

memo berkeley

to **Scott Orr | Permit Sonoma**

from **Kumail Raza | MIG**

re **UPC17-0012 (2211 London Ranch Road); Setback Relief**

date **6/12/2020**

Executive Summary

The application does not presently comply with the 1,000-foot setback requirement from Jack London State Historic Park. Staff is recommending setback relief under the provisions of the updated Cannabis Ordinance (No. 6245) due to site proximity, topography, and vegetation characteristics which result in an equivalent buffer. This memorandum describes the physical and policy considerations and identifies information to support this recommendation.

Project Description

The applicant is requesting a Conditional Use Permit (CUP) for Specialty Outdoor Cultivation of up to 50 plants (1,560 square feet), and Indoor Cottage Cultivation of 500 square feet along with 48 square feet of processing with the indoor cultivation and processing to be located within an existing 594 square-foot structure on a 7.74-acre property (APN: 054-040-091) zoned Land Intensive Agriculture (LIA). The subject property is located 45 feet north of Jack London State Historic Park and is entirely within the 1,000-foot required setback. Proposed cannabis activity would be located 140 feet north of the park property (APN: 054-050-030). The subject property is within a Scenic Landscape Unit and does not have a Riparian Corridor designation. The applicant is currently operating under Penalty Relief.

Background

On July 14, 2017, the applicant submitted a Zoning Permit (ZPC) application for Indoor Cottage Cultivation of 500 square feet. On July 19, 2017, the applicant submitted a CUP application for Specialty Outdoor Cultivation of up to 50 plants. The two applications were consolidated on December 19, 2017.

As the subject property is located within 1,000 feet of Jack London State Historic Park, the project does not meet the setback requirements per Section 26-88-254(f)(6) of the Cannabis Ordinance (No. 6245). On February 5, 2019, the applicant requested a Park Setback Reduction per the revision of the Cannabis Ordinance.

The proposed project has been analyzed under the California Environmental Quality Act (CEQA) and the CEQA Guidelines, California Code of Regulations. Based on application materials provided by the applicant and technical specialists, the project would be Categorically Exempt under Conversion of Small Structures.

Analysis

The Cannabis Ordinance allows flexibility in park setbacks under certain conditions; Per Section 26-88-254(f)(6) of the Cannabis Ordinance No. 6245: *“This park setback may be reduced with a use permit when it is determined that an actual physical equivalent separation exists due to topography, vegetation or slope, that no offsite impacts will occur, and that the cannabis operation is not accessible or visible from the park.”* The following describes the findings in support of granting such an exception for this property.

1. **Separation due to topography, vegetation, or slope:** The topography from the cultivation area to the park’s main public parking area involves a change of elevation downward of approximately 100 feet toward cultivation area. The area between the project site and the park is densely vegetated with trees and shrubbery.
2. **Offsite Impact:** During a site visit on June 12, 2020, no odor was detected from the nearest trailhead of the park to the cultivation area, and no other off-site impact was detected.
3. **Access:** The project site would be inaccessible to visitors of the park because it cannot be seen from the park, the dense vegetation that would be difficult to walk through, and the downward slope that would be difficult and potentially dangerous to traverse.
4. **Visibility:** No part of the cultivation area is visible from either of the two (2) parking lots nor the two (2) nearest trail heads.

Recommendation

Staff recommends approval of the reduction request from the 1000-foot park setback to 45 feet because of the separation due to topography, slope, and vegetation, lack of offsite impact, and visibility and accessibility characteristics which would serve to provide a significant physical equivalent setback to and from the neighboring Jack London State Historic Park.



Figure 1: Upper lot, looking toward project site (850 feet away)



Figure 2: Nearest trailhead, looking toward project site (750 feet away)



Figure 3: Lower lot, looking toward project site (1100 feet away)



Figure 4: Lower lot trail, looking toward project site (1450 feet away)