



County of Sonoma
Permit & Resource Management Department

Sonoma County Board of Zoning Adjustments Draft Minutes

Permit Sonoma
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

June 9, 2022
Meeting No.: 22-09

Roll Call

Greg Carr, District 1
Pat Gilardi, District 2
Absent, District 4
Eric Koenigshofer, District 5
Jacquelynne Ocaña, District 2, Chair

Staff Members

Scott Orr
Marina Herrera
Crystal Acker
Liz Goebel, Secretary
Jennifer Klein, Chief Deputy County Counsel

1:00 PM Call to order, Roll Call and Pledge of Allegiance.

Approval of Minutes: None

Correspondence: None

Planning Commission/Board of Supervisors Actions: None

Commissioner Announcements: None

Public Comments on matters not on the Agenda: 0h3m

Scott Candell
Roger Peters

Public Comments on matters not on the Agenda will resume at the end of the hearing.

Items scheduled on the agenda:

Board of Zoning Adjustments Regular Calendar

Item No.: 1
Time: 1:05 PM
File: UPC17-0011
Applicant: Nicholas Adan
Owner: Lance Morgan and Cory Meyer
Cont. from: Not Applicable
Staff: Marina Herrera

Env. Doc: Proposed Mitigated Negative Declaration
Proposal: A five-year limited term Use Permit for commercial cannabis cultivation operation, including 8,100 square feet of mixed light cannabis cultivation to be contained within three 2,700 square foot greenhouse structures and one 1,350 square foot mixed-light propagation greenhouse. A 2,400 square foot structure will be used for onsite processing, storage, and office operations. Operations are proposed to occur 24 hours per day, 7 days a week. Deliveries would be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday. The operation will employ 1 full-time employee and 3 part time employees, for a maximum of 4 employees. The operation will occur on a 5.25-acre parcel located at 5091 Arnold Drive, Sonoma.
Location: 5091 Arnold Dr., Sonoma
APN: 142-062-008
District: One
Zoning: DA (Diverse Agriculture), B6 (10-acre maximum density), RC 50/50 (Riparian Corridor 50 feet/50 feet), RC 100/50 (Riparian Corridor 100 feet/50 feet), VOH (Valley Oak Habitat)

Commissioner Disclosures: None

Staff Scott Orr explains that the applicant requested a continuance, as he needs more time to work through changes in project description as it relates to Conditions of Approval applied by staff. The BZA can either grant continuance to a date uncertain, or deny continuance and decide now based on current materials. **0h5m**

Commissioner Carr commented that because the continuance is related to an issue regarding water, it's important to make sure it is properly addressed first. He went through agency comments for Department of Cannabis Control and Department of Fish & Wildlife; a few things mentioned were not responded to in staff memo, asks staff to look again. Mentions project is in scenic landscape unit, and is subject to general plan policy OSRC-2d; was not analyzed in staff report. Also, issue of applicability of state fire regulations. They need to know what applicability this project has. Under aforementioned conditions, he is willing to move forward with continuance to a date uncertain. **0h6m**

Action: **Commissioner Carr** motioned to grant continuance as requested by the Applicant to a time uncertain. Seconded by **Commissioner Gilardi** and approved with a 4-0-1 vote. **0h8m**
Appeal Deadline: Not Applicable
Resolution No.: Not Applicable

Vote:

Commissioner Carr	Aye
Commissioner Gilardi	Aye
Commissioner Deas	Absent
Commissioner Koenigshofer	Aye
Commissioner Ocaña	Aye

Ayes: 4
Noes: 0
Absent: 1
Abstain: 0

Staff Scott Orr clarifies to the public that when an item is continued to a date uncertain, a new notice will be sent out once it is scheduled. **0h9m**

Item No.: 2
Time: 1:30 PM
File: UPC17-0020
Applicant: The Highland Canopy, LLC, Samuel Magruder
Owner: Sonoma Hills Farm, LLC
Cont. from: Not Applicable
Staff: Crystal Acker
Env. Doc: Mitigated Negative Declaration

Proposal: Request to approve successful completion of a Two-Year Review of the outdoor cultivation operation, as required by Condition of Approval, and to extend the outdoor cultivation operation to the full five-year permit term.
Location: 334 Purvine Rd., Petaluma
APN: 022-230-020
District: Two
Zoning: Land Extensive Agriculture 100-acre density (LEA B6 100), Accessory Dwelling Unit Exclusion (Z)

Staff Crystal Acker summarized the staff report, which is incorporated herein by reference. 0h31m

Commissioner Disclosures:

Commissioner Koenigshofer drove the area recently, spoke with neighbors on Purvine Road about the project. Also spoke with Andrea Kraut to increase his general awareness about neighborhood. **Commissioner Carr** did a drive-by around property, also sat on original hearing for permit and is familiar with site, neighbor issues, etc. **Commissioner Gilardi** advised that she discussed with Supervisor Rabbitt's staff, and had an e-mail exchange with Deborah Eppstein. 0h49m

Chief Deputy County Counsel Jennifer Klein asked commissioners if anybody learned anything apart from staff materials that they would want to disclose. **Commissioner Gilardi** mentioned she received info about fire safety and hopes that it is addressed during hearing. **Commissioner Carr** mentioned he could not see any landscaping. 0h50m

Commissioner Questions:

Commissioner Koenigshofer asked about Conditions of Approval from the Board of Supervisors meeting in 2019. Condition 17, which triggered review, references outdoor cultivation activities, notes that issues with odor, security, water, etc. are "including but not limited to" which is expansive. Asks if staff can elaborate on whether there are concrete limits. **Staff Crystal Acker** responded. 0h52m

Commissioner Koenigshofer asked about the original water use budget from first review, and why it is excluded from the presentation today. **Staff Crystal Acker** responded. 0h54m

Commissioner Koenigshofer asked for elaboration regarding how water use is reviewed and allocated. **Staff Scott Orr** responded that it is not relevant to the current discussion. 0h57m

Commissioner Koenigshofer asked what is relevant in relation to water today. **Staff Crystal Acker** responded that staff looked at annual water usage reports, and everything is on track with analysis in original CEQA document. 0h59m

Commissioner Koenigshofer asked about the residence on property at the driveway and whether it is a part of the project. **Staff Crystal Acker** responded – same parcel, not a part of the project. 1h0m

County Counsel Klein clarifies that the residential use of that property is not governed by the cannabis permit. 1h0m

Commissioner Koenigshofer asked about the adjacent Air B&B property and if it is part of the project. **Staff Crystal Acker** responded. **Commissioner Koenigshofer** asked about the cannabis tours that are used as marketing for the Air B&B unit. **Staff Scott Orr** clarifies that it is specifically "hemp tours," which is unrelated to the cannabis cultivation use permit. 1h1m

Commissioner Ocaña asked about cannabis industry members being able to tour the site, if they are allowed to have industry-wide events, and visitor limitations. **Staff Crystal Acker** responded, also clarified that industry members are not permitted to sample products on site. 1h2m

Commissioner Gilardi asked about addressing firesafe regulations. **Counsel Jennifer Klein** responded that the project was approved before the county employed a process for evaluating and granting exceptions to standards, but doesn't see any concern with compliance in that area. 1h4m

Commissioner Carr asked if there is a connection between the water contractor / tank and the cannabis operation, as they are currently relying on contractor's comment that applicant is solely using water for construction and not for cultivation. **Staff Crystal Acker** responded. 1h5m

Staff Scott Orr mentioned that PRMD generally does not come to the hearing body with an approved project that provides updates on activities happening during a temporary construction. 1h8m

Commissioner Carr mentioned the Air B&B advertising which includes the "hemp tours," and asked whether applicant is properly representing that nobody is allowed in the outdoor cultivation area and related facilities. **Staff Crystal Acker** responded that there is a disclaimer mentioning no entry into cannabis garden, and no reports have been made to code enforcement. 1h9m

Commissioner Carr asked if landscaping has been planted around the security fencing. **Staff Crystal Acker** responded. 1h10m

Commissioner Koenigshofer mentioned that on staff report, the scope of annual Department of Agriculture inspections are not compliant with the Conditions of Approval of the use permit; reader could easily assume or conclude that Conditions of Approval were considered in inspection and are in compliance. **Staff Crystal Acker** responded. 1h11m

Staff Scott Orr responded that moving forward, they will be more specific with language in regards to inspections. 1h13m

Mr. Mike Harden, Applicant, gave an overview of the project. 1h15m

Commissioner Carr commented about loose implementations of signage and Air B&B disclaimers, and the cannabis operations should be "secret" and "invisible." Mentioned that the commissioners receive grief about cannabis projects, which makes their jobs difficult if they are battling conformance. Requests applicant takes it under advisement. **Applicant Mike Harden** responded. 1h19m

Commissioner Ocaña asked applicant for an overview of the new production facility and a summary of the technology going in to limit odor, keep a low profile, etc. **Applicant Mike Harden** responded. 1h22m

Commissioner Ocaña inquired about what it will look like for neighbors with activity happening on site with the new buildings. **Applicant Mike Harden** responded. 1h24m

Public Hearing Opened: 2:26 PM

Deborah Eppstein
Alexa Wall
Sanjay Bagai
Bill Krawetz
Viva Edelson

Public Hearing Closed, and Commission Discussion Opened: 2:37 PM

Commissioner Gilardi commented that she is struggling with the multiple activities on property (including a cannabis and food pairing event – possibly a violation); how do they discern what is a violation or not? Commissioners are forced to take property owners' word for it. **Applicant Mike Harden** commented. 1h36m

Commissioner Gilardi asked commissioners – what is or is not an "event"? 1h45m

Commissioner Koenigshofer commented the adjacent vacation rental will continue to be an issue. If applicant terminated vacation rental permit and lived in the home instead, the issue could be resolved entirely. Clarified that Commissioner Carr's comment about being "invisible" was about being good neighbors and not triggering

controversy. In regards to tours and events, mentioned the cannabis industry is not just another agriculture commodity, and brings up questions and concerns that do not come with other types of agriculture. Asks what exactly is considered “the site.” **Staff Scott Orr** says it is specifically the fenced-off area of site, which was addressed during BOS hearing. **1h45m**

Counsel Jennifer Klein mentioned that based on the zoning code, cannabis cultivation and cultivation area permits have a very specific definition which details what they can and cannot do. **1h53m**

Commissioner Koenigshofer asks for clarification on the operation and site restrictions and what is approved. **Staff Crystal Acker** responded. **1h54m**

Commissioner Carr asks if there is language that can be added in the conditions for the use permit that would be clearer when project returns in the future. **Staff Crystal Acker** mentioned the two-year review is specific to the outdoor grow. **Commissioner Carr** said he does not want the same discussions to happen in the five-year renewal stage. **1h55m**

Commissioner Carr commented in regards to events – until permit goes through, it must be clear that nobody does anything remotely related to an event. **Commissioner Ocaña** responded it is very clear in the code that cannabis tours are not permitted anywhere in the county, and applicant is not allowing it to happen. **1h57m**

Commissioner Carr commented his feeling on the permit is to allow outdoor grow to continue. Applicant is willing to correct violations regarding signage. He would like the signs gone, for the cultivation site to be “secret,” blend in with the neighborhood, and keep branding to where the product is sold. Mentioned that the only complaint from a neighbor was odor-related, which shows compatibility between the applicant and his neighbors. **2h0m**

Commissioner Koenigshofer said he doesn’t see any reason to decline remaining three years on permit. Has a problem with the review referring to a “rectangular growing area,” which doesn’t account for subsequent acquisition of an adjoining parcel that is integrated into business for advertising and use purposes. Otherwise supports staff recommendation. **2h2m**

Commissioner Ocaña asked if commissioners are okay with the conditions, are there any concerns. **2h5m**

Commissioner Koenigshofer commented that he is not “100% thrilled about it” – water doesn’t seem to be on the table today so he “feels helpless on that front.” **2h6m**

Commissioner Gilardi agrees that the scope is too narrow, but reluctantly feels that they “have to approve this.” She said that Supervisor Rabbitt did not approve project so she will not make a motion. **2h6m**

Commissioner Ocaña mentions the commissioners will be able to review actions and procedures at five-year mark. **2h6m**

Modified Conditions of Approval: None

Action: **Commissioner Carr** motioned to allow outdoor cultivation to continue per the resolution drafted by staff. Seconded by **Commissioner Koenigshofer** and approved with a 4-0-1 vote. **2h7m**

Appeal Deadline: 10 days
Resolution No.: 22-07

Vote:

Commissioner Carr	Aye
Commissioner Gilardi	Aye
Commissioner Deas	Absent
Commissioner Koenigshofer	Aye
Commissioner Ocaña	Aye

Ayes: 4

Noes: 0
Absent: 1
Abstain: 0

Public Comments continued for items not on the Agenda: None

Public commenters that want to receive future hearing notices regarding a project or topic:
No requests received at hearing.

Hearing Closed: 3:10 PM