

ATTACHMENT D

FINDINGS

ZONE FILE #2022-0087 DIAMOND BACK GENETICS CANNABIS USE PERMIT

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2022-0087, the Yolo County Planning Commission finds the following:¹

(A summary of the evidence to support each FINDING is shown in italics)

I. Findings Related to the California Environmental Quality Act (CEQA) and CEQA Guidelines

The Planning Commission finds that the project is consistent with the Cannabis Land Use Ordinance Environmental Impact Report (CLUO EIR) (SCH #2018082055), certified by the Board of Supervisors on September 14, 2021 (Resolution 21-111) and that no further environmental review is needed pursuant to Sections 15168(c), 15162, and 15183 of the California Environmental Quality Act (CEQA) Guidelines based on the following:

Section 15168(c) Findings (Activity Within Scope of CLUO Program EIR)

- 1. The CLUO EIR is a program EIR pursuant to Section 15168 of the CEQA Guidelines.*
- 2. The proposed project is a later activity anticipated in the CLUO EIR and subject to the regulatory controls established through the CLUO.*
- 3. No subsequent EIR would be required under CEQA Guidelines Section 15162 (see Section 15162 Findings, below).*
- 4. Applicable mitigation measures from the CLUO EIR have been integrated into the proposed project and/or imposed on the proposed project.*
- 5. The proposed project is within the scope of the project described in the CLUO EIR, the CLUO EIR adequately describes the activity for purposes of CEQA, and the environmental effects of the proposed project were analyzed within the scope of the CLUO EIR.*

Section 15162 Findings (No Subsequent EIR Required)

- 1. There are no components of the proposed project that will result in new significant impacts or a substantial increase in the severity of previously identified significant impacts that would require substantial revisions to the CLUO EIR.*
- 2. There are no changes to the circumstances under which the proposed project will be undertaken that would require revisions to the CLUO EIR due to new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts.*
- 3. There is no new important information relevant to the proposed project that was not previously known or reasonably could have been known at the time the CLUO EIR was certified that identifies significant impacts not discussed in the CLUO, substantial increases in the severity of previously identified significant impacts, previously infeasible mitigation measures or alternatives that are now*

¹ The findings generally applicable to the granting of a Use Permit under the Yolo County Code do not apply to Cannabis Use Permits, which are subject only to the findings set forth below (Cannabis Land Use Ordinance, Section 8-2.1406(L)).

feasible, that the project proponents decline to adopt, or considerably different and more effective mitigation measures or alternatives that the project proponents decline to adopt.

Section 15183 Findings (Streamlined Environmental Review due to Consistency with Zoning)

1. *The zoning of the project site accommodates the density/intensity of the cannabis land uses allowed under the CLUO which is a zoning regulation comprehensively and cumulatively analyzed in the certified CLUO EIR.*
2. *The CLUO is a uniformly applied development standard of the County (Ordinance 1541, Section 1, adopted September 14, 2021, as amended) adopted based on substantial evidence in the record that the CLUO will substantially mitigate environmental effects when applied to future projects.*
3. *The proposed project has been analyzed for consistency with all requirements of the CLUO and found to be fully compliant, with implementation of identified conditions of approval.*
4. *The proposed project will not result in environmental effects which are peculiar to the project or the parcel on which it will be located.*
5. *The proposed project will not result in significant environmental effects that were not analyzed in the CLUO EIR.*
6. *The proposed project will not result in potentially significant off-site impacts or cumulative impacts which were not addressed in the CLUO EIR.*
7. *There is no substantial new information which was not known at the time the CLUO EIR was certified demonstrating that effects of the proposed project will be more severe than discussed in the CLUO EIR.*
8. *Based on the CLUO Program EIR Checklist / Project Initial Study, no additional environmental review is required because the impacts of the project are not peculiar to the parcel or to the project, have been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards.*

II. Findings Related to the Cannabis Land Use Ordinance (CLUO)

The Planning Commission finds that the proposed project is consistent with the CLUO based on the following:

1. The requested use is a conditionally allowed use in the applicable zone designation.

The requested use is a Cannabis Use Permit to allow issuance of a cannabis cultivation license for up to one-acre of canopy. The subject property is zoned Agricultural Intensive (A-N). Pursuant to Article 3, of Chapter 2, of Title 8 of the Yolo County Code, cannabis cultivation is permitted in the A-N zone upon issuance of a use permit. Cannabis cultivation includes activities involving the planting, growing, harvesting, drying, curing, grading, storing, and trimming of cannabis grown onsite.

2. The requested use is consistent with the general plan, and area or specific plan if applicable.

The requested use is consistent with the Yolo County General Plan. Cannabis cultivation is included in the Agriculture (AG) land use designation (Policy LU-1.1, and Table LU-4).

3. The proposed use complies with each of the applicable provisions of the CLUO and other applicable sections of the County Zoning Regulations.

The project has undergone a thorough review against the applicable provisions of the CLUO and Article 3 (Agricultural Zones) of Chapter 2 of Title 8 of the Yolo County Code. The project, as conditioned, is determined to be in compliance with the CLUO and zoning requirements applicable in the Agricultural Zones. The applicable provisions of the CLUO are included as conditions of approval. The operator is required to submit an annual report on July 1 of each year starting the first July in the year after permit issuance documenting compliance with the Cannabis Use Permit requirements.

4. The proposed use, together with the applicable conditions, will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare.

Cannabis cultivation and associated uses, such as onsite processing are permitted in agricultural zones with a use permit. The project site is located in an agriculturally zoned area and is surrounded by agriculturally zoned land in all directions, ranging in size from 10 acres to 560 acres. The Diamond Back Genetics operation has not received any nuisance complaints going back to 2019 (the Department of Community Services maintains complaint data going back to 2019 when the Cannabis Unit was relocated to Community Services). The operator has prepared a security plan and will implement measures to secure the property, such as barbed wire fencing, automated gates, security cameras, motion detectors, alarms, and administrative controls. The operator is also required to provide property owners within 1,000 feet of the property line with an operable method of communication with a local or on-site responsible party having prompt access to the site, operations, and activities. This requirement facilitates communication between neighbors related to conditions at the site and operation of the activity.

The operator submitted an odor control plan that describes the odor emitting activities and the administrative and passive controls to reduce and control odors to the greatest extent possible. If odor nuisances are verified pursuant to the enforcement procedure set forth in the CLUO, the operator may employ additional active controls, such as carbon filters, odor neutralizers, scrubber systems, barriers (curtains/air breaks) at doorways, or improved building ventilation, as well as passive controls such as additional vegetation barriers or different plant strains.

The project, as conditioned, will therefore not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare.

- 4.a. The population in the area has been taken into consideration.

The project site is not located within a densely populated area. The site is surrounded by parcels ranging in size from 10 acres (to the southwest) to 560 acres (to the northeast). There are 15 residences on agriculturally zoned parcels within 0.5-mile of the project site (residential address points on GIS). The nearest population center is the town of Esparto, which is located approximately 4.75 miles southeast of the project site. According to 2020 Census data, the total population within the 95607 Zip Code, which includes Capay, is 311 persons (166 households). The Cache Creek Casino Resort, which includes 659 hotel rooms, is located approximately 1.3 miles northwest of the project site.

- 4.b. The crime rate in the area has been taken into consideration.

Staff reviewed two years of crime rates and statistics provided by the Yolo County Sheriff's Office for the Capay Valley area. There is nothing to suggest that existing cannabis cultivation activities at the Diamond Back Genetics operation caused a noticeable increase in crime in the Capay

Valley area. Further, the Yolo County Sheriff's Office provided anecdotal information that their office is not aware of any major crimes occurring on licensed cannabis cultivation sites throughout the county.

4.c. The record of nuisance abatements in area has been taken into consideration.

There have been no nuisance complaints reported to the County's Cannabis Unit regarding the Diamond Back Genetics operation dating back to 2019 (the Department of Community Services maintains complaint data going back to 2019 when the Cannabis Unit was relocated to Community Services). The area surrounding the project site is not known to have an unusual amount of reported nuisance complaints.

4.d. Community character has been taken into consideration.

The community character of the area is typical of the rural, working agricultural landscape found throughout the unincorporated county. Cannabis cultivation and associated uses are considered agricultural land uses in the General Plan and allowed with a use permit in the A-N zone. The project, as conditioned, requires the permittee to maintain, manage, and operate the site, all improvements and alterations, and all structures, in good repair, acceptable in appearance, and in a reasonable safe condition. The project site is located at the end of County Road 79B (the road dead ends at the property entrance) and is surrounded on the north and east sides by large, hilly parcels, and by smaller agriculturally zoned parcels (10-20 acres) on the west and south sides. Cannabis structures (i.e., greenhouses and storage containers) can be seen from the end of County Road 79B; however, all outdoor cultivation areas will be removed and relocated into existing greenhouses in order to meet the 1,000-foot setback requirement from off-site residences. Measures are in place to protect the rural night sky by shrouding greenhouse structures and requiring exterior lighting to be full cut-off, shielded, and downward facing.

4.e. Community support has been taken into consideration.

A Courtesy Notice was mailed to property owners within 1,000 feet of the property boundary of the subject parcel on April 28, 2023. Additionally, the Courtesy Notice was emailed to the interested parties list maintained by the Planning Division on April 28, 2023. The project site is located in the Capay Valley Citizens Advisory Committee (CVCAC) comment area. The project was discussed at the CVCAC Special Meeting on October 11, 2023. The CVCAC unanimously recommended approval of the use permit by a vote of 6-0. Prior to the vote to recommend approval, a representative from the Yocha Dehe Wintun Nation ("Tribe") provided verbal comments that the Tribe is in support of the proposed project. Staff received one letter from a Guinda resident expressing support for all Cannabis Use Permits within the Capay Valley, which includes Diamond Back Genetics. Staff received one comment from a nearby property owner who expressed concerns about general road conditions on County Road 79B and project lighting. No other public comments were received throughout the application review process.

5. Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities will be provided, as required in applicable County and State regulations, standards, and specifications.

The project is served by PG&E and is conditioned to achieve Valley Clean Energy ultra-green or equivalent standard for electric power (100 percent renewable and 100 percent carbon-free). Access to the property is from County Road 79B, a County maintained paved road. The homesite is served by an on-site wastewater treatment system (septic system) as approved and regulated by the Environmental Health Division. A new onsite wastewater treatment system (septic system) may be required for a new permanent restroom if required by the Environmental Health Division. Site drainage is reviewed during the building permit process. The project, as conditioned, provides

adequate utilities, access roads, drainage, sanitation, and other necessary facilities as required in applicable county and state regulations, standards, and specifications.

6. The number of cannabis operations in the area has been taken into consideration.

Diamond Back Genetics is considered an ‘Existing Licensee’ and the operation is located within the Capay Valley, an area identified in the CLUO EIR as overconcentrated based on the number of issued licenses in the Capay Valley at the time the CLUO was adopted. At the time the CLUO EIR was circulated for public review in 2019, there were approximately 26 existing and/or eligible cultivation sites in the Capay Valley; however, at the time the CLUO was adopted in 2021, there were 13 issued cultivation licenses in the Capay Valley. The CLUO set a maximum limit of five Cannabis Use Permits in the Capay Valley. The County received a total of five Cannabis Use Permit applications from existing licensees in the Capay Valley, including Diamond Back Genetics. Therefore, the project will not exacerbate overconcentration in the Capay Valley.

For this Finding, the ‘number of cannabis operations in the area’ is considered the entire Capay Valley, since there are special regulations/restrictions for operations in the Capay Valley. There are five existing (and active) licensees in the Capay Valley that have submitted a use permit application; the nearest licensed cannabis site in the Capay Valley is approximately 8.2 miles northwest of the Diamond Back Genetics property.

As of the date of this public hearing, two cannabis use permits have been issued (both use permits were outside of the Capay Valley).

7. The proximity of cannabis operations to each other, and/or to other identified sensitive land uses has been taken into consideration.

Diamond Back Genetics is the southernmost cannabis use permit application in the Capay Valley. The four other use permit applications are located approximately 8.2 miles, 9.5 miles, 12 miles, and 13.4 miles northwest, respectively. There are 15 agricultural homesites (residential address points on GIS) within 0.5-mile of the Diamond Back Genetics property boundary. The nearest licensed cannabis cultivation site outside of the Capay Valley is approximately 2.8 miles southeast of the Diamond Back Genetics property boundary. The nearest agricultural homesite is approximately 230 feet west of the Diamond Back Genetics property boundary.

The Diamond Back Genetics property boundary is approximately 3.3 miles northwest of the town of Capay.

8. The proximity to adjoining/nearby land uses has been taken into consideration.

The parcel immediately northwest of the Diamond Back Genetics project site is 20 acres of open land with a hill that reaches 42 feet above the ground level above that partially blocks the view of the cannabis uses on the Diamond Back Genetics property from parcels to the northwest. There are no homes on the property to the northwest and it does not appear to be farmed. The parcel immediately west of the Diamond Back Genetics project site is listed as “uncultivated agriculture” in the 2022 crop permit data maintained by the Agriculture Department, but has been farmed in oat and garbanzo beans in years past. The home on this parcel is approximately 215 feet from the Diamond Back Genetics Property line and 560 feet from the closest cannabis cultivation greenhouse. Another parcel to the southwest, on the east side of County Road 79B, is 10 acres and contains a residence and horse stables—the residence is approximately 130 feet from the Diamond Back Genetics property line and 575 feet from the closest cannabis cultivation greenhouse. The parcel to the southeast is 131 acres of open, rolling hills and does not contain any residences. The parcel to the north/northeast is 560 acres of open, hilly land and does not

contain any residence. The existing structures meet the required setbacks set forth in the Yolo County Code, and the project will comply with the CLUO buffer requirements from sensitive land uses (i.e., 1,000 feet from outdoor cannabis uses to off-site rural residences) after the operator removes the existing outdoor cultivation area and relocates the cultivation activities into the existing greenhouses.

9. The compliance history of the applicant and/or operator has been taken into consideration.

Diamond Back Genetics first received a license to cultivate cannabis in 2017 and has continuously cultivated since then. The operator has not received a Notice of Violation. No nuisance complaints about this operation have been lodged with the Cannabis Unit (the Department of Community Services maintains complaint data going back to 2019 when the Cannabis Unit was relocated to Community Services). The Cannabis Unit did receive an anonymous complaint in 2022 relating to workplace and labor related matters. The complaint could not be substantiated by the Cannabis Unit as the nature of the complaint was not under the purview of the Cannabis Licensing Ordinance. The Cannabis Unit informed the operator of the complaint and urged the operator to address the issues if warranted. Diamond Back Genetics and the property owner are up to date on license application fee payments, property tax payments, and cannabis tax payments.

10. Parcel size and proposed uses on the non-cannabis portion(s) of the parcel have been taken into consideration.

The subject parcel is ±38 acres and contains two residences in addition to cannabis cultivation. The property owner, who is also the business operator, resides onsite. Approximately four acres of the western corner of the property have been used for indoor and outdoor cultivation activities and the remaining 34 acres are open, rolling hills. In order to comply with the 1,000-foot buffer requirement from outdoor cannabis uses to off-site residences in the Capay Valley, the operator will cease outdoor cultivation and will cultivate only in greenhouses. The approximate size of mature cannabis canopy within greenhouses is expected to be approximately 9,000 sf. In addition to the cannabis related structures, the property contains a single-family residence occupied by the property owner/applicant and a modular home, barn, several outbuildings, two decommissioned hoop houses, and a small pond. The topography of the site not in cannabis use (rolling hills) make it difficult to sustain commercial agricultural production. The majority of parcels along County Road 79B are hobby farms and/or uncultivated agriculture with rural homesites.

11. Subject matter input relevant to the specific location or proposed project from County department and division heads, and the Cannabis Unit have been taken into consideration. This shall include information and recommendations from the Agricultural Commissioner relevant to compatibility of proposed cannabis cultivation with adjoining non-cannabis crops.

Subject matter input from County department and division heads have been taken into consideration when analyzing the project. Project specific conditions of approval from the Public Works Division, Environmental Health Division, and Building Division have been incorporated into the project. Additionally, the Cannabis Unit has provided information about compliance history (see Finding #9).

The Agricultural Commissioner reviewed the project application materials and determined that the project does not create a potential for conflict with adjacent and nearby properties and their associated crops. The surrounding land uses in all directions are zoned A-N and are either grazed, open pasture land, uncultivated agriculture, or hobby farms. In order to comply with the 1,000-foot buffer requirement from outdoor cannabis uses to off-site residences in the Capay Valley, the operator will cease outdoor cultivation and will cultivate only in greenhouses. The greenhouses

meet the setback requirements in the Yolo County Code (the closest greenhouse to the property line is approximately 80 feet).

12. Other cultural, social, equity, and environmental justice concerns deemed applicable by the County have been taken into consideration.

The CLUO establishes the regulatory framework for permitting cannabis related uses in a transparent and equitable process. The use permit process allows for fairness, regardless of race, color, national origin or income, and the meaningful involvement of community in the decision-making process. The County has not deemed additional cultural, social, equity, and environmental justice concerns applicable, as this project is not located in a disadvantaged community and the project will not exacerbate over-concentration of cannabis use permits in the Capay Valley. The CLUO identifies the Capay Valley as an area of over-concentration based on the number of issued licenses in the Capay Valley at the time the CLUO was adopted and set a maximum limit of five Cannabis Use Permits in the Capay Valley. The County received a total of five Cannabis Use Permit applications from existing licensees in the Capay Valley, including Diamond Back Genetics. The operator was provided an equitable opportunity to apply for a Cannabis Use Permit pursuant to the CLUO, and the public was provided opportunities to comment on the project and participate in a public hearing at the December 14, 2023, Planning Commission meeting.

13. Site efficiency and use of the site to minimize fallowing of agricultural land has been taken into consideration.

The project proposes to move all outdoor cultivation areas into six existing and permitted greenhouses (three of the greenhouses were recently finalized). No new structures are proposed. The existing greenhouses and ancillary structures used for the cannabis operation are located in the southeast portion of the property. The existing developed footprint is approximately four acres and the remaining 34 acres are open, rolling hills, and are not currently used for agricultural production. The project will not result in the fallowing of agricultural land. The operator proposes to regularly maintain the weeds on the property and control pests as needed. The project is conditioned to require that the site is kept free of litter and clutter and to maintain all improvements and structures.

III. Findings Related to the Williamson Act

The subject project site is under Williamson Act Contract (Land Use Agreement #70-147). The Williamson Act (Gov't Code § 51200 et seq.) requires that the property be used for agricultural and open space uses, or uses that are compatible with agriculture. The CLUO recognizes cannabis cultivation and related activities as agricultural land uses. See Yolo County Code of Ordinances § 8-2.1404(E). To the extent that any of the project's proposed uses are not agricultural uses, the Williamson Act and the County's Williamson Act Guidelines set forth three "principles of compatibility" that non-agricultural uses on contracted lands must be consistent with. See Government Code § 51238.1. Accordingly, the Planning Commission makes the following findings:

1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

Approval of the project will not significantly compromise the long-term productive agricultural capability of the subject parcel or other contracted lands in agricultural preserves. Cannabis cultivation, processing, and distribution uses are included in the Agriculture land use designation in the Countywide General Plan. The project proposes to relocate all outdoor cannabis cultivation into greenhouse structures totaling approximately 9,000 sf of mature canopy on the 38-acre parcel. The approximate total land disturbance of cannabis activities, including existing and

proposed cultivation footprint in addition to existing structures, is approximately four acres. The CLUO EIR considered off-site impacts to agriculture and concluded that there would be no impact with zoning for agricultural use or Williamson Act contracts under any of the alternatives. The agriculturally related uses on this parcel will support continued agricultural use of other contracted lands in agricultural preserves.

2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

The proposed project will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or on other contracted lands in agricultural preserves. The proposed cultivation activities will occur on lands previously disturbed and adjacent to existing cannabis cultivation areas, and ancillary processing activities will take place in existing structures on portions of the parcel that have previously been disturbed and developed. Continuation of cannabis cultivation and associated uses are paramount to the project. The project is expected to support, not compromise or displace, the long-term agricultural capability of the land by encouraging the continuation of the land's productivity through cultivation of cannabis crops and ancillary processing of cannabis products.

3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

Lands immediately surrounding the property are under Williamson Act contract and are either grazed, open pasture lands, or uncultivated agriculture. Additionally, there are several hobby farms in the nearby vicinity along County Road 79B. The property to the southeast, which borders a portion of the subject parcel, is not under contract. Experience from the project's existing cannabis cultivation activities (since 2017) indicates that adjacent contracted land is not affected by the operations, and there is no evidence that the project will result in the removal of adjacent land from agricultural use.