

# Mono County Community Development Department

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## Planning Division

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December 20, 2018

To: Mono County Planning Commission

From: Bentley Regehr, Planning Analyst  
Michael Draper, Planning Analyst

Re: Use Permit 18-004 / Tilth Farms, LLC

### RECOMMENDATION

It is recommended the Planning Commission take the following actions:

1. Find that the project qualifies as an Exemption under CEQA guideline 15183 and instruct staff to file a Notice of Determination;
2. Make the required findings as contained in the project staff report; and
3. Approve Use Permit 18-004 subject to Conditions of Approval.

### PROJECT OVERVIEW

UP 18-004/Tilth Farms, LLC is a proposal for cultivation of cannabis on an Agriculture (AG-10) parcel located at 108432 Highway 395, Coleville (APN 002-450-024). Cultivation will occur on a six-acre area within the 166-acre property and will not exceed two acres of total canopy area. Canopy area will be divided between a medium outdoor grow and two smaller mixed light cultivation areas.

The medium outdoor cultivation will cover up to 43,560 square feet of canopy area. Plants will be grown within a hoop structure. Drip irrigation with water service from one well will irrigate all plants. Fertilizer will be delivered through the irrigation system and pre-plant applications, and plants will be planted in a combination of pots and in existing soil. Plant protectants will be stored in the 160 square foot pesticide/fertilizer storage area. Processing of the plants will occur within the hoop house when the plants reach maturity. All plant material waste will be composted in a 400 square foot area with a 15-20 cubic yard capacity, in accordance to the project's waste management plan. The project will generate an estimated 8-10 cubic yards of non-commercial compost material per year, well below the allowed maximum of 100 cubic yards for agriculture parcels. All harvested plant material will be stored in 160 square foot harvest storage area. Supplies and fuel will be stored in 900 square foot agriculture storage structure.

The two small, mixed light tier 1 cultivation areas will occur within a hoop structure and will not exceed a total of 20,000 square feet. The same plant production practices will take place as the medium outdoor area, and no artificial light will be used. These plants will be covered with

blackout fabric to induce flowering. Each small, mixed light premise will have an immature plant area for supporting plant production. Two immature plant areas are located within the mixed light canopy areas. Each immature plant area is less than 2500 square feet, for a total immature plant area up to 5,000 sf.

The property has other existing uses. Agriculture production totaling approximately 20,000 square feet is located on the north section of the property, is not affiliated with Tilth, LLC operations, and does not and will not involve cannabis cultivation. There are also two homes on the property. The main house located on the north end of the property is approximately 1800 square feet and is occupied by a permanent resident. The home located in the southern end of the property is approximately 1400 square feet and is dedicated for farm labor housing. It is occupied by permanent residents. Both structures are accessed by an 1800-foot-long, 12-foot-wide driveway. Other existing development includes several storage buildings, barns, corrals, wells, a well house, a powerline, and fencing.

When cannabis is not in production, the production area will be planted with a rotation of cover crops including but not limited to cereal rye, annual rye, buckwheat, field peas, hairy vetch, oats, arugula, mustard, and oilseed radish. Cover crops will be rotated annually to manage insect and disease populations. The primary goals of the cover crop program will be to increase soil organic matter and biodiversity, reduce erosion, increase soil infiltration, increase moisture and nutrient holding capacity, and to provide surface residue.

All applications for commercial cannabis activity must be approved through a Conditional Use Permit (CUP) process. A CUP for retail cannabis must demonstrate adequate plans for site control, setbacks, odor control, signage, visual screening, lighting, parking, and noise, as presented in this report.

The project qualifies for a 15183 CEQA exemption, as it is consistent with the Mono County General Plan EIR and Antelope Valley policies, and does not have any significant environmental effects, including those peculiar to cannabis operations.

## **PROJECT SETTING**

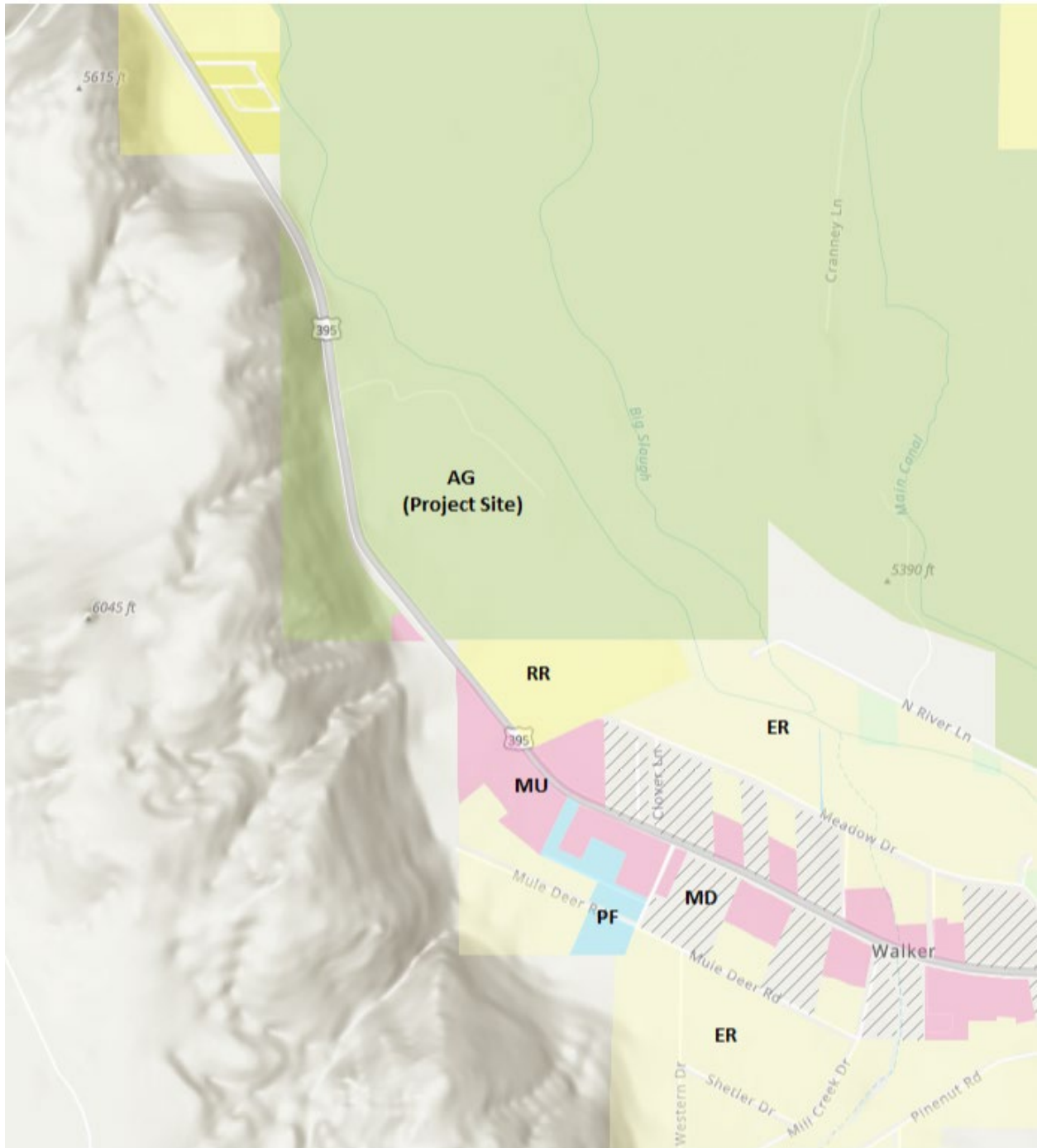
The project is located along Highway 395, to the immediate north of the Walker community. Uses surrounding the project are a mix of agriculture and large rural residential lots. The north and east sides of the property are bordered by agriculture parcels, similar in size to the project parcel. Highway 395 provides the west property boundary, with more large agriculture parcels further to the west. The south end of the property is bordered by a 23-acre vacant Rural Residential (RR) parcel and a 3.3-acre Estate Residential (ER) parcel containing an occupied residence.

Figure 1: Location of project.



*Parcel location highlighted in blue*

**Figure 2: Land Use Designation map**



**Figure 3: Looking to the northwest from the southeast portion of the Project Area.**



**Figure 4: Looking to the southeast. The metal frame structure is one of the proposed immature plant areas. The wellheads are located directly adjacent to the gray building.**



**Figure 5: Looking to the southwest from the northeast portion of the Project Area.**



## **GENERAL PLAN CONSISTENCY**

The General Plan Land Use Designation for this property is Agriculture with a 10-acre minimum (AG-10). According to the Mono County General Plan, “the ‘AG’ designation is intended to preserve and encourage agricultural uses, to protect agricultural uses from encroachment from urban uses, and to provide for the orderly growth of activities related to agriculture. Permitted uses under the Agriculture land use designation include single family homes, accessory buildings, non-commercial composting, and all uses proposed in conjunction with a bona fide agricultural operation. Commercial cannabis cultivation is permitted subject to a Use Permit and compliance with Chapter 13, and a Cannabis Operations Permit pursuant to Mono County Code Chapter 5.60.

The proposed development is also consistent with Antelope Valley Area Plan policies contained in the Mono County General Plan Land Use Element.

## **MONO COUNTY LAND USE ELEMENT, Countywide Land Use Policies**

### **Objective 1.G.**

*Protect open space and agricultural lands from conversion to and encroachment of developed community uses.*

**Policy 1.G.1.** *Protect lands currently in agricultural production.*

The project maintains the parcel's agricultural use and prevents encroachment of other development into Walker.

**Objective 1.L.** *Provide for commercial cannabis activities in Mono County in a way that protects public health, safety, and welfare while also taking advantage of new business and economic development activities.*

**Policy 1.L.3.** *Avoid, reduce, and prevent potential issues specific to commercial cannabis activities that may adversely affect communities.*

The project is subject to Chapter 13, Cannabis Regulations and requires a Conditional Use Permit aimed at ensuring no significant impacts to the community are incurred, including those related to odor control, visuals, lighting, and noise. See analysis of compliance with Chapter 13 below.

**Policy 1.L.4.** *In recognition of the potential economic benefits of this new industry, encourage the responsible establishment and operation of commercial cannabis activities.*

The project has considerable economic benefits, including the creation of jobs and contribution to the County's tax base.

## **MONO COUNTY LAND USE ELEMENT, Antelope Valley**

**GOAL 4.** Provide for orderly growth in the Antelope Valley in a manner that retains the rural environment, and protects the area's scenic, recreational, agricultural, and natural resources.

**Policy 4.A.3.** *Along the Highway 395 corridor between existing communities, provide for limited development that is compatible with natural constraints and the Valley's scenic qualities.*

The project protects the Antelope Valley's scenic qualities through compatible agricultural use and visual screening where applicable.

**Objective 4.B.** *Maintain the scenic, historic, agricultural, and natural resource values in the Valley.*

The project is consistent with Antelope Valley's commitment to agriculture.

## USE PERMIT FINDINGS

In accordance with Mono County General Plan, Chapter 32, Processing-Use Permits, the Planning Commission may issue a Use Permit after making certain findings.

Section 32.010, Required Findings:

1. *All applicable provisions of the Mono County General Plan are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features because:*
  - a) Cannabis cultivation is permitted in agriculture designations, subject to Use Permit under Chapter 13, Cannabis Regulations.
  - b) Adequate site area exists for the proposed use. The footprint of cannabis operations is less than six acres out of a total of 166 acres for the property. Canopy area within the six acres totals less than two acres. The grow area is centrally located on the parcel and does not encroach on setbacks.
  - c) The site provides adequate parking and space for loading areas.
  - d) The location of the proposed project is consistent with the Antelope Valley Area Plan's intent for preserving agriculture.
  - e) There will be no significant impacts to housing. Workers will be seasonal, with about two employees from April 1 through November 15 and an additional three employees for harvest from August 15 through November 15. Two of the employees would likely live on the premises in the two bedroom housing unit and three would likely commute to the project area.
2. *The site for the proposed use related to streets and highways is adequate in width and type to carry the quantity and kind of traffic generated by the proposed use because:*
  - a) The parcel is accessed by Hwy 395 and is adequate for the kind of traffic generated by the proposed use. Trips generated by the proposed parcel map will not substantially increase vehicle trips or cause traffic congestion.

The street system for employees accessing the facilities will be Hwy 395, which may cause an increase in traffic but will not impact the existing traffic load and capacity. The workers will be seasonal with about two employees from April 1 through November 15 and an additional three employees for harvest from August 15 through November 15. Two of the employees would likely live on the premises and three would likely commute to the project area. These employees could generally add 2 to 15 trips per day depending on carpool arrangements and lunch or errand trips. These additional trips would not exceed the capacity of Hwy 395. Access to the site would be evaluated by Caltrans under their encroachment permit. Deliveries and shipping of products would occur approximately four times per month. Hwy 395 is a designated interstate truck route and experiences heavy truck traffic. These additional trucking trips would not exceed the capacity of Hwy 395.

Parking is sufficient for employees and visitors. The gravel parking area will have 20 parking spaces in total, each 20' by 9'.



The housing units, additional employees, and vehicles used for transport of goods are not expected to generate significant amounts of traffic to alter existing circulation patterns or cause a nuisance for adjacent property owners.

3. *The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located because:*



- a) The proposed use is not expected to cause significant environmental impacts or be detrimental to surrounding property. Elements peculiar to cannabis, including odors and lighting, have been analyzed through the 15183 CEQA exemption process, and have been found to have no impacts beyond the scope analyzed in the Mono County General Plan EIR.
- b) The proposed project is a conforming use according to the Mono County General Plan's Land Use Element. The use permit process provides the public the opportunity to comment on the proposal, and comments are attached to this report.

4. *The proposed use is consistent with the map and text of the Mono County General Plan because:*

- a) Cannabis cultivation is permitted in agricultural land use designations, given they meet the criteria set forth by Chapter 13.
- b) The project is located within the Antelope Valley Planning Area. The Antelope Valley Area Plan encourages the protection of agriculture and its related values.

## **COMPLIANCE WITH MONO COUNTY CANNABIS REGULATIONS (CHAPTER 13)**

In addition to General Plan policies and regulations, commercial cannabis activities shall comply with Chapter 13. The following general standards and requirements apply to all commercial cannabis activities permitted in the county:

### **13.070C. Site control.**

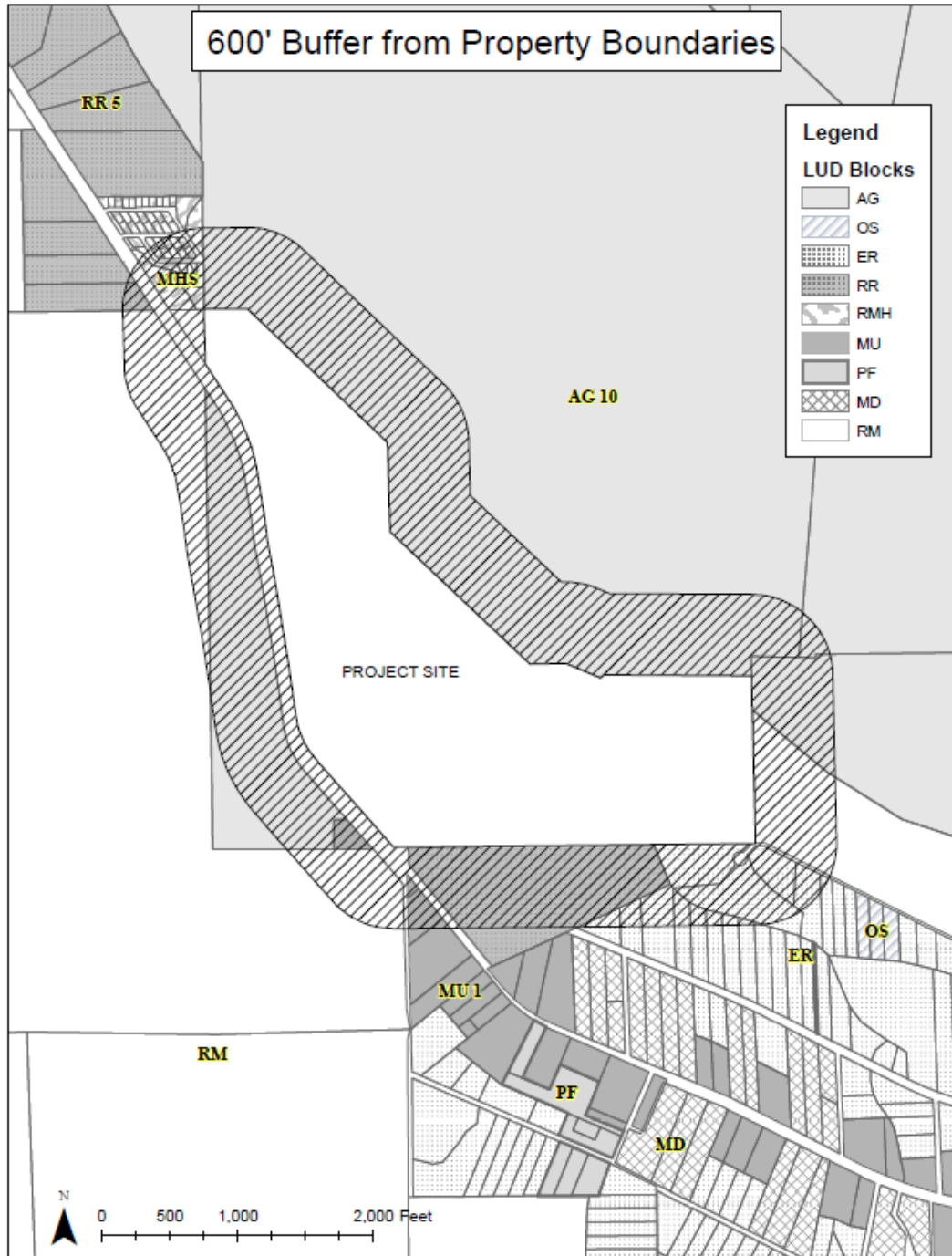
*No commercial cannabis activity shall be allowed within six hundred (600) feet of schools providing instruction to kindergarten or any grades 1 through 12, day care or youth centers, parks, ballfields, playgrounds, libraries, community centers, and licensed child care facilities.*

None of the above-mentioned facilities are located within 600 feet of the site.

The Antelope Valley Community Center is located approximately 2,000 feet from the closest grow area.

There are no schools or libraries in Walker.

Figure 6: 600 ft radius from grow area.



**13.070D. Setbacks**

*All commercial cannabis activities shall meet existing setbacks established in General Plan Chapter 4 – Land Use Designations and 4.120 Yards and Setbacks.*

All proposed structures and grow areas meet setback standards for agriculture designations (50' front, 30' rear, 30' side).

### **13.070E. Odor control**

*An odor mitigation plan is required to demonstrate that odors generated by the commercial cannabis activity shall not unreasonably impact adjacent properties and uses, or that odor mitigation measures are not applicable due to lack of cannabis-related odor generation, location or siting, design features, or other factors.*

Odor generated from outdoor cannabis cultivation is difficult to analyze due to a number of variable factors including peak concentrations, atmospheric conditions, and topography. Each project has a unique set of conditions. In the case of this proposal, the significant buffer from the grow site to the nearest receptor provides some level of confidence that no significant impacts related to odors will occur on nearest receptors on a regular basis.

Most rural counties in California have analyzed odor on a project-specific basis. Santa Barbara County provides one of the few standardized models for buffers on cannabis cultivation, in which the General Environmental Impact Report for all potential cannabis projects was conducted. The report separates buffer requirements for cultivation projects based on location: the more rural areas that have larger lots (and therefore can support larger grows) are required to have a 1,500-foot buffer, while areas with smaller lots (and smaller grows) are subject to a 600-foot buffer. The 1,500-foot buffer was the largest required cannabis buffer in California at the time of its adoption in June 2018, but odors were still deemed a significant and unavoidable impact.

Humboldt County has the highest concentration of cannabis applications in the state and provides anecdotal evidence on the extent of odor generated from cultivation. Humboldt's ordinance establishes a minimum 600-foot setback from an offsite residence but still deems odor a significant unavoidable impact in their General EIR for cannabis. Most complaints occur under 600 feet (for projects that were approved prior to the current 600' standard), but some larger projects in excess of 30,000 square feet of canopy area have received numerous complaints well beyond the 600-foot buffer. The Humboldt example reinforces the project specific nature of odor generation and the increased impacts for projects with larger canopy area.

The nearest receptor for the project is a residence (APN 002-290-025) approximately 1,700 feet from the grow area. Mono County received odor complaints from a medical grow at this project area on September 7, 2017 about a month or less before harvest. However, code compliance was unable to verify odor impacts, and other County staff that visited the site could not smell odors until about 50 feet from the plants (Jeff Simpson, Mono County, Personal Comm., 11-30-2018). It is possible some of the odor generated could have been from other personal grows in the area.

The project area is located near the central area of the 160-acre parcel and the closest sensitive odor receptor is over 1,700 feet in all directions from the project area. There are only three residences within 2,000 feet of the project area. The prevailing south, southwesterly winds blow cannabis odors away from the community of Walker, California (see wind rose graphs in Attached 15183 analysis). Mono County received odor complaints from a medical grow at this project area on September 7, 2017 about a month or less before harvest. However, code compliance was unable to verify odor impacts, and could not smell odors until about 50 feet from the plants (Jeff Simpson, Mono County, Personal Comm., 11-30-2018)

Using the most restrictive buffer requirements seen in other California Counties and making conservative estimates based on anecdotal evidence puts the grow area at a buffer distance that

should reasonably reduce the impacts of odors to less than significant, even with a total canopy area of over 60,000 square feet.

#### **13.070F. Signage**

*A Sign Plan shall be required to demonstrate compliance with General Plan Land Development Regulations, Chapter 4.190 Signs, and Chapter 7 Signs.*

The project does not propose any signage.

#### **13.070G. Visual screening**

*All Cannabis, Cannabis Products and Cannabis Accessories shall be screened from view from a public right of way to the best of the Permittee's ability.*

All cannabis plants will be screened from public view by the hoop house structures and natural topography. The project will prevent views into the cultivation premise by using light diffusion film and shade fabric coverings over and around the crop. The film and shade fabric will allow light to pass, but obscure everything behind. Setbacks and natural vegetation will aid in obscuring the cannabis activity. No new fencing is proposed; the project has an existing five strand barbed wire fence surrounding the property that is consistent with the agricultural character of the Antelope Valley.

#### **13.070H. Lighting**

*All commercial cannabis activities shall comply with General Plan Land Use Element Chapter 23 – Dark Sky Regulations regardless of activity type or Premise location.*

All lighting is natural and grow areas do not have electrical power or any type of artificial lighting. “Mixed light” used by the hoop houses refers to manipulation of natural light, and this manipulation of natural light is also proposed for the outdoor grow area. All structures are non-reflective, and the project is in full compliance with Chapter 23 as there will be no new light produced during dark hours.

#### **13.070I. Parking**

*A Parking Plan depicting availability and requirements for parking shall be submitted. The Plan shall demonstrate the provision of adequate on-site parking for all employees and allow for loading and unloading.*

Parking, as shown on the site plan, is adequate for the project. Parking for employees, visitors and deliveries will be in the southwest corner of the property. The gravel parking area will have 20 parking spaces in total, each 20' by 9'. The parking is allocated as follows: 13 spaces for employees, 2 spaces for farm labor housing, 2 spaces for ADA, and 3 spaces for clean air/carpool/electric vehicles.

#### **13.070J. Noise**

*Noise generation shall comply with the Mono County General Plan Noise Element and Mono County Code, Chapter 10.16.*

The project is not expected to generate noise beyond that of similar agricultural operations.

## **ENVIRONMENTAL REVIEW**

The County contracted with Resource Concepts, Inc. (RCI) to conduct a 15183 analysis (Attachment 2). CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. The 15183 analysis found no significant impacts peculiar to cannabis cultivation or beyond the scope of mitigation measures stated in the Mono County General Plan EIR. The 15183 analysis specifically reviewed potential impacts related to land use, housing, soils, water, air quality/odors, transportation, biological resources, energy resources, hazards, noise, and utilities.

Ultimately, the review determined:

1. The project is consistent with the surrounding land uses of the proposed project.
2. The land use and planning impacts of the proposed agricultural cultivation were analyzed in the EIRs certified in conjunction with the adoption of the Mono County General Plan.
3. The parcel is no different than other agricultural parcels in the surrounding area; there is nothing unusual about the proposed project that would change or in any way affect the severity of these impacts. The impacts are not peculiar to the parcel or the project.
4. There is no new substantial information indicating that the land use and planning impacts of the project will be more severe than described in the EIR.
5. There are no cumulative or off-site land use and planning impacts from the proposed project that were not addressed in the prior EIR.

## **ATTACHMENTS**

Attachment 1 – Site Plan

Attachment 2 – 15183 Report (Resource Concepts, Inc.)

Attachment 3 – Public Hearing Notice

# MONO COUNTY

## Planning Division

### DRAFT NOTICE OF DECISION & USE PERMIT

**USE PERMIT:** UP 18-004

**APPLICANT:** Eric Edgerton

**ASSESSOR PARCEL NUMBER:**

**PROJECT TITLE:** Tilth Farms Cannabis Cultivation

**PROJECT LOCATION:** APN 002-450-024, Antelope Valley, CA

#### CONDITIONS OF APPROVAL

See attached Conditions of Approval



ANY AFFECTED PERSON, INCLUDING THE APPLICANT, NOT SATISFIED WITH THE DECISION OF THE COMMISSION, MAY WITHIN TEN (10) DAYS OF THE EFFECTIVE DATE OF THE DECISION, SUBMIT AN APPEAL IN WRITING TO THE MONO COUNTY BOARD OF SUPERVISORS.

THE APPEAL SHALL INCLUDE THE APPELLANT'S INTEREST IN THE SUBJECT PROPERTY, THE DECISION OR ACTION APPEALED, SPECIFIC REASONS WHY THE APPELLANT BELIEVES THE DECISION APPEALED SHOULD NOT BE UPHeld AND SHALL BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

**DATE OF DECISION/USE PERMIT APPROVAL:  
EFFECTIVE DATE USE PERMIT**

This Use Permit shall become null and void in the event of failure to exercise the rights of the permit within one (1) year from the date of approval unless an extension is applied for at least 60 days prior to the expiration date.

Ongoing compliance with the above conditions is mandatory. Failure to comply constitutes grounds for revocation and the institution of proceedings to enjoin the subject use.

**MONO COUNTY PLANNING COMMISSION**

**DATED:** December 20, 2018

cc: X Applicant  
X Public Works  
X Building  
X Compliance

**Conditions of Approval:**  
**Use Permit 18-004/Tilth Farms Cannabis Cultivation**

- 1) All development shall meet requirements of the Mono County General Plan, Mono County Code, and project conditions.
- 2) Project shall comply with Chapter 13, Cannabis Regulations.
- 3) The project is required to obtain a Mono County Cannabis Operation Permit pursuant to Mono County Code 5.60 and appropriate state licensing prior to commencing operation. A copy of state licenses shall be provided to the Mono County Community Development Department.
- 4) The project shall be in substantial compliance with the site plan as shown on Attachment 1 found in the staff report.
- 5) The project shall use natural lighting only.
- 6) Project is required to comply with any requirements of the Antelope Valley Fire Protection District.
- 7) In the event of discovery or recognition of any human remains, all work shall be stopped and there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county has examined the site (California Health and Safety Code § 7050.5).
- 8) Project shall comply with all Mono County Building Division, Public Works, and Environmental Health requirements.
- 9) If any of these conditions are violated, this permit and all rights hereunder may be revoked in accordance with Section 32.080 of the Mono County General Plan, Land Development Regulations.