

ATTACHMENT D-2

FINDINGS
(Adopting Staff's Original Recommendation)
ZONE FILE #2022-0090
AMERICANA ORGANICS
CANNABIS USE PERMIT

Upon due consideration of the facts presented in this staff report and at the public hearing on the appeal of the Planning Commission's decision on Zone File #2022-0090, the Yolo County Board of Supervisors finds the following:¹

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

The Board of Supervisors 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 CLUO Program EIR Checklist / Initial Study prepared for the project, and hereby makes the following findings:

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.

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)).

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

The Board of Supervisors finds that the proposed project is consistent with the Cannabis Land Use Ordinance (CLUO) based on the following:

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

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 two acres of cultivation canopy. Additionally, the project includes the issuance of a retail non-storefront (delivery) license, nursery license, and a distribution license. 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, cannabis distribution, and cannabis accessory and commercial (cannabis greenhouses, nurseries, non-storefront delivery) uses, are permitted in the A-N zone upon issuance of a use permit.

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, cannabis distribution, cannabis nurseries, and cannabis retail non-storefront (delivery) uses are 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 Cannabis Land Use Ordinance and other applicable sections of the County Zoning Regulations.

The project has undergone a thorough review against the applicable provisions of the Cannabis Land Use Ordinance (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 Cannabis Land Use Ordinance and zoning requirements applicable in the Agricultural Zones.

The CLUO allows existing licensees to request buffer exceptions if they cannot meet required buffer distances from cannabis uses to off-site CLUO sensitive land uses. Buffer exceptions are reductions of more than ten percent of the required buffer distances from CLUO sensitive land uses. The required buffer for outdoor cannabis uses from off-site individual legal residences in non-residential zones is 600 FT measured from the closest point of any outdoor area containing cannabis, and 600 FT in residential zones measured from the closest point of a residential zone boundary to the closest point of any outdoor area containing cannabis.

Americana Organics is requesting a buffer exception to allow outdoor cannabis cultivation within the 600-foot buffer of three existing residences immediately west in the Heavy Industrial (I-H) zone on APN: 051-202-011, an approximately 20% reduction to allow outdoor cannabis cultivation within \pm 480 FT of a residence, APN: 051-202-012, an approximately 35% reduction to allow outdoor cannabis cultivation within 390 FT of a residence, and on APN: 051-202-014, an approximately 13% reduction to allow outdoor cannabis cultivation within 520 FT of a residence. Americana Organics is also requesting a buffer exception within the 600-foot buffer of the Rural Residential – 2 Acre (RR-2) zone immediately west of the project site on APN: 051-202-015, an approximately 53% reduction to allow outdoor cannabis cultivation within \pm 280 FT of a residential zone boundary. The existing residence on the RR-2 zoned parcel is approximately 460 FT away from Americana Organics outdoor cannabis cultivation area. The proposed expansion of the outdoor cannabis cultivation area to the south of the existing fenced area will not encroach closer to the two residences within the I-H zone to the west. Although the expansion area will be located further away from the existing residences in the I-H zone, portions of the additional one-acre of cannabis canopy will remain within the 600-foot buffer. The proposed expansion will encroach closer to the zone boundary of the RR-2

property to the west, increasing the reduction to approximately 63% to allow outdoor cannabis cultivation within ±220 FT of the residential zone boundary.

The affected property owners have provided statements that they do not object to the reduced buffer requests. The applicant has operated within 600 feet of the neighbors' residences for several years and has done so without complaint from the neighbors.

The nearest agricultural homesite (to the north) is approximately 585 feet from the existing outdoor cultivation area. The Applicant will remove approximately 20 feet of the outdoor cannabis plants from the northern outdoor cultivation area to meet the required 600-foot buffer between the agricultural homesite to the north from the outdoor cultivation area.

The applicable provisions of the Cannabis Land Use Ordinance 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 cannabis distribution, as well as associated uses, such as cannabis nurseries and cannabis retail non-storefront (delivery), are permitted in agricultural zones with a use permit. The operator has been cultivating cannabis on an annual basis under validly issued county and state licenses since 2017. The project site is located in an agriculturally zoned area and is surrounded by land in agricultural production to the east and south (almonds, walnuts, and wheat). The agriculturally zoned property to the north is not currently farmed and contains a residence. Land uses to the west include a wrecking yard (zoned Heavy Industrial) and rural residential homesites (zoned Rural Residential 2-Acre). The outdoor cultivation areas are fenced and screened from public view along County Road 89 to the east and County Road 99W to the west, parallel to the Southern Pacific Railroad. The operator has prepared a security plan and will implement measures to secure the property, such as security cameras, motion detectors, alarms, security guards (when necessary), 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 active controls, such as odor neutralizers for the outdoor canopy or carbon filtration systems for the processing building and greenhouses, as well as passive controls such as additional vegetation barriers, different plant strains, and relocation of the outdoor canopy area.

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 agricultural (almonds to the east, walnuts to the southeast, and wheat to the southwest) land uses. The agriculturally zoned property to the north is not currently farmed and contains a residence. Land uses to the west include a wrecking yard and rural residential homesites. There are approximately sixteen residences on agriculturally zoned parcels within 1/2-mile of the project site. Nine of the residences are located on smaller parcels (under ten acres) and seven residences are located on parcels ranging from 11 acres to 167 acres. The nearest population center is the community of Dunnigan, which is located immediately west of the project site. According to 2020 Census data, the total population within the 95937 Zip Code, which includes the community of Dunnigan, is 1,554 persons (496 households). Pursuant to the CLUO, the Americana Organics operation is not located within an over-concentrated area.

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 Dunnigan area. There is nothing to suggest that existing cannabis cultivation activities at the Americana Organics operation caused an increase in crime in the Dunnigan 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 abatement in area has been taken into consideration.

There have been no nuisance complaints reported to the County's Cannabis Unit regarding the Americana Organics cannabis operations dating back to 2019 (the Department of Community Services- Cannabis Unit 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, except for the area west of the Southern Pacific Railroad that includes both heavy industrial uses and rural residential homesites. Cannabis cultivation and associated uses are considered agricultural land uses in the General Plan and conditionally 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. Measures are in place to protect the rural night sky by shrouding greenhouse structure(s) 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 May 4, 2023. Additionally, the Courtesy Notice was emailed to the interested parties list maintained by the Planning Division. Staff received one response from a nearby property owner expressing concern about odor, groundwater impacts, traffic, property values, and whether an adequate environmental analysis was prepared for the project. The project site is located in the Dunnigan Citizens Advisory Committee (DCAC) comment area that includes one additional existing licensed cultivation site. The project was discussed at the January 17, 2024, DCAC meeting with members of the committee and community. The DCAC and community discussion addressed the overall concerns related to odor, buffers, agricultural spray drift, general compliance, and traffic related to the proposed operations. Given the site has no record of violations and relatively few, if any, formal odor complaints, the DCAC recommended approval of the use permit, contingent upon formal statement by RR-2 zoned landowner affected by the buffer exception request, by a vote of 4-1.

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 (100 percent renewable and 100 percent carbon-free). Access to the property is from County Road 89. As required by the Public Works Division, the project is conditioned to relocate the existing gate on the northernmost portion of lot to guarantee a 40-foot minimum clearance from the edge of pavement. The site is conditioned to be served by an on-site wastewater treatment system (septic system) for domestic wastewater, as approved and regulated by the Environmental Health Division. Industrial strength waste (e.g., wastewater from processing) is regulated by the State Regional Water Quality Control Board and is not approved to be discharged into the septic system. The project proposes one new 3,500 SF processing facility and four new greenhouses that have been permitted, but not constructed/finalized. 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.

Americana Organics is considered to be an 'Existing License' and their operation is located outside of the Capay Valley, an area identified in the CLUO EIR as overconcentrated. The remaining unincorporated area of the County is not considered to be over-concentrated. Therefore, the project site is not located in an area considered to be over-concentrated.

The nearest existing/licensed cannabis operation is approximately 1.5 miles northwest of the project site, immediately adjacent to Interstate-5. All other existing/licensed cannabis operators are more than 11 miles from the extent of Americana Organics' property boundary.

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

As stated in Finding 6, above, the project site is not within an area that is considered over-concentrated. The nearest existing/licensed cannabis operation is approximately 1.5 miles northwest of the project site, immediately adjacent to Interstate-5. All other existing/licensed cannabis operators are more than 11 miles from the extent of Americana Organics' property boundary. The community of Dunnigan is immediately west of the Americana Organics property boundary.

The nearest agricultural homesite (to the north) is approximately 585 feet from the existing outdoor cultivation area. The Applicant will remove approximately 20 feet of the outdoor cannabis plants from the northern outdoor cultivation area to meet the required 600-foot buffer between the agricultural homesite to the north from the outdoor cultivation area. There is one rural residential homesite located southwest of the project area in the Rural Residential – 2 Acre (RR-2) zone that is approximately 280 feet from the existing outdoor cultivation area. Additionally, there are three residences located in the Heavy Industrial (I-H) zone west of the project area that range between 390-520 feet from the existing outdoor cultivation area. Although the expansion of the outdoor cultivation area will not encroach closer to the residences within the I-H zone to the west, the expansion will encroach closer to the residences located in the RR-2 zone to the southwest. Americana Organics has submitted three letters of support from the affected property owners for a buffer exception request regarding the RR-2 zoned parcels and the I-H zoned parcels, containing residences.

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

The surrounding land uses to the south and east are zoned A-N and are in agricultural production (almonds, walnuts, and wheat) and the agriculturally zoned property to the north is not currently farmed and contains a residence. Land uses to the west include a wrecking yard and rural residential homesites. The outdoor cultivation areas are fenced and screened from public view along County Road 89 to the east and County Road 99W to the west, parallel to the Southern Pacific Railroad. The project site is mostly flat with open topography and drains to the east into a shallow upland swale along County Road 89.

The two existing residences are located toward the north of the property near the driveway access and the cannabis operation is centrally located, contained within a fenced perimeter. The structures meet the required setbacks set forth in the Yolo County Code. The project complies with the CLUO buffer requirements from sensitive land uses.

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

Americana Organics received a cultivation license in 2017. The operator has not received a Notice of Violation. No complaints about this operation have been lodged with the Cannabis Unit per records maintained by the Department of Community Services (the Department of Community Services maintains complaint data going back to 2019 when the Cannabis Unit was relocated to Community Services). Both Americana Organics, 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 ±16.4 acres and is relatively flat with a gentle slope to the east that drains into a shallow upland swale parallel to County Road 89. A home site exists at the northeast corner of the property, containing one single-wide and one double-wide manufactured home, various storage structures, and an existing water well and pump house. A 42,000-gallon water supply tank and pump are also located west of the developed homesite. With the exception of the proposed additional one-acre of cannabis canopy, the remaining acreage will remain fallow and will be regularly mowed and/or disced to control weeds. The property owner does not have immediate plans for the 11± acres of cleared land but may consider other agricultural uses consistent with the A-N zoning regulations.

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 create the potential for conflict with adjacent properties and their associated crops. Almonds are grown to the east of the project site, and walnuts and wheat to the south. The Agricultural Commissioner commented that there is a minor potential for pesticide drift onto the cannabis crop and recommends that the operator maintain the existing buffer of approximately ±170 feet from the almond orchard to the east to minimize the potential of pesticide drift from orchard blast spraying onto the additional one-acre of outdoor cannabis cultivation proposed by the Project. Though not required, this recommendation has been added as a Condition of Approval.

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

The operator has been cultivating cannabis annually under validly issued county and state licenses since 2017. 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 an area considered to be over-concentrated nor has it been identified to be located in a disadvantaged community. 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 meeting at the January 17, 2024, Dunnigan Citizens Advisory Committee meeting, in a public hearing at the May 9, 2024, Planning Commission meeting, and participate in a public hearing at the June 4th, 2024, Board of Supervisors meeting.

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

The existing buildings and structures that are used to support the cannabis operations are clustered in the center of the property within an existing perimeter fence that encompasses approximately 4-acres. A new 3,500 square-foot processing building is proposed, and four additional greenhouses that have been permitted, but not finalized. The proposed cultivation expansion area will be immediately south of the existing cultivation area, making efficient use of the site. The cultivation expansion area will encompass one additional acre of an existing agricultural field, leaving approximately 11 acres of already fallow land. This portion of the property has been fallowed since approximately 2016/2017, and was previously planted in alfalfa and hay. The property owner does not have immediate plans for the 11 acres of fallow land other than occasional discing or mowing to control weeds, but may consider other agricultural uses consistent with the A-N zoning regulations.