

AUG 03 2018

Attachment 4

APPEAL FORM

CITY OF SANTA ROSA
CITY CLERK'S OFFICE

Date Received: 8-3-2018

Fee: 509.00

City Clerk's Office/Rec'd by: Daisy Gomez

Name of Appellant: On behalf of the residents of Harvest Park Neighborhood, Matthew and Shelly Earnshaw

TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

The above named appellant does hereby appeal to your Honorable Body the following:

The decision of the: (List Board/Commission/Dept.) Planning Commission

Decision date: July 26, 2018

Decision: (approval, denial, other) Approval of CUP 18-008

Name of Applicant/Owner/Developer: Applicant is NT Ventures, Inc.

Type of application: (Rezoning, Tentative Map, etc.) CUP Cannabis Manufacturing Level 2

Street address of subject property: 444 Yolanda Avenue, Suite B

The grounds upon which this appeal is filed are: (List all grounds relied upon in making this appeal. Attach additional sheets if more space is needed.)

1. Please see attached documentation.

2. _____

The specific action which the undersigned wants the City Council to take is: (Attach additional sheets if more space is needed.)

Please see attached documentation.

Appeals shall be submitted in writing.....on a City application form within 10 calendar days after the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.

Matthew J Earnshaw 8/3/2018
Applicant's Signature Date

Matthew and/or Shelly Earnshaw 2302 Holly Creek Drive, Santa Rosa, CA 95404
Applicant's Name (type or print) Address

707 322-6405 707 799-4165
Daytime Phone Number Home Phone Number

The grounds upon which this appeal is filed are as follows:

1. In accordance with City of Santa Rosa (City) ORD-2017-025 Sec. 1C, we believe a Conditional Use Permit (CUP) for NT Ventures, Inc. (Applicant) – Cannabis Manufacturing- Level 2 at 444 Yolanda Ave, Suite B, is not consistent with the City’s goal to “establish a uniform regulatory structure for all cannabis uses in the City in accordance with State law.” While the applicants have attempted to follow the City’s current cannabis ordinance, we believe the approved CUP wholly disregards the intent of the State of California’s allowance for individual Cities to approve their own respective setback requirements by interpreting the law to mean that manufacturing including volatile extraction while technically allowable with no setbacks to residential neighborhoods, schools and licensed daycare facilities, is exempt from other requirements such as required security, fire protection, air quality, and noise. As such we don’t believe this CUP is in accordance with the intent of State law based on the lack of a minimum setback for residential unless the Cannabis business is retail. Certainly the intent of the State law was not to allow these types of business operations immediately proximal to residential neighborhoods, schools, parks, and child care facilities.
2. Further, it is clear the State of California has intended to keep cannabis related business away from children according to the mandated setbacks to K-12 schools and child care facilities given the requirements for retail operations. Harvest Park Neighborhood backs up to the applicant. The property boundary to Harvest Park is approximately 30 feet away to the South. Within 100 feet of the proposed site, anywhere from 10-40 children play, sleep, and/or reside. Within 350 feet of the proposed site, hundreds of children play and congregate at Harvest Park (a City of Santa Rosa park), sleep, and/or reside (Please see attached figure entitled *Neighborhood Context Map*). Two separate apartment complexes are immediately adjacent to Harvest Park which includes separate playground for toddler age kids and middle school age children, a dog park, and is frequently used by the local armed forces recruiter for training. We believe that this approved CUP increases the potential for crime and therefore represent a safety risk. The main access route for criminal activity would be through the backyard of residents and proximal to the City Park (Please see attached figure entitled *Criminal Access Routes through Backyards*). Before a CUP is approved, we recommend the City of Santa Rosa amend cannabis ordinance to include some concern in terms of setbacks to the children and families who play, sleep, and/or reside near cannabis related businesses.
3. In accordance with ORD-2017-025 Sec.1D, we believe a CUP for NT Ventures, Inc. – Cannabis Manufacturing- Level 2 at 444 Yolanda Ave, Suite B, goes against the General Plan and DOES NOT “direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses.” Furthermore, we believe the approval of a CUP will be “detrimental to the public interest, health, safety, convenience, or welfare of the City,” namely the residents of Harvest Park Neighborhood, including the aforementioned apartments and neighborhood park.
4. Volatile extraction methods for cannabis are not a proven safe business practice. Volatile solvents are described by the State Code as “volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Is-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.” The safety mechanism for the solvent includes an exhaust hood that evacuates the solvent storage area by exhausting to the roof. Most solvents (including butane) are heavier than air in their original unmixed form and would therefore sink to the ground when evacuated to

- the roof. A simple breaking of the valve while filling from a tanker would present a fire hazard or potential inhalation hazard to the nearby residents including children.
5. Manufacturing of hash oil creates a product that is highly desirable by criminal elements because of its value on the black market. The applicant estimates manufacturing approximately \$50,000 of hash oil per day for shipment. Armed guards with loaded guns would pick up the shipment at random times during the day. These armed guards would be within 35 feet of our neighborhood and potentially our children. We may not let our kids play in our neighbor's backyard for fear. These are the types of questions that we are asking ourselves. In light of the recent crimes and killings surrounding cannabis related businesses, this creates an undeniable and reasonable fear for parents and does not convey a suitable living environment for residents in Santa Rosa. Furthermore, a single stray bullet in the midst of a volatile solvent tank may cause an explosion, off-gassing, etc.
 6. The transport of cannabis to the facility for processing creates another item for potential theft, odor, noise, dust, pesticides, bugs, etc. No one knows where this agricultural product is coming from and what was sprayed on it prior to transport. We are assuming armed guards would also be necessary for this transfer of raw materials. This would also constitute a nuisance to the nearby residents and potential for theft and gunfire in our neighborhood.
 7. Cultivation of cannabis at the proposed location is not in accordance with the City's General Plan as it is an agricultural activity used for human consumption. It can be interpreted that General Industrial (IG) conforms to agricultural production and manufacturing processing and cannabis production should not be the only agricultural product allowed this type of zoning permit in light industrial zoning (IL).
 8. Our research appears to show that there is not another municipality in California that allows volatile extraction, manufacturing, cultivation, and distribution with no minimum setback to residential neighborhoods, schools, and child care facilities. A simple wooden fence is separating the proposed project from resident's backyards. The City appears to be taking on a huge liability by approving a project with no precedent. The current cannabis ordinance does not provide adequate protection for the residents of Santa Rosa.
 9. Volatile extraction is not allowed in many pro-cannabis counties and cities, period. For example, the County of Sonoma and City of Sacramento does not allow volatile extraction. The City of Cotati allows volatile extraction but has strict limitation of number of businesses and suitable locations. It is our understanding that the current City of Santa Rosa Cannabis code does not contain a limit or setbacks between business that use volatile extraction, cultivate, distribute, etc. Current ordinance to setbacks and limitations pertains strictly to the retail of cannabis with no provisions to the cultivation, manufacturing, distribution of cannabis.
 10. The condition of the road and traffic along Yolanda is not conducive to an increase in manufacturing businesses. With more than several proposed businesses being pursued along Yolanda Ave, a more thorough corridor study regarding traffic, water usage, integrity of septic system, and setbacks to each other need to be pursued. If approved, a CUP may set precedent for the remaining applicants along Yolanda Ave. with no setbacks to each other.
 11. In accordance with City Code 3.11 NOISE, manufacturing and industrial are generally not compatible with residential neighborhoods as decibel limits will certainly be exceeded at the property line.

The specific action which the undersigned requests the City Council to take is as follows:

1. In accordance with the aforementioned information including an increased threat to welfare, safety, happiness, and life to nearby residents, deny CUP permit to NT Ventures for proposed volatile extraction, manufacturing, cultivation, and distribution at 444 Yolanda, Suite B.
2. Amend Santa Rosa City Cannabis Ordinance to include minimum setbacks to residential developments, schools, day care facilities, and City parks for volatile extraction, manufacturing, cultivation, and distribution including, but not limited to, non-retail enterprises.
3. Amend Santa Rosa City Cannabis Ordinance to include minimum setbacks and density between existing or proposed volatile extraction, manufacturing, cultivation, and distribution including non-retail enterprises.
4. We would ask the City to explore the Yolanda area (as a light industrial zoning) and verify the suitability of such zoning for volatile extraction, manufacturing, cultivation, and distribution. A review of existing proposals and concentration of applications should be evaluated and limitations regarding density of applications should be included in Cities Cannabis Code.
5. Expand notification of cannabis projects to entirety of adjacent residential developments as all residents may be adversely affected.

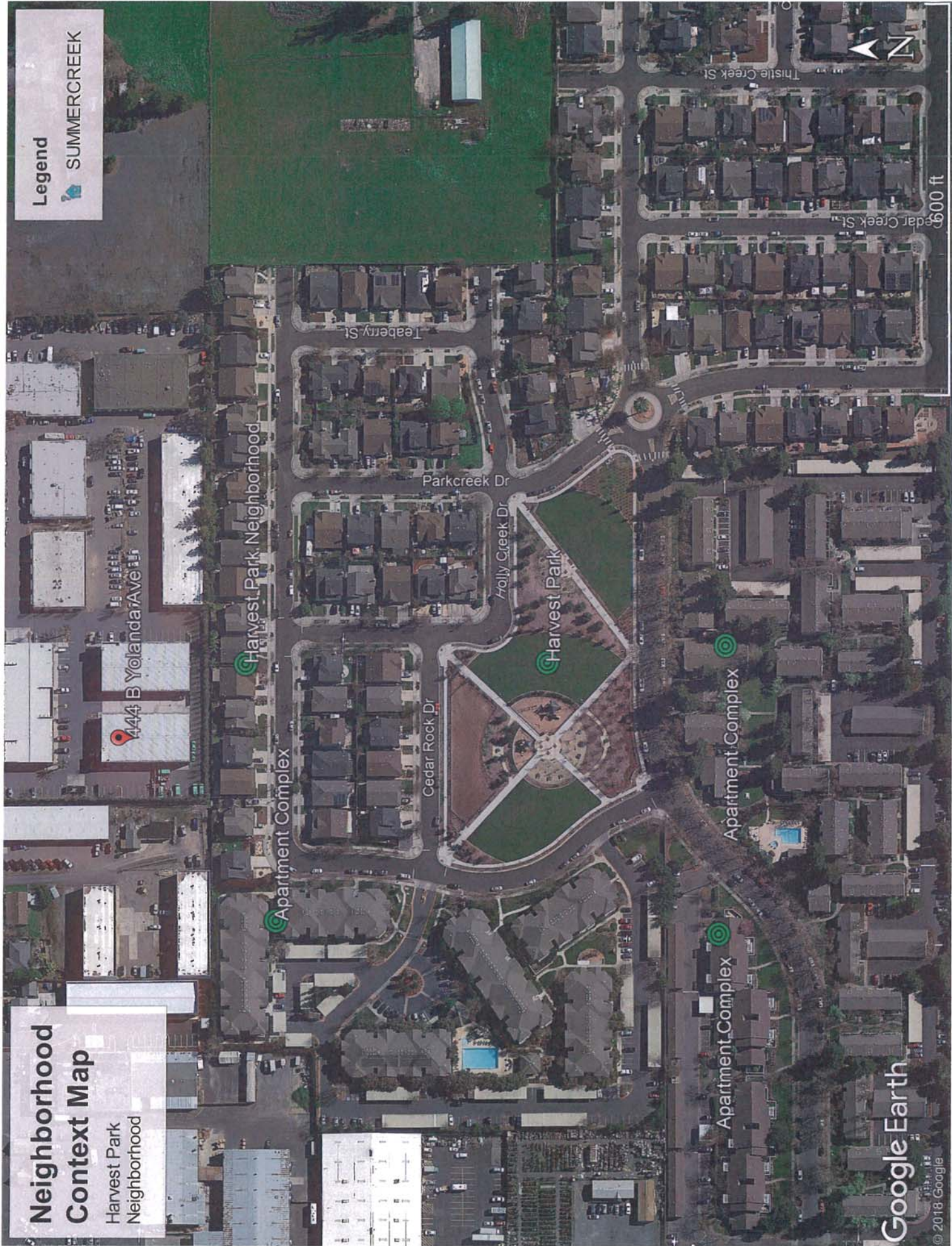
Neighborhood Context Map

Harvest Park
Neighborhood

444 B Yolanda Ave

Legend

SUMMERCREEK



Google Earth

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Criminal Access Routes through Backyards

Harvest Park Neighborhood

Legend

 SUMMERCREEK

444 Yolanda, Suite B
(Proposed Project Location)

Shared Property Boundary to Residential

2369 SUMMERCREEK 2373 SUMMERCREEK 2377 SUMMERCREEK 2381 SUMMERCREEK 2385 SUMMERCREEK 2389 SU

