



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
Trevor Keith *Director of Planning & Building*

June 24, 2020

KIRK CONSULTING
8830 MORRO RD
ATASCADERO, CA 93422

SUBJECT: Notice of Final County Action, Minor Use Permit DRC2018-00016

Dear Sir/Madam,

On **June 19, 2020**, the above-referenced application was approved by the **Planning Department Hearing Officer** based on the approved Findings, and subject to the approved Conditions, which are both enclosed for your records.

If you disagree with this action, pursuant to (County Real Property Ordinance Section 21.04.020 / County Land Use Ordinance Section 22.70.050 / County Coastal Zone Land Use Ordinance (CZLUO) Section 23.01.042), and in the manner described therein, you have the right to appeal this decision, or a portion of this decision, to the Board of Supervisors within 14 calendar days after the date of the action.

The appeal must be submitted to the Department of Planning and Building on the proper Department appeal form, as provided on the County website. The appeal form must be submitted with an original signature; a facsimile will not be accepted. The appeal fee is set by the current fee schedule and must accompany your appeal form for your appeal to be accepted for processing.

If you have any questions regarding your project, please contact **Eric Hughes** at (805) 781-5600.

Daniela Chavez

Daniela Chavez, Secretary
County of San Luis Obispo
Department of Planning & Building

CC: ROBERT FINLEY
630 EL POMAR
TEMPLETON, CA 93465

EXHIBIT A – FINDINGS
DRC2018-00016 / Finley Minor Use Permit

ENVIRONMENTAL DETERMINATION

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq. and California Code of Regulations Section 15000 et seq.) has been prepared and released for public comment on April 1, 2020, for this project (SCH #2020040308). Mitigation measures are proposed to address potential impacts associated with aesthetics, agriculture & forestry resources, air quality, biological resources, energy, greenhouse gas emissions, noise, and wildfire and have been included as conditions of approval.

MINOR USE PERMIT

- B. The proposed project or use is consistent with the County of San Luis Obispo General Plan because indoor (mixed-light) and outdoor cannabis cultivation and ancillary cannabis processing and transport are allowed uses and, as conditioned, is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project and uses satisfy all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use would not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed cannabis activities would not generate activity that presents a potential threat to the surrounding property or buildings. Water use of the project would be minimized and usage shall be monitored, energy usage shall be monitored, State water quality regulations shall be met, security fencing shall be installed, pesticide use shall comply with County of San Luis Obispo Department of Agriculture / Weights and Measures regulations, solid waste shall be properly disposed of, traffic generated by the use shall be minimal and consistent with neighboring agricultural uses, and nuisance odors shall be controlled and monitored. This project is subject to Land Use Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.
- E. The proposed project or use would not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the proposed cannabis uses would not be visible from surrounding public roadways, all potential nuisance odors would be adequately controlled to not be detectable off-site, and the project has been conditioned to require a visual landscape screening plan to be consistent with the rural, agricultural visual character of the project vicinity.
- F. The proposed project or use would not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project. The project site would be accessed by a new 20-foot-wide all-weather driveway off El Pomar Road, a County of San Luis Obispo-owned and maintained road. As described in the Traffic Study prepared for the project, the project is anticipated to generate approximately 10 average daily trips, including one vehicle trip during the p.m. peak hour (4:00 p.m. to 6:00 p.m.).

Projected trip generation from the project would be generally consistent with surrounding land uses and would not have a significant effect on existing roadway operations. In addition, the project would be required to contribute traffic mitigation fees for the future roadway improvements planned for the area associated with the Templeton Road Improvement Fee Program.

COMMERCIAL CANNABIS ACTIVITIES

- G. The cannabis cultivation, as proposed, shall comply with all requirements of the State and County of San Luis Obispo for the cultivation of cannabis, including dual licensure and participation in an authorized track-and-trace program.
- H. The cannabis cultivation will not be located within 1,000 feet of any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility.
- I. The cannabis cultivation includes adequate measures that minimize use of water for cannabis cultivation at the site, including a requirement to meter and monitor water use.
- J. The cannabis cultivation includes adequate quality control measures to ensure cannabis cultivated at the site meets State regulatory standards.
- K. The cannabis cultivation includes measures that address enforcement priorities for cannabis activities, including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed or unpermitted persons within the state and not distributed out of state.

ADJUSTMENT

- L. A modification of required parking standards detailed in Land Use Ordinance Section 22.18 is justified because the characteristics of the use do not necessitate provision of 46 parking spaces on-site; the provision of eight parking spaces with additional room for other vehicles on-site will be adequate to accommodate all parking needs on-site generated by the use, including the two proposed full-time employees and up to five additional seasonal employees during harvest periods. No traffic problems will result from the proposed modification of parking standards.

ADDITIONAL FINDINGS

- M. It is the declared policy of this County under Chapter 5.16 of the San Luis Obispo County Code and the County Agriculture Element to protect and encourage agricultural operations and conserve agricultural resources. Pursuant to Section 22.40.020 of the San Luis Obispo County Code, cannabis is not an agricultural commodity with respect to local "right to farm" ordinances nor is it considered "crop production and grazing" as a land use type. In this regard, the County has significant interest in ensuring the continued viability of agricultural operations adjacent and near cannabis cultivation operations. The County acknowledges that the establishment of the proposed project has the potential to cause traditional agricultural operations to cease or curtail their crop production activities near the proposed site because of state regulations which have imposed pesticide residue thresholds for cannabis which are significantly lower than the residue thresholds allowed for traditional agricultural crops. More specifically, the County has received substantial evidence indicating pesticide applicators would refuse to serve

an agricultural operation if a cannabis site is permitted in close proximity to the agricultural operation because fear of potential crippling liability should a nearby cannabis operation be able to allege their cannabis has been made unmarketable by an offsite pesticide application, even if the levels of pesticide residue on the cannabis would otherwise be well within the amounts allowed for traditional agricultural food crops, like citrus, avocado, vineyards, vegetables and strawberries. The County has received reports in other jurisdictions, such as the County of Santa Barbara, of agricultural operations curtailing activities because of nearby cannabis operations, as well as lawsuits being filed by cannabis operations against nearby traditional agricultural operations and pesticide applicators related to cannabis allegedly made unmarketable by pesticide applications in nearby traditional agricultural fields. In accordance with the rights afforded to the County by Article XI, section 7 of the California Constitution, and in order to adequately protect agricultural operations and conserve agricultural resources within the County, the imposition and enforceability of the condition of approval requiring the applicant to release, waive, discharge, hold harmless and covenant not to sue for any claim, loss or damage to cannabis or cannabis products related to an offsite pesticide application, as set forth within the condition of approval, is a condition to the issuance of the land use permit and making the findings required to approve this land use permit under County Code, specifically, the findings required by Sections 22.62.050.C.1 and 22.62.060.C.4c and d. If any clause or provision of this condition of approval is asserted by Releasing Party to be illegal, invalid or unenforceable, or is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws and the applicant does not provide or agree to adequate alternatives, this land use permit may be deemed void ab initio and there would be no vested rights to commence or continue cannabis activities on the site.

**EXHIBIT B – CONDITIONS OF APPROVAL
DRC2018-00016 / FINLEY MINOR USE PERMIT**

APPROVED DEVELOPMENT

1. This approval authorizes cannabis cultivation and associated supportive development and uses as follows:
 - a. A maximum of 3 acres of outdoor cannabis cultivation area, as follows:
 - i. Outdoor cultivation shall occur directly in the native soil, in pots containing soil mix or amended native soil, or in raised beds.
 - ii. No hoop structures or shade structures shall be installed.
 - b. Construction of a new 2,208-square-foot building and associated septic system to be used for a security office, ancillary processing of cannabis grown on-site, and pesticide and fertilizer storage.
 - c. A maximum of 21,600 square feet of indoor (mixed-light) cannabis cultivation, within up to five 4,320-square-foot greenhouses.
 - d. Installation/construction of the following supportive structural components:
 - i. A new 20-foot-wide all-weather access driveway from the project site to El Pomar Drive;
 - ii. Three new 2,500-gallon water storage tanks;
 - iii. Eight new 300-watt solar panels with a storage battery;
 - iv. New 6-foot solid and durable security fencing to enclose all proposed activity areas;
 - v. New surveillance cameras and associated motion sensor lights; and
 - vi. Use of a diesel fuel generator for no longer than 1 hour daily.
 - vii. A total of eight permanent parking spaces to support the onsite use.
 - e. Maximum annual water demand for all uses on the project site of 1.89 acre-feet per year (AFY) (616,715 gallons per year).
2. This Minor Use Permit authorizes the modification of the parking requirements set forth in Land Use Ordinance Section 22.18.050.C.1 to reduce the required number of spaces from 46 to eight.
3. The ancillary processing of cannabis, including drying, curing, and storing, is limited to cannabis grown on-site only, and it shall be done consistent with applicable State regulations and license(s). Cannabis manufacturing or the processing of manufactured cannabis products is not authorized with this Use Permit.
4. The ancillary transport of cannabis or processed cannabis is limited to cannabis grown on-site only, and it shall be done consistent with applicable State regulations and license(s). Transport as a function of retail sales or as a cannabis dispensary is not authorized with this Use Permit.

CONDITIONS REQUIRED TO BE COMPLETED PRIOR TO ISSUANCE OF A COUNTY BUSINESS LICENSE

5. **Within 30 days of Land Use Permit approval (valid for the life of the project)**, and in accordance with County Code Title 13.01, the applicant shall be responsible for paying to the County of San Luis Obispo Public Works Department Templeton Area B Road Improvement Fee. The total fee amount is estimated at \$8,801 (1.04 pht at \$8,462 per pht), based on the project trip generation using rates identified in the June 28, 2018, Traffic Study prepared by Association of Transportation Engineers. These fees are subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of payment.

CONDITIONS REQUIRED TO BE COMPLETED PRIOR TO ISSUANCE OF A COUNTY BUSINESS LICENSE

6. **Prior to issuance of a County Business License**, the applicant shall enter the County of San Luis Obispo Cannabis Monitoring Program. Any associated fees shall be paid to the County of San Luis Obispo Planning and Building Department.
7. **Prior to issuance of a County Business License**, the applicant shall submit evidence of compliance with all requirements of the Central Coast Regional Water Quality Control Board.
8. **Prior to issuance of a County Business License**, the applicant shall submit evidence that coverage has been obtained under the Cannabis Cultivation General Order from the State Water Resources Control Board.
9. **Prior to issuance of a County Business License**, the applicant shall submit evidence that solid waste and recycling collection will be consistent with Land Use Ordinance Sections 22.10.150.B and C.
10. **Prior to issuance of a County Business License**, the applicant shall submit evidence that the project security plan has been reviewed and approved by the County Sheriff's Office as required by Land Use Ordinance Section 22.40.040.D.
11. **Prior to issuance of a County Business License**, the applicant shall obtain an Operator Identification Number (OIN) if required by the County of San Luis Obispo Department of Agriculture / Weights and Measures, prior to any pesticides being used in conjunction with the commercial cultivation of cannabis; "pesticide" is a broad term, which includes insecticides, herbicides, fungicides, rodenticides, etc., as well as organically approved pesticides.
12. **Prior to issuance of a County Business License**, the applicant shall be responsible for the timely payment of all fees associated with this approval. Failure to pay fees in a timely manner may result in revocation of the permit.
13. **Prior to issuance of a County Business License** and within 30 days of Land Use Permit approval, the applicant shall submit evidence to the County of San Luis Obispo Planning and Building Department that all necessary copies of any leases (ground, greenhouse, or otherwise) or production-sharing agreements related to "Cannabis Activities" on the subject property have been provided to the County of San Luis Obispo Assessor's Office.

CONDITIONS REQUIRED TO BE COMPLETED PRIOR TO COMMENCEMENT OF ANY PERMITTED ACTIVITIES

14. **Prior to commencing permitted activities**, the applicant shall obtain a business license through the County of San Luis Obispo Tax Collector's Office. Business license renewals shall be obtained by the applicant annually as required by County Code Title 6.
15. **Prior to commencing permitted activities**, the applicant shall complete all State licensing requirements for cultivation at the approved location. A copy of all pertinent State licenses shall be submitted to the County of San Luis Obispo Planning and Building Department prior to commencing permitted activities.
16. **Prior to commencing permitted activities**, the applicant shall submit an application, fee, and plans to the County of San Luis Obispo Public Works Department to secure an Encroachment Permit to construct the project access driveway in accordance with County of San Luis Obispo Public Improvement Standard B-1a, rural road, and A-5, sight distance standards.
17. **Prior to commencing permitted activities**, the applicant shall provide evidence to the County of San Luis Obispo Planning and Building Department that on-site circulation and pavement structural sections have been designed and shall be constructed in conformance with CAL FIRE standards and specifications back to the nearest public-maintained roadway.
18. **Prior to commencing permitted activities**, the applicant shall demonstrate to the County of San Luis Obispo Planning and Building Department how cannabis activities will be physically and adequately separated from vacant areas or other non-cannabis uses on-site. The applicant shall obtain any necessary building permits to create the separation between uses.
19. **Prior to commencing permitted activities**, the applicant shall complete and submit a Hazardous Materials Declaration Flowchart to the County of San Luis Obispo Environmental Health Services office.
20. **Prior to commencing permitted activities**, the applicant shall have a water meter installed on any new or existing water source proposed for cannabis activities. Installation of the meter must be performed to the satisfaction of the County of San Luis Obispo Planning and Building Inspector.

CONDITIONS REQUIRED TO BE COMPLETED PRIOR TO APPLICATION FOR CONSTRUCTION PERMITS FOR PHASE 1 OF PROJECT DEVELOPMENT OR ESTABLISHMENT OF THE USES OF PHASE 1

Aesthetics

21. **AES-1. At the time of application for construction permits for Phase 1 of project development, or prior to establishment of the uses of Phase 1, whichever occurs first**, the applicant shall submit a landscape plan to the County Department of Planning and Building, prepared by a licensed landscape architect, for review and approval. The landscape plan shall be prepared in accordance with Water Efficient Landscape Methods and Landscape Plan Content requirements as described in LUO Section 22.16. The plan shall effectively screen the proposed development from viewers traveling along El Pomar Drive and shall include the following:
 - a. The screen plants shall be strategically located along the southern and eastern fence lines of the project development site (approximately 1,170 feet long and 30 feet wide) and southern frontage of the property along El Pomar Drive from the existing solar

array area to the proposed access driveway location (approximately 890 feet) and eastern boundary of the property from El Pomar Drive to the proposed fence line along the east-west portion of the proposed access driveway (see Figure 1). Placement of various tree types and understory vegetation (e.g., varying height, growth rate) shall be placed to create a more natural setting around the proposed fencing. Plantings shall screen 75% of the proposed fencing, greenhouses, and processing building as seen from El Pomar Drive, upon maturity or 5 years, whichever occurs first.

- b. Screen planting shall include evergreen trees capable of growing to a minimum height of 8 feet tall. Trees shall be planted from a minimum 15-gallon container size. Shrubs from 5-gallon containers shall be planted among the screen trees. All landscaping plants shall be native to the area and utilize plants identified in the County's Approved Plant List. At least 80% of the proposed vegetation shall have either an F1 or F2 fire resistance designation, as noted within the County's Approved Plant List.
 - c. The landscape screening plan shall be designed to meet the required 75% screening criteria while accommodating for typical establishment success ratios and possible plant mortality.
 - d. All vegetation planting with a maturity height of 10 feet or greater shall be located at least 50 feet from the proposed aboveground power connection and from existing powerlines.
 - e. If possible, planting during the warmest, driest months (June through September) shall be avoided.
 - f. The licensed landscape architect shall include a cost estimate for the implementation of the landscape plan.
22. **AES-2. Prior to final inspection/occupancy, or establishment of Phase 1 uses, whichever occurs first,** the approved landscape plan shall be implemented, and the applicant shall provide a letter to the County Department of Planning and Building for approval demonstrating that the applicant has entered into a contract with a qualified landscape architect for the purpose of monitoring the success of the screen planting area. The monitoring contract shall include a requirement that the monitor conduct, at a minimum, an annual site visit and assessment of the planting success for 5 years and an annual submittal of a monitoring report to the County Department of Planning and Building.
23. **AES-3. Prior to final inspection/occupancy, or establishment of Phase 1 uses, whichever occurs first,** the applicant shall post a bond for the cost of implementing the landscape screening plan with the County Department of Planning and Building. **At the end of the 5-year monitoring period,** the monitoring report (as described in measure AES-2) shall be submitted to the County Department of Planning and Building for review:
- a. If the monitoring report demonstrates that the landscaping plan has been successfully implemented and meets the required screening criteria (as described in measure AES-1), the bond shall be returned to the applicant in full; or
 - b. If the monitoring report demonstrates that the landscaping plan does not meet the required screening criteria, the applicant shall submit a revised landscape plan prepared by a licensed landscape architect in accordance with the standards set forth in measure AES-1 for review and approval by the County Department of Planning and Building. Upon approval of the revised landscape plan, the applicant shall implement the revised landscape plan and submit an annual monitoring report (consistent with the standards set forth in AES-2) for 2 years.

- c. If the revised landscape plan does not meet the required screening criteria after 2 years, the County Department of Planning and Building shall use the bond to hire a licensed landscape architect to implement and maintain the revised landscape screening plan. If the monitoring report demonstrates the landscaping plan successfully meets the required screening criteria, the bond shall be returned to the applicant in full.
- 24. **AES-6. Prior to application for project building permits for Phase 1 development,** the applicant shall retain a licensed architect to prepare revised architectural elevations and design plans for the proposed 2,208-square-foot processing structure to incorporate agrarian-style architectural design and maximize consistency with the design elements of surrounding rural agricultural accessory structures in compliance with the rural character design criteria standards set forth in Land Use Ordinance Section 22.40.065(D). The revised design plans for the proposed processing building shall be submitted to the County Department of Planning and Building for review and approval.
- 25. **AES-7. Nighttime lighting. Prior to issuance of construction permits or establishment of use for both Phases 1 and 2,** the applicant shall submit a Light Pollution Prevention Plan (LPPP) to the County Department of Planning and Building for review and approval that incorporates the following measures to reduce impacts related to night lighting:
 - a. Prevent all interior lighting from being detected outside the facilities between the period of 1 hour before dusk and 1 hour after dawn;
 - b. All facilities employing artificial lighting techniques shall include shielding and/or blackout tarps that are engaged between the period of 1 hour before dusk and 1 hour after dawn and prevent any and all light from escaping; and
 - c. All exterior lighting shall conform to Land Use Ordinance Section 22.10.060, be located and designed to be motion activated, and be directed downward and to the interior of the site to avoid the light source from being visible off-site. All exterior lighting shall be “warm-white” or filtered (correlated color temperature of < 3,000 Kelvin; scotopic/photopic ratio of < 1.2) to minimize blue emissions.
- 26. **Prior to issuance of construction permits or establishment of use for both Phases 1 and 2,** the applicant shall submit evidence demonstrating compliance with the El Pomar Estrella subarea standards pertaining to light and glare, including use of dark-colored light hoods, to be included in the LPPP described in Condition 25 above.

CONDITIONS REQUIRED TO BE COMPLETED AT THE TIME OF APPLICATION FOR CONSTRUCTION PERMITS

Site Development

- 27. **At the time of application for construction permits,** plans submitted shall show all development consistent with the approved site plan, floor plan, and architectural elevations.
- 28. **At the time of application for construction permits,** all project conditions shall be clearly printed on the plans and construction documents shall be consistent with the currently adopted California Codes.
- 29. **At the time of application for construction permits,** all plans and engineering shall be prepared by a California Licensed Architect of Record or Engineer for all design portions of the project that do not meet “conventional construction” as defined by the current building code.

30. **At the time of application for construction permits**, the submitted building plan set shall demonstrate consistency with California State Title 24 energy laws.
31. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark in color.

Fire Safety

32. **At the time of application for construction permits**, the applicant shall obtain a Fire Safety Plan from CAL FIRE that demonstrates compliance with all applicable fire code requirements, as detailed in the referral response letter prepared for the project by Clinton Bullard (April 29, 2019). All plans submitted to the County of San Luis Obispo Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code and those outlined in the Fire Safety Plan.

Drainage

33. **At the time of application for construction permits**, the applicant shall submit complete drainage plans and report prepared by a licensed civil engineer for review and approval in accordance with Land Use Ordinance Section 22.52.110 (Drainage).
34. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Land Use Ordinance 22.52.120.
35. **At the time of application for construction permits**, proposed parking areas shall maximize the use of pervious and semi-pervious surfaces to promote groundwater recharge, minimize erosion and sedimentation, and protect farmland for agricultural use.

Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Control Plan (SWCP)

36. **At the time of application for construction permits**, if the project site disturbs 1.0 acre or more the applicant must enroll for coverage under California's Construction General Permit, which may include preparation of a project Stormwater Control Plan (SWCP) even if the project is located outside a Stormwater Management Area. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by the County Codes.
37. **At the time of application for construction permits**, the applicant shall demonstrate whether the project is subject post-construction stormwater requirements by submitting a SWCP application.
 - a. The applicant must submit a SWCP prepared by an appropriately licensed professional to the County of San Luis Obispo for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If applicable, the applicant shall submit a draft stormwater operations and maintenance plan for review by the County of San Luis Obispo. The operations and maintenance plan may be incorporated into existing or proposed Covenants, Conditions, and Restrictions (CC&Rs) or drafted as an Agreement.

- c. If applicable, following approval by the County of San Luis Obispo, the applicant shall record with the County Clerk-Recorder a Stormwater Operations and Maintenance plan to document ongoing and permanent storm drainage control, management, treatment, inspection, and reporting.
 - d. If applicable, the applicant shall submit a draft General Notice to document the location and type of control measures that were installed to mitigate Performance Requirement No. 2. Following approval by the County of San Luis Obispo, the applicant shall record the General Notice with the County Clerk-Recorder. The recorded control measures shall remain in good working order in perpetuity.
- 38. **Prior to approval of the improvement plans or construction permits**, if necessary, the applicant shall submit a draft Storm Water Operations and Maintenance Plan for all structural post-construction stormwater treatment or retention facilities, and it must be provided for review.
- 39. **Prior to approval of the improvement plans or construction permits**, the Stormwater Operations and Maintenance Plan and General Notice must be updated to reflect as-built changes, approved by the County of San Luis Obispo, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Services

- 40. **At the time of application for construction permits**, the applicant shall submit evidence to County of San Luis Obispo Building and Safety staff that there is adequate water to serve the proposal, on the site.
- 41. **At the time of application for construction permits**, the applicant shall submit evidence to County of San Luis Obispo Building and Safety staff that the proposed septic system is adequate to serve the project.

CONDITIONS TO BE COMPLETED PRIOR TO ISSUANCE OF GRADING/CONSTRUCTION PERMITS

Fees

- 42. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
- 43. **Prior to issuance of a construction permit**, the applicant shall pay the housing impact fee as required by County Code Section 22.12.080.F.1 or may defer fee payment pursuant to County Code Section 22.12.080.J.4. As an alternative, the applicant may provide housing units or a land donation, pursuant to County Code Section 22.12.080.F.3.

Aesthetics

- 44. **AES-4. Prior to issuance of construction permits for Phase 2 development**, the applicant must submit evidence demonstrating full compliance with AES-1 and AES-2, and post a bond for the cost of implementing the landscape screening plan as described in AES-3.

Air Quality

- 45. **AQ-1. Prior to issuance of grading permits of both Phases 1 and 2**, the following measures shall be implemented during all site-disturbance activities and shown on all applicable plans for Phases 1 and Phase 2 of project development:

- a. Reduce the amount of the disturbed area where possible;
- b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the SLOAPCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour (mph). Reclaimed (non-potable) water should be used whenever possible;
- c. All dirt stockpile areas should be sprayed daily or covered with tarps or other dust barriers, as needed;
- d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil-disturbing activities;
- e. Exposed ground areas that are planned to be reworked at dates greater than 1 month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
- f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the SLOAPCD;
- g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
- h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least 2 feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code Section 23114;
- j. Install wheel washers or other devices to control tracking of mud and dirt onto adjacent roadways where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site;
- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible. Roads shall be pre-wetted prior to sweeping when feasible; and
- l. The applicant shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below the SLOAPCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period, and to prevent transport of dust off-site. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the SLOAPCD Engineering and Compliance Division **prior to the start of any grading, site disturbance, or demolition.**

Biological Resources

46. **BIO-1. Prior to issuance of construction permits or establishment of the uses for both Phases 1 and 2, whichever occurs first,** the applicant shall provide evidence to the County that they have retained a County-approved qualified biologist. The scope of work shall include preconstruction surveys, training, monitoring, and reporting, for any endangered, rare, or threatened species as defined by CEQA, inclusive of Crotch Bumble Bee and American Badger

and as detailed in the mitigation measures listed below. If potential for impacts to any endangered, rare, or threatened species as defined by CEQA are found, the County shall be notified and proper avoidance and minimization measures in coordination with CDFW set in place prior to continuance of any work onsite.

47. **BIO-5. Kit Fox Speed Limit Signage. Prior to issuance of grading and/or construction permits for both Phases 1 and 2 of project development,** the applicant shall clearly delineate the following as a note on the project plans: "Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox." Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction.
48. **BIO-14. Oak Tree Replacement Plan. Prior to issuance of construction or grading permits or prior to site disturbance, whichever occurs first for both Phases 1 and 2 of project development,** the qualified biologist shall prepare an Oak Tree Replacement Plan that provides for the installation and maintenance of replacement native oak trees on the project parcel and surrounding parcels owned by the Applicant and shall be reviewed and approved by the County Department of Planning and Building. Mitigation replacement plantings for each oak tree impacted shall be at a at a 2:1 ratio (e.g., if 10 trees are impacted, 20 trees shall be planted). The Oak Tree Replacement Plan shall include the following components:
 - a. A brief narrative of the project location, description, and purpose;
 - b. Clearly identified parties responsible for the mitigation program and their contact information;
 - c. A landscape map showing and quantifying all oak tree planting areas;
 - d. A requirement that all replacement oak trees be located at least 50 feet from the proposed aboveground power connection and from existing powerlines.
 - e. A detailed discussion of the methods for implementing the Oak Tree Replacement Plan, including invasive species removal, sources of plant materials, and supplemental watering regimes;
 - f. Provisions for the collection of oak propagules from the disturbance area, replacement planting propagation, and reintroduction into the parcel;
 - g. Identification of locations, amounts, species, and sizes of the oak trees to be planted. For each individual of a species removed, the same species shall be planted.
 - h. Identification of necessary components (e.g., temporary irrigation, amendments, etc.) to ensure successful plant reestablishment;
 - i. A program schedule and established success criteria for a 5-year maintenance, monitoring, and reporting program that is structured to ensure the success of the mitigation plantings; and
 - j. Methods for removing nonnative species from the replanting areas.

Energy

49. **ENG-1. Prior to issuance of building permits for Phase 2 of project development,** the applicant shall provide to the County Department of Planning and Building for review and approval an Energy Conservation Plan with measures that when implemented would reduce or offset the project's energy demand to within 20% of the energy use of a generic commercial building of the same size. The Energy Conservation Plan shall include the following:

- a. A detailed breakdown of energy demand prepared by a certified energy analyst. The energy breakdown shall include an estimate of total energy demand from all sources associated with all proposed cannabis cultivation activities, including, but not limited to, lighting, odor management, and climate control equipment. Such quantification shall be expressed in total kWh per year and non-electrical sources shall be converted to kWh per year.
 - b. A program for providing a reduction or offset of all energy demand that is 20% or more above a generic commercial building of the same size. Such a program (or programs) may include, but is not limited to, the following:
 - i. Evidence that the project will permanently source project energy demands from renewable energy sources (e.g., solar, wind, hydro). This can include purchasing the project's energy demand from a clean energy source by enrolling PG&E's Solar Choice program or Regional Renewable Choice program or other comparable public or private program.
 - ii. Evidence documenting the permanent retrofit or elimination of equipment, buildings, facilities, processes, or other energy saving strategies to provide a net reduction in electricity demand and/or GHG emissions. Such measures may include the following:
 - 1. Participating in an annual energy audit.
 - 2. Upgrading and maintaining efficient heating/cooling/ dehumidification systems.
 - 3. Implement energy efficient lighting, specifically LED over high-intensity discharge (HID) or high-pressure sodium (HPS) lighting.
 - 4. Implementing automated lighting systems.
 - 5. Utilizing natural light when possible.
 - 6. Utilizing an efficient circulation system.
 - 7. Ensuring that energy use is below or in-line with industry benchmarks.
 - 8. Implementing phase-out plans for the replacement of inefficient equipment.
 - 9. Adopting all or some elements of CalGreen Tier 1 and 2 measures to increase energy efficiency in greenhouses.
 - iii. Construction of a qualified renewable energy source such as wind, solar photovoltaics, biomass, etc., as part of the project. [Note: Inclusion of a renewable energy source shall also be included in the project description and may be subject to environmental review.]
 - iv. Any combination of the above or other qualifying strategies or programs that would achieve a reduction or offset of the project energy demand that is 20% or more above a generic commercial building of the same size.
50. **ENG-2. Prior to issuance of building permits for Phase 2 of project development,** the applicant shall provide to the County Department of Planning and Building for review and approval a program for providing a reduction or offset of GHG emissions below 1,150 MTCO₂e. Such a program (or programs) may include, but is not limited to, the following:
- a. Purchase of GHG offset credits from any of the following recognized and reputable voluntary carbon registries:
 - i. American Carbon Registry;

- ii. Climate Action Reserve; or
 - iii. Verified Carbon Standard.
- b. Installation of battery storage to offset nighttime energy use. Batteries may only be charged during daylight hours with a renewable energy source and shall be used as the sole energy supply during non-daylight hours.

CONDITIONS TO BE COMPLETED PRIOR TO SITE DISTURBANCE ACTIVITIES AND/OR PROJECT CONSTRUCTION

51. **BIO-2. Nesting Birds Avoidance.** To the maximum extent possible, all site preparation, ground-disturbing, and construction activities associated with Phase 1 and Phase 2 of project development shall be conducted outside of the migratory bird breeding season (February 1 through August 31). If such activities are required during this period, the qualified biologist shall conduct a nesting bird survey no sooner than 10 days prior to site disturbance activities and verify that migratory birds are not nesting within 0.5 mile of the project site. If nesting activity is detected, the following measures shall be implemented:
 - a. The project shall be modified or delayed as necessary to avoid direct take of identified nests, eggs, and/or young protected under the MBTA and/or California Fish and Game Code;
 - b. The qualified biologist shall contact the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to determine the appropriate biological buffer zone around active nest sites. Standard CDFW guidelines recommend a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. Construction activities within the established buffer zone will be prohibited until the young have fledged the nest and achieved independence; and
 - c. The qualified biologist shall document all active nests and submit a letter report to the County, USFWS, and CDFW, documenting project compliance with the MBTA, California Fish and Game Code, and applicable project mitigation measures within 14 days of survey completion.
52. **BIO-3. Burrowing Owl Surveys and Avoidance. Prior to initiation of construction and/or site-disturbance activities of both Phase 1 and Phase 2 of project development,** the applicant shall implement the following measures to minimize and avoid impacts to western burrowing owl habitat:
 - a. No less than 14 days and no more than 30 days prior to ground-disturbing activities, a County-approved qualified biologist shall conduct pre-activity surveys for the presence of western burrowing owl and/or active burrows within the work area and within a 500-foot buffer of the work area. Surveys shall be conducted by County-approved qualified biologists walking straight-line transects spaced 20 feet to 60 feet, adjusting for vegetation height and density.
 - b. Exclusion zones, or no-disturbance buffers, shall be established around active burrows. No project-related disturbances shall occur within 160 feet of occupied burrows during the nonbreeding season of September 1 through January 31 or within 250 feet during the breeding season of February 1 through August 31.
 - c. If an active burrow is observed within 500 feet of the work area during the breeding season, construction activities shall not continue until a County-approved qualified

biologist confirms the burrow is no longer active. Proposed adjustments to the buffer shall be through consultation with CDFW.

- d. If an active burrow is observed within 160 feet of the work area during the non-breeding season, construction activities shall not continue until a County-approved qualified biologist confirms the burrow is no longer active.
- e. The County-approved qualified biologist, with prior consultation and approval from CDFW, may institute passive relocation through use of one-way burrow doors that will not allow owls to reenter the burrow. Immediately before the start of construction activities, the biologists shall remove all doors and excavate the burrows to ensure that no animals are present at the burrow. The excavated burrows shall then be backfilled.
- f. A County-approved qualified biologist shall be present during the initial clearing and grading activity. If additional burrowing owl burrows are found, all work shall cease until the biologist can complete the measure described above for inactive and active burrows. Once all burrows have been excavated, work on the site may resume.
- g. The County-approved qualified biologist shall submit a report to the County within 14 days of completing initial surveys and every 14 days thereafter until grading activity is complete, documenting project compliance with the MBTA, California Fish and Game Code, and applicable project mitigation measures.

53. **BIO-4. San Joaquin Kit Fox Preconstruction Monitoring Activities.** In accordance with BIO-1, the qualified biologist shall perform the following monitoring activities:

- a. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction for both Phases 1 and 2 of project development,** the qualified biologist shall conduct a pre-activity (i.e., preconstruction) transect survey of the work area and 250-foot buffer for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within 250 feet of the work area.
- b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (e.g., grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BIO-8 through BIO-15. Site disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see Mitigation Measure BIO-7c). When weekly monitoring is required, the qualified biologist shall submit weekly monitoring reports to the County within 14 days.
- c. **Prior to or during project activities of both Phases 1 and 2 of project development,** if any observations are made of SJKF, or any known or potential SJKF dens are discovered within the project limits, the qualified biologist shall reassess the probability of incidental take (e.g., harm or death) to kit fox. At the time a den is discovered, the qualified biologist shall contact the USFWS and CDFW for guidance on possible additional kit fox protection measures to implement and whether or not a federal and/or state incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the USFWS and CDFW determine it is appropriate to resume work. If incidental take of kit fox during project activities is possible, before project activities commence, the applicant must consult with the USFWS and CDFW. The results of this consultation may require the applicant to obtain

a federal and/or state permit for incidental take during project activities. The applicant shall be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

d. In addition, the qualified biologist shall implement the following measures:

- i. Within 30 days prior to initiation of site disturbance and/or construction of all phases of development, fenced exclusion zones shall be established around all known and potential kit fox dens. Dens will be avoided by the following distances: 50 feet for potential or atypical dens, 100 feet for known dens, and 250 feet for pupping dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey lath or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of distance measured outward from the den or burrow entrances, dependent on the use and activity of the den (i.e., potential, known, active, or natal den), to be determined by the kit fox biologist.
- ii. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.
- iii. If kit foxes or known or potential kit fox dens are found on-site, daily monitoring by a qualified biologist shall be required during ground-disturbing activities.

54. **BIO-7. Kit Fox Worker Education Training program. Prior to issuance of grading and/or construction permit and within 30 days prior to initiation of site disturbance and/or construction for both Phases 1 and 2 of project development,** all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (e.g., SJKF). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the County, and any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program and distributed at the training program to all contractors, employers, and other personnel involved with the construction of the project.
55. **BIO-10. Pesticide and Herbicide Minimization Procedures. Prior to, during, and after the site-disturbance and/or construction phase for both Phases 1 and 2 of project development,** use of pesticides or herbicides shall be in compliance with all federal, state, and local regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which SJKF depend.
56. **Prior to issuance of a County building or grading permit or establishment of proposed uses, whichever occurs first,** the applicant shall install security fencing as shown on the approved plans. Consistent with the approved plans and the applicant's project description, the fence proposed shall be at least 6 feet in height and constructed of materials approved by the County Sheriff's Office.

CONDITIONS TO BE COMPLETED DURING PROJECT CONSTRUCTION

57. **BIO-6. Kit Fox Night Construction Limitation. During the site disturbance and/or construction phase for both Phases 1 and 2 of project development,** grading and

construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.

58. **BIO-8. Kit Fox Entrapment Avoidance. During the site-disturbance and/or construction phase for both Phases 1 and 2 of project development,** to prevent entrapment of the SJKF, all excavations, steep-walled holes, and trenches in excess of 2 feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume or be removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

In addition, during the site-disturbance and/or construction phase, any pipes, culverts, or similar structures with a diameter of 4 inches or greater stored overnight at the project site shall be thoroughly inspected for trapped SJKF before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved. If necessary, the pipe may be moved only once to remove it from the path of activity, until the kit fox has escaped.

59. **BIO-9. Kit Fox Trash Removal Procedures. During the site-disturbance and/or construction phase for both Phases 1 and 2 of project development,** all food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of only in closed containers. These containers shall be regularly removed from the site. Food items may attract SJKF onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.
60. **BIO-11. Kit Fox Mortality Procedures. During the site-disturbance and/or construction phase for both Phases 1 and 2 of project development,** any contractor or employee that inadvertently kills or injures an SJKF or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the USFWS and CDFW by telephone. In addition, formal notification shall be provided in writing within 3 working days of the finding of any such animal(s). Notification shall include the date, time, location, and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the USFWS and CDFW for care, analysis, or disposition.
61. **During all project site-disturbance activities,** in the event that buried or otherwise unknown cultural resources are discovered, work shall be suspended, and the County of San Luis Obispo should be contacted immediately. Prior to resuming construction activities, appropriate mitigation measures shall be developed by a qualified archeologist or historian if necessary, at the developer's expense. In the event that human remains are discovered, the County Coroner shall be contacted immediately. If the Coroner determines the remains are Native American, the Native American Heritage Commission (NAHC) would be contacted and the remains would be left in situ and protected until a decision is made on their final disposition.

CONDITIONS TO BE COMPLETED PRIOR TO OCCUPANCY OR FINAL BUILDING INSPECTION/ ESTABLISHMENT OF THE USE

62. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from CAL FIRE for all required fire/life safety measures.
63. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the County of San Luis Obispo Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
64. **BIO-12. Kit Fox Fencing Requirements. Prior to final inspection or establishment of the use, whichever occurs first for both Phases 1 and 2 of project development**, all proposed fencing (solid wood) shall be installed to provide for kit fox passage and 8 × 12-inch openings near the ground shall be provided every 100 yards. Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines and shall be inspected during quarterly monitoring by the County.

ONGOING CONDITIONS FOR THE LIFE OF THE PROJECT

65. **Throughout the life of the project**, the applicant, and their representatives, agents, officers, employees, successors, landlords, tenants, insurers, assigns and any other party claiming a direct or indirect financial, ownership or commercial interest in the project or the cannabis or cannabis products produced or located on the site, shall, as a condition of approval of this land use permit, release, waive, discharge, hold harmless and covenant not to sue any property owner, property operator/tenant or pest control business, pest control advisor or qualified applicator, including their agents, officers, employees and authorized representatives ("Released Parties"), for any claim, loss or damage to cannabis or cannabis products located on the project site arising out of the recommendation or application of a registered pesticide on an agricultural commodity located outside the project site by a person or business who holds the required state license or certificate and local Operator Identification Number and, if applicable, Restricted Materials Permit, and who follows required state and local pesticide use reporting and does not grossly depart from industry norms, standards and practices regarding the application of said pesticide. This condition does not extend to any loss or damage caused by the gross negligence or willful misconduct of a Released Party. This condition expressly extends to any statutory violations, including but not limited to actual or alleged violations of Food and Agricultural Code Section 12972 or 12973, so long as the violations are not caused by the gross negligence or willful misconduct of a Released Party. Approval of this land use permit, as a land use decision, is a quasi-judicial action regulatory in nature involving the application of preexisting laws or standards to a specific project and does not involve negotiated consideration by both the County and the application, unlike a development agreement (see 78 Ops.Cal.Atty.Gen. 230), and therefore is not subject to the limitations of Civil Code section 1668 because this land use decision is not contractual in nature. This condition of approval shall have no impact on the enforcement or application of State pesticide laws and regulations by state or local agencies, including but not limited to licensing and certification requirements, pesticide use reporting and operator identification numbers, pesticide use enforcement inspections and investigations, issuance of cease and desist orders, initiation of administrative or criminal enforcement actions, and imposition of administrative, civil and criminal penalties.
66. **Throughout the life of the project**, to minimize project-related traffic impacts. In accordance with the project description, the permit is restricted as follows:

- a. Maximum 3 acres of outdoor cannabis cultivation;
 - b. Maximum 21,600 square feet of indoor (mixed-light) cannabis cultivation; and
 - c. Maximum of seven full-time equivalent employees.
- 67. **AES-5. For the life of the project**, all plantings associated with the landscape plan described in AES 1 shall be maintained until successfully established. This shall include protection (e.g., tree shelters, exclusionary fencing) from animals (e.g., deer, rodents), regular weeding (minimum of once during early fall and once during early spring) of at least a 3-foot radius surrounding each tree/plant, and adequate watering (e.g., drip irrigation system) as described in the approved landscape plan.
- 68. **BIO-15. Unimpacted Oak Tree Maintenance. For the life of the project**, all oak trees not identified as being impacted shall be maintained. Unless identified as impacted in the finalized site plans, the following activities are not allowed within the critical root zone of existing or newly planted oak trees: year-round irrigation (no summer watering, unless “establishing” new tree or native compatible plant(s) for up to 3 years), grading (includes cutting and filling of material), compaction (e.g., regular use of vehicles), placement of impermeable surfaces (e.g., pavement), and disturbance of soil that impacts roots (e.g., tilling).
- 69. **ENG-3. At time of quarterly monitoring inspection of both Phases 1 and 2 of project development**, the applicant shall provide to the County Department of Planning and Building for review, a current energy use statement from the electricity provider (e.g., PG&E) that demonstrates energy use to date for the year. The applicant shall demonstrate continued compliance with ENG-1 and ENG-2 (e.g., providing a currently PG&E energy statement showing continuous enrollment in the Solar Choice program or Regional Renewable Choice program).
- 70. **N-1. For the life of the project**, operation of the diesel fuel generator shall be limited to no more than 1 hour daily between the hours of 7:00 a.m. and 10:00 p.m.
- 71. **For the life of the project**, use of pesticides or herbicides shall be in compliance with all federal, state, and local regulations.
- 72. **Throughout the life of the project** and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage; landscaping; agricultural operations; etc. without a valid Encroachment Permit issued by the Department of Public Works.
- 73. This Land Use Permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the Land Use Permit is considered vested. This Land Use Permit is considered to be vested once a construction permit has been issued and substantial site work has been completed, or pursuant to Land Use Ordinance Section 22.64.090.B, the Director verifies that the use or activity not involving a building or grading permit is occurring on the subject site in compliance with all applicable provisions of the Land Use Ordinance and these conditions of approval. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
- 74. **Throughout the life of the project**, all conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by

the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Land Use Ordinance Sections 22.74.160, 22.40.110, and 22.40.120. Revocation may require restoration to pre-existing conditions of areas of disturbance for cannabis-related activities authorized by this permit.

75. **Throughout the life of the project** and in accordance with the request for a modification from the parking standards set forth in Land Use Ordinance Section 22.18.050.H, the applicant shall maintain no less than eight parking spaces on-site for the life of the project.
76. **Throughout the life of the project**, the applicant shall post on-site all required Land Use Permit approvals and all required County of San Luis Obispo and State permits and licenses required to operate. Such posting shall be in a central location, visible to the visitors, at the operating site, and in all vehicles that deliver or transport cannabis.
77. **Throughout the life of the project**, the applicant shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from, and are provided to, other permitted and licensed cannabis operations. The County of San Luis Obispo shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request.
78. **Throughout the life of the project**, the applicant shall conduct all cannabis activities in compliance with the approved Operations Plan, as well as all required State of California licenses, laws, and regulations and County of San Luis Obispo permits and ordinances. The applicant shall be responsible for the payment of all required fees and taxes.
79. **Throughout the life of the project**, the cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite so as to not invoke any verified nuisance complaints. All structures utilized for indoor cannabis cultivation shall be equipped and/or maintained with sufficient ventilation controls (e.g., carbon scrubbers) to eliminate nuisance odor emissions from being detected off-site. In the event of a verified nuisance complaint, the County of San Luis Obispo may pursue remedial action that may include the reduction or cessation of operations until a revised operations plan is reviewed and approved by the County of San Luis Obispo Planning and Building Department, abatement of the violation pursuant to Land Use Ordinance Section 22.40.130 and permit revocation pursuant to Land Use Ordinance Sections 22.40.110 and 22.40.120.
80. **Throughout the life of the project**, pesticides and fertilizers shall be properly labeled, stored, and applied to avoid and prevent contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.
81. **Throughout the life of the project**, best management water conservation practices shall be maintained to reduce water use below the water analysis projections as described in the applicant's Water Management Plan.
82. **Throughout the life of the project**, solid waste and recycling shall be conducted in accordance with Land Use Ordinance Sections 22.10.150 B. and C.
83. **Throughout the life of the project**, immature plants and clones shall only be used for the cultivation on the project site and shall not be sold or transported off-site.

84. **Throughout the life of the project,** no minors or unauthorized personnel shall be permitted inside any restricted access areas, including the cultivation areas, under any circumstance.
85. **Throughout the life of the project,** no outdoor lighting for the purposes of photosynthesis or plant manipulation is allowed with this Land Use Permit. Indoor lights shall be screened to not be seen from off-site and consistent with dark-sky standards.
86. **Throughout the life of the project,** the applicant or responsible party designated by the applicant shall maintain daily records of all water used for cannabis activities. The County of San Luis Obispo shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request.
87. **Throughout the life of the project,** the applicant shall meter electricity used for cannabis activities and provide the County of San Luis Obispo Department of Planning and Building with quarterly energy usage monitoring reports based on meter readings.
88. **Throughout the life of the project,** cannabis cultivation grading activities shall be consistent with the conservation practices and standards contained in the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG). Practices shall not adversely affect slope stability or groundwater recharge and shall prevent off-site drainage, erosion, and sedimentation impacts. Erosion and sedimentation control activities shall adhere to the standards in Land Use Ordinance Section 22.52.150C.
89. **Throughout the life of the project,** the property owner(s) shall grant access to the County of San Luis Obispo and its officers, agents, employees, and any other governmental entities and their respective officers, agents, and employees to enter onto the subject property to conduct site inspections for the purposes of compliance with this Use Permit. Inspections may occur any day of the week, without prior notice, between the hours of 8:00 a.m. and 6:00 p.m.
90. **Throughout the life of the project,** the project would utilize an existing on-site well located on the property approximately 200 feet west of the proposed development area. If at any point in time this well serves 25 or more of the same individuals at least 6 months of the year, including all full-time employees and/or on- or off-site residents, a public water system permit shall be obtained from the State Water Resources Control Board.
91. **Throughout the life of the project,** the applicant shall submit to the County of San Luis Obispo Department of Planning and Building any proposed changes to the approved Site Plans, Operations Plan, Security Plan, or other plan approved through this Use Permit prior to the proposed change. Changes shall be submitted in writing and must be approved by the Department of Planning and Building prior to the implementation of the proposed changes. Any changes to the approved project, including features identified in the Conditions of Approval stated herein, may require additional environmental analysis and/or revisions to the approved Use Permit that require review and approval by the appropriate Review Authority.
92. **Throughout the life of the project,** the applicant shall submit to the County of San Luis Obispo Department of Planning and Building any changes to the applicant name, business name, business owners, State license status, landowner, or changes in ownership requiring approval from the County Tax Collector's Office or County Sheriff's Office prior to the proposed change. Changes shall be submitted in writing and must be approved by the Department of Planning and Building prior to the implementation of the proposed changes.

93. The applicant, and their representatives, agents, officers, employees, successors, landlords, tenants, insurers, assigns and any other party claiming a direct or indirect financial, ownership or commercial interest in the project or the cannabis or cannabis products produced or located on the site (Releasing Parties”), shall, as a condition of approval of this land use permit, release, waive, discharge, hold harmless and covenant not to sue any property owner, property operator/tenant or pest control business, pest control advisor or qualified applicator, including their owners, agents, officers, employees and authorized representatives (“Released Parties”), for any claim, loss or damage to cannabis or cannabis products located on the project site arising out of the recommendation or application of a registered pesticide on an agricultural commodity located outside the project site by a person or business who holds the required state license or certificate and local Operator Identification Number and, if applicable, Restricted Materials Permit, and who follows required state and local pesticide use reporting and does not grossly depart from industry norms, standards and practices regarding the application of said pesticide. This condition does not extend to any loss or damage caused by the gross negligence or willful misconduct of a Released Party, or a violation of Food and Agricultural Code Section 12972 verified by the County Agricultural Commissioner. This condition expressly extends to any statutory violations, except as set forth herein, including but not limited to actual or alleged violations of Food and Agricultural Code Section 12973, so long as the violations are not caused by the gross negligence or willful misconduct of a Released Party. Approval of this land use permit, as a land use decision, is a quasi-judicial action regulatory in nature involving the application of preexisting laws or standards to a specific project and does not involve negotiated consideration by both the County and the application, unlike a development agreement (see 78 Ops.Cal.Atty.Gen. 230), and therefore is not subject to the limitations of Civil Code section 1668 because this land use decision is not contractual in nature. This condition of approval shall have no impact on the enforcement or application of State pesticide laws and regulations by state or local agencies, including but not limited to licensing and certification requirements, pesticide use reporting and operator identification numbers, pesticide use enforcement inspections and investigations, issuance of and desist orders, initiation of administrative or criminal enforcement actions, and imposition of administrative, civil and criminal penalties.

CONDITIONS TO BE REQUIRED WITHIN 60 DAYS OF PERMANENT CESSATION OF PROPOSED ACTIVITIES

94. **AG-1. Within 60 days of permanent cessation of cannabis cultivation activities of either Phase 1, Phase 2, or both,** the applicant shall remove all fencing installed as part of the project that are located on Farmland of Local Importance per the FMMP, including all concrete footings.

LAND USE PERMIT EXPIRATION

95. This Minor Use Permit for cannabis cultivation shall expire in 5 years from the approval date. Within a 12-month period prior to expiration, the applicant may request the Minor Use Permit be renewed for an additional 5-year period. Any such request for renewal shall be in writing to the County of San Luis Obispo Department of Planning and Building and shall be submitted in conjunction with the appropriate Land Use Permit application. The request for renewal shall be processed with the same type of permit for the original entitlement. If a request for renewal is not requested or not granted, the Minor Use Permit shall be deemed expired.



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, DIRECTOR

February 8, 2021

Ian McCarville
Kirk Consulting
8830 Morro Rd
Atascadero, CA
Via email: ian@kirk-consulting.net

Subject: DRC2020-00205 Bee Rock LLC - Modification to Land Use Permit Application (Substantial Conformance) for Minor Use Permit DRC2018-00016 (previously referred to as Finely Family Farms).

The County Planning and Building Department has reviewed the substantial conformance request for Minor Use Permit DRC2018-00016 (Finely Family Farms). Based on the information provided and the County's review of the approved project, the County has determined that the proposed changes are in substantial conformance with the approved development and County's Land Use Ordinance. A review of the proposed changes and basis for the determination are provided below:

Description of Proposed Changes:

1. Allow the replacement of three 2,500-gallon water storage tanks with six 5,000-gallon water storage tanks.
2. Allow modifications to the 20-foot-wide all-weather access driveway design.
3. Allow the construction of a new well to be used only by the cannabis operation. The well will be sited in the same location as approved for DRC2018-00016.
4. Allow the separation of the single 2,208-square-foot processing, security and pesticide and fertilizer storage building into three separate buildings totaling 2,208 square feet.
5. Allow the construction of one 40,000-gallon or three 15,000-gallon fire suppression water storage tanks, and the construction of two draft hydrants, as per Cal Fire requirements.
6. Allow for modifications to the phasing plan as exhibited in Attachment A.

Substantial Conformance:

Subject to all conditions of approval from Minor Use Permit DRC2018-00016 and the special requirements outlined below. The proposed modifications are deemed in conformance with Minor Use Permit DRC2018-00016. This determination is made pursuant to Land Use Ordinance Section 22.64.050 (Changes to an Approved Project) on the basis that the proposed modifications will not result in an increased impact to the project or require modification to the conditions of approval associated with DRC2018-00016.

Special Requirements:

The proposed modifications shall comply with all original conditions from Minor Use Permit DRC2018-00016 as well as the following requirements:

1. **At the time of application for a construction permit**, this letter and all conditions of approval from Minor Use Permit DRC2018-00016 shall be printed on the projects plans.

If you have any questions concerning these requirements, please contact me at kmorais@co.slo.ca.us or (805) 781-5136.

Sincerely,



Kip Morais, Project Manager

Proposed Phasing Plan

DRC2020-00205 (Bee Rock)

Phase No.	Project Components
Phase 1.a.	<ul style="list-style-type: none"> • Establishment of 3.0 acres of outdoor cannabis cultivation area • Installation of six new 5,000-gallon water storage tanks • Installation of eight new 300-watt solar panels with battery storage located in the 248-sqaure-foot shed • Construction of a 248-square-foot pesticide, fertilizer, tool, and security equipment storage shed with an ADA bathroom (part of the previously approved processing building area) including path of travel and the associated septic/leach • Installation/construction of a new 20-foot-wide all-weather access driveway from El Pomar Drive to Phase 1 project components and eight designated parking spaces (seven parking spaces and one ADA parking space) • Installation of security monitoring equipment (no outdoor security lighting proposed) • Installation of 6-foot chain link fencing with privacy slats around perimeter of outdoor cultivation areas and processing buildings • Installation of Landscape Screening • Use of a diesel fuel generator for no longer than 1 hour daily • Ancillary transport of cannabis grown on-site
Phase 1.b.	<ul style="list-style-type: none"> • Construction of two 980-square-foot processing buildings and paths of travel • Installation of a 40,000-gallon fire suppression water storage tank, or three 15,000- gallon water storage tanks, depending on Cal Fire approval • Installation of one draft hydrant • 3-phase power
Phase 2	<ul style="list-style-type: none"> • (5) 40' x 108' greenhouses for indoor cultivation totaling 21,600 square feet • Installation of access road leading to greenhouses • Installation of one draft hydrant near the greenhouses • Installation of 6-foot chain link fencing with privacy slats around perimeter of greenhouses