



# ATTACHMENT K

Time Set 10.

Planning Commission

Meeting Date: 12/14/2023

Information

SUBJECT

**ZF #2022-0087:** Consider a request for a Cannabis Use Permit to allow issuance of a cannabis cultivation license for up to one acre of canopy, and determine the project falls within the scope of the previously certified Yolo County Cannabis Land Use Ordinance Environmental Impact Report and that no further environmental review is required under the California Environmental Quality Act (CEQA). The project is located on a 38-acre agriculturally-zoned parcel at 20910 County Road 79B, approximately 3.3 miles northwest of the town of Capay (APN: 048-060-008). (Applicant: Edward Walker/Owner: Walker 2019 Rev Trust) (Planner: Jeff Anderson)

SUMMARY

<b>FILE # 2022-0087: Diamond Back Genetics Cannabis Use Permit</b>	
<b>APPLICANT:</b> Edward Walker Diamond Back Genetics 20910 County Road 79B Capay, CA 95607	<b>OWNER:</b> Walker 2019 Rev Trust 20910 County Road 79B Capay, CA 95607
<b>LOCATION:</b> 20910 County Road 79B, Capay, CA 95607 (APN: 048-060-008)	<b>SOILS:</b> Balcom silty clay loam, 30 to 50 percent slopes, eroded (Class VI); Corning gravelly loam, 2 to 15 percent slopes, eroded (Class IV); Marvin silty clay loam (Class II); Positas gravelly loam, 15 to 30 percent slopes, eroded (Class VI)
<b>GENERAL PLAN:</b> Agriculture (AG)	
<b>ZONING:</b> Agricultural Intensive (A-N)	
<b>SUPERVISORIAL DISTRICT:</b> 5 (Supervisor Barajas)	<b>FMMP:</b> Grazing Land, Farmland of Local Potential
<b>PUBLIC HEARING NOTICE:</b> 12/01/2023 (published in Davis Enterprise on 12/03/2023)	<b>WILLIAMSON ACT:</b> Yes (70-147)
	<b>FLOOD ZONE:</b> X
	<b>FIRE SEVERITY ZONE:</b> Moderate (State Responsibility Area)
<b>ENVIRONMENTAL DETERMINATION:</b> 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 Diamond Back Genetics 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); and
5. Authorize the project applicant to apply for license issuance of a cannabis cultivation 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 activities. The allowance of up to one-acre of canopy for Diamond Back Genetics will provide continued business opportunity for the operator to compete in the regulated cannabis industry. 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 38-acre agriculturally zoned parcel, located approximately 3.3 miles northwest of the town of Capay and approximately 2 miles southeast of Brooks. Diamond Back Genetics first received a license to cultivate cannabis in 2017 and has continuously cultivated since then. Diamond Back Genetics currently cultivates up to one-acre of cannabis canopy outdoors and within three greenhouses. Pursuant to Section 8-2.1403(F) of the County's Cannabis Land Use Ordinance (CLUO), cultivation in the Capay Valley is limited to the canopy approved for each licensee as of the effective date of the CLUO (October 14, 2021). As such, Diamond Back Genetics is limited to one-acre of canopy; though as discussed below, the operator only proposes to cultivate approximately 9,000 sf of canopy at this time. The cannabis operations currently consist of six greenhouses used for vegetation and flowering (three of the greenhouses were recently finalized), three outfitted shipping containers used for drying/processing, one container used for nursery, a shed used for product quarantine, a shed used for fertilizer storage, and an approximately 60,000 sf outdoor cannabis cultivation area. In addition to the cannabis related structures, the property contains a single-family residence occupied by the applicant/property owner, a secondary modular home, a barn, several outbuildings, two decommissioned hoop house-type structures used for non-cannabis storage, a third modular home no longer in use, and a small pond. The property is served by an existing domestic well and septic systems. Access to the property is directly from County Road 79B, with internal dirt access roads leading to cannabis operations.

Diamond Back Genetics currently employs four full-time employees and three to six seasonal employees during harvest periods to assist with drying and trimming, etc. The applicant anticipates one large truck delivery of soil per quarter. There are typically less than ten employee vehicle round trips per day during non-harvest periods and 14 vehicle trips per day during harvest periods (these numbers account for employee arrivals and departures as well as extra trips by employees during the day for meals and/or supplies, if necessary). Product distribution pick-ups (i.e., for testing or shipment to distribution facilities) occur via vans or small trucks, and occur on an infrequent basis throughout the year.

The CLUO requires outdoor cannabis cultivation in the Capay Valley to be located a minimum of 1,000 feet from identified sensitive land uses, including off-site residences, with no exception allowances. There are two residences on adjacent A-N zoned parcels located within 1,000 feet of the outdoor cannabis cultivation area. The 1,000-foot buffer from these two homes cover the entire flat

area of the Diamond Back Genetics parcel and makes outdoor cultivation infeasible. The applicant has proposed to remove all outdoor cultivation on the parcel and move cultivation activities into the six existing and permitted greenhouses. The approximate size of mature cannabis canopy within greenhouses is expected to be approximately 9,000 sf. The applicant does not propose any new ground disturbing activities to support the existing and proposed cannabis operations, with the exception of a new restroom structure and wastewater treatment system (septic system) if required by the Environmental Health Division. The applicant is in discussions with the Environmental Health Division to determine if a variance from septic system requirements for agricultural operations can be issued.

Diamond Back Genetics engages in seasonal cultivation for outdoor cultivation, with the planting generally beginning around May and the harvesting phases ending around October/November (the applicant has completed harvest of the outdoor cultivation and will no longer cultivate outdoors). Proposed cultivation within greenhouses will allow Diamond Back Genetics to potentially have three growing cycles, each about 90 days, using controlled lighting and light deprivation techniques. The vegetation period usually lasts five weeks and the flowering period lasts approximately eight weeks. The applicant anticipates adding two full-time employees (six full-time employees total), but does not plan on adding additional seasonal employees (three to six existing seasonal employees total). As required by the 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.

## **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 uses, which include activities involving the planting, growing, harvesting, drying, curing, grading, storing, and trimming of cannabis grown onsite, 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 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, as conditioned, is determined to be in compliance with the CLUO. The applicable provisions of the CLUO are included as conditions of approval. The operator is required to submit an annual report on July 1 of each year starting the first July in the year after permit issuance documenting compliance with the Cannabis Use Permit requirements.

### **Project Design and Operation**

As described above, the project involves the cultivation of up to one-acre of indoor cannabis canopy; however, the applicant does not propose additional greenhouses. Therefore, the mature cannabis canopy is expected to be approximately 9,000 sf. 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 and the greenhouses are equipped with curtains to control nighttime glow. 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 additional active controls, such as carbon filters, odor neutralizers, scrubber systems, barriers (curtains/air breaks) at doorways, or improved ventilation, as well as passive controls such as additional vegetation barriers or different plant strains to minimize the potential for nuisances. The odor control plan identified that typical winds in the project area are expected to blow mainly from the north-northwest and south-southeast, parallel with the valley.

The project relies on groundwater from an onsite domestic well. The applicant estimates that approximately 350,000 gallons of water per year would be used for the proposed cannabis cultivation using drip irrigation methods. 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 processing, 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 in an agriculturally zoned area and is surrounded by parcels ranging in size from 10 acres to 560 acres that are either grazed, open pasture land, uncultivated agriculture, or hobby farms. The parcel immediately northwest of the Diamond Back Genetics project site is 20 acres of open land with a hill that partially blocks the view of the cannabis uses on the Diamond Back Genetics property from

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

The project site is located at the end of County Road 79B (the road dead ends at the property entrance). Cannabis structures (i.e., greenhouses and storage containers) and portions of the existing outdoor cultivation area can be seen from the end of County Road 79B; however, all outdoor cultivation areas will be removed in order to meet the CLUO 1,000-foot buffer requirement from off-site residences. The portion of the property perimeter near the project entrance is secured with a six-foot high galvanized welded wire fence (approximately 600 feet). The property entrance is secured with an automated seven-foot high, 20-foot wide, wrought iron gate. Further, the remaining perimeter of the property is fenced with traditional field fencing with barbs.

The operator has prepared a security plan and will implement measures to secure the property, such as barbed wire fencing, automated gates, security cameras, motion detectors, alarms, and administrative controls. The operator 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 processing building, meet the setback requirements for the A-N zone. As described above, the project does not currently meet the buffer requirements from sensitive land uses as set forth in the CLUO. Outdoor cannabis uses (i.e., cultivation) in the Capay Valley must maintain a distance of 1,000 feet from all identified sensitive land uses, which includes off-site individual legal residences located on parcels under separate ownership in a non-residential zone. There are two residences on adjacent A-N zoned parcels located within 1,000 feet of the outdoor cannabis cultivation area. The applicant proposes to discontinue outdoor cultivation activities and move all cultivation activities within six greenhouses. The buffer requirement for indoor cannabis uses is 100 feet from sensitive land uses in the Capay Valley, which Diamond Back Genetics meets. There are 15 agricultural homesites within one-half mile of the Diamond Back Genetics boundary. The nearest agricultural homesite is approximately 230 feet west of the Diamond Back Genetics property boundary.

### **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 nuisance complaints have been lodged with the Cannabis Unit during this time. The Cannabis Unit did receive an anonymous complaint in 2022 regarding workplace and labor related matters. The complaint could not be substantiated by the Cannabis Unit as the nature of the complaint was not under the purview of the Cannabis Licensing Ordinance. The Cannabis Unit informed the operator of the complaint and urged the operator to address the issues if warranted.

## **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 (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, that no additional environmental review is required.

## **SUMMARY OF PUBLIC CORRESPONDENCE**

A Request for Comments was distributed to reviewing agencies on April 28, 2023. Comments received from reviewing agencies were incorporated into the Conditions of Approval (Attachment E) where applicable. A Courtesy Notice was also distributed on April 28, 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 Guinda resident expressing support for all Cannabis Use Permit projects within the Capay Valley. Additionally, staff received one comment letter from a nearby property owner who expressed concerns about general road conditions on County Road 79B and project lighting. No other public comments were received throughout the application review process. The applicant provided a copy of a letter signed by several neighbors, dated June 7, 2021 (previously submitted to the Board of Supervisors), expressing support for the project. All comment letters are included as Attachment F).

The Yocha Dehe Wintun Nation ("Tribe") submitted a comment letter dating May 9, 2023 (Attachment F), 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 (i.e., if a permanent restroom and septic system are required per Environmental Health Division requirements).

The project was presented to the Capay Valley Citizens Advisory Committee on October 11, 2023. The meeting was attended by staff, applicant/property owner, and several members of the community. The committee and members of the community discussed the components of the project and asked questions of staff and the applicant. The committee unanimously recommended approval of the project (Ayes: 6, Noes: 0). Prior to the vote to recommend approval, Omar Carrillo, Director of Government Affairs, Yocha Dehe Wintun Nation, read a statement voicing the Tribe's support of the Diamond Back Genetics project.

A public hearing notice was mailed to property owners within 1,000 feet on December 1, 2023, and published in the Davis Enterprise on December 3, 2023.

## **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>

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Attachments

- Att. A. Project Location and Zoning Maps
  - Att. B. Site Plan
  - Att. C. CEQA Compliance Checklist / Project Initial Study
  - Att. D. Findings
  - Att. E. Conditions of Approval
  - Att. F. Public Comment Letters
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Form Review

Inbox	Reviewed By	Date
Stephanie Cormier	Stephanie Cormier	12/05/2023 05:26 PM
Eric May	Eric May	12/06/2023 10:57 AM
Form Started By: Jeff Anderson		Started On: 12/01/2023 09:48 AM
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