

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: KRISTINAE TOOMIANS, SENIOR PLANNER  
PLANNING & ECONOMIC DEVELOPMENT  
SUBJECT: OLD SCHOOL CANNABIS APPEAL

AGENDA ACTION: RESOLUTION

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RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council, by resolution, deny two appeals submitted by Duane DeWitt and Evette Minor and uphold the Planning Commission’s decision to approve a Conditional Use Permit for Old School Cannabis to allow 2,350-square-feet of Cannabis Retail (Dispensary) with Delivery and onsite consumption; 17,120-square-feet of Commercial Cultivation (5,001-square-feet or greater); 870-square-feet for Distribution; and 500-square-feet of Manufacturing – Level 2 (volatile) at 100 Sebastopol Road, File No. CUP21-027.

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EXECUTIVE SUMMARY

On March 9, 2021, the applicant submitted a Major Conditional Use Permit application for Old School Cannabis (Project), which is a request to operate a cannabis business within an existing vacant building with the following cannabis uses: 2,350-square-feet of Retail (Dispensary) with Delivery and onsite consumption; 17,120-square-feet for Commercial Cultivation; 870-square-feet for Distribution; 500-square-feet of Manufacturing – Level 2 (volatile).

On September 9, 2021, the Project was scheduled for a Planning Commission hearing; however, on September 8, 2021, Planning staff received a request for English to Spanish translation service during the presentation of this Project at the Planning Commission. To allow time to effectively

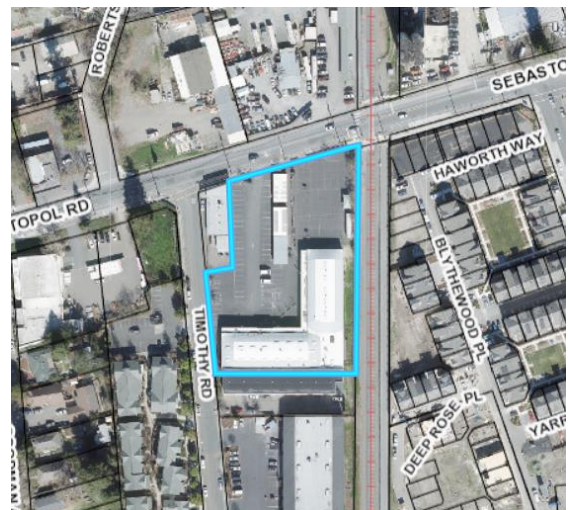


Figure 1: Project site and immediate vicinity.

respond to this request, Planning staff requested that the meeting item be continued to September 23, 2021.

On September 23, 2021, the Planning Commission approved a Major Conditional Use Permit to allow Old School Cannabis (Project) to operate a cannabis facility within an existing building, which includes the following cannabis-related uses: 2,350-square-feet of Retail (Dispensary) with Delivery and onsite consumption; 17,120-square-feet for Commercial Cultivation (5,001-square-feet or greater); 870-square-feet for Distribution; 500-square-feet of Manufacturing – Level 2 (volatile). The virtual meeting was translated into Spanish in real time by professional translators.

On September 30, 2021 and October 4, 2021, the City Clerk received two appeals of the Planning Commission's decision from two different appellants.

Staff is recommending the Council deny the two appeals, and allow approval of the Conditional Use Permit for the Project based on the Planning Commission's approval on September 23, 2021, the Project's compliance with Zoning Code Section [20-46](#) requirements for all cannabis related business, the Project's compliance with operational requirements specifically for cannabis retail establishments in Zoning Code Section [20-46.080](#), and the Project's consistency with the General Plan policies associated with Land Use and Livability, Transportation, and Economic Vitality.

## BACKGROUND

### 1. Existing & Surrounding Land Uses

The proposed site was developed in 1962 with a school building and was most recently occupied by a private school (Roseland University Prep). The project site is adjacent to a vacant store at the corner of Timothy Road & Sebastopol Road, a commercial/industrial multi-tenant building to the south, industrial uses to the north, a mixture of industrial and multi-family to the west, and light rail and multi-family to the east.

### 2. Santa Rosa General Plan 2035

The northern third of the project site's parking lot is designated Medium Density Residential, while the existing building and remaining two-thirds of the project site is designated General Industry on the General Plan Land Use Diagram. This classification allows for manufacturing and distribution activities with potential for creating nuisances, along with accessory offices and retailing. ([General Plan p. 2-12](#)).

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

## **LAND USE AND LIVABILITY**

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.

## ECONOMIC VITALITY

- 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, Neighborhood Commercials, offices and industrial areas.

The Zoning Code specifically identifies the General Industry District as a district appropriate for cannabis cultivation, distribution, manufacturing, and retail (dispensary). Although cannabis uses are not explicitly addressed in the General Plan, the Light Industrial zoning district is intended for manufacturing, cultivation, distribution and retail uses with operational patterns similar to the operational patterns (i.e. traffic, parking, hours of operation) of the proposed Project.

Staff has determined that Cannabis Cultivation, Manufacturing, Distribution and Retail (Dispensary) and Delivery uses are consistent with the General Plan goals and policies of the Light Industry land use designation. Specifically, the proposed use would assist in maintaining the economic viability of the area; broaden the available positions for both full and part time employment within the City; and provide a viable commercial service, while ensuring compatibility with the surrounding neighborhoods through proposed operational and security measures.

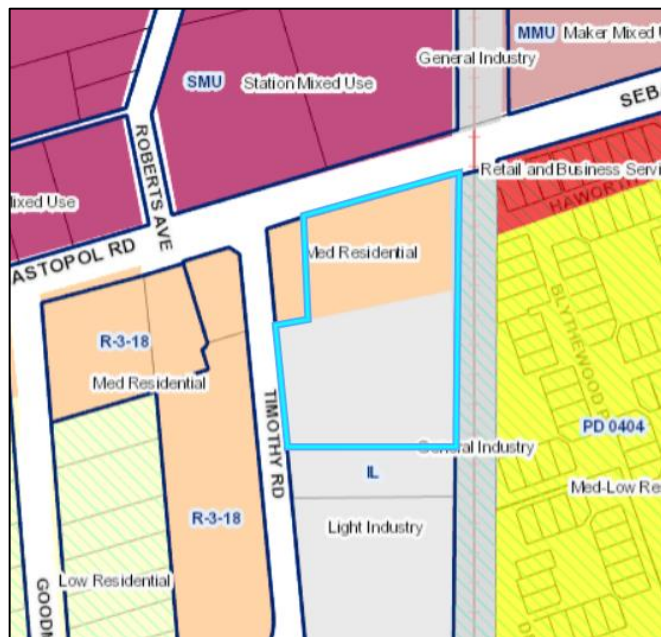


Figure 2: Zoning & General Plan Designations

### 1. Other Applicable Plans

The [Roseland Area/Sebastopol Road Specific Plan](#) (Specific Plan), adopted in November 2016, is a planning level document that addresses land use, circulation and infrastructure needs for the area located around the Southside Bus Transfer Center in southwest Santa Rosa, which includes the Project site.

The Specific Plan focuses on improving the physical environment for residents

and employees; establishing a land use and policy framework to guide future development in the area toward transit supportive land uses and a healthy community; improving connections, particularly for bicycling and walking, to the bus transfer center, Sebastopol Road, and other key destinations; and promoting community health and equity. The Specific Plan was developed concurrently with consideration of annexation of the previously unincorporated area. The plan area includes the Roseland Priority Development Area (PDA) and part of the Sebastopol Road PDA. The community land use and streetscape preferences expressed by the Sebastopol Road Urban Vision Plan are incorporated into the Specific Plan.

The following Specific Plan goals and policies are most relevant to the Project:

### **ECONOMIC DEVELOPMENT GOALS & POLICIES**

- |               |   |
|---------------|---|
| GOAL ED-1     | Promote economic activity that creates jobs and supports local businesses.  |
| Policy ED-1.1 | Encourage job creation in the plan area, and enhance connections to allow Roseland residents to walk or bike to work within and outside the plan area.                          |
| Policy ED-1.2 | Encourage local-serving retail, especially on Sebastopol Road.  |
| Policy ED-1.3 | Continue to support existing businesses and future entrepreneurial opportunities along Sebastopol Road.   |
| Policy ED-1.5 | Support the expansion of existing businesses and the creation of new business opportunities in the light industrial area, which is important to the region's economic vitality. |

The proposed cannabis business will reoccupy and renovate an existing vacant building; would assist in maintaining the economic viability of the area; broaden the available positions for both full and part time employment within the City; and provide a viable commercial service, while ensuring compatibility with the surrounding neighborhoods through proposed operational and security measures. The Project site benefits from proximity to bus and rail transit.

## 2. 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 General 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.

Zoning Code Section [20-24.020\(B\)](#) describes the purposes of the Light Industrial zoning district and the manner in which the district is applied as follows:

*“The IL zoning district is applied to areas appropriate for some light industrial uses, as well as commercial service uses and activities that may be incompatible with residential, retail, and/or office uses. Residential uses may also be accommodated as part of work/live projects. The IL zoning district is consistent with the Light Industry land use classification of the General Plan.”*

Cannabis cultivation, distribution, manufacturing, and retail (dispensary) with delivery are allowed uses in the IL zoning district subject to discretionary approval of a Conditional Use permit, when setback no less than 600 feet from a school, and from any other cannabis retail use, within and permitted by the City of Santa Rosa. “School,” as defined by Health and Safety Code Section 11362.768, applies to this section of the Zoning Code.

Zoning Code Chapter 20-46 provides operational requirements for commercial cannabis facilities. The applicant’s building improvement and operational plans are in compliance with standards relating to requirements of the Zoning Code including security, lighting, odor control and noise. These requirements are summarized below.

### **Proximity to Schools**

Both City and State regulations prohibit establishment and operation of a retail cannabis dispensary within 600 feet of a K-12 school, as defined by Health and Safety Code Section 11362.768. There are no schools within 600 feet of the subject property. Roseland Elementary School is approximately 2,200-feet west of the Project parcel. The Project is consistent with the State and local regulations.

### **Concentration**

The Zoning Code limits geographic concentration of cannabis retail facilities (dispensaries) by prohibiting dispensaries within 600 feet of each other. There are no other cannabis retail facilities within 600 feet of the subject site; therefore, the Project site is not located in an “over-concentration” area.

### **Employment**

The Project narrative, attached to this report, details hiring procedures, including background checks for all new employees. The proposed employment procedures comply with Zoning Code Section 20-46.

### **Odor Control**

Zoning Code Section 20-46.050(H) requires cannabis businesses to “incorporate and maintain adequate odor control measures such that the odors of Cannabis cannot be detected from outside of the structure in which the Business operates.” The applicant has provided a certified Odor Mitigation Plan prepared by Matthew Torre from 15000 Inc., dated February 3, 2021. The Odor Mitigation Plan has been certified by a licensed professional mechanical engineer and includes: Operational Process and Maintenance Plan, Engineering Controls, and

Staff Training Procedure. The Engineering Controls include: installation of activated carbon filter canisters or inline filters on exhaust systems and installation of activated carbon inline filters on recirculating air system.

### **Lighting**

As a part of the project, the applicant proposes to comply with the requirements of Zoning Code Sections 20-30.080 and 20-46.80. All outdoor areas of the premises will be illuminated, including all points of ingress and egress with stationary, fully shielded lights directed away from adjacent properties and from the public right-of-way.

The Zoning Code requires (at Section 20-30.080) that exterior lights be shielded and cast downward to avoid light or glare spilling onto neighboring properties. A recommended condition of approval is that the applicant's building permit submittal include a detailed lighting plan in compliance with the Zoning Code.

### **Noise**

Other than delivery vehicles, all operations are proposed in the fully enclosed building located on the site. Interior operations are not anticipated to generate excessive noise.

Mechanical equipment will be required to comply with the Noise Ordinance, City Code Chapter 17-16 (attached).

### **Security Plan**

Zoning Code Section 20-46.050(G) requires cannabis businesses to provide adequate security to ensure the public safety, and safety of persons in the facility to protect the business premises from theft. Cannabis business applications are required to provide a security plan that includes lighting and alarms, secure storage and waste, procedures for the safe transportation of products and currency, controlled building access and emergency access. A detailed Security Plan designed to prevent theft or diversion of any cannabis or currency, and to discourage loitering, crime, and illegal or nuisance activities was included with the Project application. Details of the plan are provided in the Project narrative which includes the following key features:



- Surveillance – High resolution video cameras will provide 24-hour surveillance and recordings will be retained for 90 days. Cameras will be placed in a location that allows the camera to clearly record activity occurring in all areas of the site where cannabis is stored, sold and transferred.
- Alarm – A professionally monitored alarm system will be installed and maintained.
- Access – Commercial grade security doors will be installed at all building entrances, and internally at restricted areas. In compliance with the Zoning Code, the front entrance is visible from the street. Persons under the age of 21 will not be allowed in the facility, unless they are a qualified medical patient over the age of 18.



Figure 3: Proposed circulation changes.

- Security Personnel – The premises will have a security guard onsite during open business hours, and the applicant will hire a security service to patrol the building and surrounding areas for off-business hours monitoring.
- Delivery and pickups will be scheduled in advance and pre-approval given by management for deliveries at specified delivery times.
- Transportation of cannabis and cannabis products will be via secured vehicles with alarms.

**Parking**

The site is served by 60 parking spaces. The number of parking spaces required for the proposed use is 28. The Project site has a sufficient number of parking spaces.

**Table 1 – Parking Requirements**

Use	Square Feet	Code Requirement	Required Spaces
Retail & Delivery	2,350	1 space/250 SF	9
Cultivation	17,120	1 space/1,000 SF	17
Distribution	870	1 space/1,000 SF	1
Manufacturing	500	1 space/350 SF	1
<u>Subtotal</u>	<b>20,840</b>		<b>28</b>

### **Required Findings for a Conditional Use Permit**

Decisions on conditional use permits are based on the six discretionary standards found in Zoning Code Section 20-.52.050(F). Applicable conditional use permit standards, followed by a staff analysis of the project's compliance with the standards, is provided below:

- A. The proposed Project is allowed in the Light Industrial (IL) zoning district and complies with all other applicable provisions of this Zoning Code and the City Code.**

Zoning Code Table 2-6 lists allowable uses within the Light Industrial Zoning District, which implements the Light Industrial General Plan land use designation, and allows cannabis cultivation, distribution, manufacturing, retail, and delivery with the approval of a major Conditional Use Permit.

- B. The proposed Project is consistent with the General Plan land use designation of Light Industrial, which is applied to areas that are intended for cultivation, distribution, manufacturing, and retail uses.**

On December 19, 2017, the City Council adopted Ordinance No. ORD-2017-025 finding cannabis cultivation, distribution, retail (dispensaries), and delivery uses appropriate in areas designated as Light Industrial on the land use diagram.

- 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.**

While the larger vicinity of the Project site hosts a variety of commercial, residential, and industrial uses, the site is located on a block predominately occupied by light industrial uses. The applicant proposes to reoccupy and renovate an existing building that was built in the 1960s.

The Project is supported by a well-designed, shared parking area; security measures including lighting, restricted access for employees, refuse disposal areas, on-site security personnel, surveillance cameras and security fencing and gates.

Furthermore, the Project site is in the IL - Light Industrial zoning district. The entrance to the retail dispensary is visible from the street and the proposed Project is compatible with the existing uses to the north, east, and west of the Project site, and is adequately screened and separated from the residential uses located to the east. Therefore, the design, location, size and operating characteristics of the Project will be compatible with existing and future land uses in the vicinity.



- 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.**

The Project plans demonstrate compliance with all operational standards as specified in Zoning Code Chapter 20-46, and the subject site is within a fully developed area zoned for Light Industrial uses.

- 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.**

The proposed Project will have on-site security personnel that will monitor the parking lot to prevent loitering, consumption of cannabis or other nuisance activities. In addition, with the proposed odor control measures, the proposed operational procedures, including site and building security, storage and waste handling, inventory tracking, hours of operation, and age/medical restrictions, and compliance with all applicable state and local regulations, the proposed Project will not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, or welfare, or materially injurious to persons, property or improvements in the vicinity.

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

Refer to the Environmental Review section of this report for further discussion.

### 3. Design Guidelines

The proposed exterior changes, including the new fence, wall, and gates are subject to design review.

### 4. Public Comments

Staff received written correspondence from individuals opposed and supportive of the project. Copies of written comments are attached to this report. To summarize the primary concerns:

- Concerns regarding compatibility of the proposed cannabis facility and nearby multi-family uses. Neither state law nor City Code prohibit cannabis businesses from locating near residential uses.
- Close proximity to another cannabis retail dispensary, Phenotopia, located at 443 Dutton Ave. The Zoning Code limits geographic concentration of cannabis retail facilities (dispensaries) by prohibiting dispensaries within 600

feet of each other. There are no other cannabis retail facilities within 600 feet of the subject site; therefore, the Project site is not located in an “over-concentration” area.

- Frustration that the Project site is not slated for a community-based use, such as library or community center.
- Proximity of the dispensary to Roseland Library. Both City and State regulations prohibit establishment and operation of a retail cannabis dispensary within 600 feet of a K-12 school as defined by Health and Safety Code Section 11362.768. There is no distance requirement for a cannabis dispensary and a public library.
- Notice for the Planning Commission hearing was not translated in Spanish. City staff included translation services on the City Council public hearing notice for this hearing. In addition, live translation to Spanish was provided during the Planning Commission hearing.
- Increased crime rates associated with the new business. The Project will include security services and will comply with all City requirements for cannabis businesses found in Zoning Code Section [20-46](#).
- Concerns with the proposed onsite consumption component and the risk of intoxication and impairment similar to alcohol.

#### 5. Public Improvements/On-Site Improvements

ADA pathway from the public sidewalk to the existing path near the building entrance and two ADA-compliant parking stalls will be included.

The applicant proposes exterior renovations and improvements to the existing building, as well as new security fences, CMU walls, and gates.

#### PRIOR CITY COUNCIL REVIEW

##### *Medical Cannabis Policy prior to 2016:*

Prior to 2016, the City of Santa Rosa regulated medical cannabis dispensaries by ordinance. On November 1, 2005, the City Council adopted Ordinance No. 3754, adding Chapter 10-40 (Medical Cannabis Dispensaries) to the Santa Rosa City Code. On January 14, 2014, the City Council adopted Ordinance No. 4020, amending certain sections of Chapter 10-40 (Medical Cannabis Dispensaries) in the City Code.

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 Goal Setting Workshop established five priorities to better focus staff efforts towards achieving established Council Goals. One of the Tier 1 priorities was 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. This subcommittee met monthly for the purpose of working towards creation of a new, comprehensive regulatory framework to address medical cannabis land use within the City, with a targeted completion and effective date by the end of 2017.

On December 19, 2017, the City Council unanimously adopted the City’s Comprehensive Cannabis Ordinance (ORD-2017-025). The regulations address the locational and operational requirements for commercial cannabis related businesses, identifying the permit compliance path for both medical and adult cannabis uses. 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.

## ANALYSIS

### 1. Appeal Statements, Staff Responses and Council Options

Pursuant to Zoning Code Chapter 20-62, appeals of decisions made by the Planning Commission shall be evaluated by the Council. The Council may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for appeal.

With respect to the Conditional Use Permit, the Council may:

- Affirm, affirm in part, or reverse the action, the determination, or decision that is the subject of the appeal; or
- Adopt additional conditions of approval, that may address issues or concerns other than the subject of the appeal; or
- If new or different evidence is presented on appeal, the Council may refer the matter back to the Commission for further consideration.

The City Clerk received two appeals from two different appellants. Each appellant has provided the following grounds for the appeal. The full appeal Statements are provided as attachments. Staff responses follow each item.

### **Appellant No. 1, Duane DeWitt**

- 1) *Environmental justice and social equity discrimination by Santa Rosa against Roseland residents. Santa Rosa General Plan 2035 states Santa Rosa will be safe and livable community*

Staff Response:

On December 19, 2017, the City Council unanimously adopted the City's Comprehensive Cannabis Ordinance (ORD-2017-025). The regulations address the locational and operational requirements for commercial cannabis related businesses, identifying the permit compliance path for both medical and adult cannabis uses. 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 [May 15, 2021 Cannabis Retail Application List](#) states that the City has approved 30 retail dispensaries. The published [Cannabis Retail Applications Status Map](#) also demonstrates that the approved and operating cannabis retail dispensaries are dispersed throughout the City limits and are not concentrated in the Roseland area.

Dispensaries can be located on commercially zoned properties as long as they obtain a Major Conditional Use Permit, and they are not within 600 feet of another dispensary or a K-12 school. Dispensaries with other cannabis related uses, such as cultivation, manufacturing, and distribution are limited to Light or Heavy Industrial Zoning Districts. The Project site is zoned IL – Light Industrial. The City's cannabis ordinance also requires specific conditions relating to odor, security, safety, health, parking and noise to mitigate any potential nuisances. The applicant has complied with each of these conditions.

- 2) *Currently 3 homicides in Santa Rosa during 2021 all in disadvantaged overburden community of Roseland. Another drug dealer in area decreases safety and livability.*

Staff Response:

Staff is unaware of any homicides related to legal cannabis retail dispensaries or cannabis related uses within the City limits.

In November 2016, California voters approved the Adult Use of Marijuana Act (Proposition 64) to legalize the recreational use of cannabis. On December 19, 2017, the City Council unanimously adopted the City's Comprehensive Cannabis Ordinance, which allows cannabis retail dispensaries within certain zoning districts and under specific conditions. The term "drug dealer" refers to an illegal activity and does not accurately describe the proposed Project.

Zoning Code Section 20-46.050(G) requires cannabis businesses to provide

adequate security to ensure the public safety, and safety of persons in the facility to protect the business premises from theft. Cannabis business applications are required to provide a security plan that includes lighting and alarms, secure storage and waste, procedures for the safe transportation of products and currency, controlled building access and emergency access. A detailed Security Plan designed to prevent theft or diversion of any cannabis or currency, and to discourage loitering, crime, and illegal or nuisance activities was included with the Project application.

The applicant proposes to replace the existing chain link fence around the perimeter of the property, along the Sebastopol Road and train track frontages with a new wrought iron security fence and two gates along Sebastopol Road. The gates will be secured at the close of business. The applicant proposes to replace the chain link fence along Timothy Road with a new, 6-foot-tall, split-face CMU wall and gate.

### **Appellant No. 2, Evette Minor**

- 3) *Proper notification of the Public notice to the community in the surrounding area. During the 9-23-21 meeting many people that live on Timothy stated they did not receive the notice l the mail and the notification on the gate was in English. There was a halt on the meeting on 9-9-21, which only allowed the community 2 weeks to come forward to participate in the meeting. Santa Rosa City did make changes to the process to continue with the approval on 9-23. The process should have been restarted and the community given the proper time to comply with the process to speak to neighbors that did not receive the notice.*

#### Staff Response:

On August 27, 2021, Planning staff mailed a Notice of Application to notify surrounding property owners and occupants within 600 feet of the Project site of the proposed Project.

In advance of the September 9, 2021, Planning Commission hearing, the Project was noticed as a public hearing per the requirements of [Chapter 20-66](#) of the City Code. Notification of the public hearing was provided by posting onsite signs on Sebastopol Road and Timothy Road, publishing a notice in the Press Democrat, mailed notices to surrounding property owners and occupants within 600 feet of the project site (at least 10 days in advance of the hearing), 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.

On September 8, 2021, Planning staff received a request for English to Spanish translation service during the presentation of this Project at the Planning Commission. To allow time to effectively respond to this request, Planning staff requested that the meeting item be continued to September 23, 2021. Because

the meeting was continued to a date certain, no new notices were mailed. Staff contracted with a translation service to translate the September 23, 2021 Planning Commission hearing in real time.

- 4) *There are children that live directly across the street from this facility. Having a consumption area and patrons leaving the facility puts the community at risk with possible DUI, in close proximity to the families that live on either side of the Dispensary. Also, the use of Type 7 manufacturers which allow the use volatile solvents for extraction or post processing (refinement) of cannabis extract. The risk of explosion in a highly populated area once again puts families at risk of harm. This area has high cases of asthma, heart disease, diabetes and a lower life expectancy due to high levels of exhaust from the 101 freeway, the 12 highway and the diesel trucks that are up and down the Sebastopol corridor.*

Staff Response:

The City's cannabis ordinance requires that cannabis retail facilities be located at least 600 feet from a K-12 school. There is no prohibition of cannabis retail facilities from residential areas or areas where children are living.

The applicant proposes to operate the cannabis retail dispensary with delivery and onsite consumption within 2,350-square-feet of the former school building. The proposed operating hours for the retail portions of the business are from 9:00 a.m. to 9:00 p.m. seven days per week. The Project site perimeter will be secured with a fence and gates. The applicant proposes retail delivery service to customers, in accordance with the Bureau of Cannabis Control Regulations.

Section [20-46.080\(F\)](#) of the City Code provides that on-site consumption of Cannabis and Cannabis Products shall be subject to the following requirements:

- a) Patients or Customers. Neither patients nor customers shall be permitted to consume cannabis on the site of a Cannabis Retail facility except as permitted in accordance with Chapter 9-20 (Smoking Regulations), in compliance with state law and as follows:
  - i) Conditional Use Permit applications for Cannabis Retail shall include a statement as to whether the use will include on-site consumption by patients or customers of Cannabis and Cannabis Products.
  - ii) If on-site consumption will be included, the application shall describe the operational plan and specific extent of such provision, security protocols, and how the consumption will comply with the requirements set forth in this Chapter and state law.
- b) Employees. Employees of a Cannabis Retail facility who are qualified patients may consume medical Cannabis or Cannabis Products on-site within designated spaces not visible by members of the public, provided that such



consumption is in compliance with Chapter 9- 20 (Smoking Regulations) and state law.

- c) Signs regarding public consumption. The entrance to a Cannabis Retail facility shall be clearly and legibly posted with a notice indicating that smoking and vaping of Cannabis is prohibited on site or in the vicinity of the site except as permitted in accordance with Chapter 9- 20 (Smoking Regulations) and state law.

In addition to the City Code requirements above, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) allows for onsite consumption of cannabis, as long as the following conditions are met:

- a) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older.
- b) Cannabis consumption is not visible from any public place or non-age-restricted area.
- c) Sale or consumption of alcohol or tobacco is not allowed on the premises.”

The entrance to the retail dispensary will be visible to the street and will be adjacent to the light rail tracks, located along the east property line. Per the applicant’s Project Narrative, the consumption lounge will be located beyond the security checks at the entrance of the retail facility and will be age restricted to patrons who are of 21 years of age or older. The consumption lounge will be an enclosed patio, not visible from any public place. The consumption lounge is required to comply with Chapter [9-20](#) of the City’s Smoking Regulations Code. The applicant is limited to using cannabis in non-combustible forms, such as edibles or topicals, among others. The applicant states that a notice will be clearly posted in the entrance to the retail area open to the public indicating that smoking and vaping of cannabis is prohibited on site or in the vicinity of the site. The applicant has no plans to sell alcohol or tobacco on the premises.

The security plan states:

*“The guard will watch to make sure all consumption area rules are followed. If at any point the guard observes anyone not abiding by the rules the guard or OSC employee will ask the customer to follow the set rules or they will be asked to leave. If at any point the guard feels there is a serious threat the guard will call the police or press the panic button. If the guard is required to leave the security office for an extended amount of time for any reason the guard will ask an OSC employee to monitor the cameras and report anything suspicious to the guard using the radios”*

The applicant states that the security team will monitor the consumption lounge in order to permit only patrons who are 21 years of age or older, as well as to restrict employees from utilizing the consumption lounge while on duty.

On December 19, 2017, the City Council unanimously adopted the City's Comprehensive Cannabis Ordinance. The ordinance specifically addresses volatile cannabis manufacturing, requiring a Major Conditional Use Permit in the IL – Light Industrial and IG – General Industrial Zoning Districts.

The volatile cannabis manufacturing process requires the use of a closed-loop vacuum system. A closed-loop system is an oil extraction method used to create cannabis concentrates. During the process, no solvents are exposed to the open air, and remain contained within a closed-loop system. The closed-loop extraction system is not unique to the cannabis manufacturing industry, in that it has been used for decades to produce perfume, food additives, and beauty products. Volatile extraction, when not associated with cannabis products, normally requires a Minor Use Permit, approved by the Zoning Administrator.

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 20-46.070(D), the City also requires that a licensed professional engineer annually recertify the extraction equipment. The applicant will comply with inspection and certification requirements by the State agencies as well as the City's Building and Fire Departments. Also, as required for State licensing, the Applicant will prepare and implement standard operating procedures for all manufacturing processes and use of all equipment.

### FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

### ENVIRONMENTAL IMPACT

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

- The proposed project qualifies for a Class 3 Categorical Exemption pursuant to CEQA Guidelines Section 15303 in that it involves a change of use, which will require minor exterior modifications to the structure/site.
- The proposed project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 in that it involves minor modifications to an existing facility, with no expansion of use.
- The Project qualifies for a Class 32 exemption under CEQA Guidelines section 15332 (In-fill Development Projects) in that:
  - The Project is consistent with Santa Rosa General Plan 2035 and the current City of Santa Rosa Zoning Code;
  - The Project is located within City of Santa Rosa jurisdiction, on a project site of no more than five acres substantially surrounded by urban uses;

- The Project site has been previously developed and has no value as habitat for endangered, rare or threatened species. The Project site was previously filled and is encircled by constructed roadways;
  - The Project will not result in any significant effects relating to traffic (per focused traffic study, dated June 30, 2021), noise, air quality, or water quality; and
  - The Project site is located in a developed area where it can be adequately served by all required utilities and public services. City staff has reviewed the plans and conditions the project appropriately.
- The Project qualifies for an exemption pursuant to CEQA Guidelines Section 15183 in that the Project is consistent with the City's General Plan and the Roseland Area/Sebastopol Road Specific Plan for which EIRs were prepared and certified and, as evidenced by the special studies prepared for the Project, the Project does not contain conditions, nor would it result in any of the following effects:
    - Effects that are peculiar to the project or the parcel on which the project would be located.

There are no project specific effects which are peculiar to the Project or its site, and which the General Plan or Specific Plan EIRs failed to analyze as significant effects. The subject property is no different than other properties in the surrounding area, and there are no Project specific effects that are peculiar to the Project or its site. The Project site is located in an area developed with industrial uses. The property does not support any peculiar environmental features, and the Project would not result in any peculiar effects. In addition, all Project impacts were adequately analyzed by the specific plan and General Plan EIR.

- Effects that were not analyzed as significant effects in the General Plan EIR

The Project site is within the planning boundaries of the Roseland Area/Sebastopol Road Specific Plan, adopted in 2016, and was analyzed by the Specific Plan EIR (State Clearinghouse No. 2016012030). The General Plan was amended in 2016 to incorporate the land use and housing policies of the Specific Plan. As noted earlier the Project is consistent with the Specific Plan land use policy. As such, the effects of the future development of the Roseland Village project, including the proposed subdivision and planned higher density mixed use development, was fully analyzed. The Project does not include any new land use that could create an effect that has not been previously analyzed by the Specific Plan or General Plan.

- Effects that are potentially significant off-site impacts and cumulative impacts that were not discussed in the prior EIR prepared for the General Plan.

There are no potentially significant off-site and/or cumulative impacts which the General Plan or Specific Plan EIRs failed to evaluate. The proposed Project is within the scope of the General Plan and Specific Plan EIRs and would represent a small part of the growth that was forecast for build-out of the General Plan. The General Plan and Specific Plan EIRs considered the incremental impacts of the future development, such as the Project and planned Roseland Village project, and no potentially significant off-site or cumulative impacts have been identified which were not previously evaluated.

- Effects that are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

The applicant provided a focused traffic study, prepared by W-Trans on July 30, 2021. The study did not reveal any new information or condition that suggests a previously identified significant effect is more severe than determined at the time the General Plan or Specific Plan EIR were certified.

- 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.).

### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On September 23, 2021, the Planning Commission approved a Major Conditional Use Permit to allow Old School Cannabis (Project) to operate a cannabis facility within an existing building, including following cannabis-related uses: 2,350-square-feet of Retail (Dispensary) with Delivery and onsite consumption; 17,120-square-feet for Commercial Cultivation (5,001-square-feet or greater); 870-square-feet for Distribution; 500-square-feet of Manufacturing – Level 2 (volatile). The virtual meeting was translated to Spanish in real time by professional translators. The Planning Commission hearing meeting minutes are included as an attachment.

### 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.

ATTACHMENTS

- Attachment 1: Disclosure Form
- Attachment 2: Vicinity Map
- Attachment 3: Neighborhood Context Map
- Attachment 4: Project Narrative, dated 08/10/2021
- Attachment 5: Project Plans, dated “received” by the City on 03/09/2021
- Attachment 6: Odor Control Plan
- Attachment 7: Focused Traffic Study
- Attachment 8: Good Neighbor Policy
- Attachment 9: Public Correspondence, as of 11/03/2021
- Attachment 10: September 23, 2021 Planning Commission Minutes
- Attachment 11: Appeal Statement No. 1, dated “received” by the City on 09/30/2021
- Attachment 12: Appeal Statement No. 2, dated “received” by the City on 10/04/2021
- Attachment 13: Cannabis Retail Application Status List, as of 05/15/2021
- Attachment 14: Cannabis Retail Map, as of 05/15/2021
- Attachment 15: Cannabis Land Use and Zoning Table
  
- Resolution/Exhibit A

CONTACT

Kristinae Toomians, Senior Planner

707-543-4692

[KToomians@srcity.org](mailto:KToomians@srcity.org)