

Mono County Community Development Department

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October 3, 2022

To: The Mono County Planning Commission

From: Michael Draper, Planning Analyst

Re: General Plan Amendment for a proposed change of Land Use Designation from Rural Residential to Specific Plan, and proposed Specific Plan.

RECOMMENDATION

1. Conduct a public hearing on the General Plan Amendment, the Apogee Farm Specific Plan, and the associated Mitigated Negative Declaration environmental report, receive any additional public comments, deliberate the project, and make any desired modifications.
2. Following the public hearing and project deliberations, make the following findings:
 - a. That the General Plan Amendment is consistent with the General Plan as well as all applicable area plans; and
 - b. That the proposed Apogee Farm Specific Plan is consistent with the General Plan as well as all applicable area plans; and
3. Adopt Resolution R22-__ recommending the Board of Supervisors adopt GPA 22-01 and the Apogee Farm Specific Plan, which also includes a Use Permit for commercial cannabis and overhead power, and certification of the Mitigated Negative Declaration (MND) and adoption of the Mitigation Monitoring and Reporting Plan (MMRP).

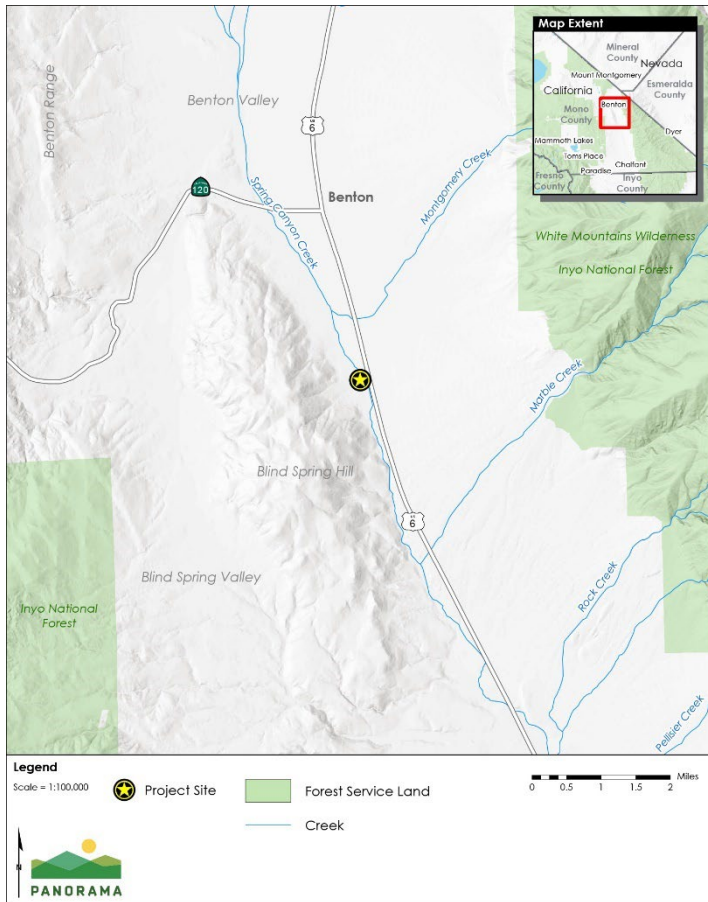
FISCAL IMPACT

Approval of the General Plan Amendment and Specific Plan allow the landowner to conduct a commercial cannabis business, resulting in increased tax revenue for the County from these parcels.

BACKGROUND

The applicant is requesting a change to the land use designation (LUD) for two adjacent properties located south of Benton along US Highway 6 (US 6), APN 025-020-013 (40-acres) and 025-040-002 (37.9-acres) from Rural Residential, 40-acre minimum (RR-40), to Specific Plan (SP) for the purpose of conducting a commercial cannabis operation. A General Plan Amendment is required to change land use designations and the SP designation requires the creation and approval of a Specific Plan. For this project, staff worked with the applicant to write the

Figure 1. Project location



Apogee Farm Specific Plan, consistent with California Government Code section 65450-65457, Mono County Code Title 19, and Mono County General Plan (MCGP) Land Use Element (LUE) Chapter 36, *Specific Plans*. The SP designation is intended to provide for planned development in areas outside existing communities, or on large parcels of land within or adjacent to existing communities. The SP designation may also be applied to an area to provide direction for potentially conflicting or incompatible land uses.

The Apogee Farm Specific Plan includes a Conditional Use Permit for commercial cannabis activity and overhead power to serve the property. Approval of the Specific Plan shall therefore include an approval of the Conditional Use Permit.

The applicant is requesting to change the land use designations of both parcels to Specific Plan (SP) for the purpose of creating a commercial cannabis operation on the northern parcel only, APN 025-020-013. Commercial cannabis operations are prohibited in residential land use designations, and outdoor cultivation is required to be setback 300 feet from the

property line of any neighboring parcel under a different land use designation. To meet these requirements, the two parcels will be redesignated to SP, and the cannabis operation will occur on the north parcel only. The proposed Specific Plan would authorize commercial cannabis activities by incorporating the required Conditional Use Permit. The Specific Plan would allow for additional uses, including limited agricultural use and commercial cannabis cultivation up to 10,000 sf (outdoor, indoor, and mixed light), processing, and distribution. Uses are prohibited from occurring within sensitive habitat areas. Uses that are not currently proposed, and which would require a CUP under the Specific Plan, are not evaluated further and would require a Specific Plan Amendment.

The property currently contains a well, propane tank, shed, housing trailer, and cargo container. The well was permitted in June 2009 (permit #26-09-25), however other uses were placed on the property by the applicant without proper permitting. No complaints or violations have been filed against the property, and a Condition of Approval for the project, located within the Specific Plan, will require all uses receive the proper permitting.

All project documents are available at <https://www.monocounty.ca.gov/planning/page/apogee-farms-specific-plan-and-mitigated-negative-declaration> and the Mono County Community Development Department at 1290 Tavern Road, Suite 138, Mammoth Lakes, California. Hard copies can be provided for the cost of reproduction.

Surrounding Land Use Designations

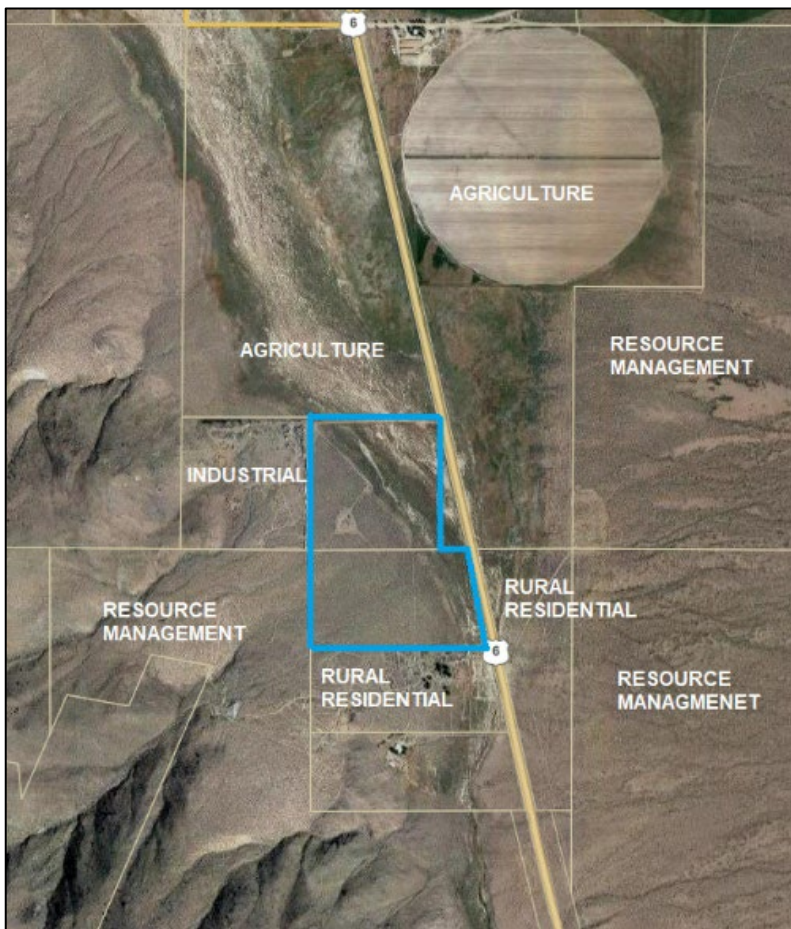
The land use designations adjacent to the two parcels are described below and in Figure 2:

East:	Private land – Agriculture (AG) Private land – Rural Residential (RR)
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West:	Private land – Industrial (I) Bureau of Land Management – Resource Management (RM)
South:	Private land – Rural Residential (RR)
North:	Private land – Agriculture (AG)

The project site is adjacent to US 6 south of Benton, in an area of low-density properties designated to be a minimum of 40-acres. To the north, northeast, and partial east side of the project site is a single, 466-acre property designed Agriculture (AG). Only the northeast portion of this parcel is in agricultural production, and the property contains a single residential unit 0.9-miles from the proposed cannabis operation. The Rural Residential – 40 (RR) parcel to the east is not-developed and may not be further subdivided. The Rural Residential-40 parcel to the south contains a residential unit 0.3-miles from the project site. The nearest neighbor is located on this parcel, and the applicant intends to buffer this neighbor from the cannabis operation by using the undeveloped southern parcel included in this project. The southwest parcel designated Resource Management (RM) is undeveloped, owned by the Bureau of Land Management, and is 402-acres. The parcel to the west is designated Industrial-40 (I), it is 40-acres, and contains a non-operational scrap yard. There is no residential use on the property and access is provide by a recorded easement through the project site.

Figure 2. Surrounding land uses.



PROJECT DESCRIPTION

The applicant initiated a General Plan Amendment to change the land use designation from Rural Residential – 40 (RR-40) to Specific Plan (SP), which then requires the development and approval of a specific plan.

The Apogee Farm Specific Plan has the primary objectives to 1) ensure the compatibility of the commercial cannabis operation site with the land use designation; and 2) regulate commercial cannabis cultivation, processing, and distribution of cannabis products in the County in a manner consistent with State and local regulations and allow the orderly development and oversight of the commercial cannabis operation businesses in the County; and 3) protect sensitive resources identified on site and limit groundwater consumption.

The Specific Plan provides development standards and permitted uses similar to the Rural Residential designation, but with the addition of commercial cannabis activities (see

Table 2 below). The Specific Plan will outright permit the same uses as the previous RR designation. Minor alterations exempt from CEQA are allowed by a Director Review Permit, and any uses that would require a Use Permit are subject to a Specific Plan Amendment. Development standards including maximum lot coverage, building and population density, and building height are the same as the RR designation, however setback

requirements have been increased for side and rear yards from 30' to 50' similar to the Agriculture (AG) designation.

The Specific Plan incorporates the equivalent of a use permit for the proposed commercial cannabis activities. The commercial cannabis activity in this case will include up to three greenhouses, a 320-square-foot storage shed, and a processing/distribution facility in the southeast portion of the north parcel, as shown in Figure 3.

Greenhouses would each be approximately 30' x 96', with a height of 16 feet and consist of three 5' x 88' rows of raised beds with spacing between rows for accessing the plants. Corrugated polycarbonate panels would be connected to the greenhouse frame and assembled on site. The panels would be semitransparent to allow sunlight, however, each greenhouse would also be equipped with light-emitting diodes (LED) for supplemental light, to extend the light cycle for vegging cannabis plants when daylight hours are limited and not sufficient for the growing plants. Automatic black-out curtains would be installed in each greenhouse to prevent light leakage from dusk to dawn. The cultivation area would be surrounded by a chain link fence with a lockable gate, and with earth-toned screening material to restrict visibility and provide security. Cultivation initially may be conducted indoors as well as outdoors but would be solely indoors after full project build out.

The processing and distribution facility would be 30' x 60', and comply with the California State Building Code. Within this structure, harvested cannabis may be dried, cured, graded, trimmed, rolled, stored, packaged, and labeled in preparation for distribution. Access to the site will require upgrading the road from US 6 to the project site, to General Plan Chapter 22 Fire Safe Standards. Electricity to the site is proposed to be above ground. No development is proposed on the south parcel. All structures would consist of dark earth tone colors and/or non-reflective to minimize aesthetics impacts and would be approved by the Mono County Planning Division.

Figure 3. Project Site

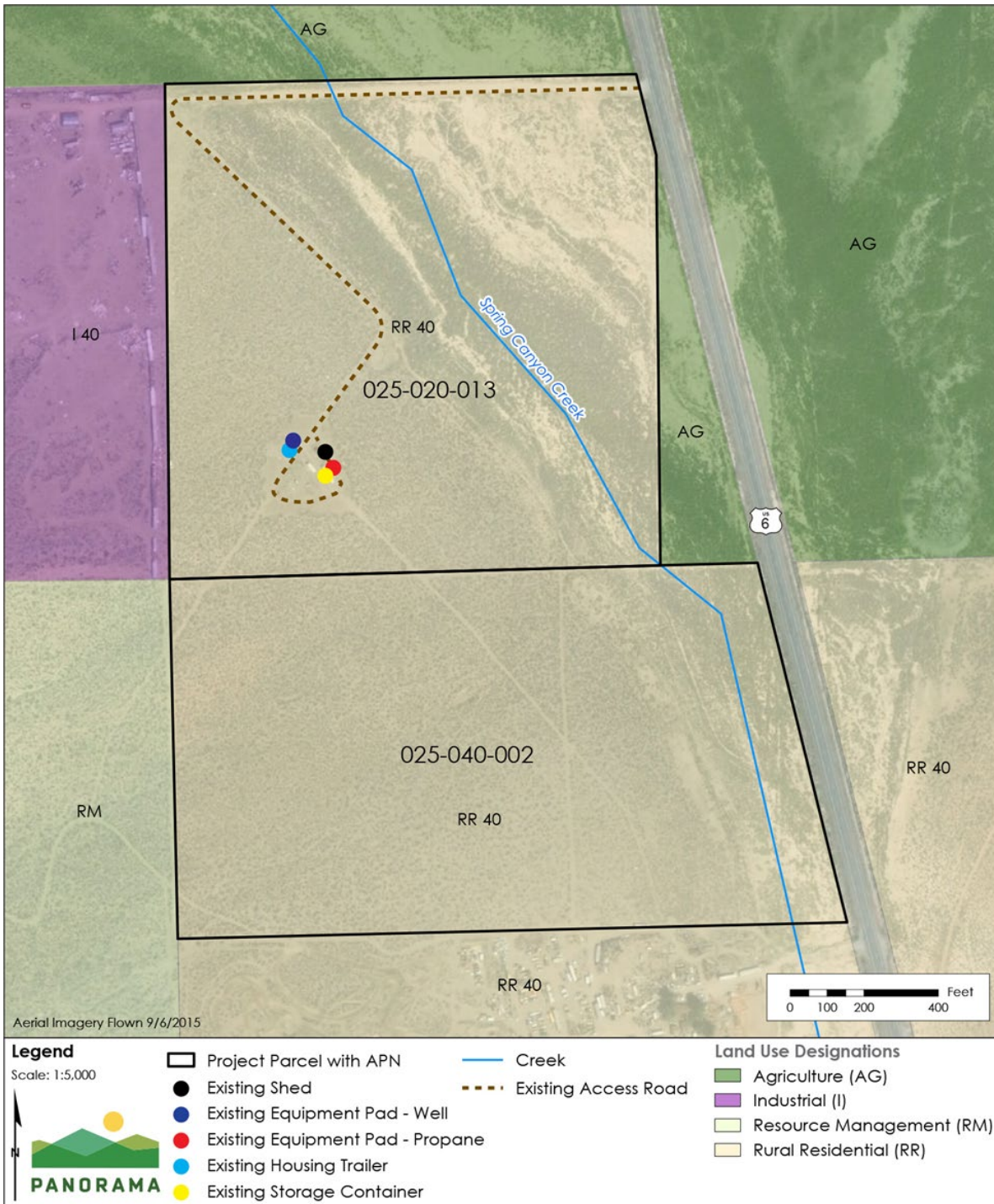


Table 2. Existing and Proposed Land Use Designations

Uses and Development Standards	Rural Residential (RR-40)– Existing Land Use	Specific Plan– Proposed Land Use
Permitted Uses	<ul style="list-style-type: none"> • Single-family dwelling • Small-scale agriculture • Accessory buildings and uses • Animals and pets 	<ul style="list-style-type: none"> • Single-family dwelling • Animals and pets consistent with RR lud allowances (see

Uses and Development Standards	Rural Residential (RR-40)– Existing Land Use	Specific Plan– Proposed Land Use
	<ul style="list-style-type: none"> • Home occupations • Manufactured home used as single-family dwelling • Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU) • Transitional and Supportive Housing • Outdoor cultivation of a maximum of six mature and 12 immature cannabis plants under the Compassionate Use Act 	<p>Animal Standards Section 04.270).</p> <ul style="list-style-type: none"> • Manufactured home used as a single-family dwelling^a • Accessory Dwelling Unit (as prescribed in Chapter 16 – Accessory Dwelling Units) • Accessory buildings^b and uses • Farm labor housing • Home occupations (as prescribed in Section 04.290) • Non-commercial composting facilities where the operation does not create a nuisance problem and has less than 100 cubic yards of material on site at any given time
Uses Subject to Director’s Review	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Minor alteration involving no expansions of square footage or intensification of uses and exempt from CEQA
Uses Subject to a Use Permit	<ul style="list-style-type: none"> • Recreational amenities (e.g., art galleries, country clubs, golf courses) • Kennel • Construction of an accessory building prior to construction of the main building • Mobile home parks • Small-scale agriculture, including limited commercial agricultural activities • Manufactured housing subdivision • Short-term rentals (fewer than 30 consecutive days) in compliance with Chapter 25 of the Land Development Regulations (set forth in Section VI of the Land Use Element) and with a valid Short-term Rental Activity Permit and in compliance with all operational requirements of Chapter 5.65 of the Mono County Code and any applicable area plan policies. 	<ul style="list-style-type: none"> • Any uses other than a permitted use requires an amendment to this Specific Plan
Animals and Pets	<ul style="list-style-type: none"> • Minimum Lot Area Required: 10,000 square feet • Animal Units^c Permitted: <ul style="list-style-type: none"> – Less than 1 acre: one unit per 10,000 square feet of lot area with Director Review with notice – 1 to 10 acres: one unit per 10,000 square feet of lot area – More than 10 acres: no limit 	<ul style="list-style-type: none"> • Animal Units permitted by General Plan Section 04.270:

Uses and Development Standards	Rural Residential (RR-40)– Existing Land Use	Specific Plan– Proposed Land Use
	<ul style="list-style-type: none"> Restrictions: Except for movement on and off the property, animals shall not be kept, maintained, or used in any other way, inside or outside any structure, within 40 feet of those portions of any structure used for human occupancy, assembly or habitation, other than the residence of the owner or keeper of such animals. 	
Maximum Lot Coverage	<ul style="list-style-type: none"> 40 percent 	<ul style="list-style-type: none"> 40 percent
Minimum Setbacks	<p>Buildings</p> <ul style="list-style-type: none"> Front: 50 feet Rear: 30 feet Side: 30 feet <p>Accessory Buildings Used as Barns or Stables</p> <ul style="list-style-type: none"> Front: 50 feet Rear: 30 feet Side: 30 feet 	<p>Buildings</p> <ul style="list-style-type: none"> Front: 50 feet Rear: 50 feet Side: 50 feet <p>Accessory Buildings Used as Barns or Stables</p> <ul style="list-style-type: none"> Front: 50 feet Rear: 30 feet Side: 30 feet
Building Density	<ul style="list-style-type: none"> 1 dwelling unit per lot, JADU and an ADU 	<ul style="list-style-type: none"> 1 dwelling unit per lot, JADU and an ADU
Population Density	<ul style="list-style-type: none"> 5.02 persons per 5 acres or ~1 person per acre 	<ul style="list-style-type: none"> 5.02 persons per 5 acres or ~1 person per acre
Maximum Building Height	<ul style="list-style-type: none"> 35 feet 	<ul style="list-style-type: none"> 35 feet

Notes:

Bold denotes Specific Plan uses that differ from the RR-40 designation.

- a Provided that the unit is less than 10 years old and meets the criteria set forth in Section 04.280. When two mobile homes are on the same parcel, they must: 1) comply with the Accessory Dwelling Unit requirements; or 2) comply with State standards for a mobile-home park and obtain a use permit from the County.
- b Accessory buildings and uses customarily incidental to any of the permitted uses are permitted only when on the same lot and constructed simultaneously with or subsequent to the main building, including barns, stables and other farm outbuildings and quarters for farm labor or other individuals employed on the premises.

COMPLIANCE WITH MONO COUNTY CANNABIS REGULATIONS (MCGP LUE, 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:

13.070.C. 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 childcare facilities.

None of the above-mentioned facilities are located within 600 feet of the site. The Edna Beaman Elementary School, Benton Public library, and nearest public park/ballfield/playground are located approximately 2.3 miles from the project site.

13.070.D. Setbacks

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

The Apogee Farm Specific Plan requires a minimum setback of 50' in the front, and 30' on the side and rear. The project meets the required setbacks.

13.070.E. 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.

The applicant has provided an odor mitigation plan. The distance from sensitive receptors and prevailing winds are anticipated to mitigate odor generated by outdoor cultivation, and the project will have a less than significant impact with mitigation incorporated, as determined by Section 3.4 of the MND. Greenhouses to be used for indoor cultivation will be equipped with Cannabuster iodine misters, or equivalent, at the exhaust vents to neutralize odors. The applicant will also place a sign at the property's entrance, containing the applicant's contact information, in the case that a neighbor has any issue with the operation. The applicant is required to notify the County within 72 hours if concerns are raised to him. The County has the ability to require modifications to the odor mitigation plan if odors cause a nuisance.

13.070.F. 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 will not have signage.

13.070.G. 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.

A six-foot tall chain link fence will be installed around the cultivation area. The fencing will include screening material of dark, earth tone color to act as a wind break and restrict visibility.

13.070.H. 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.

Lighting will consist of light-emitting diode (LED) greenhouse lighting and LED lighting installed outside the processing and cultivation premise. Lighting in the greenhouses would be used only to extend the light cycle for vegging cannabis plants when daylight hours are limited. Automatic blackout curtains would be installed inside the greenhouse to prevent light leakage from dusk to dawn. Exterior lighting will have a temperature rating not to exceed 3,000 Kelvin (K), will be down-casted and shielded, and compliance with the County's Dark Sky Regulations is required.

13.070.I. 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.

The applicant has provided a parking plan. Three parking spaces, including one ADA space, will be provided on the east side of the processing facility and north side of the cultivation area.

13.070.J. Noise

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

Very little noise is anticipated to be generated by the operation on a continual basis. Noise levels shall not exceed 65 dBA. A generator will be installed west of the processing facility to be used for emergency power, in compliance with County Code Section 10.16 and all applicable state law and regulations.

13.070.K. Fire Protection.

All regulations of the local fire district shall be met to ensure adequate access, water availability and other conditions for fire protection.

The project is within the service district of the White Mountain Fire Department. The Department was notified of the project and did not provide any objections. The on-site well and water holding tanks (two 2,600-gallon tanks) will provide emergency water supply in the case of an emergency. The project shall meet MCGP, Ch. 22, Fire Safe Regulations, and receive a Will-Serve letter for the Fire Department upon issuance of any building permit.

13.070.L. Security Plan.

Compliance with the security plan approved under the Cannabis Operation Permit (Mono County Code Chapter 5.60) is required.

The provided Security Plan will be reviewed by the Mono County Sheriff's Office prior to the Board of Supervisors' hearing for the Cannabis Operation Permit. The applicant will reside onsite to oversee the operation and can promptly report any unauthorized entry or security incidents. Access and facilities will be locked at all times, allowing access only by authorized personnel.

13.070.M. Water Conservation.

Water conservation measures, water capture systems, or grey water systems shall be incorporated, consistent with the Resource Efficiency Plan policies, to minimize use of water where feasible.

The applicant will use an efficient watering system, such as drip-irrigation, to minimize the use of water. Daily water usage is estimated to be 600 gallons per day during full operation, and daily water use records will be kept for five years.

13.080.A. Setbacks (Cultivation specific)

1. Outdoor cultivation areas and all associated structures located on or around the premises shall meet all applicable setback requirements set forth in the Land Use Designation Chapter 04.120.

2. Outdoor cultivation areas shall be set back three-hundred (300) feet from 1) existing habitable space under separate ownership, measured from the nearest boundary line of the cultivation area to the nearest point of the

habitable space; 2) the property line of any neighboring parcel under a different land use designation; 3) any public or private road or other vehicular path of travel serving, or intended to serve, as access for multiple properties; and 4) any public and formally identified nonmotorized or multi-modal pathway.

3. All structures used for indoor cultivation and all structures used for drying, curing, grading, trimming or processing shall comply with the setbacks for the land use designation. There shall be no evidence of cannabis cultivation outside the structure (e.g., the use shall comply with the Visual Screening Plan, Sign Plan, and Mono County Code Chapter 5.60).

Cultivation areas and all structures meet applicable setback requirements of the Apogee Farm Specific Plan. Outdoor cultivation shall be setback 370' from western property boundary shared with a parcel under a different land use designation (Industrial), and over 1,600' from the existing habitable space under separate ownership to the south. The facilities will be over 950' south of the existing access easement this property shares with the western neighbor. Indoor cultivation greenhouses and the processing structure will meet required setback distances and be screened such that there is no evidence of cannabis cultivation.

13.080.B. Lighting (Cultivation specific)

Interior light systems shall include window coverings to confine light and glare to the interior of the structure and be detailed within the Lighting Plan. Light mitigation measure shall be utilized from sunset to sunrise to avoid nighttime glare, as required in California Department of Food and Agriculture State Code 8304.

The project will include black-out curtains within the greenhouses to prevent light trespassing from dusk until dawn.

FINDINGS

Resolution 22-__ (Attachment E) contains the required findings and responses for approving the General Plan Amendment and Specific Plan. Additionally, findings for the Commercial Cannabis Activity Use Permit and overhead powerline are included. Findings for CEQA certification are included in the Resolution by reference to the Mitigated Negative Declaration.

ENVIRONMENTAL REVIEW, CALIFORNIA ENVIRONMENTAL QUALITY ACT

An Initial Study/Mitigated Negative Declaration has been completed for the project including a Mitigation Monitoring and Reporting Plan. The Initial Study concluded that the Project would potentially affect the following environmental factors: Aesthetics, Air Quality, Biological Resources, Cultural Resources, and Tribal Cultural Resources. The County has incorporated mitigation measures into the project to reduce potential impacts to less than significant. See Attachment B, Apogee Farms' Initial Study/Mitigated Negative Declaration, and Attachment C, Mitigation Monitoring and Reporting Plan.

A Notice of Preparation (NOP) was prepared for the project and issued on May 15, 2021. The NOP was also provided to local regulatory agencies and tribes. On March 3, 2022, a notice was provided in compliance with AB 52 requirements to requesting tribes, again offering an opportunity for consultation on the project.

A public scoping meeting took place on June 1, 2021, from 4:30 pm – 6:00 pm. Due to concerns of COVID-19, the meeting was held digitally and all members of the public were welcome to attend. Notice for the meeting was published in the Sheet Newspaper and by email to the Tri-Valley Groundwater Management District and Tri-Valley Regional Planning Advisory Committee listserv.

The Draft IS/MND was published for a 30-day public review period from July 15 through August 15, 2022. A Notice of Intent to Adopt was published in The Sheet Newspaper on July 16, 2022, and notice was mailed to property owners within 300' of the project on July 15, 2022. A Notice of Completion and Environmental Document Transmittal was posted on the California Governor's Office of Planning and Research, CEQA webpage on July 15, 2022.

PUBLIC NOTICING

This project was accepted for processing by the Land Development Technical Advisory Committee (LDTAC) in May 2019. On September 19, 2022, the LDTAC reviewed and approved the Draft Conditions of Approval. The County contracted Panorama Environmental, Inc. for CEQA reporting on September 2, 2019.

Notice of this project to tribes compliant with Senate Bill 18, allowing a 90-day period for consultation, was mailed on May 26, 2021 and no response was provided.

On September 21, twelve days prior to the public hearing on this project, mailed notice was provided to surrounding property owners with 300' of the property boundaries, and a notice was published in The Mammoth Times on September 22, 2022.

PUBLIC COMMENT

Comments received on the Draft IS/MND are included in the Final IS/MND. Three comments were received and responded to within the document. Changes to the IS/MND resulting from comments and internal edits are shown in redline format. Comments received are from governmental agencies and, at the time this report was published, no comments from area residents have been submitted.

ATTACHMENT

1. Apogee Farms Specific Plan
2. Initial Study/Mitigated Negative Declaration (redline format) including the Mitigation Monitoring and Reporting Plan
3. Resolution R22-__