



County of Sonoma

State of California

Date: December 13, 2022

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 LIG Remedies and
Joseph Riccardo for 10,000 square feet of mixed-light cultivation, 33,560 square feet of
outdoor cultivation, 9,000 square feet of accessory propagation, and onsite processing of site-
grown cannabis on a 100-acre property located at 4233 Browns Lane, Petaluma, CA, APN 068-
010-016**

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 29, 2017, the applicant, LIG Remedies, LLC, Joseph Riccardo, submitted a Use Permit application for a five-year limited-term Conditional Use Permit for 10,000 square feet of mixed-light cannabis cultivation, 33,560 square feet of outdoor cultivation, and incidental processing of site grown cannabis, located at 4233 Browns Lane, Petaluma; APN 068-010-016; Zoned Land Extensive Agriculture (LEA), B6 with a 60 acre minimum density (B6 60) Riparian Corridor (RC50/50) and Valley Oak Habitat (VOH) combining district, Supervisorial District No 2; (“the Proposed Project”).

1.2 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.

1.3 On October 20, 2020, the applicant submitted a revised application package requesting 9,000 square feet of mixed light accessory propagation.

1.4 On December 1, 2020, the applicant submitted a final project proposal.

1.5 On January 4, 2021, the application was deemed complete for processing.

1.6 A Mitigated Negative Declaration (“MND”) was prepared for the Project, and on or about November 3, 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 level with incorporation of mitigation measures that have been included in the project’s Conditions of Approval.

1.7 On December 13, 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.

1.8 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

Operation of the proposed project would result in less than significant odor impacts for the following reasons:

- i. All mixed-light cultivation and processing structures will be equipped with odor control filtration and ventilation system(s) to control odors humidity, and mold. The project would either include activated carbon filters to filter odors from greenhouse and processing building interiors or would employ mist and/or vapors as needed to eliminate residual odors upon exhaust. In addition, where possible, exhaust air would be directed toward the interior of the parcel to reduce off-site odor effects.
- ii. All outdoor cultivation areas and structures for cannabis cultivation and processing will be located at least 100 feet from the nearest property line, approximately 570 feet from the nearest residence, and 1.2 miles from the nearest school (Harvest Christian School) and public park (Tolay Regional Park). These setbacks exceed the County requirements and would serve to dilute and disperse odors associated with outdoor cultivation according to prevailing meteorological conditions and reduce odor intensity at nearby sensitive receptors.
- iii. The proposed project would not result in the continuous generation of cannabis odors. Rather, odors would be intermittent and only generated during certain times of year (e.g., flowering periods, harvesting, processing periods).
- iv. The proposed project is not bordered by a substantial number of people, and the greatest concentration of nearby residences are opposite the prevailing wind conditions (west to east) during peak odor producing months for outdoor cultivation (July – October). The nearest sensitive air quality receptors to the perimeter of the proposed project site would include the existing residence approximately 570 feet to the north, all other residences are over 2,500 feet from the project site in all directions. Although these individual receptors may be affected by potential project odors, the dispersed nature of these limited receptors makes it unlikely that a substantial number of people could be affected at the same time in the event odors are generated by the proposed project.
- v. Standard construction dust and air quality control measures (e.g., watering of surfaces to control dust; limitation on idling time for construction equipment) required as AIR-1 would reduce any temporary air quality and odor impacts associated with project construction to a less than significant level.

As described above, potential objectionable odors from cannabis cultivation and processing structures would be controlled at the source, and odors from outdoor cultivation would not be

anticipated to result in a significant odor impact due to low population density in the surrounding area and distance from individual sensitive receptors.

B. Biological Resources

A Biological Assessment (Eastside Environmental, August 2017) and rare plant addendum (Sol Ecology, May 19, 2021) were 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. As discussed in greater detail below, the studies concluded that potentially significant impacts may be reduced to a less than significant level through application of County standards and by incorporation of mitigation measures.

Special Status Plant Species. The studies identified and evaluated 17 special status plants species in the region, most of which were determined to have no or low potential for occurrence on the Project site due to the lack of suitable habitat. Marginally suitable on-site grassland habitat was identified for five plant species; however, surveys conducted in July 2017 and May 2021 were negative. The 2021 study concluded that, given no special-status plant species were observed in the project area or surrounding habitat, it is unlikely the project will result in any impacts to special-status plant populations of their potential habitat. Of the five target plant species, congested-headed hayfield tarplant has the most potential to occur, but had negative survey results in two separate plant surveys conducted in different years within the plant's blooming period. The area where project activities are proposed has already been disturbed by historic grazing activities and the existing cannabis cultivation operation. In addition, the project footprint comprises less than three percent of the 100-acre parcel, preserving the native soils and seedbank on the majority of the site. As a result, the project would have a less than significant impact on special-status plant species and their potential habitat.

Special Status Non-Avian Wildlife Species. The 2017 Biological Assessment identified and evaluated 29 special status non-avian wildlife species in the region, most of which were determined to have no or low potential for occurrence on the Project site due to the lack of suitable onsite habitat and distance from off-site suitable habitat areas. Two species were determined to have potential to occur: California red-legged frog and American badger.

The site is not located within designated critical habitat for California red-legged frog (CRLF), a federally Threatened species and a California Department of Fish and Wildlife Species of Special Concern. However, the project area lies within a watershed (Ellis Creek) with known occurrences of CRLF, and there is potential marginally suitable upland habitat in and near the project area. There is no aquatic habitat within the project area; the closest potentially suitable aquatic habitat for CRLF is located approximately 1,540 feet from the project area, consisting of a man-made agricultural reservoir filled with recycled water from the City of Petaluma. As CRLF are known to travel from 1-2 miles over upland areas from breeding ponds and migration corridors, the cultivation area has the potential to be utilized by CRLF, especially in the dry summer months when drip irrigation may provide moist refugia for the species. In addition, CRLF may migrate through the project area and/or utilize marginal upland habitat present in

and around the project site, though the closest documented occurrence of CRLF is 1.46 miles from the project area. CRLF can also use cropland, such as nearby vineyards, as upland refugia during dry summer months due to available water from drip irrigation.

No CRLF were observed during the site survey; however, potentially significant impacts could occur to CRLF as a result of the project, if they were to be present within the project site during project construction. Mitigation Measures BIO-1, BIO-2, BIO-5 and BIO-6, requiring installation of exclusion fencing prior to construction, pre-construction surveys, environmental awareness worker training, and prohibiting use of plastic erosion control netting, would ensure absence of the species within the project area, and would reduce potential impacts to CRLF to less than significant. The loss of a small amount of marginally suitable upland habitat within the 2.6-acre project site would not be expected to have a substantial adverse effect on the species and would be considered a less than significant impact.

The project area may also provide suitable habitat for the American badger, a CDFW species of special concern. There is moderate potential for American badger to occur onsite, as suitable open habitat with friable soils is present for foraging and denning surrounding the project area. Young are born in burrows dug in relatively dry, often sandy, soil, usually in areas with sparse overstory cover. Badgers prey upon a variety of mammals, insects, and reptiles, especially ground squirrels and pocket gophers, all of which may be available on the project site. The vineyard on the adjacent parcel to the west may also serve as potential habitat for the American badger.

No badgers or their burrows were observed during the site survey; however, potentially significant impacts could occur to badgers as a result of the project, if they were to be present within the project site during project construction. Mitigation Measures BIO-1, BIO-3, BIO-5 and BIO-6, requiring installation of exclusion fencing prior to construction, pre-construction surveys, environmental awareness worker training, and prohibiting use of plastic erosion control netting, would ensure absence of the species within the project area, and would reduce potential impacts to badgers to less than significant. The loss of a small amount of marginally suitable habitat within the 2.6-acre project site would not be expected to have a substantial adverse effect on the species and would be considered a less than significant impact.

Nesting Birds. The 2017 Biological Assessment identified and evaluated 8 migratory bird species with potential to occur onsite or in the project vicinity. The project does not propose removal of trees, which could be used for bird nesting, and no ground-nesting bird species or burrows were observed on or near the project area during the site survey. However, if nesting birds were to be present near the project site, construction noise would have the potential to impact these species. Mitigation Measures BIO-4-BIO-6, which require pre-construction surveys and environmental awareness worker training, would reduce the impact to nesting birds to a less than significant level.

No riparian habitat or other sensitive natural communities, such as wetlands, are present in or near the project area.

C. Noise

The proposed project would include stationary noise sources such as heating, ventilation, and air conditioning (HVAC) equipment, alarm system, a well pump, agricultural equipment (e.g., a skid steer), and an emergency back-up generator, all of which would operate 100 feet or greater from adjacent property lines. Mobile noise sources would include delivery trucks and passenger vehicles, which would generate noise primarily during the daytime. Additionally, there would be a temporary increase in noise due to construction.

A Noise Impact Analysis was prepared by LSA April 2022, to determine potential noise impacts associated with the project. The closest sensitive receptor to the project site, measured from the property line, is a single-family residence 310 feet to the north of the nearest property line (570 feet from the cannabis operation). Two long term (96-hour) and two short term (15 minute) measurements were gathered to establish the current ambient noise environment. Typical daily noise from the proposed project operation was calculated and determined to be compliant with the County's General Plan Noise Standards, as described below.

Assuming all equipment used in average daily operations would run simultaneously for 30 minutes or more in a given hour, the noise study determined the project noise level contribution to the nearest residence would be 31.5 dBA, much lower than County standards (i.e., 50 dBA during daytime hours and 45 dBA during nighttime hours). In addition to typical daily noise sources, the project may occasionally use a skid steer, or an emergency backup generator in the event the power grid is down. With the assumption all equipment is running simultaneously for a period of 30 minutes or more in a given hour, the project noise level contribution to the nearest residence would be 40.2 dBA, which again is lower than County standards for both daytime and nighttime operation noise. In conclusion, the study found that operation of the proposed project, including the loudest, infrequent noise-generating events, would not result in a perceptible noise increase at any surrounding receptor.

The project would result in a temporary noise increase during construction, mostly related to engine noise and back-up beepers associated with operation of construction equipment and transport of construction materials. This impact would cease when construction of the project is completed. However, the study determined construction activities could result in a significant temporary noise impact. Mitigation measures NOISE-1 and NOISE-2 have been imposed to require standard construction noise reduction best management practices (such as limiting construction hours) and requiring installation of a construction noise barrier.

D. Transportation

The project would utilize up to 10 employees for commercial cannabis activities and would conservatively generate a maximum of 21 average daily trips during peak activity periods (e.g., harvest), including 5 or fewer trips during the morning and evening peak commute hours. Truck deliveries comprise less than one average daily trip. This minimal number of peak hour and total daily trips would not result in a significant change in existing circulation patterns or emergency response times, and therefore, would not have a significant effect on local traffic conditions.

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 Extensive Agriculture, and the goals, objectives, policies, and programs of the General Plan. The Project is consistent with policies for Land Extensive Agricultural Areas to enhance and protect lands capable of and generally used for animal husbandry and the production of food, fiber, and plant materials, and to maintain residential densities and parcel sizes that are conducive to continued agricultural production. The project is also consistent with General Plan Land Use Policies LU-11f and LU-11g, which encourage conservation of undeveloped open space and the use of recycled water to support new development, and Agricultural Resource Policy AR4a, which requires that the primary use of any parcel with an agricultural land use designation shall be agricultural production and related processing, support services, or visitor-serving uses, and Objectives AR-8.2 to encourage agricultural reuse of recycled water and AR-8.3 to encourage alternate funding sources to farm owners which reduce reliance on subdivision and sale of land to raise operating capital . A brief discussion of project consistency with Agricultural Resource goals and polices is provided below.

While the definition of “agricultural crop” in the Zoning Code expressly excludes cannabis, it is defined as an “agricultural product” by the Zoning Code (Sec. 26-02-140) and state law (Cal. Bus. & Prof. Code Section 26069(a)). Similarly, while cannabis cultivation is not a qualifying or “agricultural use” under the County’s Uniform Rules for Agricultural Preserves and Farmland Security Zones, it is a “compatible use.” The Board finds that though cannabis cultivation is regulated differently from traditional agriculture due to its classification as a controlled substance, it is uniquely compatible with traditional agricultural cultivation and production in that it employs similar farming practices and infrastructure, has the potential to support traditional agricultural production, and does not interfere with such production. The Proposed Project is consistent with the General Plan land use designation in that it proposes outdoor and mixed-light cultivation that is managed similarly to traditional agricultural cultivation. The processing of cannabis grown onsite will include drying, curing, trimming, storing, and packaging, which is similar to the basic processing activities of traditional agricultural farms. The Proposed Project is consistent with Policy AR-4a in that agricultural production will remain the primary use of the parcel as determined by reviewing facts related to the relative sizes of the operations, compatibility of the proposed use with traditional agriculture, and current and future viability of agricultural production in light of the proposed use. The proposed operation will total approximately 113,500 square feet or 2.6 acres of the 100-acre property. The remainder of the property will continue to support a 91-acre grazing operation and conditions of approval require that the parcel maintain a primary agricultural use. The cannabis cultivation use will likely produce more income than the traditional agricultural uses; however, the primary

use is not determined strictly by relative income. The General Plan recognizes that Land Extensive Agricultural Areas typically result in relatively low production per acre of land. The circumstances of the Proposed Project are as expected in that a higher valued compatible use is critical in supporting the lower production agricultural use of livestock grazing, consistent with Objective AR-8.3. The traditional agricultural use supported by the Proposed Project is a viable commercial operation and not merely incidental to the Proposed Project. Further, the Proposed Project greenhouses and processing building will be agricultural in nature and are not visible from any public viewshed, thus the look and feel of the property will continue to be agricultural in nature.

3.2 Area Plan Consistency.

The proposed project is consistent with the Sonoma Mountain Area Plan because there would be no increase in the residential density, agricultural uses, including cattle grazing, would continue to be supported on the site, and the project would not be visible from or conflict with surrounding agricultural uses.

3.3 Zoning Consistency.

The Project is consistent with the Land Extensive Agriculture (LEA) 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 and propagation limits, setbacks, no net increase in impervious surfaces, lighting standards, security and fencing requirements, odor control, 100% renewable energy use, hours of operation, noise standards, and groundwater monitoring.

The applicant does not have any other cannabis cultivation operations in Sonoma County, the cultivation will not exceed one acre, propagation will be less than 25% of the permitted cultivation area, the outdoor cultivation will be at least 100 feet from the nearest property line, 550 feet from the nearest off-site residence, 1.2 miles from Tolay Regional Park, and 1.2 miles from the nearest school (Harvest Christian School).

The Project is consistent with the Riparian Corridor (RC) Combining Zone as proposed improvements are located outside of the Riparian Corridor habitat conservation area. Additionally, the Project is consistent with the Valley Oak Habitat Combining District as no trees will be removed and no valley oaks are located within the project site.

The proposed processing structure would be constructed within an existing disturbed and graveled area currently used for parking and mobile offices. This area has been altered from its natural state by introduction of a layer of impervious material (i.e., gravel), and has been

compacted by vehicle parking and placement of temporary mobile office structures. As such, the location of the proposed structures is considered to be an existing developed area which is already considered to be impervious surface. The project will not result in a net increase of impervious surfaces, and therefore, complies with Sec. 26-88-250 Table 1A "Footnote 2".

The site security plan is adequate to address any increased risk of crime or security associated with the Proposed Project. As required by the Zoning Code, the site security plan includes security cameras, lighting, alarms, fencing, and allows emergency vehicle access.

3.4 Compliance with the State Fire Regulations in the SRA

a. The current Board of Forestry regulations authorize an applicant to request an exception to Standards. Exceptions to Standards are authorized by the Board of Forestry regulations as an alternative to a specific standard due to health, safety, environmental conditions, physical site limitations or other limiting conditions that provides mitigation of the problem. 14 CCR §1271.00. Upon request by the applicant, the Inspection Authority may grant an Exception to Standards where the exceptions provide the same practical effect as the Board of Forestry regulations towards providing defensible space. 14 CCR §1270.06. Same practical effect means an exception or alternative with the capability of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety, including: (a) access for emergency wildland fire equipment; (b) safe civilian evacuation; (c) signing that avoids delays in emergency equipment response; (d) available and accessible water to effectively attack a wildfire or defend a structure from wildfire; and (e) fuel modification sufficient for civilian and fire fighter safety. 14 CCR §1271.00.

b. Here, the Project applicant requested an exception to the Board of Forestry standards for the width (14 CCR §1273.01). The applicant included material facts and mitigation alternatives, documented with site maps.

c. The Sonoma County Fire Marshal considered the applicant's request, including the following:

1) If the applicant were required to pay for the widening and upgrades to the existing Periera Road it would constitute a physical site limitation and result in environmental conditions from the significant amount of grading, paving, and roadwork to improve the roads outside of the parcel boundaries.

2) To allow for emergency wildfire equipment access concurrently with civilian evacuation, the application includes turnouts, turnarounds, and sufficient width on existing roads to allow for safe emergency wildfire equipment access concurrently with civilian evacuation.

3) The project includes signing to avoid delays in emergency response.

4) The project includes available and accessible water in holding tanks totaling 29,500 gallons, as well as installation of a fire hose connection on the existing recycled water hydrant to effectively attack or defend a structure from wildfire.

5) The Fire Marshal also required conditions of approval related to a Fire Prevention Plan prepared by the applicant, employee training in the use of regulated materials to meet Fire Code requirements, and vegetation management to ensure defensible space.

i. The County' Fire Marshal, acting as the Inspection Authority as officially designated by CAL FIRE, has determined those conditions of approval have the same practical effect as defined in the current regulations, thereby ensuring that the Project meets state law requirements.

j. The Sonoma County Fire Marshal submitted the approved Exception to Standard for this Project to CAL FIRE on September 16, 2022. CAL FIRE has not objected to the Fire Marshal's determination of same practical effect for this Project. The Board finds that the Project meets Sonoma County Code Chapter 13 (Fire Code) and the Board of Forestry's Fire Safe Regulations set forth in 14 California Code of Regulations §1270-1276 (Fire Safe Standards)

3.5 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 area of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances of this case are: 1) The Project would not involve more than one acre of cannabis cultivation area; 2) All cannabis cultivation areas are at least 100 feet from property boundaries and greater than 300 feet from adjacent off-site residences (550 feet to nearest offsite residence); 3) The project parcel is greater than 10 acres (100 acres); 4) Odors would not result in impacts to sensitive receptors due to physical distances to nearby residences and the rural setting of the Project and incorporation of odor control systems into all cannabis-containing structures used in the operation; 5) All cannabis cultivation areas will be screened from public view by intervening topography; 6) Security measures will be implemented to uphold the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such use; 7) All equipment used for construction or operation of the Project will be in compliance with General Plan Noise Standards; 8) Project trip generation would be minimal, up to 21 new daily trips during peak activity (i.e., harvest); 9) Delivery and shipping operations will be limited to the hours of 8:00 am to 5:00 pm Monday through Friday; 10) All cultivation lighting will be contained within the mixed light structures; exterior lighting will be downward casting, fully-shielded, and motion

sensor-controlled to remain off unless needed; 11) Hazardous materials will be stored in accordance with local, state, and federal regulations; 12) All energy for the operation will be 100% renewably sourced; 13) No public access or retail sales are permitted.

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 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 submitted on September 9, 2022, as subsequently revised and as described in the Conditions of Approval attached hereto as Exhibit A and incorporated herein.
5. 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:

Rabbitt:

Coursey:

Gore:

Hopkins:

Gorin:

Ayes:

Noes:

Absent:

Abstain:

So Ordered