



County of Sonoma

State of California

Date: May 25, 2021

Item Number: 40

Resolution Number: 21-0235

4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
Adopting a Mitigated Negative Declaration and Mitigation Monitoring Program, Granting a
Use Permit to All Cali Farm, LLC on a 15 acre parcel located at 2000 Los Alamos Road, Santa
Rosa, CA, 95409, APN: 030-050-009**

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 30, 2017, the applicant, All Cali Farm, LLC, filed an application for a limited-term Conditional Use Permit for a commercial cannabis cultivation operation, including 1,500 square feet of indoor cultivation; 3,850 square feet of mixed light cultivation; and associated processing of site-grown cannabis, including trimming, drying, curing, and weighing, on a 15.00-acre parcel located at 2000 Los Alamos Road, Santa Rosa; APN 030-050-009; Zoned Resources and Rural Development (RRD),
- 1.2 In October of 2018, the applicant submitted a revised project description and site plan to increase the amount of indoor cultivation from 1,500 square feet to 3,799 square feet of indoor cultivation and to decrease the amount of mixed light cultivation from 3,850 square feet to 2,850 square feet of mixed light cultivation, for a total of 6,649 square feet maximum cultivation.
- 1.3 On December 3, 2018, following the Board’s adoption of Ordinance No. 6245 amending the Cannabis Land Use Ordinance, the application was amended to request a five-year permit term and production of adult use cannabis in addition to medical cannabis.

- 1.4 On December 17, 2019, the Board approved the Cannabis Ad Hoc Committee's request for the Board of Supervisors to exercise original jurisdiction over nineteen permit applications, including the Proposed Project.
- 1.5 A Mitigated Negative Declaration ("MND") was prepared for the Project, and on March 10, 2021, the MND was posted and made available for agency and public review in accordance with the California Environmental Quality Act ("CEQA"), 14 California Code of Regulations, §§15000 et seq. ("CEQA Guidelines") and County CEQA guidelines.
- 1.6 On May 25, 2021, 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 with modifications ("the Project"), subject to the conditions of approval imposed herein.
- 1.7 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.

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 further makes the following specific findings regarding environmental impacts of the Project:

A. Hydrology. The site is located in a Groundwater Availability Class 4 – Areas with Low or Highly Variable Water Yield and is not within a Medium or High Priority basin defined under the Sustainable Groundwater Management Act (SGMA).

A Groundwater Assessment Report was prepared to address potential groundwater impacts under CEQA (O'Connor Environmental Inc., July 26, 2018). The groundwater report as reviewed by the County's Geologist and discussed in the MND determined the proposed Project would conservatively use 0.69 acre-feet per year. The groundwater report studied the cumulative impact area of the 12.6-acre project aquifer and found that, based on the projected water demand, total Project water use, and maximum daily water use, 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 mitigation by conditions of approval.

B. Wildfire. The Fire Marshall has reviewed the Project and found that with conditions the Project will not result in a significant wildfire risk. The Project will comply with Sonoma County Code Chapter 13 (Fire Code) and the Board of Forestry's fire safe standards regulations set forth in 14 California Code of Regulations §1270- 1276 (Fire Safe Standards). The Project includes a fire prevention plan that documents fire access roads, including gates, emergency water supplies, location of hazardous materials, employee training in the use of regulated materials to meet Fire Code requirements, and vegetation management. Additionally, the Fire Marshall through conditions of approval has required turnouts and turnarounds to ensure safe access for emergency fire apparatus and civilian evacuation concurrently. The Project includes two full time employees and four seasonal employees, equating to 4 average daily trips. Given the safety provisions, scope of the Project, and low occupancy, the Project will not have significant effects related to wildfire risk.

Section 3. General Plan, Planning and Zoning Compliance

3.1 General Plan Consistency.

The Proposed Project is consistent with the General Plan land use designation of Resources and Rural Development, which is intended to manage and conserve the natural resource areas and existing areas of rural character.

Development on the project site would be limited to the northern corner of the parcel and the new indoor structure will be built with a similar barn-like architectural style as the previously existing agricultural barn, which was lost in the 2020 Glass Fire. The site and surrounding area is characterized by intervening topography and landscaping that would screen operations from public right-of-way and Hood Mountain Regional Park. For this reason, the project would preserve the natural, rural and visual resources of the greater area, and result in a use of the property consistent with General Plan Objectives.

As a result, the Board finds that the proposed project is consistent with the General Plan.

3.2 Franz Valley Area Plan Consistency.

The Proposed Project aligns with the goals and policies outlined in the Franz Valley Area Plan which involve scenic routes, vista points, parks, recreation, public lands, historical sites and natural resource protection which are either met or do not apply to the project.

The Proposed Project is consistent with the Franz Valley Area Plan because, the project is not located along a scenic route as designated by the County, the project is not located in the vicinity of a vista point, there are not riparian corridors located on the project site, the project would not prohibit the expansion of Hood Mountain Regional Park, and the project is adequately setback from the park due to the intervening topography and vegetation of the project site and general area, which would restrict, limit and/or eliminate public access from the neighboring Hood Mountain Regional Park to the property. Additionally, the Proposed Project due to its limited size would not preclude types of development that would preclude potential future land uses involving agriculture, timber resources, and geothermal development.

3.3 Zoning Consistency.

The proposed project is consistent with the Resources and Rural Development Zoning District, in that the proposed cannabis cultivation operation is allowed with approval of a Use Permit.

The Proposed Project is consistent with the operating standards and development criteria of the Cannabis Ordinance, Sonoma County Code Sections 26-88-250 and 26-88-254 because the project complies with minimum parcel size requirements, cultivation

limits, setbacks with a reduced park setback for the mixed light structure, lighting standards, security and fencing requirements, odor control, 100% renewable energy use, hours of operation, noise standards and groundwater monitoring.

The setbacks to the indoor cultivation structures exceed the code requirements as required by the base zone of Resources and Rural Development. The Code requires that mixed light cultivation structures be setback 100 feet from property lines and 300 feet from residences. The proposed greenhouse for the Proposed Project exceeds the 100 foot setback from property lines and exceeds the 300 foot setback from a residence.

The Board specifically finds that a reduced park setback is appropriate. The Code requires an 1,000 foot setback for mixed light structures from sensitive uses, such as schools, public parks, childcare centers or treatment facilities. The Code specifically allows for a reduction to the park setback when an actual physical separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the operation is not visible or accessible from the park. The project parcel shares a common boundary with Hood Mountain Regional Park, along the southern property line. The cultivation area will be setback 790 feet from this common boundary. The placement of the cultivation area in the northern portion of the parcel maximizes the distance between the adjacent sensitive use and the mixed light structure, the topography and vegetation of the area ensure no offsite impacts and that the operation is not visible or publicly accessible from the park.

3.4 Fire Safe Standards Compliance.

- a. Title 14 CCR §1273.00, of the California Department of Forestry and Fire Protection (Board of Forestry) regulations states, “[r]oads and driveways, whether public or private, unless exempted under 14 CCR § 1270.02(d), shall provide for safe access for emergency wildfire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency consistent with 14 CCR §§ 1273.00 through 1273.09.”
- b. The County of Sonoma, like many other counties, in 2017 had a local fire safety ordinance that had been certified by the Board of Forestry. All local fire safety ordinances throughout the State expired on January 1, 2020.
- c. The Board of Forestry’s staff counsel opined about what was required for existing roads in a letter dated October 2020, yet as stated in that letter, that was staff’s position. Instead, the Board of Forestry took action to stop certifying all local ordinances in the State, and focused its efforts on updating its regulations as directed by the Legislature, including its requirements for existing roads outside of parcel boundaries.

- d. The Board of Forestry's process of updating its regulations is ongoing and involves input from the public and stakeholders statewide regarding potential requirements for existing roads outside of parcel boundaries, and minimum road width standards for existing roads throughout California. The Board of Forestry's current draft regulations show that it intends the dead end road restrictions to apply only to new road construction. (Proposed 14 CCR §1273.08 Maximum Lengths of New Dead End Roads).
- e. The Board of Forestry's draft regulations have not been adopted and do not apply to the Project. Board of Forestry regulations in effect since July 2020 apply to the Project.
- f. CAL FIRE has delegated Inspection Authority to the Sonoma County Fire Prevention Division to inspect projects for compliance with fire safety laws. 14 CCR §1270.05(a)(3). CAL FIRE first formally delegated this Inspection Authority to Sonoma County in 2016. CAL FIRE continues to delegate this Inspection Authority to Sonoma County Fire Prevention to inspect projects to determine compliance with state law.
- g. 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. Here, the Project applicant requested an Exception to Standards for the requirement that roads outside of parcel boundaries must provide for safe access for emergency wildfire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency.
- h. The Inspection Authority approved the Project applicant's request for exception to standards and confirmed compliance with the current Board of Forestry Regulations.
- i. As the Inspection Authority, 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 Los Alamos 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 road outside of parcel boundaries.
 - 2) To provide the same practical effect to allow for emergency wildfire equipment access concurrently with civilian evacuation, the Sonoma County Fire Marshal required and the applicant agreed to conditions of approval that

require the applicant to install a 24 foot wide entrance at the beginning of the private road, a turnout near the halfway point of the private road, and a hammerhead turnaround at the end of the private road.

- 3) These turnouts and turnaround allow for emergency wildfire equipment to enter and turnaround at the same time that people on the property can evacuate in the event of an emergency. The turnaround and turnouts spaced at the beginning, middle and end of the private road allow for safe emergency wildfire equipment access concurrently with civilian evacuation and allow unobstructed traffic circulation in the event of a wildfire emergency.
 - 4) The Fire Marshal also required and the applicant agreed to conditions of approval related to emergency water supplies, employee training in the use of regulated materials to meet Fire Code requirements, and vegetation management to ensure defensible space.
- j. 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 towards providing defensible space, thereby ensuring that the Project meets state law requirements and provides for safe access for emergency wildfire equipment and civilian evacuation concurrently.
 - k. The Fire Marshal submitted this determination to CAL FIRE Chief Ben Nichols on March 1, 2021.
 - l. The Board of Forestry regulations, 14 CCR §1270.05(b)-(c) allow members of the public to report alleged violations to CAL FIRE to conduct an independent review and ensure compliance with state law.
 - m. On June 17, 2020, an opponent to the Project submitted a letter to the Board of Forestry regarding the Project to report alleged violations pursuant to 14 CCR §1270.05(b)-(c). That letter requested the Board of Forestry and CAL FIRE remove Sonoma County's Inspection Authority for the purposes of reviewing this project's use permit application. The letter expressed concern about the Project because it was located at "5.6 mile dead-end, thick vegetation, 12 feet wide for upper mile, steep drop offs, cliffs and many blind curves, then 10 feet wide private dirt road."
 - n. Thereafter, CAL FIRE inspected the roads leading to this project site. CAL FIRE necessarily inspected for conformance with state law, and not conformance with the county's ordinance, as the county's ordinance was expired at the time of inspection. 14 CCR §1270.05(b).
 - o. After and based on its inspection, in a September 1, 2020 letter to Craig Harrison, CAL FIRE concluded it did not share the Project opponents' concerns. CAL FIRE declined to countermand the delegated Inspection Authority for the Project. The Board of Forestry and CAL FIRE continue to delegate Inspection Authority to the

- County of Sonoma Fire Prevention Division to ensure compliance with the Board of Forestry regulations. The Board of Forestry fire safe regulations have not changed since the date of the CAL FIRE response letter. CAL FIRE has not withdrawn its letter supporting the Fire Marshal's determination of same practical effect for the Project.
- p. The Board finds that the Project meets Sonoma County Code Chapter 13 (Fire Code) and the Board of Forestry's fire safe standards regulations set forth in 14 California Code of Regulations §1270- 1276 (Fire Safe Standards). To facilitate locating an emergency and to avoid delays in response, all newly constructed roadways shall be at least 20 feet in width and provide for safe access for emergency fire apparatus and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during an emergency, and shall be constructed and maintained as required by Fire Safe Standards.
- q. As authorized by the Fire Safe Standards, the applicant requested an Exception to Standards to provide the same practical effect pursuant to 14 California Code of Regulations §1270.06 due to environmental conditions and physical site limitations. The County Fire Marshal reviewed the project description and plans on March 20, 2018 and again on November 19, 2020. This Exception for Standards was accepted by Sonoma County Fire Marshal in November of 2020. The Exception for Standards was submitted to CalFire in compliance with Fire Safe Standards. An Exception for Standards is warranted because project conditions of approval imposed by the County Fire Division require turnouts and turnarounds to ensure safe access for emergency fire apparatus and civilian evacuation concurrently and require that the Project comply with the Fire Code and the Fire Safe Standards, including fire protection methods such as sprinklers in buildings, alarm systems, extinguishers, vegetation management, emergency water supply, hazardous materials management and management of flammable or combustible liquids and gases.

3.4 General Use Permit Finding.

The establishment, maintenance, or operation of the use for which 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 that support this finding are set forth above and include, but are not limited to, the following facts: 1) The cannabis operation would not involve more than one acre of cannabis cultivation area; 2) All cannabis cultivation areas are greater than 100 feet from property boundaries and greater than 300 feet from adjacent offsite residences; 3) All cannabis cultivation area will be screened from public view due to intervening topography and vegetation; 4) Security measures will be implemented to uphold the

healthy, safety, peace and comfort and general welfare of persons residing or working in the neighborhood of such use; 5) All equipment shall be in conformance with the General Plan Noise Standard; 6) Deliveries and shipping operation will be limited to the hours of 8:00am to 5:00pm Monday through Friday; 7) All cultivation lighting will be contained within the indoor and mixed light structures; exterior lighting downward casting, fully-shielded and motion sensor-controlled to remain off unless needed; 8) Hazardous materials will be stored in accordance with local, state and federal regulations; 9) All energy will be 100% renewably sourced; and 10) No public access or retail sales are permitted.

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 Board certifies that the Mitigation Negative Declaration has been completed, reviewed, and considered, together with comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Mitigated Negative Declaration reflects the independent judgement and analysis of the Board.
3. The use permit is granted for the Proposed Project as presented in the application package submitted on August 30, 2017, and updated materials submitted October 21, 2018, and as described in the Conditions of Approval attached hereto as Exhibit A 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 materials 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.

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Supervisors:

Gorin: Aye

Rabbitt: Aye

Coursey: Aye

Gore: Aye

Hopkins: Aye

Ayes: 5

Noes: 0

Absent: 0

Absetain: 0

So Ordered.