



## Sonoma County Planning Commission

### STAFF REPORT

**FILE:** PLP18-0046

**DATE:** September 5, 2019

**TIME:** 1:20 PM

**STAFF:** Amy Lyle, Supervising Planner

#### SUMMARY

<b><u>Applicant:</u></b>	Cary Schwartz/Scott Dixon (Sky Road Ventures, Inc)
<b><u>Owner:</u></b>	T.D. Investments L.P. (Georgine Dixon)
<b><u>Location:</u></b>	3428 Westach Way, Sonoma, APN 135-061-018
<b><u>Subject:</u></b>	General Plan Amendment, Zone Change, and Cannabis Use Permit
<b><u>PROPOSAL:</u></b>	Deny the request for a General Plan Amendment, Zone Change, and Cannabis Use Permit on a Limited Commercial (LC) zoned 4.65 acre parcel.
<b><u>Environmental Determination:</u></b>	Statutorily Exempt pursuant to Section 15061(b)(4) in that the project will be rejected or disapproved by a public agency.
<b><u>Ord. Reference:</u></b>	Sections 26-88-250(a); 26-88-250 (d); 26-88-250 (f) – Commercial Cannabis Uses
<b><u>Land Conservation Contract:</u></b>	Not applicable
<b><u>Zoning:</u></b>	LC (Limited Commercial) LG/MTN SR (Scenic Resource) VOH (Valley Oak Habitat)
<b><u>General Plan:</u></b>	LC (Limited Commercial)

**RECOMMENDATION:** That the Planning Commission adopt a resolution recommending the Board of Supervisors deny the request for a General Plan Amendment, Zone Change and Cannabis Use Permit.

**EXECUTIVE SUMMARY:** Staff has scheduled the project for summary denial. Summary denial allows projects with major flaws or unresolvable issues to be scheduled for a decision in an expeditious manner without unnecessary and lengthy analysis.



The project site does not meet the General Plan criteria for a Land Use Designation Amendment, and there is insufficient policy basis to find that the General Plan Amendment is within the “public interest” as required by California Government Code. Consequently, staff also recommends denying the Cannabis Use Permit because cannabis cultivation is not allowed on the existing Limited Commercial zoning and the property does not meet the 10 acre minimum parcel size required for cannabis cultivation.

The proposed project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code Section 21080(b)(5) and 14 California Code of Regulations, Chapter 3 (CEQA Guidelines), Section 15270(a), which exempts projects that are rejected or disapproved.

#### **Site Characteristics:**

**Location:** The parcel is located in Sonoma Valley south of the City of Sonoma, near the intersection of Hwy 12 and Ramal Rd.

**Description:** The site is developed with a 10,800 sq ft industrial building surrounded on three sides by paved drive way/parking areas. The remainder of the site is undeveloped.

**Surrounding Land Uses and Zoning:** The site is surrounded by properties all zoned Land Extensive Agriculture, except for the parcel to the south which is zoned Land Intensive Agriculture. Surrounding land uses include vineyards, grazing, and agricultural support uses and single family homes.

Most of the parcels on Westach Way are between 3 and 7 acres in size. The surrounding sites are larger parcels between 50 and 300 acres, planted with vineyards or grasslands used for grazing.

## **ANALYSIS**

### **BACKGROUND**

#### Regulatory History

In October 2015, the Governor signed three bills into law collectively known as the Medical Cannabis Regulations and Safety Act establishing the State’s first licensing system for commercial medical cannabis activity. In November 2016, California voters approved Proposition 64, legalizing the adult use and possession of cannabis.

On December 20, 2016, the Sonoma County Board of Supervisors adopted the Cannabis Ordinance (No. 6189) to establish a comprehensive local program to permit and regulate medical cannabis to align with State Regulations. The ordinance was intended to preserve environmental resources, protect the health and safety of communities, and ensure the industry contributes positively to the economic vitality of the County.

In June 2017, the Governor signed a bill creating a single regulatory scheme for both medical and adult use cannabis businesses.

On October 16, 2018, the Sonoma County Board of Supervisors adopted an amendment to the Cannabis Ordinance (Ordinance No. 6245), extending the maximum term of cannabis use permit from one year to five years, authorizing adult use in addition to medical with a use permit, and clarifying a number of additional items.

### Project History

On September 15, 2017 Mr. Schwartz submitted a Penalty Relief Program application for indoor, outdoor, and mixed light cultivation at 3428 Westach Way.

On March 8, 2018 Mr. Schwartz submitted an application for a General Plan Amendment and Zone Change from Limited Commercial (LC) to Land Extensive Agriculture (LEA) and a Use Permit for 2,500 square feet of indoor and 2,500 square feet of mixed light cultivation.

On April 9, 2018 a letter was sent to Mr. Schwartz determining that the application could not be processed as the General Plan Amendment did not conform to the goals and policies of the County General Plan, and Permit Sonoma could not make the necessary finding that the General Plan Amendment was in the public interest, consistent with California Government Code Section 65358. The applicant was advised the project would be brought forward to the Planning Commission for denial if the application was not withdrawn.

On April 23, 2018 an email was sent to Mr. Schwartz notifying him that his property is not "permit eligible" and that no cannabis operations can occur on the property and all cultivation operations must cease.

On May 8, 2018 Permit Sonoma Code Enforcement verified that all cannabis operations had ceased.

On May 10, 2018 Mr. Schwartz withdrew his planning application.

On November 15, 2018 Mr. Schwartz submitted a new planning application for a General Plan Amendment, Zone Change, and Cannabis Use Permit. There was no substantial difference between the new application and the application submitted on March 8, 2018. Permit Sonoma had no legal reason not to accept the November 2018 application.

On December 15, 2018 a letter was sent to Mr. Schwartz determining that the application could not be processed due to the same fatal flaws related to the General Plan designation criteria and findings of public interest and that the project would be brought forward to the Planning Commission for denial if the application was not withdrawn.

### **Project Description**

The applicant is requesting:

- a General Plan Amendment from Limited Commercial to either Land Extensive Agriculture, Land Intensive Agriculture, or General Industrial;
- a Zone Change from Limited Commercial to either Land Extensive Agriculture, Land Intensive Agriculture, or Limited Rural Industrial; and
- a Use Permit to allow for 3,802 square feet of commercial cannabis cultivation within an existing 10,800 square foot warehouse, along with associated processing.

## DISCUSSION OF ISSUES

### **ISSUE #1: General Plan Amendment- Designation Criteria**

The subject property's land use is Limited Commercial in recognition of a historic commercial use present at the time of original General Plan adoption 1978. The commercial use has ceased and the applicant is requesting an amendment to one of three new land uses; Land Extensive Agricultural (LEA), Diverse Agriculture (DA), or Limited Rural Industrial (M3). General Plan Amendments must meet the General Plan designation criteria for the requested land use. The designation criteria for the land use options are listed below.

#### ***Land Extensive Agriculture***

*Designation Criteria. Amendments to add this designation must meet one or more of the following, in addition to any applicable Land Use Policies for the Planning Areas. The proximity of clustered units to existing adjacent agricultural operations and residences will be considered:*

- (1) Most lot sizes in the area are 60 acres or larger,*
- (2) The existing or historic use of land is for livestock grazing, dairy ranching, hay or similar forage crop,*
- (3) Adjacent parcels of similar use, and*
- (4) Williamson Act Contract (Type 2).*

#### ***Diverse Agriculture***

*Designation Criteria. Amendments to add this designation must meet one or more of the following, in addition to any applicable Land Use Policies for the Planning Areas:*

- (1) An existing pattern of small lots or a mixture of small and large parcels,*
- (2) Soils suitable for crop production and adequate water for irrigation,*
- (3) Historic or existing use for farming, and*
- (4) Williamson Act contract, Type 1 or 2.*

#### ***General Industrial***

- (1) Lands shall be located within an Urban Service Area,*
  - (2) Adequate public services shall be available or shall be planned to be available,*
  - (3) Lands shall be located with convenient access to an arterial or collector highway,*
- Land Use Element*

- (4) The amount of land so designated shall be consistent with the projected employment within the planning area,*
- (5) Lands shall not be located in areas subject to flood, fire, and geologic hazards or in areas constrained by groundwater availability or septic suitability, and*
- (6) Any applicable Land Use Policies for the Planning Area.*

The subject parcel is 4.65 acres in size and is considered to be incompatible with the requested designation criteria due to its size and use. The existing development of the property includes an industrial structure with no agricultural use. With no agricultural use proposed there is no compelling reason requiring designation of agricultural land. Furthermore, an amendment to industrial zoning would be incompatible with the surrounding agricultural uses.

### **ISSUE #2: General Plan Amendment Findings**

Government Code Section 65358 requires that the Board of Supervisors make findings that the General Plan Amendment is within the public interest. The application proposes to 1) correct “improper zoning” referring to the spot zoning that occurred on the property 2) donate a 10-panel solar system to a non-profit organization as the community benefit for the General Plan amendment; and 3) provide 5% of company profits to a drug awareness program or any other program of choice for 10 years. In general, applications for general plan amendments can only be considered when the General Plan Amendment itself provides a long-term benefit to the community. Traditionally, the Board of Supervisors has found General Plan Amendments to be within the public interest when irrevocable offers of land dedication, long term agricultural or open space easements, or affordable housing is provided. The proposed solar system dedication and profit-sharing require monetize the public benefit, setting a precedent that could open the General Plan to any desired land use change in exchange for funding other charitable interests, programs or services.

### **ISSUE #3: Zone Change Request**

The applicant is requesting a zone change from Limited Commercial to either Land Extensive Agriculture, Land Intensive Agriculture, or Limited Rural Industrial. The current Limited Commercial land use is considered a “spot zone” because it is the only commercially zoned property in an area of agricultural properties. The property is zoned commercially based on the recognition of a previous commercial use. That commercial use ceased and the commercial land use and zoning remains. A zone change to an industrial land use designation would be similar to spot zoning, exacerbating the existing land use inconsistencies and therefore would not be desirable.

### **ISSUE #4: Ordinance Requirements- Minimum Lot Size**

The cannabis ordinance was amended by the Board of Supervisors on October 16, 2018. The amended ordinance became effective 30 days from the date of passage on November 15, 2018. The amendments included a change to the minimum lot size requirements for cultivation to 10 acres. The cannabis ordinance included the following pipeline provision allowing existing projects under 10 acres to continue to be processed.

*Section III. Pipeline Projects. Notwithstanding the minimum lot size requirement, applications for commercial cannabis cultivation operations that were approved or determined complete for processing prior to the effective date of this ordinance may continue to be processed and reviewed under the minimum lot size in effect at the time their applications were deemed complete or approved. Any of these applications for commercial cannabis cultivation may continue to be renewed as a legal, nonconforming use under limited term use permits in compliance with the provisions of Article 94 (Nonconforming Uses), except that the cultivation area shall not be increased in size.*

To qualify as a pipeline project, the application must have been determined to be “complete for processing” prior to the effective date of the ordinance. The application could not have been deemed complete for processing as the application was not submitted prior to the effective date. Instead it was submitted November 15, 2018, the same day the ordinance became effective. As a result, the application is not a pipeline project and is subject to the minimum lot size currently in effect.

### **STAFF RECOMMENDATION**

That the Planning Commission adopt a resolution recommending that the Board of Supervisors deny the request for a General Plan Amendment, Zone Change and Cannabis Use Permit.

### **FINDINGS FOR RECOMMENDED ACTION**

1. The proposed project does not meet the General Plan designation criteria for agricultural lands because the small parcel size of 4.65 acres, with an existing industrial structure, would not be suitable or available for agricultural production.
2. The proposed zone change would exacerbate the existing commercial spot zoning and the existing land use inconsistencies as it is surrounded by agricultural land.
3. The proposed project has an insufficient public benefit that would not satisfy the requirements of Government Section 65358 which requires the General Plan Amendment to be in the "public interest."
4. The proposed project is inconsistent with the Cannabis Land Use Ordinance because it does not meet the minimum parcel size of 10 acres for cultivation and is not subject to the pipeline provision of the Ordinance.
5. The proposed project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(5) and 14 California Code of Regulations, Chapter 3 (CEQA Guidelines), Section 15270(a), which exempts projects that are rejected or disapproved..

### **LIST OF ATTACHMENTS**

- EXHIBIT A: General Plan Amendment, Zone Change and Use Application and Proposal Statement Site Plan, November 15, 2018
- EXHIBIT B: Vicinity Map
- EXHIBIT C: General Plan Land Use Map
- EXHIBIT D: PLP18-0018 Summary Denial Letter to Application, dated April 9, 2018
- EXHIBIT E: PLP18-0018 Email Withdrawing the Application
- EXHIBIT F: Summary Denial Letter to Applicant, dated December 14, 2018
- EXHIBIT G: Draft Planning Commission Resolution
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# Planning Application

PJR-001

**Application Type(s):**

- Admin Cert. Compliance
- Ag. or Timber Preserve/Contract
- Conditional Cert. of Compliance
- Cert. of Modification
- Coastal Permit
- Zoning Permit for: \_\_\_\_\_

- Design Review Admin.
- Design Review Full
- General Plan Amendment
- Lot Line Adjustment
- Major Subdivision

File #

PLP18-0046

- Minor Subdivision
- Voluntary Merger
- Ordinance Interpretation
- Second Unit Permit
- Specific/Area Plan Amendment
- Use Permit
- Variance
- Zone Change
- Other: \_\_\_\_\_

**By placing my contact information (name, address, phone number, email address, etc.) on this application form and submitting it to Sonoma County PRMD, I understand and authorize PRMD to post this application to the internet for public information purposes, including my contact information.**

PRINT CLEARLY					
APPLICANT			OWNER (IF OTHER THAN APPLICANT)		
Name <u>Cary Schwartz on behalf of Sky Road Ventures, Inc.</u>			Name <u>Georgine Dixon on behalf of T.D. Investments L.P.</u>		
Mailing Address <u>109 Caribe Isle</u>			Mailing Address <u>2300 Bridgeway</u>		
City <u>Novato</u>	State <u>CA</u>	Zip <u>94949</u>	City <u>Sausalito</u>	State <u>CA</u>	Zip <u>94965</u>
Day Ph <u>(310)383-3640</u>	Email <u>cowboycary@hotmail.com</u>		Day Ph <u>(415)819-8792</u>	Email <u>legacypositiveimpact@comcast.net</u>	
Signature <u>Cary Schwartz</u>		Date <u>11/14/2018</u>	Signature <u>Georgine J. Dixon</u>		Date <u>11/14/2018</u>
<b>Billing Responsible Party (At-Cost Only)</b> <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input type="checkbox"/> Other: _____					
OTHER PERSONS TO RECEIVE CORRESPONDENCE					
Name/Title <u>Rogoway Law Group; Lindsay Whyte</u>			Name/Title <u>Scott Dixon</u>		
Mailing Address <u>115 4th St., Suite B</u>			Mailing Address <u>2300 Bridgeway</u>		
City <u>Santa Rosa</u>	State <u>CA</u>	Zip <u>95401</u>	City <u>Sausalito</u>	State <u>CA</u>	Zip <u>94965</u>
Day Ph <u>(707)526-0420</u>	Email <u>lindsaywhyte@rogowaylaw.com</u>		Day Ph <u>(415)264-4435</u>	Email <u>legacypositiveimpact@comcast.net</u>	
PROJECT INFORMATION					
Address(es) <u>3428 Westach Way, Sonoma, CA 95476</u>				City <u>Sonoma - Unincorporated County</u>	
Assessor's Parcel Number(s) <u>135-061-018</u>					
Project Description <u>Please see attached project description and supplemental information.</u>					
Acreage <u>4.65 acres</u>			Number of new lots proposed <u>0</u>		
Site Served by Public Water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Site Served by Public Sewer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
TO BE COMPLETED BY PRMD STAFF					
Planning Area <u>9</u>		Supervisorial District <u>1</u>		<input type="checkbox"/> Critical Habitat <input type="checkbox"/> Urban Service	
Current Zoning <u>LC LG/MTN SR VOTI</u>		<input type="checkbox"/> NPDES <input type="checkbox"/> Williamson Act		Groundwater Availability <input type="checkbox"/> 1 / 2	
General Plan Land Use <u>LC</u>		Specific/Area Plan		Subject to CEQA <input type="checkbox"/> EX	
Application resolve planning violation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Parcel Specific Policy		Subject to CEQA <input checked="" type="checkbox"/> YES	
Application resolve planning violation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Violation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		File No.	
Previous Files <u>PLP18-0018 - withdrawn</u>		Penalty application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Date <u>11/15/18</u>	
Application accepted by <u>Scott Orr</u>		Date <u>11/15/18</u>		Date	
Approved by		Date		Date	

## Supplemental Application

### Water Use

Estimated total use in gallons each season, listed by each source of water: Applicant anticipates using between 20,000 and 22,000 gallons of water each month. Applicant proposes to build a rainwater collection system, to meet all cannabis cultivation needs. Applicant will not pull water from the on-site well. Please see attached report by Baseline Environmental Consulting for further detailed information.

Water source (check all that apply):

- Municipal source (Must attach documentation.)
- Recycled water (Must attach documentation of source and permitted storage facility.)
- Surface water (Must attach documentation of water rights.)
- Well water / Groundwater Zone: N/A

If using groundwater on any parcel, is the well located in a high or medium priority basin as defined by the State Department of Water Resources?  Yes  No

**If using groundwater, must attach copy of recorded easement allowing access to Sonoma County personnel.**

If located in groundwater zone 3 or 4 or in high or medium priority basin, attach:

1. Documentation to show that proposed use would not result in a net increase in water use on site, **OR**
2. A hydrogeological report prepared by a qualified professional providing supporting data and analysis and certifying that the onsite groundwater supply is adequate to meet the proposed uses and cumulative projected land uses in the area on a sustainable basis, and that the operation will not:
  - a. Result in or exacerbate an overdraft condition in basin or aquifer
  - b. Result in reduction of critical flow in nearby streams, or
  - c. Result in well interference at offsite wells

Is well equipped with a meter and sounding tube or other water level sounding device?

Yes  No

If yes, describe: N/A

Describe your waste water management plan (how will you manage storm and waste water to prevent the movement of nutrients, sediment, and other contaminants either on site or sanitary sewer):

Drip irrigation is proposed to each plant. Applicant anticipates no excess irrigation or runoff. Site drainage will be collected from the roof and will be directed to the stormwater reservoir, to be stored and used for irrigation. The existing stormwater reservoir is intended to recharge the existing aquifer.



**Sonoma County Permit and Resource Management Department**

2550 Ventura Avenue Santa Rosa CA 95403-2859 (707) 565-1900

[www.PermitSonoma.org](http://www.PermitSonoma.org)

Effective 04/06/18

# Indemnification Agreement

PJR-011

"As part of this application, applicant agrees to defend, indemnify, release and hold harmless the County, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of the environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in conjunction with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the County. If, for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect."

*Cary Schwartz on behalf of Sky Road Ventures, Inc.*  
Applicant Name

Applicant Signature



*Georgine Dixon on behalf of T.D. Investments L.P.*  
Owner Name

Owner Signature



11/14/2018

Date

File No.

**NOTE:** The purpose of the Indemnification Agreement is to allow the County to be held harmless in terms of potential legal costs and liabilities in conjunction with permit processing and approval.

**Sonoma County Permit and Resource Management Department**

2550 Ventura Avenue ❖ Santa Rosa, CA ❖ 95403-2829 ❖ (707) 565-1900 ❖ Fax (707) 565-1103



**November 14, 2018**  
Application for Indoor Cannabis Cultivation  
Proposal Statement and Supplemental Information

Applicant: Sky Road Ventures, Inc.

Applicant Contact Information: Cary Schwartz 310-383-3640  
109 Caribe Isle cowboy Cary@hotmail.com  
Novato, CA 94949

Scott Dixon 415-264-4435  
legacypositiveimpact@comcast.net

Owner Contact Information: T.D. Investments L.P. 415-819-8792  
Georgine Dixon legacypositiveimpact@comcast.net  
2300 Bridgeway  
Sausalito, CA 94965

Applicant Legal Representative: Rogoway Law Group 707-526-0420  
Lindsay Whyte, Esq. lindsaywhyte@rogowaylaw.com  
115 4<sup>th</sup> St – 2<sup>nd</sup> Floor, Suite B  
Santa Rosa, CA 95401

Property Address: 3428 Westach Way, Sonoma, CA 95476

APN: 135-061-018

Zoning: Currently Limited Commercial (LC, LG/MTN SR VOH). Applicant is also proposing a Zoning Change and General Plan Amendment.

General Plan Land Use: LC – Light Manufacturing & Industrial

Building Size: 10,800 square feet

Lot Size: 4.65 acres

Groundwater: Zone 3 – Marginal Groundwater

## Proposal Statement

### Statement of Operator Qualifications

The applicant, Sky Road Ventures, Inc., submitted all Sonoma County Application forms, and required documentation for a Commercial Cannabis Use Permit, General Plan Amendment, and Zone Change. Applicant now submits new application forms and required documentation for the same use.

The operator of the applicant entity, Cary Schwartz, has no prior felony convictions. No other cannabis related applications have been submitted by the applicant, aside from the previously-submitted application for the same parcel.

Applicant plans to employ four (4) full-time employees, who will work eight-hour shifts. Between two (2) and four (4) employees will work each shift. All employees will be over the age of 21.

### Description of Existing Use and Property:

The site was previously in use as a commercial warehouse. The commercial warehouse where cannabis cultivation would occur is currently vacant, but was previously used as a tachometer shop until approximately three years ago. Please see attached site plans for the slope and topography of the site.

Easements known to exist on the property were described in the most recent Preliminary Title Report as follows:

- An easement for right of way and pipe lines and incidental purposes in the document recorded May 15, 1930 in Book/Reel 265, Page/Image 22 of Official Records.
- An easement for road and utility and incidental purposes, recorded September 21, 1964 as Instrument No. J9492 in Book/Reel 2074, Page/Image 785 of Official Records.
  - o **In Favor of:** Robert E. Moratto, et al
  - o **Affects:** Southerly 50 feet
- An easement for utilities and maintenance and incidental purposes, recorded November 3, 1971 in Instrument No. M39489 in Book/Reel 2578, Page/Image 715 of Official Records.
  - o **In Favor of:** Pacific Gas and Electric Company
  - o **Affects:** As described therein

### Description of Proposed Cannabis Use and Operational Plan:

The applicant proposes one Specialty Indoor Cultivation facility for approximately 3,802 square feet of flowering cultivation within an existing 10,800 square foot warehouse (*see attached floor plans*). Cannabis will be processed on-site, in rooms designated "Dry Room" and "Drying Room" of 695 and 474 square feet, respectively (*see attached floor plans*).

There are no new structures proposed. The existing warehouse does not need to be legalized; however, some electrical upgrades need to be legalized within the structure.

Clean drinking water, workstations, and necessary supplies will be provided for each employee. Employees will have access to ADA-compliant restrooms with hand washing stations.

### **A. Development Criteria and Operating Standards:**

#### Number of Facilities and Square Footage Limitations.

Sonoma County Code Section 26-88-254(f)(1) mandates that no more than one cultivation use/operator may be approved per contiguous parcel ownership, except in the agricultural and industrial zones. Section 26-88-254(f)(2) states that the total combined square footage of the cultivation area shall not exceed the maximum size thresholds as defined in Table 1A-D *Allowable Cannabis Uses and Permit* requirements which provides the maximum size per parcel. Here, the Applicant proposes only a single indoor cannabis cultivation permit as follows:

- **Type 2A – Specialty Indoor Cultivation**, which covers licensees who cultivate between 501 and 5,000 square feet of Indoor Cultivation

The proposed project site is a 4.65-acre parcel zoned Limited Commercial (LC). Sonoma County Code Section 26-88-250(d) mandates that medical cannabis uses shall be subject to the land use permit requirements as shown in Table 1A-D Allowed Medical Cannabis Uses and Permit Requirements. Table 1D: *Allowed Cannabis Uses and Permit Requirements for Industrial Zones* generally allows for up to 5,000 square feet of indoor cultivation within existing, previously-developed areas, on agriculturally-zoned parcels.

Square Footage of Each Cultivation Area

The total square footage of the cultivation and cultivation-related areas will be 6,639 square feet of designated floor space, including processing and propagation (see the chart below and the attached floor plans). Total designated flowering cultivation space will be 3,802 square feet, while propagation space will be 1,668 square feet, and total processing space will be 1,169 square feet. The cultivation area at the Subject Property will be allocated into the following rooms:

Use	Room Name	Room Size in Square Feet
Cultivation	Grow Room 1	762
Cultivation	Grow Room 2	769
Cultivation	Grow Room 3	769
Cultivation	Grow Room 4	769
Cultivation	Grow Room 5	733
<b>Total Flowering Cultivation</b>		<b>3,802</b>
Propagation	Vegetation	490
Propagation	Babies, Mom & Vegetation	1,009
Propagation	Transplant	189
<b>Total Propagation</b>		<b>1,668</b>
Processing	Dry Room	695
Processing	Drying Room	474
<b>Total Processing</b>		<b>1,169</b>

The balance of the facility space will be dedicated to a restroom, office, storage space, lounge and changing space, corridors, closets, and a shed (see attached floor plans).

Property Setbacks- Indoor.

Section 26-88-254(f)(4) states that “all structures used for indoor cultivation and all structures used for drying, curing, grading, or trimming, and all indoor cultivation structures, shall comply with the setbacks for the base zone and any applicable combining zone. Structures associated with the cultivation will not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.”

The subject property will not have any cultivation located in a front yard setback area. There will be no exterior evidence of cultivation either within or outside the structure. There are no exterior windows that would allow public view of cultivation activities. No exterior modifications are planned to the building, but the property is fenced, for added security. The building complies with all county setback requirements for indoor cultivation facilities. The indoor cultivation structure is setback in excess of 1,000 feet from schools providing education to grades K-12, public parks, childcare centers, and drug and substance abuse treatment centers. Please see attached maps denoting the setbacks to sensitive uses.



**Existing Structures and Building Requirements**

As defined in Section 26-88-254(f)(7), all structures used in commercial cultivation, including greenhouses, require a building permit and must comply with all applicable sections of the County Code. Cultivation uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers or patients must meet County Code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.

Here, all structures proposed to be used in commercial cultivation are pre-existing. Any tenant improvements will receive a building permit and otherwise comply with all applicable sections of the County Code. The subject property will also comply with all County Code requirements for accessibility. The subject property will have an ADA-compliant bathroom, ADA-accessible parking space, as well as an ADA path of travel.

**Biotic Resources.**

The existing site is paved with a pre-existing building and no environmental impacts are anticipated from the proposed indoor cultivation use. Please see attached Biotic Resources Assessment for more information.

**Cultural and Historic Resources.**

Cultural or historic resources have not been evaluated, as no ground will be disturbed. The site is an existing, paved lot in commercial use.

**Farmland Protection.**

According to the Sonoma County Cannabis Ordinance, where a commercial cultivation site is located within an Agricultural Zone (LIA, LEA, DA), the primary use of the parcel shall remain an agricultural use, pursuant to the General Plan Policy AR-4a. Indoor and mixed light cultivation facilities shall not remove agricultural production within Important Farmlands, including Prime, Unique and Farmlands of Statewide Importance as designated by the state Farmland Mapping and Monitoring Program, but may offset by relocating agricultural production on a 1:1 ratio. If the facility is located on a site under a Land Conservation Act (Williamson Act) contract, the use must be listed as a compatible use in the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones, and allowed by the type of contract and approved Land Conservation Plan may be required.

The proposed project is an indoor cultivation facility and there are no crops subject to removal. The site is not subject to a Williamson Act contract.

**Fire Code Requirements.**

The Applicant's Fire Prevention Plan ensures access for emergency vehicles. The site is accessed from Westach Way and Applicant's parking area and turnaround space is paved. The existing building will be fully fire-sprinklered and

tenant improvements will be built to meet current codes. The facility site provides sufficient space for emergency vehicle access and turn-around and any vegetation around the structure will be managed to prevent risk of fire. Fire breaks will be maintained around all structures, as needed.

#### Grading.

Section 26-88-245(f)(12) prohibits cultivation sites on natural slopes steeper than 15 percent as defined by County Code Chapter 11, section 16-020, unless a use permit is obtained. All grading is subject to a grading permit in compliance with Chapter 11 of the County Code. Here, Applicant does not propose any grading, as all cultivation will take place inside. Please see the attached site plans for topographical lines on the parcel.

#### Hazardous Materials and Pesticide Use.

No hazardous materials will be utilized or stored on site. Please see the list below of nutrients Applicant will use at the facility.

- Flora Micro
- Flora Grow
- Flora Bloom
- Floralicious
- Flora Blend
- Diamond Nectar
- Flora Nectar
- Cool Bloom
- Rapid Start
- Pest Control Spray
- Organic Crop Control
- Organic Plant Therapy
- Organic Green Clean

#### Lighting Plan.

All lighting will be fully shielded, downward cast and will not spill over onto other structures, properties, or the night sky. All light from within the facility will be contained and not be visible from neighboring properties between sunset and sunrise. Security and operations lighting will comply with County night sky regulations. (*Please see attached Lighting Diagram for lighting details.*)

#### Security and Fencing Plan.

Applicant's security plans will include surveillance cameras and motion-sensor lights on the exterior of the building, as well as surveillance cameras and alarm system for the interior of the building. Surveillance cameras will be motion-sensor and installed with capability to record activity beneath the cultivation canopy but will not be visible from surrounding parcels and will not be pointed at or recording activity on surrounding parcels. The format of the video will be standard industry format in order to support criminal investigations. Applicant will keep the surveillance video for a minimum of 30 days (see Applicant's *Confidential Security Plans* for more information).

The existing site is fenced. The fencing is consistent with the surrounding area and does not diminish the visual quality of the site or surrounding area. There will be no razor wire or similar fencing used at the site. There will not be any weapons or firearms at the cultivation site. All security measures are designed to ensure emergency access in compliance with fire safe standards. The structure has locking doors to prevent free access to the cultivation site. All operations will take place inside the building, including loading and unloading (see Applicant's *Confidential Security Plans* for more information).

### **B. Operating Standards**

#### Air Quality and Odor.

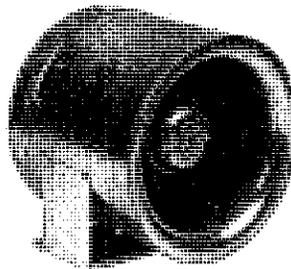
This project will be equipped with odor control filtration and ventilation systems to control odors, humidity and mold. The odor will be controlled by carbon filtration systems and the odor of cannabis will not be detectable outside of the

structure. Dehumidification equipment will be used to control humidity and mold, and the building is equipped with an HVAC system.

*Example of 10-inch  
Max-Fan with Carbon  
Filter and Speed Controller*



Can-Fan  
Can-Fan Max-Fan In-line Mixed Flow Fan, 14-Inch 1700  
Cubic Feet Per Minute



- Up to 1,700 rpm
- Max watts - 255
- 14-Inch duct diameter

#### Energy Use.

Section 26-88-254(g)(3) requires that electrical power for indoor and mixed light cultivation be provided by any combination of: (1) on-grid power with 100% renewable source; (2) on-site zero net energy renewable source; or (3) purchase of carbon offsets of any portion of power not from renewable sources. Applicant is dedicated to using renewable energy. Applicant has installed rooftop solar panels to supply 100% renewable energy and to meet the standards imposed by Section 26-88-254(g)(3). Moreover, Applicant has confirmed with Sonoma Clean Power that this property is enrolled in the Sonoma Clean Power program.

#### Hours of Operation.

Pursuant to Section 26-88-254(g)(5) all indoor cultivation activities will be conducted at the project site seven days per week, 24 hours per day as needed. Deliveries, shipping, and processing activities will be limited to the hours of 8:00am to 5:00pm.

#### Noise Limits.

All cultivation activities will occur inside. Activities that create noise will be limited to HVAC compressor units, dehumidification equipment, carbon filtration systems, and occasional delivery and garbage vehicles. Pursuant to Section 26-88-254(g)(6), the cultivation operations will not exceed the General Plan Noise Standards Table NE02, measured in accordance with the Sonoma County Noise Guidelines.

#### Occupational Safety.

Applicant will comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.

#### Waste Management Plan.

A locking trash enclosure will be installed at the facility. Applicant will maintain a green waste composting area inside the facility, as well as a storage area for non-compostable refuse (*see attached floor plans*). Waste will be stored, handled, and disposed of in accordance with the Agricultural Commissioner's Best Management Practices. All garbage and refuse on this site will be stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container used will be filled beyond the capacity to completely close the lid. No garbage or refuse on site will be stored for more than seven calendar days. All waste will be properly disposed of before the end of the seventh day in a manner prescribed by the Solid Waste Local Enforcement Agency and in accordance with local and state codes, laws, and regulations. Cultivation related waste will be secured in a manner to prevent access from the public and will be hauled off the property and disposed of by Applicant and his employees.

#### Recyclable Materials

Applicant will recycle or properly dispose of all plastic bags, containers, and irrigation materials. Applicant will ensure all employees are trained to identify and properly recycle all recyclable material on site. Applicant will provide recycling containers that will be labeled with the types of items allowed in each container.

Non-Recyclable Material

Applicant will ensure all employees are trained to identify and properly dispose of any and all non-recyclable waste. Applicant will provide trash containers on site, which will also be labeled according to acceptable waste materials allowed in the bin.

Compost of Non-Cannabis Material

Applicant will ensure all employees are trained on what can be composted. Compostable items such as food scraps, unbleached paper towels/plates, some cardboard, etc. will be composted in accordance with the Sonoma County Waste Management Agency's guidelines for municipal composting. Applicant will provide compost containers, which will be labeled for proper use.

Greenwaste

Green waste will be properly disposed of in a manner that does not discharge pollutants to any watercourse. Applicant will ensure all employees are trained to properly store all cannabis greenwaste. A chipper/shredder will be used to break down greenwaste materials so that it can be composted. Greenwaste will be stored in air- and water-tight containers on site. As stated above, Applicant will maintain a green waste composting area inside the facility (*see attached floor plans*).

Used Growth Medium

Applicant will ensure all employees are trained on how to properly handle used soil. Used soil will be stored on site in watertight containers until it can be amended and re-purposed. Used growth medium (soil and other organic medium) will be handled in a way designed to minimize and prevent discharge of soil and residual nutrients and chemicals to watercourses. This includes storage of used growth medium in watertight containers.

Water Supply and Management Plan.

Section 26-88-254(g)(10) mandates that the on-site water supply source is adequate to meet all on site uses on a sustainable basis. This site is served by well water, but Applicant plans to solely use a rain water collection system to meet all cultivation water needs on-site, which would not affect any existing water supplies. Applicant anticipates using approximately 20-22,000 gallons of water for irrigation each month. Please see the attached report by Baseline Environmental Consulting which discusses Applicant's water use plan in detail.

Applicant will inspect for, and repair, leaks continuously during growth cycle. All irrigation systems will be equipped with a backflow prevention device and shutoff valves.

Wastewater Management Plan, Runoff, and Stormwater Control.

No runoff or excess irrigation will be created by this project, as drip irrigation is proposed for each plant. The project consists of occupying an existing warehouse structure where stormwater discharge patterns will not be disrupted as a result of this project. Furthermore, native grasses cover unimproved areas of the site, and do not appear at risk for erosion.

Natural site runoff and drainage will be accomplished through the existing site drainage system, which directs stormwater to the existing stormwater reservoir (*see attached Water Management Site Plan*). Water is collected from the roofs and directed to the stormwater reservoir to be stored and used for irrigation. The existing stormwater reservoir is intended to recharge the existing aquifer.

The site is currently served by septic. Domestic and sanitary wastewater is currently directed to an existing leach field (*shown on attached site plans*). Applicant anticipates being a zero waste-water facility.



**Application for Zone Change and General Plan Amendment**  
**Proposal Statement**

Applicant: Sky Road Ventures, Inc.

Applicant Contact Information: Cary Schwartz  
109 Caribe Isle  
Novato, CA 94949

310-383-3640  
cowboycary@hotmail.com

Scott Dixon

415-264-4435  
legacypositiveimpact@comcast.net

Owner Contact Information: T.D. Investments L.P.  
Georgine Dixon  
2300 Bridgeway  
Sausalito, CA 94965

415-819-8792  
legacypositiveimpact@comcast.net

Applicant Legal Representative: Rogoway Law Group  
Lindsay Whyte, Esq.  
115 4<sup>th</sup> St – 2<sup>nd</sup> Floor, Suite B  
Santa Rosa, CA 95401

707-526-0420  
lindsaywhyte@rogowaylaw.com

Property Address: 3428 Westach Way, Sonoma, CA 95476

APN: 135-061-018

Zoning: Currently Limited Commercial (LC, LG/MTN SR VOH). Applicant is proposing a Zoning Change and General Plan Amendment to LEA, LIA, or M3

General Plan Land Use: LC – Light Manufacturing & Industrial

Building Size: 10,800 square feet

Lot Size: 4.65 acres

Groundwater: Zone 3 – Marginal Groundwater

### Zone Change Proposal

The area surrounding the Subject Property is characterized by rolling hills with extensive vineyard development, with a mix of rural and agriculturally-oriented uses surrounding the site. The subject property has been used as a commercial/industrial site, which is out of character with the surrounding area and zoning. The property is improved with an existing structure of approximately 10,500 square feet, which was originally built in the 1950's as a tachometer shop. This shop ceased operation approximately two and a half years ago. Applicant believes that this parcel was originally zoned agriculturally but was re-zoned around the 1960s as Limited Commercial specifically for the use of this commercial shop. This parcel is now an island of commercial zoning that is completely surrounded by agricultural zoning and uses.

The County has recognized that there are many improperly zoned parcels throughout the County and in an effort to correct some of this improper zoning, Applicant is applying for a Zone Change and a General Plan Amendment in order to bring this parcel into conformance with the surrounding agricultural uses. The proposed amendment is to change the zoning of 3428 Westach from Limited Commercial (LC) to Land Extensive Agriculture (LEA), as LEA is the most appropriate zoning designation for the Subject Property. However, Applicant also recognizes that the County may desire to rezone this parcel to Land Intensive Agriculture (LIA), and as such, both zones are analyzed within this proposal. Additionally, Applicant has received direction from Sonoma County staff that this parcel may be well-suited for an industrial use, and as such, Applicant also proposes that this parcel be rezoned to Limited Rural Industrial (M3) in accordance with the Limited Industrial General Plan category.

According to the Sonoma County General Plan, "*Limited commercial land is intended to accommodate retail sales and services for the daily self-sufficiency of local rural or urban neighborhoods or communities in keeping with their character.*" Westach Way is a private, "dead-end" road with homes and vineyards located near the City of Sonoma. The nature of this private road and the fact that 3428 Westach is not used as for retail or services that support the daily self-sufficiency of the neighborhood, supports the contention that this parcel would be better designated for agricultural uses.

### Public Benefit

The Subject Property is clearly surrounded by farmlands, and these farmlands are specifically designated on the Sonoma County GIS Map as "Unique Farmland," "Farmland of Local Importance," and "Farmland of Statewide Importance." The Subject Property itself is designated as "Unique Farmland" and is located to the historic Schellville Chicken Colony and the Wechieka Farms. The parcel at 3428 Westach is now the only commercially zoned parcel in the neighborhood and maintenance of this zoning designation does not support the County's goal of maintaining valued farmlands.

The Applicant recognizes that there must be a "public benefit" when rezoning and amending the general plan designation of a parcel. The County would be providing a public benefit to the citizens of Sonoma County by rezoning and amending this parcel from a commercial use into an agricultural use, which would preserve the County's valuable farmland for generations to come.

Moreover, the Applicant proposes to provide public benefits to local citizens and has proposed the provision of solar power from this parcel to be used by the County and its residents, which would also align with Sonoma County's goal of obtaining power from clean, sustainable sources. In furtherance of the County's goal to provide a public benefit to the residents and businesses of Sonoma County when approving a zone change, Applicant intends to donate electricity from 10 solar panels to an entity of the County's choice, which will provide at least 3 kilowatts of renewable energy to Sonoma County's residents and/or businesses. This donation would assist Sonoma County in meeting Governor Brown's statewide requirement that California must get 33% of its electricity from renewable resources and would align with Sonoma County's dedication to sourcing clean, renewable power.

### Information About Neighboring Parcels

The Subject Property, located at 3428 Westach Way, is located east of Highway 12 near the City of Sonoma. The 4.65-acre parcel shares access with seven other properties on Westach Way, a private road. The other properties on Westach Way are of similar size, ranging from 2.26 acres to 6.42 acres. All of the properties on Westach Way and in the surrounding area are zoned LEA, with the exception of the Subject Property, which is zoned LC. The parcels located across the street from the Subject Parcel are zoned LEA and LIA. Applicant therefore proposes to rezone this parcel and to obtain a General Plan Amendment, so that this parcel may be agriculturally zoned as either LEA or LIA, in accordance with all surrounding parcels.

Please see the table below for detailed information about the parcels neighboring the Subject Property:

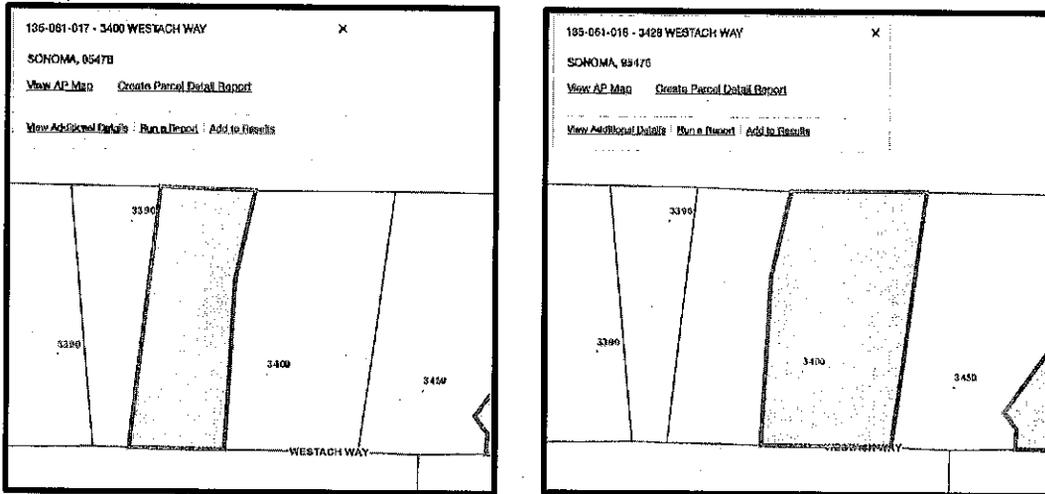
Address	APN	Size (Acres)	Zone/Land Use
<b>Parcels on Westach Way</b>			
3500 Westach Way	135-061-024	4.97	LEA B6 60 / LEA 60
3450 Westach Way	135-061-023	5.18	LEA B6 60 / LEA 60
3428 (also 3400) Westach Way (Subject Property)	135-061-018	4.65	LC / LC
3400 Westach Way	135-061-017	3.73	LEA B6 30 / LEA 60
3396 Westach Way	135-061-016	2.26	LEA B6 30 / LEA 60
3390 Westach Way	135-061-020	5.00	LEA B6 30 / LEA 60
3360 Westach Way	135-061-021	5.03	LEA B6 30 / LEA 60
3350 Westach Way	135-061-022	6.42	LEA B6 30 / LEA 60
<b>Parcels South of the Subject Property (Across the Street)</b>			
000 Ramal Rd.	135-061-028	283.28	LEA B6 60 / LEA 60
23200 Ramal Rd.	135-061-025	59.98	LIA B6 30 / LIA 30
23100 Ramal Rd.	135-061-026	10.00	LIA B6 30 / LIA 30



The parcels surrounding 3428 Westach maintain vineyards and other agricultural uses. The current zoning of the Subject Parcel as Limited Commercial does not comport with the surrounding agricultural designations. 3428 Westach Way is no longer in use as a commercial property, and as such, it should be returned to an agricultural use, which would better fit the surrounding neighborhood, and which would align with Sonoma County's stated goal of preserving farmland.

Moreover, returning this property to an agriculture zone would assist in removing an improper “spot zone” within Sonoma County.

The City of Santa Rosa GIS Map shows that 3428 Westach and 3400 Westach Way were very likely originally one parcel, as both parcels have the designation of 3400 Westach Way (*see images below*). The Subject Property shows the 3400 Westach Way address, but has a different recorded address. The neighboring parcel does not show an address designation, but is recorded as 3400 Westach Way. It appears clear from the available information that these two parcels were originally one agriculturally-zoned property, and that 3428 Westach was likely rezoned to a commercial use as part of a parcel split in order to maintain the ability to run the commercial tachometer shop on the parcel.



Applicant intends to use the Subject Property for agricultural uses, and no conflict with neighbors is anticipated; rather, the neighbors of 3428 Westach have signed letters acknowledging and supporting the change of this parcel from a commercial designation to an agricultural zone. (Please see the attached letters of support from the neighbors.)

### **Option 1: Rezone to LEA**

According to the General Plan, “*The objective in land extensive agricultural areas shall be to establish and maintain densities and parcel sizes that are conducive to continued agricultural production.*” This objective certainly fits with the Subject Property, as a rezone to an agricultural use would allow for the current and future establishment of agricultural production. Although the General Plan states that “*Densities shall range from 60 to 320 acres,*” the “*Designation Criteria*” is quite helpful.

The General Plan lists four criteria that are generally used in designating LEA zones and states that the property must meet *one or more* of the categories:

- (1) Most lot sizes in the area are 60 acres or larger,
- (2) The existing or historic use of land is for livestock grazing, dairy ranching, hay or similar forage crop,
- (3) Adjacent parcels of similar use, and
- (4) Williamson Act Contract (Type 2).

The Subject Property would satisfy criterion 3 because all of the parcels on Westach Way with the Subject Property are small parcels zoned LEA and therefore, the Subject Property would fit in with adjacent parcels of similar designations. Moreover, even though criterion 1 states that *most* parcels are 60-acres or larger, none of the LEA-zoned parcels on Westach Way are close to 60 acres; rather, *all* parcels on Westach way are smaller than 6.5 acres.

Moreover, the purpose of the LEA zone is “to enhance and protect lands best suited for permanent agricultural use and capable of relatively low production per acre of land; and to implement the provisions of the land intensive agriculture land use category of the General Plan and the policies of the agricultural resources element.” Applicant is capable of production of crops on this low-acreage parcel. Applicant proposes to conduct indoor commercial cannabis cultivation on the subject property, a use that is allowed by the County in the LEA zone. Rezoning this parcel to LEA would remove the “spot zone” of LC in this neighborhood, and would preserve this designated “Unique Farmland” for current and future generations of agricultural uses.

### **Option 2: Rezone to LIA**

According to the General Plan, “*The objective in land intensive agricultural areas shall be to establish densities and parcel sizes that are conducive to continued agricultural production.*” This objective certainly fits with the Subject Property, as a rezone to an agricultural use would allow for the current and future establishment of agricultural production on this parcel.

Applicant recognizes that the General Plan states that “*New parcels shall be a minimum size of 20 acres.*” However, the “Designation Criteria” within the General Plan clearly contemplates that some parcels within the County may not fit the exact description of LIA zones, as outlined within the General Plan. The Designation Criteria section lists five criteria that are generally used in designating LIA zones:

- (1) Soil, climate, and water adequate for orchard or wine grape production;
- (2) Most parcel sizes greater than 20 acres;
- (3) Existing or historic use as orchards or vineyards;
- (4) Area having a sub-county viticultural appellation;
- (5) Williamson Act Contract, Type 1 or Type 2; and
- (6) Areas that may not meet the above criteria but are surrounded by lands in farming.

Criterion 1 and criterion 6 are helpful in the present analysis. The parcels surrounding the Subject Property are involved in production of wine grapes, evidencing the fact that the subject parcel has soil conducive for wine grape and/or orchard production.

Criterion 6 is even more helpful: “*Areas that may not meet the above criteria but are surrounded by lands in farming.*” The Subject Property is clearly surrounded by farmlands, and these farmlands are designated on the County GIS Map as “Unique Farmland,” “Farmland of Local Importance,” and “Farmland of Statewide Importance.” Therefore, this Criterion 6 clearly intends to allow property owners to rezone their properties to LIA, even in the event that the (i) properties are smaller than 20 acres; (ii) do not have historic orchards or vineyards; (iii) do not have a sub-county viticultural appellation; (iv) and are not subject to a Williamson Act Contract.

Moreover, the purpose of the LIA zone is “to enhance and protect lands best suited for permanent agricultural use and capable of relatively high production per acre of land; and to implement the provisions of the land intensive agriculture land use category of the General Plan and the policies of the agricultural resources element.” Applicant is capable of high production of crops on this low-acreage parcel. Applicant proposes to conduct indoor commercial cannabis cultivation on the subject property, a use that is allowed by the County in the LIA zone.

### **Option 3: Rezone to M3**

“*The "Limited Industrial" land use category provides sites for development to meet service and employment needs where the range or scale of industrial uses is limited. Factors that may limit these uses are lack of public services, incompatible adjacent land uses, and adverse environmental impacts. Industrial parks are included in this category as well as land extensive industrial development. This category also may provide locations for workforce housing for persons employed*

*in adjoining businesses.” Furthermore, “In general, this category includes resource related industrial uses not expected to need the full range of urban services.”*

“Amendments to add this designation must meet all of the following:

- (1) Lands shall be designated to recognize an existing permitted use or to serve the projected employment needs of the planning area,
- (2) Lands outside Urban Service Areas shall have adequate water and septic suitability,
- (3) Lands shall have convenient access to an arterial or collector highway,
- (4) Lands shall be located near population concentrations,
- (5) Lands shall not be in areas subject to flood, fire, and geologic hazards or in areas constrained by groundwater availability or septic suitability,
- (6) Outside of the unincorporated communities shown on Figure PF-1 of the Public Facilities and Services Element, lands shall not be located in a scenic corridor, and
- (7) Any applicable Land Use Policies for the Planning Area.”

The purpose of the M3 zone is *“to implement the provisions of Section 2.4.2 of the general plan by providing area for land extensive industrial development or industrial development outside of designated urban service areas which is limited in scale by such factors as lack of public services, incompatible adjacent land use or adverse environmental impacts.”* The Subject Property would fit succinctly with the Limited Industrial land use category. This parcel should be permitted to serve the projected employment needs of the planning area in that a new local business will employ members of the local community. Furthermore, the Subject Property is outside the Urban Services Area, but has adequate water and septic suitability. The Applicant has proposed use of a rain water collection system, which would allow the property to operate without depleting the groundwater supply for the property. Moreover, this property is located very near to the population center of the City of Sonoma and is accessed off of Highway 12, a local arterial highway. Additionally, due to the natural landscape of rolling hills, the Subject Property is not visible from Highway 12.

Uses permitted within the Limited Rural Industrial District (M3) include the outdoor growing and harvesting of vines and fruits, as well as testing laboratories and commercial transportation facilities, and indoor commercial cannabis cultivation (with a use permit). The Applicant proposes to conduct indoor commercial cannabis cultivation on the subject property, a use that is allowed by the County in the M3 zone.

### **Summary**

In sum, Applicant proposes to change the zoning of the Subject Parcel from LC to LEA, LIA, or M3. The change of this parcel from LC to an agricultural use would remove the current “spot zone” and would preserve the County’s unique, valuable farmland for future agricultural uses. Alternatively, rezoning of this parcel from LC to M3 would allow an expansion of uses on the site, but would maintain the site as a parcel that serves the needs of the surrounding planning area. In addition to the public benefit of changing the zoning to remove an island of LC in an agricultural area, Applicant proposes to offer to the County the use of excess power from Applicant’s solar power panels.

The mission of TD Investments LP, the company that purchased the property at 3428 Westach Way in Sonoma, is to help people and better communities.

The first project that T.D. Investments L.P. successfully accomplished, by working in conjunction with the Town of San Anselmo and Full Circle Living, was to renovate 931 San Anselmo Avenue in San Anselmo and obtain a conditional use permit so that Full Circle Living could provide sober living housing in Marin to the community.

T.D. Investments L.P. then purchased the property at 3428 Westach Way in Sonoma to further its mission of bettering the community. As a partner in T.D. Investments L.P., I, Scott Dixon, then invested in Sky Road Ventures, Inc., and we have spent a great deal of time, energy and money to create a medicinal cannabis strand with a low TCH content that will provide the numerous medical benefits to the community as intended by the State of California laws.

From all of the research that we have done and information that we have been provided, we believe that the land at 3428 Westach Way is unique farmland and that it was previously The Wechicka Farms and Schellville Chicken Colony. We further believe that this land was previously zoned LEA, and we are asking that it be reverted from LC to its prior zoning. This would correct the spot zoning that is currently in place and would create a win-win situation for the County, the surrounding neighbors, and the community.

To further benefit the community, we are willing to:

- 1) Donate a 10-panel solar system to a non-profit organization.
- 2) Provide 5% of Sky Road Venture, Inc.'s net profits to a drug awareness program or to any other program that Sonoma County sees fits for ten years.

We greatly appreciate your consideration.

**Land Use Information for 3428 Westach Way**

**Results**

Parcel Number: 135-061-018  
 Jurisdiction: Unincorporated Sonoma County  
 Zoning: LC, LG/MTN SR VOH  
 Land Use: LC

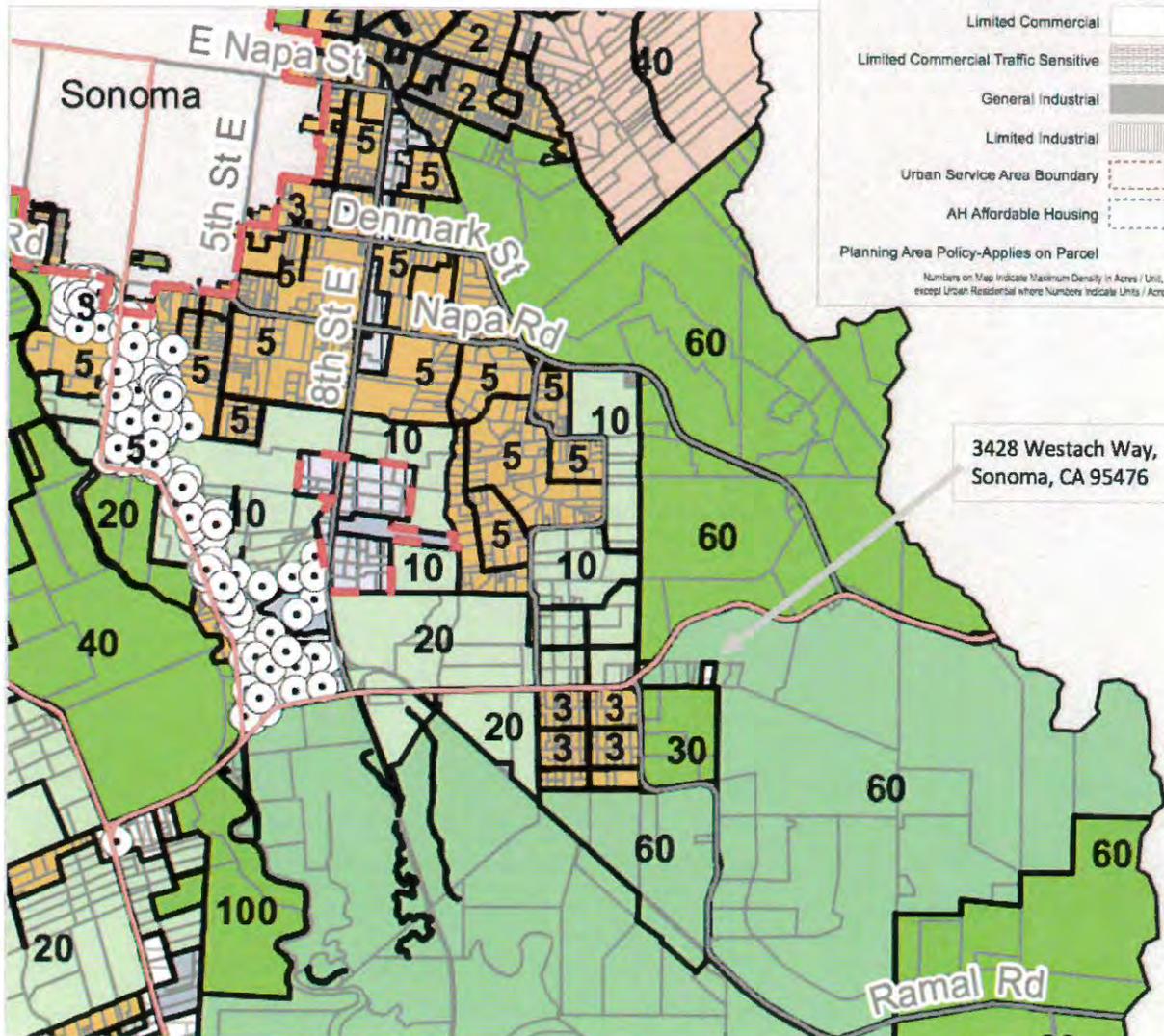
**Planning Areas 1-9**

Land Use Designations

- Diverse Agriculture 
- Land Extensive Agriculture 
- Land Intensive Agriculture 
- Resources & Rural Development 
- Rural Residential 
- Urban Residential 
- Recreation / Visitor-Serving Commercial 
- Public / Quasi-Public 
- General Commercial 
- Limited Commercial 
- Limited Commercial Traffic Sensitive 
- General Industrial 
- Limited Industrial 
- Urban Service Area Boundary 
- AH Affordable Housing 

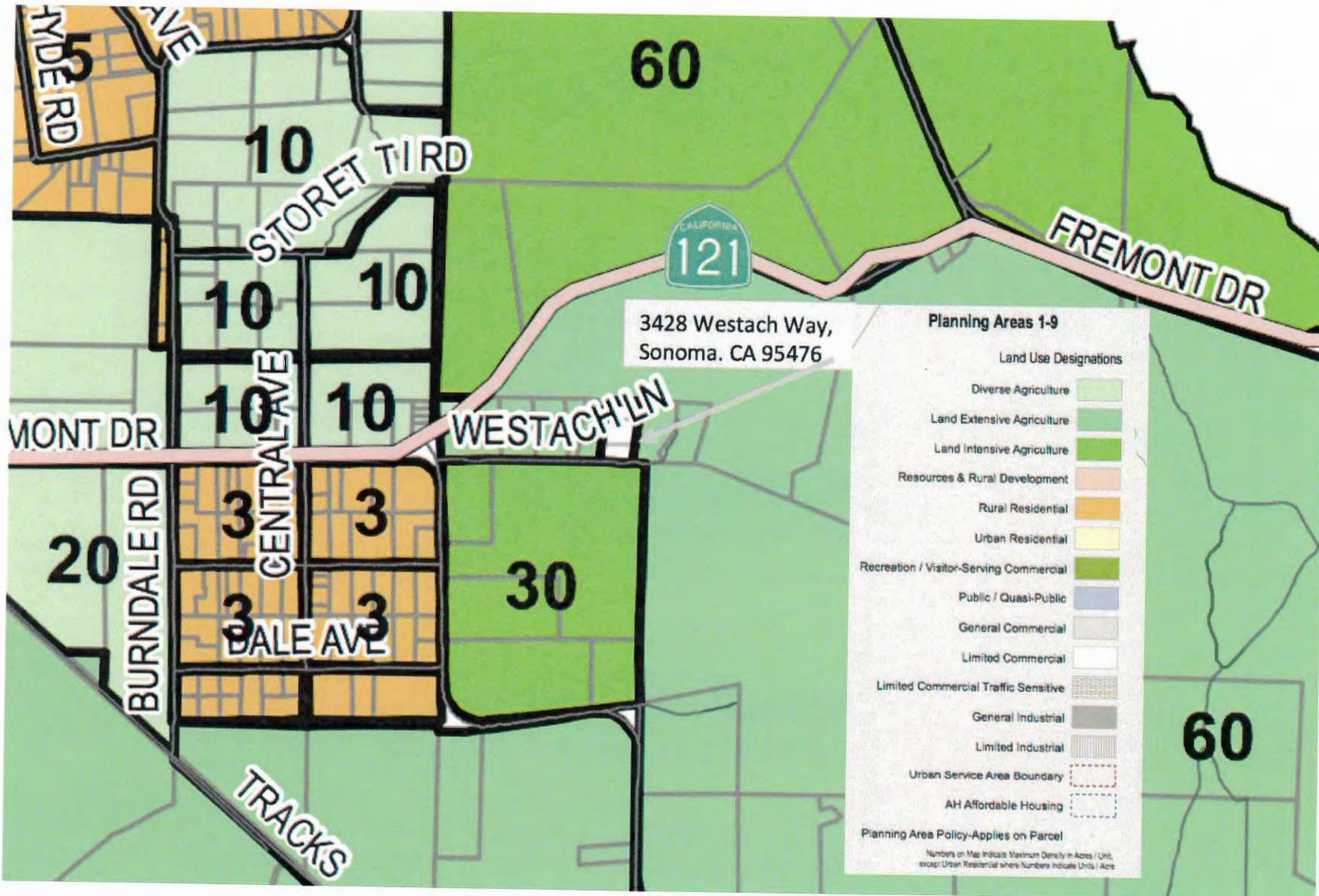
Planning Area Policy-Applies on Parcel

Numbers on Map Indicate Maximum Density in Acres / Unit, except Urban Residential where Numbers Indicate Units / Acre



3428 Westach Way,  
 Sonoma, CA 95476

Sonoma County General Plan Land Use Map – Planning Areas 1-9

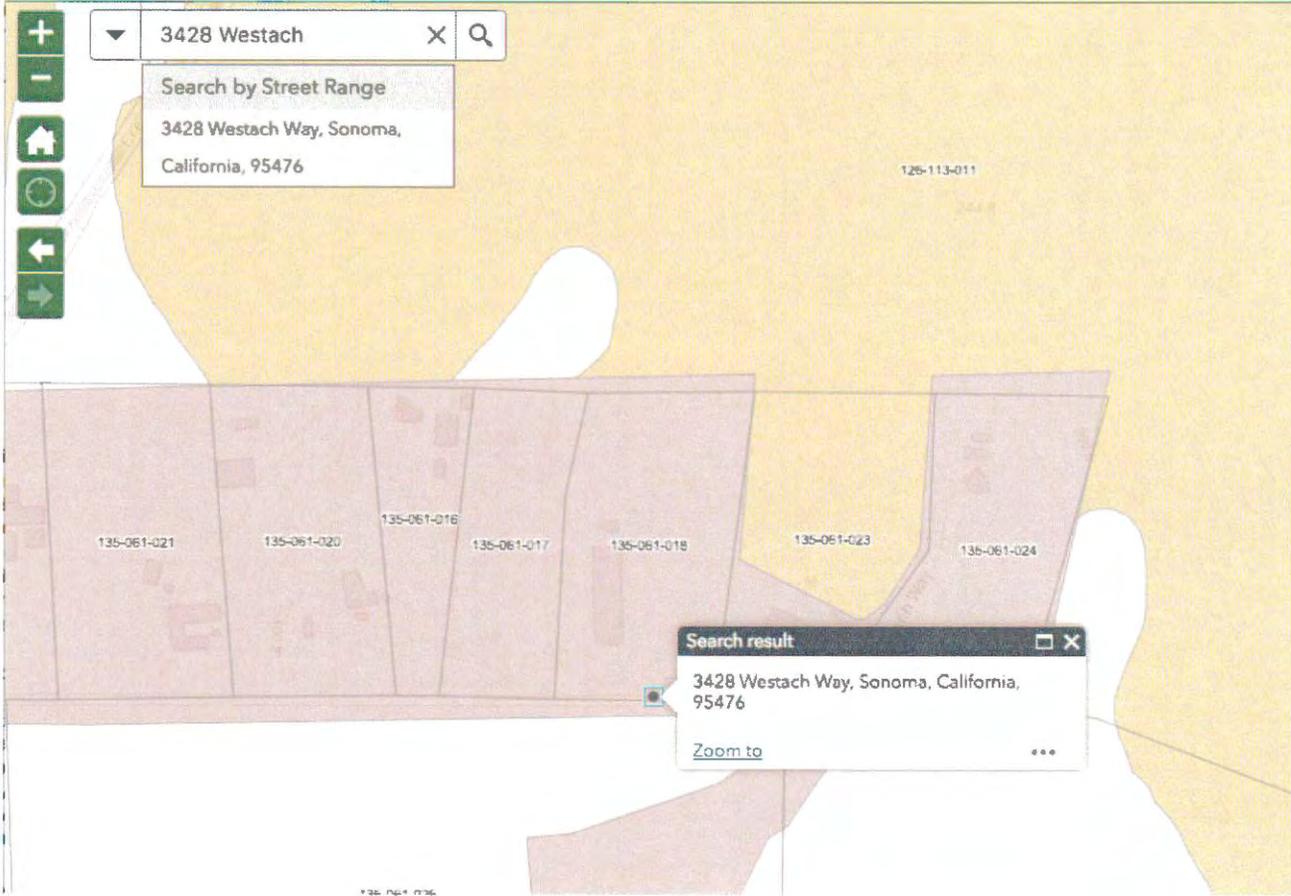


Sonoma County General Plan Land Use Map – Sonoma Valley



3428 Westach X Q

Search by Street Range  
3428 Westach Way, Sonoma,  
California, 95476



Search result  
3428 Westach Way, Sonoma, California,  
95476  
[Zoom to](#)



Base Layers ^ X

- Layers Q
- Supervisor Districts ...
  - Planning Areas ...
  - Parcels ...
  - City Limits ...
  - Area and Specific Plans ...
  - Urban Service Area ...
  - Farmlands** ...
    - Farmland of Local Importance
    - Farmland of Statewide Importance
    - Grazing Land
    - Other Land
    - Prime Farmland
    - Unique Farmland
    - Urban and Built-up Land
    - Water

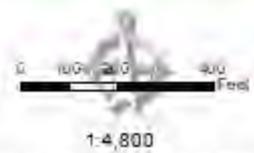


Exhibit B



- General Plan Land Use**
- Land Use by Area
  - Diverse Agriculture
  - Land Extensive Agriculture
  - Land Intensive Agriculture
  - Rural Residential
  - Limited Commercial

- Base Map Data**
- Parcel
  - Highway
  - Street



Numbers on map indicate maximum density of Acres/Units, except Urban Residential where numbers indicate Units/Acre

Exhibit C



April 9, 2018

**COUTESY NOTICE**

Cary Schwartz  
1179 Caribe Isle  
Novato, CA 94949

Re: Notice of Project Status  
File No. PLP18-0018  
Site Address: 3428 Westach Way  
APN: 135-061-018

Dear Mr. Schwartz,

We have completed our initial review of file number PLP18-0018, a request for General Plan Amendment, Zone Change, and Cannabis Use Permit. Based upon the information submitted, we have determined that your application is not able to be processed due to the following reasons. We also met to discuss these issues on March 22, 2018.

- A. General Plan Designation Criteria: The project is located within a Commercial Land Use (Limited Commercial Zoning) and is requested to be amended to Land Extensive Agricultural (LEA). The parcel is 4.65 acres in size and although there are surrounding non-conforming parcels with a range of small sizes, the General Plan states that LEA densities generally range from 60-320 acres. At our meeting it was suggested that you review the General Plan designation criteria for LEA and consider a more appropriate zone.
- B. Public Benefit: Government Code Section 65358 requires the Board of Supervisors to make findings that the General Plan Amendment is within the "public interest" in order to approve. The application suggests that solar power could be used as a public benefit, however, this would not be supported by staff. The Board of Supervisors has made past findings on land dedications, transit improvements, and affordable housing, to name a few.

This application does not meet the requirements of the Sonoma County Zoning Code, General Plan, or Government Code. Please withdraw your application in writing within **90 days** of the date of this letter. You may also request a refund of any unused deposit on file.

If you do not respond within the 90 day timeframe and your application will be brought forward to the Board of Zoning Adjustments for Summary Denial.



Please also note that under the Cannabis Penalty Relief Program this property is not “permit eligible.” No cannabis operations are allowed on the property. All cannabis operations must immediately cease. Please call Code Enforcement to schedule a site visit to verify compliance within **30 days** of this letter.

If you have any questions regarding this request or need some clarification or additional information, please contact me at [Amy.Lyle@sonoma-county.org](mailto:Amy.Lyle@sonoma-county.org) or 707-565-7389.

Sincerely,

Amy Lyle  
Supervising Planner, Comprehensive Planning

Enclosure: Refund Request for use if you withdraw the application also available here:  
<http://www.sonoma-county.org/prmd/docs/handouts/act-001.pdf>

c: File No. PLP18-0018  
Time Ricard, Cannabis Program Manager  
Tyra Harrington, Code Enforcement Manager  
Dean Parsons, Project Review Manager  
Jana Weldon, Planning Consultant  
Blair Gue, Rogoway Law



**From:** [Cary Schwartz](#)  
**To:** [Amy Lyle](#); [Jana Beatty Weldon](#)  
**Subject:** permit update  
**Date:** Thursday, May 10, 2018 12:27:52 PM

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Dear Amy

Just as an update I have been given a five day notice and am complying.

I would like to withdraw my application and plan on resubmitting asking for a DA designation. Any information that you can provide to facilitate this process would be greatly appreciated.

Sincerely

Cary Schwartz

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December 14, 2018

Cary Schwartz  
1179 Caribe Isle  
Novato, CA 94949

Re: Notice of Project Status  
File No. UPC18-0046  
Site Address: 3428 Westach Way  
APN: 135-061-018

Dear Mr. Schwartz,

We have completed our review of your application for General Plan Amendment, Zone Change, and Cannabis Use Permit referenced above and previously submitted and withdrawn as PLP18-0018. Your General Plan Amendment application presents significant policy issues that warrant a summary denial. Your use permit application is incomplete for processing and does not qualify for the cannabis permit pipeline for applications on lots less than 10 acres.

- A. **General Plan Amendment:** The project is located within a commercial land use designation with Limited Commercial zoning and is requesting to be amended to one of three new land uses as appropriate; Land Extensive Agricultural (LEA), Diverse Agriculture (DA), or Limited Rural Industrial (M3).

Government Code Section 65358 requires that the Board of Supervisors make findings that the General Plan Amendment is within the public interest in order to approve. The application proposes 1) correction of "improper zoning", 2) donation of 10-panel solar system to a non-profit organization, and 3) providing 5% of profits to a drug awareness program or any other program of choice for 10 years. However, these proposals cannot be supported by staff because they are not inherent in the General Plan Amendment and thus do not meet the requirement.

In general, applications for general plan amendments should only be made when the General Plan Amendment itself provides a long-term benefit to the community. The Board of Supervisors has found general plan amendments to be within the public interest on other applications based on irrevocable offers of land dedication or long term agricultural or open space easements, or for affordable housing. Dedication of a solar system to a non-profit or sharing of profits based on approval of a use permit is considered inappropriate in that it attempts to monetize the public benefit, setting a precedent that would open the



General Plan to any desired land use change in exchange for funding other charitable interests, oprograms or services.

- B. **Incomplete Application.** The application is also incomplete for processing due to the following omissions:
- (1) Ownership Documentation: More information is required showing all persons having ownership in the business with the expressed percentage.
  - (2) Outdoor lighting plan is required showing the exterior location of lights and the specifics on each fixture.
  - (3) Parking plan is necessary consistent with the Sonoma County Code including ADA locational requirements.
  - (4) Energy Source. The application notes solar will be included but no specifics were included as to where the solar would be located, how much power it would produce, and how much power is needed for the cannabis use.
  - (5) Preliminary building and tenant improvement plans (full set required).
  - (6) Lack of Detail related to the cultivation area/canopy (size of benches).
  - (7) Site plan does not meet minimum requirements.
- C. **Minimum Lot Size Requirements.** The cannabis ordinance was recently amended by the Board of Supervisors on October 16, 2018. The amendments included a change to the minimum lot size requirements for cultivation to 10 acres. The subject property is 4.65 acres. Your application for cannabis cultivation does not qualify for the pipeline provision, as the pipeline provision applies only to permit applications and would not apply to applications for General Plan and County Code amendments. Furthermore, the application must have been determined complete for processing prior to the effective date of the ordinance. The application could not have been deemed complete for processing as the application was submitted the same day as the deadline.

This application does not meet the requirements of the Sonoma County, General Plan, Zoning Code, or Government Code. You may withdraw your application in writing and request a refund of any unused deposit. If you do not respond within 30 days of the date of this letter, your application will be scheduled for Summary Denial before the Planning Commission.

If you have any questions regarding this request or need some clarification or additional information, please contact me at [Amy.Lyle@sonoma-county.org](mailto:Amy.Lyle@sonoma-county.org) or 707-565-7389.

Sincerely,

Amy Lyle,  
Supervising Planner



**Sonoma County Permit and Resource Management Department**  
2550 Ventura Avenue Santa Rosa CA 95403-2859 (707) 565-1900  
[www.PermitSonoma.org](http://www.PermitSonoma.org)



Enclosure: Refund Request for use if you withdraw the application also available here:  
<http://www.sonoma-county.org/prmd/docs/handouts/act-001.pdf>

c: File No. PLP18-0046  
Tennis Wick, Director  
Traci Tesconi, Project Review Manager  
Lindsay Whyte, Rogoway Law Group



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Resolution Number XX-XXX

County of Sonoma  
Santa Rosa, California

September 5, 2019  
PLP18-0046

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF SONOMA, STATE OF CALIFORNIA, RECOMMENDING THAT THE BOARD OF SUPERVISORS DENY A GENERAL PLAN AMENDMENT, ZONE CHANGE, AND CANNABIS CULTIVATION AND PROCESSING OPERATION ON A 4.65-ACRE LIMITED COMMERCIAL SITE LOCATED AT 3428 WESTACH WAY, SONOMA; APN 135-061-018.

WHEREAS, on November 15, 2018, the applicant, Cary Schwartz filed a request for a General Plan Amendment and Zone Change from Limited Commercial to either Land Extensive Agriculture, Land Intensive Agriculture, or General Industrial/Limited Rural Industrial to enable consideration of a Use Permit for 3,802 square feet of cannabis cultivation within an existing 10,800 square foot warehouse and associated processing; and

WHEREAS, the project is statutorily exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(4), in that the project will be rejected or disapproved by a public agency; and

WHEREAS, in accordance with the provisions of law, the Planning Commission held a public hearing on September 5, 2019 at which time all interested persons were given an opportunity to be heard.

NOW THEREFORE BE IT RESOLVED that the Planning Commission finds that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(5) and 14 California Code of Regulations, Chapter 3 (CEQA Guidelines), Section 15270(a), which exempts projects that are rejected or disapproved.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors adopt a resolution denying the requested General Plan Amendment, Zone Change, and Use Permit pursuant to the following findings:

1. The proposed project does not meet the General Plan designation criteria for agricultural lands because the small parcel size of 4.65 acres, with an existing industrial structure, would not be suitable or available for agricultural production.
2. The proposed zone change would exacerbate the existing commercial spot zoning and the existing land use inconsistencies as it is surrounded by agricultural land.
3. The proposed project has an insufficient public benefit that would not satisfy the requirements of Government Section 65358 which requires the General Plan Amendment to be in the "public interest."

Exhibit G

4. The proposed project is inconsistent with the Cannabis Land Use Ordinance because it does not meet the minimum parcel size of 10 acres for cultivation and is not subject to the pipeline provision of the Ordinance.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the documents and other material which constitute the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

BE IT FURTHER RESOLVED that the Planning Commission's action shall be final on the 11<sup>th</sup> day after the date of the Resolution unless an appeal is taken pursuant to Sonoma County Code Section 26-92-160.

THE FOREGOING RESOLUTION was introduced by Commissioner last name, who moved its adoption, seconded by Commissioner last name, and adopted on roll call by the following vote:

Commissioner	Fogg
Commissioner	Tamura
Commissioner	Shahhosseini
Commissioner	Mauritson
Commissioner	Lowry

Ayes: #      Noes: #      Absent: #      Abstain: #

WHEREUPON, the Chair declared the above and foregoing Resolution duly adopted; and

SO ORDERED.