

Board of Supervisors

September 14, 2021

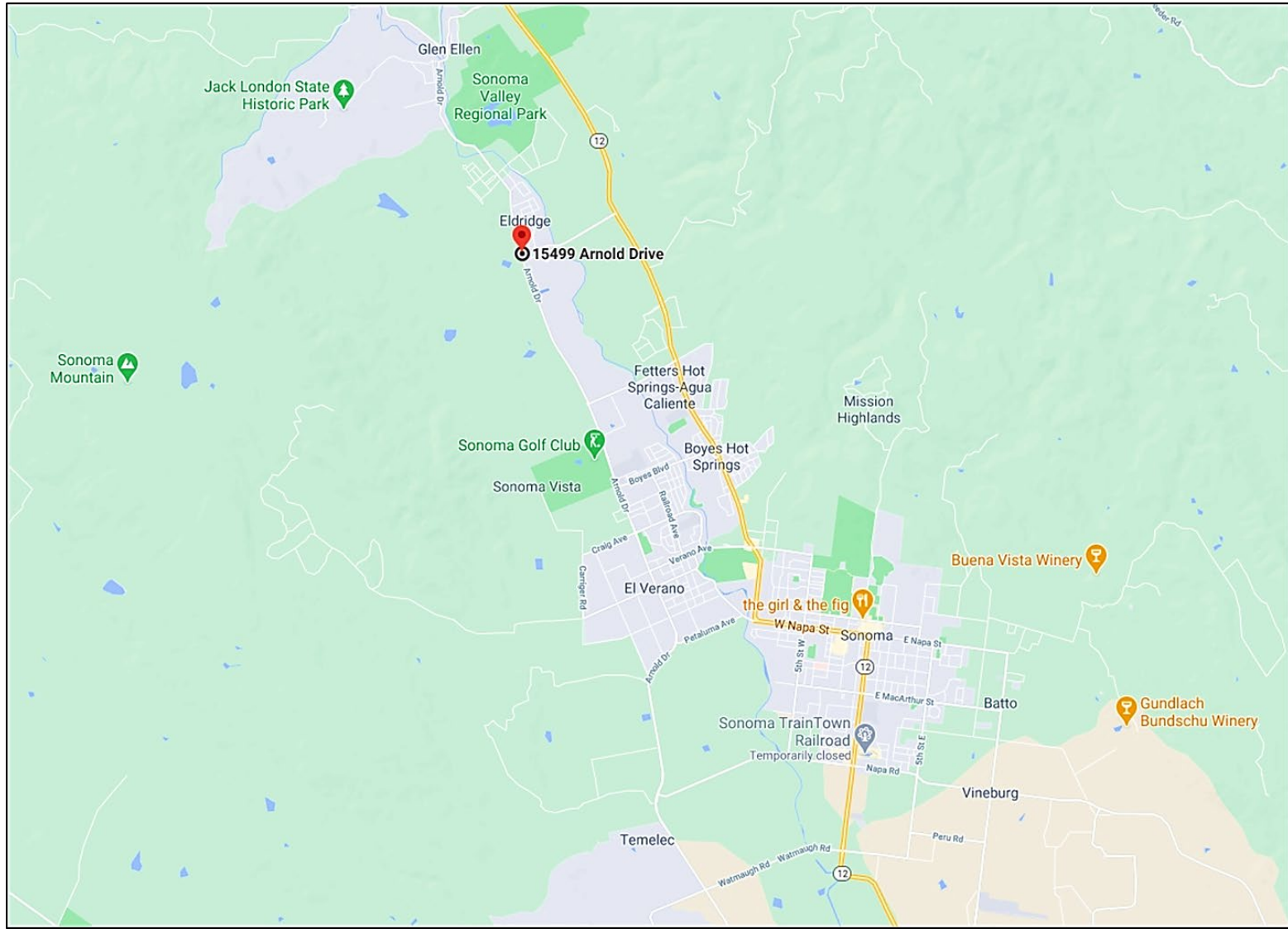
Appeal of Loe Firehouse Dispensary

15499 Arnold Drive, Sonoma

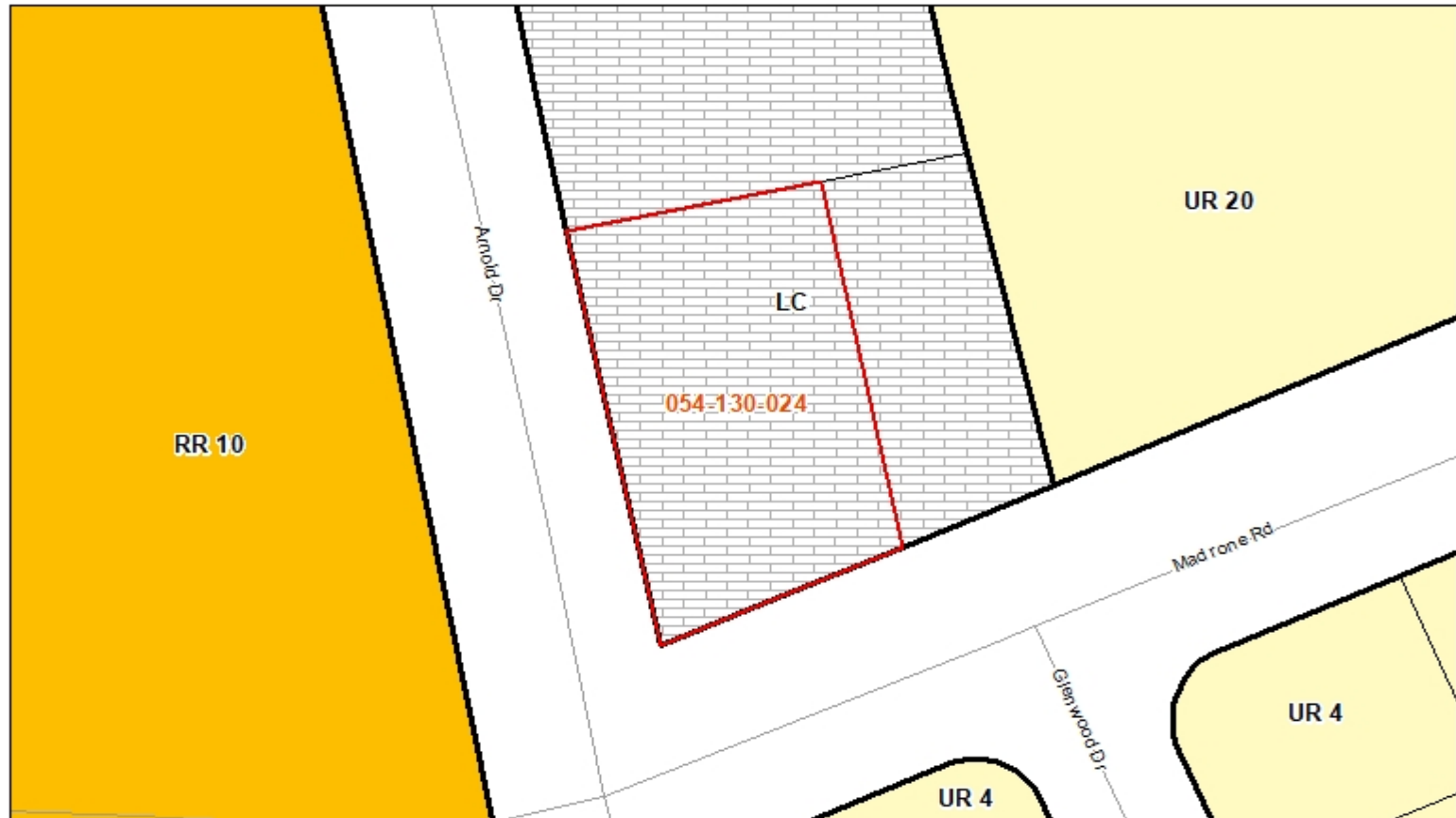
UPC17-0094, Use Permit

Crystal Acker





Land Use Map



General Plan Land Use

- Land Use by Area
- Rural Residential
- Urban Residential
- Limited Commercial

Base Map Data

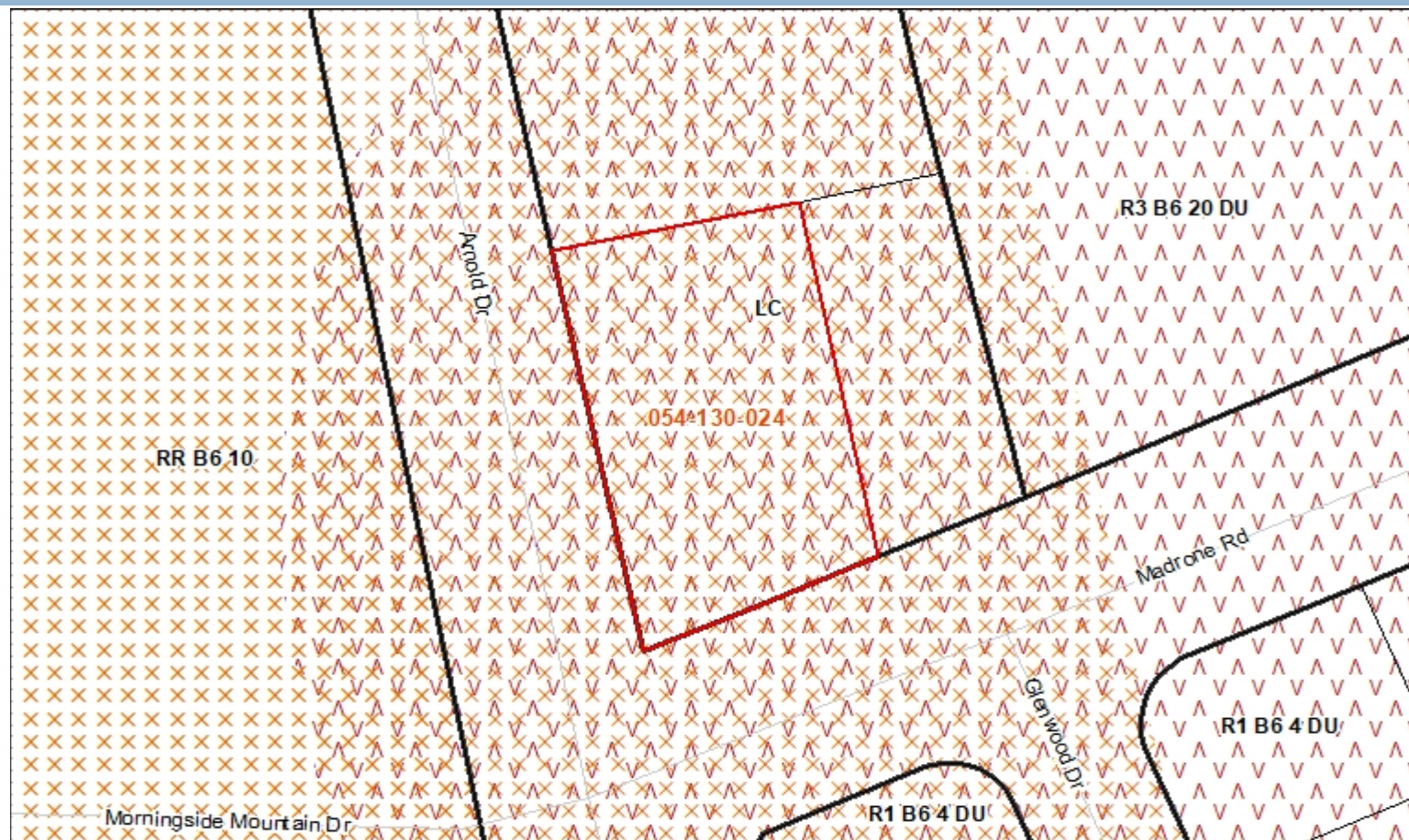
- Parcel
- Street






1 inch equals 63 feet

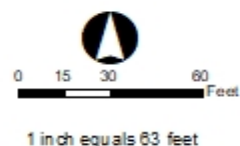
Numbers on map indicate maximum density in Acres/Unit, except Urban Residential where numbers indicate Units/Acres.

Zoning Map



Zoning and Combining Districts

-  Zoning by Area
-  SR Scenic Resource
-  VOH Valley Oak Habitat



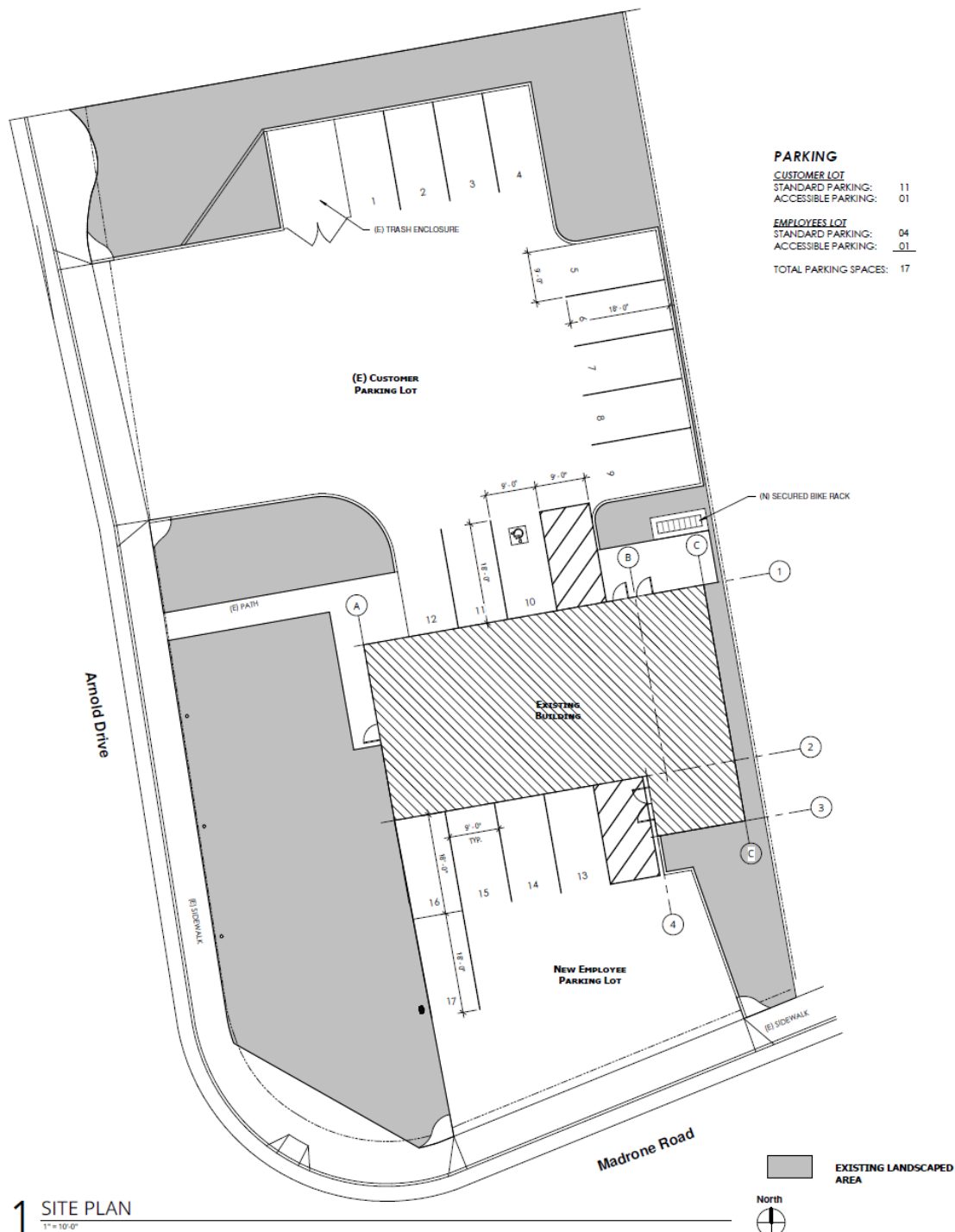
Aerial Map



Project Proposal

- Cannabis dispensary in existing building
 - ▣ 865 sq ft sales floor/1,891 sq ft total retail area
 - ▣ Hours of operation 7:00am to 7:00pm Mon-Sat
 - ▣ Delivery service (2 routes per day)
 - ▣ 5 employees
 - ▣ Interior building remodel
 - ▣ Parking lots reconfigured to provide 17 parking spaces: 12 customer/5 employee
- Anticipate 150 daily customers

Site Plan



BZA Hearing – Action Taken

April 8, 2021

- Negative Declaration Adopted
- Use Permit Approved 5-0-0 w' Conditions
 - ▣ Minor changes to 2 Conditions
 - # 23 Greenhouse Gas Reduction Plan – “replacement of HVAC equipment over time as existing units fail with zero chlorofluorocarbon-based refrigerant” deleted, by request of Chair Tamura
 - # 34c wording changed to state fire sprinklers and fire alarm to be installed only if required by the occupancy type, by request of applicant

BZA Decision Appealed

April 19, 2021

- ❑ Disagreement w staff & BZA interpretation of County Code related to Setbacks & Parking
- ❑ BZA Public Hearing Notice
- ❑ Insufficient review of traffic impacts
- ❑ Not recommended for approval by SVCAC
- ❑ Public outreach by applicant inadequate/
constitutes false testimony

Zoning Code Consistency – Dispensary Setback Requirements

□ 100-ft setback from R Zoning District

- ▣ Project parcel < 100 ft from Residential Zoning District:

Code allows applicant to request a waiver of the R setback
[R setback] “may be waived by the review authority when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.” (Code Sec. 26-88-256(f)(4))

Setback Waiver – R Zoning District

- ❑ Does not share a boundary w/ R District
- ❑ Existing Physical Separation:

Direction	Physical Separation	Distance (Ft)	Meets R District Setback?
North	LC parcel	116	✓
West	Arnold Dr	65	✗
South	Madrone Rd	75	✗
East	LC parcel	58	✗

Setback Waiver – R Zoning District

Existing Physical Separation



Setback Waiver – North: 116 ft Limited Commercial Property



Setback Waiver – West: 65 ft Arnold Drive



Setback Waiver – North Dispensary Frontage/Customer Entrance



Setback Waiver – South: 75 ft Madrone Road



Setback Waiver – South Employee/Vendor Entrance



Setback Waiver – East: 58 ft

Limited Commercial Property



Zoning Code Consistency – Dispensary Setback Conclusion

- ❑ Does not share a boundary w/ R District
- ❑ Physical Separation exists between project parcel and adjacent parcels
 - ▣ Other commercial parcels
 - ▣ Arnold Drive & Madrone Road
- ❑ Customer frontage oriented away
- ❑ Existing fences and landscaping
- ❑ Consistent with previous decisions

Zoning Code Consistency – Cultivation Setback Requirements

- ❑ Cannabis cultivation - Code Sec. 26-88-254.
 - ▣ Provides a standard to reduce 1,000-ft setback between a cultivation site & a public park

“This park setback may be reduced with a use permit when it is determined that an actual physical equivalent separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the cannabis operation is not accessible or visible from the park.” (Code Sec. 26-88-254(f)(6)&(8))
- ❑ Dispensaries - Code Sec. 26-88-256.
- ❑ Cultivation park setback reduction standard does not apply to proposed project

Zoning Code Consistency – Number of Parking Spaces

“2 spaces, including at least 1 van-accessible space; plus 1 additional space for every 200 square feet of gross floor area, plus 1 additional space for each employee on maximum shift; but in no case less than 5 off-street parking spaces” Code Sec. 26-88-010(c)

- Gross floor area is 1,891 sq ft (865-sq-ft sales floor plus all public use spaces)

- $2 + 10 (1891 \div 200 = 9.5) = 12$

- ✓ 12 customer spaces proposed (including 1 ADA)

- 5 employees

- $1 \times 5 = 5$ employee spaces

- ✓ 5 employee spaces proposed (including 1 ADA)

Zoning Code Consistency – Number of Parking Spaces

- Employee support space does not generate parking need over 1 space per employee
- All building sq footage accounted for as either customer space or employee space
- Consistent with previous decisions
- Conditions to address parking concerns
 - ▣ #12 Prohibits expansion of dispensary floor area
 - ▣ #19 Limits employee vehicles to 5
 - ▣ #20 Prohibits on-street parking for employees & vendors

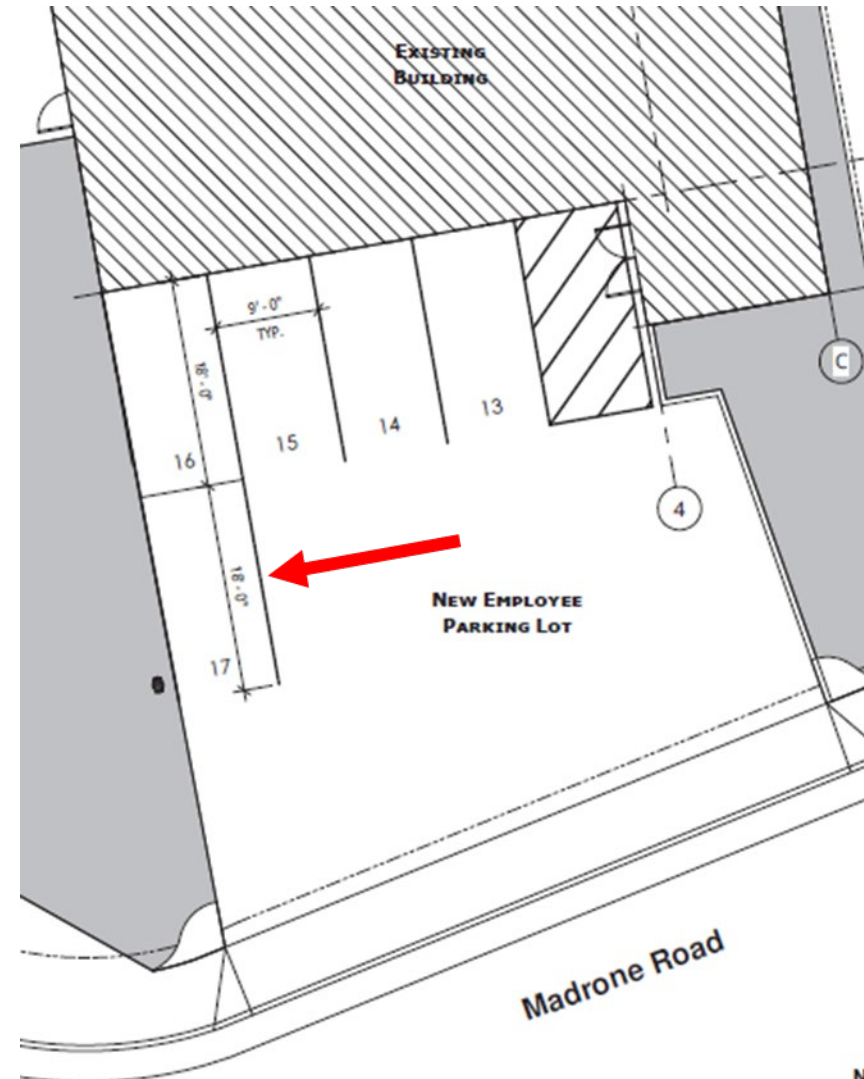
Zoning Code Consistency – Configuration & Size of Parking Spaces

□ Code defines parking spaces as:

“Usable off-street area with independent access, not included within established front-yard setback, at least nine feet (9') by twenty feet (20') for diagonal or perpendicular vehicle parking, or at least eight feet (8') by twenty-two feet (22') for parallel vehicle parking.” (Code Sec. 26-04-020(P)(1))

Zoning Code Consistency – Independent Access of Parking Spaces

- Space 17 is tandem
- Shared by delivery driver & commercial vendors for short-term use
- Use of space controlled by operator to ensure both spaces can be entered and exited
- Similar to event parking



Zoning Code Consistency – Size of Parking Spaces

- Code provides off-street parking design standards:
 - ▣ 9 feet by 20 feet for a standard parking space
 - ▣ 8 feet by 16 feet for a compact space.

(Code Sec. 26-82-030(q))

- Site Plan shows typical size of 9 ft by 18 ft
- Final parking lot configuration determined by design review, as required by Condition #24
- Final configuration will be required to provide 17 spaces, as required by Condition #19

Traffic Study – Original Analysis More Than Two Years Old

- Traffic studies require update if >2 years old
- Original Study July 2018 (2017-2018 data)
- Amended January 2021 to reevaluate previous findings & add Vehicle Miles Traveled (VMT)
- Revised Addendum May 2021
 - ▣ Added re-certification statement
 - ▣ Added discussion of Shelter-In-Place/ COVID-related changes in travel
- Both approved by DTPW as meeting the County's Guidelines for an updated traffic study

Traffic Study – Future Projects

- Traffic studies included analysis of future land uses
 - ▣ Computer modeling
 - ▣ Alternate/supplemental method - trip generation data for approved or pending projects
 - Typically included for major projects approved but not yet constructed (e.g., major subdivisions, specific plans)
 - Sonoma Developmental Center Specific Plan
 - No proposed project; analysis not feasible
 - Other proposed dispensaries in Sonoma Valley
 - Project VMT analysis would not be negatively impacted
- Approved by DTPW as meeting County Guidelines

Sonoma Valley Citizens Advisory Commission

- Proposed project heard by SVCAC May 23, 2018
- Not recommended for approval - 5 (No) : 4 (Yes) vote
- The SVCAC recommendation and meeting minutes were considered by the BZA at the April 8, 2021 BZA Hearing

Applicant Request to Eliminate Conditions of Approval

- Applicant made a request at the BZA Hearing to eliminate Conditions 41 through 54
- The BZA discussed the request but did not remove any conditions
- Applicant has again requested to eliminate Conditions 44 through 46, related to pedestrian frontage improvements
- Staff recommend that the conditions be maintained

Environmental Determination

- CEQA environmental review determined no significant environmental impact
- No mitigation required
- Appeal challenged the traffic analysis under CEQA citing a conflict with County Guidelines related to age of the study and future land uses
- As discussed, the traffic analysis was determined to meet County Guidelines by DTPW

Staff Recommendation

- Recommend the BOS deny the appeal, adopt the Negative Declaration, and uphold the BZA Use Permit Approval with Conditions

- OPTIONS:
 - ▣ Deny the appeal and uphold the BZA decision with revised conditions
 - ▣ Continue the project to a future hearing date with direction on additional information or project adjustments to be provided
 - ▣ Uphold the appeal and deny the project with justification for denial (staff to return w amended resolution for final action)

End of Presentation



Summary of Approved Residential Setback Waivers

TABLE 1 - Dispensaries approved with residential setback waivers

File #	Business Name	Location	Zoning	Setback Requirement	Actual Setback	** Additional Physical Separation Provided/ Waiver Justification	Approval Body/Date
PLP08-0025; UPC18-0054	Organicann	301 E. Todd Rd, Santa Rosa	LC	100 feet from R zoning	0 feet; RR abuts	RR parcel has GI Land Use & existing auto repair shop; only residence within 100 ft is non-conforming on M1	BOS 12/9/2008
UPE10-0069; UPC19-0007	Sonoma Medicinal Herbs	3403 Santa Rosa Ave, Santa Rosa	C2	100 feet from R zoning	0 - 99 ft; R3 abuts & across road	Abutting R3 mobile home park behind dispensary; separated by MH Park driveway (A St), 6-ft chain link/slat fence, and loading/parking area for commercial building; ~50 ft to nearest residence from back of dispensary building; R3 also ~99 ft across Santa Rosa Ave, currently undeveloped	BZA 6/9/2011
UPE09-0086; UPC18-0051	Riverside Wellness	15025 River Rd, Guerneville	LC	100 feet from R zoning	0 - 95 ft; R1 abuts & across road	Abutting R1 vacant & used as parking for dispensary; 6-ft solid wood fence required between parking/R1 by COA; COA requires dispensary to close if vacant R1 develops w residence; R1 also ~95 ft across River Rd and Old River Rd; all residential structures 100+ feet away	BZA 11/17/2011
UPE16-0027	Down Under Industries	50 Ely Rd N, Petaluma	LC	100 feet from R zoning	70 - 80 ft; AR across road	AR 70 - 80 ft across Ely Rd; existing fencing/ landscaping; all residential structures 100+ feet	BZA 12/21/2017
UPC19-0001	In The Tree Apothecary	10665 River Rd, Forestville	C1	100 feet from R zoning	20 - 60 ft; RR across road	RR 20-60 ft across River Rd, Forest Hills Rd & Gray's Ct; Closest residence side yard 25 ft fr rear employee parking, but oriented away & screened by fencing & vegetation; all other residences 100+ ft away; dispensary frontage on River Rd, oriented away from residential areas	Hearing Waiver 9/11/2020

**Refer to graphics on following pages for more details

Approved Residential Setback Waivers

Organicann; 301 E. Todd Road, Santa Rosa (PLP08-0025/UPC18-0054)



Approved Residential Setback Waivers

Riverside Wellness; 15025 River Road, Guerneville (UPE09-0086/UPC18-0051)



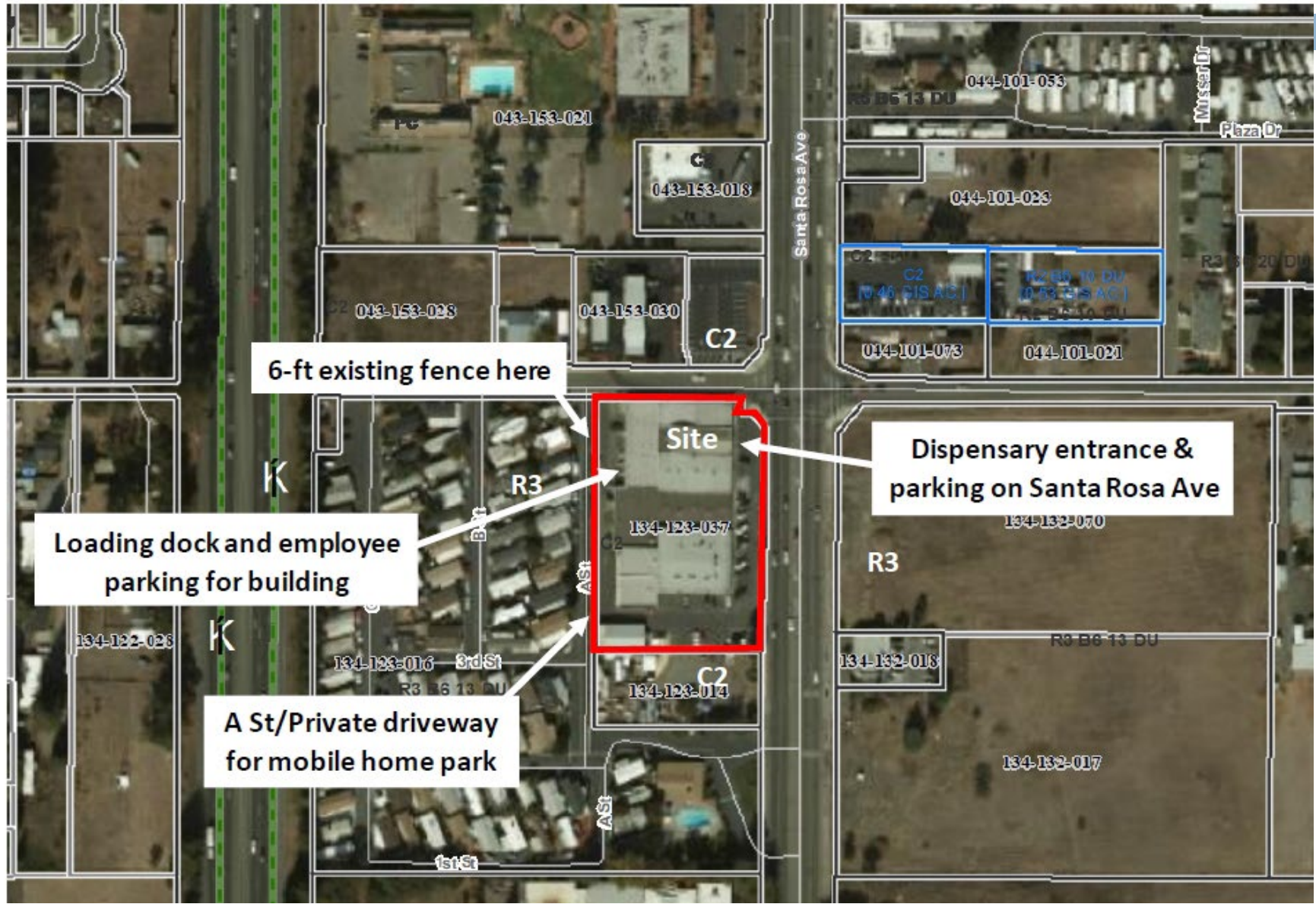
Approved Residential Setback Waivers

Redwood Herbal Alliance, 5280 Aero Drive, Santa Rosa (UPE09-0064/UPC18-0013)



Approved Residential Setback Waivers

Sonoma Medicinal Herbs; Santa Rosa Avenue, 3403 Santa Rosa (UPE10-0069/UPC19-0007)



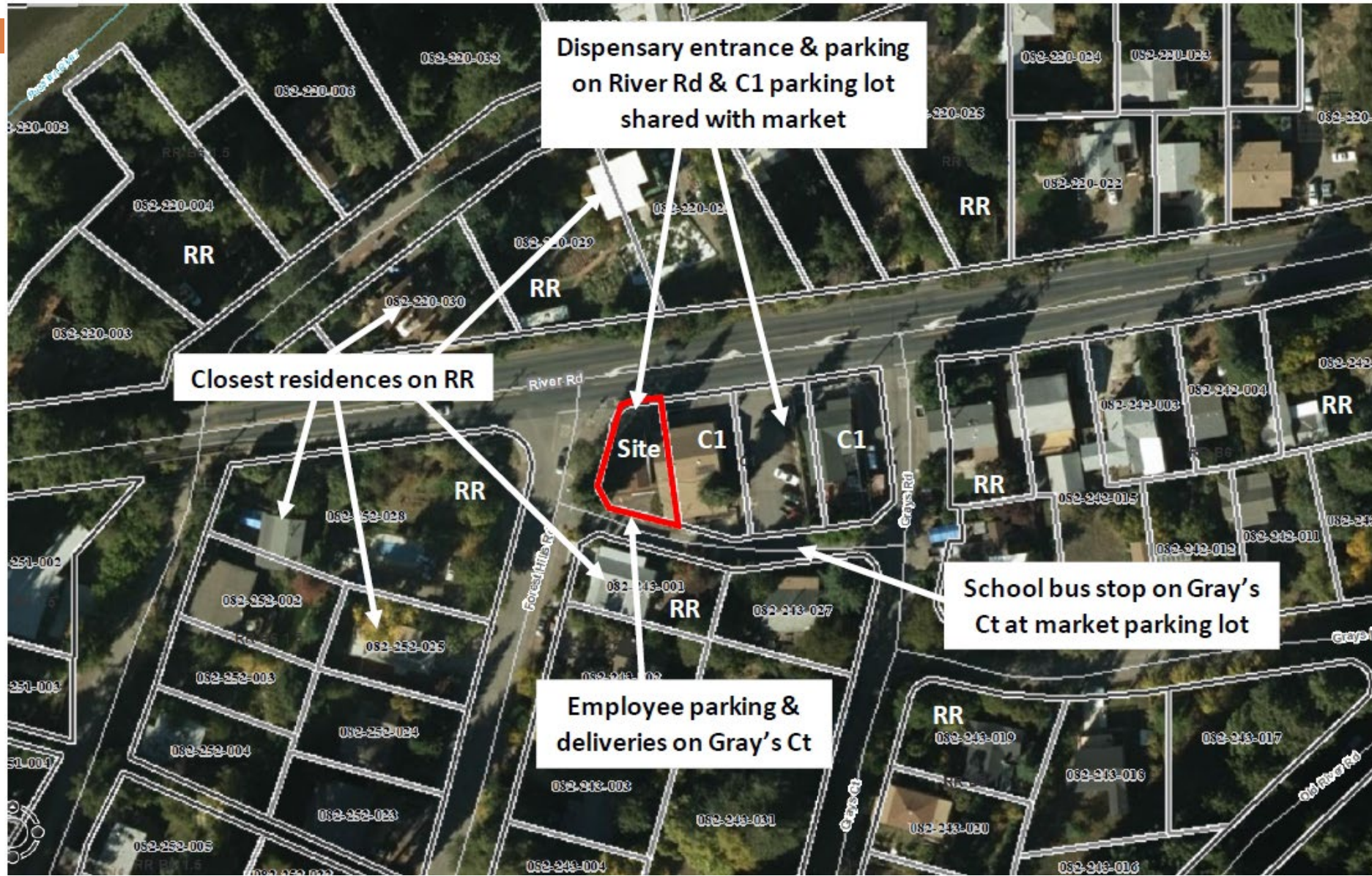
Approved Residential Setback Waivers

Down Under Industries; 50 Ely Road N, Petaluma (UPE16-0027)

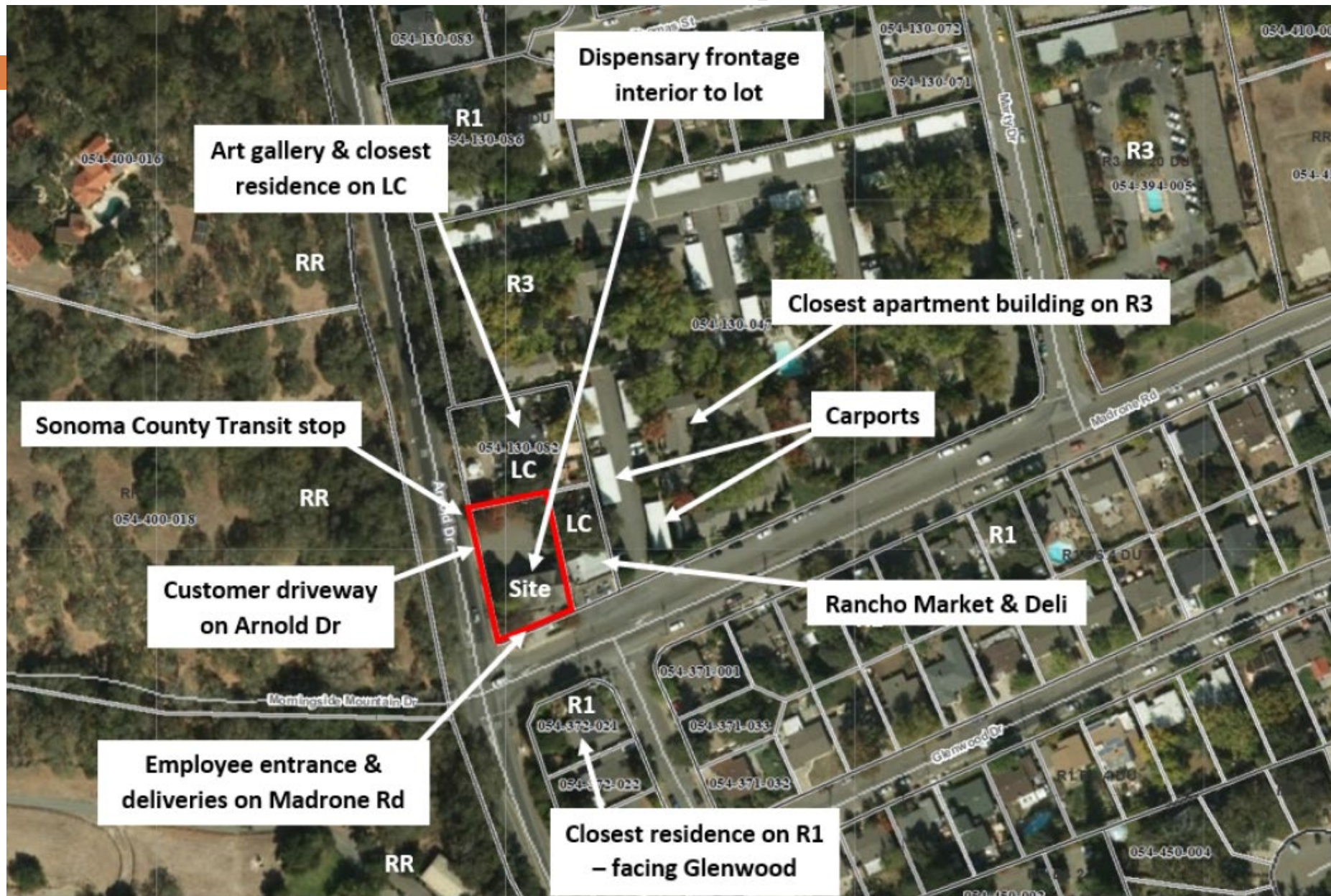


Approved Residential Setback Waivers

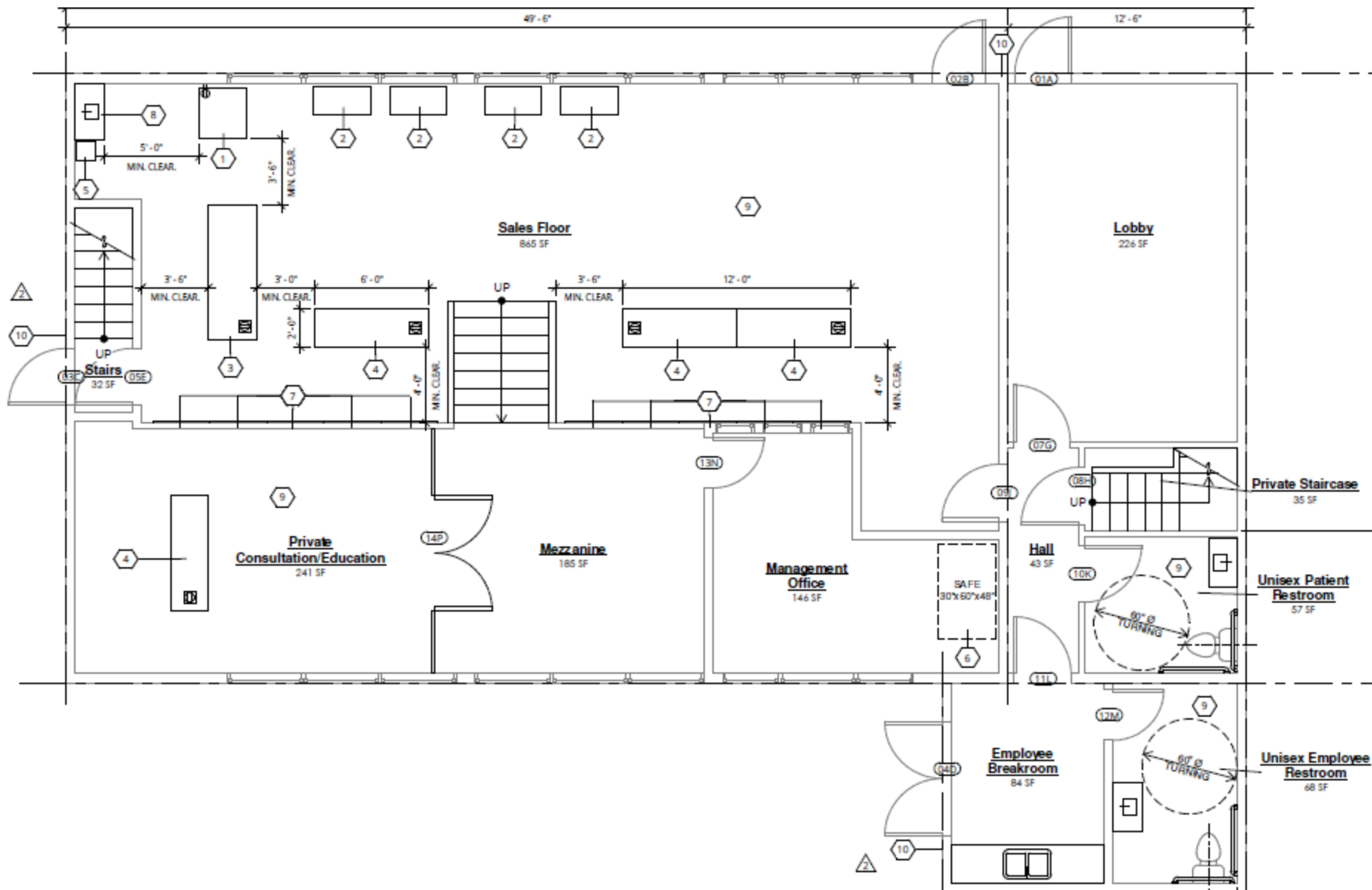
In The Tree Apothecary; 10665 River Road, Forestville (UPC19-0001)



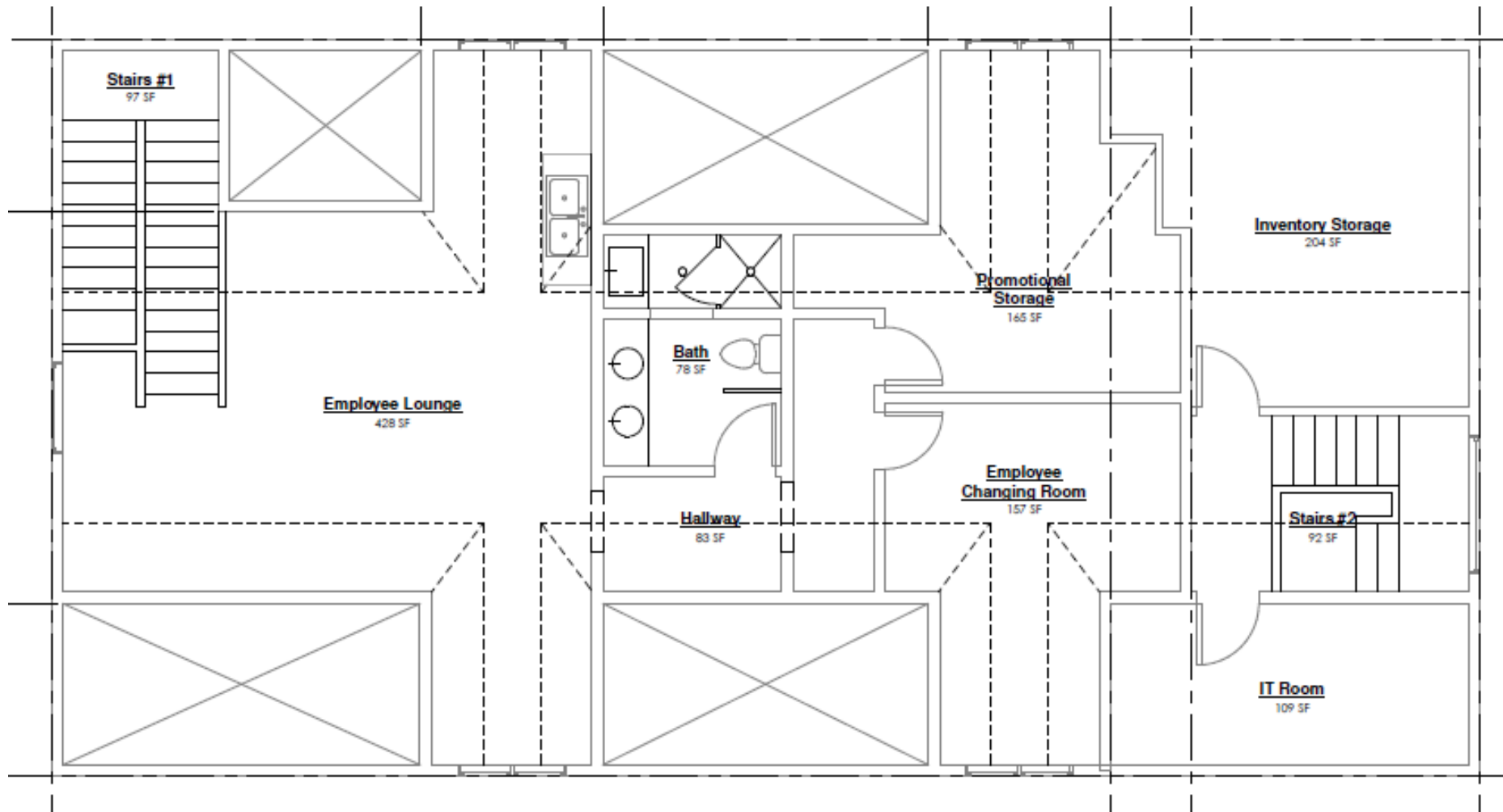
Setback Waiver – Project Site



Floor Plan – First Floor



Floor Plan – Second Floor



Traffic

- Traffic Study 2018/Amended 2021
 - ▣ +263 daily trips compared to existing condition
 - 36 weekday PM peak hr; 17 weekday AM peak hr
 - 68 weekend PM peak hr (no weekend AM peak)
 - ▣ No significant traffic impact to area
 - ▣ No intersection improvements needed
- Average Daily Traffic Counts June-July 2014
 - ▣ 8,050 ADT on Arnold Dr 675 ft N of intersection
 - ▣ 3,714 ADT on Madrone Rd 3,700 ft E of intersection
 - 3% increase on Arnold Dr & 7% increase on Madrone Rd