



County of Sonoma

State of California

Date: September 14, 2021

Item Number: _____

Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
Denying an Appeal by Paul Morrison and Protect our Sonoma Valley Family Neighborhoods of
a Decision of the Sonoma County Board of Zoning Adjustments, Adopting a Negative
Declaration, and Granting a Use Permit to Loe Firehouse, Inc. for Property Location at 15499
Arnold Drive, Glen Ellen, CA 95442, APN 054-130-024**

Resolved, that the Board of Supervisors ("Board") of the County of Sonoma
("County") finds and determines as follows:

Section 1. Proposed Project and Procedural History

- 1.1 On December 5, 2017, the applicant, Loe Firehouse, Inc. (formerly Apothevert) filed an application for a limited term Conditional Use Permit for a new commercial cannabis dispensary on a 0.33-acre parcel located at 15499 Arnold Drive, Glen Ellen; APN 054-130-024; Zoned LC (Limited Commercial), SR (Scenic Resources – Arnold Drive Scenic Corridor), VOH (Valley Oak Habitat) ("the Proposed Project").
- 1.2 A Negative Declaration ("ND") was prepared for the Project, and on or about February 26, 2021, the ND was posted and made available for agency and public review in accordance with the California Environmental Quality Act ("CEQA"), 14 California Code of Regulations, §§15000 et seq. ("CEQA Guidelines") and County CEQA guidelines.
- 1.3 On April 8, 2021, the Board of Zoning Adjustments ("BZA") held a duly noticed public hearing on the ND and the Proposed Project at which time the BZA heard and received all relevant testimony and evidence presented orally or in writing regarding the ND and the Proposed Project and all interested persons were given an opportunity to hear and be heard regarding the ND and the Proposed Project.
- 1.4 On April 8, 2021, the BZA voted 5-0-0 to adopt the ND and approve the Use Permit for

the Proposed Project subject to Conditions of Approval.

- 1.5 On April 19, 2021, Paul Morrison on behalf of Protect our Sonoma Valley Family Neighborhoods appealed the decision of the BZA to the Board, pursuant to County Code ("Appeal"), raising issues related to Sonoma County Code consistency, traffic study analysis, insufficient public outreach by the applicant, and neighborhood incompatibility.
- 1.6 On September 14, 2021, the Board conducted a duly noticed public hearing on the ND and the Proposed Project. The Board received all relevant oral and written testimony and evidence filed or presented at or before the close of the hearing. All interested persons were given the opportunity to hear and be heard. At the conclusion of public testimony, the Board closed the hearing, considered and discussed the ND and the Proposed Project, and by a majority vote, found the ND had been prepared in conformance with CEQA, approved the ND, and approved the Proposed Project ("the Project"), subject to the conditions of approval imposed herein.
- 1.7 The Board has had an adequate opportunity to review this Resolution and the findings and determinations contained herein and finds that this Resolution accurately sets forth the Board's intentions regarding the ND, the Appeal, and the Project. The Board's decisions herein are based upon the testimony and evidence presented to the County orally or in writing prior to the close of the Board's hearing, including the full record of proceedings. By Board Rule, information submitted after the close of the Board hearing is deemed late and not considered by the Board.

Section 2. CEQA Compliance

- 2.1 In making its determinations, the Board has gained a well-rounded understanding of the range of the environmental issues related to the Project by its review of the ND, the prior proceedings at the BZA, all comments, testimony, letters and reports regarding the ND, and its own experience and expertise in these environmental issues. Prior to making the following findings, the Board has reviewed and considered the evidence and analysis presented in the ND, the information presented in the Appeal and post-appeal comments, the technical reports, and all public comments and information submitted at or before the Board hearing. The Board's findings are based on full appraisal of all viewpoints, all evidence and all information in the record of these proceedings.
- 2.2 Based upon the entire record, there is no substantial evidence of a fair argument that the Project will have a significant environmental effect. The ND has been completed in compliance with State and County CEQA guidelines and reflects the Board's independent judgment and analysis.
- 2.3 Without in any way limiting the Board's general findings set forth in this Resolution, the Board makes the following further specific findings regarding environmental impacts of the Project:

A. Traffic

A Traffic Impact Study was conducted for the project (W-Trans, July 24, 2018; Amended January 4, 2021; Amended May 19, 2021). W-Trans estimated that the project would generate approximately 301 daily trips, which translates to an average of 25 trips per hour. The greatest trip generation is anticipated during the weekend PM peak hour at 70 trips. Week day PM peak hour trips are estimated at 42. The trip generation rate for the week day AM peak hour is about half that for the PM peak hour, resulting in 21 week day AM peak hour trips. There is no AM weekend peak hour. Net trip generation (when trips for the existing office and residential uses are subtracted) is 263 daily trips, including 68 trips during the weekend PM peak hour and 36 trips during the week day PM peak hour. The study concluded that the Arnold Drive/Madrone Road intersection would continue to operate acceptably with the addition of project traffic and that no significant cumulative traffic impacts would be expected.

As there are currently no operating dispensaries in Sonoma Valley or the City of Sonoma, customers from the lower Sonoma Valley, including the City of Sonoma, would need to drive a substantially shorter distance to reach a dispensary with the proposed project than is currently the case. The project would therefore be expected to lead to a reduction in regional Vehicle Miles Travelled. A Use Permit application for a new dispensary at 19315 Sonoma Highway just south of Fethers Hot Springs was approved by the City of Sonoma Planning Commission on May 13, 2021, but is not yet operating. Once it becomes operational, the distance and overall number of trips made to the project dispensary are both likely to decrease, as the other dispensary will be closer to residents of Sonoma and the Springs.

Section 3. General Plan, Planning and Zoning Compliance

3.1 General Plan Consistency.

The proposed project is consistent with the General Plan land use designation of Limited Commercial, and the goals, objectives, policies, and programs of the General Plan.

- a. The Limited Commercial land use category is intended to provide for primarily local-serving retail sales and commercial services compatible with the communities in which they are located. Cannabis dispensaries are an allowed use in Limited Commercial with a Use Permit. The proposed dispensary would be the first in Sonoma Valley, and as such, would provide a cannabis retail location and delivery service to an area that currently does not have local access to these products. The proposed dispensary supports the local-serving retail Land Use goals, and involves redevelopment of an existing commercial structure in support of Land Use Policies LU-20i and LU-20j to promote redevelopment of existing commercial areas with adequate public services.
- b. The project site is located in a designated Scenic Corridor for Arnold Drive, which prohibits most new development within the scenic corridor to preserve visual quality,

but allows maintenance, reconstruction, and minor expansion of existing structures already located within the corridor. The project proposes only tenant improvements to the existing structure, including interior modification and exterior accessibility improvements, in compliance with Open Space and Resource Conservation Policy OSRC-3C.

- c. The proposed project is consistent with Circulation and Transit Policies CT-7nn and CT-7qq for the Sonoma Valley, which require consideration of cumulative weekend traffic impacts and intersection improvements during review of discretionary projects. A traffic impact study determined that the dispensary would generate 68 new trips during the weekend afternoon peak hour, concluding that local roads and intersections would continue to operate acceptably with the addition of project traffic and that no significant cumulative traffic impacts would be expected. The traffic study also evaluated the need for intersection improvements at the Arnold Drive/Madrone Road intersection and determined that none are warranted because existing stacking space for all turn lanes at the study intersections was found to be sufficient to accommodate queues with project traffic added.

3.2 Zoning Consistency.

The proposed project is consistent with Sonoma County Zoning Code, including all building intensity, development criteria, and operating standards for commercial cannabis operations.

- a. The Limited Commercial Zoning District allows cannabis dispensaries with a Use Permit under Section 26-36-020(pp), in compliance with Sections 26-88-250 and 26-88-256.
- b. The proposed project complies with all applicable development criteria of Zoning Code Section 26-36-030, including yard setbacks, building height, and lot coverage.
- c. Zoning Code Section 26-86-010(c) sets parking requirements for dispensaries based on customer floor area and employee number. Customer spaces are calculated as a percentage of the dispensary gross floor area, which includes the retail floor area, security check-in, consultation rooms, public-use restrooms, and any other space open to customers or operated as part of the customer interaction. Employee support spaces, like offices, breakrooms, and bathrooms closed to the public, are not included in the dispensary floor area for the parking determination because the regulations contain a specific, separate employee requirement based on the actual number of employees present on-site per shift. One space is required per employee; employee support spaces do not generate additional employee parking need over the one space per employee already required. All square footage of the building has been accounted for as either open to the public and part of the gross retail floor area or as employee support space accessible to employees only. This methodology is consistent with how the

parking provision has been implemented at other approved dispensaries. Under this methodology, a dispensary with 1,891 square feet of retail floor area for customers and a maximum of 5 employees per shift requires 17 parking spaces, including 1 van-accessible space, which meets code parking requirements. The project includes 17 on-site parking spaces: 12 in the lot off Arnold Drive for customers, including 1 van-accessible space, and 5 designated for employees and commercial deliveries at the rear of the building accessed off Madrone Road. Conditions of Approval limit employee vehicle number and prohibit expansion of retail floor area to ensure adequate parking is maintained for the operation. One space used for deliveries is tandem to an employee parking space; this satisfies the requirement that parking spaces be independently accessible because the delivery space is used only for short periods and the use of both spaces is under the operator's control. Alternatively or additionally, Zoning Code Section 26-86-010(i) allows parking standards to be reduced when fewer spaces would adequately serve the use. This dispensary use is adequately served by 17 parking spaces, including one tandem space, because there are spaces for each employee and the number of employee vehicles is limited by conditions of approval, the tandem space will only be used for deliveries the schedule for which is controlled by the operator and can be coordinated with use of the employee space, the tandem space is in an employee-only parking area separate from customer parking, and the parking for customers is adequate given the proposed operations and dispensary floor area that is accessible to the public.

- d. Zoning Code Section 26-88-256(d) limits the number of dispensaries in the unincorporated County to nine. There are currently six approved dispensaries; the proposed dispensary would be number seven, which complies with the limit set by code.
- e. The Zoning Code provides location requirements for dispensaries, including required setbacks from sensitive uses. Section 26-88-256(f)(1) prohibits establishment of a dispensary on a parcel containing a residential unit. The applicant proposes to convert the second-floor residential unit to employee support space (offices, break room, bathrooms) and product storage space. Conversion of the unit is also required by the Conditions of Approval.
- f. Zoning Code Section 26-88-256(f)(1) requires a 100-foot setback between the dispensary property and a residential zoning district. However, Section 26-88-256(f)(4) also provides for a waiver of this requirement when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.

Waiver of the 100-foot residential zoning district setback is appropriate here based on the following facts:

- i. A physical separation exists on all four project parcel boundaries as follows: An intervening commercial property containing Arlene's Art

Gallery & Studio and a residence provides approximately 116 feet of separation from the closest residential district to the north; Arnold Drive provides approximately 65 feet of separation from the closest residential district to the west; Madrone Road provides approximately 75 feet of separation from the closest residential district to the south; An intervening commercial property containing Rancho Market & Deli provides approximately 58 feet of separation from the closest residential district to the east.

- ii. The dispensary business frontage, customer entrance, and customer parking lot face Arnold Drive (on the west) and the commercial property to the north. No public access would occur from the east or south sides of the building, which face the Madrone Road residential area. The second access to the rear (south) of the building would be used by employees and deliveries only; visible activity in the south lot would be minor, consisting of up to five employees arriving and departing each day, two cannabis delivery trips departing and returning each day, and periodic deliveries from commercial vendors. Continued prohibition of public access and customer parking at the rear of the building is required by Conditions of Approval.
- iii. High density multi-family apartments occur nearby to the east. However, the development is accessed through driveways off Madrone Road that are on the opposite side of the west-facing customer entrance of the proposed dispensary and activity in the customer lot would be only minimally visible to residents due to existing fences, vegetation, and the orientation of roads and buildings.
- iv. The nearest single-family residence directly across Madrone Road from the proposed dispensary is oriented towards Glenwood Drive and is not facing the dispensary. Visual screening for this residence is provided by existing vegetation and a solid wood fence.
- v. The Board has consistently interpreted and applied the 100-foot residential district setback waiver. Waivers have been approved for five previous dispensaries next to a range of residential densities that similarly demonstrated that no off-site impacts were likely to occur due to a combination of an actual physical separation between land uses or parcels, including public and private streets and intervening businesses, orientation of roads and buildings, and proposed visual screening measures, such as fences and landscaping.

3.3 Neighborhood Compatibility.

To ensure character of the neighborhood is maintained, any exterior alterations of the existing building will be subject to commercial Design Review standards under Zoning

Code Section 26-82-030, as required by the Conditions of Approval.

The project site is located in a small cluster of three Limited Commercial parcels providing local-serving retail and commercial service uses to the surrounding community (a commercial office building, neighborhood market and deli, and an art gallery/studio). The proposed cannabis dispensary will be located within the building currently used for office space, and would provide a cannabis retail location and delivery service to an area that currently does not have local access to these products. The project has been designed to be compatible with the surrounding residential neighborhood by 1) orienting the business frontage away from the Madrone Road residential neighborhood; 2) locating near a public transit stop to encourage alternate modes of travel; 3) offering delivery service to reduce customer trips to the storefront location; 4) keeping typical commercial retail operating hours of 7:00 am to 7:00 pm Monday through Saturday; and 5) maintaining the size and overall appearance of the existing building (exterior modifications are related to accessibility requirements; no significant changes to the building façade are proposed).

3.4 General Use Permit Finding.

The establishment, maintenance, or operation of the use for which application is made, will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the area of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances that support this finding are set forth above and include, but are not limited to, the following facts: 1) The dispensary is physically separated from nearby residential areas by intervening parcels and public roadways and screened from view by existing vegetation and fences; 2) Adequate parking is provided onsite to serve the use; 3) Employees and vendors are prohibited from parking on the street to preserve the on-street parking supply for residents; 4) Security measures will be implemented to uphold the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such use; 5) All equipment will be in compliance with the General Plan Noise Standard; 6) an exhaust and ventilation system to prevent off-site odors will be installed and maintained; 7) Hours of operation will be limited to the hours of 7:00 am to 7:00 pm Monday through Saturday; 8) Dispensary traffic will add 263 daily trips to local roadways, including 68 trips during the weekend PM peak hour and 36 trips during the week day PM peak hour; however, the increase in trips would not result in a significant impact to road or intersection function; 9) The dispensary will offer delivery service to reduce customer trips to the storefront location, and is near a public transit stop to encourage alternate modes of travel; 10) Operation of the first dispensary in Sonoma Valley would be expected to lead to a reduction in regional Vehicle Miles Travelled for this local-serving use; and 11) Only minor exterior alterations are proposed to the existing building to comply with accessibility requirements.

Section 4. Additional Finding

4.1 The findings and determinations set forth in this Resolution are based on the entire record of these proceedings. References to specific statutes ordinances, regulations,

standards, reports or documents in a finding or determination are not intended to identify those sources as the exclusive basis for the finding or determination.

NOW, THEREFORE, Be It Further Resolved that based on the foregoing findings and determinations and the full record of these proceedings, the Board hereby declares and orders as follows:

1. The foregoing findings and determinations are true and correct, are supported by substantial evidence in the record, and are adopted as hereinabove set forth.
2. The Negative Declaration is adopted.
3. The Appeal of the Board of Zoning Adjustments approval of the Proposed Project use permit is denied.
4. The use permit is granted for the Proposed Project as presented in the application package submitted on December 5, 2017, and updated materials submitted December 30, 2019, April 3, 2020, November 17, 2020, and January 18, 2021, and as described in the Conditions of Approval attached hereto as Exhibit A and incorporated herein, subject to design review as required by conditions of approval.
5. Staff is directed to file and post a Notice of Determination of this action pursuant to the California Environmental Quality Act within five (5) days of the date of this resolution.

Be It Further Resolved that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Supervisors:

Gorin:	Rabbitt:	Coursey:	Gore:	Hopkins:
Ayes:	Noes:	Absent:	Abstain:	

So Ordered.