



Legislation Details (With Text)

**File #:** 17-679      **Version:** 1      **Name:** SRBZA Dispersa Labs Cannabis Manufacturing  
**Type:** Staff Report      **Status:** Filed  
**In control:** Board of Zoning Adjustments  
**On agenda:** 12/7/2017      **Final action:** 12/7/2017  
**Enactment date:**      **Enactment #:**

**Title:** PLN17-0063; Consideration of a Conditional Use Permit on a pilot basis for a proposed ±7,745 square-foot cannabis product manufacturing facility within an existing industrial building at 1655 Abram Court, zoned IG(S) - Industrial General District (Special Review Overlay District). A Cannabis Product Manufacturing Facility is a conditionally permitted use on the subject property. Alameda County Assessor's Parcel Number 79A-338-1-17; Dispersa Labs, Inc. (applicant) and Zhaoha Feng (property owner).

**Sponsors:** Cynthia Battenberg

**Indexes:**

**Code sections:**

**Attachments:** 1. 01\_Vicinity Map, 2. 02\_Project Description Operation Security, 3. 03\_Trip Gen\_8-15-17, 4. 04\_Noise Assess 8-28-17, 5. 05\_Rec Findings, 6. 06\_Rec Conditions, 7. 07\_Exhibits A-D, 8. 08\_Photos

Date	Ver.	Action By	Action	Result
12/7/2017	1	Board of Zoning Adjustments	Received and Filed	

PLN17-0063; Consideration of a Conditional Use Permit on a pilot basis for a proposed ±7,745 square-foot cannabis product manufacturing facility within an existing industrial building at 1655 Abram Court, zoned IG(S) - Industrial General District (Special Review Overlay District). A Cannabis Product Manufacturing Facility is a conditionally permitted use on the subject property. Alameda County Assessor's Parcel Number 79A-338-1-17; Dispersa Labs, Inc. (applicant) and Zhaoha Feng (property owner).

**SUMMARY AND RECOMMENDATION**

The applicant Dispersa Labs, Inc. (DL) is proposing a ±7,745 square foot cannabis product manufacturing facility on a pilot basis within an existing 13,347 square-foot two-tenant industrial building at 1655 Abram Court, currently a vacant former warehouse distribution space. San Leandro Zoning Code Sections 2-706.B.16 and 4-1640.A require approval of a Conditional Use Permit prior to establishment of a Cannabis Product Manufacturing Facility in the IG Industrial General District.

Staff finds that, with the recommended Conditions of Approval, the proposed cannabis manufacturing use will be appropriate and compatible with adjacent industrial development in the immediate neighborhood. Staff recommends that the Board of Zoning Adjustments:

1. Adopt the California Environmental Quality Act categorical exemptions;
2. Adopt the recommended Findings of Fact; and

3. Approve Conditional Use Permit and Site Plan Review PLN17-0063 subject to the attached recommended Conditions of Approval.

## **APPLICANT'S SUPPORTING STATEMENT**

See attached Applicant Project Description.

## **RELATIONSHIP TO SURROUNDING AREA**

The subject property is zoned IG(S) Industrial General District (Special Review Overlay District), as are the immediate properties to the south, east, and west. Adjacent properties within Abram Court primarily consist of multi-tenant industrial buildings that support uses including warehouses, wholesale businesses, light manufacturing, and the post office. Directly north of the property is zoned IG Industrial General and its current use is the warehouse distribution of seafood.

The subject site at 1655 Abram Court consists of a tenant space within a two-tenant industrial building located on the north side of Abram Court, between Merced Street on the west, and Interstate 880 on the east. The adjacent attached unit (1651 Abram Ct.) located on the same parcel currently houses a business services printing company (B2B Signs and Prints). Both units share a common parking lot.

## **BACKGROUND**

The single-story industrial building, comprising of ±13,347 square-foot building on a 18,465 square foot lot, was originally constructed in 1965. From 1966 to 2011 (45 years), 1655 Abram Ct. was leased to National Abrasives, a warehouse and retail distributor of abrasives, which employed 16 staff. The most recent rental property application lists Expert Xpress as a warehouse tenant starting March 4, 2015, but there is no follow-up business license on record. The proposed unit is currently vacant.

On June 19, 2017, the City Council authorized a pilot program to allow consideration of up to five Conditional Use Permits for non-retail cannabis product manufacturing, as permitted by state law and procedurally codified in Title 5, Chapter 6 of the San Leandro Administrative Code. The program took effect on August 16, 2017 and allows for any type of cannabis product manufacturing, including edibles, infusions, packaging, and both non-volatile (Type 6) and volatile (Type 7) extracts. This application is the first that the City has received for the cannabis manufacturing pilot program; no additional applications for cannabis manufacturing have been submitted as of the time of the filing of this report.

Dispersa Labs, Inc. (DL) is a biotech startup that develops inhalation products based on engineered dry powders. The company was conceived in 2014, formally incorporated in the state of Delaware in 2016, and received a certificate of qualification to transact intrastate business in California on August 21, 2017. The applicant will operate under a wholesale business model, manufacturing its product to supply to medical dispensaries with Type 11 licenses in the Bay Area, and over time, across California. DL's cannabis product manufacturing facility in San Leandro would be its first.

## **DETAILS OF THE PROPOSAL**

Dispersa Labs is requesting a Conditional Use Permit to operate a new cannabis product manufacturing facility at 1655 Abram Court. The concurrent State Cannabis license would fall under

Type 6 Manufacturer 1 for non-volatile extractions. The specific cannabis product is a dry powder inhaler (DPI) system for cannabinoids that is designed “to enhance the therapeutic benefits and experience of cannabis by making dosing and timing of activation more predictable, safer, and more discreet.” The cannabis concentrates used in the manufacturing process will be sourced from licensed extractors and manufacturers. No plant extraction equipment is used. The applicant introduced their proposed product to the City Council during public comments at the April 24, 2017 work session on cannabis regulations and is the first business to participate in the cannabis manufacturing pilot program.

DL is proposing to occupy ±7,745 square feet of interior tenant space, including an indoor loading area. Of the 7,745 square feet of space, approximately 4,790 square feet (62%) would be used for manufacturing; the remaining 2,105 square feet (27%) would be office and 850 square feet (11%) for loading.

All exterior access doors as well as the emergency exit are proposed to be well-lit and equipped with door alarms and a call-up monitor operated by security personnel and biometric key fob. The applicant has prepared detailed operations and security plans (attached Applicant Security Plan) and has stated that the entire facility and site will be equipped with a surveillance system with remote viewing, interior area access control, and use of seed-to-sale software designed for inventory control in the cannabis industry. A layered security system designed to deter diversion and theft during transport of cannabis products to and from dispensaries will be in use and includes GPS asset tracking technology.

The hours of operation would be Monday through Friday, 8:00 am to 5:00 pm. The facility would employ 5 to 6 staff, including a security manager who is responsible for training staff and will serve as the primary contact and liaison to law enforcement officials and emergency providers. As a manufacturing facility, DL anticipates few visitors and the building will have no signage indicating its use.

## **STAFF ANALYSIS**

A Cannabis Product Manufacturing use is conditionally permitted use within the IG Industrial General Zoning District. This is to ensure that cannabis product manufacturing uses are evaluated on a case-by-case basis and that the Board of Zoning Adjustments has the ability to place Conditions of Approval in order to deem the use adequate and appropriate with the surrounding area. Cannabis manufacturing uses must comply with special findings for approval under Zoning Code 4-1640. Staff has found the proposed use meets all of the required findings necessary for approval.

### Building

The DL facility is located within an existing industrial warehouse building and meets requirements for lot size, width, height, setbacks, floor area ratio (FAR), and coverage. The single-story building has one main entrance, a secure loading bay, and exits used for emergency exit only; there are no side or rear yards and no outdoor loading or storage areas that need to be visually screened.

Tenant improvements are proposed to the existing building, which will ensure that the aging building is maintained through façade and interior enhancements. Interior perforated metal roll-down shutters covering the glazed main entrance and front windows will be in use during non-operating hours.

## Surrounding Area

The proposed manufacturing facility is isolated from residential, educational, childcare, recreational, and community areas by major roadways (Marina Boulevard, Merced Street, Williams Street) and Interstate 880. Sensitive land uses, such as day cares, schools, and open spaces, are all located greater than a half mile drive from the proposed cannabis manufacturing facility, with those in closest proximity located across Interstate 880.

Abram Court is not in an Underground Utility District and therefore not required to underground utilities along their frontage. Additionally, the application primarily consists of tenant improvements to an existing facility and therefore would use utility connections that are already in place.

## Odor / Noise

The proposed manufacturing facility does not operate extraction units; as a result, no nuisance odors are likely to be transmitted in the manufacturing process and any exhaust will be filtered to meet emissions regulations.

A noise assessment conducted by Charles M. Salter Associates, Inc. dated August 28, 2017 finds that the proposed new packaged air-handling rooftop units and interior equipment serving Dispersa Labs will likely have no negative impact on neighboring residential properties and no additional noise control measures would likely be required.

## Site Improvements

The proposal includes a series of site upgrades that will ensure that the facility is compatible with surrounding uses. Site improvements include new parking lot striping to meet accessibility requirements, a 3-foot aluminum slatted mechanical screen on the roof, 105 square feet of landscaping where there is currently none, and 331 square feet of vertical green wall on the building façade. The configuration of the parking lot limits landscaping to low drought-tolerate succulents and two small garden trees; the proposed vertical green wall will contain flowering vines and shrubs.

In addition to the proposed security features (see attached Applicant Security Plan), the following conditions are applied to the proposed alarm and security system:

- Automatic electronic alarm, lighting, and a 24/7 video monitoring system shall cover the entire building and shall be capable of producing retrievable videos and images, where the records are able to be enlarged and used to assist with law enforcement.
- The security monitoring system shall be capable of identifying all vehicles entering and leaving the parking lot areas of the property, as well as all individuals entering and leaving the manufacturing facility.

Existing lighting includes building mounted lights on the front of the building, above the main entrance awning and above the loading garage door. Detailed plans for new lighting for the site are conditioned as part of the building permit plans, subject to the review and approval by the Zoning Enforcement Official and the Engineering and Transportation Department.

## Parking

Eleven off-street parking spaces are provided on site and sufficient to accommodate the proposed 5 to 6 employees of the cannabis manufacturing lab, shared with the adjacent tenant, which is currently a business services-printing use with 3 employees. Although the proposal reduces the number of parking stalls from 12 spaces to 11 spaces, this is a necessary modification in order for the legal nonconforming parking lot to meet current ADA accessibility standards.

Delivery vehicles are conditioned to use the secure indoor loading area and prohibited from parking in the surface parking lot. The project has been conditioned to reserve the parking space closest to the loading entrance for employee use only, not by visitors, to maintain access to the secure loading bay. The site has also been conditioned to prohibit any fencing that would reduce the number of parking spaces.

### Traffic / Circulation

A trip generation analysis conducted by Hexagon Transportation Consultants, Inc. dated August 15, 2017 estimated a total of 5 trips during the AM peak hour and 5 trips during the PM peak hour, generating a net increase of 3 trips compared to the existing warehouse use. The net increase in trip making due to this project is deemed negligible and no further traffic analysis is necessary. Additionally, the proposed use employs less than half the number of staff compared to the previous warehouse/retail use (6 vs. 14) and is not expected to increase trip generation from the property.

The Alameda County Fire Department and the City of San Leandro Engineering staff have reviewed the proposed parking configuration and find it acceptable for emergency vehicle requirements and regular traffic access and transit requirements.

### Conditionally Permitted Use

The CUP authorizes the cannabis product manufacturing facility to manufacture, process, and package products derived from or infused with cannabis for wholesale or retail to cannabis dispensaries or other cannabis product distributors and manufacturers as allowed by State law. The CUP does not include the cloning, planting, or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of manufactured cannabis products to the public. The applicant shall obtain the necessary permits to operate the cannabis product manufacturing facility in the City of San Leandro, including a San Leandro Business License and all necessary permits required under State law or regulations.

The applicant estimates that approximately 1 kg (2.2 lbs.) of cannabis concentrate would be sufficient for 1 month of production, which reduces the security risks related to delivery, storage and transportation. The consumption of cannabis would not be permitted on premises nor in the public right of way in the immediate and surrounding neighborhood. Any changes to the operation of the cannabis product manufacturing facility is conditioned to require application for a modified Conditional Use Permit.

The cannabis product manufacturer shall be responsible for providing City law enforcement officials with an up-to-date staff roster and emergency contact information, and shall notify the City within 15 days of when changes are made. All visitor logs shall be made available to City law enforcement officials upon request. The City maintains the ability to review or revoke this permit and set a new public hearing date to correct programs that may arise related to maintenance, parking, public safety,

code violations, and nuisance issues. In addition to the requested Conditional Use Permit, the applicant will also be required to maintain licensure from the State of California.

With the incorporation of the recommended Conditions of Approval and adherence to the California Health and Safety Code regulations, California Attorney General Guidelines, and San Leandro Administrative Code, staff is able to recommend Board approval of the project based on the attached Findings of Fact.

## **GENERAL PLAN CONFORMANCE**

The General Plan designates this site within the General Industrial area, which permits “a wide range of manufacturing, transportation, food and beverage processing, technology, warehousing, vehicle storage, office-flex, and distribution uses,” subject to performance standards to avoid adverse off-site effects.

The specific proposal by Dispersa Labs features office and manufacturing use and would operate similar to other industrial manufacturing uses in a space that was formerly used to store abrasive products and cutting tools. Thus, the adaptive reuse of the existing industrial warehousing space to accommodate the cannabis manufacturing lab is conditionally compatible at this site and the use will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the area.

The following General Plan goals, policies, and actions are applicable to the proposed project:

**Goal LU-7:** Innovation Districts. Sustain dynamic innovation districts which place San Leandro on the leading edge of the Bay Area's manufacturing and technology economy.

**Policy LU-7.1:** Leveraging Locational Assets. Build on the locational strengths and transportation features of San Leandro's industrial area to support the area's continued development as a major advanced manufacturing, technology, and office employment center.

**Policy LU-7.2:** Adaptive Reuse. Encourage private reinvestment in vacant or underutilized industrial and commercial real estate to adapt such property to changing economic needs, including the creation of flex/office space and space for technology-driven businesses.

**Action LU-10.6:** Conditions of Approval. On an ongoing basis, establish conditions of approval for new commercial and industrial development located adjacent to residential areas, and for new residential areas located adjacent to commercial and industrial areas, which ensure that the potential for future conflict is minimized.

## **ENVIRONMENTAL REVIEW**

The Board of Zoning Adjustments finds that this item (PLN17-0063) is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15301 (a) as interior and exterior alterations to an Existing Facility.

## **PUBLIC OUTREACH**

This item received noticing for the December 7, 2017 Board of Zoning Adjustments hearing, including

a legal advertisement in the East Bay Times Daily Review newspaper, the posting of notices at City Hall and on the property, and mailing notification to business and property owners within 500 feet of the subject property. Public comments received by email and mail prior to the publishing of this packet are attached.

## ATTACHMENTS

1. Vicinity Map
2. Applicant Project Description, Operating Plan, Security Plan
3. Trip Generation Analysis, dated August 15, 2017
4. Noise Assessment, dated August 28, 2017
5. Recommended Findings of Fact
6. Recommended Conditions of Approval
7. Exhibits A-D
  - Exhibit A - Site Plan, dated October 30, 2017
  - Exhibit B - Floor Plan, dated October 30, 2017
  - Exhibit C - Elevations, dated October 30, 2017
  - Exhibit D - Landscape Planting Plan, dated October 30, 2017
8. Photographs of Existing Site Conditions
9. Public Comments Received

### PREPARED BY:

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