



# County of Sonoma

## State of California

Date: March 21, 2023

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 Quarry Farms LLC and Justin Morgan for 43,560 square feet of outdoor cultivation and 10,890 square feet of propagation, and Transportation-Only Distribution, on a 25.16-acre property located at 585 Trinity Rd, Glen Ellen, CA 95442, APN 053-110-076**

**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 May 1, 2017, the applicant Quarry 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 053-110-076, was approved and the applicant remains in good standing.
- 1.2 On September 14, 2017, a Use Permit application (File No. PLP17-0040) 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 November 13, 2018, the applicant submitted a revised application package to reflect proposal changes due to damages from the 2017 Nuns Canyon fire. The amended proposal removed onsite processing, as well as mixed light and nursery cultivation.
- 1.4 On November 14, 2018, Permit Sonoma staff reviewed the amended application and deemed it complete for processing.

- 1.5 On April 17, 2019, ownership for the application was transferred from GDCF/Erich Pearson to Quarry Farm LLC/Justin Morgan and supporting documentation was submitted to Permit Sonoma.
- 1.6 On January 22, 2020, the Sonoma Valley Citizens Advisory Commission held a meeting for the proposed project and recommended approval of the Use Permit.
- 1.7 On December 20, 2021, the project was deemed complete for CEQA review.
- 1.8 On September 28, 2022, an amendment to the project proposal was submitted to request the addition of 10,890 square feet of propagation in temporary structures and self-distribution transportation of site grown cannabis. This constituted the final amendment to the proposed project.
- 1.9 A Mitigated Negative Declaration ("MND") was prepared for the Project, and on or about November 4, 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.
- 1.10 On November 4, 2022, Permit Sonoma sent notification of the December 15, 2022 Planning Commission hearing date and availability of the Mitigated Negative Declaration to neighboring properties within 1,000 feet of the parcel boundaries, and to all members of the public who had previously requested notice as an "interested party."
- 1.11 On December 15, 2022, the Planning Commission voted to approve a resolution recommending that the Board of Supervisors adopt the prepared Mitigated Negative Declaration, approve a zone change to remove a MR (Mineral Resources) Combining District, and approve the Use Permit with conditions
- 1.12 On March 21, 2023, 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.
- 1.13 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. Biological Resources**

A Biological Assessment was prepared for the Project site to identify special-status plant and wildlife species and sensitive habitats 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 provide poor habitat quality, 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 that currently conforms with setback requirements for riparian habitat. The Project 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 in the project vicinity, 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, and therefore impacts would be unlikely to occur. Further, during the study no special-status plant or animal species were observed. However, ground disturbing activities necessary to finalize the grading and installation of onsite circulation improvements, consisting of an employee parking area and the addition of firesafe turnouts, could result in disturbances to nesting activities for special-status bird species including the Grasshopper Sparrow, White-Tailed Kite, Shark-Shinned Hawk, Tricolored Blackbird, Purple Martin, Burrowing Owl, and roosting bats, that could be present at the time of construction. 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.

**b. Odor**

The outdoor cultivation operation would generate odors during the last weeks of the growing season prior to harvest, typically between the months of late summer and early autumn. These odors have been shown to dissipate through the use of natural buffers (such as vegetation and topography) and distance. Further, these odors could be considered “objectionable” based on both an individual’s proximity to and familiarity with the odors associated with flowering cannabis cultivation and its harvest.

The location of residences in relation to the outdoor cultivation site includes one single-family residence 470 feet to the west, with other residences between 800 to 1,250 feet away on the other side of Trinity Road, and over 1,300 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, mixed forest, 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 the approved Reclamation Plan or 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. Further, the Project is located on a relatively large parcel of 25.16-acres, which has the potential to reduce odors through the size and scale of properties. Nearby agricultural uses and vehicle emissions can also generate odors seasonally and year-round that intermix and further reduce cannabis odor concentrations, 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 only one recorded odor complaint related to the ongoing cultivation for the general area of the three nearby cannabis projects (File No.’s UPC19-0002, UPC17-0048, PLP17-0040), which includes this Proposed Project. This supports the determination that, although outdoor odor may occur, it does not create a public nuisance or adversely affect the health or safety of the nearby residents. Therefore, the Board finds that

there is no fair argument that the project would generate odors adversely affecting a substantial number of people.

### **c. Hydrology**

The Project is located in a Class 3 – Marginal Groundwater area and is not located within a Medium or High Priority 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 in August of 2017, and subsequently amended three additional times to address comments from Permit Sonoma hydrogeologist Robert Pennington.

Water for the outdoor cultivation will come from a well located on an adjacent parcel (APN 053-100-016) that will also serve the nearby cultivation operations, located on nearby parcels (UPC19-0002 and UPC17-0048). Water would be drawn from the well and placed into a 150,000 gallon storage tank, located on APN 053-110-001, 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 (located north and extending west of the Project parcel) 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. Groundwater recharge was estimated at 233 acre-feet per year with a total groundwater storage of 3,240 acre-feet, approximately 52% of the groundwater recharge and less than 4% of the groundwater storage would be used. In accordance with the applicant submitted Water Conservation Plan, 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.

In addition, estimated streamflow values were modeled to have a potential streamflow reduction for Calabazas Creek of approximately 6.7%, which the report concluded was negligible and unlikely. Given the negligible impact to groundwater reserves, 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, which require annual monitoring and limit the total allowable water use of the project. 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 in March 2020 to examine the potential impacts from increased vehicle trips to and from the Project cultivation site, and study these impacts in tandem with the associated cultivation on the parcels located to the west (UPC19-0002) and north west (UPC17-0048). The trip generation for the Proposed Project is estimated to be 45 Average Daily Trips (ADT) during peak harvest, and cumulatively the combined impact of all three cannabis operations 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. The Governor's Office of Planning and Research (OPR) issued a technical advisory 2018 that established Vehicle Miles Traveled (VMT) analysis screening criteria for small projects with 110 ADT or less. As both the individual and cumulative projects in the area would result in 109 maximum ADT, this exempted the Project from further analysis. 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.

The Project will install rows of temporary hoop houses for propagation (not to exceed a total of 10,890 square feet) and cultivate within a fenced 4.66-acre area that was previously developed and/or destroyed with the 2017 Nunes Fire. Outdoor cultivation of cannabis preserves the site in its current state, and in accordance with Policy AR-4a, the existing traditional agricultural use of cattle grazing (located on approximately 15 acres or 60% of the project parcel) will continue its current use, separate from the cannabis operation.

Further, the Project is consistent with several other applicable General Plan Policies including Policy LU-20gg, as the Project would not construct new permanent structures which could remove existing land from agricultural production, Policy OSRC-8b, as the Project exceeds the required 50-foot Riparian Corridor setback, Policy OSRC-1f, as the Project is consistent with design standards for development in the Community Separator due to the use of natural vegetation and grasses to screen the project from the driveway entrance, and Policy CT-7nn, as a traffic analysis was conducted and found the Project would not result in significant traffic impacts.

#### **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 150 feet from the nearest property line, 470 feet from the nearest off-site residence, 5,250 feet from Sonoma Valley Regional Park, and 2,850 feet from the nearest school (Dunbar Elementary School).

With concurrent approval of a zone change to remove the Mineral Resources (MR) combining zone (see Ordinance No. \_\_\_\_\_), the Project is consistent with all combining districts, including Local Guidelines at the Taylor/Sonoma/Mayacamas Mountains (LG/MTN), Scenic Resource 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 to areas that were previously disturbed, and the cut and fill will be approximately balanced. In addition, existing vegetation and project location will serve to limit the visual impacts of the project from the surrounding area. Development will be limited to the western edge of the subject parcel in an area that was previously developed, and no proposed improvements or development will occur at the Project entrance along Trinity Road.

### 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 a substantial number of people 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; (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 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.**