



**DATE:** September 25, 2024  
**TO:** Planning Commission  
**FROM:** Katherine Schaefers, Planning Manager; Jesse Davis, Chief Planning Manager  
**SUBJECT:** Request to approve a Major Use Permit to allow for non-storefront retail and on-site consumption of ‘Cannabis Products’ in four designated ‘Cannabis Consumption Area – Indoor/Outdoor’ on the premises of an existing ‘Cannabis-Related Business’ in accordance with Ukiah City Code Sections 9174.2 & 9174.3; 1825 Airport Road; APN 180-110-07; File No. 24-000177.

**SUMMARY**

**OWNER:** Gary Breen  
**APPLICANT & AGENT:** Emerald Sun Manufacturing, LLC (Dean Schlesinger)  
**LOCATION:** 1825 Airport Road, Ukiah (APN: 180-110-07)  
**TOTAL ACREAGE:** ±8.72 acres  
**GENERAL PLAN:** Mixed Use (AIP-PD)  
**ZONING DISTRICT:** Planned Development (PD)  
**CEQA DETERMINATION:** Categorical Exemption pursuant to Section 15061 (b)(3)  
**RECOMMENDATION:** Conditional Approval, based on the Findings in Attachment 1 and Conditions of Approval in Attachment 2.

**EXISTING CONDITIONS**

The project site is presently developed with a ‘Cannabis-Related Business (Microbusiness)’ within an existing structure approximately 63,655.32 square feet in size. The subject property also includes an associated water treatment facility approximately 9,324.84 square feet in size, a driveway/parking area of approximately 12,1607 square feet, a 1,730 square foot loading dock, and a 150 square foot trash enclosure.

On June 6, 2019, the Zoning Administrator approved Minor Use Permit (File No. 18-4173) to allow the operation of a cannabis ‘Processing’, ‘Distribution (Type 11)’ and ‘Non-Volatile Manufacturing (Type 6)’ facility at 1825 Airport Road. The facility itself was approved by the Planning Commission in 1995 for a manufacturing/industrial use, and previously housed the Mendocino Brewing Company.

Prior to 2022, Cannabis Related Business Use Permits had a one-year term from the time they were issued, after which they could be renewed subject to staff review and approval by the Zoning Administrator. On August 27, 2020, and then again on September 28, 2021, the Zoning Administrator approved an application for annual renewal. Two previous amendments to the Use

Permit were approved by the Zoning Administrator: 1) on February 18, 2020 (File No. 19-5062), allowing the expansion of use for storage and processing to ±15,000 sf within the southern portion of the building; and 2) on February 18, 2020 (File No. 19-5062), allowing the expansion of use for storage, drying and processing to ±9,990 sf into the northern portion of the existing building.

On August 3, 2022, the City Council adopted Ordinance No. 1226 which reduced the number of use permit renewals required to only one renewal after the first year of operation of the cannabis-related business. Since this time, no additional renewals or modifications to Minor Use Permit No. 18-4173 have been proposed.

## **REGULATORY BACKGROUND**

On September 7, 2022, written and oral comment was provided to the Ukiah City Council requesting that the City Council evaluate an ordinance amendment to allow for on-site consumption. Thereafter, the City Council requested that the Cannabis Ad-Hoc Committee review considerations provided during public expression in conjunction with staff.

Subsequently, Community Development Staff facilitated a meeting of the Cannabis Ad-Hoc on October 19, 2022, and then addressed questions via email with members of the Ad-Hoc to develop a recommendation for modification of Ukiah City Code that addressed the public expression provided.

On February 6, 2023, the Planning Commission unanimously adopted a resolution making the report and recommendation that the City Council adopt a proposed amendment to the City's Municipal Code, finding that the actions to allow on-site consumption were categorically exempt pursuant to Section 15061 (b)(3) of the CEQA Guidelines.

On March 15, after consideration of public input, the City Council voted to introduce an Ordinance Amending various sections of Ukiah City Code to permit on-site consumption at cannabis dispensaries and microbusinesses featuring retail.

On April 5, 2023, the City Council voted to adopt an ordinance amending various sections of Ukiah City Code to permit onsite consumption at cannabis dispensaries and microbusinesses featuring retail.

Since 2018, the State of California has allowed for on-site consumption where locally authorized. To facilitate on-site consumption of cannabis products on a non-event basis, a State Retail license is required from the Department of Cannabis Control (DCC), even if the primary undertaking is not commercial retail, but an associated activity, such as a cannabis manufacturer that wants to facilitate an on-site consumption area. As a Cannabis Microbusiness, Emerald Sun Manufacturing maintains licenses to operate as a Commercial Distributor, Cultivation Processor, and a Type 6 Manufacturer (Lic. No. C11-0000087-LIC, CCL19-0001190, and CDPH-10003158).

Pursuant to California Business and Professions Code Section 26200, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness per the following requirements:

- (1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older.*
- (2) Cannabis consumption is not visible from any public place or non-age-restricted area.*
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.*

## PROJECT DESCRIPTION

On July 25, 2024 City of Ukiah Planning Division Staff received a request from Emerald Sun LLC, heretofore known as the “Applicant” for a Use Permit to allow for Non-Storefront Retail (Type 9) of ‘Cannabis Products’ and On-Site Consumption of ‘Cannabis Products’.

Pursuant to Ukiah City Code §9261(D)(5)(a), a cannabis retailer is considered a major use, and therefore a Major Use Permit will be applied to the project and reflected in the project’s updated Conditions of Approval. Major use permits for a cannabis-related business shall be subject to review after the first year of operation. The requested uses would be in addition to the existing and approved cannabis activities on-site, including ‘Processing’, ‘Distribution’ and ‘Non-Volatile Manufacturing’. The applicant proposes to use existing indoor and outdoor facilities to facilitate the requested uses. Beyond limited landscaping, no permanent exterior building improvements or substantial tenant improvements are proposed. No other changes to the existing use permit are proposed. The project comprises the following main components (See Attachment 3, for application, project description and plans):

- Retail sales exclusive to delivery, the premises will be closed to the public, and the customers served would be primarily those on-site.
- Sale of on-site consumables limited to amounts consistent with personal possession and use limits allowed by Applicant staff.
- Two outside consumption areas, accessed by a pathway from the parking lot to authorized customers, well-ventilated and obscured by trees and proposed hedges.
- Two indoor consumption areas with controlled access, limited to non-smoke producing products.
- Alcohol and tobacco use is and would continue to be prohibited on the premises.

## SURROUNDING USES AND ZONING

The project parcel is located approximately 0.82-mile south of Talmage Road and adjacent (east) of the Ukiah Municipal Airport. It is accessible via Airport Road or Airport Park Boulevard. The project is adjoined to the north by commercial uses including Costco. A vineyard is located to the south. To the west the subject property is bounded by the railroad tracks and Ukiah Municipal Airport. State Highway 101 runs along the eastern boundary of the project parcel. A summary of surrounding land uses is provided below in Table 1, an aerial image of the site is provided in Figure 1, and a zoning designation map is provided in Figure 1.

<b>TABLE 1: SURROUNDING USES AND ZONING</b>		
	<b>ZONING:</b>	<b>USE:</b>
NORTH	Planned Development – Commercial; Light Manufacturing/Mixed Use, Open Space and Retail Commercial (Airport Industrial Park PD)	Commercial
EAST	N/A Outside of City limits	Agriculture
SOUTH	Planned Development – Commercial; Light Manufacturing/Mixed Use, Open Space and Retail Commercial (Airport Industrial Park PD)	Vacant, Agriculture

WEST	PF Public Facilities	Ukiah Municipal Airport
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The project is consistent with the siting requirements below for a ‘Cannabis Related-Business’, as it is not within the restricted distance to residences, schools, youth-oriented facilities, or other cannabis related business. A ‘Location Map’ is included within Attachment 3. As detailed, below:

- The proposed consumption area is not within six hundred feet (600 ft) of a school, and;
- The proposed consumption area is not within two hundred fifty feet (250 ft) of a youth-oriented facility, and;
- The proposed consumption area is not within or proximate to any residential zoned parcel or primary land use, and;
- The proposed consumption area is not adjacent to or within 250’ of another cannabis-related business.

Figure 1: Location Map



**AGENCY CONSIDERATIONS & REFERRAL**

On July 30, 2024, project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project (See Table 2). Comments received by responding departments and agencies are included in Attachment 4 and are reflected within the Conditions of Approval, as appropriate. In addition, commentary received from the Project’s previous minor use permit will remain in effect as displayed in the Conditions.

TABLE 2: AGENCY COMMENTS	
Agency	Comment
City Building Official	Response – Building permits required

City Public Works Department	No Response
Ukiah Valley Sanitation District	No Response
Ukiah Valley Fire Authority	Response – Fire permits required
City Electrical Utility Department	No Response
Ukiah Police Department	No Comment
Ukiah Airport Manager	No Response
County of Mendocino, Airport Land Use Commission	No Comment

**STAFF ANALYSIS**

Facilitating an on-site consumption ordinance could address reasonable concerns that without designated areas, increased consumption will occur in public places where it is prohibited. This increase in consumption, especially in multi-unit housing, presents risks to vulnerable groups such as children and the elderly from second-hand smoke. It also increases risks related to unnecessary policing and displacement of low-income and minority residents for cannabis use in their rental units or other public situations, which engenders potential criminal justice disparities.

Allowing and regulating on-site cannabis consumption at an existing facility with a successful operational history is both technically sound and aligned with current zoning and land use considerations. The facility's established track record of compliance with local and state regulations demonstrates its ability to operate responsibly and maintain compliance with procedural requirements. The absence of nearby residential or sensitive uses further mitigates potential concerns related to nuisance or negative externalities, thereby reinforcing the suitability of the site for on-site consumption activities.

From a technical perspective, on-site cannabis consumption aligns with regulatory frameworks similar to those governing wineries, breweries, and other value-added processing facilities. These establishments often include on-site consumption components, such as tasting rooms, which are integrated into their business models without adverse impacts on surrounding areas. Implementing similar considerations for cannabis ensures consistency in how value-added facilities are regulated and supports opportunities across various industries.

Moreover, integrating on-site cannabis consumption into the facility's operations enhances the establishment's ability to offer a comprehensive customer experience, comparable to those provided by wineries and breweries and create additional economic resilience for the business.

**General Plan Consistency:** The Economic Development Element of the City's 2040 General Plan contains the following goals and policies that would support consideration of an ordinance amendment to facilitate on-site consumption at cannabis-retailers upon modification or approval of their associated Use Permit:

- **Goal ED-4:** To attract visitors and provide them with the amenities and services to make their stay in Ukiah enjoyable.
- **Goal ED-6:** To maintain a supportive business climate and a healthy economy that leads to the expansion of existing businesses and the attraction of new ones.

- **Policy ED-6.1: Regulatory Environment:** The City shall promote business-friendliness in the regulatory and permitting process through collaboration, innovation, exchange of ideas and best practices.
- **Goal ED-10:** To foster a robust and diversified local economy that provides quality employment and attracts stable businesses.
- **Policy ED-10.4: Local-Serving Retail:** The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Ukiah and provide needed goods and services to residents and businesses.

The proposed project aligns with the City’s intention to encourage and facilitate the development of local-serving retail that is more resilient, in this case from the market fluctuations associated with the cannabis industry, while offering visitors with the amenities and services that makes their stay in Ukiah more enjoyable. Accordingly, Visit Mendocino has identified the cannabis tourism sector as an important area for future tourism and growth.

Finally, it is recognized that on-site consumption considerations are increasingly common across California, and that the County of Mendocino has allowed for on-site consumption with associated retail entities since 2018 with no notable issues, nuisances or concerns. Presently, within the City of Ukiah’s Sphere of Influence (SOI), five (5) cannabis retailers or microbusiness facilitate on-site consumption in conjunction with their business, in addition to one (1) cannabis retailer within the City boundaries. County regulations do not require the discretionary review of cannabis retail or on-site consumption on commercial properties, but rather a Cannabis Facility Business License (CFBL) via a Zoning Clearance from the Departments of Planning and Building Services (PBS) and Environmental Health (EH), as well as conformance with the State’s Business and Professions Code 26200.

**Airport Compatibility:** The project site carries a Zoning Designation of Planned Development (PD) for the Airport Industrial Park (AIP). The purpose of the AIP-PD is to provide for a coordinated development of compatible industrial, office, and commercial land uses within the AIP area. Originally approved by City Council Resolution No. 81-59 on March 4, 1981, the AIP-PD has been amended several times since. Most recently, Ordinance No. 1213, adopted by the City Council on April 7, 2021, amended the AIP-PD to rezone specific parcels. Ordinance No. 1213 supersedes all past versions. However, changes adopted with Ordinance No. 1213 do not affect the Project parcels.

The site is designated Industrial within the AIP-PD. Industrial lands are intended to identify those areas of the General Plan where manufacturing and major employment uses may occur. Examples include large format retail sales, restaurants, light industrial/manufacturing, personal service/repair, professional offices and automotive commercial. The project meets the development standards of the AIP-PD, as an existing facility with no expansion proposed.

## ENVIRONMENTAL DOCUMENTATION

The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303 Class 1, Existing Facilities which “*Consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The types*

*of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.*

*(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances."*

Based on the following, the proposed project is eligible to use this exemption.

- The site is developed with an existing building and parking lot, and utilities and services are already available at the site.
- No expansion of the existing building footprint is proposed as part of the project; and
- The location is not environmentally sensitive and does not include any drainage courses or bodies of water (such as creeks or streams).

## **NOTICE**

Notice of the Public Hearing was provided in the following manner, in accordance with UCC §9264:

- Published in the Ukiah Daily Journal on September 15, 2024;
- Posted on the Project site on September 13, 2024;
- Posted at the Civic Center (glass case) 72 hours prior to the public hearing; and
- Mailed to property owners within 300 feet of the Project parcels, as well as emailed to public agencies having jurisdiction on September 13, 2024.

## **RECOMMENDATION**

Staff recommends that the City of Ukiah Planning Commission:

- 1) Conduct a public hearing; and
- 2) Approve the Major Use Permit to allow for non-retail sales and on-site consumption of 'Cannabis Products' in a designated 'Cannabis Consumption Area – Indoor/Outdoor' on the premises of an existing 'Cannabis-Related Business' in accordance with Ukiah City Code Sections 9262, 9174.2 & 9174.3; 1825 Airport Road; APN 180-110-07.

## **ATTACHMENTS**

1. Draft Findings
2. Draft Conditions of Approval (Redline)
3. Application Materials
4. Agency Referral Responses