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AGENDA ITEM NO.: 5 (Action Item – Public Hearing)

PLANNING COMMISSION MEETING DATE: February 26, 2020

SUBJECT: Conditional Use Permit (CUP) 2019-03/Inyo Farms

EXECUTIVE SUMMARY

The applicant has applied for a CUP for the cultivation of cannabis located approximately 5-miles south of the community of Olancha. The site is approximately 33 acres, with roughly 1 acre of cultivation space housed in two metal buildings. The project also includes a 4,000 ft² processing building to dry and store the cultivated product.

PROJECT INFORMATION.

Supervisory District: 5

Project Applicant: Inyo Farms Inc., 5900 Enchanted Lakes Rd., Olancha CA 93549

Property Owner: Kellyco Development Inc., 14494 Dove Canyon Dr., Riverside CA 92503

Site Address: 5900 Enchanted Lakes Rd

Community: Olancha

A.P.N.: 033-450-10

General Plan: Open Space & Recreational (OSR)

Zoning: Open Space with a 40 acre minimum (OS-40)

Size of Parcel: Approximately 33-acres

Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Vacant	Open Space/Recreation (OSR)	Open Space with a 40 acre minimum (OS-40)
North	Vacant/BLM	Open Space/Recreation (OSR)	Open Space with a 40 acre minimum (OS-40)
East	Vacant/private	Open Space/Recreation (OSR)	Open Space with a 40 acre minimum (OS-40)
South	Vacant/private	Residential Estate (RE)	Rural Residential/Mobile Home combined (RR-MH)
West	Vacant/private	Open Space/Recreation (OSR)	Open Space with a 40 acre minimum (OS-40)

Staff Recommended Action:

1.) Approve the Conditional Use Permit (CUP) 2019-03/Inyo Farms and certify the project as a Mitigated Negative Declaration under CEQA.

Alternatives:

- 1.) Deny the CUP.
- 2.) Approve the CUP with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

Project Planner:

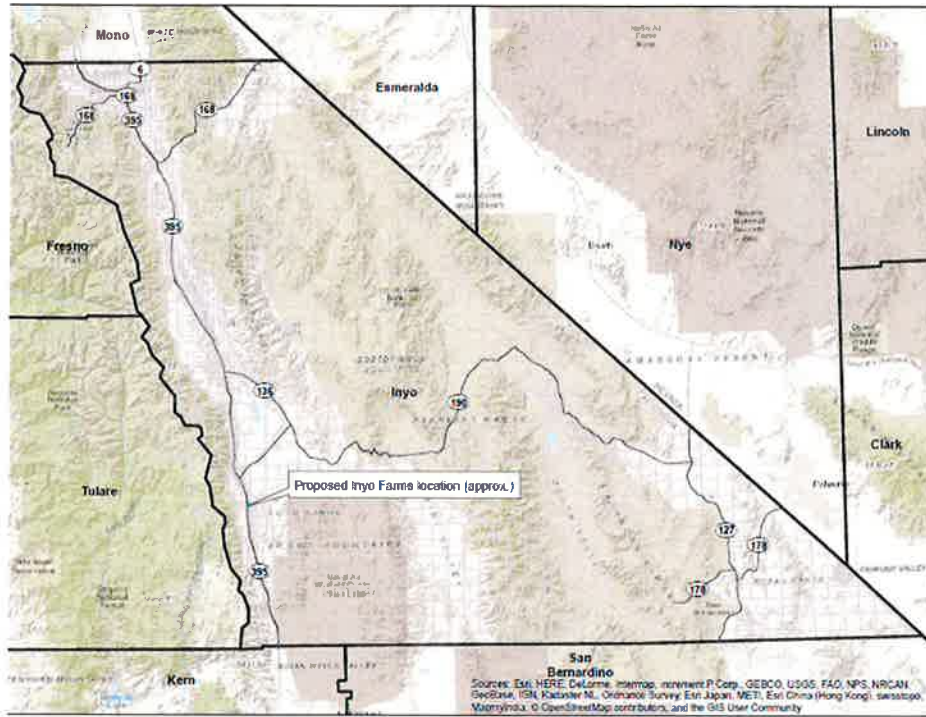
Steve Karamitros

STAFF ANALYSIS

Background and Overview

The applicant has applied for a CUP to operate a commercial cannabis cultivation facility located on Enchanted Lakes Road, south of the community of Olancha. This operation will grow cannabis in one 24,000 ft² metal building and one 19,500 ft² metal building, with an additional 4,000 ft² building for drying and storage. The property is zoned OS-40, which allows for cannabis cultivation with a CUP. The surrounding area is primarily zoned OS-40. The proposed location is not within 600-feet of a school, daycare, park or library; and therefore, is not prohibited by state or county exclusion areas. Also, the project is well outside the six hundred-foot radius of 123 School Rd, in Olancha, CA, which is required by ICC 18.78.360(C).

Site Proximity Map



Site Location



General Plan Consistency

The goal of this project is to allow for a commercial cannabis cultivation operation. The General Plan's land use designation for this parcel is Open Space and Recreation (OSR), which is meant to provide for planned public recreational spaces. Land Use Policy 2.16, "Public, Quasi-Public, and Supporting Uses" states that uses other than recreational ones, that serve residential areas, are allowed "so long as these uses are designed and operated in a manner that does not adversely impact...residential areas" (Inyo General Plan, pg. 4-18). The closest residence to the proposed project site is 2,361 feet away, surrounded by primarily vacant land, and does not conflict with the OSR land use designation.

Zoning Ordinance Consistency

The proposed project is a CUP to allow for the commercial cultivation of cannabis on a property zoned as Open Space. Inyo County Code (ICC) 18.78.360(B)(1) allows for commercial cannabis cultivation in the open space zoning designations, so long as the project can meet the 300-foot setback requirement. As the project site is zoned Open Space, it is eligible for the cultivation permit. Also, the project is beyond the six hundred-foot radius of 123 School Road, in Olancho, CA, which is required by ICC 18.78.360(C). The project is consistent with Inyo County's Zoning Ordinance.

ENVIRONMENTAL REVIEW

Conditional Use Permit 2019-03/Inyo Farms is a Mitigated Negative Declaration under CEQA. The 33 acre area is pre-disturbed, with several dirt roads passing through it, including dirt roads established to service Los Angeles Department of Water and Power utility lines, which also cross through the property. This project will incorporate mitigation measures as conditions of approval for the issuance of a conditional use permit. The project will avoid environmental impacts to botanical and wildlife resources using preconstruction presence-absence surveys for critically listed species (Burrowing owl & Desert Tortoise). Impacts to listed plant species (Barstow woolly sunflower) will be avoided using ESA fencing. Mitigation also includes permitting (ITP process through CDFW). Archeological impacts will also be avoided with preconstruction surveys. Based on information provided by the applicant, and staff review, Conditional Use Permit 2019-03/Inyo Farms does not have the potential to cause environmental impacts that exceed thresholds of significance, either individually or cumulatively. The owner or his agent shall consult with the Inyo County Environmental Health Department to manage indoor water & sewage waste for the processing facility.

Please note, the current water usage for the project is 2.35 acre-feet-per year. Thus, ground water resources will be conserved as the County benefits from a more sustainable economic opportunity.

TRIBAL CONSULTATION

In compliance with AB 52, SB 18, and Public Resource Code Section 21080.3.1(b), tribes identified as being local to Inyo County, were notified of the project via a certified letter on January 28, 2019 and were invited to consultation on this project. The tribes notified were as follows: the Twenty-Nine Palms Band of Mission Indians, the Big Pine Paiute Tribe, the Bishop Paiute Tribe, Cabazon Band of the Mission Indians, the Fort Independence Paiute

Tribe, Lone Pine Paiute-Shoshone Tribe, the Shingle Springs Band of Miwok Indians, the Timbisha Shoshone Tribe, and the Torres Martinez Desert Cahuilla Indians.

Inyo County received a letter from the Twenty-Nine Palms Band of Mission Indians requesting any cultural reports related to the project. The applicant will share any applicable cultural reports that may result from preconstruction surveys of the site.

NOTICING & REVIEW

The application for CUP 2019-03/Inyo Farms has been reviewed by the appropriate county departments and no issues were reported. This included reviews by the Environmental Health, Public Works, and the Inyo/Mono Agricultural Commission.

Public review of the CEQA document was noticed in the Inyo Register on October 29, 2019. Comments were received from the Lahontan Regional Water Quality Control Board, California Department of Fish & Wildlife, and the California Department of Food & Agriculture and some of these comments have been deemed appropriate and incorporated into the Conditions of Approval for the permit (see below). The public hearing for this CUP was noticed on February 13, 2020 in the *Inyo Register*. Notifications were sent to property owners, within 1,500-feet of the project location, as required by 18.78.360(F), on February 10, 2020.

RECOMMENDATION

Planning Department staff recommends the approval of Conditional Use Permit No. 2019-03/Inyo Farms, with the following Findings and Conditions of Approval:

FINDINGS

1. The proposed Conditional Use Permit is an Initial Study with Mitigated Negative Declaration under CEQA guidelines and the provisions of the California Environmental Quality Act have been satisfied.
[Evidence: Pursuant to 14 California Code Regulatory Sections 15000 et seq., the County has performed an Initial Study with a Mitigated Negative Declaration in order to “consult with other County departments, agencies, groups, and individuals, which may provide information and assistance to the Planning Department during this phase of environmental review” (Inyo County Code Section 15.28.030). This document contains the necessary “project description, evaluation of environmental impacts that may be conducted using an environmental checklist supported by sufficient explanations, discussion of any potentially significant impacts and mitigation measures” (Inyo County Code Section 15.28.040).]
2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Open Space & Recreational (OSR).
[Evidence: The goal of this project is to allow for cultivation of cannabis on a parcel of land with an (OSR) General Plan designation. The project is consistent with the (OSR) designation because, although this parcel is meant for planned public recreational spaces, Land Use Policy 2.16, “Public, Quasi-Public, and Supporting Uses” states that uses other than recreational ones are allowed “so

long as these uses are designed and operated in a manner that does not adversely impact...residential areas” (Inyo General Plan, pg. 4-18). The closest residence to the proposed project site is 2,361 feet away, surrounded by primarily vacant land, and does not conflict with the OSR land use designation.]

3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits cannabis cultivation activities, as a conditional use, in the OS-40 zone.

[Evidence: Inyo County Code (ICC) 18.78.360(B)(1) allows for commercial cannabis cultivation in the open space zoning designations, so long as the project can meet the 300-foot setback requirement. As the project site is zoned Open Space, it is eligible for the cultivation permit. Also, the project is beyond the six hundred-foot radius of 123 School Road, in Olancha, CA, which is required by ICC 18.78.360(C). The project is consistent with Inyo County’s Zoning Ordinance.]

4. The proposed Conditional Use Permit is necessary or desirable.

[Evidence: The General Plan’s Economic Development Element states: ‘Inyo County’s wealth is...highly dependent on a number of activities that occur throughout the County...These activities are expected to continue in the long term, and are expected to remain stable throughout the time horizon of this General Plan.’ The applicant has stated that Inyo Farms expects to produce cannabis flowers that will serve both businesses and consumers within the County, as well as other markets in the State. This is a sustainable model, which is desirable, as evidenced by the County’s General Plan.]

5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.

[Evidence: The proposed conditional use permit is one of several commercial uses in the area. The Cannabis Ordinance adopted by the Board of Supervisors on January 16, 2018 allows for this use on parcels designated as Open Space. The proposed project is related to other surrounding uses insofar as there are commercial enterprises along the current US 395 between the project location and Olancha, to the north. This use is also reasonable for the area since it is sufficiently distanced from residential areas, which might have problems with odor, or proximity to schools. The site will be accessed via a dirt road that connects to Enchanted Lakes Rd, which is a County facility. As no modifications are planned for the access road, no encroachment permits from Inyo County are required.]

6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.

[Evidence: The project will not change or increase the current level or general type of allowed uses in the Olancha area and the proposed security plan for Inyo Farms was reviewed by the Sheriff’s Department as a business license

requirement; therefore, it will not create impacts on the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.]

7. Operating requirements necessitate the Conditional Use Permit for the site. *[Evidence: A cannabis cultivation project requires a conditional use permit, per Inyo County Code Section 18.78.360(A), and is therefore necessary for the operation of Inyo Farms.]*

CONDITIONS OF APPROVAL

1. Hold Harmless

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2019-03/Inyo Farms. The County reserves the right to prepare its own defense.

2. Compliance with County Code

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

3. Environmental Commitments under CEQA:

- **Biological Resources:** The applicant will assume presence of Mohave ground squirrel (based on trapping results from applicant supplied biologists) and the applicant will apply for an Incidental Take Permit through CDFW as mitigation. In addition, a qualified biologist will (1) fence-off the major populations of Barstow woolly sunflower (*Eriophyllum mohavense*) during construction to avoid impacts and (2) conduct preconstruction surveys for burrowing owl & desert tortoise, no more than 14 days prior to the start of construction. If necessary, the biologist will implement avoidance measures to eliminate the possibility of any take of these two species.
- **Cultural:** The applicant shall conduct preconstruction surveys by a cultural resource professional to identify all cultural resources and provide recommendations regarding their significance and management prior to any development of the property. The applicant will share any cultural report(s) produced during the preconstruction phase of the project with the Twenty-Nine Palms Band of Mission Indians, in compliance with AB 52.