



Legislation Text

File #: 2021-1006, **Version:** 1

To: Sonoma County Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Marina Herrera, Planner III, (707) 565-2397

Vote Requirement: Majority

Supervisorial District(s): First

Title:

1:30 P.M. -File No. UPC18-0037, Outdoor Cannabis Cultivation, 2260 Los Alamos Road, Santa Rosa

Recommended Action:

Adopt a Resolution approving a limited term Use Permit for an outdoor commercial cannabis operation of 43,560 square feet of cultivation, 10,890 square feet of propagation and distributor and transport only and find the project categorically exempt from the California Environmental Quality Act (CEQA), on a 40-acre parcel located at 2260 Los Alamos Road, Santa Rosa; APN: 030-090-002, Permit Sonoma File. UPC18-0037; Supervisorial District 1. (First District)

Executive Summary:

The proposed project includes 43,560 square feet (1 acre) of outdoor cannabis cultivation, 10,890 square feet of outdoor propagation, and distributor and transport only. The project site is a 40-acre parcel located within the Franz Valley Area Plan, zoned Resources and Rural Development with a 200-acre density, at 2260 Los Alamos Road in Santa Rosa; APN 030-090-002. On December 17, 2019, the Board of Supervisors assumed original jurisdiction over this project.

Staff finds the commercial cannabis project is consistent with General Plan and Franz Valley Area Plan policies, and that the project as conditioned, complies with all development criteria and operating standards of the Sonoma County Cannabis Ordinance. The design, location, size and operating characteristics of the project are compatible with the rural agricultural character of the area and surrounding land uses.

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, and ensure the industry contributes positively to the economic vitality of the County.

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 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 clarifying a number of additional items, such as setbacks and definitions. 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 development criteria and minimum lot size in effect at the time their applications were deemed complete.

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.

Application Processing

On June 1, 2018, an application was accepted for 43,560 square feet (1-acre) of outdoor cultivation; associated processing of site-grown cannabis, including trimming, drying, curing, and weighing; and an onsite security trailer. The application enrolled in the penalty relief program; commercial cannabis is currently grown on site.

In June of 2021, the application was revised to remove the on-site processing and on-site security trailer and add distributor-transport only and add the maximum allowed propagation area of 25% of the proposed cultivation area (10,890 square feet).

On October 22, 2021, Permit Sonoma sent notification of the November 2, 2021 hearing date 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." Notification included meeting details and information on how to connect to the meeting virtually.

PROJECT DESCRIPTION

Site Characteristics

The 40-acre project parcel is located in the northeastern portion of the County, approximately 3.5 miles northeast of Santa Rosa (Attachment 3 Vicinity Map; Attachment 4 Aerial Map). Access to the project site is from Weeks Ranch Road, a privately maintained partially graveled and paved road, via Los Alamos Road a county maintained road (Attachment 7 Site Plan).

Prior to the September 2020 Glass Fire, the project site was developed with a residence occupied by the owner and a number of residential and agricultural accessory structures. However, these structures are no longer existing. The residential structure, when rebuilt will not serve the cannabis use and is to be occupied by the property owner. There is an existing septic system which previously served the residence and an approved

permit on file for a new well, but no active wells at this time. The well permit on file is intended to serve the residence once rebuilt and is only intended to serve employees for the cannabis use. The site supports ground mount solar of 8.16 kw intended to serve the residential use (BLD15-1539) and PG&E transmission lines are installed through northern portion of the property. Additionally, the applicant is currently participating in the Sonoma County Cannabis Penalty Relief Program and cultivated 35,203 square feet of outdoor cannabis for the 2021 season.

The project parcel is currently subject to a Land Conservation Contract (Williamson Act). The landowner has submitted the required compliance statement verifying an existing contract with Weeks Ranch to allow grazing by cattle over half of the property. Collectively all compatible uses under the Williamson Act contract, including residential and cannabis use, may occupy not more than 2 acres, which is 5% of the 40 acre parcel for so long as the contract restricts the parcel. Prior to the 2020 Glass Fire the project site supported 10 honeybee hives. At this time, four honeybee hives have been re-established on the property. The property owner submitted an application for non-renewal of the Williamson Act Contract in 2012 (AGP12-0009), therefore the Williamson Act Contract will expire on December 31, 2022. The total cultivation area would cover 4% or 1.60 acres of the overall 40-acre parcel, this calculation accounts for cultivation area, propagation area and the surface area of the existing water tanks and pond. The Williamson Act Uniform Rules 8.3(G) allows cannabis as a compatible use with accessory incidental uses, however expressly excludes manufacturing, retail sales and distributing. This prohibition is meant to apply where distribution is a primary use rather than incidental to the primary use, which is cultivation. The distributor-transport only restricts the licensee to transporting only cannabis goods that the licensee has cultivated. A distribution operation accepts cannabis from multiple cultivators, requires a different state license type and is not associated cultivation.

The project parcel contains a combination of non-native annual grassland, mixed evergreen forest, chaparral and ruderal/disturbed vegetation. The subject property slopes severely from southwest to northeast but the project areas are otherwise level. Cultivation areas are sited on slopes less than 10%.

The site is located in a Groundwater Availability Class 4 - Areas with low or highly variable water yield and is not located within a Medium or High Priority basin defined under the Sustainable Groundwater Management Act (SGMA). The nearest SGMA basin is Santa Rosa Valley, approximately 3.5 miles southwest of the project.

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 and Very High Fire Hazard Severity Zone. The site is designated as Tier 3 - Extreme on the California Public Utilities Commission Fire Threat Map. In August of 2021, a Cannabis Use Permit Road Evaluation was conducted by Permit Sonoma's Fire Prevention Division. Based on this evaluation, the project would be subject to conditions of approval to address fuel reduction and maintaining of the private access road and turnouts.

General Plan Land Use and Zoning

The General Plan Land Use and Zoning Designations on the parcel are Resources and Rural Development with a 200 acre density (Attachment 5 Land Use Map). The site is also designated Resources and Rural Development by the Franz Valley Plan (Attachment 6 Zoning Map).

Surrounding Land Use and Zoning

Surrounding parcels to the north and west are generally large agricultural properties zoned Resources and Rural Development, split between 200 and 100 acre densities. The surrounding area primarily consists of residentially developed parcels and undeveloped agricultural lands. An approximate mile to the southeast is the property line of Hood Mountain Regional Park and Open Space Preserve.

Current Operation, Penalty Relief Program (PRP)

The applicant is currently participating in the Sonoma County Cannabis Penalty Relief Program and is presently cultivating 35,203 square feet of outdoor cannabis. This application requests to increase the outdoor cultivation by 8,357 for a total of 43,560 (1 acre) and add 10,890 square feet of outdoor propagation area and distributor and transport only.

Proposed Commercial Cannabis Operation

The project proposes one acre, 43,560 square feet of outdoor cannabis cultivation, an additional propagation area of up to 25% of the cultivation area (10,890 sf), and distributor and transport only. Cultivation areas are located in two portions of the property. The northern cultivation area, previously developed in vineyards, is located parallel to the northern property line and the southern area is located parallel to the southern property line and are sited over 100 feet from both the northern and southern property line. The proposed propagation area of 10,890 square feet will be located adjacent to the southerly cultivation area. The project does not require additional site grading or the development of new permanent structures.

Water supply for cannabis irrigation is provided from an onsite pond with an existing surface water right with the California Division of Water Rights (Permit ID 018786, License ID 012581). Water for the northern and southern cultivation areas will be supplied by pond water pumped into storage tanks. The southern cultivation area will be irrigated by five 5,000 gallon water storage tanks and the northern cultivation area by two 2,500 gallon tanks. At the cultivation areas, development will be limited to security fencing, water tanks, a portable restroom and hand washing station. Energy demand for the proposed outdoor cultivation is minimal, the applicant has indicated enrollment in Sonoma Clean power and only necessary for implementation of security measures and hydraulic pumping needs. No additional demand for energy is required for the project.

The cannabis operation would employ four full-time and four seasonal employees during the harvest season. Outdoor cultivation activities would be conducted seven days a week, 24-hours per day as needed. Deliveries and shipping would be limited to the hours of 8:00 AM to 5:00 PM Monday through Friday. An ADA compliant portable restroom will be brought on site for seasonal employees and the operators will employ a licensed contractor to the site for proper waste disposal. Onsite parking would be provided to employees at the southern cultivation area adjacent to the fire turnaround. The driveway entrance to the property is controlled by a locked gate and knox box.

DISCUSSION

General Plan Consistency

The subject property has a General Plan Land Use designation of Resources and Rural Development, which is intended to manage and conserve natural resource areas and existing areas of rural character. The primary allowed uses of the Resources and Rural Development Land Use Designation are protection of natural

resources, low-density residential development, and limited agricultural production activities in areas of timberland. Additional policies applied to this land use designation include protecting lands for aggregate resource production, protecting against intensive development of land constrained by steep slopes or other constraints, and protecting against proliferation of development in areas with inadequate public services and infrastructure.

Staff Analysis

Project components, including cultivation and propagation areas and associated security measures, will occupy a relatively small portion of the overall 40-acre property and therefore would conserve the rural character and natural resources of the remainder of the site. The project does not propose the construction of new structures or additional site grading and the surrounding intervening topography and sites vegetation would screen operations from public and private view sheds.

The total cultivation area would cover 4% or 1.60 acres of the overall 40-acre parcel, within areas that do not require additional grading or removal of trees to facilitate cultivation. The total cultivation area calculation includes cultivation, propagation and the surface area of the existing water tanks and pond. The remainder of the parcel would remain undeveloped with the exception of the single family residential rebuild and would thus align with overall General Plan land use policies aimed to protect resources. For these reasons, 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 and policies for the Resources and Rural Development Area policies.

Franz Valley Area Plan Consistency

The Franz Valley Area Plan is implemented pursuant to General Plan Policy LU-1a which states that the County should carry out policies and standards both in the Specific Area Plan and General Plan. The Area Plan notes that the majority of the area is categorized as Resources and Rural Development (RRD). The primary goal for this land use is to keep options open for resource development and conservation by not permitting residential uses or other types of development that would preclude potential future land uses involving agriculture, timber resources, and geothermal development. The Area Plan includes several policies in its Open Space Plan regarding scenic routes, vista points, bicycle routes, parks, recreation, public land, historical sites, riparian corridors, and biotic habitat areas.

Staff Analysis

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, 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 access from the property to the neighboring Hood Mountain Regional Park. The proposed project is located within a Biotic Habitat combining zone and meets the requirements of the zone, further discussed below. Additionally, the project is a limited-term cannabis cultivation permit and would not preclude future land uses on the property such as agriculture, timber resources or geothermal development because the development is limited in size and scale to occupy an approximate 4% of the overall 40-acre

parcel.

Zoning Consistency

Resources and Rural Development

Commercial Cannabis cultivation is an allowed use with a use permit in the Resources and Rural Development zoning district pursuant to compliance with development standards from Sonoma County Code Sections 26-88-250 through 26-88-254.

Staff Analysis

The project site is a 40-acre parcel, which meets the 10-acre minimum parcel size requirement for commercial cannabis operations. The total cannabis cultivation area for the project would 43,560 square feet which is the allowed maximum for this parcel size and land use. The proposed outdoor propagation area is limited to the allowed 25% of cultivation area, equating to 10,890 square feet of propagation area. Outdoor cultivation and propagation areas are subject to a 100 foot property line setback and 300 foot setback from residences. The outdoor cultivation areas are located over 100 feet from all property lines and over 500 feet from any offsite residences. The outdoor cultivation and propagation areas meet all required setbacks, including sensitive use setbacks, which require a 1,000 foot setback from sensitive uses such as school, parks, and treatment facilities. The cultivation site is located an approximate 4 miles northeast of Austin Creek Elementary, the nearest school. The cultivation site is located approximately one mile northwest of Hood Mountain Regional Park, the nearest public park.

The proposed cannabis operation, as conditioned by the project Conditions of Approval, would be constructed, 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.

Operating standards include, but are not limited to: implementation of a Site Security Plan, Fire Protection Plan and Waste Management Plan; utilization of renewable energy sources; and net zero groundwater use.

Biotic Habitat Combining Zone

The Biotic Habitat combining zone is established to protect and enhance Biotic Habitat Areas for their natural habitat and environmental values and to implement the provisions of the General Plan Open Space and Resource Conservation Element, Area Plans and Specific Plans. Protection of these areas helps to maintain the natural vegetation, support native plant and animal species, protect water quality and air quality, and preserve the quality of life, diversity and unique character of the County.

Staff Analysis

A Biological Assessment was prepared for the project by Synthesis Planning in February of 2018. The Biological Assessment surveyed the project site (used to define the project footprint, existing growing areas, proposed growing areas, existing access routes) and buffer areas (used to define the circular area with a radius of 500 feet surrounding the project site). A literature review was completed and field surveys were conducted to identify special status plant and wildlife species, as well as sensitive habitats that could be potentially present

within the proposed project site and buffer area.

The project site and buffer area do not lie within any U.S. Fish and Wildlife Service designated critical habitat areas for protected wildlife or plant species. No special status species were observed during biological surveys. Habitat areas observed during field surveys included, non-native annual grassland, mixed evergreen forest, chaparral, fresh emergent wetlands and ruderal, disturbed vegetative community type. The fresh emergent wetland vegetative community was observed in the project buffer area along the upland water interface of the pond to the southeast of the northern grow area. The northern cultivation area is setback 165 feet from this vegetative community. Therefore, the project complies with the requirements of the Biotic Habitat combining zone.

Staff Analysis

Water Use. Water supply for the cannabis operation is from an onsite pond with existing surface water right with the California Division of Water Rights (Permit ID 018786, License ID 012581). The water right specifies use of the onsite pond to store 3.2 acre-feet per year. Total water use is limited to 3.0 acre feet per year. Water may be collected from the pond from November 15 to March 31, annually.

The applicant proposes a combination of hand watering and drip irrigation. Irrigation demand of the of the present PRP cannabis operation was estimated to be 1.5 acre feet per year, according to the 2017 licensee reporting provided to the Water Board in March of 2018. Therefore, the pre-existing 3.2 acre feet pond is determined to be an adequate water supply for cannabis irrigation with additional water supply for emergency response if needed.

Employee water supply will be provided from the existing onsite spring or a groundwater well. The existing spring was previously used as the water source for the residence and domestic needs of employees. Employee water use is expected to be minimal, an approximate 0.1 acre feet per year or less. Peak water use for a maximum of eight employees (four full time, four part-time seasonal) is expected to be 120 gallons per day or 0.08 gallons per minute.

Traffic. The project proposes four full time employees and a maximum of four seasonal employees. Full time employees will work year-round for cultivation maintenance and seasonal employees will work during planting and harvesting season. The project would conservatively generate approximately four additional average daily vehicle trips during cultivation maintenance and approximately twenty-four daily vehicle trips during harvest. This minimal number of peak hour and total daily trips does not have a significant effect on local traffic conditions. The project was sent to the Department of Transportation and Public Works (TPW) for review and a traffic study was not requested.

Fire Risk & Access. The project site is within the fire perimeter of the 2020 Glass Fire, the single family residence and accessory agricultural structure were lost in the Glass Fire. Per the Sonoma County General Plan, the project site is located within a High Fire Hazard Severity Zone within the State Responsibility Area. A private partially paved and graveled road Weeks Ranch Road, accessed via Los Alamos Road, provides access to the project site.

The Project is not expected to increase the risk of wildfires in the area because the Project only proposes outdoor cannabis cultivation. There are no buildings proposed and no on-site processing will occur. Excess

water supply will also be made available for emergency responses if needed. In addition, the Project is not expected to significantly impact evacuation plans during a wildfire or other emergency because the site will not be open to the public, there will be no events, and only 4 full-time employees and an additional 4 seasonal employees. The minor vehicle trips added due to the Project will not significantly impair neighbors' ability to evacuate during an emergency or access by emergency personnel.

In August of 2021, a Cannabis Use Permit Road Evaluation was conducted by Permit Sonoma's Fire Prevention Division. Based on this evaluation, the project is conditioned to address fuel reduction and maintaining of the private access road and turnouts. Project Conditions of Approval require all new structures to be built in compliance with applicable County Fire Code and the California Department of Forestry and Fire Protection Fire Safe Regulations (14 CCR § 1270.00 et seq.).

The California Department of Forestry and Fire Protection Fire Safe Regulations (14 CCR § 1270.00 et seq.) require developments within the State Responsibility Area to provide for safe access for emergency wildfire equipment and civilian evacuation concurrently. In general, this includes requiring that two-lane roads have two 10-foot traffic lanes and that one-lane roads have one 12-foot traffic lane. The Board of Forestry is in the process of working with stakeholders statewide to consider the appropriate road width standards to apply to existing roads. Currently, the State regulations allow for exceptions to these standards due to environmental conditions and physical site limitations when the alternative provides the same practical effect towards defensible space. The Board of Forestry authorizes alternatives that have the same practical effect, which is defined as the capability of applying accepted wildland fire suppression strategies and provisions for firefighting safety, such as the following: (a) access for emergency wildland fire equipment; (b) safe civilian evacuation; (c) signing that avoids delays in emergency response; (d) available and accessible water to effectively attack or defend a structure from wildfire; and (e) fuel modification sufficient for civilian and fire fighter safety. (14 CCR § 1270.06(a) and § 1271).

This applicant submitted a request for an exception to the Board of Forestry's width and dead end road standards. The application includes proposed turnouts, hammerhead turnarounds to facilitate emergency equipment access and evacuation; signage to avoid delays in emergency equipment response; emergency water supplies in a pond and water tanks; and fuel modification (Attachment 8 is the Application for Exception to Standards and Site Maps).

The Sonoma County Fire Marshal evaluated the applicant's request for an Exception to Standards (14 CCR § 1270.06) and determined the alternatives provide the same practical effect pursuant to 14 CCR §1270.06 and §1271.00. The Fire Marshal accepted the Exception to Standards and submitted it to Cal Fire on September 9, 2021. The request has been accepted by the Fire Marshal because it provides alternatives to provide emergency wildfire equipment access concurrently with civilian evacuation through turnouts, turnarounds in addition to sufficient width on existing roads to allow for safe emergency wildfire equipment access concurrently with civilian evacuation. In addition, the project includes signing to avoid delays in emergency response. It also provides available and accessible water in the 3.2 acre pond and water tanks to effectively attack or defend a structure from wildfire. Finally, the project applicant will comply with defensible space and vegetation management to provide additional fire safety. Together, the Fire Marshal has determined that these mitigations meet the same practical effect standards authorized in the current Board of Forestry regulations.

Additionally, as required by, Section 26-88-254(f)(16) the Cannabis Ordinance No. 6245, further enforced by

Project Condition of Approval 40, the applicant is to submit additional detail to their Fire Protection Plan that further documents fire access road, 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. These conditions have been determined to provide for the Same Practical Effect (14 CCR § 1270.06). In addition, the Fire Marshal has requested the applicant to continue to coordinate with western neighboring property owners to use best efforts to secure emergency fire access rights to the private Pacific Gas & Electric maintenance road that already exists and can allow for a secondary means of egress to Hoist Road.

ENVIRONMENTAL DETERMINATION

This proposed project has been analyzed under the California Environmental Quality Act (CEQA) and the CEQA Guidelines, California Code of Regulations. Staff has determined that the project is exempt under CEQA Section 15304, Minor Alterations to Land. This Categorical Exemption is applicable to “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees, except for forestry or agricultural purposes.” Examples of activities covered under this exemption include Section 15304(b), which includes “new gardening and landscaping,” and Section 15034(e), which includes “minor temporary use of land having negligible or no permanent effects on the environment.”

Permit Sonoma has determined that the project is categorically exempt from the California Environmental Quality Act (CEQA) under, Section 15304 (Minor Land Alterations), which provides for minor public or private alterations in the condition of land water and/or vegetation which does not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. The project involves seasonal outdoor cultivation of an area constituting 1.60 acre of the 40-acre parcel, or four percent of the overall project site. The use does not require additional grading, vegetation removal, construction of new structures or placement of impervious surfaces. A categorical exemption is also appropriate because the evidence supports the conclusion the Project will not have a significant impact on wildfire risk or evacuation plans in the event of an emergency. The proposed activity is also exempt under the common sense exemption, Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the activity in question could have a significant impact on the environment.

No exceptions listed under CEQA Section 15300.2 apply, including the “unusual circumstances” exception because the evidence in the record supports the conclusion that there is no reasonable possibility the Project will have a significant effect on the environment due to unusual circumstances. The evidence does not support a finding that an unusual circumstance exists and the Biological Assessment, water analysis, and traffic analysis did not identify significant effects on the environment.

Prior Board Actions:

December 17, 2019, Board of Supervisors action approving request for original jurisdiction over multiple applications, including UPC18-0037.

FISCAL SUMMARY

Narrative Explanation of Fiscal Impacts:

N/A

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Att 1 UPC18-0037 Board of Supervisors Resolution

Att 2 UPC18-0037 Conditions of Approval

Att 3 UPC18-0037 Vicinity Map

Att 4 UPC18-0037 Aerial Map

Att 5 UPC18-0037 Land Use Map

Att 6 UPC18-0037 Zoning Map

Att 7 UPC18-0037 Site Plan

Att 8 UPC18-0037 Board of Forestry, Exception - Same Practical Effect 14 CCR §1270.06

Att 9 UPC18-0037 Request and Response from Cal Fire

Att 10 UPC18-0037 Public Comment

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

N/A