

**ATTACHMENT 7:**  
**Staff Memo recommending changes to the MND and Conditions of**  
**Approval, April 11, 2019**

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**Date:** April 11, 2019

**Memo to:** Board of Zoning Adjustments

**From:** Crystal Acker, Project Planner

**RE:** Board of Zoning Adjustments Hearing: Item #2

**File No.:** UPC17-0020  
Petaluma Hills Farm Cannabis Cultivation Use Permit

**Staff is recommending changes to the Mitigated Negative Declaration** in response to comments received by two state agencies – the California Department of Food and Agriculture (CDFA) and the California Department of Fish and Wildlife (CDFW).

CDFA comments were primarily related to format rather than substance. All of the CDFA regulations are addressed in the draft CEQA document and/or the Cannabis Ordinance Operating Standards (Compliance with State Water Board and CDFW regulations for protection of water and biological resources; Require cultivation and outdoor lighting to be fully contained and fully shielded; Protection of cultural resources including human remains; Compliance with pesticide laws and regulations; Limitation on generator use; implementation of renewable energy requirements; Compliance with cannabis waste management regulations).

The new CEQA checklist is not in effect until April 27 (documents circulated on or after that date). In addition, efficient energy use is discussed in the climate control section of the project description and is regulated by the Cannabis Ordinance, which requires 100% renewable energy. The potential for wildfire hazard is discussed in the CEQA document Hazards Section 8.h., which discloses that the project site is located in a Moderate Fire Hazard Severity Zone (not a High or Very High Hazard Severity Zone), and that impacts related to wildfire are less than significant. Staff will continue to work with CDFA to ensure that they have the information they need to conduct their own CEQA analysis in the most efficient way possible.

CDFW comments were primarily concerned with expanding protections to species already addressed in the CEQA document. All requested mitigation measures are substitutions that are equivalent or more effective than previously proposed. Thus, these measures can be substituted pursuant to CEQA Guidelines Section 15074.1 and no recirculation is required.



Recommended changes to the Mitigated Negative Declaration are as follows:

Table 2. Agencies and Permits Required.

Add CDFW as a public agency requiring a permit, as requested by both agencies.

Mitigation Measure BIO-1 Amphibian Pre-Construction Survey(s).

Add the following sentence to the measure:

*Any small mammal burrows found shall be protected with a 30-foot buffer and exclusion fencing placed around the construction site.*

Mitigation Measure BIO-2 Roosting Bat Pre-Construction Survey(s).

Add the following sentence to the measure:

*Surveys shall be conducted immediately prior to construction (within 1 to 2 days).*

Mitigation Measure BIO-3 Nesting Bird Pre-Construction Survey(s).

Add the following text to the measure to clarify that nesting bird surveys include both tree and ground nesting species:

*If initial ground disturbance or vegetation removal occurs during the breeding season (February 1 through August 31), a qualified biologist shall conduct a breeding bird survey no more than 14 days prior to ground disturbance to determine if any birds are nesting in underground burrows or dens, or in trees on or adjacent to the project site.*

*If a burrowing owl or occupied burrow is found, CDFW will be contacted to determine the appropriate mitigation measure to avoid impacts on the species, which may include relocating the owl or burrow to a safe location.*

Add a measure for pre-construction rare plant survey(s) to update original survey conducted in May 2017.

*Mitigation Measure BIO-5 Pre-Construction Rare Plant Survey: If initial ground disturbance occurs during the blooming period of congested-headed hayfield tarplant (May-November), a qualified biologist shall conduct a pre-construction survey of the disturbance area prior to construction activities. If the plant is found, CDFW will be contacted to determine the appropriate mitigation measure to avoid impacts on the species, which may include collection and redistribution of the seedbank.*



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**Staff is recommending changes to the Conditions of Approval as follows:**

- 52 In response to comment from California Department of Fish and Wildlife (CDFW) comment the following sentence has been added to the condition:

*Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves. Monofilament netting, including photo- or biodegradable plastic netting shall not be used.*

- 73 The Applicant has indicated they would prefer to treat the water rather than drill a new well, as allowed by the County Well Ordinance. Revise to read:

*The project is located within the Petaluma Nitrate Study Area and consequently the water supply well is required to have a 100-foot annular seal, or water intended for human or animal consumption must be treated in compliance with the Sonoma County Well Ordinance (Sec. 25B-8(b)). Prior to issuance of building permits, a treatment plan shall be submitted to the Project Review Health Specialist for review and approval. The Plan shall comply with all requirements of the well ordinance and shall provide a site plan identifying where treatment equipment and treated and non-treated water lines will be located.*

*Prior to issuance of a Use Permit Certificate or final occupancy, water treatment equipment shall be installed and verified by Permit Sonoma staff.*

- 74 The Applicant has indicated they would prefer to retain the existing well and use untreated well water for irrigation. Replace well abandonment condition with:

*Prior to issuance of a Use Permit Certificate or final occupancy, the applicant shall install appropriate warning signage at all non-potable water access points. Signage shall be dual language or shall include "Do Not Drink the Water" pictographs. Verification of sign installation shall be required, either by photographic documentation or site inspection by the Project Planner, at the discretion of Permit Sonoma staff.*

- 88 This condition was worded slightly differently than the mitigation measure it was taken from. Revise to match language from Mitigation Monitoring Program:

*Mitigation Measure NOISE-1 HVAC Unit Sound Wall: A wall for sound attenuation shall be constructed on three sides of the cultivation HVAC unit. The wall shall be constructed of ½ inch thick (at a minimum) plywood and studs; the top of the wall shall extend to a minimum of two feet above the top of the HVAC unit. Solid walls of brick, masonry, or other robust materials are also allowable instead of lumber as long as they attenuate sound to an equal or greater degree.*



- 89 Add mitigation measure from Mitigation Monitoring Program to facilitate condition compliance by having all requirements in one document.

Mitigation Measure NOISE-2 Construction Operation: All plans and specifications or construction plans shall include the following notes:

- a. A Construction Coordinator shall be designated by the project applicant, and a sign shall be posted on the site stating the allowable hours of construction, and including the Coordinator's 24-hour phone number for public contact regarding noise issues. The Coordinator shall investigate all complaints to determine the cause (such as starting too early, faulty muffler, etc.), and shall take prompt action to correct any problem. The Coordinator shall report all complaints and their resolutions to Permit Sonoma staff.
- b. All internal combustion engines used during construction shall be operated with mufflers that meet the requirements of the State Resources Code, and, where applicable, the Vehicle Code. Equipment shall be properly maintained and turned off when not in use.
- c. Except for actions taken to prevent an emergency or to deal with an existing emergency, all construction activities (including equipment start-up, operation, servicing, and deliveries) shall be restricted to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on Saturdays. No construction shall occur on Sundays or holidays. If work outside the times specified above becomes necessary, the applicant shall notify the Permit Sonoma staff as soon as practical.
- d. Construction maintenance, storage and staging areas for construction equipment shall avoid proximity to residential areas to the maximum extent practicable. Stationary construction equipment, such as compressors, mixers, etc., shall be placed away from residential areas and/or provided with acoustical shielding. Quiet construction equipment shall be used when possible.

All Conditions after 89 are re-numbered by one digit.

- 94/95 Revise condition to clarify that it applies to work areas as follows:

*Smoking or consumption of Cannabis or materials containing Cannabis is prohibited in any work area.*

Conditions 102 to 112 are mitigation measures from the Mitigation Monitoring Program, added to facilitate condition compliance by having all requirements in one document. Some of these have been revised in response to comments from CDFW, as described in the first section of this memo.

102. Mitigation Measure AIR-1 Construction Dust and Air Quality Control:

The following dust and air quality control measures shall be included in the project:



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- a. A Construction Coordinator shall be designated by the project applicant, and a sign shall be posted on the site including the Coordinator's 24-hour phone number for public contact regarding dust and air quality complaints. The Coordinator shall respond and take corrective action within 48 hours. The Coordinator shall report all complaints and their resolutions to Permit Sonoma staff.
- b. Water or alternative dust control method shall be sprayed to control dust on construction areas, soil stockpiles, and staging areas during construction as directed by the County.
- c. Trucks hauling soil, sand and other loose materials over public roads shall cover the loads, or shall keep the loads at least two feet below the level of the sides of the container, or shall wet the load sufficiently to prevent dust emissions.
- d. Vehicle speeds on unpaved areas shall be limited to 15 miles per hour.
- e. Final surfacing (i.e., pavement or concrete, gravel, landscaping) shall be completed as soon as possible after earthwork is finished, unless seeding or soil binders are used.
- f. Idling time of diesel-powered construction equipment shall be limited to five minutes. Signs shall be posted reminding workers of this idling restriction at all access points and equipment staging areas during construction of the proposed project.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications and shall have a CARB-certified visible emissions evaluator check equipment prior to use at the site.
- h. Trackout shall not be allowed at any active exit from the project site onto an adjacent paved public roadway or shoulder of a paved public roadway that exceeds cumulative 25 linear feet and creates fugitive dust visible emissions without cleaning up such trackout within 4 hours of when the Construction Coordinator identifies such excessive trackout, and shall not allow more than 1 quart of trackout to remain on the adjacent paved public roadway or the paved shoulder of the paved public roadway at the end of any workday.
- i. Visible emissions of fugitive dust shall not be allowed during cleanup of any trackout that exceeds 20 percent opacity as determined by the Environmental Protection Agency in *Method 203B - Opacity Determination for Time-Exception Regulations* (August 2017).

Trackout is defined by BAAQMD in Regulation 6, Rule 6: Prohibition of Trackout (August 2018) as any sand, soil, dirt, bulk materials or other solid particles from a site that adhere to or agglomerate on the exterior surfaces of vehicles (including tires), and subsequently fall or are dislodged onto a paved public roadway or the paved shoulder of a paved public roadway on the path that vehicles follow at any exit and extending 50 feet out onto the paved public roadway beyond the boundary of the site. Material that has collected on the roadway from erosion is not trackout.



103. Mitigation Measure AIR-2 Operational Odor Control for Structures: The cannabis cultivation building shall install and maintain an odor control air filtration and ventilation system that controls humidity and mold and ensures there will be no off-site odor from structures. Daily inspections shall be performed by the on-site manager. Inspections shall include verifying that all filtration equipment is functioning properly, checking that filters have been replaced on schedule, and shall include a walking tour through the interior and around the exterior of each cannabis-containing facility to document any noticeable odor (indoor cultivation/ greenhouse, and both processing buildings).
104. Mitigation Measure AIR-3 Operational Odor Control for Outdoor Cultivation: In the event that multiple verified odor complaints are received, Permit Sonoma staff may bring this matter back to the Board of Zoning Adjustments for review of additional measures to reduce outdoor odor generation, including use of engineered solutions such as Vapor-Phase Systems (Fog Systems).
105. Mitigation Measure BIO-1 Amphibian Pre-Construction Survey(s): Pre-construction surveys shall be performed within 24 hours of initiation of project activities (including initial ground disturbing activities). Any small mammal burrows found shall be protected with a 30-foot buffer and exclusion fencing placed around the construction site. Any small mammal burrows found shall be protected with a 30-foot buffer and exclusion fencing placed around the construction site. No construction activities shall occur during rain events, defined as ¼ inches of rain falling within a 24-hour period; however, construction activities may resume 24 hours after the end of the rain event. Prior to construction, all workers on the crew shall be trained by a qualified biologist as to the sensitivity of special-status species potentially occurring in the project area. If any special status amphibians are encountered during the surveys, all work in the area shall be placed on hold while findings are reported to state and federal regulatory agencies, and it is determined what, if any, further actions must be followed to prevent possible take of the species.
106. Mitigation Measure BIO-2 Roosting Bat Pre-Construction Survey(s): If initial ground disturbance or building demolition occurs during the bat maternity roosting season (May 1 through August 31), a qualified biologist shall conduct a bat roost assessment of trees and structures within 100 feet of the construction site. Surveys shall be conducted immediately prior to construction (within 1 to 2 days). Surveys shall be conducted immediately prior to construction (within 1 to 2 days). If the biologist determines there is potential for maternity roosting bats to be present within 100 feet of the project site, nighttime emergence surveys shall be performed to determine if maternity roosting bats are present. If bat maternity roosts are present, the biologist shall establish an appropriate exclusion zone around the maternity roost. Once all young have become independent of the roost, construction may take place in the former exclusion zone.
107. Mitigation Measure BIO-3 Nesting Bird Pre-Construction Survey(s): If initial ground disturbance or vegetation removal occurs during the breeding season (February 1 through August 31), a qualified biologist shall conduct a breeding bird survey no more than 14 days prior to ground disturbance to determine if any birds are nesting in underground burrows or dens, or in trees on





or adjacent to the project site. If active nests are found close enough to the project site to affect breeding success, the biologist shall establish an appropriate exclusion zone around the nest. This exclusion zone may be modified depending on the species, nest location, and existing visual buffers, but typically would entail a minimum of 500 feet for raptor species and 300 feet for other migratory species. Once all young have become independent of the nest, vegetation removal and grading may take place in the former exclusion zone. If initial ground disturbance is delayed or there is a break in project activities of more than 14 days within the bird-nesting season, then a follow-up nesting bird survey shall be performed to ensure no nests have been established in the interim. If a burrowing owl or occupied burrow is found, CDFW will be contacted to determine the appropriate mitigation measure to avoid impacts on the species, which may include relocating the owl or burrow to a safe location.

108. Mitigation Measure BIO-4 American Badger Pre-Construction Survey: If initial ground disturbance or vegetation removal occurs during the badger breeding season (February through May), a qualified biologist shall conduct a badger survey prior to construction activities. This survey could be conducted concurrently with preconstruction nesting bird surveys conducted within the same time period. If a badger or its den is found, CDFW will be contacted to determine the appropriate mitigation measure to avoid impacts on the species, which may include relocating the badger or den to a safe location.
109. Mitigation Measure BIO-5 Pre-Construction Rare Plant Survey: If initial ground disturbance occurs during the blooming period of congested-headed hayfield tarplant (May-November), a qualified biologist shall conduct a pre-construction survey of the disturbance area prior to construction activities. If the plant is found, CDFW will be contacted to determine the appropriate mitigation measure to avoid impacts on the species, which may include collection and redistribution of the seedbank.
110. Mitigation Measure CUL-1 Archive or Salvage Building Materials: Prior to demolition of any structures, the applicant shall inventory the architectural elements to re-use on site or donate to the Sonoma County Historical Society or other appropriate archival facility. Any associated artifacts or other architectural elements that are feasible to archive or store shall be salvaged. The associated artifact or architectural element shall be carefully removed and properly stored for reuse or delivered to the archive facility in good condition to be used in future conservation work.
111. Mitigation Measure CUL-2 Interpretive Display: The applicant shall work with the Sonoma County Historical Society or the Petaluma Historical Library and Museum in developing an interpretive display about the Collings family history and chicken farming on the property that can be displayed on site. This could include a film documentation, historical photographs, and/or an oral history with interviews conducted by a professional oral historian with Walter Collings.
112. Mitigation Measure CUL-3 Archaeological Monitoring: A qualified Archaeological Monitor shall be present onsite during all initial grading and ground disturbance activities, including any



vegetation removal or grubbing. Monitoring shall continue until, in the Archaeological Monitor's judgment, cultural resources are not likely to be encountered.

If archaeological materials are encountered during ground-disturbing activities, all work within 25 feet of the discovery shall be halted until the archaeologist assesses the finds, consults with the appropriate individuals and agencies, and makes recommendations for the treatment of the discovery. Upon completion of the assessment, the archaeologist shall prepare a report to document the methods and results of the assessment. The report shall be submitted to Permit Sonoma and the NWIC upon completion of the project.



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