Board of Supervisors
September 14, 2021

Appeal of Loe Firehouse Dispensary
15499 Arnold Drive, Sonoma
UPC17-0094, Use Permit
Crystal Acker
Zoning Map
Aerial Map

- Project Site
- Arnold Dr Customer Entrance
- Madrone Rd Employee Entrance
Project Proposal

- Cannabis dispensary in existing building
  - 865 sq ft sales floor/1,891 sq ft total retail area
  - Hours of operation 7:00am to 7:00pm Mon-Sat
  - Delivery service (2 routes per day)
  - 5 employees
  - Interior building remodel
  - Parking lots reconfigured to provide 17 parking spaces: 12 customer/5 employee

- Anticipate 150 daily customers
Site Plan
BZA Hearing – Action Taken
April 8, 2021

- Negative Declaration Adopted
- Use Permit Approved 5-0-0 w’ Conditions
  - Minor changes to 2 Conditions
    - # 23 Greenhouse Gas Reduction Plan —“replacement of HVAC equipment over time as existing units fail with zero chlorofluorocarbon-based refrigerant” deleted, by request of Chair Tamura
    - # 34c wording changed to state fire sprinklers and fire alarm to be installed only if required by the occupancy type, by request of applicant
BZA Decision Appealed
April 19, 2021

- Disagreement w staff & BZA interpretation of County Code related to Setbacks & Parking
- BZA Public Hearing Notice
- Insufficient review of traffic impacts
- Not recommended for approval by SVCAC
- Public outreach by applicant inadequate/constitutes false testimony
Zoning Code Consistency – Dispensary Setback Requirements

- 100-ft setback from R Zoning District
  - Project parcel < 100 ft from Residential Zoning District:
    Code allows applicant to request a waiver of the R setback
    "may be waived by the review authority when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur." (Code Sec. 26-88-256(f)(4))
Setback Waiver – R Zoning District

- Does not share a boundary w/ R District
- Existing Physical Separation:

<table>
<thead>
<tr>
<th>Direction</th>
<th>Physical Separation</th>
<th>Distance (Ft)</th>
<th>Meets R District Setback?</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>LC parcel</td>
<td>116</td>
<td>✓</td>
</tr>
<tr>
<td>West</td>
<td>Arnold Dr</td>
<td>65</td>
<td>×</td>
</tr>
<tr>
<td>South</td>
<td>Madrone Rd</td>
<td>75</td>
<td>×</td>
</tr>
<tr>
<td>East</td>
<td>LC parcel</td>
<td>58</td>
<td>×</td>
</tr>
</tbody>
</table>
Setback Waiver – R Zoning District

Existing Physical Separation
Setback Waiver – North: 116 ft
Limited Commercial Property
Setback Waiver – West: 65 ft
Arnold Drive
Setback Waiver – North
Dispensary Frontage/Customer Entrance
Setback Waiver – South: 75 ft
Madrone Road
Setback Waiver – East: 58 ft
Limited Commercial Property
Zoning Code Consistency – Dispensary Setback Conclusion

- Does not share a boundary with R District
- Physical Separation exists between project parcel and adjacent parcels
  - Other commercial parcels
  - Arnold Drive & Madrone Road
- Customer frontage oriented away
- Existing fences and landscaping
- Consistent with previous decisions
Zoning Code Consistency – Cultivation Setback Requirements

- **Cannabis cultivation - Code Sec. 26-88-254.**
  
  Provides a standard to reduce 1,000-ft setback between a cultivation site & a public park.

  “This park setback may be reduced with a use permit when it is determined that an actual physical equivalent separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the cannabis operation is not accessible or visible from the park.” (Code Sec. 26-88-254(f)(6)&(8))

- **Dispensaries - Code Sec. 26-88-256.**

- Cultivation park setback reduction standard does not apply to proposed project.
Zoning Code Consistency – Number of Parking Spaces

“2 spaces, including at least 1 van-accessible space; plus 1 additional space for every 200 square feet of gross floor area, plus 1 additional space for each employee on maximum shift; but in no case less than 5 off-street parking spaces” Code Sec. 26-88-010(c)

- Gross floor area is 1,891 sq ft (865-sq-ft sales floor plus all public use spaces)
  - $2 + 10 \left( \frac{1891}{200} = 9.5 \right) = 12$
  - ✓ 12 customer spaces proposed (including 1 ADA)

- 5 employees
  - $1 \times 5 = 5$ employee spaces
  - ✓ 5 employee spaces proposed (including 1 ADA)
Zoning Code Consistency –
Number of Parking Spaces

- Employee support space does not generate parking need over 1 space per employee
- All building sq footage accounted for as either customer space or employee space
- Consistent with previous decisions

- Conditions to address parking concerns
  - #12 Prohibits expansion of dispensary floor area
  - #19 Limits employee vehicles to 5
  - #20 Prohibits on-street parking for employees & vendors
Zoning Code Consistency – Configuration & Size of Parking Spaces

- Code defines parking spaces as:
  
  “Usable off-street area with independent access, not included within established front-yard setback, at least nine feet (9′) by twenty feet (20′) for diagonal or perpendicular vehicle parking, or at least eight feet (8′) by twenty-two feet (22′) for parallel vehicle parking.” (Code Sec. 26-04-020(P)(1))
Zoning Code Consistency – Independent Access of Parking Spaces

- Space 17 is tandem
- Shared by delivery driver & commercial vendors for short-term use
- Use of space controlled by operator to ensure both spaces can be entered and exited
- Similar to event parking
Zoning Code Consistency – Size of Parking Spaces

- Code provides off-street parking design standards:
  - 9 feet by 20 feet for a standard parking space
  - 8 feet by 16 feet for a compact space.
    (Code Sec. 26-82-030(q))

- Site Plan shows typical size of 9 ft by 18 ft

- Final parking lot configuration determined by design review, as required by Condition #24

- Final configuration will be required to provide 17 spaces, as required by Condition #19
Traffic Study – Original Analysis More Than Two Years Old

- Traffic studies require update if >2 years old
- Original Study July 2018 (2017-2018 data)
- Amended January 2021 to reevaluate previous findings & add Vehicle Miles Traveled (VMT)
- Revised Addendum May 2021
  - Added re-certification statement
  - Added discussion of Shelter-In-Place/ COVID-related changes in travel
- Both approved by DTPW as meeting the County’s Guidelines for an updated traffic study
Traffic Study – Future Projects

- Traffic studies included analysis of future land uses
  - Computer modeling
  - Alternate/supplemental method - trip generation data for approved or pending projects
    - Typically included for major projects approved but not yet constructed (e.g., major subdivisions, specific plans)
    - Sonoma Developmental Center Specific Plan
      - No proposed project; analysis not feasible
    - Other proposed dispensaries in Sonoma Valley
      - Project VMT analysis would not be negatively impacted

- Approved by DTPW as meeting County Guidelines
Sonoma Valley Citizens Advisory Commission

- Proposed project heard by SVCAC May 23, 2018
- Not recommended for approval - 5 (No) : 4 (Yes) vote
- The SVCAC recommendation and meeting minutes were considered by the BZA at the April 8, 2021 BZA Hearing
Applicant Request to Eliminate Conditions of Approval

- Applicant made a request at the BZA Hearing to eliminate Conditions 41 through 54.
- The BZA discussed the request but did not remove any conditions.
- Applicant has again requested to eliminate Conditions 44 though 46, related to pedestrian frontage improvements.
- Staff recommend that the conditions be maintained.
CEQA environmental review determined no significant environmental impact

No mitigation required

Appeal challenged the traffic analysis under CEQA citing a conflict with County Guidelines related to age of the study and future land uses

As discussed, the traffic analysis was determined to meet County Guidelines by DTPW
Staff Recommendation

- Recommend the BOS deny the appeal, adopt the Negative Declaration, and uphold the BZA Use Permit Approval with Conditions

- OPTIONS:
  - Deny the appeal and uphold the BZA decision with revised conditions
  - Continue the project to a future hearing date with direction on additional information or project adjustments to be provided
  - Uphold the appeal and deny the project with justification for denial (staff to return w amended resolution for final action)
End of Presentation
# Summary of Approved Residential Setback Waivers

## Table 1 - Dispensaries approved with residential setback waivers

<table>
<thead>
<tr>
<th>File #</th>
<th>Business Name</th>
<th>Location</th>
<th>Zoning</th>
<th>Setback Requirement</th>
<th>Actual Setback</th>
<th>** Additional Physical Separation Provided/Waiver Justification **</th>
<th>Approval Body/Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLP08-0025;</td>
<td>Organicann</td>
<td>301 E. Todd Rd, Santa Rosa</td>
<td>LC</td>
<td>100 feet from R zoning</td>
<td>0 feet; RR abuts</td>
<td>RR parcel has GI Land Use &amp; existing auto repair shop; only residence within 100 ft is non-conforming on M1</td>
<td>BOS 12/9/2008</td>
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<td>UPC18-0054</td>
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<tr>
<td>UPE10-0069;</td>
<td>Sonoma Medicinal</td>
<td>3403 Santa Rosa Ave, Santa</td>
<td>C2</td>
<td>100 feet from R zoning</td>
<td>0 - 99 ft; R3 abuts &amp; across road</td>
<td>Abutting R3 mobile home park behind dispensary; separated by MH Park driveway (A St), 6-ft chain link/slat fence, and loading/parking area for commercial building; ~50 ft to nearest residence from back of dispensary building; R3 also ~99 ft across Santa Rosa Ave, currently undeveloped</td>
<td>BZA 6/9/2011</td>
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<tr>
<td>UPC19-0007</td>
<td>Herbs</td>
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<tr>
<td>UPE09-0086;</td>
<td>Riverside Wellness</td>
<td>15025 River Rd, Guerneville</td>
<td>LC</td>
<td>100 feet from R zoning</td>
<td>0 - 95 ft; R1 abuts &amp; across road</td>
<td>Abutting R1 vacant &amp; used as parking for dispensary; 6-ft solid wood fence required between parking/R1 by COA; COA requires dispensary to close if vacant R1 develops w/residence; R1 also ~95 ft across River Rd and Old River Rd; all residential structures 100+ feet away</td>
<td>BZA 11/17/2011</td>
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<td>UPC18-0051</td>
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<tr>
<td>UPE16-0027</td>
<td>Down Under Industries</td>
<td>50 Ely Rd N, Petaluma</td>
<td>LC</td>
<td>100 feet from R zoning</td>
<td>70 - 80 ft; AR across road</td>
<td>AR 70 - 80 ft across Ely Rd; existing fencing/landscaping; all residential structures 100+ feet</td>
<td>BZA 12/21/2017</td>
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<td>UPE19-0001</td>
<td>In The Tree Apothecary</td>
<td>10665 River Rd, Forestville</td>
<td>C1</td>
<td>100 feet from R zoning</td>
<td>20 - 60 ft; RR across road</td>
<td>RR 20-60 ft across River Rd, Forest Hills Rd &amp; Gray’s Ct; Closest residence side yard 25 ft fr rear employee parking, but oriented away &amp; screened by fencing &amp; vegetation; all other residences 100+ ft away; dispensary frontage on River Rd, oriented away from residential areas</td>
<td>Hearing Waiver 9/11/2020</td>
</tr>
</tbody>
</table>

**Refer to graphics on following pages for more details**
Approved Residential Setback Waivers

Organicann; 301 E. Todd Road, Santa Rosa (PLP08-0025/UPC18-0054)

Closest residence on M1

RR Zoning w GI Land Use and existing industrial uses
Approved Residential Setback Waivers

Riverside Wellness; 15025 River Road, Guerneville (UPE09-0086/UPC18-0051)
Approved Residential Setback Waivers

Redwood Herbal Alliance, 5280 Aero Drive, Santa Rosa (UPE09-0064/UPC18-0013)

- Private mobile home park pool – 730 ft
- Martial Arts Studio – 280 ft
- Cultural Center – 325 ft
- Private PUD playground – 770 ft
Approved Residential Setback Waivers

Sonoma Medicinal Herbs; Santa Rosa Avenue, 3403 Santa Rosa (UPE10-0069/UPC19-0007)

- 6-ft existing fence here
- Loading dock and employee parking for building
- A St/Private driveway for mobile home park
- Dispensary entrance & parking on Santa Rosa Ave
Approved Residential Setback Waivers

Down Under Industries; 50 Ely Road N, Petaluma (UPE16-0027)

Closest residences on AR

Existing solid wood fences

Site
Approved Residential Setback Waivers

In The Tree Apothecary; 10665 River Road, Forestville (UPC19-0001)

Dispensary entrance & parking on River Rd & C1 parking lot shared with market

Closest residences on RR

Site

C1

C1

RR

Employee parking & deliveries on Gray’s Ct

School bus stop on Gray’s Ct at market parking lot
Setback Waiver – Project Site

- Art gallery & closest residence on LC
- Sonoma County Transit stop
- Customer driveway on Arnold Dr
- Employee entrance & deliveries on Madrone Rd
- Dispensary frontage interior to lot
- Closest apartment building on R3
- Carports
- Rancho Market & Deli
- Closest residence on R1 – facing Glenwood
Traffic

- **Traffic Study 2018/Amended 2021**
  - +263 daily trips compared to existing condition
    - 36 weekday PM peak hr; 17 weekday AM peak hr
    - 68 weekend PM peak hr (no weekend AM peak)
  - No significant traffic impact to area
  - No intersection improvements needed

- **Average Daily Traffic Counts June-July 2014**
  - 8,050 ADT on Arnold Dr 675 ft N of intersection
  - 3,714 ADT on Madrone Rd 3,700 ft E of intersection
    - 3% increase on Arnold Dr & 7% increase on Madrone Rd