



County of Sonoma

State of California

Date: May 19, 2020

Item Number: _____

Resolution Number: _____

4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
Adopting a Mitigated Negative Declaration and Mitigation Monitoring Program, and Granting
a Use Permit to TRV Corp (C-Corporation) for Property Location at 6095 Bodega Avenue,
Petaluma, CA 94952, APNs 022-200-002 and 022-200-042**

Resolved, that the Board of Supervisors (“Board”) of the County of Sonoma (“County”) finds and determines as follows:

Section 1. Proposed Project and Procedural History

- 1.1 On August 15, 2017, the applicant, TRV Corp (C-Corporation), filed an application for a limited term Conditional Use Permit for a commercial cannabis cultivation operation including 10,000 square feet of mixed light cultivation and associated processing of site-grown cannabis, including trimming, drying, curing, weighing, and packaging, on a 1-acre leased portion of a 7.59-acre parcel located at 6095 Bodega Avenue, Petaluma; APNs 022-200-002 and 022-200-042; Zoned LEA (Land Extensive Agriculture), B6-60 acre density, Z (Second Dwelling Unit Exclusion) (“the Proposed Project”).
- 1.2 On December 5, 2017, the application was deemed complete for processing.
- 1.3 On December 3, 2018, following the Board’s adoption of Ordinance No. 6245 amending the Cannabis Land Use Ordinance, the application was amended to request a 5-year permit term, production of adult use cannabis in addition to medical cannabis, and 2,500 square feet of indoor propagation area to produce plants for onsite cultivation, in accordance with the new ordinance.
- 1.4 On December 17, 2019, the Board approved the Cannabis Ad Hoc Committee’s request for the Board of Supervisors to exercise original jurisdiction for nineteen permit applications, including the Proposed Project.

1.5 A Mitigated Negative Declaration (“MND”) was prepared for the Project, and on or about February 18, 2020, the MND was posted and made available for agency and public review in accordance with the California Environmental Quality Act (“CEQA”), 14 California Code of Regulations, §§15000 et seq. (“CEQA Guidelines”) and County CEQA guidelines.

1.6 On May 19, 2020, the Board conducted a duly noticed public hearing on the MND and the Proposed Project. The Board received all relevant oral and written testimony and evidence filed or presented at or before the close of the hearing. All interested persons were given the opportunity to hear and be heard. At the conclusion of public testimony, the Board closed the hearing, considered and discussed the MND and the Proposed Project, and by a _____ vote, found the MND had been prepared in conformance with CEQA, approved the MND, and approved the Proposed Project with modifications (“the Project”), subject to the conditions of approval imposed herein.

1.7 The Board has had an adequate opportunity to review this Resolution and the findings and determinations contained herein and finds that this Resolution accurately sets forth the Board’s intentions regarding the MND and the Project. The Board’s decisions herein are based upon the testimony and evidence presented to the County orally or in writing prior to the close of the Board’s hearing, including the full record of proceedings. By Board Rule, information submitted after the close of the Board hearing is deemed late and not considered by the Board.

Section 2. CEQA Compliance

2.1 Following public review, the County received comments from the California Department of Fish and Wildlife (“CDFW”). In response, staff made the following proposed revisions to the MND. No recirculation of the MND was required pursuant CEQA Guidelines Sections 15073.5 and 15074.1 because the changes include new information to clarify and amplify the MND and substituted mitigation measures that are equivalent or more effective at avoiding or reducing potentially significant effects:

- a. Revised Mitigation Measure BIO-3 to clarify that: 1) ground disturbing activities requiring on site presence of a qualified biological monitor include removal of storage containers and stream restoration work; 2) inspections conducted by the biological monitor within work areas and within 30 feet of work areas shall include hand excavation of any burrows observed to ensure absence of protected species within work areas; and 3) discovery of a protected species within a work area shall result in a halt of all work in the area until appropriate permits are obtained.
- b. Revised Mitigation Measure BIO-5 to clarify that pre-construction nesting bird surveys shall include biological monitoring of bird behavior within any no-disturbance nesting buffers to verify adequacy of the buffer distance.

2.2 In making its determinations, the Board has gained a well-rounded understanding of the range of the environmental issues related to the Project by its review of the MND, all comments, testimony, letters and reports regarding the MND, and its own experience and expertise in these environmental issues. Prior to making the following findings, the Board has reviewed and considered the evidence and analysis presented in the MND, the technical reports, and all public comments and information submitted at or before the Board hearing.

The Board's findings are based on full appraisal of all viewpoints, all evidence and all information in the record of these proceedings. The Board further finds that the MND reflects the Board's independent judgment and analysis.

2.3 Based upon the entire record, there is no substantial evidence of a fair argument that the Project will have a significant environmental effect. Changes or alterations have been required in, or incorporated into, the Project through the mitigation measures and conditions of approval imposed herein that avoid or substantially lessen all potentially significant environmental effects of the Project. These changes or alterations have been agreed to by the applicant.

2.4 The Board finds that the MND has been completed in compliance with CEQA and that the MND adequately and fully describes and evaluates the changes or alterations to the Proposed Project that have been requested as part of the Project.

2.5 Without in any way limiting the Board's general findings set forth in this Resolution, the Board makes the following further specific findings regarding environmental impacts of the Project:

A. Biological Resources

A Biological Resources Report was prepared for the Project site to identify special-status plant and wildlife species and sensitive habitats (including wetlands) that have the potential to occur on or in the vicinity of the Project site (Sol Ecology, January 28, 2020). The study identified and evaluated 64 special status plants species in the region, all of which were determined to have no or low potential for occurrence on the Project site due to the lack of suitable habitat. No special status plant species were observed during surveys.

The Biological Resources Report and MND found that no suitable stream or wetland habitat exists on the Project Site to support breeding amphibians; therefore, no impacts to amphibian breeding habitat would occur. Upland estivation habitat was also determined to be absent. However, a stock pond on adjacent property about 400 feet away was determined to be potentially suitable and that if amphibians were to be present in the stock pond, they may disperse onto the project site. Mitigation Measure BIO-1 requires environmental awareness training for construction workers; Mitigation Measure BIO-2 requires pre-construction surveys for special status amphibians (and other ground-dwelling or ground-nesting species such as burrowing owl, American badger, and Pacific pond turtle); Mitigation Measure BIO-3 requires exclusion fencing and presence of a biological monitor during ground disturbing activities; and Mitigation Measure BIO-4 requires additional protection measures during construction, such as halting work during and after rain events and limiting construction hours to avoid 30 minutes before sunset and 30 minutes after sunrise to avoid times that animals are most likely to be dispersing. These mitigation measures would reduce effects to less than significant.

The Biotic Assessment and MND found that no special status birds or burrows appropriate for burrowing owl were observed, but that trees on the property provide suitable nesting habitat. To reduce potential impacts from construction noise on nesting birds, Mitigation Measure BIO-5 requires additional pre-construction breeding surveys if initial ground disturbance occurs during the breeding season. This mitigation measure would reduce effects to less than significant.

The Biological Resources Report and MND found that while no special status or common bats or signs of bats were observed during a site survey in May, potential for these species to move into

the area exists. Mitigation Measure BIO-6 requires an assessment of roosting habitat if initial ground disturbance occurs during the maternal roosting season and additional night-time surveys if suitable habitat is found. The measure also requires that tree removal be performed in a two-step process to allow any bats that may be present to exit the roost during the following night. This mitigation measure would reduce effects to less than significant.

With the addition and substitution of mitigation measures as recommended by CDFW, there is no fair argument that the Proposed Project may cause a significant effect to biological resources.

B. Hydrology

The site is located in a Groundwater Availability Class 2 – Major Natural Recharge Area, and is not within a Medium or High Priority basin defined under the Sustainable Groundwater Management Act (SGMA).

Still, a Hydrogeologic Assessment Report was prepared to address potential groundwater impacts under CEQA (Hurvitz Environmental Services, September 25, 2018). The hydrogeologic report, as reviewed by the County's Geologist and discussed in the MND, determined that the Proposed Project would conservatively use 1.58 acre-feet of water per year. The rainwater harvesting system is proposed to provide 0.8 acre-feet per year. The hydrogeologic report studied cumulative impacts in a 604 acre area around the Proposed Project and found that, based on the total current and future water demand, total Project water use, and maximum daily water use, the Proposed Project would not result in a net deficit in aquifer volume or a lowering of the local groundwater table. Impacts to groundwater resources are further mitigated by conditions of approval.

Commenters have stated that permit applications in the area have been denied as a result of inadequate water supply and that residences in the area have experienced inadequate water supply. No specific permit application was identified and staff was not able to locate any failed water yield or well test permits in the vicinity. To the contrary, a search of permit approvals in the vicinity shows approved residential development that required demonstration of adequate water supply and an approved use permit for a dairy with a tasting room, tours, and retail sales. Evidence in the record does not support allegations of low water supply. As a result, the Board finds there is no fair argument that the Proposed Project may cause a significant effect to groundwater resources.

Section 3. General Plan, Planning and Zoning Compliance

3.1 General Plan Consistency.

The Proposed Project is consistent with the General Plan land use designation of Land Extensive Agriculture, and the goals, objectives, policies, and programs of the General Plan. The Proposed Project is consistent with policies for managing and conserving agricultural areas, and preserving areas of agricultural character. Over half of the subject parcel is used for cattle grazing and primary use of the parcel is and will remain in agricultural production. The Project does not increase residential density or urban development, and would preserve the natural, visual, and scenic resources of the site, and would result in the use of existing property consistent with General Plan Objectives LU-9.1, -9.3, -9.4, and AR-4.1, as well as the policies for Land Extensive Agricultural Areas.

While the definition of “agricultural crop” in the Zoning Code expressly excludes cannabis, it is defined as an “agricultural product” by the Zoning Code (Sec. 26-02-140) and state law (Cal. Bus. & Prof. Code Section 26069(a)). Similarly, while cannabis cultivation is not a qualifying or “agricultural use” under the County’s Uniform Rules for Agricultural Preserves and Farmland Security Zones, it is a “compatible use.” The Board finds that though cannabis cultivation is regulated differently from traditional agriculture due to its classification as a controlled substance, it is uniquely compatible with traditional agricultural cultivation and production in that it employs similar farming practices and infrastructure, has the potential to support traditional agricultural production, and does not interfere with such production.

The Proposed Project is consistent with the General Plan land use designation in that it proposes mixed-light cultivation that is managed similarly to traditional agricultural cultivation. The processing of cannabis grown onsite will include drying, curing, trimming, storing, and packaging, which is similar to the basic processing activities of traditional agricultural farms.

The Proposed Project is consistent with General Plan Policy AR-4a in that agricultural production will remain the primary use of the parcel as determined by reviewing facts related to the relative sizes of the operations, compatibility of the proposed use with traditional agriculture, and current and future viability of agricultural production in light of the proposed use. The proposed operation will total approximately 0.6 acre of the 7.59-acre property. The remainder of the property will continue to support a 4-acre grazing operation and conditions of approval require that the parcel maintain a primary agricultural use. This condition provides more protection for continued agricultural production on the property than would exist without the Proposed Project. The cannabis cultivation use will likely produce more income than the traditional agricultural uses; however, the primary use is not determined strictly by relative income. The General Plan recognizes that Land Extensive Agricultural Areas typically result in relatively low production per acre of land. The circumstances of the Proposed Project are as expected in that a higher valued compatible use is critical in supporting the lower production agricultural use of livestock grazing. The traditional agricultural use supported by the Proposed Project is a viable commercial operation and not merely incidental to the Proposed Project. Further, the Proposed Project greenhouse has been located behind existing residential and agricultural development so that the look and feel of the property will continue to be agricultural in nature.

3.2 Area Plan Consistency.

The Proposed Project is consistent with the Petaluma Dairy Belt Area Plan land use designation of Land Extensive Agriculture and Area Plan policies because there would be no increase in residential density, agricultural uses including cattle grazing would be supported on the site, and the project would not conflict with surrounding agricultural uses.

3.3 Zoning Consistency.

The Proposed Project is consistent with the Land Extensive Agriculture (LEA) Zoning District, in that the proposed cannabis cultivation operation is allowed with approval of a Conditional Use Permit. The purpose of the LEA District is to enhance and protect lands best suited for permanent agricultural use but capable of relatively low production per acre of land. The proposal maintains the agricultural grazing use of over half of the land (4 acres; 53% of the total land area) and does not facilitate residential use.

The proposed project is consistent with the operating standards and development criteria of the

Cannabis Ordinance, Sonoma County Code Sections 2688-250 and 254, because it complies with the minimum parcel size at the time the application was deemed complete, cultivation limits, setbacks, lighting standards, security and fencing requirements, odor control, 100% renewable energy use, hours of operation, noise standards, and groundwater monitoring.

The setbacks to outdoor cultivation area exceed code requirements. The Code requires that mixed light cultivation structures be setback 100 feet from property lines and 300 feet from residences. The proposed greenhouse for the Proposed Project is setback at least 100 feet from all property lines and 310 feet and 380 feet from the two closest residences. The placement of the greenhouse near the eastern corner of the parcel adjacent to undeveloped agricultural land maximizes the distance to neighboring residences and the increased setback minimizes potential impacts to those neighboring properties.

The site security plan is adequate to address any increased risk of crime or security associated with the Proposed Project. As required by the Zoning Code, the site security plan includes security cameras, lighting, alarms, fencing, and allows emergency vehicle access. Additionally, access will be controlled by a two-step process (keypad and card reader), and employees will have security clearances that will control what rooms they are allowed access to, and an electronic security log will be kept. Employees will also have access to panic/duress buttons (both fixed and carried).

3.4 General Use Permit Finding.

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 area 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 that support this finding are set forth above and include, but are not limited to, the following facts: 1) The cannabis operation would not involve more than one acre of cannabis cultivation area; 2) All cannabis cultivation areas are greater than 100 feet from property boundaries and greater than 300 feet from adjacent off-site residences; 3) The project parcel is greater than 5 acres (7.59-acres), the minimum lot size in effect at the time the application was deemed complete for processing; 4) All cannabis cultivation areas will be screened from public view from Bodega Road and Raven Road 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) All equipment shall be in compliance with the General Plan Noise Standard; 7) Deliveries and shipping operations will be limited to the hours of 8:00 am to 5:00 pm Monday through Friday; 8) All cultivation lighting will be contained within the mixed light structure; exterior lighting downward casting, fully-shielded, and motion sensor-controlled to remain off unless needed; 9) Hazardous materials will be stored in accordance with local, state and federal regulations; 10) All energy will be 100% renewably sourced; 11) No public access or retail sales are permitted; and 11) The Project parcel is predominantly surrounded by large parcels with agricultural uses.

Section 4. Additional Finding

4.1 The findings and determinations set forth in this Resolution are based on the entire record of these proceedings. References to specific statutes ordinances, regulations, standards, reports or documents in a finding or determination are not intended to identify those sources as the exclusive basis for the finding or determination.

NOW, THEREFORE, Be It Further Resolved that based on the foregoing findings and determinations and the full record of these proceedings, the Board hereby declares and orders as follows:

1. The foregoing findings and determinations are true and correct, are supported by substantial evidence in the record, and are adopted as hereinabove set forth.
2. The Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program are adopted.
3. The use permit is granted for the Proposed Project as presented in the application package submitted on August 15, 2017, and updated materials submitted December 3, 2018, and as described in the Conditions of Approval attached hereto as Exhibit A and incorporated herein, subject to design review as required by conditions of approval.
4. Staff is directed to file and post a Notice of Determination of this action pursuant to the California Environmental Quality Act within five (5) days of the date of this resolution.

Be It Further Resolved that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Supervisors:

Rabbitt:	Zane:	Gore:	Hopkins:	Gorin:
Ayes:	Noes:	Absent:	Abstain:	

So Ordered.