



Legislation Text

File #: 2020-0738, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Kumail Raza, Project Planner, (510) 845-7549 and Crystal Acker, (707) 565-8357

Vote Requirement: Majority

Supervisorial District(s): 1

Title:

8:30 A.M. - Outdoor and indoor cannabis cultivation operation at 2211 London Ranch Road, Glen Ellen. UPC17-0012

Recommended Actions:

- A) Exercise original jurisdiction over application from applicant operating and enrolled in the Penalty Relief Program.
- B) Adopt a Resolution approving a commercial cannabis operation with up to 50 outdoor plants, 500 square feet of indoor cultivation, and 48 square feet of indoor associated processing; as well as allowing for a park setback reduction from 1,000 to 45 feet, and finding the project categorically exempt from CEQA.

(First District)

Executive Summary:

The project proposes a commercial cannabis operation consisting of specialty outdoor cultivation of up to 50 plants (1,968 square feet), 500 square feet of indoor cottage cultivation, and 48 square feet of indoor processing to be contained in an existing 594-square foot, one-story structure formerly used as a garage. The project would be located at 2211 London Ranch Road in Glen Ellen, APN 054-040-091. A reduction of the park setback requirement to 45 feet is also requested. The project would be located on a 7.74-acre parcel zoned Land Intensive Agriculture 60-acre density, Local Guidelines Combining District LG/MTN (Local Guidelines Combining District - Taylor/Sonoma/Mayacamas Mountains), and Scenic Resources Combining District (SR) (Scenic Landscape Unit), in Sonoma Valley. The project is eligible for the "pipeline" provision that allows existing cannabis projects on sites under 10 acres to be considered for approval. Specifically, the "pipeline" provision of the current ordinance allowed applications which were deemed complete prior to the effective date of the current ordinance to continue to be processed under the minimum lot size in effect at the time their applications were deemed complete. The project is included in the list of cannabis applications authorized for consideration under original jurisdiction as decided by Board on December 17, 2019, <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=4283181&GUID=B3E39CB0-BFC3-4DEA-97C2-DF57700DDED3&Options=&Search=>>.

Staff recommends approval of the project because it has determined that the project is an allowed conditional use in the Land Intensive Agriculture Zoning District. The project would comply with all development criteria of the Sonoma County Cannabis Ordinance (with pipeline provisions for parcels under 10 acres) and would

meet all operating standards as conditioned. The project is consistent with the General Plan policies to support ongoing agricultural activities in that the use would be comparable to an agricultural product and would preserve the primary existing agriculture uses on site.

Discussion:
BACKGROUND

Regulations

In October 2015, the Governor signed three bills into law collectively known as the Medical Cannabis Regulations and Safety Act establishing the State's first licensing system for commercial medical cannabis activity.

In November 2016, California voters approved Proposition 64, legalizing the adult use and possession of cannabis.

On December 20, 2016, the Sonoma County Board of Supervisors adopted the Cannabis Ordinance (No. 6189) to establish a comprehensive local program to permit and regulate medical cannabis to align with State Regulations. The ordinance was intended to preserve environmental resources, protect the health and safety of communities, ensure the industry contributes positively to the economic vitality of the County, and alleviate neighborhood compatibility issues.

In June 2017, the Governor signed a bill creating a single regulatory scheme for both medical and adult use cannabis businesses

On October 16, 2018, the Sonoma County Board of Supervisors adopted an amendment to the Cannabis Ordinance (No. 6245), extending the maximum term of cannabis use permit from one year to five years, authorizing adult use in addition to medical with a use permit, increasing minimum parcel size from 2 to 10 acres in agricultural and resource zones, allowing non-flowering propagation up to 25% of the permitted cultivation area with a use permit, and allowing the park setback to be reduced with a use permit. This ordinance amendment also included a pipeline provision to allow applications which were deemed complete prior to the effective date of the ordinance to continue to be processed under the minimum lot size in effect at the time their applications were deemed complete.

On December 17, 2019, with the goal of streamlining the decision-making process, 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.

Application Processing

On July 14, 2017, a Zoning Permit application was submitted for an Indoor Cottage Cultivation of 500 square feet. On July 20, 2017, a separate Conditional Use Permit application was submitted for a Specialty Outdoor Cultivation of up to 50 plants (1,968 square feet). The two applications were consolidated on December 19, 2017 and the Zoning Permit application was withdrawn. The applicant has been enrolled in the penalty relief program since June 30, 2017 and is currently operating.

On December 28, 2017, the application was deemed complete for processing.

On July 22, 2020, the project was presented to the Sonoma Valley Citizens Advisory Council (SVCAC) and approved by a unanimous vote.

On June 12, 2020, and June 22, 2020, Permit Sonoma staff conducted two separate site inspections to assess the appropriateness of a park setback reduction and inspect the project site. Staff found the existence of an actual physical equivalent separation based on the existing topography, vegetation, and slope, and a lack of offsite impact, access, and visibility.

On July 13, 2020, Permit Sonoma sent notification of the August 12, 2020 hearing date to neighboring properties within 1,000 feet of the parcel boundaries, and to interested parties. Notification included information on how to connect to the meeting virtually.

PROJECT DESCRIPTION

Project Description Summary

The total cultivation area is 2,468 square feet.

- Cultivation Total: 2,468 Sq. Ft.
 - Outdoor: 50 plants (1,968 Sq. Ft.) [Specialty Outdoor]
 - Indoor: 500 Sq. Ft. [Cottage Indoor]
- Processing: 48 Sq. Ft. (Includes drying indoors)

Current Operation (Penalty Relief)

The applicant/operator is currently participating in the Sonoma County Cannabis Penalty Relief Program and is currently cultivating 1,968 square feet of outdoor cannabis (up to 50 plants), 224 square feet of indoor cannabis, and indoor processing. The request would increase the area of the indoor cultivation by 276 square feet to a total of 500 square feet.

Indoor cultivation and processing activities would be conducted in an existing 594 square-foot barn that was in former use as a garage and exercise room. (Attachments 8. Site Plan). Access to the site would be restricted to the public via a secured gate at the entrance of the property off of a private access drive extending west from London Ranch Road.

Hours of operation, including outdoor harvesting, and indoor cultivation and processing activities, would be 24 hours but deliveries and shipping would be limited to 8:00 am to 5:00 pm Monday through Friday. The applicant expects to hire a maximum of three part-time employees to process the cannabis. The operation would not be open to the public.

Site Improvements:

The existing barn that would be used for indoor cannabis cultivation was constructed with a building permit filed in 1980 (D-005580). The applicant would provide for an ADA-compliant restroom within the barn. The applicant has already installed charcoal filters onto the ventilation system for the indoor cultivation structure for odor control.

No new structures are proposed as part of the project.

Site Characteristics

The parcel is 7.74 acres and located in a rural agricultural area in Sonoma Valley, approximately 1.2 miles southwest of downtown Glen Ellen and 45 feet north of Jack London State Historic Park (Attachment 3 Vicinity Map; Attachment 4 Aerial Map). Access to the project site is from a private, shared driveway off of London Ranch Road (Attachment 8 Site Plan). London Ranch Road is a two way divided public road leading to the State Park. The Property is located on a twelve foot wide private road with a turnout prior to the property address located approximately mid-way on the 300 foot long section. The private road provides access to 5 existing developed parcels. The private access is paved with a dead end length of approximately 800 feet, and has an unobstructed width between 12 and 18 feet. A turnaround is located at approximately 800 feet. The applicant's parcel has a looped driveway with access to onsite water storage with an estimated 8000 gallons connected to stand pipes on the property. The gate is equipped with a fire key switch bypass.

Existing development includes a residence, carport, a 1.25-acre medicinal herb and biodynamic vegetable farm, 1.5 acres of sheep and chicken pastures, a 0.66-acre olive orchard, a 1.25-acre fruit tree orchard, 0.66-acres of curated insectaries, a barn/shed, an indoor cannabis cultivation structure, raised planter beds for outdoor cultivation, and water tanks. There is an existing domestic septic system and three water wells on site. The parcel is not under a Land Conservation Contract (Williamson Act).

Vegetation on the site mostly consists of non-native annual grassland and mixed woodland habitat. Areas in and around the existing bio-dynamic vegetable farm and the outdoor cannabis cultivation area has been disturbed from active use of this area and is considered disturbed habitat. In addition, there are several areas of landscaping consisting of ornamental plants and trees, primarily around the residence.

The site has varying topography but is generally sloped to the north and east. The topography in many of the developed areas has been altered. Elevations range from approximately 645 to 690 feet above sea level.

The site is located in a Marginal Groundwater Area (Class 3) and is not within a Priority Groundwater Basin, as defined under the Sustainable Groundwater Management Act (SGMA). The nearest SGMA basin is Napa-Sonoma Valley, located 900 feet northeast of the project parcel.

According to the Wildland Fire Hazard Area map in the Sonoma County General Plan, the project site is located in the State Responsibility Area and is designated as a High Fire Hazard Severity Zone. The site is designated as "Tier 2 - Elevated" on the California Public Utilities Commission Fire Threat Map. On June 17, 2020, a Cannabis Use Permit Road Evaluation was conducted by the Permit Sonoma Fire Prevention Division. Based on this evaluation, the project would be subject to standard conditions of approval designed to address fire risk

including fuel reduction, and maintaining the private access road.

General Plan Land Use and Zoning

The General Plan Land Use Designation on the parcel is Land Intensive Agriculture (LIA). The Sonoma County Department of Transportation and Public Works online GIS identifies London Ranch Road as a County-maintained local road. No bicycle or pedestrian improvements are proposed for this road per the Sonoma Countywide Bicycle and Pedestrian Master Plan.

Regional access to the project site is from Arnold Drive (1.05 miles to the east), which is identified as an Urban Major Arterial (and re-categorized to an Urban Minor Collector closer to the City of Sonoma) and Scenic Corridor in the Sonoma County General Plan. Zoning on the parcel is Land Intensive Agriculture 60-acre density, Local Guidelines Combining District LG/MTN (Taylor/Sonoma/Mayacamas Mountains), and Scenic Resources Combining District (SR) (Scenic Landscape Unit) (Attachment 6 Zoning Map).

Surrounding Land Use and Zoning

This area is largely rural and located within unincorporated Sonoma County. Surrounding parcels are zoned Diverse Agriculture (DA), Agriculture and Residential (AR), Land Intensive Agriculture (LIA), and Public Facilities (PF). Surrounding land uses are composed primarily of low-density single family residential and medium to large scale agricultural uses. The nearest commercial use to the site is Benzinger Family Winery, located directly north of the site and previously owned and operated by the Applicant. Jack London State Historic Park, a 1400-acre California State Historic Park is located 45 feet south of the project site. The Park contains historic buildings, hiking and bicycle trails, equestrian staging areas, picnic areas, and scenic viewpoints.

There are no other proposed or operating, cannabis operations within a two-mile radius of the proposed project.

DISCUSSION OF ISSUES

Issue #1: General Plan Consistency

The Sonoma County 2020 General Plan classifies the project site as Land Intensive Agriculture (LIA). The purpose and definition of LIA designations are to *“... enhance and protect lands capable of and generally used for animal husbandry and the production of food, fiber, and plant materials. The soil type and climate support relatively high production per acre of land. The objective in land intensive agricultural areas shall be to establish densities and parcel sizes that are conducive to continued agricultural production.”*

Staff Analysis:

In adopting Ordinance No. 6189, the Board of Supervisors concluded that cannabis cultivation and processing may be permitted within the Land Intensive Agriculture land use designation with Use Permit approval, provided the project is consistent with the overall goals, objectives, policies, and programs of the Sonoma County General Plan. Staff has concluded that the project is consistent with the overall goals, objectives, policies, and programs of the Sonoma County General Plan because:

- The primary use of the parcel would remain in agriculture. The project would preserve the existing

agricultural uses on site that include the medicinal herb and biodynamic vegetable farm, sheep and chicken pastures, olive and fruit tree orchards, and curated insectaries, totaling 5.3 acres;

- The project would utilize existing structures and there would be no need to construct new structures which could remove existing land from agricultural production;
- The character of the land would remain agricultural in that the overall level of structural development will be similar to the existing condition. The land does and would continue to look “agricultural” in nature, containing a primary residence, a barn, greenhouses and hoop houses for growing vegetables, and water tanks;
- The land use designation allows for cultivation of cannabis with a Use Permit;
- The project would be located outside Riparian Corridors;
- The project has developed a Net Zero water use plan; and
- The cultivation area would be screened from the public right-of-way and Jack London State Historic Park.

The site and surrounding is characterized by intervening topography and landscaping that would screen operations from the public right-of-way and Jack London State Historic Park. For this reason, the project would preserve the natural, visual and scenic resources of the site, avoid urban development of the site, and result in a use of the existing property consistent with General Plan Objectives.

Issue #2: Zoning Consistency

Land Intensive Agriculture (LIA)

Commercial cannabis cultivation is an allowed use with a use permit in the Land Intensive Agriculture zoning district pursuant to compliance with development standards from Sonoma County Code Sections 26-88-250 through 26-88-254.

Staff Analysis:

The project complies with all development standards. The project would be located on a 7.74-acre parcel where the application benefits from the pipeline provision allowing for cannabis permits on parcels of at least 5 acres. The total cultivation area for the project would be 2,468 square feet, well below the maximum allowed 43,560 square feet. The indoor cultivation structure would meet all required setbacks. The outdoor cultivation area would be setback 145 feet from the property line and 450 feet from the closest off-site residence. The outdoor cultivation area thus meets all required setbacks, except for the 1,000 foot park setback from Jack London State Historic Park, which would need to be reduced to 45 feet as discussed below. The project would be located 2.1 miles southwest of Dunbar Elementary School, the nearest school to the project.

The proposed use shall be maintained and operated in conformance with all applicable county and state

statutes, ordinances, rules, and regulations, including the above development standards and all operating standards from Sonoma County Code Sections 26-88-250 through 26-88-254, as required by Condition of Approval No. 13. Operating standards include but are not limited to implementation of a Site Security Plan; installation and operation of odor control filtration systems; utilization of renewable energy sources; and groundwater monitoring.

Local Guidelines Combining District (Taylor/Sonoma/Mayacamas Mountains (LG/MTN))

The purpose of these guidelines and standards are to implement General Plan Land Use Element policies and programs to protect and enhance the unique character of specific unincorporated communities and areas, as designated by the Board, while allowing for land uses and development authorized in the General Plan Land Use Element.

The standards are intended to reduce the visual impacts of residential related development within the Scenic Landscape Units of Taylor, Sonoma, and Mayacamas Mountain areas as visible from public roads.

Staff Analysis:

The project does not propose the construction of any new residential development, nor any exterior changes to existing residential structures. As a result, the project is exempt from the local guidelines and standards.

Scenic Resources Combining District (SR) (Scenic Landscape Unit)

The purpose of this district is to preserve the visual character and scenic resources of lands in the county. All structures located within scenic landscape units shall be sited below exposed ridge lines, use natural landforms and existing vegetation to screen them from view from public roads, have utilities places underground, and discourage cuts and fills.

Staff Analysis:

The project does not propose the construction of any new structures and thus would preserve the visual character and scenic resources of lands in the county.

Issue #3: Neighborhood Compatibility

Public comments were received by Permit Sonoma from May 2018 to August 2020 . The comments were considered during evaluation of the project and have been used to determine areas of potential neighborhood incompatibility. Issues raised as areas of potential concern include: 1) The project's eligibility to be considered under the "pipeline" provision, and 2) The project's proximity to Jack London State Historic Park. Each of these topics is discussed below:

1) "Pipeline" Eligibility

Staff received comments concerning the project's eligibility to be considered under the "pipeline" provision stating that the parcel does not meet the 10-acre minimum and that one of the original applications (ZPC17-0003) was withdrawn.

Staff Analysis:

Application ZPC17-0003 was submitted on July 14, 2017 by Mike Benzinger (Glentucky Family Farm, LLC), for a zoning permit for a 500 square foot indoor grow at the subject property. On July 20, 2017, application UPC17-0012 was submitted, also by Mike Benzinger (Glentucky Family Farm, LLC), for a use permit for a 50-plant outdoor grow. On August 22, 2017, Permit Sonoma sent a letter to the applicant stating that the application was incomplete and requesting a biological assessment and additional analysis on the rainwater catchment system. The two applications were consolidated on October 5, 2017, and the zoning permit was subsequently withdrawn by the applicant as a result of the consolidation.

The current application, UPC17-0012, was determined to be complete for processing on December 28, 2017, well in advance of the Ordinance's effective date of November 16, 2018. No appeal of that determination was received. It was later discovered that the site was located within 1,000 feet of Jack London State Park as this was not previously revealed on the County's mapping database. Still, because the application was determined to be complete for processing prior to the effective date of the new ordinance and is eligible for approval under county code, it is being appropriately processed under the Ordinance's pipeline provision irrespective of the increased minimum lot size.

II) Proximity to Jack London State Historic Park

The minimum setback for outdoor cultivation areas (property line to property line) from sensitive uses, such as schools, parks, and treatment facilities is 1,000 feet. The project would be setback 45 feet from the nearest sensitive use, Jack London State Historic Park.

Staff 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."*

- **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 of approximately 100 feet downward toward the cultivation area. The area between the project site and the park is densely vegetated with trees and shrubbery.
- **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. The indoor cultivation structure would include a charcoal odor control filtration system, in compliance with operating standards. When properly functioning within a sealed structure, the proposed odor control system would contain all cannabis odors inside the structure and ensure that no odor is detectible at any property boundary. Condition of Approval #25 requires ongoing monitoring and maintenance of the system, including daily inspections. This condition also requires annual reporting of monitoring results. With implementation of maintenance and monitoring conditions, the indoor operation is not likely to generate odors to surrounding properties, including the Jack London State Historic Park. Odor is also known to dissipate with distance and be blocked by dense vegetation such as the type found between

the park trailheads and parking lots and project site.

- **Access:** The project site would be inaccessible to visitors of the park because it cannot be seen from the park, the dense vegetation would be difficult to walk through, and the downward slope would be difficult and potentially dangerous to traverse.
- **Visibility:** No part of the cultivation area is visible from either of the two (2) parking lots nor the two (2) nearest trail heads.

Staff has determined that an actual physical equivalent separation exists due to topography, vegetation, slope, such that no offsite impact would occur, and that the cannabis operation would not be accessible nor visible from the park. For further discussion and photographs, please see Attachment 12: Setback Reduction Analysis.

Environmental Determination

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 § 15301 Existing Facilities** because the project legalizes existing cannabis cultivation uses with no expansion to the current structures and only negligible expansion to the existing use, and § 15303 New Construction or Conversion of Small Structures because the project involves converting a small portion of the existing structure from a garage to indoor cultivation with minimal outdoor activities. Further, there are no unusual circumstances that would create a reasonable possibility of significant environmental effects. The project is also exempt from California Environmental Quality Act (CEQA) review under the common sense exemption set forth in CEQA Guidelines section 15061(b)(3) as there is no possibility that the project would have a significant effect on the environment.

Prior Board Actions:

- December 17, 2019 - The Board of Supervisors approved the request to take original jurisdiction over the project.

FISCAL SUMMARY

Narrative Explanation of Fiscal Impacts:

N/A

Narrative Explanation of Staffing Impacts (If Required):

Attachments:

- ATT 1 Board of Supervisors Resolution
- ATT 2 Conditions of Approval
- ATT 3 Vicinity Map
- ATT 4 Aerial Map
- ATT 5 General Plan Land Use Map
- ATT 6 Zoning Map
- ATT 7 Project Proposal Statement and Operating Plan
- ATT 8 Site Plan

- ATT 9 Net Zero Water Plan Analysis
- ATT 10 Public Comments
- ATT 11 Setback Reduction Request
- ATT 12 Setback Reduction Analysis

Related Items “On File” with the Clerk of the Board:

None