

ATTACHMENT C

FINDINGS

ZONE FILE #2022-0083 OUTDOOR PROPERTIES LLC CANNABIS USE PERMIT

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2022-0083 held on May 8, 2025, the Yolo County Planning Commission finds that the request for a Cannabis Use Permit should be denied.

(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 denial of the project is exempt from the California Environmental Quality Act (CEQA).

Pursuant to Section 15270 of the CEQA Guidelines, CEQA does not apply to projects which a public agency rejects or disapproves. Therefore, based on the Planning Commission's denial of the Outdoor Properties Cannabis Use Permit (ZF #2022-0083), environmental review under CEQA is not required.

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

The Planning Commission finds that the proposed project is not consistent with the CLUO based on the following:

1. The proposed use will impair the integrity or character of the neighborhood and be detrimental to the public health, safety, or general welfare.

Throughout the application review process, staff received numerous letters, emails, and phone calls from Guinda area residents expressing concerns about the Outdoor Properties cultivation site. Additionally, fourteen formal complaints were lodged against Outdoor Properties with the Cannabis Unit. The majority of the complaints mentioned cannabis odors and noise from greenhouse fans and equipment as the primary issue. Greenhouse lighting during nighttime hours was also mentioned in several complaints. Though it is not unusual for staff to receive comments or complaints about cannabis operations, especially during the Cannabis Use Permit application review process, the applicant ignored staff's multiple requests to reach out to community members to attempt to address concerns.

The property owner has failed to pay property tax assessments for tax years 2023 and 2024, and failed to pay the 2022 supplemental tax bill. As of April 24, 2025, the total balance owed is in excess of \$83,000. Outdoor Properties has failed to pay and/or report gross cannabis cultivation receipts to the Yolo County Department of Financial Services for the following quarters: Q3 and Q4 (FY 2022/2023); Q1, Q2, Q3, and Q4 (FY 2023/2024); and Q1, Q2, and Q3 (FY 2024/2025).

The non-payment of property and cannabis taxes have detrimental effects to the public health, safety, and general welfare. By not paying property taxes, critical services, such as fire protection and schools do not receive assessments. The non-reporting of cannabis cultivation sales makes it much easier for product to enter the illegal market, which creates an uneven playing field for those that do follow the law and creates health risks for consumers as most product entering the illegal market is not tested. Staff does not have evidence that product grown by Outdoor Properties has entered the illegal market, but without the checks and balances of proper sales reporting, it is a legitimate concern. Non-payment of cannabis cultivation taxes also directly impacts communities in Yolo County. The Board of Supervisors direct and approve annual

cannabis tax expenditures to programs and projects in identified priority categories, such as criminal enforcement of illegal cultivation, early childhood intervention and prevention, youth development, and rural community investments. Funding for these projects and programs come directly from cannabis tax payments. Therefore, by not reporting and not paying cannabis taxes, these projects and programs receive less funding.

2. 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.

CLUO Section 8-2.1408(O) requires a permanent power source. Outdoor Properties has failed to pay Pacific Gas and Electric (PG&E) utility bills for a substantial period of time. Neither PG&E nor the applicant would provide specific dates of the suspended service, or the amount owed, but it is significant enough to suspend service to the site. The applicant has installed a large diesel generator to power buildings and infrastructure at the site without obtaining necessary permit approvals from the County and Yolo-Solano Air Quality Management District (YSAQMD). This poses a potential risk to the community because the electrical connections have not been inspected by the Building Division. Furthermore, without permit compliance, YSAQMD is unable to ensure that the generator complies with federal, state, and Air District rules, which are implemented to ensure that public health is protected from the harmful effects of air pollution.

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

The project site was first licensed for cannabis cultivation in 2017 as KAM Gardens, Inc. In 2018, the entity transitioned from KAM Gardens to Outdoor Properties LLC. Outdoor Properties cultivated up to one acre of cannabis canopy on-site from 2018 to late 2024 under State and County licenses. The Outdoor Properties cultivation license expired on March 31, 2025.

The subject property is owned by Loma West, LLC. The most recent Statement of Information filed with the Secretary of State (05/27/2020) lists Tommy Christy, Barry Azarcon, and John Taylor as members of Loma West, LLC. The most recent Statement of Information filed with the Secretary of State (01/30/2025) for Outdoor Properties LLC lists Rhema Holdings LLC as the manager and/or members of Outdoor Properties LLC. Rhema Holdings LLC lists Tommy Christy, Barry Azarcon, and John Taylor as members on the most recent Secretary of State Statement of Information filing (06/10/2020). The below describes the compliance history of the property owner and applicant:

- a) Non-payment of property taxes.** *Loma West, LLC has failed to pay property tax assessments for tax years 2023 and 2024, and failed to pay the 2022 supplemental tax bill. As of April 24, 2025, the total balance owed is in excess of \$83,000.*
- b) Non-payment of cannabis taxes.** *Outdoor Properties has failed to pay and/or report gross cannabis cultivation receipts to the Yolo County Department of Financial Services for the following quarters: Q3 and Q4 (FY 2022/2023); Q1, Q2, Q3, and Q4 (FY 2023/2024); and Q1, Q2, and Q3 (FY 2024/2025). The tax rate on commercial cannabis cultivation is set at four percent of gross receipts per fiscal year and quarterly installments are due on or before the last day of the month following the close of each quarter. If a cultivator has no sales during the quarter, they must still submit a report of no sales. Outdoor Properties has not submitted a tax return, paid cannabis cultivation taxes, or filed any report with the Department of Financial Services since Q2 of FY 2022/2023.*

In their last filing (Q2 of FY 2022/2023), Outdoor Properties reported a significant amount of gross cultivation receipts for that period (October 1, 2022, to December 31, 2022).

Outdoor Properties was licensed in 2023 and 2024, and the Cannabis Unit inspectors observed cultivation activities occurring on the property in those years. Upon review of inspection reports, track and trace spreadsheets, and the METRC database (an online compliance system to track all cannabis plants and product), it is determined that Outdoor Properties actively cultivated and transferred both flower and trim in the 2023 cultivation season. In 2024, cultivation activities were scaled back, but it was confirmed there were transfers of product in April, June, September, and December. Therefore, it is evident that Outdoor Properties knowingly failed to report sales and tax returns and failed to pay required cultivation taxes.

- c) *Physical property is in pre-foreclosure.*** *The property owner, Loma West, LLC, is in default under a deed of trust for an unpaid balance of \$2,189,443 (as of January 16, 2025) on the property. As indicated in the Notice of Trustee's Sale, recorded on January 16, 2025, the property was scheduled to be auctioned on February 13, 2025. The lender postponed the scheduled sale and has informed staff the sale will continue to be postponed while the Cannabis Use Permit application is still under review.*
- d) *Non-payment of solid waste and recycling service fees.*** *The property owner's account with Waste Management, Inc. is delinquent by more than 365 days. As of January 24, 2025, the balance owed was \$499.50. The Division of Integrated Waste Management has sent multiple notices to the Loma West, LLC, informing them that if the account is not paid in full by May 31, 2025, a lien may be placed on the property tax bill. Waste Management also provides customers with bi-monthly billing statements alerting customers with overdue accounts of the potential for lien. Additionally, a lien was placed on the property tax bill in 2024 for failure to pay Waste Management bills for the prior year.*
- e) *Installation of large generator without permits and non-payment of PG&E bills.*** *Pursuant to the CLUO, cannabis operations are required to be served by a permanent power source (e.g., electric utility, or solar/wind with battery back-up). Generators may be used in emergency situations, but cannot be the sole or permanent source of power for equipment and/or facilities. The applicant has informed the County that PG&E power has been cut-off due to the applicant's failure to pay PG&E utility bills. The applicant has also installed a large diesel generator to power buildings and infrastructure at the site without obtaining necessary permit approvals from the County and Yolo-Solano Air Quality Management District (YSAQMD). This poses a potential risk to the community because the electrical connections have not been inspected by the Building Division. Furthermore, without permit compliance, YSAQMD is unable to ensure that the generator complies with federal, state, and Air District rules, which are implemented to ensure that public health is protected from the harmful effects of air pollution.*
- f) *Several structures in disrepair.*** *Siding and plastic panels from several of the greenhouses were broken and/or severely damaged during winter storm events in late 2024 and have not been repaired. By not promptly addressing this issue the applicant/property owner demonstrates a neglect for site maintenance and safety obligations. Large pieces of debris were observed scattered in various locations on the property by the Cannabis Unit inspector during an inspection on March 20, 2025.*
- g) *Notice of Violation.*** *The County's Cannabis Unit issued a Notice of Violation to Outdoor Properties on October 14, 2024, for failure to comply with track and trace requirements. The California Department of Cannabis Control requires all licensed cannabis businesses to use the track-and-trace system to record, track, and maintain information about cannabis and cannabis product inventories and activities. All cannabis plants and goods*

are required to be tagged with unique identifiers, which are used to track the movement of cannabis through the supply chain. Compliance with track-and-trace requirements is a crucial component of the enforcement process to keep cannabis from entering the illegal market. At the conclusion of a routine inspection on September 26, 2024, the Cannabis Unit inspector determined that no immature cannabis plants were physically located on the licensed premises, more than 2,600 flowering cannabis plants located in the canopy area were not tagged, and more than 100 cannabis plants were observed hanging or drying in the processing area, which were not tagged and did not have a harvest batch label attached. More than 1,500 of the cannabis plants located in the canopy area without METRC tags were in flower and were being harvested. Further, the on-site personnel confirmed that none of the harvested cannabis plants had been entered into the METRC system as a harvest batch and no wet weights (weight of plant prior to drying) had been taken or recorded at the time of harvest.

According to the Cannabis Unit inspector, these violations are particularly egregious as it makes it impossible to track the product through the various stages. If information is not accurately uploaded to METRC and if wet weights are not taken, cannabis product can easily enter the illegal market. Note that the issuance of one Notice of Violation does not automatically result in a license suspension or revocation, but is considered as part of the entire record when evaluating a Cannabis Use Permit application. As stated above, this is an egregious violation that demonstrates that Outdoor Properties is either inept in its operational duties or is blatantly seeking ways to skirt the regulatory process.

4. 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.

The Agricultural Commissioner reviewed the project application materials and determined that the project, as proposed, does not appear to create a potential for conflict with adjacent and nearby non-cannabis crops as the cannabis would be cultivated within greenhouses.

Following a Notice of Violation issued by the Cannabis Unit on October 14, 2024, Cannabis Unit staff have expressed concerns about the ability of Outdoor Properties to comply with the track-and-trace program. The California Department of Cannabis Control requires all licensed cannabis businesses to use the track-and-trace system to record, track, and maintain information about cannabis and cannabis product inventories and activities. Compliance with the track-and-trace program is a crucial component of the enforcement process to keep cannabis from entering the illegal market. The October 14, 2024, Notice of Violation documented egregious violations that included flowering cannabis plants not being properly tagged and weighed before harvest. If information is not accurately uploaded to the METRC track-and-trace program and if wet weights are not recorded, cannabis products can easily enter the illegal market. The issuance of one Notice of Violation does not automatically result in a license suspension or revocation, but is considered as part of the entire record when evaluating a Cannabis Use Permit application. This egregious violation demonstrates that Outdoor Properties is either inept in its operational duties or is blatantly seeking ways to skirt the regulatory process.

Cannabis Unit inspectors also informed staff that it is their professional opinion that Outdoor Properties lacks the administrative and operational expertise to comply with local and state

regulations in the long-term. This is demonstrated by the licensee's ongoing failure to comply with regulations related to cannabis taxation/property tax obligations, as well as their inability to operate in a manner that ensures the security of cannabis products and adherence to the state's METRC track-and-trace system requirements.