

Mono County Community Development Department

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Planning Division

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January 16, 2024

To: The Mono County Board of Supervisors

From: Aaron M. Washco, Planning Analyst
Wendy Sugimura, Director

Re: Apogee Farm cannabis cultivation project: 1) Certification of Mitigated Negative Declaration and adoption of the Mitigation, Monitoring and Reporting Program; 2) Approval of a General Plan Amendment for a proposed change of Land Use Designation from Rural Residential to Specific Plan; and 3) Approval of proposed Specific Plan.

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 U.S Route 6 (US 6), APNs 025-020-013 (40-acres) and 025-040-002 (37.9-acres). The designation change requested is 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

Figure 1. Project location



worked with the applicant to write the Apogee Farm Specific Plan, consistent with the California Government Code section 65450-65457, Mono County Code Title 19, and Mono County General Plan Chapter 36, *Specific Plans* (see Attachment 1). 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 the Conditional Use Permit for commercial cannabis activity, and findings to allow overhead power to serve the property. Approval of the Specific Plan shall therefore include an approval of the Conditional Use Permit.

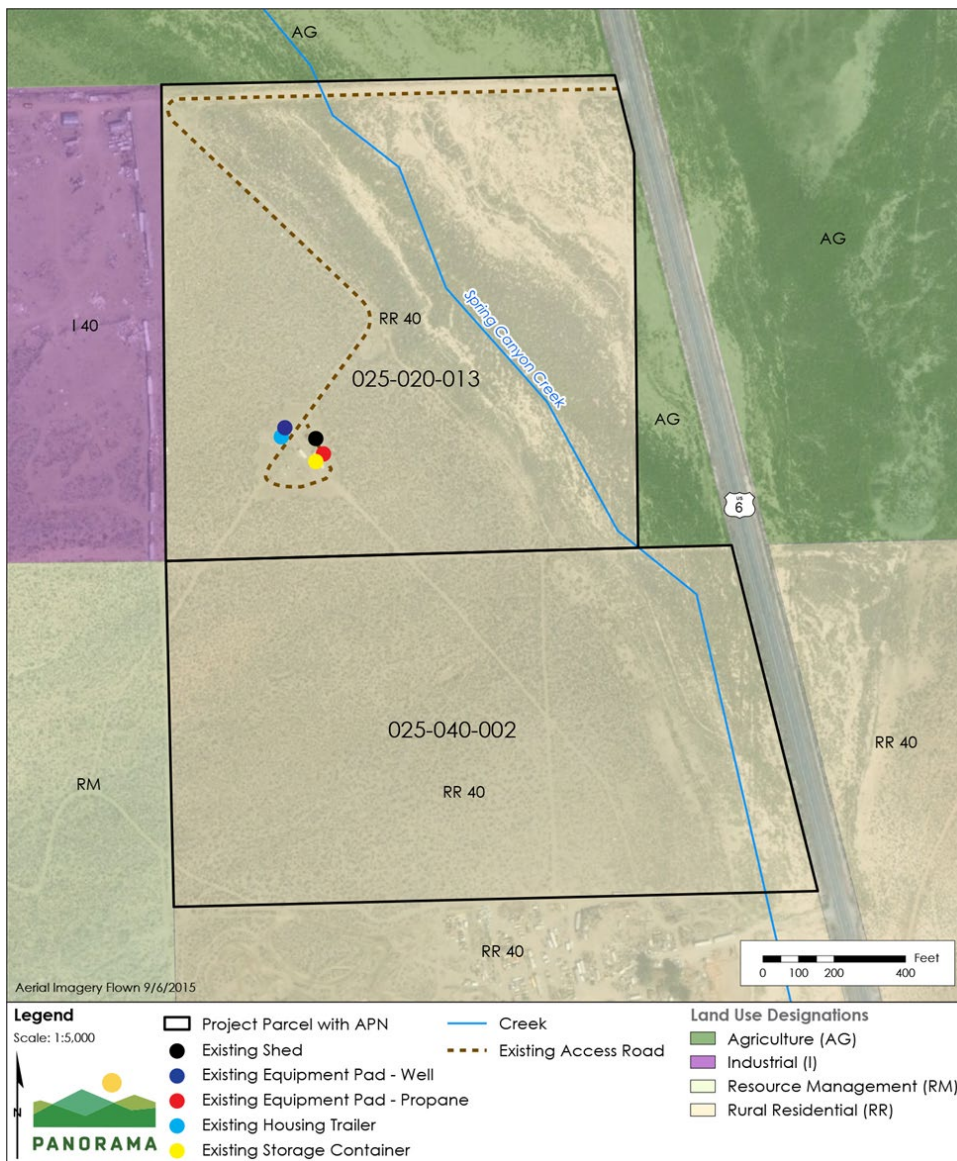
The applicant is requesting to change the land use designations of both parcels to Specific Plan (SP), for the purpose of creating a commercial cannabis operation on the northern parcel only, APN 025-020-013. Commercial cannabis operations are prohibited in residential land use designations, and outdoor

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 (see Figure 2). 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.

Figure 2. Project Site



Surrounding Land Use Designations

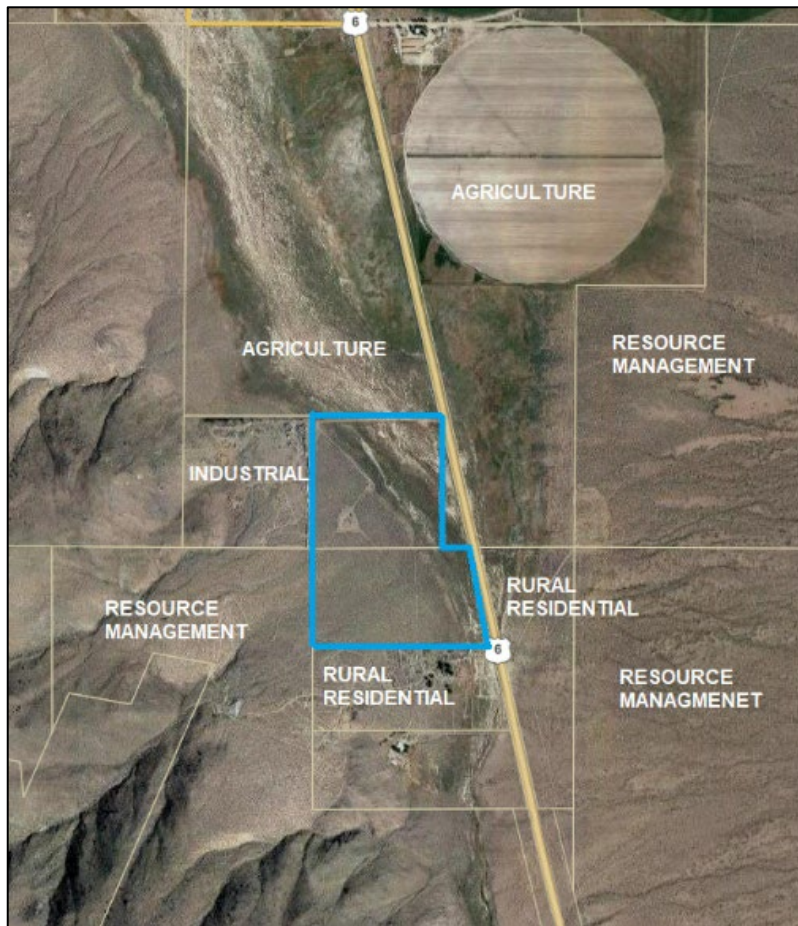
The land use designations adjacent to the two parcels are described below:

East:	Private land – Agriculture (AG) Private land – Rural Residential (RR)
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 and agricultural properties (see Figure 3). To the north, northeast, and partial east side of the project site is a single, 466-acre property designated 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 scrapyard and residential unit 0.3-miles from the project site. This site contains the nearest neighbor,

and the applicant intends to buffer this neighbor from the cannabis operation 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 provided by a recorded easement through the project site.

Figure 3. 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 (see Attachment 1) has 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.

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 • Home occupations 	<ul style="list-style-type: none"> • Single-family dwelling • Animals and pets (see Animal Standards Section 04.270). • Manufactured home used as a single-family dwelling^a

Uses and Development Standards	Rural Residential (RR-40)– Existing Land Use	Specific Plan– Proposed Land Use
	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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 alterations involving no expansion 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"> • 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 	<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
		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	Buildings	<ul style="list-style-type: none"> Front: 50 feet Rear: 30 feet Side: 30 feet 	Buildings <ul style="list-style-type: none"> Front: 50 feet Rear: 50 feet Side: 50 feet
	Accessory Buildings Used as Barns or Stables	<ul style="list-style-type: none"> Front: 50 feet Rear: 30 feet Side: 30 feet 	Accessory Buildings Used as Barns or Stables <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.

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 4.

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 State Minimum 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 materials to minimize aesthetics impacts and would be approved by the Mono County Planning Division.

The Specific Plan also incorporates the equivalent use permit approval for an overhead line, based on the finding that the exclusive purpose of the overhead line is to serve an agricultural operation (see Attachment 9).

Figure 4. Project Site Plan

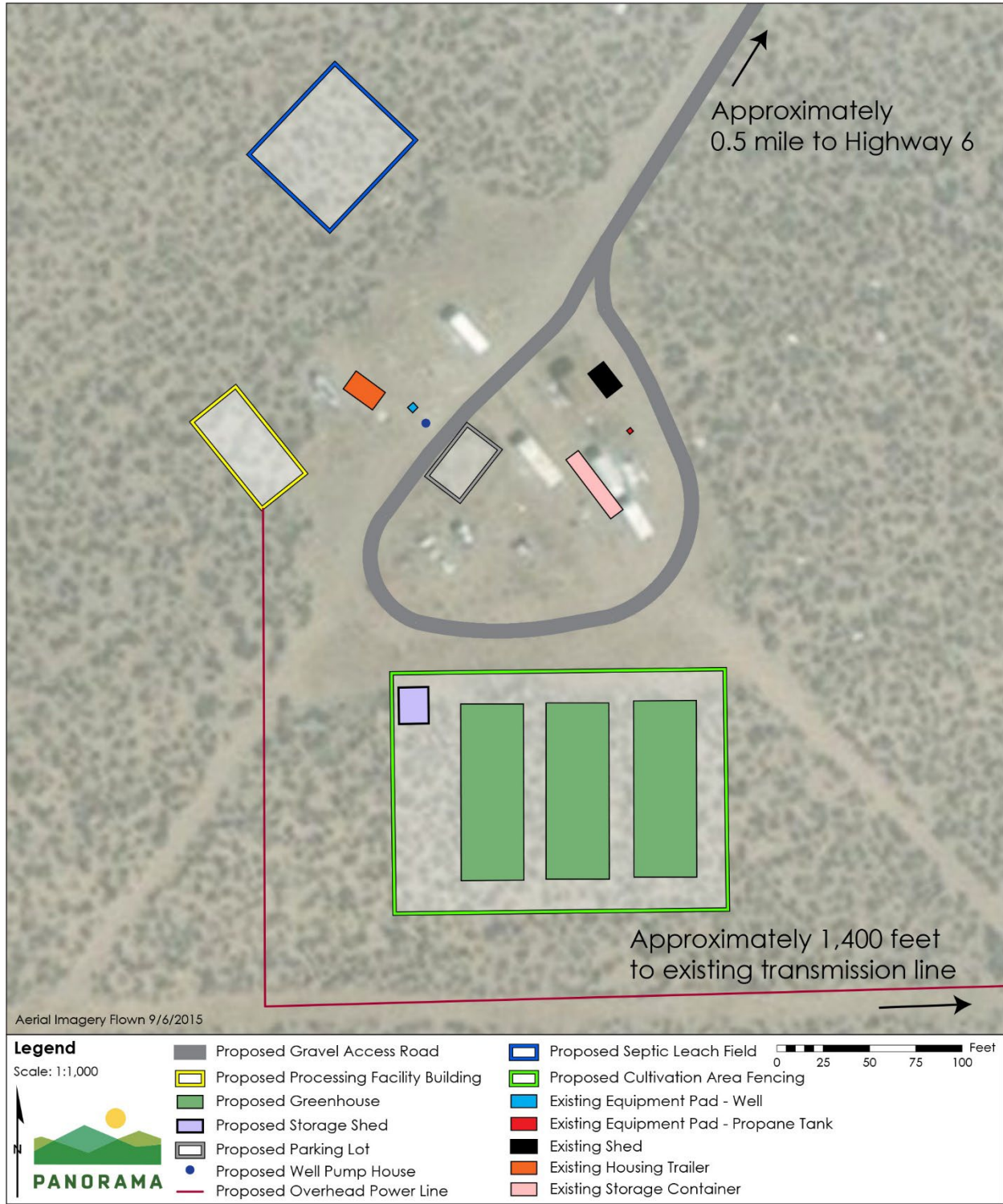


Figure 2. Overhead power line location.



COMPLIANCE WITH MONO COUNTY CANNABIS REGULATIONS (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 child care 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's Specific Plan requires minimum setbacks of 50'. For accessory buildings such as barns or stables, setbacks of 30' on the side and rear are permitted. 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 Mitigated Negative Declaration (see Attachment 2). 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 if concerns are raised to him. The County has the ability to require modifications to the odor mitigation plan if odors cause an unforeseen 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 except the posting of the applicant's contact information, as noted above.

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 will be 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 at the property line. 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 laws 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 State Minimum 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 02-04.

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's Specific Plan. Outdoor cultivation shall be setback 370' from west property boundary which has a neighboring 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 more than 950' south of the existing access easement this property shares with the neighbor to the west of the property. 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.

ENVIRONMENTAL REVIEW, CALIFORNIA ENVIRONMENTAL QUALITY ACT

Panorama Environmental Consulting, Inc. was retained to complete an Initial Study and environmental analysis.

The Initial Study/Mitigated Negative Declaration (see Attachments 2-7) identifies that the Project could potentially affect the following environmental factors: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Tribal Cultural Resources. The County has incorporated mitigation measures into the project to reduce potential impacts to less than significant. See Attachment 3 for the Mitigation Monitoring and Reporting Plan.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on the project and Mitigated Negative Declaration on October 3, 2022, and adopted Resolution R22-10 (see Attachment 8) making the following recommendations:

1. Certify the Mitigated Negative Declaration and adopt the Mitigation Monitoring and Reporting Program.
2. Make the required findings and adopt the General Plan Amendment changing the current land use designation of RR-40 to Specific Plan.
3. Make the required findings and adopt the Apogee Farm Specific Plan.
4. Approve the equivalent of a Use Permit for commercial cannabis activities and overhead powerline as part of the Specific Plan.

REQUIRED FINDINGS

Attachment 9 contains a combined Resolution and Ordinance to take the following actions:

- Certify the Mitigated Negative Declaration and adopt the Mitigation Monitoring and Reporting Program.
- The resolution makes the required findings and responses for approving the General Plan Amendment changing the land use designation from RR-40 to Specific Plan.
- The ordinance makes the required findings to adopt the Apogee Farm Specific Plan, including the findings for a use permit for the cannabis activities and overhead powerline.

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.

Tribal consultation invitations for CEQA under Assembly Bill 52 were sent in May 2021 and February 2022. No consultation requests were received by the County.

Tribal consultation invitations for the General Plan Amendment and Specific Plan under Senate Bill 18 were sent to tribes in June 2020 and March 2022, and no responses were received.

For the October 3, 2022, Planning Commission meetings, notice of this project was published in The Mammoth Times on September 22, 2022, and mailed to property owners within 300' on September 21, 2022.

Notice for the January 16, 2024, Board of Supervisors public hearing was published in the January 4, 2024, edition of the Mammoth Times newspaper and notice was mailed to property owners within 300' of the project on December 20, 2023. (See Attachment 10.)

PUBLIC COMMENT

Comments received on the Draft IS/MND are included in Attachment 7. 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.

ATTACHMENTS

1. Proposed Apogee Farm Specific Plan
2. Initial Study/Mitigated Negative Declaration
3. Mitigation Monitoring and Reporting Plan
4. Air Quality and Greenhouse Gas Model Calculations
5. Focused Rare Plant Survey
6. Correspondence with Native Americans
7. Responses to Public Comments
8. Planning Commission Resolution R22-10
9. Ordinance 24-01
10. Public Hearing Notice

MONO COUNTY
Planning Division
NOTICE OF DECISION

USE PERMIT: _____ **APPLICANT:** Apogee Farm

ASSESSOR PARCEL NUMBER: 025-020-013 & 025-040-002

PROJECT TITLE: Apogee Farm General Plan Amendment and Specific Plan

PROJECT LOCATION: 23555 US 6, Benton, California

CONDITIONS OF APPROVAL

See attached Apogee Farm Specific Plan and the Mitigation Monitoring and Reporting Program for conditions of approval

Pursuant to Sections 47.050 and 47.080 of the Mono County General Plan Land Use Element and Code of Civil Procedure Section 1094.6(b), the decision of the Board of Supervisors became the final decision of the County with respect to the application as of the date of the hearing, at which time the decision was announced on the record. You are hereby notified pursuant to Code of Civil Procedure Section 1094.6(f) that, subject to subdivision (d) of Section 1094.6, the time to bring an action to challenge the decision of the Board of Supervisors is 90 days from the date of the decision.

DATE OF BOARD OF SUPERVISORS DECISION/APPROVAL: January 16, 2024

EFFECTIVE DATE: January 16, 2024

This approval shall become null and void in the event of failure to exercise the approved rights as set forth in the adopted specific plan.

Ongoing compliance with the above conditions is mandatory. Failure to comply constitutes grounds for revocation and the institution of proceedings to enjoin the subject use.

DATED: January 16, 2024

cc: X Applicant
X Public Works
X Building
X Compliance