



## Sonoma County Board of Zoning Adjustments STAFF REPORT

**FILE:** UPC17-0090  
**DATE:** June 13, 2019  
**TIME:** 2:00 pm  
**STAFF:** Richard Larrouy, Contract Project Planner

### SUMMARY

**Applicant:** Luma California, LLC (Attention: Alexa Wall)

**Owner:** John Scully

**Location:** 2275 Roberts Road, Penngrove, CA

**APNs:** 047-122-025

**Supervisorial District No.:** 1

**Subject:** Cannabis Use Permit for Commercial Medical and Adult Indoor, Outdoor, and Mixed Light Cultivation and Processing

**Proposal:** Request for a limited, 5-year term Conditional Use Permit for a commercial medical cannabis and adult use cultivation operation consisting of: (1) a 10,000-square foot outdoor cultivation area, (2) a 10,000-square foot mixed light cultivation area, (3) a 5,000-square foot indoor cultivation area, (4) 5,000 square feet of propagation area together with a 2,160-square foot breezeway and 3,960 square feet of office, processing, storage uses in a 25,560-square foot greenhouse on a 15-acre parcel.

**Environmental Determination:** Proposed Mitigated Negative Declaration

**General Plan:** Diverse Agriculture (DA)

**Specific/Area Plan:** Sonoma Mountain Area Plan

**Land Use:** Diverse Agriculture – 20 acres per dwelling unit

**Ord. Reference:** Sonoma County Ordinance No. 6189; Zoning Code Section 26-88-250 (Commercial Cannabis Uses – Medical), Section 26-88-252 (Enforcement), and Section 26-88-254 (Cannabis Cultivation – Commercial Medical).



**Zoning:** DA B6 20/3 RC50/25 SR VOH (Diverse Agriculture with a Density of one dwelling unit per 20 acres and a minimum lot size of 3 acres; Riparian Corridor Combining Zone 50/25; Scenic Resources Combining District; and Valley Oak Habitat Combining District).

**Land Conservation**

**Contract:** Not Applicable

**Application Complete**

**for Processing:** June 7, 2018

**RECOMMENDATION:** Recommend that the Board of Zoning Adjustments approve the Use Permit for a commercial medical cannabis and adult use cultivation operation consisting of (1) a 10,000-square foot outdoor cultivation area, (2) a 10,000-square foot mixed light cultivation area comprised of seven, connected modular-type elements containing a total of 25,560 square feet, and (3) 5,000 square feet of indoor cultivation area on a 15-acre parcel.

**EXECUTIVE SUMMARY:** Staff is recommending approval of the cannabis Use Permit application because:

- The 15-acre project site is adequately sized to accommodate the proposed cultivation use while complying with all applicable development standards for commercial cannabis cultivation;
- The subject site has access onto a public road and the project plans demonstrate that the use can comply with applicable requirements for the utilization of water, sewage disposal, storm drainage, and fire protection;
- Indoor, Mixed Light, and Outdoor commercial cannabis cultivation are permitted uses in the Diverse Agriculture zoning district and land use designation with the approval of a Use Permit;
- The proposed project meets the development criteria of Sonoma County Cannabis Ordinance No. 6189 and will meet the operating standards of the Ordinance through compliance with recommended conditions of approval;
- The project’s recommended conditions of approval include monitoring and reporting provisions to ensure compliance with potential adverse impacts, including but not limited to, noise, water usage, dust control/air quality, odor control, fire protection provisions, traffic control, air quality, biological impacts, and cultural/historical resources;
- The project is consistent with the Sonoma Mountain Area Plan policies and standards;
- The design, location, size, and operating characteristics of the project are considered compatible with the neighborhood and surrounding land uses in the vicinity; and
- The project has incorporated an Odor Control Plan and a Security Plan to be implemented as part of the cannabis operation.

## ANALYSIS

### **Background:**

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 medicinal cannabis activity. In November 2016, California voters approved Proposition 64, legalizing the adult use and possession of cannabis. In June 2017, the Governor signed a bill creating a single regulatory scheme for both medicinal and adult use cannabis businesses. In response to these changes in the regulation of cannabis, the Sonoma County Board of Supervisors adopted a series of ordinances to establish a comprehensive local program to permit and regulate medical cannabis. These ordinances were created to preserve environmental resources, protect the health and safety of communities, and ensure industry contributes positively to the economic vitality of the County.

On September 1, 2017, a Use Permit application was submitted for indoor, outdoor, and mixed light cannabis cultivation and processing. The applicants are not currently operating and therefore are not in the Penalty Relief Program. The application was deemed complete for processing on June 7, 2018 and a draft Initial Study/Mitigated Negative Declaration was completed and revised in February and April of 2018, respectively.

Early neighborhood notification was conducted for this project on January 23, 2018. The project planner subsequently received three comment letters on the proposed project that raised concerns regarding conformance with the Cannabis Ordinance (Ordinance No. 6189), possible environment impacts, and safety. These issues are discussed in the "Discussion of Issues" section of this staff report. In addition to this neighborhood consultation, public notice was provided to the surrounding neighborhood on May 13, 2019, for a scheduled hearing at the Board of Zoning Adjustment to consider the item on June 13, 2019. The responses that were received by staff following both the early neighborhood notification and the formal public notice for the project have been included in the staff report as Exhibit J, Public Comments.

### **Site Characteristics/Zoning:**

The subject site is 15 acres in size and located northeast of the intersection of Petaluma Hills and Roberts Roads, in unincorporated Sonoma County. The property contains an existing five-bedroom residence, as well as other existing structures, including a carport, shop building, and a 4,000-square foot storage building that will be demolished and replaced with similar-sized building on the same foot print (2,900 square feet of this structure will be used for indoor cultivation). The site is currently served by a private septic system and a private well. Parcels south, west, and east of the property range in size from 15 to 20 acres typically, but some reach up to approximately 120 acres. The surrounding properties are occupied with single-family residences and limited-intensity agricultural uses, primarily pasture land. A rural residential area (Canon Manor) is located immediately north of the project site, and a large residential area on unincorporated land between eastern Cotati and Petaluma Hill Road is approximately 1,000 feet west of the project.

The areas to the west, east, and south of the project site are zoned Diverse Agriculture (DA), like the project site, and the area to the north of the site is zoned Rural Residential (RR). The site's General Plan land use designation is Diverse Agriculture.

**Project Description:**

**Site.** The existing residential development on the southern portion of the site includes an 8,000-square foot single-family residence with associated landscaping. The residence will not be utilized as a part of the commercial cannabis and cultivation operation. The proposed cannabis operation would take place on the undeveloped portion of the 15-acre parcel located on the north side of Roberts Road, approximately 900 feet east of Petaluma Hill Road, near Penngrove.

**Cultivation.** Luma California, LLC proposes a commercial medical cannabis and adult use cultivation operation consisting of the following uses/areas and as further detailed by the following bulleted description:

**TOTAL CULTIVATION AREA: 25,000 Sq. Ft.**

**Outdoor Cultivation: 10,000 Sq. Ft.**

**Mixed Light Cultivation: 10,000 Sq. Ft.** (in 7 linked greenhouse spaces of 25,560 Sq. Ft.)

The remainder of the structure is devoted to propagation (see below) and non-cultivation areas, including a 3,960-Sq. Ft. headhouse area for drying, storage, and processing, as well as an office area. The mixed-light cultivation area is described as a 60-foot x 108-foot space within the greenhouse (totaling 12,960 square feet) however the cultivation area is constrained to 10,000 square feet and project Conditions maintain the 10,000 square foot cultivation limit.

**Indoor Cultivation: 5,000 Sq. Ft. in two structures:**

2,100 square feet within an existing shop building behind the site's single-family home  
2,900 square feet within a new 4,000-square foot building north of the site's residence that will replace an existing storage building that will be demolished. The remaining square footage in the new building will be utilized for walkways and equipment storage.

**PROPAGATION: 5,000 Sq. Ft.**

Located within 6,480 square feet in the proposed greenhouse, however only 5,000 square feet will serve as the functional propagation area. Project conditions require that the propagation area is separated from cultivation.

Totaling 20% of total cultivation area consistent with Zoning Code §26-88-254(f)(4)(b))

The two mixed light and outdoor cultivation areas will be located within 5 acres of the undeveloped northern portion of the site and the two indoor cultivation buildings are north of the existing residence. The cannabis cultivation operation is intended to be developed in a single phase; however, the project may be phased in response to market conditions and financing availability.

The greenhouse and outdoor growing areas will be contained within an approximate two-acre area screened by an eight-foot tall security fence that will be constructed using wooden posts and metal deer fencing. The fence will be screened and surrounded by native pollinator and fire-resistant plants, in accordance with County water efficient landscape regulations. The indoor cultivation will occur in pre-existing building footprints near the residence, as shown on Exhibit G, Project Plans. All cultivation areas meet the County's applicable setbacks

**Operation Plans.** Growing activities will occur 6:00 a.m. to 9:00 p.m. seven days a week, depending on the season/available hours of sunlight. Processing activities would be conducted from 8:00 a.m. to 5:00 p.m. seven days a week. The outdoor cultivation is expected to employ two full-time and two part-time employees, greenhouse operations are expected to employ three full-time and two part-time employees, indoor cultivation is expected to employ one full-time employee, and processing/trimming is expected to employ nine part-time employees – for a total of 19 employees (6 full-time and 13 part-time). The site would be closed to the public and would not contain any retail components.

**Greenhouse Plans.** The greenhouse structure will total 25,560 square feet and consists of interconnected modular-type components. The space would be divided into:

- 1) 3,960-square foot headhouse for storage, processing, drying, trimming, curing, and an office;
- 2) 2,160-square foot covered breezeway for walkway and equipment storage;
- 3) 6,480-square foot propagation area; and
- 4) 12,960-square foot cultivation area.

Supplemental lighting, along with natural lighting, would be used to facilitate growth of the cannabis plants. The project is consistent with County Zoning Regulations, which allow a propagation and vegetative production area that does not exceed 25% of the proposed cultivation area.

Air temperature and humidity in each of the bays would be closely monitored, and controlled electronically by a system of vents, heaters, and fans. There will also be blackout curtains in the greenhouse and supplemental lights will be used to help aid growing cannabis all year long with zero light leaks.

**Growing Methods.** The outdoor cultivation area will have approximately 400 plants spaced about 6 feet apart arranged in 20 rows of 25 plants each. Plants will be planted above ground in 200-gallon fabric pots using one cubic yard of soil per pot. Each row will be supported using trellis netting to keep plants and canopy in line. Irrigation will be provided by an electronically monitored drip system. Outdoor cultivation would occur from early May to late October, with the harvest conducted once per year, typically in late October.

All growing methods - indoor, outdoor, and mixed light (greenhouse) - will be done using soil and watered with compost teas and water. Water flow will be controlled and monitored using advanced drip irrigation systems for water conservation and run-off elimination. In addition, most of the soil after harvest will be amended to bring back the nutrients and reused for planting. If soil cannot be reused, it will then be composted for outdoor cultivation on the site during the following season. Using water from the site's existing well, several tanks will be utilized on-site to store composted teas and water for cultivation, including an outdoor 12,500-gallon tank that will service the indoor cultivation area and an outdoor 5,000-gallon tank near the greenhouse. There will also be a 5,000-gallon tank to prepare compost tea. Greenhouse and indoor cultivation will occur on rolling benches and all plants will be contained using a trellis system.

**Accessory Activities.** Non-cultivation activities related to the processing of cannabis harvested on-site consist of the following activities: drying, storage, trimming, packaging, and curing of harvested material. These activities would take place in the proposed 3,960-square foot headhouse structure to be

constructed adjacent to the greenhouse structure. This structure would also include offices, an employee break room, restrooms, and other work and storage areas. Drying will be conducted in foam-insulated rooms outfitted with humidity controls. Trimming, weighing, and packaging will be conducted by trained staff, who will then store the cannabis in a secured room. The applicant will only process product grown on the subject parcel.

**Parking and Access.** The project will provide 19 vehicle parking spaces in 3 separate areas for employees located on the west side of the proposed greenhouse and north and south of the two indoor cultivation buildings. The site also has an existing carport that will continue to serve the existing residence. Access to the parking areas will be from the site's two existing gated driveways located on the east and west sides of the subject parcel adjacent to Roberts Road. The driveways will be improved to applicable standards of the Uniform Building Code and applicable provisions of the Sonoma County Development Code.

### **DISCUSSION OF ISSUES**

#### **Issue #1: General Plan Consistency**

The subject property has a current General Plan Land Use designation of Diverse Agriculture (DA), which is intended to enhance and protect those land areas where soil, climate and water conditions support farming but where small acreage intensive farming and part-time farming activities are predominant, but where farming may not be the principal occupation of the farmer. The diverse agriculture land use category of the General Plan is subject to policies of the Agricultural Resource Element.

In adopting the Cannabis Ordinance, which in turn authorized the submittal of entitlement applications for various cannabis uses, the Sonoma County Board of Supervisors determined that cannabis uses (including cultivation and processing) are consistent with the overall goals, objectives, policies, and programs of the Sonoma County General Plan.

#### **Staff Analysis:**

Under Ordinance No. 6189, cannabis cultivation and processing are allowed within the Diverse Agriculture land use designation, with a Use Permit approval provided the project is consistent with the overall goals, objectives, policies, and programs of the Sonoma County General Plan. The total developed area of the project site (proposed cannabis and existing residential improvements at 3 acres each) would total approximately 6 acres, representing 40% of the 15-acre site. As noted in the project's draft Mitigated Negative Declaration, conversion of approximately 20% of the overall site for the proposed use does not represent a significant conversion of an agricultural use to a non-agricultural use, because these areas of the site are not currently farmed. Furthermore, cannabis cultivation in pots above ground maintains the condition of land for other agricultural uses, greenhouses are consistent with other agricultural uses, and the project entails growing of an agricultural product. Likewise, development of the proposed cannabis operation does not represent a significant conversion of land that is designated as Farmland of Local Importance. According to California Department of Conservation soil maps, the site is not designated as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland. The remainder of the subject parcel is available for agricultural or open space uses in the future.

**Issue #2: Consistency with the Sonoma Mountain Area Plan**

The Sonoma Mountain Area Plan was prepared pursuant to the General Plan Policy LU-1a and was developed to identify key issues, goals, and policies specific to the Sonoma Mountain Area Plan. The plan was originally adopted on June 20, 1978 (Resolution No. 61,105) and most recently modified on October 23, 2012 (Resolution No. 12-0512). The Plan recognizes that within areas designated Diverse Agriculture, "farming may not be the principle occupation of the farmer. The primary purpose of this category is to protect a full range of agricultural uses and to limit further rural residential intrusion consistent with the policies of the General Plan's Agricultural Resources Element."

**Staff Analysis:**

The project is generally consistent with the overall policies of the Sonoma Mountain Area Plan and, specifically, because it encourages "a pattern of growth which maintains the existing range of types of communities" and preserves "the identities of present communities" (Land Use Policies I and 2).

The proposed cannabis operation would disturb 20% of the site. The project is consistent with the development standards and operating limitations for the DA zone and the project's design, including its screening of the cultivation area and odor control plan, ensure that the project will not detract from either the rural character of the project site or project vicinity. Finally, the project does not preclude agricultural uses on the undeveloped portion of the site, and the cannabis growing operations do not affect the land in a manner that precludes future agricultural use of the property. The structures proposed by the project would be constructed in the north-central portion of the property behind the site's existing residence, thereby reducing its visibility from nearby public roads. The project's visual impact will be further minimized by screening (fencing and landscaping), as required by Ordinance No. 6189.

**Issue #3: Zoning Consistency**

The project site is zoned (DA) Diverse Agriculture and the operation is subject to Cannabis Ordinance – Sections 26-88-250 through 254. Commercial medical cannabis cultivation is permitted with a Use Permit approval in the Diverse Agriculture (DA) zoning district pursuant to Sonoma County Code Sections 26-88-250 through 254. The applicant has requested a Use Permit for an indoor, mixed light, and outdoor cannabis cultivation operation. In the DA zone, cannabis cultivation is subject to the following development standards:

- 1) Small Mixed Light cannabis cultivation cannot exceed 10,000 sq ft of cultivation area per parcel;
- 2) Small Outdoor cannabis cultivation cannot exceed 10,000 sq ft of cultivation area per parcel;
- 3) Small Indoor cannabis cultivation cannot exceed 5,000 sq ft of cultivation area per parcel;
- 4) The minimum parcel size is 10 acres for all commercial cannabis operations in agricultural zones;
- 5) A single person or entity may not cultivate a total combined cultivation area of more than one (1) acre within the County; and
- 6) Section 26-88-254 (f)(4)(b) of the Zoning Code states that: "Additional propagation and vegetative production area may be considered with a use permit, not to exceed twenty-five percent (25%) of the permitted cultivation area, provided this plant material is kept in a separate area away from flowering plants and the products are not sold as nursery stock."

**Staff Analysis:**

The proposed use complies with ordinance requirements listed above in that:

- 1) The maximum cultivation area limits for outdoor, mixed-light, and indoor cultivation are maintained as described above in the Project Description (page 3);
- 2) The subject parcel is 15 acres;
- 3) the applicant is proposing to cultivate less than one (1) acre of cannabis (25,000 square feet of cultivation); and
- 4) The proposed 5,000-square foot propagation area is within 25% of the proposed cultivation area, and will be separated from the cultivation areas per the proposed Conditions.

**I) Setbacks**

Cannabis cultivation operations must be compliant with the development criteria and operating standards within Section 26-88-254 (Cannabis Cultivation – Commercial) of the Zoning Code, and the following property setback standards:

**Property Setbacks – Mixed Light/Greenhouse.** Mixed light structures shall be set back a minimum of one hundred feet (100') from property lines and a minimum of three hundred feet (300') from residences and businesses on surrounding properties in agricultural and resource zones. Mixed Light/greenhouses in industrial zones shall be set back three hundred feet (300') from residences on surrounding properties. Greenhouses/mixed light structures in all zones shall be set back a minimum of one thousand feet (1,000') from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

**Property Setbacks – Outdoor.** Outdoor cultivation areas and all associated structures shall not be located in the front yard setback area and shall be screened from public view. Outdoor cultivation areas shall not be visible from a public right of way. Outdoor cultivation areas shall be set back a minimum of one hundred feet (100') from property lines and a minimum of three hundred feet (300') from residences and businesses on surrounding properties. Outdoor cultivation sites and greenhouses/mixed light structures shall be set back a minimum of one thousand feet (1,000') from a school providing education to K-12 grades, a public park, childcare center, or an alcohol or drug treatment facility. The distance shall be measured in a straight line from the property line of the protected site to the closest property line of the parcel with the cannabis cultivation use.

**Scenic Corridor Setbacks.** The subject parcel is located within the vicinity of Petaluma Hill Road, which is listed as a Scenic Corridor by the General Plan's Open Space Element. More specifically, the subject parcel is located approximately 900 feet east of Petaluma Hill Road. Section 26-64-030 of the Zoning Code requires a minimum setback of up to 200 feet from the scenic corridor for new structures.

**Staff Analysis:**

The proposed cannabis use complies with setback requirements listed above, based on the site plan and project proposal, which depict the proposed cultivation areas are over 300' from occupied residences.

The subject property lines are over 1,000 feet from property lines of any sensitive uses listed above (e.g. schools, public parks, child care centers, and alcohol or drug treatment facilities) and is located over 900 feet from the Petaluma Hill Road Scenic Corridor. Outdoor cultivation will not be visible from public right of way. The application also proposes landscaping of vegetation and trees to screen the subject use from Roberts Road. The applicant has agreed to implement these measures to minimize visibility of the greenhouse structures from Roberts Road.

## **II) Riparian Corridor (RC 50/25)**

The subject property is located in a Riparian Corridor Combining Zone. Per Article 65 of the Zoning Code, development is restricted to protect riparian habitat and vegetation. Given the 50/25 designation, there are prohibited uses (per Section 26-65-030) set back fifty (50) feet from the conservation area. Prohibited uses listed in this section of the Zoning Code include grading, vegetation removal, agricultural cultivation, structures, roads, utility lines, and parking lots.

### **Staff Analysis:**

The project site is located on a property zoned DA. The biological assessment conducted for the project site identified an unnamed, intermittent stream that is located to the south of the parcel's existing residence. The stream flows to Roberts Creek, a tributary of Lichau Creek, then eventually to the Petaluma River. The proposed development and cultivation associated with the project is located outside of the 50-foot conservation area. Although the project parcel is located on a property zoned RC (Riparian Corridor Combining Zone) and designated VOH (Valley Oak Habitat Combining District), the proposed development in the middle of the parcel is not located within any setbacks for riparian corridor and the Valley Oak plant community type is not present on the parcel. Subject to the results of the additional surveys required in Mitigation Measure BIO-2, the project site is not known to contain any riparian habitat, sensitive natural communities, or oak woodlands and no valley oak trees will be removed as part of the proposed project. Therefore, project-related impacts on these resources would be less than significant.

## **III) Scenic Resource (SR)**

The subject property is located in a Scenic Resource Combining Zone. In accordance with the provisions of Article 64 of the Zoning Code, development criteria including building heights, minimum lot area and lot widths, yard requirements and maximum percentages of lot coverages must comply with the requirements for the base zone district, which in the case of the project site, is Diverse Agriculture (DA). The project complies with the DA zone's density range, minimum lot size (10 acres), minimum lot width (125 feet), maximum building height (35 feet), maximum coverage (30,000 square feet), and minimum setbacks (30 feet front, 10 feet sides, and 20 feet rear).

Article 64 also provides the following criteria for project located in a community separator:

- 1) Structures shall be sited below exposed ridgelines;
- 2) Structures shall be screened from public roads;
- 3) Cut and fills are discouraged, and driveways should be screened from public view; and
- 4) Utilities shall be placed underground where economically practical.

**Staff Analysis:**

The proposed use is compliant with provisions, stated above, that are outlined in the Scenic Resource combining zone section of the Municipal Code and the accompanying General Plan sections. Specifically, the General Plan identifies the site as being a Scenic Resources area. General Plan Figure OSRC-1, "Scenic Resources Areas," indicates that the project site is located in the vicinity of a Scenic Corridor (Petaluma Hill Road) and is designated as a Community Separator. With respect to the former, projects must preserve roadside landscapes that have a high visual character (General Plan Goal OSRC-3). Project-related improvements, including cultivation areas, structures and fencing, are located outside of the 200-foot setback from Petaluma Hill Road and are not expected to be visible from the right-of-way of Petaluma Hill Road. In compliance with cannabis development standards, the project's grow areas will be screened by an 8-foot tall fence/screen covered with a neutral-colored sight-obscuring material and an approximately 20-foot wide hedgerow, further reducing potential impacts on the Scenic Corridor. As noted above, the fence and screening materials are located outside of the 200-foot scenic corridor setback area from Petaluma Hill Road Scenic. With respect to the Community Separator designation, a project must retain the rural character of the area (Objective OSRC-1.2). The project area will not be visible from either Petaluma Hill Road or Roberts Road and the view of the overall project site from both those rights-of-way will be unaffected by the project. As required by the Zoning Code, all proposed structures (greenhouses, indoor cultivation building, shop, storage building) will be below ridgelines and screened from the nearest public road (Roberts Road) with landscaping. There is no proposed cut and fill development. In accordance with Zoning Code provisions for projects within Scenic Landscape and Community Separator areas, the proposed cannabis project will be subject to design review approval by the Design Review Committee. The requirement is included in the project's conditions of approval (refer to Condition No. 23).

**IV) Valley Oak Habitat (VOH)**

The subject property is located in a Valley Oak Habitat Combining Zone. As per Article 67 of the Zoning Code, the intent of this combining zone is to protect and enhance Valley Oak and Valley Oak Woodland habitats. Whereas, any proposed removal of valley oak habitat would be mitigated through measures listed in Table/Section 26-67-030.

**Staff Analysis:**

The VOH combining district is established to protect and enhance valley oaks and valley oak woodlands and to implement the provisions of *Sonoma County General Plan 2020* Resource Conservation Element Section 5.1. The biological resources assess for the project noted that the site contains only one native Valley oak tree that appeared to meet the size criteria for protected status under the Sonoma County Tree Protection Ordinance. The valley oak tree will not be removed; therefore, the project will not have an adverse impact.

**Issue #4: Security Plan**

In adopting Ordinance Nos. 6189 and 6245, the Board of Supervisors found that security issues could be addressed through compliance with the following Security and Fencing requirements (Section 26-88-254 (21)). In order to make the security measures effective, part of the security protocol requires security plans to remain confidential.

**Security and Fencing.** All site security plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensor and be installed with capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of thirty (30) days. Video must use standard industry format to support criminal investigations. Lighting and alarms shall be installed to ensure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by non-invasive fire-resistant vegetation and fenced with locking gates with a Knox lock. No outdoor or mixed light cultivation sites located on parcels adjacent to public parks shall be visible from trails or public access points. Razor wire and similar fencing shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to ensure emergency access in compliance with fire safe standards. All structures used for cultivation shall have locking doors to prevent free access.

**Staff Analysis:**

In staff's opinion, security measures have been adequately addressed in the draft Security Plan for the proposed cannabis operation. The operation will be required to maintain all aspects of the approved site security plan (held confidentially at PRMD). This shall, at a minimum, include elements of Crime Prevention Through Environmental Design, the use of identification badges, perimeter security measures, alarms, employee screening and training, video surveillance measures with infrared capabilities, motion detectors, alarm monitoring, "track and trace compliance" (product tracking system), security guards, inventory control, and similar measures. Proposed on-site security measures are robust and go above and beyond the requirements detailed in the Cannabis Ordinance No. 6189.

**Issue #5: Odor Control**

The proposed cannabis cultivation project is considered an odor-generating use by the County with the potential to generate strong odors, particularly during the final phase of the growing cycle (typically in late summer/early fall). Although this type of project is not included in the Bay Area Air Quality Management District's (BAAQMD) Guidelines, the BAAQMD recommends a minimum one-mile screening distance for other project types (i.e., food processing facilities, feed lots and dairies, green water and recycle operations). As a result, the County has determined that because the project is an odor-generating use and within the minimum one-mile screening distance, a public nuisance may be deemed to exist if the cultivation produces odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public. The cultivation area is approximately 375 feet from the nearest residence to the north. Strong northerly evening winds are not uncommon in this area during the summer and early fall, while prevailing westerly winds are common during the remainder of the year. Neither of the prevailing winds is upwind of the rural residential area located to the north of the project site. To address potential odor impacts, Sections 26-88-254(f)(6 through 8) of the Zoning Code's development standards for commercial cannabis cultivation contain other requirements to reduce odor impacts, including the use of odor control technology for indoor and mixed light cultivation and the use of landscaping areas, such as windrows or hedgerows, to further decrease odor impacts. The Zoning Code also includes specific property setbacks requirements for outdoor, indoor, and mixed light cultivation, as follows:

- Outdoor cultivation areas: 100 feet from property lines and a minimum of three hundred feet (300') from residences and business structures on surrounding properties. In addition, outdoor cultivation sites must set back a minimum of 1,000 feet from schools providing education to K-12 grades, public parks, childcare centers, and alcohol or drug treatment facilities.;
- Indoor cultivation areas must comply with the setbacks for the base zone and any applicable combining zone. In addition, structures associated with cultivation may not be located in the front yard setback area and must be screened from public view. There can be no exterior evidence of cultivation either within or outside the structure. Indoor cultivation within agricultural and resource zones must be setback a minimum of 600 feet from a school providing education to K-12 grades; and
- Mixed light cultivation (greenhouse); A minimum of 100 feet from property lines, a minimum of 300 feet from residences and business structures on surrounding properties in agricultural and resource zones, a minimum of 1,000 feet from schools providing education to K-12 grades, public parks, childcare centers, and alcohol or drug treatment facilities.

**Staff Analysis:**

The Mitigated Negative Declaration's odor-related mitigation measures require the project to equip all cultivation and processing facilities with "odor control filtration and ventilation systems to control odors, humidity, and mold." In response, the applicant has agreed to designate an "Odor Mitigation Manager" to monitor, log, and respond to odor issues or complaints and mitigate potential odor risk from all cultivation areas.

The project's mitigation measures and conditions require:

- 1) Maintenance of minimum setback distances;
- 2) Odor control filtration and ventilation systems for the project's indoor operations;
- 3) A Nuisance Odor Contingency Plan prior to the approval of building permits that provides contact information and dedicated staff to log, report, and respond to odor complaints in the neighborhood;
- 4) Odor control systems inspections by County staff prior to the issuance of building permits.

The applicant has proposed two additional mitigation measures to reduce potential project-related odor impacts:

- 1) Implementing Commercial Odor Remediation Equipment (C.O.R.E.) to manage indoor-generated odors through a Molecular Disassociation to destroy odor-causing molecules using high powered ultraviolet lamps to create ozone and hydroxyls that destroy Volatile Organic Compounds (VOC) molecules;
- 2) Subtractive Odor Control technology for indoor cultivation that disperses essential oils in vapor form to neutralize odors

**Issue #6: Noise**

Cannabis operations can produce potential noise impacts through preparation of land for outdoor cultivation, construction activities for associated structures, noise from onsite power generators, noise from fans and venting equipment in greenhouses, and road noise from related traffic. Section 26-88-254(g)(6) includes the following standard: "Cultivation operations shall not exceed the General Plan Noise Standards Table NE-2, measured in accordance with the Sonoma County Noise Guidelines." County noise standards in the General Plan establish maximum allowable exterior noise exposures of 50 dBA in the daytime (7:00 AM to 10:00 PM) and 45 dBA in the nighttime (10:00 PM to 7:00 AM), as measured using the L50 value (the value exceeded 50 percent of the time, or 30 minutes in any hour--i.e., this is the median noise level). In addition, the use of generators is prohibited except for temporary use in the case of emergencies.

**Staff Analysis:**

In accordance with the Zoning Code's development standards for commercial cannabis operations, generators are only allowed for temporary use in the case of an emergency. Although, the applicant has not indicated whether the project will incorporate an emergency generator that will be used in the event of a loss of power at the subject facility, if such a device is utilized on the site, an acoustical enclosure (available with various levels of sound protection) shall be required per the project conditions. Use and operation of the generator would include regular testing, which likely would be conducted for ten to 15 minutes anywhere from weekly to monthly, with occasional testing that could run as long as 30 minutes. Because the generator could possibly run for more than 30 minutes in an hour during an emergency, generator operation was considered to fall in the 30 minute per hour daytime category for noise evaluation (i.e., L50). Results of generator testing and operation showed that noise levels at the three nearest residences could exceed the County noise standard for daytime and nighttime, depending on the time and the intensity of generator use. The noise assessment noted that during a nighttime emergency, even with an acoustical enclosure, emergency generator noise might exceed County noise standards.

The Noise and Vibration Assessment that was prepared for the project concluded that the project was not expected to exceed Sonoma County noise standards at any residential property in the vicinity of the project site, and that no specific mitigation measures were warranted beyond those related to the possible occasional use of an emergency generator, including the requirement for an acoustical enclosure, directing intake louvers away from nearby residences, limiting the times at which testing of the emergency generator can be tested, and inclusion of the required mitigation measures on the project's building plans. The project's mitigation measures also include the requirement for noise analysis for any greenhouse-mounted ventilated fans and approval and installation of any mitigation measures prior to occupancy of any project structures utilizing such fans. The Assessment also concluded construction noise would not exceed existing noise standards. In addition, the traffic associated with cultivation would be minimal and similar to other very small agricultural and residential uses in the project vicinity.

**Issue #7: Hydrology/Water Quality**

The proposed project is located within a Class 1 groundwater area and a hydrogeologic report was prepared to assess potential water usage impacts. In addition, the project site lies on the watershed boundary between the Laguna de Santa Rosa/Russian River watersheds. An unnamed, intermittent stream on the south end of the property flows to Roberts Creek, a tributary of Lichau Creek, then

eventually to the Petaluma River. The portion of the parcel where the project site is located ultimately drains north, but there are no existing ditches, swales, sewers or other drainage features in or near the project site. Precipitation falling on the in-situ soils infiltrates on the project site, is lost to evapotranspiration, or possibly sheet flows in some way to the west and/or north to Copeland Creek. Basically, the project location is landlocked and does not connect to any existing waters of the state or flow conveyances that connect to waters of the state.

### **Staff Analysis**

The required hydrogeologic report that was prepared for the project by O'Connor Environmental Inc. and was subsequently reviewed by the County Geologist, who determined that it met applicable County PRMD specifications for hydrogeologic studies. The report found that the project parcel has an existing baseline water use of 2.1 acre feet per year and that existing groundwater storage (492 to 7,392 acre feet) and average year recharge (455 acre feet/year) for the site were substantially greater than proposed water demands (331 acre feet) of the cumulative impact area. The project, operating in compliance with the conditions that were developed and recommended by the County Geologist, is expected to result in an increase in site water use to 2.74 acre feet per year. The County Geologist concluded that there was little potential to negatively impact groundwater supply, groundwater levels in neighboring wells, or surface waters.

The project does not include the construction of pipelines, ditches, or swales from the project site to waters of the state or flow conveyances that connect to waters of the state. Therefore, all storm water generated from impervious surfaces (road and parking lots, building roofs, etc.) constructed on the project site will be contained and managed on the project site. In addition, all process wastewater and domestic wastewater generated by the project will be completely managed on-site by a new septic system dedicated to the commercial cannabis operation. Because storm water and wastewater will be completely managed on-site, no water quality standards are expected to be violated from the operation of the project.

The project has enrolled in the North Coast Regional Water Quality Control Boards' Waiver of Waste Discharge Program as a Tier 2 discharger, which requires preparation of a Water Resource Protection Plan (now overseen by the State Control Board). The Sonoma County cannabis ordinance requires that a waste water management plan be submitted to identify the amount of waste water, excess irrigation and domestic wastewater anticipated and proper management and disposal. Finally, operators must comply with cannabis cultivation best management practices prescribed by the County Agriculture Commissioner, which include measures related to pesticide and fertilizer storage, pesticide use, fertilizer use, riparian protection, water use and storage, waste management, erosion control/grading and drainage, and items related to indoor cultivation. The project is also required to file a Notice of Intent (NOI) package for coverage under the State Water Resources Control Board (SWRCB) General Permit No. CAS000002 for Discharges of Storm Water Runoff Associated with Construction Activity (General Permit) (refer to Condition No. 37).

The project site is also located in an area subject to the North Coast Regional Water Quality Control Board (NCRWQCB) Municipal Separate Storm Sewer Systems (MS4) Permit and, therefore, is required to meet Sonoma County Storm Water Quality Ordinance requirements and to incorporate Low Impact Development (LID) Best Management Practices (BMPs) and post-construction treatment and volume

BMPs. Finally, Sonoma County requires the project applicant to prepare a grading and drainage plan in conformance with the County's Grading and Drainage Storm Water Quality Ordinances and compliance with the County Storm Water Low Impact Development Guide, which include performance standards and Best Management Practices for pre-construction, construction, and post-construction to prevent and/or minimize the discharge of pollutants, including sediment, from the project site.

There is one well on the project site, which was the subject of a hydrogeologic study prepared for the project. The study was reviewed by the County Geologist and found to be in compliance with applicable standard for such studies. The study concluded that there is little potential for the project to negatively impact groundwater supply, groundwater levels in neighboring wells, and surface waters. Among the required conditions of project approval, the County would require (1) quarterly monitoring of groundwater levels and quantities of groundwater extracted for this use, (2) calibration of water meters and copies of receipts and correction factors to be submitted to PRMD Project Review staff at least once every five years, and (3) granting the County the authority to bring this matter back to the BZA for review of additional measures to reduce groundwater use if water usage exceeds the permitted annual amount of 2.0 acre feet per year by more than 10% or 0.1 acre feet between July and October. With the noted mitigation measures incorporated into the project, it is, not expected that the project will result in a net deficit in aquifer volume or a lowering of the local groundwater table.

#### **Issue #8: Transportation/Traffic/Parking**

The proposed cannabis cultivation operation is expected to employ 2 full-time and 2 part-time employees, greenhouse operations are expected to employ 3 full-time and 2 part-time employees, indoor cultivation is expected to employ 1 full-time employee, and processing/trimming is expected to employ 9 part-time employees – for a maximum total of 19 employees (6 full-time and 13 part-time). The project would not be open to the public and parking onsite would be designated for employees. The project proposes 15 onsite parking spaces plus 4 additional overflow spaces.

According to the General Plan 2020, Roberts Road is a rural minor collector and Petaluma Hill Road is a rural minor arterial. Average daily traffic volume measured by the County along Petaluma Hill Road in the vicinity of the project site was 10,588 vehicles, according to the County's Department of Transportation's Traffic Surveys. The "Cannabis Trip Generation" form that was prepared by the applicant determined that the project could be expected to generate an average of 15 trip ends per day from employees involved in all on-site cultivation operations and 27 trip ends per day from the combination of cultivation and processing operations. The form estimated average daily trips to total 34 trips during the harvest period, 24 trips per day during the processing period, and an average of 18 trips per day year-round. It also estimated that the project would generate 96 truck trips end per year.

#### **Staff Analysis:**

The Negative Declaration prepared and adopted for the County's Medical Cannabis Land Use Ordinance (October 1, 2016), determined that increases in traffic generated as a result of cannabis operations were considered to be consistent with the General Plan 2020 and associated EIR and, therefore, were determined not to conflict with an applicable transportation/circulation plan. The Initial Study/Negative Declaration also noted that while traffic impacts would vary with the type and size of individual cannabis

operations (and number of employees), the greatest traffic generation anticipated would be for employee trips during the planting and harvest operations. The proposed project was analyzed by the Department of Transportation and Public Works and it was determined that it would not alter the roadway configuration and that any permanent increase in traffic (due to employment) on Roberts Road and Petaluma Hill Road would be minor compared to existing average volumes. The proposed onsite parking and overflow spaces are adequate to accommodate project-related parking needs.

A mitigation measure was developed to require the applicant to submit a Construction Period Traffic Control Plan to the County for review and approval. The plan must include traffic safety guidelines for construction traffic that are consistent with Caltrans' Standard Specifications. The plan must also specify provisions for adequate signing and other precautions for public safety to be provided during project construction, a discussion of bicycle and pedestrian safety needs due to project construction and, later, project operation, and must address emergency vehicle access during construction and provide for passage of emergency vehicles through the project site at all times. The Plan must be submitted for review and approval by the Department of Transportation and Public Works prior to the issuance of grading permits for the project.

#### **Issue #9: Neighborhood Compatibility**

Findings on the design, location, size, and operating standings are used to evaluate the project's neighborhood compatibility. These findings are used to determine if the proposed project/use would be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood. This determination does not require that there be an environmental impact to prove the project/use may be detrimental.

#### **Staff Analysis:**

The proposed project is expected to be compatible with the surrounding neighborhood. The project area will be screened from public view on Roberts Road by fencing, landscaping, and existing structures. Access to/from the site will be controlled through a private gate on Roberts Road. As noted in Issue #4, Security Plan, proposed security measures are robust and will deter potential theft and other criminal activities. Odor control and management measures meet all requirements outline in Section 26-88-254(g)(2) of the Cannabis Ordinance, which requires that cultivation facilities be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold. As discussed in Issue No. 5, above, the project will utilize odor remediation equipment and control technology that will incorporate high-powered ultraviolet lamps to create ozone and hydroxyls that destroy Volatile Organic Compounds (VOC) utilizes selected essential oils, dispersed in vapor form, to neutralize odors. All exterior lighting will be downward casting and not project onto neighboring properties or toward night sky. Lighting within the greenhouse will be blocked by electronically controlled curtains. Traffic to and from the site is not expected to be a significant, adverse impact, considering the trips that will be generated by the project's anticipated 19 employees – 6 full-time and 13 part-time – and adequate onsite parking will be provided for the project. Noise analysis for the project concluded that construction and operational noise will comply with applicable standards and the use of ventilation fans will be required to comply with Zoning Code standards. The proposed project is not expected to result in a net deficit in aquifer volume, a lowering of the local groundwater table, or affect any existing waters of the state or

flow conveyances that connect to waters of the state. For these reasons, and compliance with the Cannabis Ordinance (Ordinance Nos. 6189 and 6245,) the project is not expected to be incompatible with the surrounding neighborhood.

**Issue #10:** Environmental Determination

The proposed project has been analyzed under the California Environmental Quality Act (CEQA) and the CEQA Guidelines, California Code of Regulations. As a result of the Initial Study, a Mitigated Negative Declaration was prepared for the project. The document identified mitigation measures and a monitoring program for the proposed project. Mitigation measures will be incorporated into the project in the following areas: Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, and Transportation and Traffic. The applicant has reviewed the project's Initial Study/Mitigated Negative Declaration and has agreed to comply with all of the required mitigation measures and monitoring program.

**STAFF RECOMMENDATION**

Staff recommends approval of the Use Permit, subject to Conditions of Approval.

**FINDINGS FOR RECOMMENDED ACTION**

1. Environmental Determination: Based upon the information contained in the Initial Study included in the project file, it has been determined that there will be no significant, adverse environmental impacts resulting from this project, because mitigation measures have been incorporated into the project as Conditions of Approval. The Mitigated Negative Declaration has been completed in compliance with CEQA State and County guidelines, and the information contained therein has been reviewed and considered.
2. General Plan Consistency: The proposed project is consistent with the General Plan land use designation of Diverse Agriculture and the goals, objectives, policies, and programs of the General Plan. The project is consistent with the General Plan policies related to the protection of agriculture and the rural character of the project environs and with the Sonoma Mountain Area Plan because it does not increase residential development, preserves the rural character of the area, is compatible with and supportive of agricultural uses, and conserves the majority of the site for potential future agriculture. Conditions of approval limit construction and operational activities and require design review of new structures and landscape screening to ensure that the project will not detract from the rural character of the project site or vicinity.

3. Zoning Consistency:
  - a. The proposed project is consistent with Diverse Agriculture (DA) Zoning District and Riparian Corridor, Scenic Resource, and Valley Oak Habitat Combining Districts, in that the proposed cannabis cultivation operation is allowed with approval of a Conditional Use Permit, the proposed development and cultivation associated with the project are located outside of the 50-foot conservation area, and the proposed development in the middle of the parcel is not located within any setbacks for riparian corridor and the Valley Oak plant community type is not present on the portion of the parcel that is proposed for development. Existing development on the site, including the existing single-family residence, covers approximately 20% of the project site and proposed cannabis operation and site improvements would disturb approximately 20% of the overall project site, thereby permitting the possible development of future agricultural or open space uses on the remaining 60% of the site that would remain undeveloped.
  - b. The proposed project is consistent with: 1) the development criteria and operating standards and operating limitations of the Cannabis Ordinance and 2) adheres to the operational requirements of Section 26-08-030 the Diverse Agriculture Zoning District within the Sonoma County Zoning Code, in that 1) the project complies with applicable development standards of the Cannabis Ordinance, including but not limited to, implementation of a Site Security Plan, Fire Prevention Plan, and Odor Control Plan and 2) the project meets or exceeds all required setbacks, minimum lot size requirements, ownership, square foot limitations, and permitted development criteria required in the Diverse Agriculture Zoning District.
4. The establishment, maintenance or operation of the use for which 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 be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case that support this finding include the following facts: 1) The cannabis cultivation operation would not involve more than one (1) acre of cannabis cultivation area; 2) hours of operation for growing shall be from 6:00 a.m. to 9:00 p.m. and for processing shall be from 8:00 a.m. to 5:00 p.m. daily; 3) all project structures and cultivation areas shall be screened from public view from Roberts Road; 4) exterior lighting shall be downward casting and fully shielded and lighting within the greenhouse will be blocked by electronically-controlled curtains; 5) security measures will be implemented to uphold the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such use; 6) no public access or retail sales are permitted; 7) no hazardous materials will be stored on site; 8) all noise-generating equipment (e.g. construction- and operation-related, including ventilation fans and emergency generators) shall be in compliance with applicable General Plan Noise Standards; 9) odor control systems and management practices will mitigate potential odor impacts; 10) onsite parking is adequate to accommodate project employees and project-related traffic is not expected to adversely affect area roadways; 11) the project will not negatively impact groundwater supply, groundwater levels in neighboring wells, or surface waters, will not violate water quality standards and will not result in a net deficit in aquifer volume, a lowering of the local groundwater table, or affect any

existing waters of the state or flow conveyances that connect to waters of the state; and 12) the electricity for the project is sourced by 100% renewable energy;

**LIST OF EXHIBITS**

- EXHIBIT A: Draft Conditions of Approval
- EXHIBIT B: Use Permit Application and Project Proposal Statement
- EXHIBIT C: Vicinity Map
- EXHIBIT D: Aerial Map
- EXHIBIT E: General Plan Land Use Map
- EXHIBIT F: Zoning Map
- EXHIBIT G: Project Plans
- EXHIBIT H: Odor Control Plan
- EXHIBIT I: Hedgerow Plan
- EXHIBIT J: Public Comments
- EXHIBIT K: Draft Resolution

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Separate Exhibits for Commissioners: Mitigated Negative Declaration with Attachments and Studies