

ATTACHMENT D

FINDINGS

ZONE FILE #2023-039 BRO PROPERTIES, LLC CANNABIS USE PERMIT

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2022-039, 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 two acres of canopy, issuance of a nursery license, and issuance of a self-distribution license for Bro Properties, LLC. The subject property is zoned Agricultural Extensive (A-X). Pursuant to Article 3, of Chapter 2, of Title 8 of the Yolo County Code, cannabis cultivation and nursery uses are permitted in the A-X 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. Nursery licenses allow for the propagation of clones, immature plants, and seeds for commercial sale. Self-distribution licenses allow for the business to transport only the goods they cultivate to off-site manufacturing and distribution premises.

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 and nursery 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 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 CLUO and 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 and nurseries, 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 agricultural land uses (orchards, farms, a cannabis operation, and agricultural homesites). The existing outdoor cultivation area is screened from public view along County Road 22A by field fencing and the onsite fruit orchard.

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. CLUO Section 8-2.1408(E), Buffers, establishes buffers for various identified sensitive uses, including off-site residences, ranging from 600 feet to 1,500 feet. The existing onsite cultivation areas do not satisfy the buffer requirement for existing licensees to maintain a 600-foot buffer from off-site residences. As component of the project request, the operator will adjust the locations of the onsite cultivation areas to areas of the project site that satisfy the 600-foot buffer requirement for existing licensees. Maintaining the buffer from offsite residences is condition of approval.

As conditioned, the project will implement best management practices outlined in the Odor Control Plan prepared for the site. The Odor Control Plan prepared for the site identifies passive odor control mechanisms to help contain and neutralize cannabis odors if odor meets or exceeds the 7:1 D/T standard.

The operator has prepared a security plan and will implement measures to secure the property, such as security cameras, 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 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 16 acres to 88 acres. There are approximately 32 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 1.25 miles northeast of the project site. According to 2020 Census data, the total population within the 95627 Zip Code, which includes the town of Esparto, is 3,899 persons (1,209 households). Pursuant to the CLUO, the Bro Properties operation is not located within an overconcentrated 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 Esparto area. There is nothing to suggest that existing cannabis cultivation activities at the Bro Properties operation caused a noticeable increase in crime in the Esparto 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.

As evidenced in Finding #9, below, there have been several complaints lodged against Bro Properties and several other cannabis operations in the Lamb Valley area, south of Esparto, primarily related to cannabis odor, between October 2019 and present (the Department of Community Services maintains complaint data going back to 2019 when the Cannabis Unit was relocated to Community Services). None of the cannabis complaints received for Bro Properties, or the Lamb Valley area in general, were confirmed to meet nuisance thresholds, and therefore did not result in nuisance abatements. Outside of occasional cannabis related complaints, primarily related to odor, 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-X zone. The project, as conditioned, requires the permittee to adhere to buffer requirements from identified sensitive land uses, and maintain, manage, and operate the site, all improvements and alterations, and all structures, in good repair, acceptable in appearance, and in a reasonably 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. Lighting is not permitted in hoop houses or for other outdoor cultivation uses.

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 24, 2024. Staff received three comments from two members of the public who raised concerns about expanding the cultivation area from one to two acres of canopy and thereby increasing the cannabis odors in the area, which are not contained due to the nature of outdoor cultivation. The comments also raised concerns about the potential for adjacent parcels' property values to decrease and for crime to increase in the area. The remaining concerns addressed in the neighbors' comment letters can be alleviated to the greatest extent

possible by operational oversight of odor control measures, as needed, and site maintenance and security measures as required in the Conditions of Approval. Staff also received two comment letters expressing support for the project as the applicant has complied with the County's cannabis program and the CLUO' Use Permit application process.

The project site is located in the Esparto Citizens Advisory Committee (ECAC) comment area. The project was discussed at the ECAC Meeting on November 19, 2024. The ECAC recommended approval of the use permit request by a vote of 6-1-0. Prior to the vote to recommend approval, the discussion centered around cannabis odors, the nuisance complaint procedure, the CLUO's definition of overconcentration and when the Esparto area would meet that definition, and buffer exceptions and buffer reductions. The member of the ECAC who voted against the project approval discussed how members of the community feel that Esparto is already overconcentrated. The six members of the ECAC who voted to recommend approval of the project noted that the project appeared to comply with the CLUO requirements and that the project applicant is a member of the community, whom they also represent as members of the ECAC.

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) within six months of project approval.

Access to the property is from a compacted gravel road via County Road 22A, with internal gravel roads leading to the cultivation site. The site 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 may be required for the new permanent restroom in the proposed processing building. 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.

Bro Properties is considered an 'Existing Licensee' and the operation is located within the Esparto agricultural area, an area that is not identified in the CLUO EIR as overconcentrated based on the number of issued licenses in the area at the time the CLUO was adopted. The unincorporated area of Yolo County, outside of the Capay Valley, is not considered overconcentrated for Existing Licensees. Although the project site is not in an area considered to be overconcentrated from a regulatory standpoint, several members of the community have commented that the area surrounding Esparto is oversaturated with cannabis operations, noting that Bro Properties is immediately east of a property with an approved Cannabis Use Permit, Capay Valley Organics.

The CLUO establishes that an area will be considered overconcentrated when there are seven Cannabis Use Permits within any six-mile diameter area. No new applications would be accepted in areas determined to be overconcentrated (seven Cannabis Use Permits within any six-mile area). In the greater Esparto area, there is the potential for eight cannabis operations for purposes of determining overconcentration. The County has received a total of seven Cannabis Use Permit applications for the greater Esparto area. One of the Cannabis Use Permits is for a colocated site with two separate entities, which counts as two for purposes of determining overconcentration. Three cannabis Use Permits have been approved by the Planning Commission within a six-mile diameter of the Bro Properties site and there are four additional existing licensees, including Bro

Properties, within the same area with Cannabis Use Permit applications under review. Should all seven Cannabis Use Permits be approved within each 6-mile diameter circle, those areas would be considered overconcentrated and no new applications would be accepted in these areas.

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

As described in Finding #6, Bro Properties is located immediately east of a cannabis operation that received Use Permit approval on June 13, 2024 (Capay Valley Organics). There are three other cannabis operations that received Use Permits following Planning Commission approval (Woodland Roots/Yolo Family Farms Colocation and Diamond Back Genetics) and three existing licensees with applications under review within a six-mile diameter in the greater Esparto area. Approval of the Bro Properties Use Permit would not result in the area becoming overconcentrated, although no new applications would be accepted or approved within any six-mile area once seven Cannabis Use Permits are approved in the same area.

There are 32 agricultural homesites (residential address points on GIS) within 0.5-mile of the Bro Properties property boundary. The nearest off-site residences are approximately 435 feet and 560 feet to the northeast of the outdoor canopy. The CLUO requires a minimum of 600 feet between off-site residences and cannabis cultivation activities. Rather than request a buffer reduction and exception from the two nearest off-site residences, as allowed in CLUO Section 8-2.1408(E), the applicant proposes to adjust the onsite cannabis cultivation activities to areas of the property that satisfy the 600-foot buffer requirement. The project is conditioned to verify that all cannabis cultivation activities on the site satisfy the 600-foot buffer requirement.

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

The project site is surrounded by A-X zoned parcels ranging in size from 16 to 88 acres. Surrounding agricultural land uses include orchards, small farms, a cannabis operation, and several agricultural homesites.

As noted in Finding #7, the applicant proposes to adjust the onsite cannabis cultivation activities to areas of the property that satisfy the 600-foot buffer requirement, which moves the onsite cannabis activities at least 165- and 40-feet further from the nearest offsite residences.

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

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. Bro Properties has not received a Notice of Violation from the Cannabis Unit, however, several complaints have been lodged with the Cannabis Unit. From October 2019 to present, eleven formal complaints have been lodged against cannabis operators within the Lamb Valley area, an area south of Esparto in close proximity to Lamb Valley Slough. Two of the complaints specifically reference Bro Properties, while the remaining nine complaints reference various other cannabis operations. Of the two specific Bro Properties complaints, one was submitted in January 2020 and one was submitted in December 2024. Both complaints were in regards to odor and the January 2020 complaint also mentioned that there was light shining off the back side of the onsite residence and that cars were parked along County Road 22A and County Road 85B at various times.

As described Finding #4 and #4c, there have been two formal complaints lodged against the cannabis operation—one in 2019 and one in 2023. Both complaints were largely related to

concerns about cannabis odor. 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 Odor Control Plan prepared for the site lists passive odor control measures including, planting odor-absorbing companion plants such as lavender, basil, or rosemary, strategic pruning of the cannabis plants to reduce the overall odorous biomass, and planting aromatic hedges around the cultivation area to help contain and neutralize cannabis odors if odor meets or exceeds the 7:1 D/T standard.

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

The ±16.5-acre subject parcel consists of gently rolling slopes which dip toward the north and west. Non-cannabis related structures located on the parcel include a preexisting residence and a workshop, and existing on-site cannabis-related structures include 22 hoop houses, a 20- by 35-foot processing and storage building, an outdoor cannabis cultivation area, several trailers, and domestic and agricultural wells. The site also includes a parking area and porta-potties/outhouses for employees, outdoor propagation area, and refrigerated trailers for cannabis processing (to be removed within one year), as well as separate storage containers for chemicals, supplies, and cannabis products. The property is enclosed by fencing, and access is facilitated through a gated entrance. Bro Properties' existing cannabis operations occur on seven acres of the approximately 16.5-acre site; the rest of the parcel is a productive fruit orchard.

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-X and are in agricultural production and/or agricultural residences.

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 overconcentration of cannabis use permits in the greater Esparto area. 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 November 19, 2024, Esparto Citizens Advisory Committee meeting, and participate in a public hearing at the January 16, 2025, Planning Commission meeting.

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

The existing cultivation area is located within an approximate 7-acre operational area. The 7-acre operational area is surrounded by a productive fruit orchard. To satisfy the 600-foot buffer requirement, the applicant will adjust the location of the on-site cannabis activities to areas that are currently fallow on the west side of the property. The project is conditioned to require that the site is kept free of litter and clutter and to maintain all improvements and structures.