



| STAFF REPORT | |
|--|---------------------------------|
| SUBJECT: 2160 Ogulin Canyon Road - Commercial Cannabis Operation | MEETING DATE: 12/13/2022 |
| SUBMITTED BY: Mark Roberts, Senior Planner | |
| PURPOSE OF REPORT: <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item | |

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The Planning Commission is being asked to consider Conditional Use Permit Applications CUP 2022-03 (Processing – No Cultivation and/or Nursery Activities will occur onsite); CUP 2022-04 (Manufacturing), CUP 2022-05 (Distribution), CUP 2022-06 (Retail Dispensary; Delivery Only); Development Agreement (DA 2022-02) and corresponding environmental assessment/Mitigated Negative Declaration (CEQA IS 2022-02) to establish and operate a Commercial Cannabis Operation located at 2160 Ogulin Canyon Road, Clearlake, CA 95422 further described as Assessor Parcel Number 010-044-21.



Aerial Project Location Map

BACKGROUND/DISCUSSION:

Specifically, the following conditional use permits are being requested in accordance with Section 18-43 of the Clearlake Zoning Ordinance:

- **CUP 2022-03 Processing Only (no cultivation or nursery activities will occur):** Processing includes but is not limited to the drying, curing, trimming, and packaging of cannabis products.
- **CUP 2022-04 - Manufacturing:** Compounding, blending, extracting, infusing, or otherwise making or preparing and packaging the cannabis product.
- **CUP 2022-05 Distribution:** Procuring cannabis from permitted cannabis cultivation sites or cannabis manufacturers for sale to permitted cannabis dispensaries and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging, and other processes to permitted medical cannabis dispensaries.
- **CUP 2022-06 Retail Dispensary; Delivery Only:** The commercial transfer of cannabis or cannabis products from a licensed or permitted dispensary to a customer. "Delivery" also includes the use by a licensed or permitted dispensary of any technology platform accessed via software license that enables the consumer to arrange for or facilitate the commercial transfer of cannabis by a licensed dispensary or retailer of cannabis or cannabis products.
- **Development Agreement, DA 2022-02:** The project also includes the Planning Commission review and recommendation on a Development Agreement to the City Council as required by the Zoning Code.

In 2019, Ogulin Estates Holdings, LLC applied to the City of Clearlake for Use Permit(s) involving a 33,600 ft.² building, a 5,000 ft.² office building, (5) five - 75' x 25' greenhouses and a 22,660 square foot parking lot for cannabis facilities. The Use Permit application(s) were put on hold in June of 2022 with the understanding that a revised/updated project plans were being considered/prepared.

In August 2022, the applicant submitted a revised/updated project description. Based on the information submitted, the project has been reduced/scaled down in size. **The proposed revised/updated project does not include cannabis cultivation or nursery activities.** The project includes but is not limited to:

- Phase One (1): The remodel of an existing 960 square foot metal building.
- Phase Two (2): The development of a new 5,000 square foot metal building to be used for cannabis facilities, including but not limited to. Specific uses proposed for the project include:
 - Cannabis Distribution/ Cannabis Retail Delivery Only
 - Cannabis Processing
 - Cannabis Manufacturing (Phase 2 – non-volatile extraction)

Anticipated Hours of Operation:

- Harvest season - Monday through Saturday - 6 am to 8 pm.
- Non-harvest seasons - Monday through Saturday - 7am to 6 pm.

Access to Site:

- The project site is accessed by an existing driveway (*to be improved to current standards and/or requirements*) that will lead into the eight (8) car parking lot with ADA accessible parking.
- Security fencing and digital security cameras will be placed around the perimeter of the operation, and at strategic locations in the parking lot.

Water Availability Analysis/Usage:

As described above, in 2019, *Ogulin Estates Holdings, LLC* applied to the City of Clearlake for Conditional Use Permit(s) involving a 33,600 ft.² building, a 5,000 ft.² office building, (5) five - 75' x 25' greenhouses and a 22,660 square foot parking lot for cannabis facilities. In June 2022, the applications were put on hold with the understanding that a revised/updated project was underway.

In August 2022, the applicant submitted a revised/scaled down project proposal, including removing the cultivation of cannabis. Due to the water concerns, the applicant submitted a revised Technical Memorandum prepared by Northpoint Consulting Group, Inc (Anjanette Dodd, Ph.D) dated September 7, 2022. The following statement is from the September 7, 2022, Technical Memorandum.

- *“It is my understanding that the project description associated with Ogulin Estates Holdings at 2160 Ogulin Canyon Road has been reduced in size from approximately 35 employees to 8 employees and no longer includes cultivation or nursery activities. This reduces the projected water demand from 561,000 gallons per year (1.7-acre feet per year) to 102,200 gallons per year (0.31-acre feet per year); based on 8 employees at 35 gallons per day for 365 days”. “This is about an 80% reduction in proposed water demand compared to the originally proposed project. The conclusions in the attached hydrology report were based on a higher projected demand and do not change” (email dated September 7, 2022)*

General Plan Consistency, and Zoning and Design Standards

General Plan Consistency:

- The General Plan identifies the project site for industrial land uses. The project involves commercial agriculture, processing and distribution would be consistent with the industrial land use.
- There are several General Plan Policies which promote economic and job creation which this project proposes. For example, the Economic Development Element supports the development of diverse businesses in the community.
 - Policy ED 1.1.2 states “Support a healthy mix of local businesses and mid-sized companies.
 - “Policy ED 3.1.1 states “Prioritize economic activities that utilize Clearlake's natural geographic location in the region”.
 - Program ED2.1.1.2 states: “Incorporate light industry and compatible uses along State Route 53”.

Zoning Ordinance Regulations:

- The proposed operations would involve, manufacturing, distribution, processing and Retail Dispensary, Delivery only to dispensaries of cannabis. The project is in the Commercial Cannabis Business District and the proposed operations and development is subject to a commercial cannabis business conditional use permits (issued by the Planning Commission) in accordance with Section 18-43.060 of the Zoning Code. Section 18-43.020 (C) of the Code also requires concurrent processing and approval of a Cannabis Regulatory Permit (issued by the City Manager) and a Development Agreement (approved by the City Council).

- In addition to the conditional use permits required for the operation, the project also requires a *Commercial Cannabis Regulatory Permit* per section 5-25 of the Police Code issued by the City Manager.

Off Street parking (Onsite) and Determination: As indicated in the Project Description Packet with Plans (*Attachment # 1*), the operation is proposing a minimum of eight (8) parking spaces. For distribution/manufacturing the applicant is required to have one (1) space per 800 square feet of processing area and one (1) space per 300 square feet of area for office space. The applicant will be utilizing all uses within the 5,960 square feet. Based on the proposed square footage, the applicant complies with the number of required spaces per the City's Off-Street Parking Code requirements.

Trash/Recycling Containment: In accordance with **Section 18-20.070**, a condition of approval requires that such installation shall be completed, consistent with the City's Trash/Recycling Enclosure Design Standards prior to occupancy.

Exterior Lighting: The applicant has provided a Preliminary Lighting Plan for review. As a condition of approval, the applicant will need to submit a Final Lighting Plan for staff to review for compliance with the Municipal Codes/Zoning Codes, including dark sky preservation.

Signage: The applicant has not indicated any new signage for the facility. As a condition of approval, the applicant will need to submit a sign plan (if proposed in the future) for staff to review for compliance with the Zoning Code prior to installation of any signs.

Landscaping: Application materials did not include any upgrades to landscaping, which would have to be compliant with the City's *Landscaping and Irrigation Standards*. Use permit conditions of approval requires submittal and approval by staff of a detailed landscaping and irrigation plan that complies with these standards (if applicable)

Environmental Review (CEQA):

Mitigated Negative Declaration based on Initial Study, IS 2022-02.

Pursuant to California Environmental Quality Act (CEQA) Guidelines, staff prepared an Initial Study to assess the potential adverse environmental effects of the initial project. The study concludes that any potentially significant adverse environmental impacts from the project would be reduced to a level of non-significance with the incorporated Mitigation Measures and Conditions of Approval.

In August 2022, the applicant submitted an updated/revised project description. Based on the submitted material, the project has been reduced/scaled down from the original proposal, including removing the cultivation of cannabis. Based on the revised material, the original environmental analysis (Initial Study) adequately addresses and reduces all potential environmental impacts to less than significant. Therefore, Staff believe it is not necessary to update and/or re-circulate the environmental analysis.

Notice of Intent (NOI) Noticing:

The Mitigated Negative Declaration (MND) based on Initial Study, IS 2022-02, were properly noticed and circulated in accordance with CEQA of 1970, and in compliance with Section 15070-15075 of the CEQA State Guidelines, by:

- *Circulation of the Notice of Intent (NOI) for the environmental analysis/proposed Mitigated Negative Declaration (CEQA Initial Study, IS 2022-02) was published in the Lake County Record Bee, uploaded onto the Governor’s Office of Planning and Research (State Clearing House), sent/emailed to various Federal, State, and local agencies/organizations for the minimum of a 30-day commenting period from April 4, 2022, through May 13, 2022. Additionally, all documentation is available upon request.*

The following agencies commented on the project during the appropriate review period.

- *Lake County Environmental Health Department*
- *California Department of Cannabis Control*
- *Lake County Special Districts*
- *California State Water Board*

NOTE: The City responded to the comments received as indicated on pages three (3) through six (6) of the CEQA Analysis, IS 2022-02 (Attachment # 5). Comments and/or concerns received, have been incorporated into Mitigations Measures and/or Conditions of Approval.

- *A Notice of Intent (NOI) was mailed (via USPS) to the surrounding parcels owners within 600 feet of the subject property informing them of the City’s decision to adopt a Mitigated Negative Declaration for the proposed use and that there is a 30-day commenting period on the environmental document from April 4, 2022, through May 13, 2022.*
 - ***The city did not receive comments from the public.***

In accordance with CEQA, the Planning Commission will need to concur with the adequacy of the Final Initial Study and proposed mitigated negative declaration before taking action to approve the project and moving portions of the project forward to the City Council for final determination. Because the City Council will be taking the final action on the project, regarding the Development Agreement, in accordance with the City’s Environmental Guidelines, the Council will need to make the final action of issuing the mitigated negative declaration. The Council’s determination on the adequacy of the mitigated negative declaration will be based on staffs and the Planning Commission’s recommendation(s).

PUBLIC HEARING LEGAL NOTICE

The public hearing was noticed at least ten (10) days in advance in an electronic publication with the Lake County Record Bee on **Saturday, December 3rd, 2022**; and mailed (via USPS) to all surrounding property owners within 600 feet of the subject parcel(s) as required pursuant to the Clearlake Municipal Code.

- *All mailing address are drawn from the electronic database supplied by the Lake County Assessor/Recorders Office Database.*

Development Agreement (DA 2021-02):

A Development Agreement (*Attachment # 6*) allows a project sponsor to secure vested rights, and it allows the City to secure certain benefits. Development Agreements are enabled by California Government Code Sections 6584-65869.5. Per state law, the City Council must approve a Development Agreement by Ordinance upon the Planning Commission making a recommendation of support for the requested Agreement. Once approved, development agreements are recorded with the County Clerk. As required per section 18-43.020(c) for cannabis operations and in compliance with section 18-30 of the zoning ordinance.

Section 18-30.070 of the Zoning Ordinance outlines the following procedures for Development Agreements:

- a) *The Planning Commission shall consider the proposed Development Agreement and shall make its recommendation to the council. The recommendation shall include whether the proposed Development Agreement meets the following findings:*
- b) *The proposed Development Agreement is consistent with the Clearlake General Plan and any applicable Specific Plan.*
- c) *The proposed Development Agreement complies with zoning, subdivision and other applicable ordinances and regulations.*
- d) *The proposed Development Agreement promotes the general welfare, allows more comprehensive land use planning, and provides substantial public benefits or necessary public improvements, making it in the City's interest to enter into the Development Agreement with the applicant; and*
 - i. *The proposed project and Development Agreement:*
 - ii. *Will not adversely affect the health, safety or welfare of persons living or working in the surrounding area.*
 - iii. *Will be appropriate at the proposed location and will be compatible with adjacent land uses; or*
 - iv. *Will not have a significant adverse impact on the environment.*

- The term of this Agreement will be for three years from the date the owner begins operation with the ability for an extension of seven additional years upon approval by resolution of the City Council with the owner being in full compliance with the conditions of the Agreement. A separate resolution from the Planning Commission recommending approval of the development agreement is included in this report.
- The applicant has reviewed the Draft. If the Commission recommends approval of the Development Agreement, it will be reviewed by the City Attorney and then formally transmitted to the City Council for adoption.

OPTIONS:

1. Move to Adopt Resolution PC 2022-22, A Resolution of the Planning Commission of the City of Clearlake Approving Conditional Use Permits CUP 2021-03 through CUP 2021-06 and recommending approval of a Mitigated Negative Declaration based on Initial Study, IS 2021-02 and Development Agreement, DA 2021-02 to the City Council for the Commercial Cannabis Operation located at 2160 Ogulin Canyon Road, Clearlake, CA 95422, further described as Assessor Parcel Number 010-044-21.

2. Move to Deny Resolution PC 2022-22 and direct Staff to Prepare the Appropriate Findings.
3. Move to continue the items and provide alternate direction to staff.

Attachments:

1. **Project Description Packet with Plans**
2. **CUP Resolution PC 2022-22 with Conditions of Approval**
3. **Final CEQA, IS 2022-02 Analysis Document**
4. **Groundwater Technical Memorandum with updated Email Statement**
5. **Agency Comments**
6. **Draft DA Agreement Resolution**
7. **Copy of Public Notices**