



ATTACHMENT F

Time Set 9.

Planning Commission

Meeting Date: 05/09/2024

Information

SUBJECT

ZF #2022-0090: Consider a request for a Cannabis Use Permit to allow issuance of a cannabis cultivation license for up to two acres of canopy for Americana Organics, Inc., issuance of a distribution license, a retail non-storefront (delivery) license, and a nursery license, and determine the project falls within the scope of the previously certified Yolo County Cannabis Land Use Ordinance Environmental Impact Report and no further environmental review is required under the California Environmental Quality Act (CEQA). The Project also includes a request for approval of three buffer exceptions from offsite residences in the Heavy Industrial (I-H) zone, and one buffer exception from the Rural Residential- 2 Acre (RR-2) zone boundary. The project is located on a ±16.4-acre agriculturally zoned parcel at 3340-78 County Road 89, immediately east of the community of Dunnigan (APN: 051-203-001). (Applicant: Eduardo Fernandez/Owner: BKMK, LLC) (Planner: Tracy Gonzalez)

SUMMARY

FILE # 2022-0090: Americana Organics Cannabis Use Permit	
APPLICANT: Eduardo Fernandez Americana Organics, Inc. PO Box 599 Lewiston, CA 96052	OWNER: BKMK, LLC 78651 Talking Rock Turn La Quinta, CA 92253
LOCATION: 3340-78 County Road 89, Dunnigan, CA 95937 (APN: 051-203-001) GENERAL PLAN: Agriculture (AG) ZONING: Agricultural Intensive (A-N) SUPERVISORIAL DISTRICT: 5 (Supervisor Barajas) PUBLIC HEARING NOTICE: The item was continued to the next regularly scheduled public hearing at the 4/11/2024 Planning Commission meeting. Neighbor notices were mailed on 4/26/2024.	SOILS: Arbuckle gravelly loam, 0 to 2 percent slopes (Class II); Brentwood silty clay loam, 0 to 2 percent slopes (Class I); Marvin silty clay loam (Class II) FMMP: Other Land WILLIAMSON ACT: No FLOOD ZONE: X FIRE SEVERITY ZONE: Non-Wildland/Non-Urban
ENVIRONMENTAL DETERMINATION: Cannabis Land Use Ordinance Environmental Impact Report (SCH#2018082055) certified September 14, 2021 (Resolution 21-111).	

RECOMMENDED ACTION

That the Planning Commission:

1. Receive a staff presentation, hold a public hearing, and receive comments on the Americana Organics Cannabis Use Permit;

2. Determine the project is consistent with the Cannabis Land Use Ordinance Environmental Impact Report (SCH #2018082055), certified by the Board of Supervisors on September 14, 2021 (Resolution 21-111), and determine that no further environmental review is needed pursuant to Sections 15168(c), 15162, and 15183 of the California Environmental Quality Act (CEQA) Guidelines, and approve the Finding of CEQA Compliance (Attachment C);
3. Adopt the Findings (Attachment D) in support of approval of the project;
4. Approve the Cannabis Use Permit subject to, and as modified by, the Conditions of Approval (Attachment E);
5. Approve a buffer exception to allow outdoor cannabis cultivation within ± 480 feet of an offsite legal residence;
6. Approve a buffer exception to allow outdoor cannabis cultivation within ± 390 feet of an offsite legal residence;
7. Approve a buffer exception to allow outdoor cannabis cultivation within ± 520 feet of an offsite legal residence;
8. Approve a buffer exception to allow outdoor cannabis cultivation within ± 220 feet of a residential zone boundary;
9. Authorize the project applicant to apply for issuance of a cannabis cultivation license; and
10. Authorize the project applicant to apply for license allocation of a distribution license, retail non-storefront license, and nursery license.

REASONS FOR RECOMMENDED ACTIONS/BACKGROUND

The proposed Cannabis Use Permit, if approved, will contain an extensive set of conditions that will regulate the use of the property to conduct cannabis cultivation, distribution, retail non-storefront, and nursery uses. The allowance of up to two acres of cannabis canopy for Americana Organics will provide additional business opportunity for the operator to continue to compete in the regulated cannabis industry. The distribution and nursery licenses will contribute to the growth of the cannabis market in Yolo County by providing services and products to other cannabis operators that may not have the capacity or ability for such uses, and the retail non-storefront use will allow Americana Organics to deliver cannabis goods to customers through delivery only. The project, as conditioned, is in compliance with the Countywide General Plan, Cannabis Land Use Ordinance, and Yolo County Code.

SUMMARY

The project site is a 16.4-acre agriculturally zoned parcel, located immediately east of the community of Dunnigan. Americana Organics first received a license to cultivate cannabis in 2017 and has continuously cultivated since then. The operator has maintained State and County licenses to allow up to one acre of cannabis canopy. Cannabis-related uses are located within a four-acre fenced area in the center of the project site. The remaining approximately 12 acres of the property consist of cleared land, previously farmed in alfalfa/hay. In addition, the property contains two manufactured homes located north of the cultivation area used by long-term permanent employees, with a capacity of two to four individuals per residence, and two residential storage buildings. The property is served by an existing onsite well and septic system. Access to the property is directly from County Road 89 at the northeast of the parcel, with internal gravel roads leading to the cannabis cultivation site. The project site is generally flat land and surrounded by agricultural uses to the east and south. The property to the north is zoned A-N but is not currently used for agricultural purposes, and contains a

residence. The existing land uses to the west include a wrecking yard in the Heavy Industrial (I-H) zone and rural residential homes in the Rural Residential- 2 Acre (RR-2) zone.

The proposed project would include the addition of one acre of outdoor cannabis canopy, for a total of two acres of canopy, south of the existing fenced area. The proposed project would also include the construction of four previously permitted and partially constructed greenhouses, and a new 3,500 square foot metal building on the northern portion of the project site to be used for drying, trimming, distribution, employee bathroom and breakroom, and non-storefront retail activities. The current cultivation area consists of approximately 17,000 square feet (SF) of greenhouses and 20,000 SF of outdoor raised beds and hoop houses. The property is developed with the following to support the cannabis cultivation uses: six greenhouses; approximately 60 outdoor raised cultivation beds and hoop house frames; seven Conex shipping containers for dry storage and equipment; one 42,000-gallon water supply tank and pressurized on-site domestic/fire hydrant distribution system; one ground water well; and miscellaneous storage buildings. The existing cultivation area is surrounded by a six-foot tall chain link fence with green privacy slats and barbed wire on the top, which would extend to the new outdoor cultivation area proposed to the south of the existing operation and maintain the existing buffer of approximately ± 170 feet to prevent the potential for pesticide drift from the orchards to the east. Cannabis waste would be composted on-site and/or disposed of in compliance with county and state regulations. As required by the Cannabis Land Use Ordinance (CLUO), the applicant has prepared a security plan for the project site. The operation will maintain adequate utilities, access roads, drainage, and sanitation infrastructure in line with County and State regulations, standards, and specifications. All exterior lighting is required to be full cut-off, shielded, and downward facing to prevent spill over onto other properties, structures, or the night sky.

Americana Organics is also requesting a retail non-storefront license (delivery), a distribution license, and a nursery license. The distribution license would allow Americana Organics to move cannabis products between cultivation, manufacturing, or distribution premises; move finished cannabis goods to retail premises; provide storage services to other licensees; and arrange for testing of cannabis goods. The retail non-storefront license would allow Americana Organics to sell cannabis goods to customers only through delivery. The nursery license would allow Americana Organics to grow clones, immature plants, seeds or other types of cannabis used for propagation, and to sell to other licensees. No sales or customers will be allowed onsite.

Americana Organics typically employs three to ten employees (full-time, part-time, and seasonal) to engage in cultivation activities, usually beginning around March and the harvesting phase ending as late as October/November. The applicant does not expect a significant increase in the number of employees upon approval of the use permit. If a distribution license is approved, Americana Organics would expect anywhere between two to three product shipments per week. The total number of daily trips, including employee delivery hauling and transport of product, would be approximately 20 to 30 during the peak season and two to eight during the off season.

ANALYSIS

The proposed project has been reviewed for consistency with the Countywide General Plan and the County Zoning Regulations, including the Cannabis Land Use Ordinance (CLUO). The proposal is also consistent with the CLUO Environmental Impact Report, and no further environmental review is required under the California Environmental Quality Act. As explained below, the project, as conditioned, is consistent with all applicable plans, policies, and regulations.

General Plan and Zoning Consistency

The project, as conditioned, is consistent with the Countywide General Plan. The requested use is proposed on property designated as Agriculture (AG) in the Countywide General Plan. Cannabis cultivation, cannabis distribution, and cannabis nurseries are called out as agricultural activities under the AG land use designation (Policy LU-1.1, and Table LU-4). Further, Policy AG-3.22 reads:

Based on statewide and local voter support, accept cannabis cultivation, nurseries, processing, manufacturing, retail, and microbusiness operations as a new agricultural opportunity in support of agricultural economic development, preservation of agricultural land, and creation of opportunities for new farmers. Recognize unique challenges, and competing and evolving community values, by allowing for adaptive regulatory considerations over time.

The project furthers policies in the Countywide General Plan that seek to promote a healthy and competitive farm economy to expand the County's agricultural base, including Policy AG-3.2, which encourages processing on agricultural land subject to appropriate design review and development standards, and Policy AG-3.12 that promotes marketplace-initiated conversion from lower to higher value-added crops and agricultural commodities. The project, when considered as a component of the County's cannabis industry as a whole, furthers Policy AG-5.1 which promotes markets for locally and regionally grown and/or prepared food and other products and services.

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, distribution, retail non-storefront, and nursery uses are allowed in the A-N zone upon issuance of a Cannabis Use Permit. The project meets the development requirements and setbacks prescribed for the A-N zone.

CLUO Consistency

As part of the application review process, staff conducted a thorough review of the project against the applicable provisions of the CLUO. The project does not meet the CLUO buffer requirements from sensitive land uses, as there are three offsite legal residences in the I-H zone located closer than 600 feet from the extent of the outdoor cannabis cultivation area. The three residences are approximately ±480 feet, ±390 feet, and ±520 feet away from the existing outdoor cannabis cultivation area, respectively. In addition, there is a residential zone boundary (RR-2 zone) within ±280 feet of the outdoor cannabis cultivation area. As discussed in more detail below, the CLUO allows existing licensees to request approval of buffer reductions (up to ten percent of the required buffer distance) and buffer exceptions (more than ten percent of the required buffer distance) based on consideration of project-specific and/or site-specific factors including but not limited to considerations of compatibility with surrounding land uses. Should the buffer exception requests be approved, the project, as conditioned, is determined to be in compliance with the CLUO. The applicable provisions of the CLUO are included as conditions of approval.

Project Design and Operation

As described above, the project involves the expansion of the cannabis cultivation canopy from one acre to two acres utilizing both outdoor and indoor (greenhouses) methods. The project site is served by PG&E and the project is conditioned to achieve Valley Clean Energy ultra-green or equivalent standard (100 percent renewable and 100 percent carbon-free) within six months of project approval. The project is also conditioned to require the use of LED lighting or equivalent or more efficient technology. Indoor lighting is required to be fully controlled so that minimal or no light escapes. Outdoor lighting is required to be full cut-off, shielded, and downward facing so it does not spill over onto other properties, structures, or the night sky.

The CLUO addresses odor impacts through limiting the location of cannabis uses, and establishing buffers for outdoor cannabis uses, odor control requirements, and enforcement procedures. However, while these measures may minimize the likelihood of nuisance odors, the potential for odors to occur remains and was considered a significant and unavoidable impact in the CLUO EIR. The applicant 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 and carbon filtration systems for the processing building, as well as passive controls such as additional vegetation barriers, relocation of the outdoor grow area, or different plant strains to minimize the

potential for nuisances. The odor control plan identified that typical winds are expected to blow mainly from the north-northwest and south-southeast, parallel with the mountain range.

The project relies on groundwater from an onsite well for cultivation and ancillary water needs. The property also contains a 42,000-gallon water supply tank and pressurized on-site domestic/fire hydrant distribution system for fire suppression. The applicant estimates that approximately 2.2 acre-feet of water per year would be used upon expansion of the project. The CLUO EIR analyzed groundwater that would be used for cannabis crops and compared that to average groundwater use for other non-cannabis crops. The analysis demonstrated that the amount of groundwater used for cannabis activities under each of the CEQA Alternatives would be similar to the amount used for other crops likely to be grown on the property in the absence of contemplated cannabis uses. The high end of the analysis estimated the cumulative use of all cannabis operations in the County could reach 424-acre feet per year, which equates to approximately the average groundwater used by an orchard of about 131 acres.

Site Setting

Cannabis cultivation and associated uses, such as onsite processing, distribution, retail non-storefront activities, and nurseries, are permitted in agricultural zones with a Cannabis Use Permit. The operator has been cultivating cannabis on a continuous basis under validly-issued county and state licenses since 2017. The project site is located on an agriculturally zoned parcel, located immediately east of the community of Dunnigan. The cannabis activities currently occupy approximately four acres of the site, and the remaining ± 12 acres are cleared land, previously farmed in alfalfa/hay. The project site where the cultivation area will be located is generally flat, and the parcels to the south and east are currently in agricultural production (e.g., almonds, walnuts, and wheat). The properties to the west include I-H and RR-2 zoned parcels containing residences. The property to the north is a 6-acre A-N zoned property that contains a residence.

The cultivation area, which occupies approximately 4 acres at the center of the site, is visible from County Road 89 to the east and County Road 99W to the west, but is screened by a six-foot-tall chain link fence with green privacy slats with barbed wire on top. The same type of fencing will be installed around the outdoor cultivation expansion area to the south. The proposed eastern fence line to be installed around the outdoor expansion area will maintain the existing buffer of approximately ± 170 feet from the almond orchard to the east. The extent of the expansion area will also be set back from the southern property line approximately 233 feet.

The operator has prepared a security plan and will implement measures to secure the property, such as security cameras, motion detectors, alarms, and administrative controls. The operator also is 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 activities.

Buffers and Setbacks

All existing structures, including the existing greenhouses and shipping containers used for cannabis activities, meet the setback requirements for the A-N zone. Building setbacks for new structures shown on the site plan (e.g., greenhouses and new 3,500 square foot processing building) in Attachment B, meet the setback requirements for new structures in the A-N zone and will be reviewed upon submission of building permit(s).

The project does not currently meet the buffer requirements from sensitive land uses as set forth in the CLUO. For existing licensees outside the Capay Valley, the required buffer requirement for outdoor cannabis uses from offsite legal residences in non-residential zones and from residentially-zoned land within town growth boundaries is 600 feet, measured from the closest point of any structure or outdoor area containing cannabis. 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 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 and the outdoor cultivation area. See Buffer Exhibit in Attachment F.

Americana Organics is requesting buffer exceptions to allow outdoor cannabis cultivation within the 600-foot buffer of three existing residences immediately west in the Heavy Industrial (I-H) zone: (1) approximately 20%, to ± 480 feet from a residence on APN 051-202-011; (2) approximately 35%, to ± 390 feet from a residence on APN 051-202-012; and (3) approximately 13%, to ± 520 feet from a residence on APN 051-202-014. Americana Organics is also requesting a buffer exception to allow outdoor cannabis cultivation within the 600-foot buffer of the Rural Residential - 2 Acre (RR-2) zone boundary immediately west of the project site on APN 051-202-015. The existing outdoor cultivation area is currently ± 280 feet from the RR-2 zone boundary. However, after the proposed expansion, the outdoor cultivation area will be ± 220 feet from the RR-2 zone boundary, which is an approximately 63% reduction of the 600-foot buffer requirement. Although the buffer exception would reduce the buffer to approximately 220 feet from the zone boundary, the existing residence on the RR-2 zoned parcel is approximately 460 feet away from the cultivation area.

The proposed expansion of the cannabis cultivation area to the south of the existing fenced area will not encroach closer to the three 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 affected property owners have provided statements that they do not object to the reduced buffer requests. These statements can be found in Attachment F of the staff report materials. Approval of the buffer exceptions will not exacerbate or create new compatibility issues with surrounding agricultural crops or agricultural uses.

Compliance History

The Department of Community Services, Cannabis Unit, maintains compliance and complaint history dating back to 2019 when the cannabis program moved from the Agriculture Department to the Department of Community Services. The operator has not received a Notice of Violation from the Cannabis Unit and no formal nuisance complaints have been lodged with the Cannabis Unit during this time.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REVIEW

The Cannabis Land Use Ordinance Environmental Impact Report (CLUO EIR) was prepared as a programmatic EIR for adoption of the CLUO and to support streamlined review of individual permit applications pursuant to CEQA Guidelines Sections 15168, 15162, and 15183. If the County finds that an individual project is within the scope of the CLUO EIR, its environmental impacts are adequately addressed in the CLUO EIR, and applicable mitigation measures are applied to the project, then no further environmental review is required. Staff prepared a project-specific CLUO Program EIR Checklist / Project Initial Study (Attachment C) that examines the conclusions reached in the CLUO EIR for each relevant CEQA impact category identified in the CLUO EIR and Appendix G of the CEQA Guidelines. Staff determined that the proposed project activities are within the scope of the CLUO EIR, and that no additional environmental review is required.

SUMMARY OF PUBLIC CORRESPONDENCE

A Request for Comments was distributed to reviewing agencies on May 4, 2023. Comments received from reviewing agencies were incorporated into the Conditions of Approval (Attachment E) where applicable. A Courtesy Notice was also distributed on May 4, 2023, to the Planning Division's interested parties list and mailed to property owners within 1,000 feet of the property boundary of the

subject parcel. The Courtesy Notice summarized the existing and proposed operations as provided in the application materials. Staff received one letter from a nearby property owner who expressed concerns about odor, negative impacts to neighboring property values, site access from County Road 89, and groundwater levels. The letter also asked for further clarification on whether an Environmental Impact Report (EIR) had been prepared for the project, confirmation that the operator cannot sell to the public at the site, and whether building permits would be required for new structures. Staff also received a letter from the Chair of the Dunnigan Citizens Advisory Committee (dated 5/19/2023) expressing preliminary concerns about the cannabis facility prior to the item being placed on the committee's agenda. The operator has been made aware of the concerns in both letters and the Dunnigan Fire Chief has met with the applicant onsite to discuss operations.

The project was presented to the Dunnigan Citizens Advisory Committee on January 17, 2024. The meeting was attended by staff, applicant/property owner, and several members of the community. The committee's discussion addressed the overall concerns related to odor, buffers, agricultural spray drift, general compliance with the CLUO, and traffic related to the proposed operations. Given the site has no record of violations or formal odor complaints, the committee recommended approval of the use permit, by a vote of 4-1 (Ayes: 4, Noes: 1), contingent upon a formal statement from the landowner of the RR-2 parcel (APN: 051-202-015) to the west of the project site that is affected by the buffer exception request. The formal letter can be found in Attachment F.

The Yolo County Agricultural Commissioner's Office submitted comments on May 11, 2023, stating no agricultural violations exist for Americana Organics. The Agricultural Commissioner stated there is a minor potential for pesticide drift onto the cannabis crop from a nearby orchard and recommended that the operator maintain the existing buffer of approximately ± 170 feet from the almond orchard to the east. Though not required, this recommendation has been added as a Condition of Approval. The Agricultural Commissioner also stated that the applicant will be required to obtain an Operator ID (Spray Permit) through the Agriculture Department.

The Yocha Dehe Wintun Nation ("Tribe") submitted a comment letter dated May 9, 2023 (Attachment G), stating that the project is within the aboriginal territories of the Yocha Dehe Wintun Nation and therefore has a cultural interest and authority in the proposed project area, but based on the information provided, the Tribe is not aware of any known cultural resources near the project site and a cultural monitor is not needed. The Tribe recommended cultural sensitivity training for any pre-project personnel. A condition of approval has been added to require the operator to request cultural sensitivity training with the Tribe prior to the first construction activities requiring a building permit.

The item was continued to the next regularly scheduled public hearing at the 4/11/2024 Planning Commission meeting and public hearing notices were mailed to property owners within 1,000 feet on April 26, 2024.

COLLABORATIONS

Staff consulted with Agricultural Commissioner's Office, Building Division, Public Works Division, Environmental Health Division, various agencies and interested parties, and has received input from the Office of County Counsel.

APPEALS

Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board within fifteen (15) days from the date of the action. A Planning Commission Appeal Form and appeal fee immediately payable to "County of Yolo" must be submitted at the time of filing. The Board of Supervisors may sustain, modify or overrule this decision. The Planning Commission Appeal Form can be accessed at

the following link: <https://www.yolocounty.org/government/board-of-supervisors/clerk-of-the-board/planning-commission-appeal>

Attachments

- Att. A. Project Location and Zoning
 - Att. B. Site Plan
 - Att. C. Americana Organics CLUO CEQA Checklist
 - Att. D. Americana Organics Findings
 - Att. E. Use Permit and Conditions of Approval
 - Att. F. Buffer Exhibit and Letters
 - Att. G. Public Comment Letters
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Form Review

Inbox	Reviewed By	Date
Stephanie Cormier	Stephanie Cormier	04/30/2024 05:25 PM
Eric May	Eric May	05/01/2024 10:29 AM
Stephanie Cormier	Stephanie Cormier	05/01/2024 11:13 AM
Form Started By: Tracy Gonzalez		Started On: 04/26/2024 01:22 PM
Final Approval Date: 05/01/2024		