

CITY OF SANTA ROSA
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
STAFF REPORT FOR PLANNING COMMISSION
July 25, 2019

PROJECT TITLE

Santa Rosa NKM

APPLICANT

NKM Enterprises, Inc.

ADDRESS/LOCATION

468 Yolanda Avenue, Suites 304 & 305

PROPERTY OWNER

Richard Schultze

ASSESSOR'S PARCEL NUMBER

044-091-066

FILE NUMBER

CUP18-062

APPLICATION DATE

April 19, 2018

APPLICATION COMPLETION DATE

June 27, 2018

REQUESTED ENTITLEMENTS

Conditional Use Permit (CUP)

FURTHER ACTIONS REQUIRED

N/A

PROJECT SITE ZONING

IL (Light Industrial)

GENERAL PLAN DESIGNATION

Light Industrial

PROJECT PLANNER

Kristinae Toomians

RECOMMENDATION

Approval

Agenda Item # 10.1
For Planning Commission Meeting of: July 25, 2019

CITY OF SANTA ROSA
PLANNING COMMISSION

TO: CHAIR CISCO AND MEMBERS OF THE COMMISSION

FROM: KRISTINAE TOOMIANS, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT

SUBJECT: SANTA ROSA NKM CANNABIS MICROBUSINESS WITH ADULT
AND MEDICINAL USE RETAIL DISPENSARY, CULTIVATION,
NON-VOLATILE MANUFACTURING, AND DISTRIBUTION

AGENDA ACTION: RESOLUTION

RECOMMENDATION

The Planning and Economic Development Department recommends that the Planning Commission, by resolution, approve a Conditional Use Permit to allow a cannabis microbusiness with adult and medicinal use retail (dispensary) and delivery, cultivation, manufacturing, and distribution uses located at 468 Yolanda Avenue, Suites 304 and 305.

EXECUTIVE SUMMARY

NKM Enterprises, Inc. (Project) proposes to operate a cannabis microbusiness for adult and medicinal use with retail dispensary, delivery, cultivation, non-volatile manufacturing (State license Type 6), and distribution (State license Type 11) in a 3,712-square-foot portion of an existing 9,280-square-foot industrial building. The applicant proposes to operate its microbusiness, including retail and delivery activities, between the hours of 9:00am and 5:00pm, 7 days a week. The applicant proposes delivery service. The applicant does not propose on-site consumption.

BACKGROUND

On December 19, 2017, the City Council enacted comprehensive regulations for cannabis (ORD-2017-025), which occurred after the State of California approved the sale of cannabis for adult use.

1. Project Description

The Project is located on the south side of Yolanda Avenue, in a predominantly industrialized area, on a 3.66-acre site in the Light Industrial (IL) zoning district. The property is developed with five industrial buildings, surrounded by shared parking. The applicant proposes to locate within a 3,712-square-foot portion of an existing industrial building, located on the northwest corner of the industrial campus, adjacent to Yolanda Avenue.



Figure 1: Project site, depicting proposed location of suite within existing industrial campus.

Exterior building improvements are limited to security lighting, security cameras, paint, new awning, and updated landscaping. Site improvements include ADA-compliant parking and paths of travel.

Floor area will be allocated as follows:

- retail sales and delivery: 404-square-feet;
- cultivation area: 1,584-square-feet;
- distribution area: 519-square-feet consisting of: storage of cannabis goods, storage of batches of cannabis for testing, packaging, re-packaging, labeling, re-labeling for retail sale.
- Non-volatile manufacturing: 1,205-square-feet

Retail Dispensary and Delivery

In compliance with Zoning Code Section 20-46.080(f)(4), the applicant proposes the dispensary to be open to the public from 9:00 a.m. to 9:00 p.m. seven days per week. The applicant proposes to operate the microbusiness, including retail and delivery activities, between the hours of 9:00am and 5:00pm, 7 days a week. The applicant does not propose on-site consumption.

Cultivation

Cannabis cultivation is proposed in two rooms with a total area of 1,500-square-feet.

Non-volatile Manufacturing

The applicant's primary manufacturing will involve packaging or repackaging manufactured cannabis products, or labeling/relabeling the manufactured product containers. The applicant proposes non-volatile cannabis extraction, using carbon dioxide and ethanol extraction. City Code requires that extraction equipment 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.

Distribution

Distribution activities will be conducted in a 519-square-foot area of the tenant space. The existing roll-up doors will facilitate secure transport of material to and from the business,

Distribution activities will include:

- Providing samples to labs for quality control;
- Collection of taxes;
- Transporting cannabis to and from other vendors; and
- Transporting product to and from cannabis manufacturing companies.

Note: Distribution is permitted by right in light industrial zoning districts.

Building Modifications

As described above, security lighting, security cameras, paint, new awning, updated landscaping, and ADA upgrades. No other exterior modifications are proposed to the exterior of the building.

Any new signs will require sign permit approval.

State Requirements

The applicant will hold a Type 12 State license, which allows a "microbusiness" comprised, in this case, of cultivation, manufacturing (non-volatile), distribution, and retail uses. The Project will be required to adhere to State Bureau of Cannabis Control licensing and operating procedures in addition to operational provisions of Zoning Code Chapter 20-46.

2. Surrounding Land Uses

The proposed site is located within an area of industrially developed and used land, and is surrounded on the north, east, and west sides by Light Industry land uses. The proposed site is adjacent to a single-family residential neighborhood to the south.

There are no other cannabis retail uses within 600-feet of the Project, and the Project is not within 600-feet of a K-12 school.

3. Existing Land Use – Project Site

The Project is located on the south side of Yolanda Avenue, in a predominantly industrialized area, on a 3.66-acre site in the Light Industrial (IL) zoning district. The property is developed with five industrial buildings, surrounded by shared parking. The applicant proposes to locate within a 3,712-square-foot portion of an existing industrial building, located on the northwest corner of the industrial campus, adjacent to Yolanda Avenue.

4. Project History

- On April 19, 2018, the applicant submitted Conditional Use Permit application (CUP 18-062) for a Microbusiness, which includes cannabis retail facilities.
- On June 11, 2018, staff held Neighborhood Meeting.
- On May 29, 2018 the application was deemed incomplete.
- On June 27, 2018 the application was deemed complete.
- On November 14, 2018, the Cannabis Policy Subcommittee voided a direct competitor within 600-feet. As a result of this decision, Santa Rosa NKM (Applicant E) was no longer in direct competition with another dispensary within 600 feet and was allowed to move forward in the Conditional Use Permit process.
- On May 24, 2019, the applicant submitted a traffic memo prepared by Transpedia Consulting Engineers.

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. (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, 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, 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, including restaurants, bars, and neighborhood centers.

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 Microbusiness 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.

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.

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), and 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 plans 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. Kawana Springs Elementary, located at 2121 Moraga Drive, is the closest school to the Project site and is located approximately 2,800 feet to the northeast. 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) require 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.” To achieve compliance with Zoning Code and consistent with standard industry practices, the cannabis business will be negatively pressurizing in relation to the outside and an activated carbon filtration system will be installed. Administrative controls will be put in place to monitor and maintain the effectiveness of the carbon filtration system. Details of the filtration system and administrative controls are provided in the Odor Control Plan dated June 21, 2018 and certified by Andrew Souza, Registered Professional Engineer of TEP Engineering, pursuant to City Code section 20-46.050(H). A copy of the certified plan is attached.

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 in the Light Industrial zoning district. 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.
- 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.

Special Events

A request for special events is not included with the subject Project. However, if in the future, the applicant wishes to host a special event, approval of a Temporary Use Permit, per Section 20-52.040 (Temporary Use Permit) will be required.

Parking

There are 85 existing parking spaces on the Project site. Eight parking spaces are required for the proposed Project, leaving 77 additional spaces for future uses of the industrial campus, as shown in Table 1. The applicant states that the project will have 16 designated parking spaces.

Table 1 – Parking Requirements

Use	Square Feet	Code Requirement	Required Spaces
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Proposed Cannabis Microbusiness (468 Yolanda Ave)			
Retail & Delivery	404	1 space/250 SF	2
Cultivation	1,584	1 space/1,000 SF	2
Distribution	519	1 space/1,000 SF	1
Manufacturing	1,205	1 space/350 SF	3
Subtotal	3,712		8
Existing Vacant Tenant Space			
Total Spaces Provided			85

Existing parking on the site exceeds the number of parking spaces required for the proposed Project and for potential future uses that could occupy the remaining vacant area of the building as allowed in the Light Industrial zoning district per the parking requirements of Zoning Code Table 3-4.

Required Findings (as shown on the draft resolution)

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 as follows:

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.

The site is in area zoned and predominately occupied by light industrial uses. Property to the north, east, and west are zoned light industrial, and the areas to the south is zoned residential. Residences to the south are approximately 190-feet away and buffered by another industrial building and surrounding

parking areas.

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 Light Industrial zoning district on a site with a history of light industrial and warehouse uses. The entrance to the retail dispensary is visible from the street and the proposed project is compatible with the existing light industrial uses located on property to the north, east, and west of the project site, and is adequately screened and separated from the residential uses located to the south. 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 physical appearance of the property will remain largely unchanged and on-site security personnel 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, the lack of on-site consumption, 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.

4. Design Guidelines

Exterior modifications to the existing structure will require design review approval by the City.

5. Historic Preservation Review Standards

Not applicable.

6. Public Comments

On June 11, 2018, Planning staff held a neighborhood meeting to discuss three proposed cannabis dispensaries on Yolanda Avenue. Several neighboring property owners attended the meeting and voiced concerns regarding a high concentration of cannabis related businesses in the area. The attendees site concerns with security and the proximity of cannabis related businesses to the residential neighborhood to the south.

7. Public Improvements/On-Site Improvements

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

FISCAL IMPACT

Not applicable.

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.
- Pursuant to CEQA Guidelines Section 15332, the project qualifies for a categorical infill exemption as it is located on a site of less than five acres, within City limits, substantially surrounded by urban uses, with no value as habitat for endangered, rare or threatened species, adequately served by necessary utilities and public services, and the project has no foreseeable significant adverse impacts to traffic, noise, air quality or water quality:
 - Traffic. Based on the traffic memo prepared by Transpedia Consulting

Engineers, on May 24, 2019, the Project is expected to generate 13 vehicle trips in the AM peak hour and 15 trips in the PM peak hours. Because the proposed Project would be expected to generate fewer than 50 trips during either the AM or the PM peak hours, a full traffic impact study is not required per the City's guidelines and there are no foreseeable significant adverse traffic impacts as a result of the project.

- Biology. The Project site is covered by an existing building and paved parking areas and has no habitat value. No trees or other vegetation will be removed from the site as a part of the Project.
- Noise - The proposed Project will operate within an existing building, which will not result in excessive noise on the exterior of the building and will operate within hours established for Retail Cannabis in Zoning Code Section 20-46.080(4)
- Air Quality/Odor - The letter addressed to the City of Santa Rosa, dated June 21, 2018, and certified by Andrew Souza, Registered Professional Engineer of TEP Engineering, certifies that the Odor Mitigation Plan for the Project meets or exceeds the requirements of the City of Santa Rosa, pursuant to Zoning Code Section 20-46; and
- Water –No changes are proposed to storm water drainage from the Project site. In addition, the site has municipal water and wastewater service.
- 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

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:	Vicinity Map
Attachment 3:	Neighborhood Context Map
Attachment 4:	Distance to Schools Exhibit
Attachment 5:	Project Narrative (Retail Dispensary)
Attachment 6:	Project Plans
Attachment 7:	Odor Control Plan
Attachment 8:	Traffic Memo

Resolution 1: Conditional Use Permit

CONTACT

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