

Appeal of Conditional Use Permit for Bkind, LLC Cannabis Dispensary & Delivery

1128 Sonoma Ave

March 12, 2019

Emmanuel Ursu
Consulting Planner
Planning and Economic Development

- **Cannabis Ordinance**
 - State & Local Regulations
 - Conditional Use Permit Criteria
- **Project Description**
 - Context
 - Site and Floor Plans
 - Operations
- **Public Comment**
 - Proximity to Santa Rosa French-American Charter School
 - Neighborhood Compatibility
- **Basis of Appeal**
- **Environmental Review**
- **Recommendation**

Cannabis Ordinance Overview

- **Personal Use**
 - 6 plants per residence
- **Commercial Cannabis Businesses**
 - Medical & Adult Use
 - Cultivation
 - Manufacturing (Level 1 & Level 2)
 - Testing Laboratory
 - Distribution
 - [Retail \(Dispensaries & Delivery\)](#)
 - Microbusiness
 - Special Events
- **Effective January 19, 2018**



Cannabis Ordinance

Retail and Delivery Land Use Definition

- **Cannabis Retail** means a facility where medical or adult use Cannabis or medical or adult Use Cannabis Products are offered, either individually or in any combination, for retail sale, including an establishment that delivers Cannabis or Cannabis Products as part of a retail sale. Also known as a cannabis “dispensary.”
- **State License Type - 10**

Cannabis Ordinance

Retail Specific Requirements

- **Eligible Zoning Districts**

- Commercial – CO, CN, CG, & CSC
- Industrial – BP, IL & IG

- **Setbacks to Sensitive Receptors**

- 600 feet to a K-12 school

- **Overconcentration**

- 600 feet to another Cannabis Retail facility

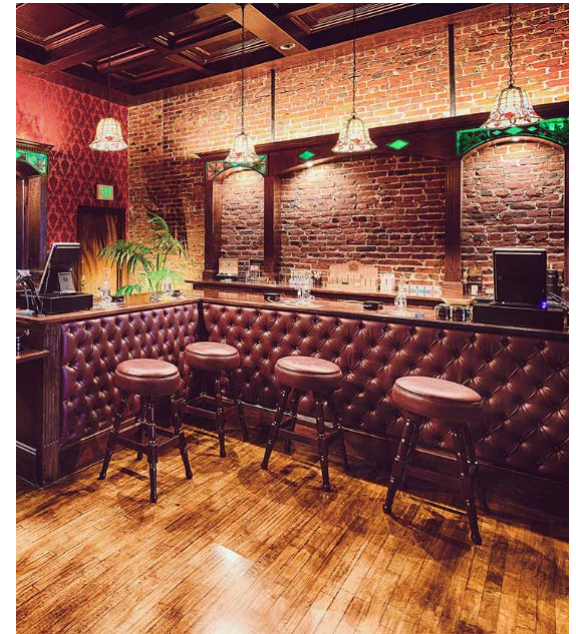
- **Conditional Use Permit**

- Neighborhood Meeting
- Public Hearing – Planning Commission
- Appeal – City Council

Cannabis Ordinance

Retail Specific Requirements

- **Deliveries** - Allowed only from a Cannabis Retail facility with a storefront
- **Drive-through** – Not permitted
- **Hours of Operation** – 9:00 am to 9:00 pm
- **Security** – entry must be visible from street, secured entry, products, cash
- **On-Site Consumption (not proposed)** – subject to state and local law; and use permit



State Law and Local Ordinance

Proximity to a School

- **Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)**
 - No cannabis business is allowed within 600 feet of a K-12 school, day care center, or youth center... unless a licensing authority or a local jurisdiction specifies a different radius" including a zero setback.
- **City of Santa Rosa Chapter 20-46 (Cannabis)**
 - City of Santa Rosa asserted its right to establish different setbacks through City Code Section 20-46.040(B)
 - City Code requires that Cannabis retail be setback 600 feet from a K-12 school as defined by Health and Safety Code section 11362.768
 - In addition, the City Code relies on the public review and hearing process and the requirement for six Conditional Use Permit findings.

Conditional Use Permit

Required Findings a - c

- a) The proposed use is allowed within the applicable zoning district and **complies with all other applicable provisions of the Zoning Code** and the City Code;
- b) The proposed use is **consistent with the General Plan** and any applicable specific plan;
- c) The design, location, size, and operating characteristics of the proposed activity would be **compatible with the existing and future land uses** in the vicinity;

Conditional Use Permit

Required Findings d - f

- d) The site is **physically suitable for the type, density, and intensity of use** being proposed, including access, utilities, and the absence of physical constraints;
- e) 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; and
- f) The proposed project has been reviewed in **compliance with the California Environmental Quality Act (CEQA)**.

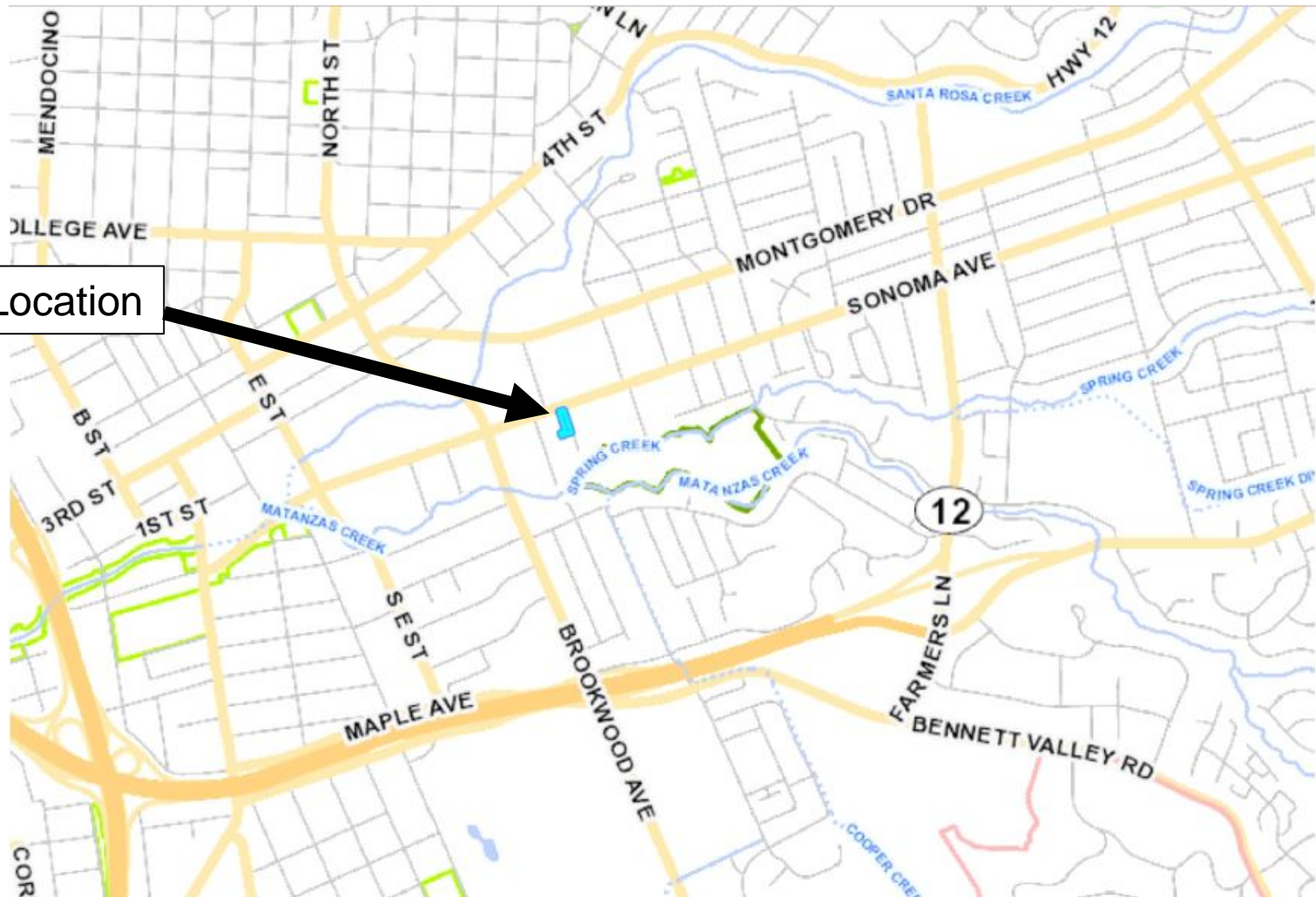
Conditional Use Permit

- Retail (dispensary) and Delivery
- Type 10 State License
 - Existing 2,314 square foot building
 - Retail - 634 square feet
 - Delivery – 178 square feet
 - Support Functions
 - Office - 228 square feet
 - Storage - 421 square feet
 - Processing - 255 square feet
 - Utility, hallways, etc.

- April 18, 2018 - Application submitted
- May 9, 2018 - Neighborhood Meeting
- May 31, 2018 - Application deemed incomplete
- June 18, 2018 – Supplemental application information submitted.
- June 26, 2018 – Application deemed complete
- November 19, 2018 - Public hearing notice
- November 29, 2018 – Planning Commission approves (6-1) a Conditional Use Permit for Bkind, with specific conditions
- December 10, 2018 – Appeal filed

1128 Sonoma Ave

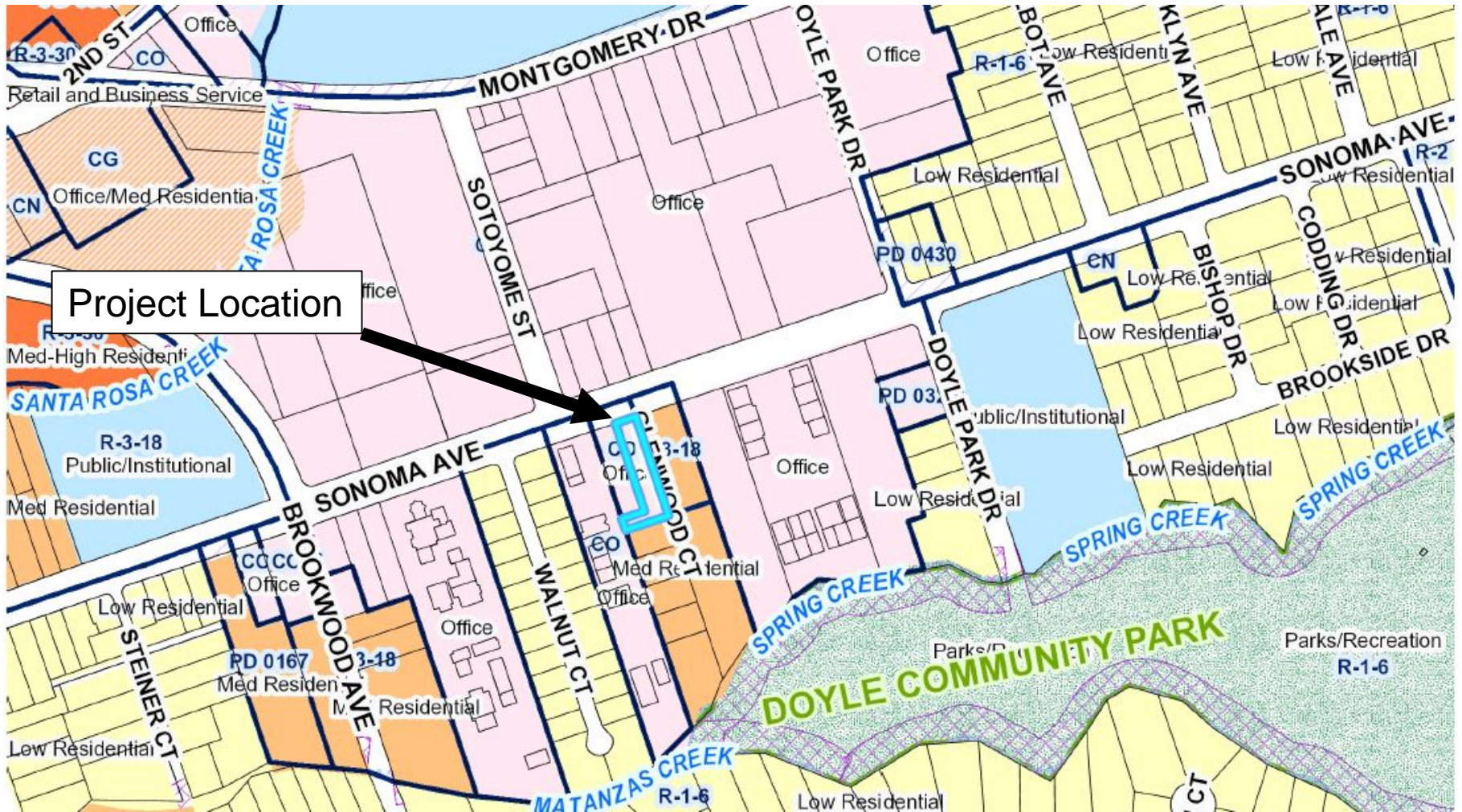
Project Location



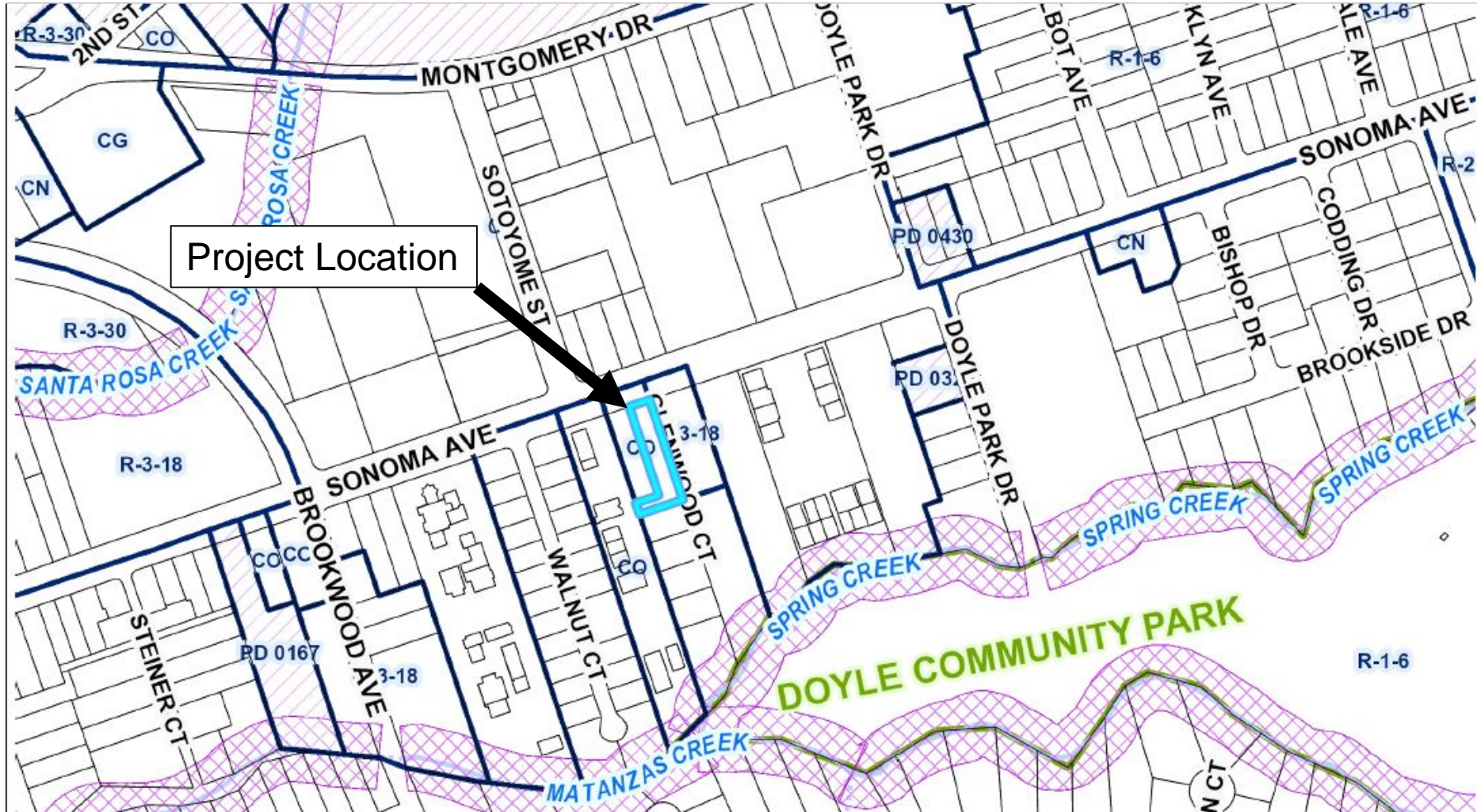
1128 Sonoma Ave



General Plan Land Use Designation: Office

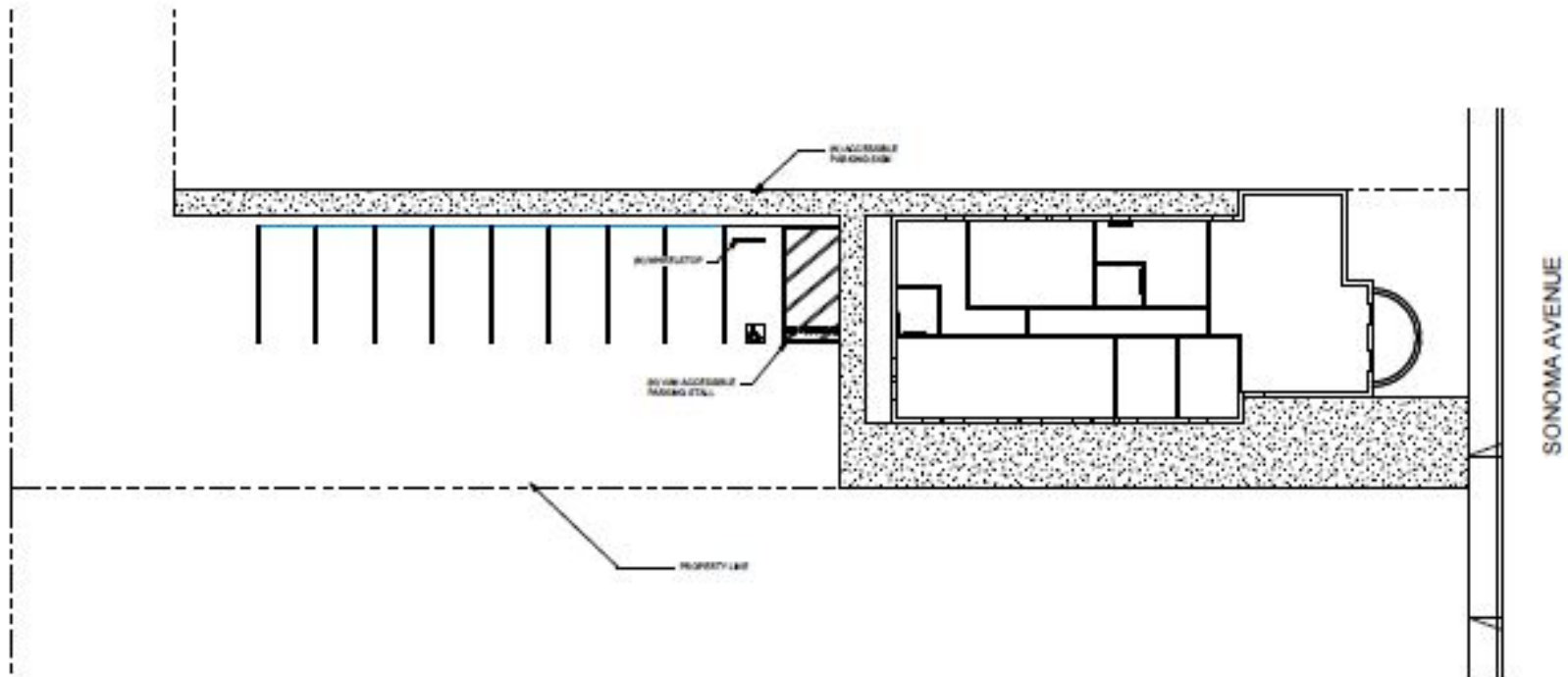


Zoning Office Commercial (CO)

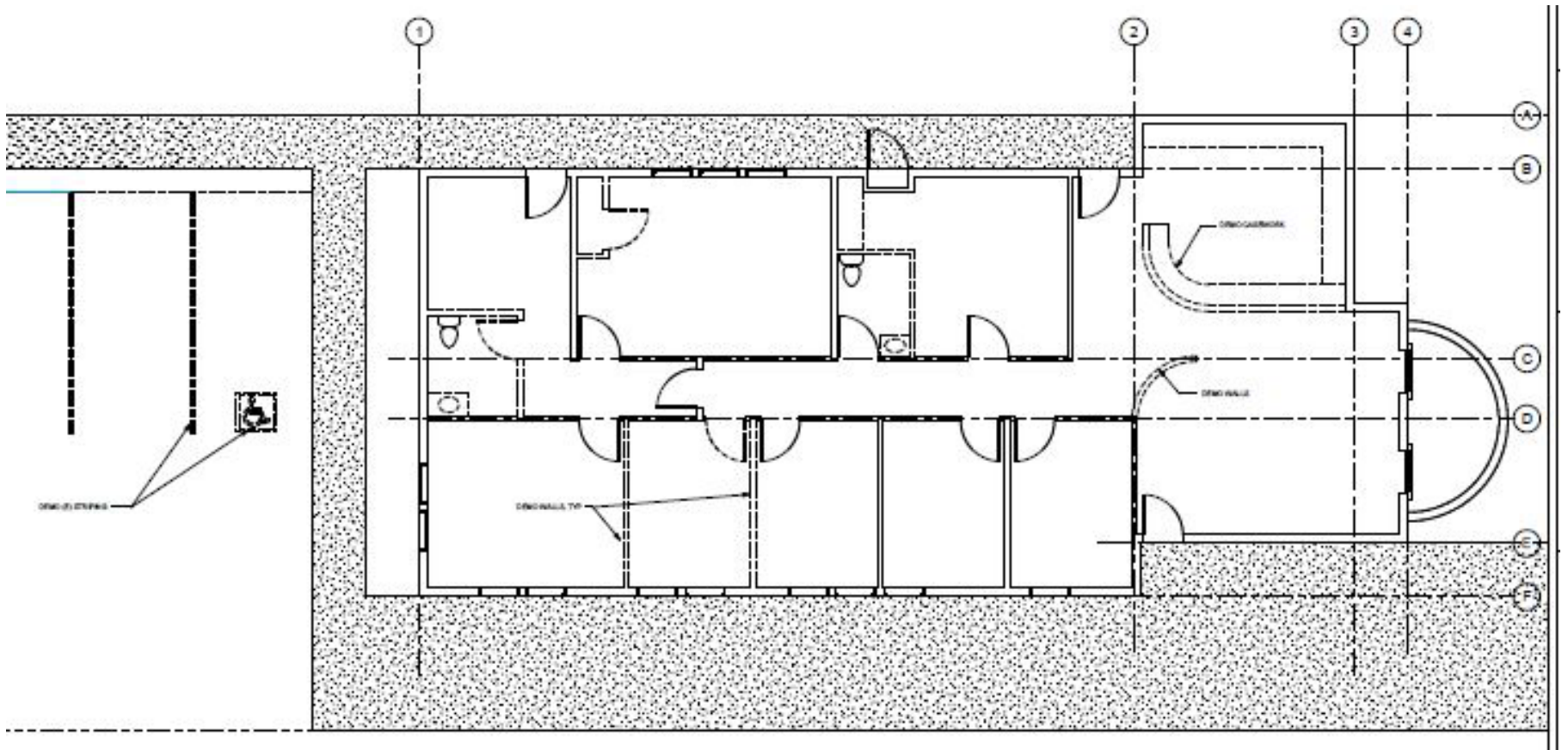


Development Standards

- Parking
- Noise
- Odor
- Security
- Lighting



Floor Plan



Hours of Operation

Retail:

Sunday through Thursday: 9 a.m. to 7 p.m.

Friday & Saturday: 9 a.m. to 9 p.m.

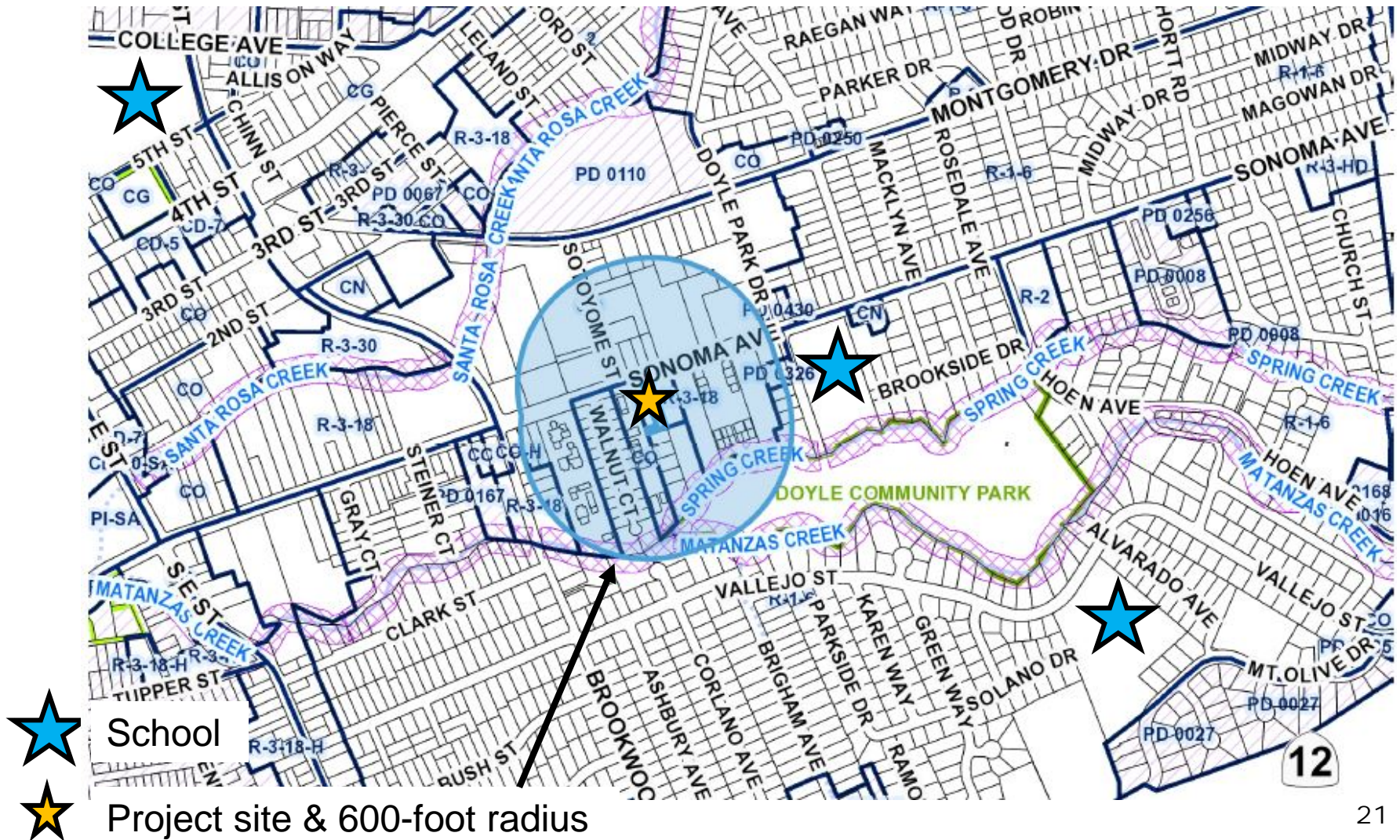
Delivery:

9 a.m. to 9 p.m. every day

- Neighborhood Meeting & Subsequent Public Input
 - Proximity to Santa Rosa French-American Charter School
 - Student safety
 - Minors exposed to cannabis
 - Proximity to surrounding residences
 - Noise/lighting
 - Loitering
 - Traffic
 - Public Safety
 - Security
 - Public nuisance

- 1. This Project Is Only Eighty-Five (85) Feet Away From Violating The City's Own Standard.*
- 2. It Does Not Make Good Sense To Permit A Cannabis Business To Be Operated Within A Shorter Distance To School Than The Business Can Be Advertised (Within 1,000 Feet).*
- 3. Requiring a 1,000 Foot Setback Would Yield Better Results.*
- 4. Similar To Sonoma County (And Other Local Agencies), Federal Law Enhances Criminal Penalties For Marijuana Use Within 1,000 Feet Of Schools.*

Proximity To Schools



Site Photograph

Aerial View



Site Photograph

Street View



Site Photograph

Private Side Street View



Site Photograph

View to west from parking lot



Hours of Operation

Retail:

Sunday through Thursday: 9 a.m. to 7 p.m.

Friday & Saturday: 9 a.m. to 9 p.m.

Delivery:

9 a.m. to 9 p.m. every day

Parking Lot Screening

Screen adjacent residences from parking lot with fence along segment of west property line

Environmental Review

California Environmental Quality Act (CEQA)

Found in compliance with CEQA:

- Pursuant to CEQA Guidelines Section 15183 – Consistent with General Plan and Zoning
- Pursuant to CEQA Guidelines Section 15303 – Involves a change of use
- Pursuant to CEQA Guidelines Section 15301 – Involves minor modifications to an existing facility
- Pursuant to CEQA Guidelines Section 15332 – Infill development

The Planning Commission recommends that the City Council by resolution, deny the appeal and approve a Conditional Use Permit for BKind, LLC to operate a cannabis retail (dispensary) and delivery business for medical and adult use at 1128 Sonoma Ave.

Emmanuel Ursu
Contract Planner
Planning and Economic Development
eursu@srcity.org
(707) 543-4691

