



## Legislation Details (With Text)

**File #:** 24-0936      **Version:** 1

**Type:** Agenda Item      **Status:** Approved

**File created:** 5/10/2024      **In control:** Board of Supervisors

**On agenda:** 5/21/2024      **Final action:** 5/21/2024

**Title:** HEARING - To consider appeal CCUP-A24-0002 received from Michael Pinette appealing the Planning Commission’s April 25, 2024, continuation off calendar of Commercial Cannabis Use Permit CCUP21-0004 for the construction and operation of a cannabis cultivation facility for medical and adult-use recreational cannabis, on property identified by Assessor’s Parcel Number 046-710-017, consisting of 46.53 acres, in the Somerset area, submitted by Michael Pinette; and staff recommending the Board of Supervisors take the following action:  
 1) Deny appeal CCUP-A24-0002 and uphold the Planning Commission’s continuation off calendar of Commercial Cannabis Use Permit CCUP21-0004 with direction to prepare an Environmental Impact Report (EIR) or revise the project to address public concerns and testimony; and  
 2) Adopt and Authorize the Chair to sign Resolution 083-2024 (Attachment D), denying appeal CCUP-A24-0002 of CCUP21-0004 with Findings of Fact.

**FUNDING:** Privately-funded appeals for applicant-funded project.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Appeal Form, 2. B - Appeal Memo, 3. C - Counsel Approval of Appeal Denial Resolution, 4. D - Resolution of Appeal Denial, 5. E - Staff Report, 6. F - Staff Repoert Exhibits A-J, 7. G - Staff Report Exhibit K ISMND, 8. H - ISMND Appendices, 9. I - Findings, 10. J - Conditions of Approval, 11. K - CCUP21-0004 PC Memo, 12. L - Todd Moore Public Comments, 13. Public Comment BOS Rcvd. 5-21-2024, 14. Public Comment BOS Rcvd. 5-20-2024, 15. Public Comment BOS Rcvd. 5-17-2024, 16. Executed Resolution 083-2024

Date	Ver.	Action By	Action	Result
5/21/2024	1	Board of Supervisors	Approved	Pass

**HEARING** - To consider appeal CCUP-A24-0002 received from Michael Pinette appealing the Planning Commission’s April 25, 2024, continuation off calendar of Commercial Cannabis Use Permit CCUP21-0004 for the construction and operation of a cannabis cultivation facility for medical and adult-use recreational cannabis, on property identified by Assessor’s Parcel Number 046-710-017, consisting of 46.53 acres, in the Somerset area, submitted by Michael Pinette; and staff recommending the Board of Supervisors take the following action:  
 1) Deny appeal CCUP-A24-0002 and uphold the Planning Commission’s continuation off calendar of Commercial Cannabis Use Permit CCUP21-0004 with direction to prepare an Environmental Impact Report (EIR) or revise the project to address public concerns and testimony; and  
 2) Adopt and Authorize the Chair to sign Resolution **083-2024** (Attachment D), denying appeal CCUP-A24-0002 of CCUP21-0004 with Findings of Fact.

**FUNDING:** Privately-funded appeals for applicant-funded project.

### DISCUSSION / BACKGROUND

On April 25, 2024 (File No. 24-0520, Item No. 4), the Planning Commission held a public hearing to consider a request for a Commercial Cannabis Use Permit (CCUP21-0004) for the construction

and operation of a cannabis cultivation facility for medical and adult-use recreational cannabis, on the property identified by Assessor's Parcel Number 046-710-017, in the Somerset area, submitted by Michael Pinette.

Public comment was received with concerns to odor, water impacts, County standards, and compliance with the California Environmental Quality Act (CEQA). As part of public comment a peer review (Attachment L) of the submitted odor study was prepared by Paul Schafer of SCS Engineers & Environmental Consultants. Paul Schafer (outside expert) disagreed with the baseline and conclusions of the project odor study prepared by Ray Kapahi of Environmental Permitting Specialists - who completed the analysis for the applicant. The peer review was received after the agenda report recommending approval of the CCUP by the Planning Commission was published.

Pursuant to CEQA section 15064(g), "*If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare and EIR*". Given this, staff recommended that the Planning Commission continue Cannabis Use Permit CCUP21-0004 off calendar with direction to prepare an EIR or allow the applicant to revise their project to address public comment concerns (Attachment K). The Planning Commission voted three (3) to two (2) on the updated staff recommendation.

Timely filed on May 8, 2024, appeal CCUP-A24-0002 was submitted by Michael Pinette (Attachment A), appealing the Planning Commission's April 25, 2024 continuation of Commercial Cannabis Use Permit CCUP21-0002 for the construction and operation of a cannabis cultivation facility for medical and adult-use recreational cannabis, on the property identified by Assessor's Parcel Number 093-032-071. The appeal states that the Planning Commission is illegally applying CEQA rules, not following ordinance guidelines, that the PC did not give clear direction to staff for what modifications are required of the project, and that the odor analysis is being retested utilizing the peer review baseline opinion from SCS Engineering. The appeal is requesting approval of CCUP21-0004 without modification.

Staff's response to the appeal and conclusions are detailed in a Staff Memo attached as Attachment B.

## **ALTERNATIVES**

The Board could choose to approve appeal CCUP-A24-0002 overturning the Planning Commission's decision to continue CCUP21-0004 and approve Commercial Cannabis Use Permit CCUP21-0004 and adopt the Mitigated Negative Declaration (Attachment G). This could include approval with the conditions recommended to the Planning Commission or with modified conditions deemed appropriate; or

The Board could choose to approve appeal CCUP-A24-0002 overturning the Planning Commission's decision to continue CCUP21-0004 and deny Commercial Cannabis Use Permit CCUP21-0004.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

N/A

## **FINANCIAL IMPACT**

An appeal fee of \$450 has been collected for appeal, CCUP-A24-0002; however, staff costs associated with this appeal exceed the collected fees.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

If the Appeal is denied

- 1) Clerk of the Board to obtain signature of Chair on one (1) original Resolution; and
- 2) Clerk of the Board to return one (1) fully executed Resolution to Planning and Building, attn. Christopher Smith.

**STRATEGIC PLAN COMPONENT**

N/A

**CONTACT**

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Planning and Building Department