



Agricultural Commission Staff Report

Date: October 26, 2022

To: El Dorado County Agricultural Commission

From: LeeAnne Mila; Deputy Agricultural Commissioner

Subject: **Re: CCUP21-0002/ Harde Commercial Cannabis Cultivation
Commercial Cannabis Use Permit
Assessor's Parcel Number: 093-032-071**

Planning Request and Project Description:

Planning Services is processing the attached application for a Commercial Cannabis Use Permit and requests the project be placed on the Agricultural Commission's Agenda. Section 130.41.200.5.N of the Zoning Ordinance states "Recommendation of the Agricultural Commission. An application for a Commercial Cannabis Use Permit for outdoor or mixed-light cultivation must be reviewed by the Agricultural Commission and the recommendation of the Agricultural Commission, including any suggested conditions or restrictions, shall be forwarded to and considered by the Planning Commission." Additionally, Resolution 139-2022 requires findings to be made by the Agricultural Commission when commercial cannabis cultivation is proposed on a parcel within a Williamson Act Contract.

The applicants are requesting the following:

Commercial Cannabis Use Permit for the cultivation of commercial cannabis located at 6540 Perry Creek Rd., Somerset, Ca -APN: 093-032-071. The project is located on a 57-acre parcel in the PA-20 zone district. This application is for 68,560 square feet of outdoor cannabis cultivation, ancillary activities to cultivation (processing, harvest storage, product packaging), and transportation-only distribution. The operation will have 3 full time and 5 seasonal employees.

Parcel Description:

- Parcel Number and Acreage: 093-032-071, 57 Acres
- Agricultural District: Yes
- Land Use Designation: Agricultural Lands, AL
- Zoning: PA-20 (Planned Agriculture, 20 Acres).
- Choice Soils:
 - HgC – Holland coarse sandy loam, 9 to 15 percent slopes
- Agricultural Preserve #10

Discussion:

This proposal for cannabis cultivation was originally heard at the September 8, 2021 agricultural commission meeting. A motion passed to support the cultivation as presented. A site visit was conducted on July 22, 2021 to assess the placement of the proposed cultivation area in preparation for the 2021 meeting. As of October 26, 2022 the proposal has not changed, but due to the passage of Resolution 139-2022 this item comes back to the Agricultural Commission. The Agricultural Commission is being asked to determine if the findings for compatible use on an existing Williamson Act Contract can be made.

Staff Findings (September 08,2021):

Staff finds that there will be no impact on agriculture based on the following analysis of relevant General Plan policies and County design thresholds for Commercial Cannabis.

Relevant General Plan Policies:**2.2.2.2**

The purpose of the Agricultural District (-A) overlay designation is to identify the general areas which contain the majority of the County's federally designated prime, State designated unique or important, or County designated locally important soils (collectively referred to as "choice" agricultural soils) and which the Board of Supervisors has determined should be preserved primarily for agricultural uses. This designation does not imply any restrictions on agricultural uses in areas not designated specifically as an Agricultural District but only serves to identify agriculture as the principal activity and to discourage incompatible uses such as higher density residential use.

- A. Agricultural Districts shall be used to conserve and protect important agricultural crop lands and associated activities, maintain viable agricultural-based communities, and encourage expansion of agricultural activities and production.

In regards to Policy 2.2.2.2: No crops will be removed, so the principal activity on this parcel will remain agriculture.

8.1.3.5

On any parcel 10 acres or larger identified as having an existing or potential agricultural Use, the Agricultural Commission must consider and provide a recommendation on the Agricultural use (except for parcels assigned urban or other non-agricultural uses by the land use map for the 1996 General Plan) or potential of that parcel and whether the request will diminish or impair the existing or potential use prior to any discretionary permit being approved.

In regards to Policy 8.1.3.5: The existing vineyard is well established and has been interplanted in a previous season with no detrimental effect. The applicants plan is not to remove any of the vineyard or to change the agricultural arts on the proposed cannabis area, or the surrounding agricultural area. It does not appear based on the applicants feedback that this will diminish or impair the parcels agricultural use.

8.1.4.1

The County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to reviewing authority. Before granting approval, a determination shall be made by the approving authority that the proposed use:

- A. Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and
- B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and
- C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.

In regards to Policy 8.1.4.1: no zoning or parcel size changes are proposed. The PA zoned parcel to the east has a walnut orchard approximately 640 feet from the proposed cultivation site. There should not be any affect on the orchard.

Setbacks:

Commercial cannabis shall be setback a minimum of 800 feet from the property line of the site or public right-of-way.

If waiver is requested from the setback; review the applicant's mitigating measures to reduce conflicts and provide a recommendation which may include suggested conditions or restrictions.

The applicant is requesting a waiver from the setbacks on 3 sides of his project area.

The eastern property line is unable to meet the County's design threshold of 7 DT. Odor mitigation measures have to be recommended by the consulting company that completed the odor study. According to the consultants, concentration of odors at nearby homes are not expected to exceed the 7 DT threshold. Mitigation measures considered are an outdoor misting system with a water and odor control platform.

The distances and odor readings are outlined in the odor study as follows:

Location	Distance to Property Line		Maximum Conc.	Conc. At Property Line	Lowest Dilution Ratio	Fenceline DT
	(ft)	(m)				
Eastern Property Line	20	6.1	1,764	1,640	1.08	18.59
North Property Line	550	167.7	17,617	3,619	4.87	4.11
Western Property Line	1250	381.1	17,617	3,926	4.49	4.46
Southern Property Line	250	76.2	17,617	2,407	7.32	2.73
Baseline DT	20					

Current Staff Findings:

Staff finds that the proposal is consistent with the requirements for a compatible use on pre-existing Williamson Act contract as outline in resolution 139-2022, as defined below.

4. Compatible Uses

A. Uses approved on contracted lands shall be consistent with Government Code Section 51238.1 principles of compatibility, as it now reads or may thereafter be amended.

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

The cannabis cultivation will not effect the long-term productive agricultural capability as it will be planted in areas in-between current crop production or in areas not currently being used for production.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

No crops will be removed to conduct the cannabis cultivation. The parcel will continue to have additional areas that are capable of additional crop plantings in the future.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

The cultivation of cannabis will not result in the significant removal of adjacent contracted land for agricultural use as it is plant cultivation and will not contribute to urban pressures to remove land from contract.

(4) The use does not include a residential subdivision.

The proposed use will not result in a residential subdivision on the property.

B. Commercial Cannabis Cultivation on a parcel that has a pre-existing Williamson Act contract is a compatible use if all the following requirements are met:

a. Commercial cannabis cultivation shall not be used to qualify a parcel for a Williamson Act Contract.

The contract requirements are being met by the existing agricultural operation and no loss of existing crop is planned. Commercial cannabis will in no way be used to qualify for the Williamson Act Contract.

b. The commercial cultivation of cannabis in compliance with all other laws, including Division 10 of the Business and Professions Code and EDC Ordinance Code Chapter 130.42.

The commercial cannabis operation will be in compliance with all State and local laws and regulations.

c. The contracted parcel that is proposing to be used to cultivate commercial cannabis continues to meet the County of El Dorado's criteria for establishing an agricultural preserve in this Resolution and El Dorado County Zoning Ordinance Code Section 130.40.060.

The applicant will continue to meet the Williamson Act Contract requirements with his existing agricultural operation.

d. The Agricultural Commission reviews the application for a Commercial Cannabis Use Permit for outdoor or mixed-light cultivation to determine whether it qualifies for the above standards.

The applicants proposal was reviewed at the September 8, 2021 Agricultural Commission meeting and is being reviewed for compatibility today.