

# Appeal Of Planning Commission Decision For A Commercial Cannabis Adult Use And Medicinal Volatile Manufacturing And Distribution Facility For NT Ventures, Inc.

City Council  
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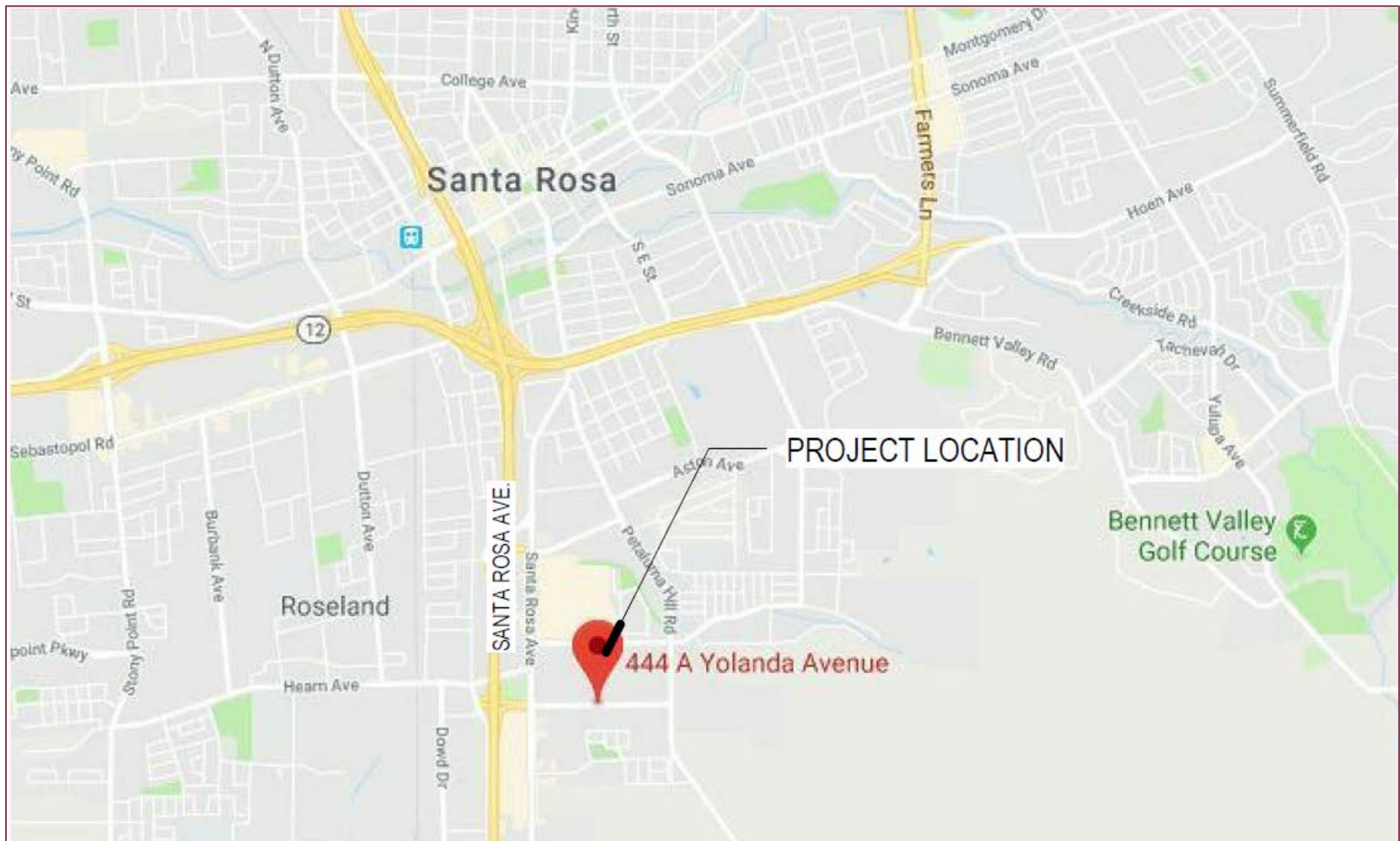
- Appeal of Planning Commission Resolution No. 11908, granting a Major Conditional Use Permit for:
  - Commercial Cannabis Manufacturing – Level 2 (volatile), Medicinal and Adult Use uses, in 3,869 square feet of an existing 4,874 square foot industrial building.

- The grounds for appeal question the Planning Commission's consideration of General Plan policies concerning cannabis uses, setback considerations for cannabis uses near residential uses, general safety of volatile cannabis manufacturing and distribution, the ability for Yolanda Avenue to handle increased traffic, and the general compatibility of industrial uses near residential.

- January 19, 2018** The CUP application was submitted to the Planning and Economic Development Department.
- February 9, 2018** Notice of Application was distributed to property owners within 400 feet of the site.
- March 14, 2018** A Neighborhood Meeting was held.
- June 27, 2018** Project application was deemed complete.
- July 26, 2018** The Planning Commission approved a Major Conditional Use Permit for the project (Resolution No. 11908).
- August 3, 2018** Matthew and Shelly Earnshaw filed an appeal of the Planning Commission's decision with the City Clerk's office.

# Project Location

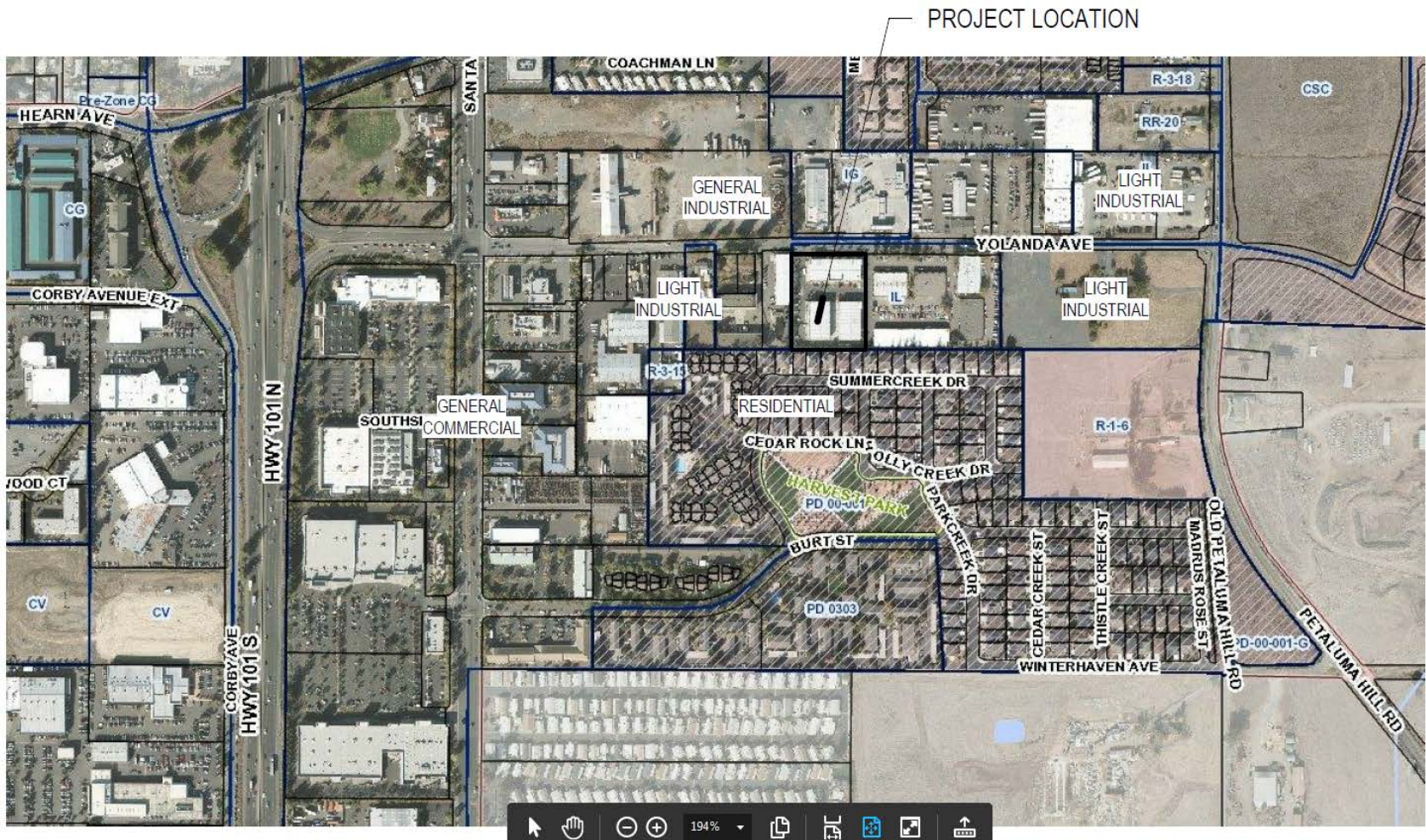
## 444 Yolanda Ave, Building B

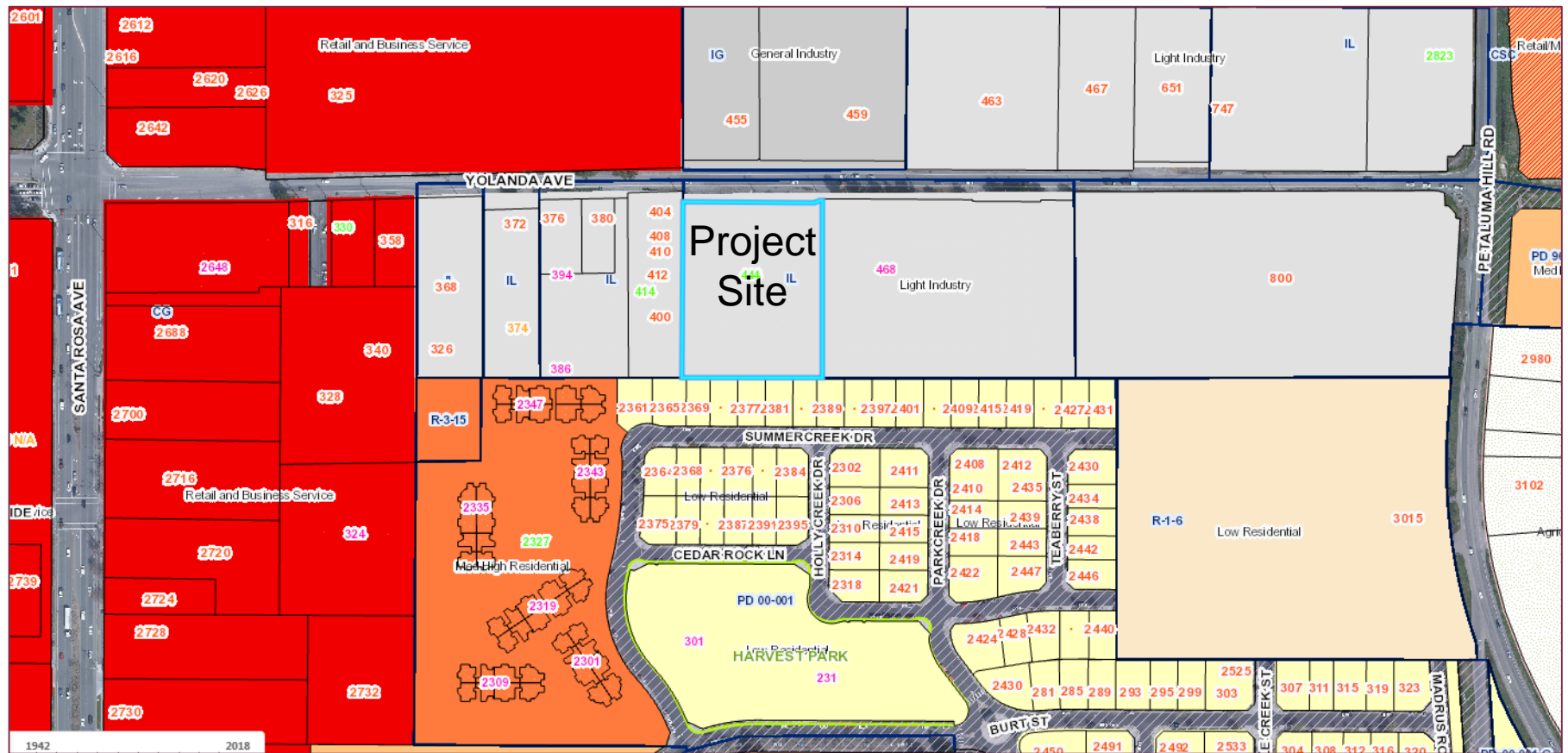




# Project Location

## 444 Yolanda Ave, Building B







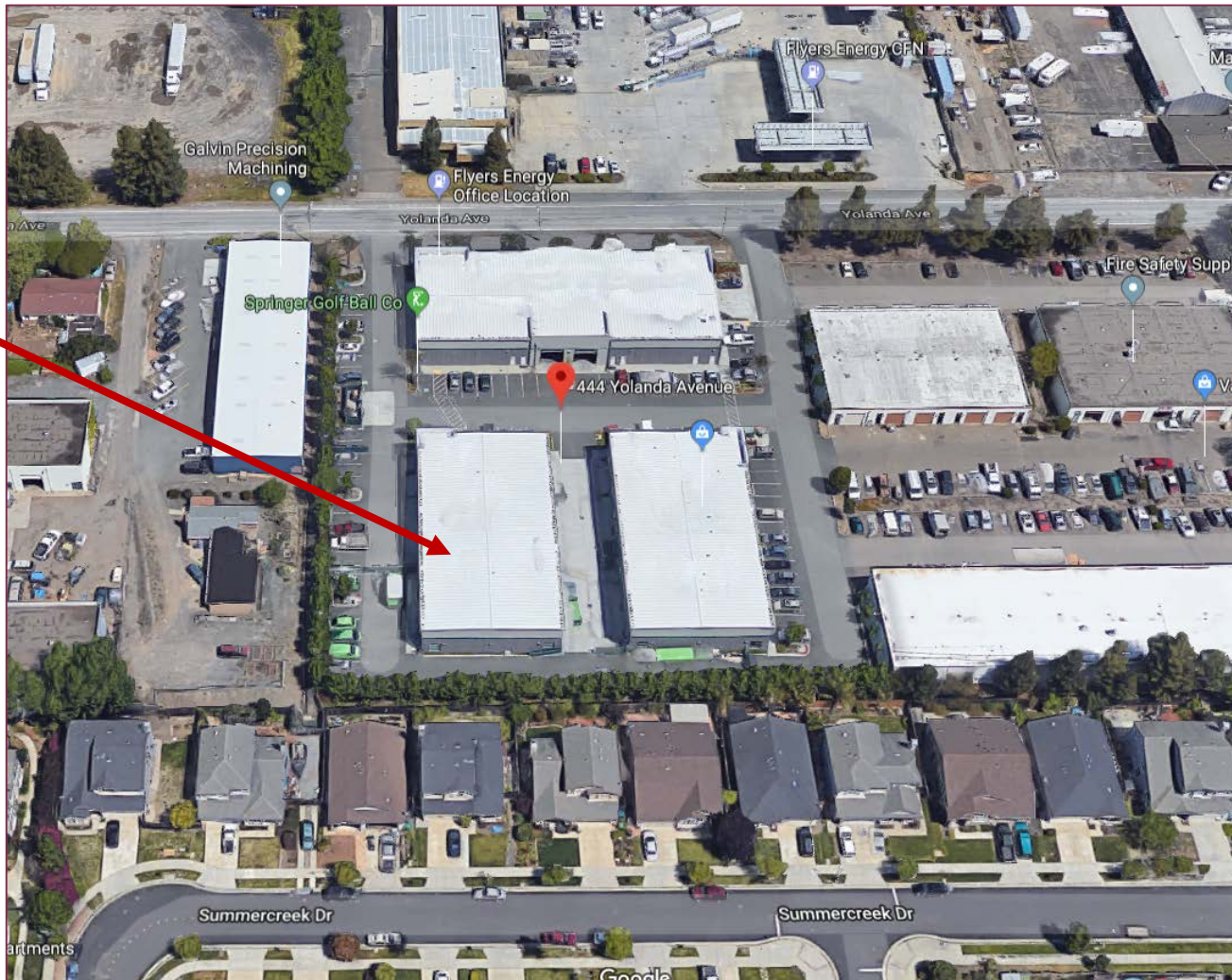




# Project Location

## 444 Yolanda Ave, Building B

Project  
Location



# Site Features

## Conditional Use Permit



WEST ELEVATION



SOUTH WEST CORNER ELEVATION



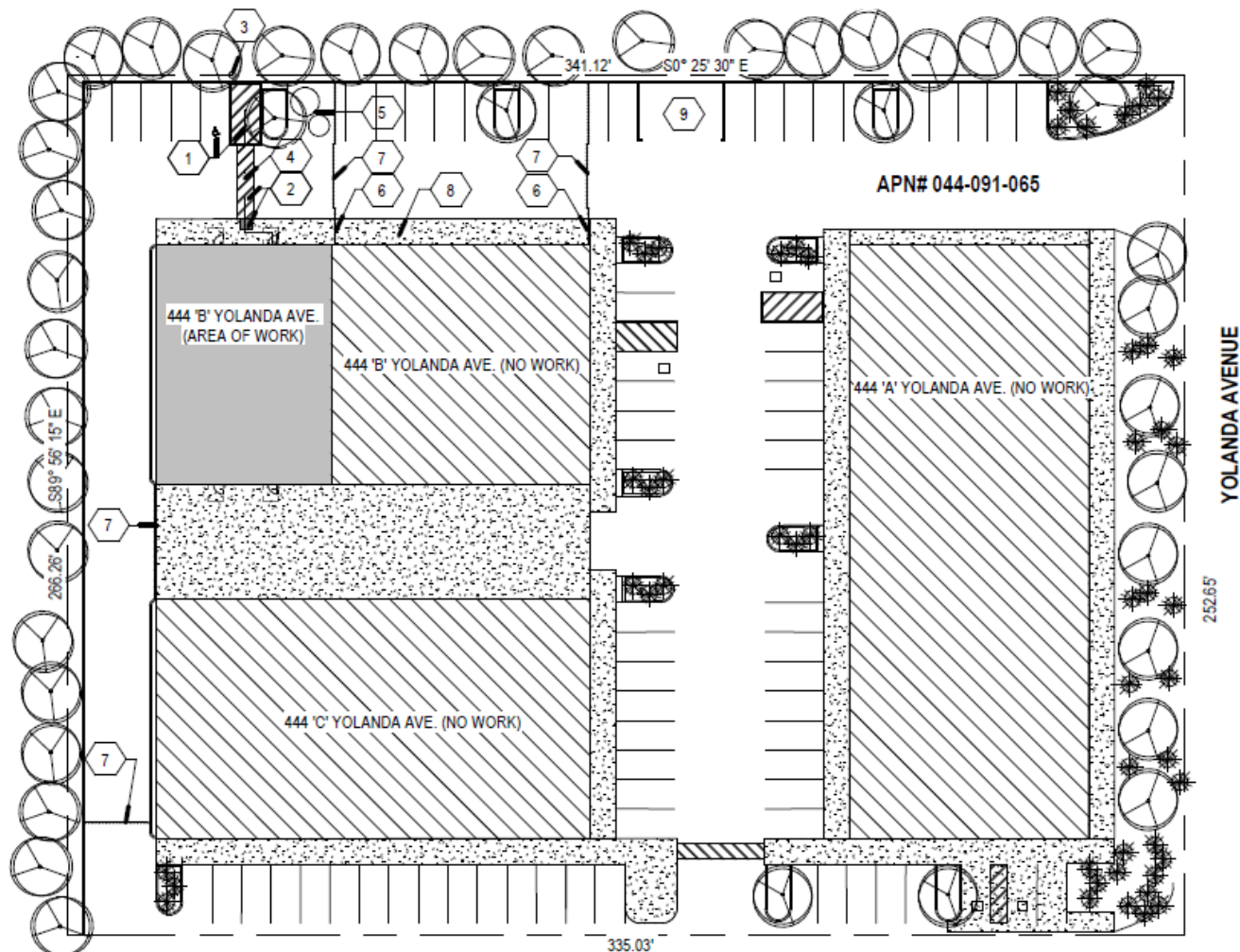
PARTIAL EAST ELEVATION



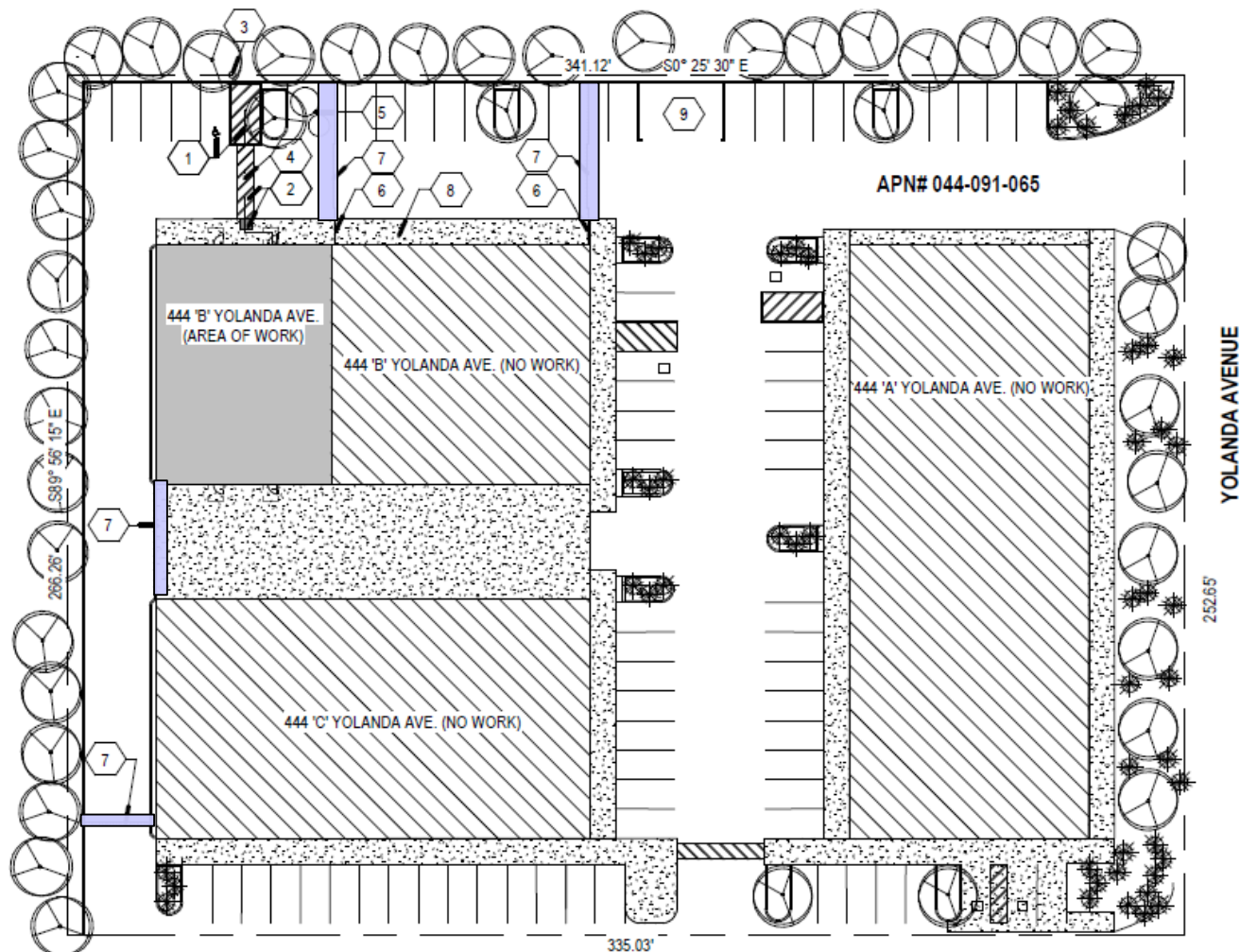
PARTIAL EAST ELEVATION



# Site Plan Conditional Use Permit

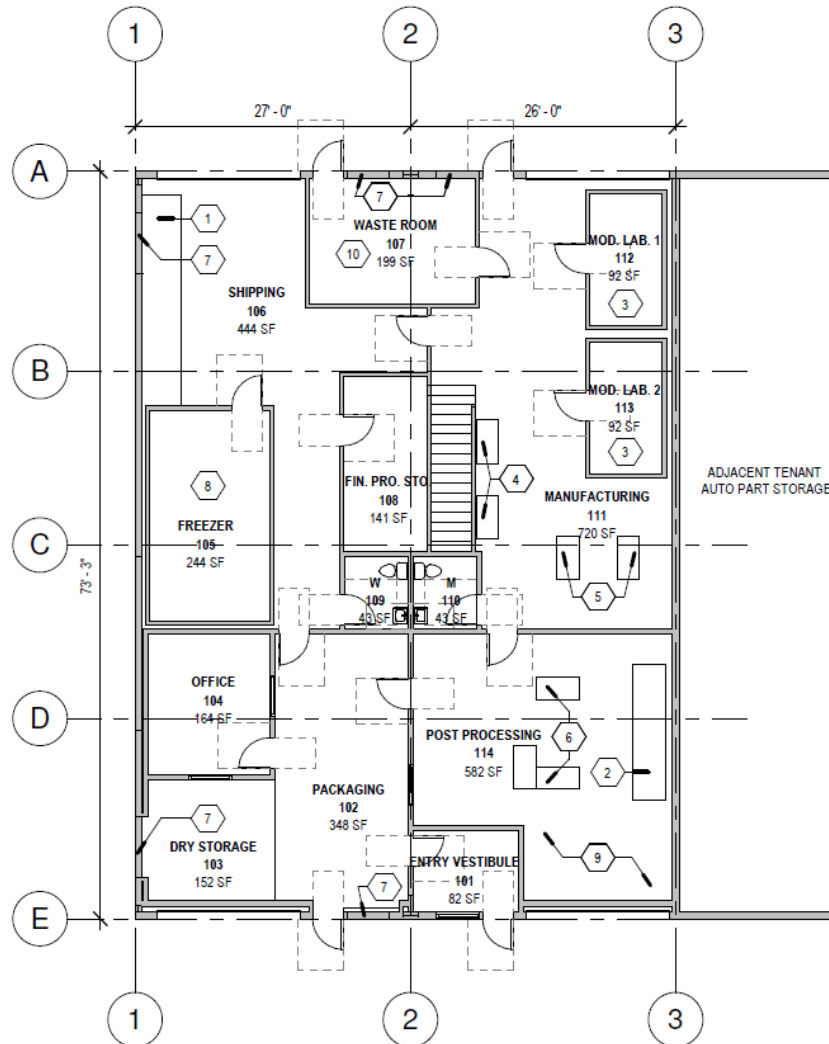


# Site Plan Conditional Use Permit

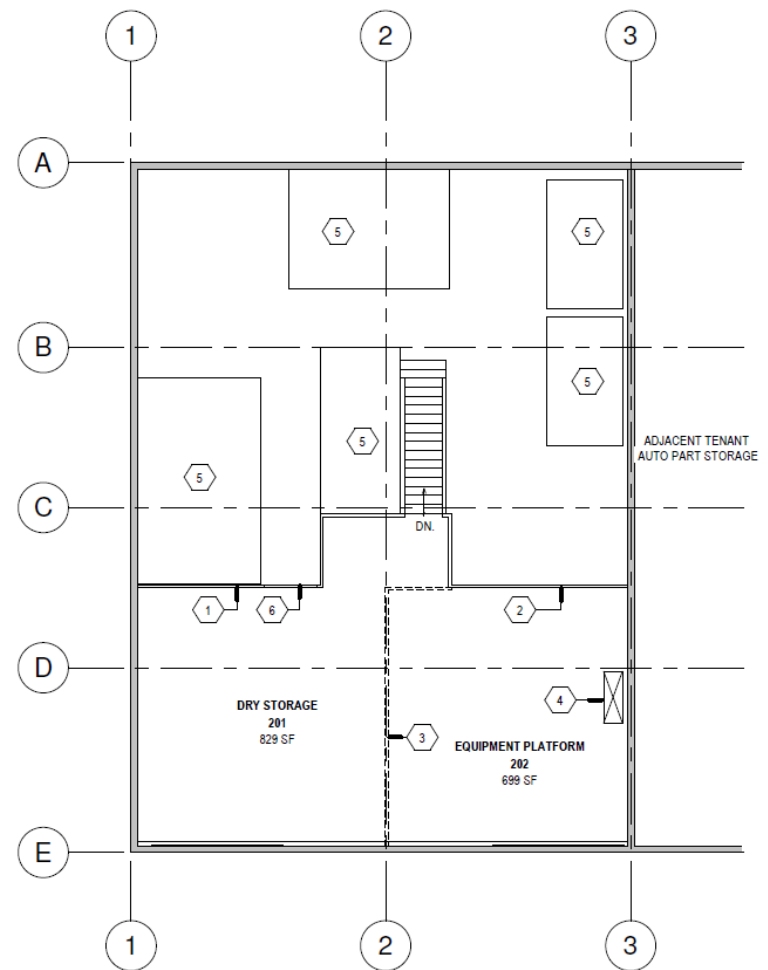




# Floor Plan Conditional Use Permit



First Floor



New Mezzanine

## Environmental Review

### California Environmental Quality Act (CEQA)

- 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 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).

## Grounds for Appeal #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.*

## Grounds for Appeal #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.*



*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.*

*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, O<sub>2</sub> or H<sub>2</sub>; 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.*

## Grounds for Appeal #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.*

*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.*



*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).*

*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.*

*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.*

*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.*



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*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.*

- It is recommended by the Planning and Economic Development Department and the Design Review Board that Council, by resolution, deny the appeal and approve Final Design Review for the proposed Oakmont of Emerald Isle community care facility.

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