



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 DRC2018-00193

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 **Cassidy McSurdy** at (805) 781-5600.

*Daniela Chavez*

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

CC: LOVEJOY FARMS, INC  
23701 CLIFF  
SANTA CRUZ, CA 95062

**EXHIBIT A – FINDINGS**  
**LOVEJOY (DRC2018-00193)**

**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 March 30, 2020, for this project (SCH #2020031107). Mitigation measures are proposed to address potential impacts associated with aesthetics, air quality, biological resources, energy, greenhouse gas emissions, noise, and mandatory findings of significance 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 nursery are allowed uses and, as conditioned, are 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 be sited in a remote, rural location, not be visible from surrounding public roadways, all potential nuisance odors would be adequately controlled to not be detectable off-site, and the project is consistent with the 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 Bitterwater Rd, a County-maintained road, accessing Hwy 58. As described in the Traffic Study prepared for the project, the project is anticipated to generate approximately 4 average daily trips. 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.

## **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 (MODIFICATIONS)**

- 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 60 parking spaces on-site; the provision of 26 parking spaces with additional room for other vehicles on-site will be adequate to accommodate all parking needs generated by the use, including the four proposed full-time employees and up to 18 seasonal employees during harvest periods. No traffic impacts will result from the proposed modification of parking standards.
- M. Modification of the setback standards set forth in Land Use Ordinance Section 22.40.050.D.3.b to reduce the setback from 300 feet to 205 feet from the eastern property line and from 300 feet to 237 feet from the western property line is justified because the required setback would be unnecessary due to specific site conditions regarding the nearest offsite residence to the affected property lines. The adjacent and affected property to the east is vacant, which reduces direct impacts regarding odor and additionally the cultivation area requesting setback reduction from the western property line will be landscaped to inhibit visibility and airflow from the public right of way on Bitterwater Rd.
- N. Modification of the fencing standards set forth in Land Use Ordinance Section 22.40.050.D.6 to require solid and durable fencing for purposes of visual screening and security is justified and supported to allow for greater wildlife passage as allowed by 22.40.050.D.6.d. Additionally, the project proposes to utilize the greenhouse walls as the functional equivalent of required fencing for indoor cultivation and processing areas. The cultivation would be located out of view from the views from public right of way from Hwy 58 and would further be screened by proposed landscaping. Additional security measures onsite included secure access entry and security cameras would provide the functional equivalent of security to be provided by the required fencing.

**EXHIBIT B - CONDITIONS OF APPROVAL  
LOVEJOY (DRC2018-00193)**

**Approved Development**

1. This approval authorizes the phased development of indoor and outdoor cannabis cultivation, ancillary nursery, ancillary processing and associated supportive development and uses including the following components:
  - a. A maximum of 2.97 acres of outdoor and 22,000-square feet of indoor cannabis cultivation, as follows:
    - i. Installation of up to 2.97 acres of outdoor mature cannabis cultivation canopy.
    - ii. Construction of six (6) greenhouses totaling 25,920-square feet supporting up to 22,000-square feet of indoor mature cannabis cultivation canopy and 3,920 square feet of ancillary nursery.
    - iii. Construction of nine (9) permitted seatrains containers to support 3,000-square feet processing activities ancillary to cannabis cultivation (drying/curing) and one (1) 320-square foot seatrains for storage.
    - iv. Extension of a water line from an existing well to serve proposed cannabis cultivation activities.
    - v. Improvements to an existing driveway approach.
    - vi. A maximum of four (4) full-time employees and up to 18 employees during seasonal harvest operations.
    - vii. Construction of 26 parking spaces.
  - b. A maximum annual water demand for cannabis uses on the project site of 3.7-acre feet per year (AFY).
2. This MUP authorizes the modification of the parking requirements set forth in Section 22.18.050.C.1 of the Land Use Ordinance (LUO) to reduce the required number of spaces from 60 to 26.
3. This MUP authorizes a modification of the setback requirements for outdoor cannabis cultivation set forth in LUO Section 22.40.050.D.3 to allow the reduction of the eastern property line setback from 300 feet to 205 feet and from the western property line from 300 feet to 237 feet.
4. This MUP authorizes a modification of the fencing requirements set forth in LUO Section 22.40.050.D.6 to allow for wildlife friendly fencing around the outdoor cultivation areas and for the greenhouse walls of indoor cultivation areas to act as the functional equivalent of fencing for security and visibility purposes.
5. The ancillary processing of cannabis, including drying, curing, grading, trimming, storing, packaging and labeling, 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.

6. The ancillary cannabis nursery area shall be not include flowering plants except as allowed under a nursery license by the state of California Department of Agriculture. All nursery stock and any seed production shall be utilized to support onsite operations and shall not be sold or transported offsite for any purpose.

**Conditions required to be completed prior to commencing permitted activities**

7. **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 Title 6 of the County Code.
8. **Prior to commencing permitted activities**, the applicant shall complete all state licensing requirements for cultivation, ancillary nursery and ancillary processing 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.
9. **Prior to commencing permitted activities**, all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.
10. **Prior to commencing permitted activities**, the applicant shall provide evidence to the Department of Planning and Building that onsite 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.
11. **Prior to commencing permitted activities**, the applicant shall demonstrate to the Planning and Building Department how cannabis activities will be physically and adequately separated from vacant areas or other non-cannabis uses onsite. The applicant shall obtain any necessary building permits to create the separation between uses.
12. **Prior to commencing permitted activities**, the applicant shall complete and submit a Hazardous Materials Declaration Flowchart to the Environmental Health Services office.
13. **N-1. Prior to commencing permitted activities**, the applicant shall demonstrate that noise generated by project air conditioning, ventilation and odor management equipment complies with applicable County standards for nighttime noise levels at the property lines. This shall be accomplished by:
  - i. Locating the equipment so that the building shields the noise from the nearest property line;
  - ii. Constructing an acoustical enclosure around the equipment;
  - iii. Any combination of equipment location and shielding that enables the project to meet the standards.

### **Conditions required to be completed prior to issuance of a County Business License**

14. **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.
15. **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 (RWQCB).
16. **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.
17. **Prior to issuance of a County Business License**, the applicant shall submit evidence that solid waste and recycling collection will be consistent with Sections 22.10.150.B and C of the County Land Use Ordinance.
18. **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 as required by Section 22.40.040.D of the County Land Use Ordinance.
19. **Prior to issuance of a County Business License**, the applicant shall obtain an Operator Identification Number (OIN) if required by the Department of Agriculture, 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.
20. **Prior to issuance of a County Business License**, the applicant shall install proposed fencing as shown on the approved plans. Consistent with the approved plans and the applicant's project description, the fence proposed shall surround the outdoor cultivation, greenhouse and nursery areas, be six (6) feet in height and constructed of chain-link and screened with slats or similar materials and shall allow for San Joaquin Kit fox passage through or underneath (e.g. an approximate four-inch passage gap shall remain at ground level).
21. **Prior to issuance of a 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.
22. **Prior to issuance of a County Business License** and within 30 days of Land Use Permit approval, the applicant shall submit evidence to the 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 Assessor's Office.

### **Conditions required to be completed at the time of application for construction permits**

#### ***Site Development***

23. **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.

24. **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.
25. **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.
26. **At the time of application for construction permits**, the submitted building plan set shall demonstrate consistency with California State Title 24 energy laws.
27. **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***

28. **At the time of application for construction permits**, the applicant shall obtain a Fire Safety Plan from Cal Fire. All plans submitted to the 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***

29. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval as determined by the Department of Public Works and in accordance with Section 22.52.110 (Drainage) of the County Land Use Ordinance.
30. **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 Section 22.52.120 of the County Land Use Ordinance.
31. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

#### ***Storm Water Pollution Prevention Plan (SWPPP)***

32. **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 Storm Water Control Plan even if the project is located outside a Stormwater Management Area.

#### ***Services***

33. **At the time of application for construction permits**, the applicant shall submit evidence to Building and Safety staff that there is adequate water to serve the proposal, on the site.
34. **At the time of application for construction permits**, the applicant shall submit evidence to Building and Safety staff that the existing septic system is adequate to serve the proposal.

#### ***Conditions to be completed prior to issuance of a construction permit***

35. **MM AES-1. Nighttime lighting. Prior to issuance of construction permits**, to minimize the effects of exterior lighting on special-status wildlife species and to address potential impacts associated with

new sources of light and glare, the applicant shall submit a light pollution prevention plan (LPPP) to the County Planning Department for 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;
- c. Any exterior path lighting shall conform to LUO 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. Exterior path lighting shall be “warm-white” or filtered (correlated color temperature of < 3,000 Kelvin; scotopic/photopic ratio of < 1.2) to minimize blue emissions; and
- d. Any exterior lighting used for security purposes shall be motion activated, 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, and shall be of the lowest-lumen necessary to address security issues.

36. **BIO-1. Prior to issuance of grading and/or construction permits**, the applicant shall submit evidence to the County Department of Planning and Building (County) and California Department of Fish and Wildlife (CDFW) that states that one or a combination of the following three San Joaquin kit fox (SJKF) mitigation measures for loss of SJKF habitat has been implemented:

- a) Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 17.88 acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area), either on site or off site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the CDFW and the County.

Mitigation alternative (a.) requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

- b) Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b.) can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between CDFW and TNC to preserve SJKF habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the CEQA. This fee is calculated based on the current cost-per-unit of \$2,500 per acre of mitigation, which is scheduled to be adjusted to address the increasing cost of property in San Luis Obispo County; the actual cost may increase depending on the timing of payment. This fee must be paid after CDFW provides written notification about mitigation options but prior to County permit issuance and initiation of any ground disturbing activities. The fee, payable to “The Nature Conservancy” (see contact information below), would



total \$44,700 based on \$2,500 per acre (5.96 acres impacted x 3 acres mitigation per acre impacted x \$2,500 per acre).

- c) Purchase 17.88 credits in a CDFW-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (c.) can be completed by purchasing credits from the Palo Prieto Conservation Bank. The Palo Prieto Conservation Bank was established to preserve SJKF habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with CEQA. The cost for purchasing credits is payable to the owners of The Palo Prieto Conservation Bank and would total \$44,700. This fee is calculated based on the current cost-per-credit of \$2,500 per acre of mitigation. The fee is established by the conservation bank owner and may change at any time. The actual cost may increase depending on the timing of payment. Purchase of credits must be completed prior to County permit issuance and initiation of any ground-disturbing activities.

37. **BIO-2 Prior to issuance of grading and/or construction permits,** all SJKF protection measures required before construction (prior to any project activities) and during construction shall be included as a note on all project plans.

38. **BIO-3 Pre-construction survey for SJKF. Prior to issuance of grading and/or construction permits and prior to initiation of site disturbance and/or construction,** A qualified biologist shall complete a pre-construction survey for SJKF no less than 14 days and no more than 30 days prior to the start of initial project activities to ensure SJKF is not present within all proposed work areas and at least a 250-foot buffer around work areas per USFWS Standard Recommendations (2011). The biologist will survey for sign of SJKF and known or potential SJKF dens. The result of the survey shall be submitted to the County within 5 days of the survey and prior to start of initial project activities. The submittal shall include the date the survey was conducted, survey method, and survey results, including a map of the location of any SJKF sign, and/or known or potential SJKF dens, if present. If no SJKF sign, potential or known SJKF dens are identified, then the SJKF Standard Protection Avoidance and Protection Measure shall be applied.

- If the qualified biologist identifies potential SJKF den(s), the den(s) will be monitored for 3 consecutive nights with an infra-red camera, prior to any project activities, to determine if the den is being used by SJKF. If no SJKF activity is observed during the 3 consecutive nights of camera placement then project work can begin with the Standard SJKF Avoidance and Protection Measures and the SJKF Protection Measures if SJKF are observed.
- If a known den is identified within 250-feet of any proposed project work areas, no work may start in that area.

If 30 days lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), where no or minimal work activity occurs, the SJKF survey shall be updated.

39. **BIO- 5 Weekly Site Visits, During the site-disturbance and/or construction phase and for the life of the project,** A qualified biologist shall conduct weekly site visits during site-disturbance activities (e.g., clearing, grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, to check the site for special-status species. Site-disturbance activities lasting up to 14 days do

not require weekly monitoring by a biologist unless a potential SJKF den was identified on-site or the qualified biologist recommends monitoring for other sensitive species protection. When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

40. **BIO-10 Pre-construction survey for American Badger. Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction,** a qualified biologist shall complete a pre-construction survey for badgers no less than 14 days and no more than 30 days prior to the start of initial project activities to determine if badgers are present within proposed work areas, in addition to a 200-foot buffer around work areas. The results of the survey shall be provided to the County prior to initial project activities.
- If a potential den is discovered, the den will be monitored for 3 consecutive nights with an infra-red, motion-triggered camera, prior to any project activities, to determine if the den is being used by an American badger.
  - If an active badger den is found, an exclusion zone shall be established around the den. A minimum of a 50-foot exclusion zone shall be established during the non-reproductive season (July 1 to January 31) and a minimum 100-foot exclusion zone during the reproductive season (February 1 to June 30). Each exclusion zone shall encircle the den and have a radius of 50 feet (non-reproductive season) or 100 feet (reproductive season), measured outward from the burrow entrance. All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the den is no longer in use. If avoidance is not possible during project construction or continued operation, the County shall be contacted. The County will coordinate with appropriate resource agencies for guidance.
- If more than 30 days pass between construction phases (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the badger survey shall be repeated.

41. **BIO-11 Pre-construction Survey for Burrowing Owl (BUOW). Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction,** If work is planned to occur within 150 meters (approximately 492 feet) of BUOW habitat, a qualified biologist shall conduct a pre-construction survey for the species within 14 days prior to initial project activities. This applies year-round (i.e., within the breeding (February 1 to August 31) or non-breeding (September 1 to January 31) seasons. Habitat for BUOW includes areas with generally short, sparse vegetation and few shrubs, level to gentle topography and well-drained soils including grasslands, shrub steppe, desert, some agricultural areas, ruderal grassy fields, vacant lots, and pastures. A second survey shall be completed immediately prior to initial project activities (i.e., within the preceding 24 hours). The surveys shall be consistent with the methods outlined in Appendix D of the CDFW 2012 Staff Report on BUOW Mitigation, which specifies that 7- to 20-meter transects shall be walked, such that the entire project area is visible. These surveys may be completed concurrently with SJKF, American badger, or other special-status species surveys. If occupied BUOW burrows are identified the following exclusion zones shall be observed during project activities, unless otherwise authorized by CDFW:

Location	Time of Year	Level of Disturbance		
		Low	Medium	High
Nesting Sites	April 1 – Aug 15	656 feet	1,640 feet	1,640 feet
Nesting Sites	Aug 16 – Oct 15	656 feet	656 feet	1,640 feet
Any Occupied Burrow	Oct 16 – Mar 31	164 feet	328 feet	1,640 feet

Each exclusion zone shall encircle the burrow and have a radius as specified in the table above. All foot and vehicle traffic, as well as all project 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, or it has been determined by a qualified biologist that the burrow is no longer in use.

If two weeks lapse between construction phases (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the BUOW survey shall be repeated.

42. **BIO-12 Preconstruction Survey for Special-status Small Mammals (Giant kangaroo rat and Tulare grasshopper mouse). Prior to issuance of grading and/or construction permits and within 14 days prior to initiation of site disturbance and/or construction,** A qualified biologist shall complete a preconstruction survey for special-status small mammal species (e.g. giant kangaroo rat and Tulare grasshopper mouse) no more than 14 days prior to the start of initial project activities to ensure special-status small mammal species are not present within proposed works areas. The survey will include mapping of all potentially active special-status mammal burrows within the proposed work areas, access routes, and staging areas plus a 50-foot buffer. All potentially active burrows will be mapped and flagged. If avoidance of the burrows is not feasible, the appropriate resource agency shall be contacted for further guidance.
43. **BIO-13 Pre-construction Survey for Special Status Reptiles and Amphibians. Prior to issuance of grading and/or construction permits and immediately prior to initiation of site disturbance and/or construction,** A qualified biologist shall conduct a pre-construction survey immediately prior to initial project activities (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. Construction monitoring shall also be conducted by a qualified biologist during all initial ground-disturbing and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, vegetation removal, etc.) within suitable habitat. If any special-status reptile or amphibian species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact. If any additional ground- or vegetation-disturbing activities occur on the project site, the above surveys and monitoring will be repeated.
44. **BIO-14 Crotch Bumble Bee – Pre-Construction Surveys and Avoidance Measures.** The Applicant shall retain a County-qualified biologist to conduct pre-construction surveys for Crotch bumble bee within suitable habitat on the project site. If Crotch bumble bee or its habitat (i.e. small mammal burrows, thatched/bunch grasses, brush piles, overgrown areas, dead trees, and hollow logs) is found within the areas of disturbance, the qualified biologist shall implement minimum 50-feet no-disturbance buffer to avoid take and potentially significant impacts. If initial ground-disturbing activities will occur during the overwintering period (October through February), consultation with

CDFW and the County is required to discuss how to implement project activities and avoid take. Any detection of Crotch bumble bee prior to, or during project implementation requires consultation with CDFW and the County to avoid take. This survey shall be repeated annually, including the areas of outdoor cannabis cultivation area, and associated stockpile, storage or other associated area, prior to start of growing season.

45. **BIO-15 Pre-construction Survey for Nesting Birds. Prior to issuance of grading and/or construction permits and prior to initiation of site disturbance and/or construction,** If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds within one week prior to initial project activity beginning, including ground disturbance and/or vegetation removal/trimming. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active.
- A 250-foot exclusion zone shall be placed around non-listed, passerine species, and a 500-foot exclusion zone will be implemented for raptor species. Each exclusion zone shall encircle the nest and have a radius of 250 feet (non-listed passerine species) or 500 feet (raptor species). All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the young have fledged or that proposed project activities would not cause adverse impacts to the nest, adults, eggs, or young.
  - If special-status avian species (aside from the burrowing owl or tricolored blackbird [if identified in biological report]) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
  - The results of the survey shall be provided to the County prior to initial project activities. The results shall detail appropriate fencing or flagging of exclusion zones and include recommendations for additional monitoring requirements. A map of the project site and nest locations shall be included with the results. The qualified biologist conducting the nesting survey shall have the authority to reduce or increase the recommended exclusion zone depending on site conditions and species (if non-listed).
- If two weeks lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

46. **ENG-1 Prior to issuance of building permits,** the applicant shall provide to the Department of Planning and Building for review and approval, an Energy Conservation Plan with a package of measures that, when implemented, would reduce or offset the project's energy demand to within 20% of the demand associated with a generic commercial building of the same size. The Energy Conservation Plan shall include the following:
- a. A detailed inventory of energy demand prepared by a Certified Energy Analyst. The inventory 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, processing, manufacturing and climate control equipment. The quantification of demand associated with

electricity shall be expressed in total kilowatt hours (kWh) per year; demand associated with natural gas 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 than 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 (i.e. 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, but is not limited to, the following:
  1. Participating in an annual energy audit.
  2. Upgrading and maintaining efficient heating/ cooling/ dehumidification systems.
  3. Implement energy efficient lighting, specifically light-emitting diode (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.

47. **ENG-2. Prior to issuance of building permits**, the applicant shall provide to the Department of Planning and Building for review and approval, a program for reducing or offsetting project-related greenhouse gas emissions below the 1,150 MTCO<sub>2</sub>e Bright Line threshold. Such a program (or programs) may include, but is not limited to, the following:

- a. Purchase of greenhouse gas offset credits from any of the following recognized and reputable voluntary carbon registries:
  - i. American Carbon Registry;
  - ii. Climate Action Reserve;
  - iii. Verified Carbon Standard.
  - iv. Offsets purchased from any other source are subject to verification and approval by the Department of Planning and Building.
- 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.

- c. Any combination of the above or other qualifying strategies or programs that would achieve a reduction or offset of project GHG emissions below the 1,150 Bright Line Threshold.

### **Fees**

- 48. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
- 49. **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.
- 50. **Prior to issuance of a construction permit**, the applicant shall post a performance agreement and financial instrument with the County in a form approved by County Counsel and in an amount commensurate with the cost of cannabis operation removal and site restoration. The applicant must initiate the removal of cannabis operations and site restoration within six months of ceasing cannabis operations. The performance bond shall be released by the County at the time the cannabis operation is removed, and the site is restored.

### Conditions to be completed during project construction

- 51. **AQ-1 Dust Control.** The project proposes grading areas that are greater than 4 acres in size within 1,000 feet of a residence. The following measures shall be implemented to minimize nuisance impacts and to significantly reduce fugitive dust emissions:
  - 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. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water shall be used whenever possible;
  - c. All dirt stock pile areas shall be sprayed daily as needed;
  - d. Permanent dust control measures identified in the approved project plans (e.g., revegetation and landscape plans, etc.) shall 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 one month after initial grading shall 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 shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the Air Pollution Control District (APCD) and for applications within close proximity to sensitive habitats, CA Department of Fish and Wildlife (CDFW)-compliant stabilizing methods shall be used”);
  - g. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible. In addition, building pads shall 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 shall maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CA Vehicle Code Section 23114;
- j. Install wheel washers 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 shall be used where feasible;
- l. The contractor or builder 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 20% opacity, and to prevent transport of dust offsite. 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 APCD Compliance Division prior to the start of any grading, earthwork or demolition.
- m. The contractor or builder shall designate a person or persons whose responsibility is to ensure any fugitive dust emissions do not result in a nuisance and to enhance the implementation of the mitigation measures as necessary to minimize dust complaints and reduce visible emissions below the APCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Their duties shall include holidays and weekend periods when work may not be in progress (for example, wind-blown dust could be generated on an open dirt lot). The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork or demolition (Contact Tim Fuhs at 805-781-5912).

52. **AQ-2** Standard Construction Measures. Based on Air Pollution Control District's (APCD) CEQA Handbook (2012), to reduce nitrogen oxides (NOx), reactive organic gases (ROG), and diesel particulate matter (DPM) emissions from construction equipment. the applicant shall incorporate into the project the following "standard" construction mitigation measures:

- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
- b. Fuel all off-road and portable diesel-powered equipment with Air Resources Board (ARB) certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
- c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation;
- d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
- e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
- f. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
- g. Diesel idling within 1,000 feet of any residence is not permitted;
- h. Staging and queuing areas shall not be located within 1,000 feet of any residence;
- i. Electrify equipment when feasible;

- j. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
  - k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.
53. In the event that buried or otherwise unknown cultural resources are discovered during construction activities in the area of the find, 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

54. **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, including, but not limited to the Cal Fire/County Fire review letter (Clinton Bullard, July 16, 2019).
55. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

#### **On-going Conditions for the Life of the Project**

56. **AQ-3.** PM10 Measures. The applicant shall implement one of the following in order to mitigate the unpaved access roads:
- a) For the life of the project, pave and maintain the roads, driveways, and/or parking areas; or
  - b) For the life of the project, maintain the unpaved roads, driveways, and/or parking areas with a dust suppressant (see Technical Appendix 4.3 of the CEQA Air Quality Handbook (2012) for a list of the APCD-approved suppressants) such that fugitive dust emissions do not exceed the APCD's 20% opacity limit for greater than 3 minutes in any 60-minute period (APCD Rule 401) or prompt nuisance violations (APCD Rule 402) will occur;
  - c) Also, to improve the dust suppressant's long-term efficacy, the applicant shall also implement and maintain design standards to ensure vehicles that use the on-site unpaved road are physically limited (e.g., speed bumps) to a posted speed limit of 15 mph or less.
57. **AQ-4.** Developmental burning. As of February 25, 2000, the APCD prohibits developmental burning of vegetative material within San Luis Obispo County. However, under certain circumstances where no technically feasible alternatives are available, limited developmental burning under restrictions may be allowed. Any such exception must complete the following prior to any burning: APCD approval; payment of fee to APCD based on the size of the project; and issuance of a burn permit by the APCD and the local fire department authority. As a part of APCD approval, the applicant shall furnish them with the study of technical feasibility (which includes costs and other constraints) at the time of application. For any questions regarding these requirements, contact the APCD at (805) 781-5912.



58. **BIO-8.** The posted speed limit during project construction and operation shall not exceed 15 miles per hour during daylight hours (sunrise to sunset) and shall not exceed 15 miles per hour during nighttime hours (sunset to sunrise). During construction, the speed limit shall be posted at the site entrance, as well as the mid-way point of the access road. At least one permanent speed limit sign, indicating day and nighttime speed limits, shall be posted along the facility access road during operations.
59. **ENG-3. At time of quarterly monitoring inspection,** the applicant shall provide to the Department of Planning and Building for review, a current energy use statement from the service provider (e.g. PG&E) that documents energy use to date for the year. The applicant shall demonstrate continued compliance with ENG-1 and ENG-2 (e.g. providing a current PG&E statement or contract showing continuous enrollment in the Solar Choice program or Regional Renewable Choice program).
60. **BIO-4. Standard SJKF Avoidance and Protection Measures**
- a) If a SJKF is discovered at any time to be occupying an area within the project boundaries, all work must stop. The County will be notified, and they will consult with other agencies as needed.
  - b) A maximum of 15 mph speed limit shall be required at the project site during project activities. Speed limit signs shall be installed on the project site prior to start of all work.
  - c) All project activities shall cease at dusk and not start before dawn. This includes driving on the site for security purposes.
  - d) To prevent entrapment of SJKF and other special-status wildlife, all excavations, steep-walled holes or trenches greater than two feet deep shall be completely covered at the end of each work day by plywood or similar materials, or one or more escape ramps constructed of earth fill or wooden planks shall be installed a minimum of every 200 feet. All escape ramps shall be angled such that wildlife can feasibly use it to climb out of an area. All excavations, holes, and trenches shall be inspected daily for SJKF or other special-status species and immediately prior to being covered or filled. If a SJKF is entrapped, CDFW, USFWS, and the County will be contacted immediately to document the incident and advise on removal of the entrapped SJKF.
  - e) All pipes, culverts, or similar structures with a diameter of 4 inches or greater, stored overnight at the project site shall be thoroughly inspected for sheltering SJKF before burying, capping, or moving. All exposed openings of pipes, culverts, or similar structures shall be capped or temporarily sealed prior to the end of each working day. No pipes, culverts, similar structures, or materials stored on site shall be moved if there is a SJKF present within or under the material. A 50-foot exclusion buffer will be established around the location of the SJKF until it leaves. The SJKF shall be allowed to leave on its own before the material is moved.
  - f) All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in animal-proof closed containers only and regularly removed from the site.
  - g) No deliberate feeding of wildlife shall be allowed.
  - h) Water sources shall be managed to ensure no leaks occur or are fixed immediately upon discovery in order to prevent SJKF from being drawn to the project area to drink water.
  - i) Trash will be disposed of into containers rather than stockpiling on site prior to removal.
  - j) Materials or other stockpiles will be managed in a manner that will prevent SJKF from inhabiting them. Any materials or stockpiles that may have had SJKF take up residence shall be surveyed (consistent with pre-construction survey requirements) by a qualified biologist before

they are moved.

k) The use of pesticides or herbicides shall be in compliance with all local, state, and federal regulations so as to avoid primary or secondary poisoning of endangered species and the depletion of prey upon which SJKF depend.

l) Permanent fences shall allow for SJKF passage through or underneath by providing frequent openings (8-inch x 12-inch) or an approximately 4-inch or greater passage gap between the ground and the bottom of the fence. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

m) During project activities and/or the operation phase, any contractor or employee that inadvertently kills or injures a SJKF or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead SJKF, the applicant shall immediately notify the USFWS, CDFW, and the County 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.

n) If potential SJKF dens are identified on site during the pre-construction survey, a qualified biologist shall be on site immediately prior to the initiation of project activities to inspect the site and dens for SJKF activity. If a potential den appears to be active or there is sign of SJKF activity on site and within the above-recommended buffers, no work can begin.

61. **BIO-6. Monthly Biological Monitoring**

- The Applicant or project proponent must hire a qualified biologist to conduct monthly biological monitoring inspections, during, before, and after cannabis activities. No monthly monitoring will be required during the times of non-cannabis activities fallow. The qualified biologist will inspect the site to ensure compliance with the above-measures and to determine if any new activities have occurred. The biologist will provide a refresher survey and/or environmental training, as needed, during the monthly inspection. The biologist will be required to submit a report to the County within a week of the inspection. If major issues are identified during the inspection (e.g., encroachment into buffer zones, new activity outside previously surveyed area, etc.), then the biologist will notify the County immediately (via phone and/or in writing). If the results of monthly inspections show repeated noncompliance, the frequency of the inspections may be increased by the County. If the results of the monthly inspections consistently show compliance, the frequency of the inspections may be reduced by the County.
- Alternatively, if the County implements a biological monitoring program, then the Applicant or project proponent will participate in that program in lieu of hiring the biologist directly.

62. **BIO-7. Annual Surveys. Annual Pre-activity Survey for SJKF, Special-status Small Mammals, and Burrow Mapping** Applicant or project proponent must hire a qualified biologist to complete an annual pre-activity survey for SJKF and special-status small mammal species (e.g., giant kangaroo rat and Nelson's [San Joaquin] antelope squirrel) no more than 14 days prior to the start of ground disturbance or initiating outdoor cannabis activities (including removal of stockpiled materials) to ensure SJKF and special-status small mammal species have not colonized the area and are not present within the grow site areas. The survey will include mapping of all potentially active SJKF and special-status mammal burrows within the grow site areas plus a 50-foot buffer for small mammals and 250-foot buffer for

SJKF. All potentially active burrows will be mapped and flagged for avoidance. If avoidance of the burrows is not feasible, the County shall be contacted for further guidance. The County will contact the appropriate resource agencies. If a SJKF den is found within 250 feet of the disturbance area, then the County must be contacted for further guidance. The County will contact the appropriate resource agencies.

63. **Throughout the life of the project**, if at any time the plumbing/fire suppression system requires cross connection device, the applicant shall contact Environmental Health to enroll in annual device test.
64. **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.
65. **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 Sections 22.74.160 and 22.40.110 and 120 of the County Land Use Ordinance. Revocation may require restoration to pre-existing conditions of areas of disturbance for cannabis-related activities authorized by this permit.
66. **Throughout the life of the project** and in accordance with the request for a modification from the parking standards set forth in Section 22.18.050.H, the applicant shall maintain no less than 26 parking spaces on site for the life of the project.
67. **Throughout the life of the project**, the applicant shall post on site all required land use permit approvals and all required County 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.
68. **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 shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request.
69. **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 County permits, State licenses, County ordinance, and State law and regulation. The applicant shall be responsible for the payment of all required fees and taxes.
70. Upon adoption of the County of San Luis Obispo Cannabis Monitoring Program, the applicant shall enter the program within (90) days of adoption. Any associated fees shall be paid to the County of San Luis Obispo.
71. **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 offsite. In the event of a verified nuisance complaint, the County may pursue remedial action that may include the reduction or cessation of operations until a revised operations plan is reviewed and approved by the Department of Planning and Building, 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 120.

72. **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.
73. **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.
74. **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.
75. **Throughout the life of the project**, solid waste and recycling shall be conducted in accordance with LUO Sections 22.10.150 B. and C.
76. **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.

77. **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.
78. **Throughout the life of the project**, the applicant shall meter water used for cannabis activities and provide the Department of Planning and Building with quarterly water usage monitoring reports based on meter readings.
79. **Throughout the life of the project**, the applicant shall meter electricity used for cannabis activities and provide the Department of Planning and Building with quarterly energy usage monitoring reports based on meter readings.
80. **Throughout the life of the project**, the applicant shall submit to the 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 requires review and approval by the appropriate Review Authority.
81. **Throughout the life of the project**, the applicant shall submit to the 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 Department 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.
82. **Throughout the life of the project**, the property owner(s) shall grant access to the County of San Luis Obispo, 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 a.m. – 6 p.m.
83. **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 and erosion and sedimentation impacts. Erosion and sedimentation control activities shall adhere to the standards in Section 22.52.150C of the Land Use Ordinance.
84. **Throughout the life of the project**, structural development and parking areas should be minimized to protect farmland for agriculture production and the use of pervious and semi-pervious surfaces should be maximized to promote groundwater recharge and minimize erosion and sedimentation.
85. The project would utilize an existing onsite well. 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, a public water system permit is required to be obtained from the California State Water Resources Control Board (Water Board).

86. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to County 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 County Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

**Land use permit expiration.**

**87. BIO-9. Site Restoration Following End of Operations**

Upon revocation of a use permit or abandonment of a licensed cultivation or nursery site, the permittee and/or property owner shall remove all materials, equipment, and improvements on the site that were devoted to cannabis use, including but not limited to concrete foundation and slabs; bags, pots, or other containers; tools; fertilizers; pesticides; fuels; hoop house frames and coverings; irrigation pipes; water bladders or tanks; pond liners; electrical lighting fixtures; wiring and related equipment; fencing; cannabis or cannabis waste products; imported soils or soils amendments not incorporated into native soil; generators; pumps; or structures not adaptable to non-cannabis permitted use of the site. If any of the above described or related material or equipment is to remain, the permittee and/or property owner shall prepare a plan and description of the non-cannabis continued use of such material or equipment on the site. The property owner shall be responsible for execution of the restoration plan that will re-establish the previous natural conditions of the site, subject to monitoring and periodic inspection by the County. Failure to adequately execute the plan shall be subject to the enforcement provisions by the County.

88. This Minor Use Permit for cannabis cultivation shall expire in five years from the approval date. Within a twelve (12) month period prior to expiration, the applicant may request the Conditional Use Permit be renewed for an additional five-year period. Any such request for renewal shall be in writing to the 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 Conditional Use Permit shall be deemed expired.

89. 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 County 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 LUO Section 22.74.160.



VIA ELECTRONIC MAIL

June 3, 2022

Atten: William Dunbar  
Golden Green Farms, LLC  
340 S Lemon Ave Unit: #2670  
Walnut, CA. 91789

SUBJECT: Conditional Substantial Conformance Determination for Project Modification DRC2020-00215 to Minor Use Permit DRC2018-00193 for Golden Green Farms, LLC.

Dear Mr. Dunbar,

This letter relates to the Project Modification Application DRC2020-00215 for Minor Use Permit DRC2018-00193 for Golden Green Farms, LLC. Based on the information provided, the Planning and Building Department has determined that the proposed changes are in substantial conformance with the approved development and County Code Section 22.64.050. A review of the proposed changes and the reason for the determination is provided below.

**Description of Proposed Changes:**

The proposed changes include: (1) the construction of a new 12-foot-wide special-purpose road to the outdoor cultivation area and the reduction of the length of the approved commercial access road as shown in the Modified Site Plan (Attachment B), (2) locating the security monitoring equipment in a secured freestanding cabinet near the cultivation area, (3) the installation of hoop houses in the outdoor cultivation area, (4) the installation of ten 5,000-gallon water storage tanks for cannabis irrigation, (5) to allow the applicant to obtain a Distribution – Transport Only license for ancillary transport, and (6) to modify the project phasing and to revise the timing of the implementation of mitigation measures accordingly.

**Basis for Substantial Conformance Determination:**

1. The proposed changes cannot result in any new or increased environmental impacts.
  - a. The construction of a new 12-foot-wide special-purpose road to the outdoor cultivation area and the reduction of the length of the approved commercial access road will not increase environmental impacts. The project's biological assessment analyzed the area of the proposed special road and the reduction of the length of the commercial access road will reduce the total site disturbance by 0.24 acres.
  - b. Locating the security monitoring equipment in a secured freestanding cabinet near the cultivation area will not increase environmental impacts because it will be located in an area

that the biological assessment previously analyzed.

- c. The installation of hoop houses in the outdoor cultivation will not increase site disturbance as hoop houses are proposed to be located within the outdoor cultivation area. No impacts to visual resources are anticipated as the hoop houses will be located behind 6-foot-tall fencing. Additionally, hoop houses are consistent with surrounding uses.
- d. The installation of ten 5,000-gallon water storage tanks for irrigation will not result in any increased environmental impacts. Five water tanks would be located adjacent to the existing water storage tank and five tanks would be located adjacent to the outdoor cultivation operation. Both locations have been previously analyzed.
- e. Obtaining a Distribution – Transport Only license for ancillary transport will not increase traffic or increase environmental impacts. The request to allow the ancillary transport of cannabis would result in a net-zero increase of new trips because instead of having cannabis products transported offsite by an offsite licensed distributor, the applicant will be authorized to transport the cannabis product offsite.
- f. Modifying the project's phasing as described in Table 1 (below) and the revision of timing for the implementation of mitigation measures accordingly will not create new environmental impacts. The proposed phasing of the project results in a change to the square footage of the ground disturbance. Phase I will result in 3.17 acres of ground disturbance, and Phase II will result in 2.59 acres of ground disturbance. These changes will result in a revised timeframe for the implementation of Mitigation Measure BIO-1 and Condition of Approval #36. The revised timeframe will be insignificant because the total site disturbance will remain the same or be less.

**Table 1. Modified Project Phasing**

<b>Project Phase</b>	<b>Project Component</b>	<b>Cannabis Activity</b>	<b>Area (sf)</b>	<b>Area (ac)</b>
<b>I</b>	[N] Outdoor Cultivation in Hoops or Direct Sunlight	Outdoor Cannabis Cultivation	129,400	2.97
	[N] Compost	Green Waste Storage	1,188	0.03
	[N](10) 5,000-Gallon Water Storage Tanks	Water Storage	560	0.01
	[E](1) 5,000-Gallon Water Storage Tank	Water Storage	56	0.00
	[E] Ag Exempt Structure	Pesticide/Fertilizer Storage	1,200	0.03
	[N] 12' Wide x 237.4' Long Special Purpose Access Road	Access	7,122	0.16
	[N](2) Portable Restrooms	Restrooms	24	0.00
<b>Total Disturbance (Phase I)</b>			<b>139,550</b>	<b>3.20</b>
<b>Total New Disturbance (removing existing structures) (Phase I)</b>			<b>138,294</b>	<b>3.17</b>
<b>II</b>	[N](6) Greenhouses	Indoor Cannabis Cultivation	22,000	0.51
		Ancillary Nursery	3,920	0.09
	[N](9) Seatrain Containers	Processing	2,880	0.07
	[N](1) Seatrain Container	Storage	320	0.01
	[N] All-Weather Access Road (main access		53,995	1.24



	from Bitterwater – not to be removed)	Commercial Access		
	[N] Graded Parking Lot	Parking	29,620	0.68
<b>Total New Disturbance (Phase II)</b>			<b>112,735</b>	<b>2.59</b>
<b>Total New Disturbance (Phase I &amp; II)</b>			<b>251,029</b>	<b>5.76</b>

2. The proposed changes cannot result in the need to modify any of the conditions of approval.
  - a. No conditions of approval will be modified. Mitigation Measure BIO-1 and Condition of Approval #36 will be implemented nonetheless, and in correlation with the applicable project phases.
3. The proposed changes cannot result in any changes to the aspects of the project that were a specific consideration of the review authority.
  - a. The elements proposed in this substantial conformance were not specific considerations of the review authority. Additionally, the proposed changes will not conflict with the review authority's intent regarding the implementation of the approved project.

#### **Special Requirements:**

The proposed modifications shall comply with all original conditions from Minor Use Permit DRC2018-00193, as well as the following requirements:

1. **The applicant shall comply with the following conditions regarding the special road:** (1) shall be limited to the ingress and egress of emergency vehicles, (2) deliveries can only be made to the cultivation site area, and (3) no cannabis product will be transported out from the special road and then back into the main commercial access road. Cannabis cultivation may only be transported out from the special road and then taken to a third-party licensed processing facility.
  2. On December 13, 2021, Mr. Dunbar submitted Business License Application #6010423. On December 16, 2021, Kirk Consulting notified the County of the fact that Ryan Lovejoy transferred ownership of the project to Golden Green Farms, LLC (William Dunbar). **This approval is not effective until and unless the Sheriff's Office completes a background check and approves the business license for the new owner/operator.**
  3. **Prior to commencing activities**, the applicant shall demonstrate compliance with the Conditions of Approval associated with the Minor Use Permit DRC2018-00193 as shown in Attachment A.
  4. **At the time of application for a construction permit**, this letter and a copy of the Conditions of Approval from the Minor Use Permit DRC2018-00193 shall be provided with the construction permit application.
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5. **Additionally**, all searain containers shall only be permitted according to their proposed use and the currently adopted California Building Code standards.
6. **Indemnification**, the applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees that the County incurs as a result of such action and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation, and/or set aside of this land use permit.

No cannabis activities may occur on the site until applicable conditions have been satisfied and verified by the Department.

If you have any questions regarding this determination, please contact me at [emoreno@co.slo.ca.us](mailto:emoreno@co.slo.ca.us) or (805) 781-5721.

Sincerely,



Elizabeth Moreno, Planner

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Cc: Xzandrea Fowler, Environmental Coordinator

Cc: Tyler De Rose, Sheriff's Office

**Attachments**

Attachment A – Conditions of Approval

Attachment B – Revised Site Plan