

# Planning Staff Analysis

**S24-0004 / Advanced Microbial Solutions (Dakota)**

**City Council District 3**

## **REQUEST:**

Specific Use Permit (SUP) to allow for a High-Impact Manufacturing use on approximately 9.5 acres of land. The subject property is zoned Heavy Industrial (HI). The High-Impact Manufacturing use is an allowed use with an approved Specific Use Permit.

## **OWNER:**

Corbin Realty I, LP

## **APPLICANT:**

Jesse Copeland with Winstead

## **STAFF RECOMMENDATION:**

Staff recommends **approval** of the SUP request with the following conditions:

1. The zoning map shall reflect the Specific Use Permit on the property consistent with the DDC.
2. Maintain compliance with the Texas Multisector Storm Water General Permit and update the certification every 5 years or as required by Texas Commission on Environmental Quality. Documentation shall be provided to the City upon request demonstrating compliance.
3. The chiller shall be relocated outside of the floodway and the 100-year floodplain within three months of the SUP effective date. Additionally, all mechanical equipment shall be located outside of the floodway and the 100-year floodplain.
4. Outdoor storage is not permitted within the floodway and 100-year floodplain. Therefore, all outdoor storage, including tractor trailers, shall be removed within three months of the SUP effective date and not stored in the floodway and floodplain.
5. All stored hazardous chemicals shall be located inside the buildings only. Outdoor storage tanks shown on the plans are not permitted to hold hazardous materials. If the quantity of hazardous materials increases to above the amounts provided for in the DDC 5.3.2D.1, an amendment to this SUP shall be required.
6. Any hazardous chemicals stored onsite shall require approval from the Fire Department prior to storage commencing, including obtaining any necessary permits.
7. Maintain a spill response team that entails staff training at least once a year to review Standard Operating Procedures. Documentation shall be provided to the City upon request demonstrating compliance.
8. Prior to any manufacturing or processing wastewater discharge being connected to the City's wastewater collection system, building permit plans shall be submitted to the City for review and approval and issuance of applicable wastewater discharge permit.

**SITE DATA:**

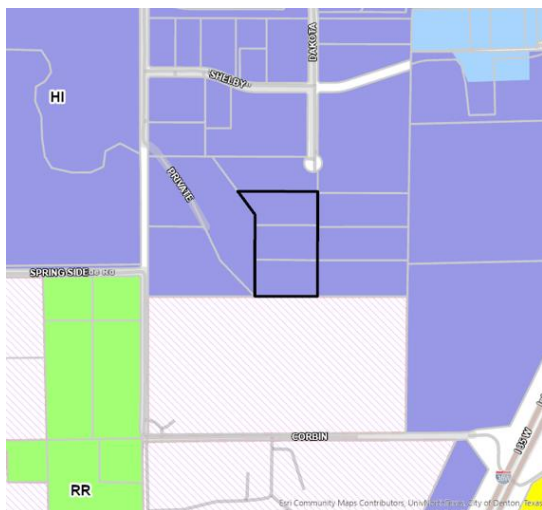
The subject property, an approximately 9.5-acre site platted as three separate lots, is currently developed with three buildings and parking areas (see inset maps below and provided as Exhibits 3 and 5). There is Zone A floodplain and floodway located on the southern portion of the property, which appears to have the characteristics of Undeveloped Floodplain ESA.

The subject property has access through a public access easement extending south from Dakota Lane. Access in and out of the site will be through the existing public access easements. See Exhibit 7 – Existing Site Plan.

Two gas wells were previously developed on the subject property in between the two southernmost buildings. Both wells are currently plugged.

**SURROUNDING ZONING AND LAND USES:**

<p><b>Northwest:</b></p> <ul style="list-style-type: none"> <li>• Zoning: Heavy Industrial District (HI)</li> <li>• Use: Industrial – Warehousing</li> </ul>	<p><b>North:</b></p> <ul style="list-style-type: none"> <li>• Zoning: HI</li> <li>• Uses: Industrial – Light Manufacturing</li> </ul>	<p><b>Northeast:</b></p> <ul style="list-style-type: none"> <li>• Zoning: HI</li> <li>• Use: Trade School</li> </ul>
<p><b>West:</b></p> <p>Zoning: HI</p> <ul style="list-style-type: none"> <li>• Use: Industrial – Automotive Repair, Major</li> </ul>	<p><b>SUBJECT PROPERTY</b></p>	<p><b>East:</b></p> <ul style="list-style-type: none"> <li>• Zoning: HI</li> <li>• Use: Industrial – Warehousing and Distribution</li> </ul>
<p><b>Southwest:</b></p> <ul style="list-style-type: none"> <li>• Zoning: HI</li> <li>• Use: Undeveloped</li> </ul>	<p><b>South:</b></p> <ul style="list-style-type: none"> <li>• Zoning: ETJ (Non-Annexation Agreement)</li> <li>• Use: Undeveloped floodplain and gas well site</li> </ul>	<p><b>Southeast:</b></p> <ul style="list-style-type: none"> <li>• Zoning: HI and ETJ</li> <li>• Use: Undeveloped</li> </ul>



## CONSIDERATIONS:

A. Section 2.4.5E of the Denton Development Code (DDC) provides approval criteria applicable to all applications.

1. *General Criteria*

a. *Unless otherwise specified in this DDC, City review and decision-making bodies must review all development applications submitted pursuant to this subchapter for compliance with the general review criteria stated below.*

The general criteria have been applied.

b. *The application may also be subject to additional review criteria specific to the type of application, as set forth in sections 2.5 through 2.9.*

Section 2.5.2D of the DDC applies to Specific Use Permit (SUP) requests. An analysis of this request per those criteria can be found below in Consideration B.

c. *If there is a conflict between the general review criteria in this section and the specific review criteria in sections 2.5 through 2.9, the applicable review criteria in sections 2.5 through 2.9 controls.*

There are no conflicts between the general criteria and the criteria specific for Specific Use Permit requests.

2. *Prior Approvals*

The proposal is consistent with the approved final plat.

3. *Consistent with the Comprehensive Plan and Other Applicable Plans*

*The decision-making authority:*

a. *Shall weigh competing goals, policies, and strategies.*

The proposed Specific Use Permit is consistent with the goals, policies, and actions of the Comprehensive Plan and with the Future Land Use designation of Industrial Commerce (see inset map below and in Exhibit 4), including the goals and actions listed below:

GOAL FEV-2: Improve the City's job-to-worker ratio by increasing the number of jobs available to the resident workforce and local graduates.

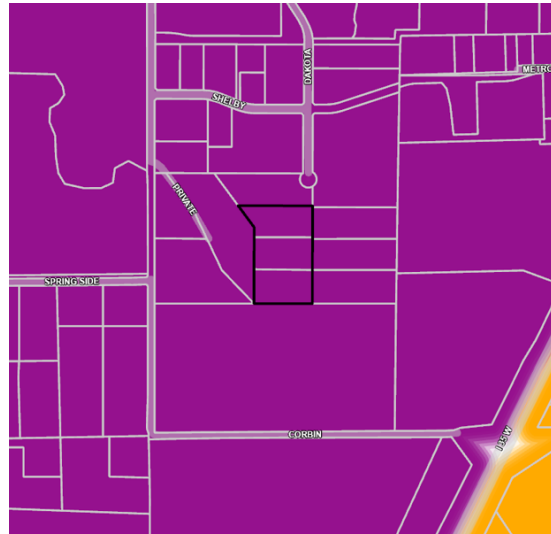
GOAL LU-3: Grow our Assets: Maintain and Strengthen Neighborhoods, Commercial, and Employment Areas.

The applicant's requested use is consistent with the overall goals of the Denton 2040 Comprehensive Plan to provide for a robust and diverse economy and increase jobs within Denton by keeping an existing manufacturing business in Denton, which aligns with Goal FEV-2 cited above. Additionally, the proposal would allow for the continued use of existing industrial buildings in one of the primary areas of the City intended for heavy industrial uses where infrastructure to support the use is already in place. Given the surrounding zoning pattern and the proximity of other industrial uses, the potential

for any nuisance or compatibility issues to arise from the continuation of this use are limited. The proposed use is consistent with the existing industrial uses in this area.

- b. *May approve an application that furthers the overall goals of the Comprehensive Plan even if the development does not match the future land use designation in the Comprehensive Plan.*

The High-Impact Manufacturing use conforms to the Future Land Use Element of the Denton 2040 Comprehensive Plan.



Per the Future Land Use Map in the Denton 2040 Comprehensive Plan, the subject property is designated as Industrial Commerce (see image above and provided as Exhibit 4). The description for the Future Land Use designation is provided below:

Industrial Commerce applies to areas where the predominant uses include both light and heavy industrial uses, such as moderate to heavy manufacturing, assembly, fabrication, and wholesaling. Distribution warehouses may be included in this designation if used to replace underutilized and heavy industrial uses, or if ultimately reused to house future industrial development. This designation is located primarily west of I-35W near the Denton Municipal Airport. It is important in future development that transitions to adjacent sensitive land uses are considered.

The proposed manufacturing business consists of a High-Impact Manufacturing use, which includes accessory uses such as outdoor storage and distribution of finished product. The use contributes to the mix of industrial uses in the area and will contribute to the City's economic vitality as envisioned by the Denton 2040 Comprehensive Plan.

The High-Impact Manufacturing use is consistent with the Industrial Commerce Future Land Use designation which includes heavy manufacturing and fabrication, and which is predominantly encouraged in the western part of the City around the airport where more sensitive uses such as residential are prohibited or discouraged. There are no sensitive land uses located adjacent to the subject site as this is a developed industrial area with a mixture of existing industrial uses.

4. *Compliance with this DDC*

- a. *The proposed development shall comply with all applicable standards in this DDC, unless the standard is to be lawfully modified.*

As previously noted, the subject property is already developed and the buildings are in use, and alteration and expansion of the existing buildings and parking are not proposed as a part of this SUP. Therefore, the subject property is not required to be brought into compliance with current development standards for the buildings to continue operations for this use. If the subject Specific Use Permit request is approved, should a future expansion or alteration of the buildings or parking areas on their respective individual lots trigger compliance with the DDC, subsequent development on the individual lots being affected will comply with applicable standards in the DDC, including, but not limited to, minimum lot size and dimensions, building coverage, access, parking, tree preservation, ESA requirements, and landscaping.

- b. *Compliance with these standards is applied at the level of detail required for the subject submittal.*

The subject property contains three existing buildings on three separate lots. As discussed previously, expansions, modifications, or alternations to the structures or site conditions in the future, on the respective individual lot, would require compliance with the Denton Development Code. No building expansions or site modifications for any of the three lots are being proposed with this Specific Use Permit request.

5. *Compliance with Other Applicable Regulations*

This proposed request complies with all other applicable regulations. Specifically, due to the nature of the proposed use, the applicant provided evidence as part of the SUP review process that the user has developed an emergency response plan and a spill response plan, as required by federal regulations enforced, respectively, through the Occupational Safety and Health Administration and the Environmental Protection Agency. As noted in the recommended conditions, the user will also be required to comply with state storm water permitting requirements, proof of which would be required to be provided to staff upon request.

6. *Consistent with Interlocal and Development Agreements*

There are no interlocal or development agreements for the subject site.

7. *Minimizes Adverse Environmental Impacts*

There is Zone A floodplain and floodway located on the property, which appears to have the characteristics of Undeveloped Floodplain ESA. If future building or site alterations are proposed that require DDC compliance, a full review of all site conditions would occur at that time, including the Environmentally Sensitive Areas Compliance Review.

The applicant has several safety procedures in place as a part of their existing operations to minimize any potential environmental impacts, including the practices described below which are further detailed in the applicant's narrative and shown on the plan (Exhibits 6-8):

- All hazardous materials are stored inside the building, creating a limited opportunity for environmental exposure. This limitation on the location of hazardous materials storage is recommended as a condition of the SUP to ensure that this practice continues in the future.
- Safety measures are in place relating to the storage of hazardous material. Each facility manufacturing floor includes trenching intended to contain any spills inside the building. Small spills inside the building on the manufacturing floor would be cleaned up manually or with a floor scrubber. Two Vacuum Pumps are stored on site at 5071 Dakota Lane and available to address any larger spills. After containing any spill, the material would be disposed of utilizing a licensed HazMat disposal company as is called for in the company's emergency response plan.
- Waste totes (empty totes that previously held ingredients for production or the finished product) are stored on-site until picked up by a third party for recycling.
- Tanker wagons, box trucks, powered lift vehicle (forklifts), and flexible piping are used to transfer materials between buildings.
- Special chemical handling procedures have been standardized for specific chemicals.
- Outdoor storage is limited to the finished product, which is nonhazardous and contains 99% water and less than a 1% microbial consortium.
- Outdoor storage tanks are appropriately constructed for the product and hazard rating.
- The potential for environmental exposure transfer of the finished product from the manufacturing facility to the outdoor storage tanks is further limited through the use of piping system. This will eliminate the opportunity for accidental spills.

The applicant has demonstrated compliance with all applicable environmental regulations:

- The manufacturing floor currently has no plumbing connections to the City's wastewater collection system. A condition of the Specific Use Permit directs the business to apply for any applicable pretreatment permits regarding discharges to the wastewater collection system prior to making any connections should they choose to do so in the future.
- Certain types of industries are required to demonstrate stormwater runoff from the facility does not pose a risk to the environment. All acceptable practices to prevent stormwater pollution are regulated by the TCEQ through a Stormwater Multi-Sector General Permit. Because this manufacturing facility performs all manufacturing inside the building, the facility currently maintains a No Exposure Certification under this permit. In accordance with the recommended conditions of this Specific Use Permit, Advanced Microbial Solutions shall notify the TCEQ upon proposing any changes to the manufacturing processes that may change coverage under the permit and provide proof of compliance to the City upon request.
- In accordance with the adopted regulations of the Denton Fire Marshall's Office, upon approval of the Specific Use Permit, the applicant must also apply for a Hazardous Materials Permit.

#### 8. *Minimizes Adverse Impacts on surrounding Property*

The proposed High-Impact Manufacturing use is not expected to have an adverse impact on surrounding property. The existing land use pattern in the surrounding area consists of a mixture of other industrial uses and this use is compatible with this land use pattern.

9. *Minimizes Adverse Fiscal Impacts*

The proposed High-Impact Manufacturing use will not have an adverse fiscal impact. A Fiscal Impact Summary has been completed and is provided in Exhibit 9. This summary report indicates that the industrial use would have a positive net impact on the City's General Fund.

10. *Compliance with Utility, Service, and Improvement Standards*

The subject property is already developed and the applicant is not proposing any site changes to any of the three lots that make up the subject property. Utilities are in place and available to continue to serve the site.

11. *Provides Adequate Road Systems*

The subject property is already developed and is not required to make changes to adjacent roads or access easements.

12. *Provides Adequate Public Services and Facilities*

The proposed High-Impact Manufacturing use will not affect public services and facilities within the area, which has been developed to serve this sort of use.

13. *Rational Phasing Plan*

The project does not have a phasing plan.

B. Section 2.5.2D of the DDC states that in reviewing a proposed SUP, the Planning and Zoning Commission and City Council shall consider the general approval criteria in Subsection 2.4.5E and whether:

1. *The specific use proposed is compatible with the surrounding area;*

As described above, the proposed High-Impact Manufacturing use is compatible with the surrounding area. The existing land use pattern in the surrounding area is a mixture of mostly industrial uses and one trade school (Northwest Linemen College). The type of traffic, noises, lighting, etc. associated with this use that could create potential nuisances in areas with more sensitive uses are consistent with other industrial uses in the area. As discussed in Exhibit 1, this use has been in place on the southern portion of the subject property for many years, so continuation of the use and expansion of their operation into other buildings through the companion project S24-0003 is not anticipated to lead to any incompatibilities with the surrounding area.

2. *The specific use proposed has negative impacts on future development of the area; and*

The proposed High-Impact Manufacturing use is anticipated to have no negative impacts on future development of the area. As previously discussed, the surrounding area is already developed with buildings and uses that are generally compatible with the proposed use.

3. *Any impacts associated with access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, and odor have been adequately mitigated.*

The subject property has already been developed and will not have any unmitigated negative impacts. The type of traffic, noises, lighting, etc. associated with this use that could create any potential negative impacts are consistent with other industrial uses in the area. Furthermore, this use is currently operational and has not had a negative impact on emergency services. Fire, in their records that date back to 2020, has been called to the subject property only once for a fire alarm malfunction. Continuation of existing operations and expansion into the site at the corner of Shelby Lane and Dakota Lane (S24-0003) is not expected to create any further impacts.