

CITY OF SANTA ROSA  
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
STAFF REPORT FOR PLANNING COMMISSION  
January 23, 2020

**PROJECT TITLE**

FXL Inc.

**APPLICANT**

Nick Caston

**ADDRESS/LOCATION**

3415 Industrial Drive

**PROPERTY OWNER**

Young Vaughn W TR & Angela C TR

**ASSESSOR'S PARCEL NUMBER**

015-650-023

**FILE NUMBER**

CUP19-042

**APPLICATION DATE**

April 24, 2019

**APPLICATION COMPLETION DATE**

September 27, 2019

**REQUESTED ENTITLEMENTS**

Conditional Use Permit (CUP)

**FURTHER ACTIONS REQUIRED**

N/A

**PROJECT SITE ZONING**

IL (Light Industrial)

**GENERAL PLAN DESIGNATION**

Light Industry

**PROJECT PLANNER**

Monet Sheikhal

**RECOMMENDATION**

Approval

For Planning Commission Meeting of: January 23, 2020

CITY OF SANTA ROSA  
PLANNING COMMISSION

TO: CHAIR CISCO AND MEMBERS OF THE COMMISSION

FROM: MONET SHEIKHALI, CITY PLANNER  
PLANNING AND ECONOMIC DEVELOPMENT

SUBJECT: FXL INC. CANNABIS MANUFACTURING- LEVEL 2 (TYPE 7)

AGENDA ACTION: APPROVE RESOLUTION

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RECOMMENDATION

The Planning and Economic Development Department recommends that the Planning Commission, by resolution, approve a Major Conditional Use Permit (CUP) for commercial Cannabis Manufacturing – Level 2 (volatile) (Type 7) use at located at 3415 Industrial Drive.

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EXECUTIVE SUMMARY

FXL, Inc. proposes to use 2,523 square feet of the exiting 6,000 square foot building for commercial Cannabis Manufacturing – Level 2 (volatile) (Type 7). On November 27, 2018, the Director approved the remaining 3,477 square feet for Type 11 distribution with a Zoning Clearance.

The projects includes the following: 2,113 square feet of Type 7 manufacturing space consisting of a 323 square foot hydro-carbon extraction room; a 147 square foot utility room; a 470 square foot ethanol extraction and post processing room; a 264 square foot distillation room; 81 square feet of ethanol storage; a 240 square foot vacuum oven room; a 479 square foot laboratory; and a 519 square foot packaging and storage room.

There is no exterior modification proposed to the exiting building façade. Consistent with building and fire code regulations, two chillers, a compressor, an evaporator and hydrocarbon storage will be located at the rear of the building.

BACKGROUND

On October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA), which went into effect on January 1, 2016. MMRSA established a comprehensive State licensing and regulatory framework for the

cultivation, manufacture, transportation, testing, storage, distribution, and sale of medical cannabis through Assembly Bills 243 and 266, and Senate Bill 643.

The 2016 City Council (Council) Goal Setting Workshop established five priorities to better focus staff efforts towards achieving established Council Goals. One of the Tier 1 priorities (projects that are underway or receiving the highest attention) identified is to “pursue current opportunities for medical marijuana, cannabis cultivation, lab and employment development. Prepare for impacts of legalized recreational marijuana.”

In accordance with Council goals, and in response to the State’s adoption of the MMRSA, the Council asserted its interest in retaining local authority over medical cannabis operations.

On January 19, 2016, the Council initiated a comprehensive policy effort to regulate medical cannabis operations and reconvened the Medical Cannabis Policy Subcommittee.

On August 3, 2016, The City’s Zoning Administrator, at the direction of the City Council, issued an Official Zoning Code Interpretation to address Medical Cannabis support uses, specifically addressing the light manufacturing (non-volatile), distribution, laboratory testing and transportation operations of the industry. The interpretation aligned these operational uses with their non-cannabis counterparts. Attached to the interpretation were standards regarding odor, lighting, security and noise to ensure compliance with state law and city ordinances given the specific issues surrounding the cannabis product.

On December 19, 2017, the City Council unanimously adopted the City’s Comprehensive Cannabis Ordinance. The regulations address the locational and operational requirements for commercial cannabis related businesses, identifying the permit compliance path for both medical and adult use activities. The ordinance allows the City to direct these land uses to appropriate areas of the City, and also establishes a public review process for permits, and locational and operational requirements to address land use compatibility, odor, security, safety, health, lighting, parking and noise. The ordinance specifically addresses volatile cannabis manufacturing, requiring a Major Conditional Use Permit in the IL – Light Industrial and IG – General Industrial Zoning Districts.

### Project Description

The applicant proposes to operate a commercial Cannabis Manufacturing – Level 2 (volatile) (Type 7) licensed facility located at 3415 Industrial Drive. The facility will be open 24-hours a day, 7 days a week. The number of employees per shift will vary, with a maximum of 10 employees per shift. The building will be used for manufacturing and distribution uses only and there will be no retail uses on-site.

FXL, Inc. is proposing to operate a 2,523 square foot Type 7 volatile extraction Level 2 facility within the existing 6,000 square foot building. This will include 2,113 square feet

of Type 7 manufacturing space--consisting of a 323 square foot hydro-carbon extraction room, a 147 square foot utility room, a 470 square foot ethanol extraction and post processing room, a 264 square foot distillation room, 81 square feet of ethanol storage, a 240 square foot vacuum oven room and a 479 square foot laboratory. It will also include a 519 square foot packaging and storage room.

Per Zoning Code Section, 20-46.070(C), the City of Santa Rosa requires that the closed loop system be listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City's Building Official and Fire Code Official. Per Section 20-46.070(D), the City also requires that a licensed professional engineer annually recertify the extraction equipment. FXL, Inc. will ensure that all extraction equipment to be used has been listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City's Building Official and Fire Department. No closed loop systems will be utilized without prior inspection and approval from the City's Building Official and Fire Department.

1. Surrounding Land Uses

The parcel is zoned Light Industry (IL) and is located within an area of industrially developed and used lands. The site is surrounded on all four sides by Light Industry land uses. There are no residential uses or other sensitive receptors in the area.

2. Existing Land Use – Project Site

The Project is located on the north side of Industrial Drive, in a predominantly industrialized area, on a 0.33-acre site in the Light Industrial (IL) zoning district. The property is developed with an existing 6,000 square foot single-story industrial building and paved surfaced parking. The General Plan Land Use designation for the subject parcel and adjacent parcels on all four sides is Light Industry.

The building was previously used for major auto repair and bodywork. On November 27, 2018, a Zoning Clearance (ZC18-0382) was issued for Cannabis Distribution (Type 11) and Cannabis Manufacturing Level 1 (Type 6). The proposed Cannabis Manufacturing Level 2 (Type 7) would be classified as a light industrial use within the existing building with no expansion.

The project site provides 14 dedicated parking spaces where a minimum of 10 spaces are required. The building will not be open to the public and will have adequate parking spaces to accommodate all employee vehicles and delivery vehicles. Therefore, with the continuation of the light industrial use at this site, trip generation for the most recent land use and the proposed land use should be unchanged.

### 3. Project History

On April 24, 2019, the CUP application was submitted to the Planning and Economic Development Department.

On May 17, 2019, a Notice of Application was distributed to property owners and occupants within 600 feet of the site.

On July 16, 2019, an Issues Letter was sent to the applicant.

On September 27, 2019, the applicant resubmitted plans addressing issues.

### PRIOR CITY COUNCIL REVIEW

Not applicable.

### ANALYSIS

#### 1. Santa Rosa General Plan 2035

The site is designated Light Industrial on the General Plan Land Use Diagram. This classification is intended to accommodate, among other uses, auto repair, warehousing, manufacturing/assembly, home improvement and landscape material retail, research oriented industrial, and services with large space needs, such as health clubs. The project proposes Commercial Cannabis Manufacturing Level 2 (volatile) use in a Light Industrial zoning district. Commercial Cannabis Manufacturing Level 2 (volatile) is an allowed use with a Major Conditional Use Permit.

The following General Plan goals and policies are applicable to the Project:

LUL-I-1 Provide a range of commercial services that are easily accessible and attractive, that satisfies the needs of people who live and work in Santa Rosa and that also attracts a regional clientele.

EV-A-1 Continue to promote Santa Rosa as the North Bay's premier location for technology, clean/green technologies, and entrepreneurial businesses, which create new products and business models that will attract national and international markets.

EV-A-5 Maintain diversity in the types of jobs available in Santa Rosa to lessen the impact of economic cycles.

EV-D Maintain the economic vitality of the downtown, business parks, offices and industrial areas.

The Zoning Code specifically identifies the Light Industrial Zoning District as a district appropriate for cannabis cultivation, distribution, manufacturing, and retail (dispensary). Although Cannabis uses are not explicitly addressed in the General Plan, these industrial zoning districts implement the industrial designations intended for many uses similar to commercial Cannabis manufacturing.

Staff has determined that the proposed Commercial Cannabis Manufacturing Level 2 (volatile) use is consistent with the applicable aforementioned General Plan goals and policies, and the associated Light Industry General Plan land use designation. The proposed use would assist in maintaining the economic viability of the area, broaden the available full and part time jobs within the City, and provide a viable commercial service, while ensuring compatibility with the surrounding neighborhoods through proposed operations and security measures.

2. Other Applicable Plans

Not applicable.

3. Zoning

The project site is located within a Light Industrial (IL) zoning district and is surrounded by IL – Light Industrial zoned properties supporting various manufacturing, processing, wholesale, retail, or general services uses. The IL zone, which is consistent with the Light Industry General Plan land use designation, is applied to areas appropriate for light industrial uses, as well as commercial service uses and activities that may be incompatible with residential, retail, and/or office uses.

City Council Ordinance No. ORD-2017-025, Comprehensive Cannabis Ordinance, amended Section 20-24.030, Table 2-10 – Allowable Land Uses and Permit Requirements for Industrial Districts to include Commercial Cannabis Manufacturing Level 2 (volatile) uses subject to an approved Major Conditional Use Permit, regardless of the size of the proposed use. The applicant has met the permit requirements by filing this application for a Major Conditional Use Permit for commercial Cannabis Medicinal and Adult Use Manufacturing Level 2 (volatile) use.

Zoning Code Section 20-46.050 describes general operating requirements applicable to all cannabis businesses, and Section 20-46.070 specifies additional operating requirements for Cannabis Manufacturing. The applicant has demonstrated compliance with all general operating requirements and those specific to Cannabis Manufacturing.

**Parking**

The project site is developed with one industrial building and a parking lot for 14 vehicles. The minimum required parking for all types of Cannabis Manufacturing

and Distribution uses at this site under the current Zoning Code is 10 (7 for Manufacturing @ 1/350sqft and 3 for Distribution @ 1/1000sqft). The facility will be open 24-hours a day, 7 days a week and will not be open to the public. The number of employees per shift will vary, with a maximum of 10 employees per shift. The provided 14 parking spaces are sufficient to support the proposed cannabis manufacturing and distribution facility.

The Planning Commission must make all of the following findings as required in Zoning Code Section 20-52.050 (Conditional Use Permits), to grant the Major Conditional Use Permit. Each requisite finding is followed by a staff response.

**The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the City Code.**

Staff Response: The proposed Cannabis Manufacturing Level 2 (volatile) operation will occupy 2,523-square-feet of an existing 6,000-square-foot building in the Light Industrial zoning district, which is allowed, subject to Planning Commission approval of a Major Conditional Use Permit.

**The proposed use is consistent with the General Plan and any applicable specific plan.**

Staff Response: The City identified specific General Plan land use designation areas, including Light Industry, as appropriate districts for the proposed land use. The proposed Cannabis Manufacturing Level 2 (volatile) use is consistent with the applicable underlying General Plan goals and policies related to industry, economic vitality, and the associated Light Industry General Plan land use designation. Staff identified several General Plan goals and policies that would be advanced through approval of the proposed project.

**The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.**

Staff Response: The proposed project would improve and re-tenant a building within an industrial district that currently has an approved Zoning Clearance for Cannabis Distribution and Cannabis Manufacturing Type 6 (non-volatile) uses. As such, the project is well-suited for the proposed cannabis manufacturing facility. The project site is developed for light industrial uses and is consistent with the Light Industry General Plan designation. Parking is adequate for the staffing and operations of the proposed use, as well as for a facility that is not open to the public (see Parking in Analysis section). The project complies with the general operating requirements for cannabis

businesses and those operating requirements specific to cannabis manufacturing.

**The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.**

Staff Response: The proposed use would be located entirely within a 2,523-square-foot tenant space of a 6,000-square-foot industrial building. Access to the site is provided via Industrial Drive, and the building will be fully accessible pursuant to American's with Disabilities Act (ADA) standards, though no public access will be permitted due to the nature of the proposed use and for security purposes. All necessary utilities are available at the project site, including water, wastewater, storm drainage, gas and electric services.

**Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.**

Staff Response: The proposed project will be consistent with the surrounding land uses on all four sides, which are within the IL zoning district and comprise a variety of light manufacturing, services, warehousing, distribution uses. The project Odor Mitigation Plan has been certified by a licensed engineer ensuring that all mitigation controls are sufficient to effectively mitigate odors from all sources (see Attachment 5 – Certified Odor Mitigation Plan dated received September 27, 2019). The project Security Plan seeks to effectively prevent theft or diversion of any cannabis or currency, as well as to discourage loitering, crime, and illegal or nuisance activities, by installing an interior and exterior camera surveillance system, a professionally monitored alarm system, access controls, and secure storage and waste areas inventory controls, as well as implementing inventory controls, employee safety and security operational procedures, and training on such procedures. The project is subject to building and fire permits as described in Building and Fire Code Requirements for Cannabis Related Occupancies including general requirements and those specific to volatile manufacturing. Additionally, an annual Fire Department Operational Permit is required for cannabis manufacturing facilities.

**The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Staff Response: The project qualifies for a Class 1 exemption under CEQA Guidelines Section 15301 in that it is the permitting and minor alteration to an existing structure with no expansion. The proposed interior and exterior

alterations are negligible and will not result in any significant impact(s). The project also qualifies for a Class 3 exemption under Section 15303, in that it permits the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The City has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. (CEQA Guidelines section 15300.2.)

4. Design Guidelines

No major changes are proposed to the exterior of the building. External modification to the existing building and site will be minimal.

5. Public Comments

None.

6. Public Improvements/On-Site Improvements

No public improvements/on-site improvements are required.

FISCAL IMPACT

Not applicable.

ENVIRONMENTAL IMPACT

The project qualifies for a Class 1 exemption under CEQA Guidelines Section 15301 in that it is the permitting and minor alteration of an existing private structure involving no expansion of use beyond that existing at the time of the lead agency's determination. The project also qualifies for a Class 3 exemption under Section 15303, in that it permits the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The proposed project does not propose an expansion of the structure's total square footage. The proposed interior and exterior alterations are negligible and will not result in any significant impact(s).

## BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

## NOTIFICATION

The project was noticed as a public hearing per the requirements of Chapter 20-66 of the City Code. Notification of this public hearing was provided by posting an on-site sign, publishing notice in a newspaper of general circulation, mailed notice to surrounding property owners, electronic notice to parties that had expressed interest in projects taking place in this geographic area of Santa Rosa, and bulletin board postings at City Hall and on the City website. Pursuant to Government Code Section 65091, where necessary, the City has incorporated notice procedures to the blind, aged, and disabled communities. These procedures include audio amplifier/assistive listening device support at public meetings, closed captioning, and optical character recognition conversion of electronic notices.

## ISSUES

There are no unresolved issues.

## ATTACHMENTS

- Attachment 1: Disclosure Form
- Attachment 2: Location Map
- Attachment 3: Project Narrative, dated received 9/27/2019
- Attachment 4: Project Plans, dated received 9/27/2019
- Attachment 5: Odor Control Plan, dated received 9/27/2019
- Attachment 6: Resolution

## CONTACT

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