the operation will utilize delivery vehicles entering and exiting the site; however, deliveries are limited by Condition of Approval #12 to regular work hours: 8:00

am to 5:00 pm Monday through Friday. The operation is not anticipated to result in any off-site noise impacts.

III) Use Permits – Findings Of The Board Of Zoning Adjustments – Conditions

In order to grant any use permit, the Board of Zoning Adjustments needs to make findings that the establishment, maintenance, or operation of the use will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood (Sec. 26-92-080).

- 1) Neighborhood Compatibility: The cannabis ordinance provides development and operating standards for commercial cannabis activities to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine, and provide opportunities for economic development (Sec. 26-88-250(a)). The ordinance does not explicitly define or describe what constitutes neighborhood compatibility; however, it does provide that cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes (Sec. 26-88-250(f)).

Staff Comments: Commercial cannabis cultivation, processing, manufacturing, and distribution/transportation operations are allowed uses in the Heavy Industrial (M2) zoning district, as shown on Table 1C Allowed Cannabis Uses and Permit Requirements for Industrial Zones. However, Commercial Cannabis Uses Section 26-88-250(a) also requires that such operations be compatible with the character of the neighborhood. Section 26-88-250(f) further states that such operations shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts.

The manufacturing operation involves extraction of desired cannabinoid compounds from raw cannabis plant materials using non-volatile solvents. A non-volatile solvent is defined as any solvent that does not produce a flammable gas or vapor; typically, alcohol or carbon dioxide are used. Extraction by non-volatile solvent complies with California Building Code requirements for a regular Factory Industrial F-1 Occupancy Classification as opposed to a High Hazard H-2 Occupancy for volatile solvents (volatile solvents are not allowed by the County's cannabis ordinance per Sec. 26-88-250(d)).

Indoor cannabis cultivation, processing, manufacturing, and distribution operations are similar to other warehousing and processing operations in the area in that they involve large indoor production and storage areas with loading facilities, have similar employment density, and

hours of operation. The project is compatible with other industrial uses in the vicinity, which encompass most of the surrounding area. However, a residential area is present between the industrial area and US Highway 101 to the east. As described above, the proposed operation will be entirely conducted inside an existing industrial building, separated from residential development by the building itself, the SMART train and water easement corridor, and the rear yards of the nearby residential parcels. The closest residences to the operation are about 675 feet away (on Moorland Avenue) and about 475 feet away (on Todd Road). The project is not anticipated to generate significant additional traffic to Moorland Avenue, or other residential streets. However, to further safeguard the Moorland Avenue residential area from project-related traffic impacts, Condition of Approval #13 prohibits all commercial vehicles associated with the operation from using Moorland Avenue. Therefore, the design, location, size, and operating characteristics of the use are considered compatible with the existing and future industrial and residential land uses within the vicinity.

See **Issue # 5 - Public Comment and Hearing Request** for a more detailed discussion of the concerns expressed by nearby Moorland Avenue residents.

Issue #4: Environmental Determination

Staff determined that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(a) (Existing Facilities) as an existing industrial facility involving negligible expansion of use and only minor construction consisting of interior tenant improvements.

The project proposes to legalize and retrofit/buildout existing areas of the building without changing the existing building footprint or height. The project is consistent with the General Plan and Sonoma County Zoning Code requirements for the property, is located on an existing developed site that is not in an environmentally sensitive area, will not involve notable changes to the existing facilities, and provides adequate parking for proposed operations. For these reasons, there is no reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances (Section 15300.2).

Issue #5: Public Comment and Hearing Request

Between January 20 and January 26, 2019, three hearing requests were received from residents on Moorland Avenue (Exhibit J). The comments were mostly concerned with traffic impacts on Moorland Avenue, but also cited crime, noise, and air quality concerns. Two additional comments were received in response to the hearing notification, both citing traffic impact concerns (Exhibit K).

Staff Comments: Current penalty relief cultivation and manufacturing operations, although smaller in scale than the proposed operations (1,824 square feet of indoor cultivation compared to 15,486 square feet of indoor cultivation), have not generated any traffic, safety, noise, or air quality complaints from neighbors. Each topic of concern is addressed below.

Traffic. A traffic impact study was not requested by the Sonoma County Public Works traffic engineer during the project referral process due to the small number of proposed employees (maximum of 25) and the compatibility of existing manufacturing uses already on the site that the proposed operation would replace. The project building is in the middle of the parcel, but oriented towards the Todd Road driveway entrance. The business entrance and the secure loading roll-up door is on the south side of the building, facing Todd Road. The primary building access is from Todd Road, which has a direct connection to Highway 101 and is a minor arterial at this location. Sutton Place is a dead-end street at the northern, secondary access location, with no connection to Moorland Avenue. Therefore, it is unlikely employees or delivery vehicles would travel on Moorland Avenue to reach the site. However, to further safeguard the Moorland Avenue residential area from project-related traffic impacts, Condition of Approval #13 prohibits all commercial vehicles associated with the operation from using Moorland Avenue.

Public Safety. In adopting the Cannabis Land Use Ordinance, the Board of Supervisors found that security issues could be addressed through compliance with the security and fencing requirements. All permitted cannabis businesses must operate according to approved Site Security Plans (on file confidentially at PRMD), which detail security measures that must be implemented to maintain compliance with Conditions of Approval and continue operation. The Plan for this operation includes exterior and interior video surveillance, which will record 24 hours per day, 7 days per week. Video will use standard industry format and footage will be kept for a minimum of 30 days in a secured location. The building will have an alarm system, and utilize specific access controls authorizing personnel to enter only specific areas of the building based on security clearance level. All cannabis and cannabis-containing products will be kept in a locked storage area, awaiting distribution to a permitted dispensary. All distribution and transportation operations will take place in a secure loading area inside the building accessed through an exterior roll-up door. Weapons and firearms are prohibited at the project site. Condition of Approval #20 limits the cash retained on this site to the minimum needed for daily operations, and requires that all cash be placed in a secure location (e.g., locked drawer, safe, or similar storage cabinet with a locking mechanism). The Site Security Plan meets or exceeds the guidelines of the ordinance, and therefore, complies with the requirements of the Zoning Code.

Noise. Cultivation and manufacturing activities are not noise-generating, and will be conducted inside an industrial building adjacent to other industrial uses. No outdoor loading operations

will occur, as the secure loading area is inside the building. The distribution/ transportation component of the operation will utilize delivery vehicles entering and exiting the site; however, deliveries are limited by Condition of Approval #11 to regular work hours: 8:00 am to 5:00 pm Monday through Friday. The operation is not anticipated to result in any off-site noise impacts.

Air Quality. The applicant has proposed odor control devices and techniques, including odor absorbing ventilation, an exhaust filtration system, and a negative air-pressure system, which comply with Zoning Code air quality and odor control requirements. In addition, Condition of Approval #21 requires monitoring of odor control equipment and annual reporting.

STAFF RECOMMENDATION

Staff recommends approval of the Minor Use Permit subject to Conditions of Approval.

FINDINGS FOR RECOMMENDED ACTION

1. General Plan Consistency: The proposal is consistent with the overall goals, objectives, policies, and programs of the Sonoma County General Plan because:
 - a. Commercial cannabis cultivation, processing, manufacturing, distribution, and transportation help meet the service and employment needs of the County on property that has existing public and private services (e.g. sewer, water, gas, and electric services) that are adequate to support the proposed operation;
 - b. The project is consistent with the development intensity criteria of the General Industrial (GI) designation in which it is located because it is served by urban sewer and water services, meets maximum lot coverage, building height, and all setback requirements;
 - c. The project is located on lands that have been identified to serve projected employment needs and that have convenient access to arterial roads, are located near populated concentrations, and are not subject to flooding or geologic hazards, which complies with the overall goals, objectives, policies, and programs of the General Industrial Land Use Designation;
 - d. The project is consistent with Land Use Policy LU-16a, because the project is located within the Santa Rosa Urban Service Area Boundary and urban sewer and water services will be provided for the operation through the City of Santa Rosa; and

- e. The project is an indoor operation without significant noise-generating activities, and therefore, is consistent with noise policy NE-1c.
2. South Santa Rosa Area Plan Consistency: The proposal is consistent with the overall goals, objectives, policies, and programs of the Area Plan because the project involves manufacturing and processing operations located on lands where public sewer, water, and transportation facilities are available to serve the use, ensuring compatibility with existing and projected surrounding land uses.
 3. Zoning Consistency: The proposed cannabis operation is consistent with all zoning code requirements:
 - a. The proposed cannabis cultivation, processing, manufacturing, distribution, and transportation uses are allowed uses in the Heavy Industrial Zoning District, pursuant to Sonoma County Code Section 26-48-020(z);
 - b. The proposed project complies with the building intensity and development criteria established for the M2 Zoning District in Sonoma County Code Section 26-48-030 because it meets maximum building intensity, building height, and lot coverage, minimum lot size and lot width, and all setback requirements; and
 - c. The proposed project will satisfy the Cannabis Ordinance operational requirements established by Sections 26-88-250 through 26-88-254 of the Sonoma County Code, because it complies with cultivation and propagation size limits, setbacks, lighting standards, security and fencing requirements, odor control, 100% renewable energy use, hours of operation, and noise standards.
 4. Neighborhood Compatibility: The establishment, maintenance, or operation of the use for which application is made will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the area of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances that support this finding include the following facts:
 - a. The design, location, size, and operating characteristics of the use is compatible with the existing and future land uses within an M2 Zoning District and on adjoining properties that are zoned for Heavy Industrial uses, because:
 - i. Indoor cannabis cultivation, processing, manufacturing, and distribution operations are similar and compatible to other warehousing and processing operations in the area in that they involve large indoor production and

storage areas with loading facilities, have similar employment density, and hours of operation;

- ii. The cannabis cultivation operation will not involve more than 22,000 square feet of cannabis cultivation and propagation area;
 - iii. Building setbacks comply with base zoning, General Plan, and Area Plan requirements at greater than 50 feet;
 - iv. Exterior lighting will be downward casting and fully-shielded;
 - v. Security measures will be implemented to uphold the health, safety, peace, comfort, and general welfare of persons residing or working in the project area;
 - vi. The project includes an Odor Control Plan, which includes but is not limited to, odor absorbing ventilation, an exhaust filtration system, and a negative air-pressure system, that will reduce the potential for air quality and odor issues outside of the building;
 - vii. All energy will be 100% renewably sourced;
 - viii. Hazardous materials (e.g., cultivation nutrients and extraction solvents) will be stored in accordance with local, state and federal regulations;
 - ix. Hours of operation for delivery and shipping activities shall be limited to 8:00 am to 5:00 pm Monday through Friday;
 - x. All equipment shall comply with the General Plan Noise Standards;
 - xi. No public access or retail sales are permitted; and
 - xii. Commercial vehicle associated with the cannabis operation shall be prohibited from using Moorland Avenue.
- b. The design, location, size, and operating characteristics of the use is compatible with the existing and future land uses on nearby properties that are zoned for Rural Residential uses for all of the reasons listed above, and also because:
- i. The proposed operation will be entirely conducted inside an existing industrial building occupied by other industrial uses;
 - ii. The operation is separated from residential development by the building itself, the SMART train and Sonoma County Water Agency easement corridor, and the rear yards of the nearby residential parcels;
 - iii. The project has direct access to US Highway 101 via Todd Road, and commercial vehicles associated with the cannabis operation will not use Moorland Avenue; therefore, the project is not anticipated to generate significant traffic to the Moorland Avenue residential area; and

- iv. The manufacturing operation uses only non-volatile solvents which do not produce a flammable gas or vapor, which complies with California Building Code requirements for a regular Factory Industrial F-1 Occupancy Classification common to other industrial manufacturing uses in the area.
5. Environmental Finding for the Exemption: Staff determined that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(a) (Existing Facilities) as an existing industrial facility involving negligible expansion of use and only minor construction consisting of interior tenant improvements. The project proposes to legalize and retrofit/buildout existing areas of the building without changing the existing building footprint or height. The project is consistent with the General Plan and Sonoma County Code requirements for the property, is located on an existing developed site that is not in an environmentally sensitive area, will not involve notable changes to the existing facilities, and provides adequate parking for proposed operations. For these reasons, there is no reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances (Section 15300.2).

LIST OF ATTACHMENTS

- EXHIBIT A: Draft Conditions of Approval
- EXHIBIT B: Proposal Statement, 12/21/2018
- EXHIBIT C: Vicinity Map
- EXHIBIT D: General Plan Land Use Map
- EXHIBIT E: Zoning Map
- EXHIBIT F: Aerial Map
- EXHIBIT G: Site Plan, 3/14/2018
- EXHIBIT H: Floor Plans, 12/21/2018
- EXHIBIT I: Site Photographs
- EXHIBIT J: Hearing Request Letters
- EXHIBIT K: Public Comments
- EXHIBIT L: Draft Resolution