



# County of Sonoma

## State of California

Date: TBD

Item Number: \_\_\_\_\_

Resolution Number: \_\_\_\_\_

4/5 Vote Required

**Resolution of the Board of Supervisors of the County of Sonoma, State of California, Adopting a Mitigated Negative Declaration and Granting a Use Permit to Terra Luna Farms LLC and J. Erich Pearson for 43,560 square feet of outdoor cultivation and 10,890 square feet of propagation, and Transportation-Only Distribution, on a 158.85-acre property located at 12201 Hwy 12, Glen Ellen, CA 95442, APN 053-100-016**

**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 August 24, 2017, the applicant Terra Luna Farms LLC submitted an application to approve 43,560 square feet of outdoor cannabis cultivation under the Penalty Relief Program. The application, for the subject site at APN 053-100-016, was approved and the applicant remains in good standing.
- 1.2 On August 30, 2017, a Use Permit application was submitted to legalize 43,560 square feet of outdoor cultivation. Due to the requirements of the Penalty Relief Program, the application was accepted and deemed incomplete.
- 1.3 On May 22, 2018, the applicant submitted a revised application package to reflect proposal changes due to damages from the 2017 Nuns Canyon fire. The main change included the relocation of the outdoor cultivation on the same parcel, roughly at the same distance from the front property line and about 200 feet to the north.
- 1.4 On November 12, 2018, the application was amended to request up to 10,890 square feet of propagation and vegetative area within temporary structures within the project’s secured fenced area.

- 1.5 On February 15, 2019, the application was amended to request a 5-year permit term.
- 1.6 On June 18, 2019, the application was amended to add PARC Holding Company LLC as an additional owner.
- 1.7 On December 17, 2019, the Board approved the Cannabis Ad Hoc Committee’s request for the Board of Supervisors to exercise original jurisdiction over 19 applications, including the Proposed Project.
- 1.8 On December 17, 2021, the application was deemed complete for processing.
- 1.9 On June 20, 2022, the application was amended to establish Terra Luna Farms LLC as the project applicant and J. Erich Pearson as operator.
- 1.10 A Mitigated Negative Declaration (“MND”) was prepared for the Project, and on or about September 9, 2022, the MND was posted and made available for agency and public review in accordance with the California Environmental Quality Act (“CEQA”) and the State and County CEQA Guidelines. The study found that all environmental impacts could be mitigated to a less than significant impact with incorporation of mitigation measures that have been included in the project’s Conditions of Approval.
- 1.11 On October 18, 2022 the Board of Supervisors conducted a duly noticed public hearing on the MND 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 MND, and the Proposed Project and by a majority vote, found the MND had been prepared in conformance with CEQA, approved the MND, and approved the Proposed Project (“the Project”), subject to the conditions of approval imposed herein.
- 1.12 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 MND 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 MND, all comments, testimony, letters, and reports regarding the MND, 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 MND, 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. The Board further finds that the MND reflects the Board's independent judgment and analysis.

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. Changes or alterations have been required in, or incorporated into, the Project through the mitigation measures and conditions of approval imposed herein that avoid or substantially lessen all potentially significant environmental effects of the Project. These changes or alterations have been agreed to by the applicant.

2.3 The Board finds that the MND has been completed in compliance with CEQA and that the MND adequately and fully describes and evaluates the changes or alterations to the Proposed Project that have been requested as part of the Project.

2.4 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. Odor**

The outdoor cultivation operation would generate odors during the last weeks of the growing season prior to harvest, typically between the months of July and October. These odors have been shown to dissipate through the use of natural buffers (such as vegetation and topography) and distance. Further, these odors are considered subjective and would be "objectionable" based on proximity to, and familiarity with, the odors associated with flowering cannabis and its cultivation.

The location of residences in relation to the outdoor cultivation site includes one single-family residence 475 feet to the north-west, with other residences over 650 feet away on the west side of Highway 12. The Project parcel is heavily screened by existing vegetation that survived the 2017 Nuns Fire, including oak woodlands and annual grasslands, and includes no construction or activities that would result in the need for tree removal or clearing that is not related to a Fire Safety condition of approval for vegetation management. This distance also conforms to the Cannabis Ordinance minimum setbacks, which were designed specifically to reduce odor impacts. In addition, the Project is approximately 600 feet away from Highway 12, a major roadway, which generates fluctuations in airflow that assist in disbursing strong odor plumes. Further, emissions associated with vehicle traffic along Highway 12 can intermix with cannabis odors, thereby lessening their overall concentration in a given area.

As the operation has been in Penalty Relief, cultivation has been occurring since at least May of 2017, and since that time the county has received one recorded odor complaints from

community members in proximity to the Project and in regards to the ongoing cultivation on the parcel. Therefore, there is no evidence to indicate that the natural vegetation, distance to nearby residences, and airflow and emissions from Highway 12 would not lessen the continued and potential odor impacts from the Proposed Project. As a result, the Board finds that there is no fair argument that the impacts may be significant.

#### **b. Biological Resources**

A Biological Assessment was prepared for the Project site to identify special-status plant and wildlife species and sensitive habitats (including wetlands) that have the potential to occur on or in the vicinity of the Project site (Wiemeyer Ecological Sciences, May 2018). The Biological Assessment determined that the on-site grasslands and ruderal habitat were most likely due to the historical and current agricultural practices, as well as disturbance caused by the 2017 Nuns fire, and do not support, or cause subsequent impacts to, special-status plant or animal species. The cannabis cultivation site exists on an existing, disturbed area of the parcel and would not require the removal of further habitat for the construction of additional structures to serve the operation.

The study identified and evaluated nine special-status plant species and fourteen special-status animal species that were likely to occur on the Project site or in the vicinity thereof, and could be impacted by the Proposed Project. All of the identified species were determined to have no or low potential for occurrence on the Project site due to the lack of suitable habitat. Further, during the study no special-status plant or animal species were observed. However, the site could contain habitat suitable for several special-status animal species including the Grasshopper Sparrow, Shark-Shinned Hawk, Purple Martin, and roosting bats, all of which could have nesting disturbed by minor construction for grading and roadway enhancements for the Project. Mitigation Measure BIO-1 would require either avoidance of construction activities during nesting season or the performance of a survey by a qualified biologist before commencement of ground disturbance. With the addition of this mitigation measure, there is no fair argument that the Proposed Project may cause a significant effect to biological resources.

#### **c. Hydrology**

Water for the outdoor cultivation will come from an onsite well that will also serve the nearby cultivation operations, located on the adjacent parcels (UPC19-0002 and PLP17-0040). The Project is located in a Class 3 – Marginal Groundwater area and is not located within a Medium or High Priority Point basin as defined by the Sustainable Groundwater Management Act (SGMA).

A hydrogeologic assessment is required by the County for Projects located in Class 3 and Class 4 groundwater areas to address impacts under CEQA. Such a report was submitted by PJC and Associates on August of 2017, and subsequently amended three additional times based on feedback from Permit Sonoma hydrogeologist Robert Pennington. The report was ultimately deemed to be well documented and supported the findings. The scope of the study focused on the cumulative impacts from the water demand of the subject well for the Project and the nearby cannabis uses to the south (UPC19-0002) and south east (PLP17-0040).

Water would be drawn from the well and placed into a 150,000 gallon storage tank and distributed to the cannabis operation during the approximately six month outdoor cultivation season. The study from PJR and Associates used streamflow data for Calabazas Creek collected by the Sonoma Ecology Center (SEC) and well pump data from the adjacent well to accommodate a water demand estimated at 4.5-acre feet per year. The estimated demand from the three cultivation parcels, as well as other parcels within 1500 feet, represent the cumulative impact area (CIA). The total estimated annual water use for cannabis cultivation in the CIA supported by the well is 4,138,307 gallons, which is approximately 12.7 acre-feet of water per year; the water use estimate for the proposed project site is 1,466,328 gallons (4.49 acre-feet). Irrigation will be done using a high efficiency drip system early in the morning to reduce evaporation, and irrigation valves will be moisture meter-controlled to limit irrigation to what the plants need. Each plant is estimated to use between 0.22 and 0.67 gallons of water per day. This variation in water need is caused by the seasonal change in the plant's vegetative growth. The water use estimated in the CIA for cannabis cultivation, domestic water use, vineyard irrigation, and livestock is 122.0 acre-feet per year. Groundwater recharge was estimated at 233 acre-feet per year with a total groundwater storage of 3,240 acre-feet, indicating that under a scenario of maximum development within the CIA, approximately 52% of the groundwater recharge and less than 4% of the groundwater storage would be used.

In addition, estimated streamflow values and depletion after six months of project pumping would be estimated to reduce streamflow levels for Calabazas Creek by approximately 6.7%, which the report concluded was negligible and unlikely given separation from the Project well to Calabazas Creek. Given the negligible impact to groundwater reserves and nearby creeks, the Proposed Project would not result in a net deficit in aquifer volume or a lowering of the local groundwater table. Impacts to groundwater resources are further mitigated by conditions of approval. As a result, the Board finds there is no fair argument that the Proposed Project may cause a significant effect to groundwater resources.

#### **d. Transportation**

An estimated 15 employees would serve the Project, five of which would be seasonal during outdoor harvest. A Traffic Impact Study was submitted by W-Trans to examine the potential impacts from increased vehicle trips to and from the Project cultivation site, and studies these impacts in tandem with the associated cultivation on the parcels located to the south (UPC19-0002) and south east (PLP17-0040). The traffic impact for the Proposed Project is estimated to be 45 Average Daily Trips (ADT) during peak harvest, and cumulatively the combined impact of all three Projects is estimated as 109 ADT. These trips were analyzed using a Level of Service (LOS) model to estimate vehicle volume at the main access point for the combined projects, the intersection of Trinity Road and Highway 12. The analysis found that under both existing and future conditions, the increased vehicle traffic associated with the combined Projects would generate a delay of less than 5 seconds during the peak pm hours, which would constitute a less than significant impact. Further, it found the entrance to the Project on Trinity Road to have adequate sight lines for oncoming traffic based on current speeds, and the existing transit facilities to be adequate to serve the Project. Given the less than significant impact to both the

individual and cumulative impacts of the Project, and the adequate access for vehicle and public transit, there is no fair argument that the Proposed Project may cause a significant impact to transportation.

### **Section 3. General Plan, Planning and Zoning Compliance**

#### **3.1 General Plan Consistency.**

The Project is consistent with the General Plan land use designation of Land Intensive Agriculture, and the goals, objectives, policies, and programs of the General Plan. The Project is consistent with policies for enhancing and protecting lands capable of and generally used for animal husbandry and the production of food, fiber, and plant materials, and with General Plan objectives LU-8.1, 8.3, 9.4, 10.1, and 11.1(b) and the policies for the Land Intensive Agriculture Area.

Cultivation of cannabis preserves the site in its current state, and the existing traditional agricultural uses will continue to operate, including the current cattle grazing and vineyard separate from the cannabis operation. The Project will utilize an existing barn for storage of tools used for the operation, install two temporary hoop houses for propagation and cultivate within a fenced 2.2-acre area that was previously developed and/or destroyed with the 2017 Nunes Fire. The Project will be located outside Riparian Corridors, and the cultivation area will be located approximately 600 feet from the public right-of-way. The site and surrounding is characterized by intervening topography and landscaping that would screen operations from the public right-of-way of Highway 12, a scenic corridor. The groundwater reports concluded that the groundwater demand will be less than the rate of groundwater recharge and storage and the conclusion was accepted by staff. The traffic impact study and analysis determined no significant impacts to the transportation systems and circulation of the area. The analysis found that the proposed site access improvements, the on-site water storage, second emergency vehicle access and proximity to an active fire department all minimize the spread and impacts of potential wildfire.

#### **3.2 Zoning Consistency.**

The Project is consistent with the Land Intensive Agriculture (LIA) Zoning District, and cannabis cultivation operations are allowed with approval of a Use Permit.

The Project is consistent with the operating standards and development criteria of the Cannabis Ordinance, Sonoma County Code Sections 26-88-250 and 254, because it complies with the minimum parcel size, cultivation limits, setbacks and equivalent buffer, lighting standards, security and fencing requirements, odor control, 100% renewable energy use, hours of operation, noise standards, and groundwater monitoring.

The applicants do not have any other cannabis cultivation operations in Sonoma County, the cultivation will not exceed one acre, propagation will be 25% of the permitted cultivation area, the outdoor cultivation will be at least 255 feet from the nearest property line, 475 feet

from the nearest off-site residence, 6,500 feet from Sonoma Valley Regional Park, and 2,600 feet from the nearest school (Dunbar Elementary School). Although the Project abuts the preferred alignment for the planned Sonoma Valley Trail, a park setback reduction is not required as part of this use permit approval because the setbacks only apply to existing trails and parks, not future or proposed trails and parks (see Resolution No. 18-0520).

The Project is consistent with the combining districts, including Local Guidelines at the Taylor/Sonoma/Mayacamas Mountains (LG/MTN), Scenic Resources for Corridors and Community Separators (SR), and Riparian Corridors (RC). The Proposed Project is consistent with the Local Guidelines Combining District (LG/MTN) and Scenic Resources (SR), as it does not propose the construction of any new structures, including residential development, nor any exterior changes to existing structures. Proposed improvements are located outside of the Riparian Corridor habitat conservation area.

The Project is consistent with Sonoma County Code Section 26-64-020 for Community Separators because no structures will be sited above exposed ridgelines, existing vegetation will be retained and provide natural screening, grading will be limited areas that were previously disturbed, and the cut and fill will be approximately balanced.

The Project structures will be located sufficiently from the centerline of Highway 12, consistent with Sonoma County Code Section 26-64-030. Existing vegetation and project location will limit the visual impacts of the project to the surrounding area. Development will be limited to the northwestern area of the subject site in an area that was previously developed, and no proposed improvements or development will occur along the portion of the parcel that is designated as a Scenic Corridor.

### 3.3 General Use Permit Finding.

The establishment, maintenance or operation of the use for which the 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 neighborhood of such use, nor will it be detrimental or injurious to property and improvements in the neighborhood or to 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 which support this finding: (1) The cannabis operation would not involve more than 43,560 square feet of cultivation area and there will be no processing at this parcel; (2) Deliveries and shipping activities would be limited to 5:00 a.m. to 8:00 p.m. Monday through Friday; (3) All cannabis-related operations would be screened from public view due to existing mature vegetation and setback distances; (4) Odors would not result in impacts to sensitive receptors due to physical distances to nearby residences and the rural setting of the Project; (5) Exterior lighting would be downward casting, fully-shielded, and motion-activated; (6) Security measures would be implemented to uphold the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of the use; (7) No public access or retail sales would be permitted to or for the cannabis operation; (8) No hazardous

materials would be stored on site; (9) All equipment would be in compliance with the General Plan Noise Standard; (10) All energy will be 100% renewably sourced and the applicants would participate in the Sonoma Clean Power EverGreen program; (11) the proposed improvements to private access road, including grading and the addition of a fire turnaround, the two entrances onto the subject parcel from Weise Road and Trinity Road, 21 stalls parking areas, and the implementation of the Conditions of Approval provided by the Fire Prevention Division ensures that adequate access for fire and emergency vehicles is provided.

#### **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 Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program are adopted.
3. The use permit is granted for the Proposed Project as presented in the application package consolidated on October 18, 2022 and as described in the Conditions of Approval attached hereto as ATT 2 and incorporated herein.
4. 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.**