



Sonoma County Board of Zoning Adjustments
STAFF REPORT

FILE: UPE16-0027
DATE: July 8, 2021
TIME: 1:05 PM
STAFF: Derik Michaelson, Project
Planner

Appeal Period: 10 calendar days

SUMMARY

Applicant: Jamie Reagan, Down Under Industries

Owner: Ko Ri Inc. and John Kosewic

Location: 50 Ely Road North, Petaluma CA 94954
APNs: 047-213-003 Supervisorial District: 2

Subject: Cannabis dispensary modification

PROPOSAL: Request for Use Permit modification and renewal for a five-year limited term to allow a 678-square-foot existing cannabis dispensary operation to include walk-in customer visitations and expanded operating hours on a 1.0 acre parcel.

Environmental Determination: Categorically exempt per CEQA Section 15301 (Existing Facilities)

General Plan: Limited Commercial (LC)
Area/Specific Plan: N/A
Zoning: LC F2 VOH - Limited Comercial (LC) with Floodplain (F2) and Valley Oak Habitat (VOH) Combining Districts

Ord. Reference: Ordinance No. 6245
26-88-256 (Cannabis Dispensary Uses)

Complete: 12/22/20 - current request (modification)
08/31/17 - original application

RECOMMENDATION: Approve proposed modifications and renew use permit for 5-year limited term with updated findings and conditions.



EXECUTIVE SUMMARY

Down Under Industries is a 678 square-foot approved cannabis dispensary and delivery service operation located on Ely Road near Petaluma. Dispensary owner Jamie Reagan is requesting modifications to the dispensary's operating plan to allow increased customer traffic and expanded operating hours. The operating plan currently limits customer visitations to 36 daily appointments between 7am and 4pm, Monday through Saturday. The proposed modifications are to: 1) eliminate appointments and allow customer visitations on a walk-in basis, and 2) expand the evening operating hours from 4pm to 7pm.

The key consideration before the BZA is increased traffic, specifically during the p.m. peak hour on weekdays. The applicant's traffic consultant (W-Trans) estimates the walk-in visitations with expanded hours will add 15 new trips during the p.m. peak traffic hour on weekdays. W-Trans indicates the proposed increase will have a less than significant transportation impact under CEQA, though is expected to result in an intersection delay exceeding the County's *level of service* (LOS) threshold at the Ely Road approach onto Old Redwood Highway.

To maintain the Ely Road approach at an acceptable LOS level per the County's General Plan and 2016 Traffic Study Guidelines, W-Trans recommends the applicant restrict outbound vehicles to right turns only onto Ely Road between 4pm and 6pm. The Transportation and Public Works (TPW) Department supports the current W-Trans recommendation and has forwarded draft conditions of approval for the project.

Recent changes in State environmental legislation require that public agencies now use a metric known as vehicle miles traveled (VMT) rather the LOS (Level of Service) analysis for determining transportation impacts under CEQA. The W-Trans finding for the project having a less than significant transportation impact is based on current VMT recommendations published by the California Governor's Office of Planning and Research (OPR). The OPR data indicates the project may be presumed to have a less than significant VMT impact because the addition of new locally-serving retail uses typically reduces travel miles by redistributing vehicle trips to within a closer proximity of where customers generally work or reside.

The proposed project is determined categorically exempt from environmental review under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA). The *Existing Facilities* exemption applies in this case because the use permit modifications allow continued operation of existing use within the same commercial tenant space for which it was previously approved, are limited to operational changes that do not physically alter or expand the size of the existing tenant space, and result in a level of increased traffic that is expected to have a less than significant transportation impact on the environment.

Staff recommends the BZA approve the proposed modifications allowing walk-in customer visitations without appointment and expanded operating hours until 7pm, and renew the use permit approval for a 5-year limited term with updated findings and conditions.

BACKGROUND

Current Use Permit

Original BZA approval (UPE16-0027) – 12/2017:

- “Medical use” cannabis dispensary with delivery service on 1.0 acre parcel
- 678sf tenant space within existing commercial building
- Open 7am to 4pm, Monday thru Saturday
- Customers by appointment (1/per 15min) = 36 visitations per day
- Findings adopted for Residential Location exception

Legislative update – 10/2018:

- Dispensary approval updated for “adult use” cannabis
- “Medical use” limitations and references removed
- Limited 1-year approval extended to 5-year term (from start of business)

Start of business – 11/2019

- Operating plan compliance:
 - Business website confirms approved hours and visitations by-appointment
 - Applicant’s current request attests to continued operational compliance
 - No available information on record otherwise supporting non-compliance
- Complaints, incidents:
 - 2 break-in attempts; minor damage, no reported loss -12/2019
 - Signage complaint; A-frame sign removed, no violation - 01/2020
 - Submitted neighbor concerns attached – 10/2020

Changes in Legislation

The following references important legislative changes in State and local regulations affecting the current proposal that were not in place at the time of the dispensary’s original approval. The changes relate to the permitting of commercial cannabis uses and analysis of transportation related environmental impacts.

Adult Use Cannabis

On October 10, 2018, the Board of Supervisors adopted Ordinance No. 6245 allowing Adult Use Cannabis in Sonoma County. The Ordinance also repeals “medical use” use restrictions and extends the initial one-year term of approval to five years. Pursuant to code section 26-88-256, the updated regulations apply to new and previously approved use permits for cannabis dispensary operations located within unincorporated areas of Sonoma County, including Down Under Industries.

Vehicle Miles Traveled (VMT)

On July 1, 2020, new environmental review guidelines initiated under Senate Bill (SB) 743 became effective changing how lead agencies evaluate transportation impacts under the California Environmental Quality Act (CEQA). Section 15064.3 of the CEQA guidelines provides that State and local agencies now apply a metric known as vehicle miles traveled (VMT) rather than the traditional delay-based, LOS (Level of Service) analysis for determining potentially significant impacts on transportation. VMT refers to the amount and distance of automobile travel resulting from a proposed project. Projects resulting in excessive levels of additional VMT may indicate a significant transportation impact.

CEQA no longer considers a project's effect on traffic delay or congestion (LOS model) as an environmental impact. The County continues to apply its LOS based metrics for evaluating General Plan consistency in terms of how projects affect existing and planned traffic systems as specified in the Circulation and Transportation element and the County's *2016 Traffic Study Guidelines*

The County of Sonoma has yet to adopt local thresholds of significance for conducting VMT analysis. The California Governor's Office of Planning and Research (OPR) has published related guidance and technical recommendations on conducting VMT analysis in its *2018 Technical Advisory on Evaluating Transportation Impacts in CEQA*. Staff discusses the current traffic study analysis addressing VMT and use of OPR screening criteria for the project under Issue #3 in the *Discussion of Issues* section.

Site Characteristics

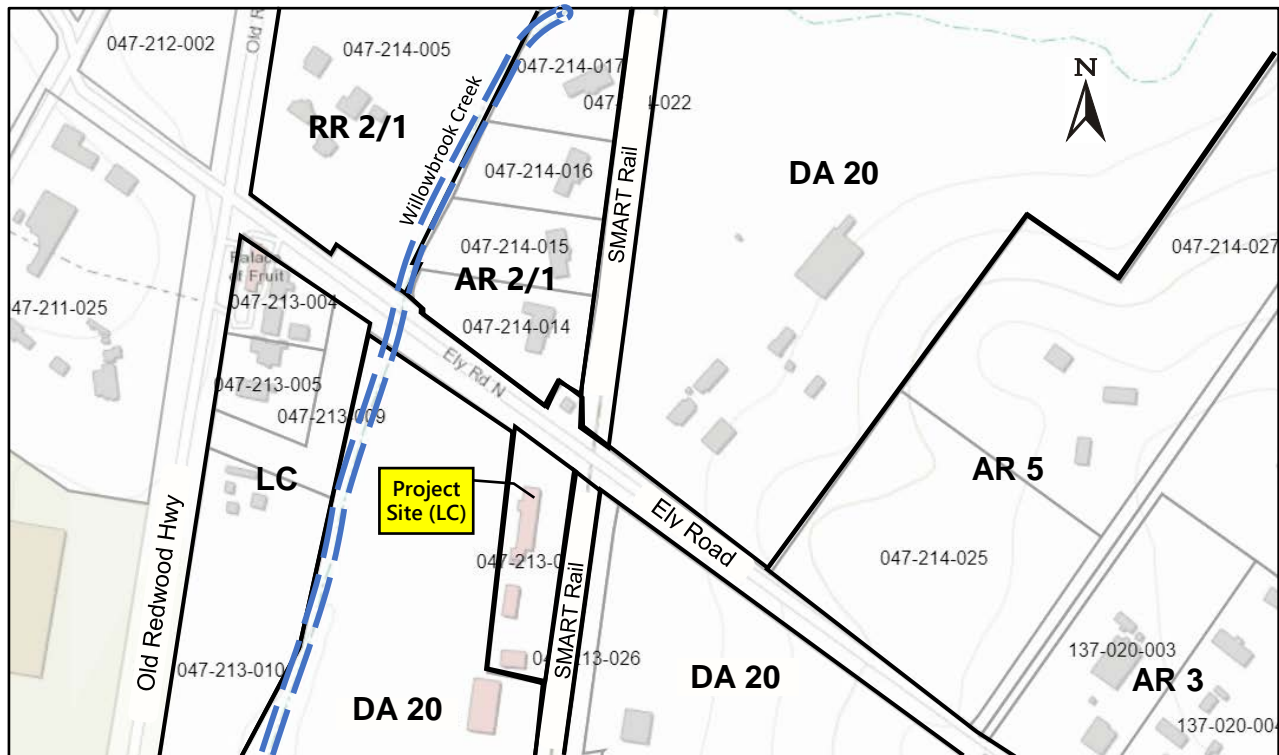
The project site is a one-acre Limited Commercial (LC) zoned property fronting the southerly side of Ely Road, next to the SMART rail crossing, approximately 0.14 miles (± 760 ft) east of Old Redwood Highway. The parcel is served by a private well and septic system. A twenty-foot wide driveway currently provides site access from Ely Road.

Existing site development includes a 3,600-square-foot commercial building and four accessory structures located to the rear of the site. The existing building was constructed for use as a commercial welding shop in 1975. The building's tenant spaces have since been occupied primarily by automotive repair uses. An existing transmission repair service (Transman, LLC) currently occupies 2,922 square feet of the building. The subject dispensary use occupies the remaining 678 square feet of the building at its north end.

Surrounding Land Use and Zoning

Ely Road – Northerly side

- West - SR (Scenic Corridor); Old Redwood Hwy
- RR B6 2/1⁽¹⁾ (Rural Residential); 4 units on 7.5 acres
- RC (Riparian Corridor); Willowbrook Creek



Project Vicinity

Ely Road – Northerly side (continued)

- North - AR B6 2/1⁽¹⁾ RC (Agriculture and Residential): 4 homes on 1-acre lots
SMART utility building
- East - SMART right-of-way and rail line
Split-zoned parcel, 53 acres in SR (Community Separator):
DA B6 20, SR (Diverse Agriculture, 20-acre density); undeveloped
AR B6 5 SR (Agricultural and Residential, 5-acre density); one residence

Ely Road - Southerly (Project) side

- West - SR (Scenic Corridor); Old Redwood Hwy
LC SR (Limited Commercial); Palace of Fruit/RV sales, 6 acres
RC (Riparian Corridor); Willowbrook Creek
- West & South - DA B6 20 RC (Diverse Agriculture); feed mill parcel, 11 acres
- East - SMART right-of-way and rail line
DA B6 20 (Diverse Agriculture); undeveloped, 40+ acres

⁽¹⁾ 2/1 = 2-acre density / 1-acre minimum lot size

PROJECT DESCRIPTION

Current Request

Down Under Industries requests BZA approval of proposed changes to the current operating plan for a 678 square-foot existing cannabis dispensary and delivery service operation. The current request is to: 1) eliminate appointments and allow customer visitations on a walk-in basis; and 2) extend the evening operating hours from 4pm to 7pm. The applicant's updated operation plan is summarized below.

Updated Operating Plan

1. **Hours.** 7:00 a.m. to 7:00 p.m. Monday through Saturday.
2. **Employees.** Three on-site employees, plus one delivery driver.
3. **Customers.** Walk-in visitations without appointment during approved business hours
4. **Traffic and circulation.**
 - a. **Vehicle trips** - Average daily total: 171; PM peak, weekday: 15, Saturday: 25.
 - b. **Egress restriction** - Outbound left-turns restricted between 4pm and 6pm.
5. **Parking.** Approved operations include nine existing on-site parking spaces.
6. **Delivery service.** Two outbound deliveries occur daily during approved operating hours.
7. **Ventilation.** Carbon filter system installed per code to prevent potential off-site odors.
8. **Incidental Retail.** As permitted by Sonoma County Department of Health Services.
9. **Security Plan.** The dispensary's confidential security plan is on file with Permit Sonoma.
10. **Admittance.** The proposed operating plan requires that dispensary staff verify proof of valid identification at check-in of each walk-in customer visitation.

Eliminating Appointments

The applicant originally proposed visitations by appointment because at the time (2016-2017), the code only allowed cannabis dispensaries for "medical use" with a limited customer base subject to State-mandated patient qualifications. As the code now allows dispensaries to support "adult use" cannabis for general retail, the applicant feels the proposed walk-in visitations are necessary to better serve the local community and the overall success of the business.

Expanded Hours

The applicant is requesting to extend the dispensary's evening operating hours from 4pm to 7pm. The Monday through Saturday operating days and 7am opening time will remain as originally approved. The applicant had proposed the 4pm closing time to avoid peak hour traffic conditions and preparation of an otherwise required traffic study. Transportation and Public Works (TPW) supported this proposal and conditioned the current use permit to require clearance of a traffic study with any future request to expand the hours beyond 4pm. The current request is to expand the hours to 7pm. The required traffic study is included.

Traffic Study

The applicant has consulted W-Trans to prepare the required traffic study for the current request. The study analyzes potential transportation impacts associated with allowing the proposed walk-in visitations and expanded evening operating hours. Staff notes expanding the hours beyond 4pm pushes the operation into the p.m. peak hour range of traffic, and is the key triggering factor requiring the traffic study. Adding ten or more vehicle trips during the peak hour is the primary threshold for requiring preparation of a focused traffic study.

Dispensary Vehicle Trips and Distribution, W-Trans

The December 22, 2020, W-Trans report estimates the dispensary operation with walk-in visitations and operating hours beyond 4pm will generate 171 trips per day on average, including 15 new peak hour trips during the weekday evening commute. Staff notes ±92 vehicle trips per day under the dispensary’s original operating plan for the current appointment-based operation. W-Trans also indicates an average of 25 peak hour trips occurring during the dispensary’s operation on Saturdays.

Table 5 – Trip Generation Summary											
Land Use	Units	Daily		Weekday PM Peak Hour				Weekend PM Peak Hour			
		Rate	Trips	Rate	Trips	In	Out	Rate	Trips	In	Out
Marijuana Dispensary	0.678 ksf	252.70	171	21.83	15	7	8	36.43	25	12	13
Note: ksf = 1,000 square feet											

W-Trans bases its trip estimates on the standard rates published for marijuana dispensaries by the Institute of Transportation Engineers (ITE) in *Trip Generation Manual*, 10th Edition, 2017. These conclusions are summarized above in the Table 5 excerpt from the traffic study.

Table 7 (Right) is another traffic study excerpt showing the assumed distribution percentages by travel route. Staff has added a third table (below) showing the results of applying each distribution route percentage shown in Table 7 to the trip generation totals from Table 5.

Route	Percent
From/to the south via Old Redwood Hwy N	40
From/to the north via Old Redwood Hwy N	30
From/to the east via Ely Rd N	30
Total	100

Trip Generation	Totals	South: 40%	North: 30%	East: 30%
Daily average	171	68	51	51
Weekday PM peak	15	6	5	5
Weekend PM peak	25	10	8	8

Additionally, the W-Trans study recommends the applicant restrict left outbound turns from the dispensary's access driveway onto Ely Road between 4pm and 6pm. The restriction is to maintain the intersection LOS to an acceptable level at Old Redwood Highway per the County's General Plan and *2016 Traffic Study Guidelines*. Staff discusses the intersection LOS and current traffic study recommendations under Issue #1 below.

DISCUSSION OF ISSUES

Issue #1: General Plan Consistency

Circulation and Transportation

CEQA no longer looks at a project's effect on traffic delay, congestion, or level of service (LOS model) for determining its impact on the environment. The County continues to rely on its use of LOS based standards and metrics for evaluating project effects on existing and planned traffic systems as provided by the 2020 General Plan, and as supplemented by additional measures specified in the County's 2016 Traffic Study Guidelines.

General Plan Objective CT-4.2

Objective CT-4.2 of the General Plan's Circulation and Transportation element specifies the County's level of service standard for intersection operations. The objective reads as follows: "*Maintain a Level of Service D or better*".

The General Plan does not address intersection conditions operating below the LOS D baseline. The applicant's traffic study indicates a portion of the project intersection at Old Redwood Hwy and Ely Road currently operates at LOS F, which is below the LOS D standard. In this instance, the County defers to its 2016 Traffic Study Guidelines for applying additional metrics.

2016 Traffic Study Guidelines

The County's 2016 Traffic Study Guidelines provides additional measures for evaluating a project's effect on an intersection operating below the General Plan standard (LOS D), as established under Objective CT-4.2. The Traffic Study Guidelines provide that a project's effect on an intersection operating below LOS D may be considered significant and cumulatively considerable if it increases the average intersection delay by five seconds or more.

According to the current W-Trans study, the addition of 15 new vehicle trips as proposed during the p.m. peak weekday hour is expected to increase the average delay at the Ely Road approach onto Old Redwood Highway by more than twenty three seconds, far exceeding the threshold of five seconds or more per the Traffic Study Guidelines. W-Trans summarizes its findings in Table 8 (below) of the traffic study.

Intersection LOS Delay, W-Trans

Table 8 – Existing and Existing plus Project Peak Hour Intersection Levels of Service

Study Intersection Approach	Existing Conditions				Existing plus Project			
	PM Peak		Weekend Peak		PM Peak		Weekend Peak	
	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
1. ORH N/Ely Rd N-Goodwin Ave	18.3	C	3.3	A	21.3	C	3.9	A
<i>Eastbound (Goodwin Ave) Approach</i>	33.7	<i>D</i>	17.8	<i>C</i>	34.6	<i>D</i>	18.1	<i>C</i>
<i>Westbound (Ely Rd N) Approach</i>	149.3	F	20.9	<i>C</i>	172.8	F	26.0	<i>D</i>
<i>With Right-Turn Out Restriction</i>	-	-	-	-	151.6	F	21.2	<i>C</i>
Signalized	23.9	C	13.3	B	24.6	C	13.4	B

Notes: Delay is measured in average seconds per vehicle; LOS = Level of Service; ORH = Old Redwood Highway; Results for minor approaches to two-way stop-controlled intersections are indicated in *italics*; **Bold** text = deficient operation; Shaded cells = conditions with recommended improvements

Traffic Study Recommendations

To comply with the traffic study guidelines described above, the W-Trans study recommends the applicant restrict egress at the project driveway to right turns only during peak evening hours (4pm-6pm), until such time as the County’s planned traffic signal is installed at the Old Redwood Highway and Ely Road intersection. W-Trans concludes that by avoiding outbound left turns onto Ely Road from the dispensary’s driveway, the applicant can reduce the increase in delay to 2.5 seconds, which is below the five second threshold and complies with the 2016 *Traffic Study Guidelines*.

W-Trans further recommends the applicant pay a proportional share fee of 1.29 percent (no more than \$12,900) toward the County’s cost to install a future traffic signal at the intersection on the grounds that the project will contribute to the need for the planned traffic signal, and would benefit from its installation by regaining full egress.

Transportation Conditions

The County Transportation and Public Works Department has reviewed the W-Trans study and concurs with the analysis and findings summarized above. TPW has forwarded draft conditions of approval specifying implementation requirements supporting the traffic study recommendations. Staff notes the TPW conditions offer two options for implementing an enforceable outbound left turn restriction during the p.m. peak hour as recommend by the traffic study.

1. The first option details a more permanent approach to ensuring ongoing compliance by requiring installation of a raised channelizing island at the dispensary’s driveway

entry/exit fronting Ely Road. Staff notes this option restricts left turn movements permanently, well beyond the recommended time frame, and affects not only dispensary customers, but those of the adjacent transmission shop as well.

2. The second option allows flexibility for the applicant to come up an alternative solution subject to TPW review and clearance. This option allows the applicant to explore a possible signage solution, though with little guidance as to what an acceptable proposal may entail. Identifying an acceptable alternative under these circumstances will likely take time, potentially delaying the applicant's ability to commence with the extended operating hours until satisfying the condition. Staff notes that satisfying the same condition is not required for the applicant to move forward, if so approved, with removing the appointment limitations to allow walk-in visitations.

Issue #2: Zoning Consistency

Section 26-88-256 (k) of the Sonoma County Zoning Code, establishes the following operating standard for the permitting and operation of cannabis dispensaries:

12. *Operating days and hours shall be limited to Monday through Saturday from 7:00 a.m. to 7:00 p.m., including deliveries, or as otherwise allowed by the use permit. Operating hours may be further restricted through the use permit process where needed to provide land use compatibility;*

The approved operating hours are Monday through Saturday, 7am to 4pm. The proposed modification is to extend the evening 4pm hour to 7pm, consistent with the current operating standard above. The applicant has submitted a traffic study supporting the extended hours provided the applicant restrict outbound left turns onto Ely Road between 4pm and 6pm. The County Transportation and Public Works Department has provided draft conditions of approval supporting the egress restriction.

Issue #3: Vehicle Miles Traveled (VMT) Analysis

Senate Bill (SB) 743 provides that lead agencies evaluating projects for potential environmental impacts under CEQA must now look at the increase in vehicle miles traveled (VMT) rather than the traditional delay-based level of service (LOS) metric. The County of Sonoma has yet to adopt standards of significance for evaluating VMT. The applicant's traffic study by W-Trans indicates the increased dispensary traffic will have a less than significant transportation impact. W-Trans bases its finding on the technical recommendations published for retail land uses by the California Governor's Office of Planning and Research (OPR) in its 2018 *Technical Advisory on Evaluating Transportation Impacts in CEQA*.

The OPR information indicates local-serving retail may be presumed to have a less-than-significant VMT impact and therefore, screened out from requiring further VMT analysis. OPR

bases its advisory recommendations on current VMT data and research supporting that adding new smaller-scale (i.e. locally serving) retail uses reduces travel miles by redistributing vehicle trips to within a closer proximity of where customers generally work or reside. For example, for customers coming from the Petaluma area, whom after 4pm must travel to Cotati to visit the nearest dispensary, Down Under Industries offers a closer destination, and if operating until 7pm during that same time frame, would presumably contribute to a minor reduction in travel miles. Staff notes Down Under Industries is the only dispensary in Sonoma County located south of Cotati, and possibly the only dispensary in the area, incorporated or otherwise, that closes its doors at 4pm.

Additionally, OPR references a potential indicator for regional-serving retail use otherwise requiring full quantitative VMT analysis as a size of 50,000 square-feet or more. Staff notes the subject dispensary operation is 678 square feet in size, and considered *locally-serving*.

Therefore, as provided by OPR's guidance on locally-serving retail uses and supported by W-Trans and the County Department of Transportation and Public Works, the traffic increase proposed by the modified dispensary operation may be presumed to have a less than significant VMT impact because adding new smaller-scale retail uses to the local transportation framework is typically shown to reduce travel miles by improving destination accessibility and creating more opportunity for customers to travel shorter distances than previously available.

Issue #4: Neighborhood Compatibility

Neighbor correspondence expressing concerns regarding the dispensary operation as both existing and proposed is attached at Exhibit C. Staff summarizes and responds to the main points of concern the neighbor raises.

Neighbor Concerns

Email correspondence, October 2020

1. Customers without appointments often lined up outside door
2. Dispensary facility has limited on-site parking
3. Employees and customers often parking on street
4. Signage violation displaying cannabis sales during initial opening of business
5. Findings for residential proximity exception appear unfounded
 - a. Road width not an effective physical barrier because dispensary break-in incident impacted residential zone on opposite (north) side.
 - i. Law enforcement allowed dispensary owner to park vehicle on residential side blocking access during incident.
6. Further disruption to enjoyment of homes if dispensary expands
7. Potential for traffic backup at railroad tracks.

Staff Comments

1. Indicates applicant is enforcing limited customer entry per approved operating plan
2. Dispensary provides 9 spaces (plus overflow) as required by code at interior of site
3. Vehicles may not be related to dispensary:
 - a. Customers of adjacent transmission shop customers dropping off/picking up vehicles at site frontage may easily be mistaken for dispensary customers;
 - b. SMART workers often visit and park across street at utility building.
4. A-frame sidewalk sign was removed after grand opening - no violation filed
5. Location exception findings remain supported by unchanged right-of-way conditions
6. Noted
7. Noted

Residential Location Exception

The BZA previously adopted findings allowing Down Under Industries to operate on a parcel located closer to a residential zone than current location standards specify for a dispensary use. The minimum location standard is 100 feet. The site frontage of the dispensary parcel is within 70 feet of the residential zone containing four homes on the opposite side of Ely Road. The location standards provide for granting an exception where adequate physical separation exists between the uses. The BZA determined the roadway of Ely Road combined with its additional right-of-way width and improvements along the opposite frontages, including solid wood fencing along the dispensary side and mature screening trees and a solid wood fencing along the residential side, as providing sufficient physical separation and an effective visual barrier between the dispensary and residential zone, and granted this exception. Staff notes these same conditions still remain and no changes affecting the roadway and its existing right-of-way improvements as an effective physical barrier are proposed.

Issue #5: Environmental Determination

The modified project is categorically exempt from environmental review under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA). The *Existing Facilities* exemption applies to the operation, permitting and licensing of existing facilities involving negligible or no expansion of existing use. Permit Sonoma has determined the *Existing Facilities* exemption applies because the proposed use permit modifications allow continued operation of existing use within the same commercial tenant space for which it was previously approved, are limited to operational changes that do not physically alter or expand the existing tenant space, and result in a level of increased traffic that is expected to have a less than significant transportation impact on the environment.

STAFF RECOMMENDATION

Approve the proposed dispensary modifications and renew the use permit approval for a 5-year limited term with updated findings and conditions.

FINDINGS FOR RECOMMENDED ACTION

1. The proposed dispensary modification conforms to the General Plan land use designation of Limited Commercial, which allows for retail sales and services for the daily self-sufficiency of local rural or urban neighborhoods. The services provided by the dispensary serve residents in the local area including delivery which is allowed both in unincorporated County areas and the City of Petaluma.
2. The proposed increase in traffic is consistent with the County's current transportation policies in place to maintain acceptable level of service conditions for existing and future intersections as provided by the Circulation and Transportation element of the General Plan, and as further specified in the County's *2016 Traffic Study Guidelines*.
3. The proposed modification is consistent with the LC (Limited Commercial) zoning district which is intended to support a full range of commercial operations for retail sales and services for the daily self-sufficiency of urban and rural areas, for the following reasons:
 - a. Permitted commercial uses include retail stores, repair services, offices, and restaurants. The cannabis dispensary is a locally-serving retail establishment serving local Sonoma County customers.
 - b. The Cannabis Dispensary as modified continues to meet the applicable development standards and operational criteria listed under Section 26-88-256 of the Zoning Ordinance, as conditioned and as specified in the proposed operating plan, including limitations on operating hours and sales of products, proposed security measures and alarm systems, and providing nine on-site parking spaces per Sec. 26-86-010.
 - c. The property is located 70 feet from the adjacent residential zoned parcels, which does not meet the 100-foot separation criteria. An exception to this standard was previously granted based on a determination that that a physical barrier exists. The Ely Road right-of-way provides a physical separation from the adjacent residential zones and the fencing and mature screening trees together comprise an effective visual barrier between land uses. The physical barrier remains adequate for the proposed modification in the use.
 - d. The Cannabis Dispensary is not located within 1,000 feet of any public or private school or other Medical Cannabis Dispensary, nor within 500 feet from a smoke shop or similar facility.
4. The proposed use is compatible with surrounding residential uses because the dispensary is appropriately scaled to operate within a small commercially zoned space, entails a limited scope of daily customer activity that is not anticipated to substantially affect existing traffic, has sufficient parking with solid fencing to provide screening from surrounding uses, and includes a security plan addressing on-site safety and theft protection measures.

5. The proposed use is not anticipated to adversely affect existing traffic patterns or levels of service in the area, including for the westbound Ely Road (LOS F) approach onto Old Redwood Highway (LOS D) corridor, because the operation will restrict vehicle traffic from traveling toward Old Redwood Highway during peak evening commute hours, thereby maintaining acceptable intersection service levels as provided by the General Plan and the County's 2016 *Traffic Study Guidelines*.

6. The establishment, operation, and maintenance of the use 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 neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The circumstances of this particular case are: a) operating hours are limited to 7:00 AM to 7:00 PM, Monday through Saturday; b) the proposed dispensary location from the nearest school is 1,137 feet and meets the 1,000-foot separation requirement; c) the existing dispensary continues to operate within the same tenant space for which it was previously approved; d) the allowance of expanded evening hours and walk-in customer visitations without appointment does not physically alter or expand the size of the existing tenant space; e) the existing facility is staffed with an on-site security personnel at all times during approved business hours; f) the permit includes a security plan with a professionally monitored alarm system, perimeter fencing, locking entry gate and monitoring cameras; g) carbon filters have been installed and are maintained to minimize potential undesirable odors from the facility; h) the permit prohibits occupancy by persons under 18 years of age, alcohol sales, loitering, and any on-site smoking or ingestion of cannabis; i) the resulting increase in traffic is expected to have a less than significant environmental impact on vehicle miles traveled; j) the permit restricts outbound left turns onto Ely Road between 4pm and 6pm to maintain acceptable intersection service at Old Redwood Highway during weekday peak hour traffic; and k) the modified permit approval is for a 5-year limited term and requires further review and renewal at the end of the provided approval term in July 2026.

LIST OF ATTACHMENTS

- Exhibit A: Draft conditions of approval
- Exhibit B: Dispensary operating plan
- Exhibit C: Public comments
- Exhibit D: Project site and floor plans
- Exhibit E: Project traffic study
- Exhibit F: Draft Resolution