

# Attachment A

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## **PROJECT DISCUSSION**

### **PLN190008 (Abundant Investments)**

#### **Description**

The applicant, Abundant Investments, LLC, requested entitlements for a commercial cannabis dispensary including delivery within an existing 1,413 square foot retail building located at 1031 N. El Camino Real, at the intersection of Highway 101 South and Prunedale South Road in the unincorporated area of the County near Salinas. Monterey Retail Solutions, who would operate a cannabis retail facility and delivery under the business name of Weden.

Prior to the lease to Monterey Retail Solutions, this space was at one time operated as a “Tuff Shed” storage shed sales office. This building (upper level) has been vacant since November 2019. The site also contains an existing automotive detail facility/tire shop on the lower portion of the property that would remain. This automotive detail facility/tire shop was previously approved under the original Use Permit and General Development Plan (PLN030439, Resol.04026) in conjunction with the used car sales lot and office. There was some confusion with the automotive facility if it is a repair shop according the updated GDP. However, the owner clarified that no automotive repairs are done on site. The current use is primarily a tire shop. The current application includes a request to amend a General Development Plan for this commercial center to allow commercial cannabis, and an Administrative Permit for a cannabis dispensary in accordance with County Code.

The proposed site is located entirely within the future Caltrans Highway 156 widening project (**Attachment J**). The owner was made aware of this expansion at the initial Development Review Committee meeting on January 29, 2019. Although the owner/applicant is aware of the potential risk, they wish to pursue with the entitlement process and move forward with this application. County staff has since reached out to Caltrans and was informed that Caltrans has a phased plan for improvements to the Highway 101 and 156 corridor and there is no current timeframe for the phase of improvements affecting this location. Caltrans had no comment regarding the proposal for the dispensary at the site. The applicant/owner has been encouraged to contact Caltrans directly for future updates on the interchange improvements.

The site is zoned Light Commercial or “LC” and development of the site is governed by the North County Area Plan, which classifies the land use designation of the property as Commercial. Minor modifications are proposed to the exterior of the building including re-striping the parking lot, signage, and implementation of the proposed security measures. No other features of the building will be altered. The applicant is proposing to re-strip the parking lot yielding 34 parking spaces, which would satisfy the parking requirement of 1 parking space/250 square feet of retail space.

The proposed retailer would provide medical and adult-use commercial cannabis including delivery service from 8:00am to 8:00pm daily. Services would be provided to adults without medical authorization 21-years of age and older and to established qualified patients and primary caregiver members 18 years of age and older. The activities would occur within an existing commercial building that will be improved to meet current building code standards.

#### **Administrative Permit Standards**

Cannabis retailers are listed as a “Use Allowed with an Administrative Permit in each case” in the Light Commercial (LC) Zoning District. Standards for cannabis retailer permits are contained in Section 21.67.040 of the Inland Zoning Ordinance (Title 21). Minimum standards include:

1. Location in a commercial zoning district;
2. Location more than 600 feet from a school providing instruction in kindergarten or any grades 1 through 12, a child care center, youth center, a playground, or drug recovery facility that is in existence at the time of approval of permits by the Appropriate Authority;
3. Location more than 1,500 feet from another retailer (with exceptions);
4. Appropriate record keeping policies and consent for inspections;
5. Appropriate security measures;
6. Appropriate delivery procedures;
7. Appropriate supply chain to include permitted and licensed facilities only;
8. Appropriate packaging and labeling of products;
9. Tracking and reporting of inventory discrepancies, theft, loss or other breach of security;
10. Restriction on possession or sale of any other form of illegal drugs.

### **Regulatory Analysis**

The applicant has submitted an Operations Plan and Procedures Manual that is part of the amendment to the General Development Plan that describes how operations will comply with the relevant standards (**Attachment B, Exhibit 3**). The operations plan includes the hours of operation, number of employees, security protocols, customer age verifications, loitering restrictions, product safety, packaging, supply chain information, record keeping policies including track and trace system, quality control, waste disposal information, and other operational standards addressing fire, health, and safety requirements.

Staff has reviewed the plans and information submitted with the application and determined that the plans address the minimum standards contained in Section 21.67.040. Standards considered in review of the application include:

Product Tracking and Record Keeping: Monterey Retail Solutions shall maintain accurate written records of every sale made to verified patients and customers in both the storefront and via its delivery service. Monterey Retail Solutions will be required to implement the seed-to-sale tracking. Upon permit issuance, Monterey Retail Solutions Dispensary will implement Track & Trace in compliance with all local and state laws regulations. All cannabis goods received, sold, or discarded will be reported in the Track & Trace system, without exception.

Security: The applicant has submitted a detailed Security Plan. Security systems and procedures have been reviewed by RMA–Planning and appropriate measures and systems are proposed to meet local and State security requirements. The premises are accessible by a front standard access door. Delivery will also take place from the front entrance. All cannabis goods will be separated as medical or adult-use and stored within safes contained in locked storage rooms. All transactions will be recorded by video surveillance and records in the form of shipping manifests, chain of custody, and Track & Trace. Monterey Retail Solutions Dispensary will have an on-site security guard (24/7), all personnel will be trained in security procedures by a

security professional. A surveillance scheme covering the entirety of the interior space and the exterior space will be in place in accordance with all state regulatory requirements. The video will continuously monitor the premises and will notify Monterey Retail Solutions Dispensary of any failure in operation security.

Nuisances: Odor control would include carbon filters in the HVAC system. Cannabis related waste will be placed into a 1 yard locking trash bin supplied by Waste Management, accessible only by staff, the local agency, and an authorized cannabis waste hauler. Detailed records of waste will be maintained.

Delivery: Monterey Retail Solutions employees will only deliver cannabis and cannabis products to prequalified patients or adult-use customers with verified home addresses. Delivery hours are same as business hours from 8:00 am to 8:00 pm daily. Vehicles used to deliver products and drivers of those vehicles are required to comply with State and local requirements including maintaining appropriate records during transport.

Setback: The proposed site meets the 1,500 feet setback from another cannabis retailer. The closest cannabis retailer (Pacheco/PLN170478) is approximately 9,500 feet located on Reese Circle, Salinas. Another retailer has been approved on San Miguel Canyon Road north of the site. Additionally, an application for a second dispensary adjacent to the approved dispensary on Reese Circle has been deemed complete and will be considered by the Planning Commission in the near future. The nearest school is Prunedale Elementary School, which is approximately 2.5 miles away. The nearest day care is Garzas Quality Day Care which is approximately 5 miles and Door to Hope drug recovery center is 8.5 miles away.

Dispensaries are listed as a use allowed in the Light Commercial Zoning District with an Administrative Permit. In this case, since this lot is in excess of 1 acre and the project includes more than one use, an amendment to the General Development Plan was also required.

Staff reviewed the plans and information submitted with the application and determined that the project strictly complied with the adopted regulations contained in Chapter 21.67 of the Zoning ordinance regulating commercial cannabis uses. However, staff also identified concerns with respect to traffic and safety given the location of the project as well as proximity to residential neighborhoods.

On September 18, 2019, the project was considered by the North County Land Use Advisory Committee (LUAC). (**Attachment K**). LUAC recommended approval by a vote of 5-3, with some concerns over impacts to the surrounding community. Additionally, a letter dated February 28, 2020 was submitted by Rick Diaz with the North Monterey County School District. (Attachment H). Concerns raised during review include:

- A neighbor to the dispensary was concerned that the dispensary would cause traffic impacts and increase accidents;
- A representative from the North Monterey County School District stated that there is a school bus stop just south of the proposed dispensary and requested more information about controls and restrictions on youth access;

- The LUAC suggested limiting the numbers of dispensaries in North County; and
- The LUAC requested that taxes collected from dispensaries to North County be allocated to projects in North County

During a LUAC meeting, concerns were voiced that traffic would be diverted to Blackie Road as an alternative route to reach the City of Monterey. Upon review of Prunedale South Road, Blackie Road, and Hwy 101, these areas are at acceptable Level of Service (LOS). Even if traffic used Blackie Road, this would not degrade roadways to unacceptable levels of service (further traffic discussion in Appeal section).

### Bus Stop

A letter dated February 28, 2020 was received from North Monterey County Unified School District. The school district's main concern is regarding the bus stop located near the proposed dispensary posing a potential safety risk to minors. Staff reached out to the school district and described the requirement for the owner to obtain security service/personnel that will be on-site 24/7 to deter minors from entering the dispensary and prevent loitering around the vicinity of the proposed dispensary. Furthermore, signage will be placed on the exterior of the building prohibiting loitering and cannabis use. The school district did not show dissatisfaction with the measures proposed.

### Proximity to youth

The project was reviewed by the County of Monterey Public Health Department for considerations of potential public health concerns and risks for the retail operations. Public Health developed a matrix to help assess the health impact to the public. Based on the Risk Management Matrix , (Attachment E), the retail permit for a cannabis retail facility at this site would result in a public health risk assessment score of six (6), which falls into the range of a moderate risk for increased public health impacts due to potential exposures and/or increased use by at risk groups due to normalization of cannabis. Based on this score, and thus the potential for health risk, Monterey County Health Department does not support the issuance of a retail permit for this facility at this time.

Despite the concerns by the Monterey County Health Department, staff found that the project is consistent with land use and zoning regulations because the proposed dispensary is located in a light commercial zoning district which permits dispensary uses and because plans and information have been submitted that satisfy regulatory requirements for cannabis permitting. The dispensary is not located within 600 feet of a school, playground, or youth center and is not within 1,500 feet of another dispensary.

### Density of Dispensaries in North County

The North County area (both coastal and non-coastal areas) has been the area in which the majority of cannabis retailers are located. The following cannabis retailers have been permitted or are being considered for permitting in the North County area:

- 2329 San Miguel Canyon Road
- 10041 Reese Circle (under review)
- 10031 Reese Circle

- 8022 Moss Landing Road
- 303 San Juan Grade Road (under review)
- 19 San Juan Road, Pajaro
- 10665 Merritt Street, Castroville
- 53 Porter Drive (under review)
- 10501 Merritt Street, Castroville (under review)

Conversely, 7 applications have been submitted for dispensary uses outside the North County area. Two have been approved (in Carmel), one application was denied (in Toro area), and the others are under review. Primary reasons for discrepancies in retailer applications include availability of qualifying commercial space in the County and population centers, or lack thereof, who are served by the retailer uses.

The adopted policies for consideration of dispensaries in unincorporated areas include a specific setback distance between retailers and review of the recommendations from the Public Health Department.

### **Appeal**

On June 5, 2020, Monterey Retail Solutions, appellant, represented by attorney Andrew Jun, timely filed an appeal from the Monterey County Planning Commission's May 13, 2020 decision denying the application. Issues addressed in the appeal submitted by the applicant/appellant are summarized below:

#### **Contention 1 – Amended General Development Plan**

*The amended General Development Plan prepared by the Applicant and originally presented to the Planning Commission to include the dispensary no longer fails to address the long range development and operation of the facilities including physical expansion and new development, operational changes, circulation or transport improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.*

**Staff Response:** The applicant/appellant has provided a thorough updated General Development Plan (GDP) which has addressed all the above items. Answers can be found on the GDP relating to long range development (pg. 137), Operation of facilities, physical expansion, new development and operational changes (pgs. 138-206), circulation or transport improvements (pgs. 207-208), alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan (page 209). The proposed retailer would provide medical and adult-use commercial cannabis including delivery service from 8:00am to 8:00pm daily. Services would be provided to adults without medical authorization 21-years of age and older and to established qualified patients and primary caregiver members 18 years of age and older. Staff has reviewed the plans and information submitted with the application and determined that

the plans address the minimum standards contained in Section 21.67.040. Standards considered in review of the application and GDP include:

Product Tracking and Record Keeping: Monterey Retail Solutions shall maintain accurate written records of every sale made to verified patients and customers in both the storefront and via its delivery service. Monterey Retail Solutions will be required to implement the seed-to-sale tracking. Upon permit issuance, Monterey Retail Solutions Dispensary will implement Track & Trace in compliance with all local and state laws regulations. All cannabis goods received, sold, or discarded will be reported in the Track & Trace system, without exception.

Security: The applicant has submitted a detailed Security Plan. Security systems and procedures have been reviewed by RMA–Planning and appropriate measures and systems are proposed to meet local and State security requirements. The premises are accessible by a front standard access door. Delivery will also take place from the front entrance. All cannabis goods will be separated as medical or adult-use and stored within safes contained in locked storage rooms. All transactions will be recorded by video surveillance and records in the form of shipping manifests, chain of custody, and Track & Trace. Monterey Retail Solutions Dispensary will have an on-site security guard (24/7), all personnel will be trained in security procedures by a security professional. A surveillance scheme covering the entirety of the interior space and the exterior space will be in place in accordance with all state regulatory requirements. The video will continuously monitor the premises and will notify Monterey Retail Solutions Dispensary of any failure in operation security.

Nuisances: Odor control would include carbon filters in the HVAC system. Cannabis related waste will be placed into a 1 yard locking trash bin supplied by Waste Management, accessible only by staff, the local agency, and an authorized cannabis waste hauler. Detailed records of waste will be maintained.

Delivery: Monterey Retail Solutions employees will only deliver cannabis and cannabis products to prequalified patients or adult-use customers with verified home addresses. Delivery hours are same as business hours from 8:00 am to 8:00 pm daily. Vehicles used to deliver products and drivers of those vehicles are required to comply with State and local requirements including maintaining appropriate records during transport. Minor modifications are proposed to the exterior of the building including re-striping the parking lot, signage, and implementation of the proposed security measures. No other features of the building will be altered.

## **Contention 2 – Traffic Trip Generation**

*Although the property has been used for commercial purposes and the proposal will not substantially change the use; evidence at the Planning Commission hearing that the new use will not change the traffic trip generation and cause new impacts. Evidence has now been provided that proves the change in use will not change the traffic trip generation or create adverse impacts.*

**Staff Response:** Attachment F to the staff report is a comprehensive traffic report prepared by Keith Higgins, traffic engineer, dated September 16, 2020 was provided to county staff. Monterey County Public Works analyzed the report, and determined that



based on their knowledge of the area and assumptions relating to cannabis retail operations, the traffic report trip generation rate estimate of 84 daily trips would be acceptable for the area and not cause an adverse impact. According to data compiled in the traffic report, a total of nine collisions occurred near the Southbound US 101 / Prunedale South Road intersection between January 2015 and December 2019. However, as stated in the traffic report, there are no indications that the collisions occurred directly due to safety issues at the intersection of Southbound US 101 and Prunedale South Road.

### **Contention 3 – Traffic into Residential Neighborhood**

*Based on the revised traffic analysis, the use will not create a diversion of traffic into the residential neighborhood adjacent to the site, causing an increase of traffic that could impact the neighborhood.*

**Staff Response:** The traffic analysis evaluated traffic increases on nearby roads (section C page 8 of the report). The traffic report indicated that the study locations “would continue to operate at or better than their respected levels of service”. The County roadways that provide access to the project site are Prunedale North Road, and Prunedale South Road. Presently Prunedale North Road and Prunedale South Road experience approximately 4,500 vehicles per day, and 1,200 vehicles per day, respectively, both of which are within the Level of Service (LOS) A threshold. This increase in the number of trips generated by the project would not degrade the operational level of service. (e.g. From LOS of A to B), as the existing nearby roadway system has sufficient capacity to accept the increase in trips and stay within acceptable level of service established by the Monterey County General Plan. Table 4 of Public Work’s assessment provides a summary of the existing average daily traffic (ADT) and level of service (LOS) for the nearby roads. It is not anticipated that new traffic generation due to the proposed project would noticeably degrade existing operations of the local roadway network. Per Caltrans’ recommendation to discourage vehicles returning onto Hwy 101, the project has been conditioned to construct a raised median island at the eastern driveway intersection with Prunedale South Road to allow only right turn in/out of the property. (Condition No. 11) With this minor improvement to the parking area, traffic impacts and hazards are not anticipated. SB 743 changed the CEQA Guidelines statewide effective July 1, 2020. The changes to CEQA guidelines replace congestion-based metrics, such as auto delay and level of service, with Vehicle Miles Traveled (VMT) as the basis for determining significant impacts under the California Environmental Quality Act (CEQA), unless the guidelines provide specific exceptions. Monterey County has not established a VMT standard nor significance criteria for VMT evaluations in the county. As a result, this analysis uses state guidance with regards to analysis and significance criteria. The publication Technical Advisory on Evaluating Transportation Impacts in CEQA (“TAETI-CEQA”), State of California Governor’s Office of Planning and Research, December 2018, discusses VMT evaluations for residential, commercial and office projects. As stated in this publication, projects generating 110 or fewer daily trips could be considered not to result in a significant impact on transportation. The project, as summarized on Table 1 of the traffic report prepared by Keith Higgins, states it will

generate only 84 daily trips. Therefore, the project would not represent a significant transportation impact under CEQA.

#### **Contention 4 – Bus stop**

*The proximity to a North Monterey County Unified School District bus stop directly across from the proposed site does not present potential public safety/health risks for the students nor an increase in traffic which could result in pedestrian conflicts. The submitted traffic study addresses traffic volumes and potential circulation hazards in the vicinity.*

**Staff Response:** The traffic analysis evaluated the nearby bus stop (section D page 9 of the traffic report). The traffic report indicated that the project would not impact traffic operations at the bus stop. Additionally, the traffic study presented collision data from the past five years along the local roadways in the vicinity of the project. Per the collision data presented, there were no collisions that involved pedestrian-vehicle conflicts. Per the traffic report, no direct impacts to traffic operations and levels of service were identified, therefore no mitigations for direct impacts would be applicable. In addition to ensure safety and health issues to minors, the owner will obtain security service/personnel that will be on-site 24/7 to deter minors from entering the dispensary and prevent loitering around the vicinity of the proposed dispensary. Furthermore, signage will be placed on the exterior of the building prohibiting loitering and cannabis use.

Staff struggled with a recommendation for this project given that it conformed to all applicable land use codes, but posed potential traffic impacts as well as impacts to neighborhood character. Staff has reviewed the project together with the appeal contentions, testimony in the record, and newly submitted technical information, and recommends that the Board find the project consistent with applicable policies, regulations, and laws. Traffic and Neighborhood concerns have been considered but the concerns raised do not change the analysis or recommendation for the project. Staff recommends that the Board of Supervisors grant the appeal of the Planning Commission's denial and approve the Amended General Development Plan and Administrative Permit as proposed subject to the recommended conditions.

#### **Next Steps**

The subject Amendment to the General Development Plan and Administrative Permit would authorize a commercial and medical cannabis retailer use and delivery at the site. The GDP and Administrative Permit runs with the land and not the business or property owner. Pursuant to Monterey County Code (MCC) Chapter 7.90, prior to beginning operation, the business operator would need to obtain a Commercial Cannabis Permit and a Business License from the County. After that, they would be required to obtain all applicable State Licenses. Condition of Approval No. 6 requires that appropriate licenses are obtained and maintained.