



RESOLUTION R22-__

A RESOLUTION OF THE MONO COUNTY PLANNING COMMISSION RECOMMENDING CERTIFICATION OF A MITIGATED NEGATIVE DECLARATION, INCLUDING ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPTION OF GENERAL PLAN AMENDMENT 22-01 CHANGING THE LAND USE DESIGNATION FROM RURAL RESIDENTIAL-40 TO SPECIFIC PLAN AND THE APOGEE FARM SPECIFIC PLAN, AND MAKING USE PERMIT FINDINGS TO ALLOW CANNABIS OPERATIONS AND OVERHEAD UTILITY LINES

WHEREAS, General Plan Amendment 18-01, approved by the Mono County Board of Supervisors allows commercial cannabis operations within the jurisdiction of Mono County, consistent with General Plan Chapter 13, *Commercial Cannabis Actives*, and County Code Chapter 5.60, *Cannabis Operations*; and

WHEREAS, commercial cannabis actives are prohibited in residential land use designations; and

WHEREAS, a property owner may initiate a change of the land use designation of parcels under their ownership; and

WHEREAS, the property owner of Accessor's Parcel Number 025-020-013 and 025-040-002 requested to change the parcel's designation from Rural Residential-40 to Specific Plan, for the purpose of creating a commercial cannabis operation that will include the cultivation, processing, and distribution of cannabis; and

WHEREAS, in May 2021, a Notice of Preparation (NOP) was distributed and a meeting was held to discuss the scope of the environmental analysis for the Apogee Farm project which, as proposed, consisted of a General Plan Amendment for a land use designation change from Rural Residential-40 to Agriculture-40 and a Conditional Use Permit for commercial cannabis activities; and

WHEREAS, due to scoping and discovery, the project was modified to its current iteration, which modified the project to a designation change from Rural Residential-40 to Specific Plan and the preparation of the associated Apogee Farm Specific Plan, which includes the Conditional Use Permit; and

WHEREAS, a Specific Plan has been prepared consistent with Government Code section 65451 and the Mono County General Plan establishing development standards, and includes the equivalent of a use permit to allow for commercial cannabis activities; and

WHEREAS, in compliance with the California Environmental Quality Act (CEQA) an initial environmental study was conducted to assess environmental factors potentially affected by the project including aesthetics, biological resources, tribal cultural resources, cultural resources, and air quality, and mandatory findings of significance; and

WHEREAS, the initial study concluded that potential environmental impacts would be mitigated to a level of less than significant by incorporating mitigation measures into the Apogee Farm Specific Plan; and

1 **WHEREAS**, AB 52 Tribal consultation noticing was sent on June 12, 2020, and March 2, 2022,
2 and a Notice of Preparation was published on May 15, 2021; and

3 **WHEREAS**, a Mitigated Negative Declaration report (MND) was prepared in compliance with
4 CEQA and released for a 30-day public comment period ending August 15, 2022; and

5 **WHEREAS**, a total of three comment letters were received during the comment period, which
6 have been addressed in a response to comments section and adjustments to the specific plan and MND; and

7 **WHEREAS**, none of the project changes require recirculation of the MND under CEQA
8 §15088.5(a); and

9 **WHEREAS**, on October 3, 2022, the Planning Commission held a duly noticed public hearing
10 regarding Apogee Farm General Plan Amendment, Specific Plan, and Final MND; and

11 **NOW, THEREFORE, THE MONO COUNTY PLANNING COMMISSION DOES HEREBY**
12 **RESOLVE AS FOLLOWS:**

13 **SECTION ONE:** Having reviewed and considered the analysis in the staff report, comments
14 received during the public review process and testimony provided in the public hearing, the Planning
15 Commission recommends that the Board of Supervisors certify the Mitigated Negative Declaration and
16 adopt the Mitigation Monitoring Program which are hereby incorporated by reference, and finding that, on
17 the basis of the whole record, including the initial study and comments received, there is no substantial
18 evidence that the project will have a significant effect on the environment and that the MND reflects the lead
19 agency’s independent judgement and analysis.

20 **SECTION TWO:** Having reviewed and considered all information and evidence presented,
21 including public testimony, written comments, the Mitigated Negative Declaration and staff report and
22 presentations, the Planning Commission recommends that the Board of Supervisors approve the General
23 Plan Amendment 22-__ changing the current land use designation of RR-40 to Specific Plan, finding that:

24 A. *The proposed changes in land use designation are consistent with the text and maps of the General
25 Plan because:*

26 The proposed land use designation, Specific Plan, is consistent with the text and maps of the
27 General Plan upon approval of the General Plan Amendment. The Specific Plan designation may
28 be applied to any property, outside existing communities, to provide for planned development.
29 The Specific Plan establishes development standards and permissible uses. For this project, the
30 development standards and permissible uses are listed in the Apogee Farm Specific Plan, Chapter
IV. Land Use Designation Regulatory Provisions.

 The proposed changes to the land use designation are consistent with General Plan Land Use (LU)
Element policies directing the County to utilize the specific plan process for large-scale projects and
to mitigate impacts resulting from commercial cannabis activity. (LU Element Objective 1.L,
Policies 1.L.1., 1.L.3, and 1.L.4).

 The designation change is reasonable within the context of providing compatible land uses within
the Tri-Valley and does not alter the adopted policies for the Tri-Valley in a manner inconsistent
with the text or maps of the General Plan.

1 B. *The proposed change in land use designation is consistent with the goals and policies contained*
2 *within any applicable area plan because:*

3 The proposed change in land use designation is consistent with the goals and policies for the Tri-
4 Valley Area Plan, including the following Issues/Opportunities and Constraints and Tri-Valley
5 Policies.

6 Issues/Opportunities and Constraints

7 “2. There is a desire to maintain and enhance agricultural uses in the Tri-Valley.”

8 The Specific Plan written for this project will maintain consistency with the existing density allowed
9 for the parcels. The proposed use of the property, cannabis cultivation, is similar to agricultural use.

10 “3. The Tri-Valley area is experiencing increasing pressure for residential development. Residents
11 in the TriValley are concerned about that pressure and would like to retain the current rural-
residential character of the area.”

12 The designation change for the property will retain the rural-residential character of the area. The
13 Specific Plan allows for an agricultural use with limited residential capacity. The commercial
14 operation will be operated by the property owner living on site and may employ two additional
employees. The project will not induce population growth in the area.

15 “4. Parts of the Tri-Valley area are subject to flooding.”

16 A portion of the property is subject to flooding. A mitigation measure for this project prohibits future
17 development within any stream, riparian habitat, sensitive natural communities, or other water
18 bodies in the project area. No future development would occur in the floodplain (MMRP BIO-3).

19 Tri-Valley Policies

20 “Action 26.A.1.c. Require new development to provide adequate buffering of incompatible uses
21 (e.g., landscaping, physical barriers, large setbacks) to protect agricultural areas from residential and
22 other incompatible land uses.”

23 The new cannabis operation will be located on the northern parcel leaving the southern parcel as a
24 buffer between the operation and nearest residential parcel to the south (22889 Hwy 6). The adjacent
property to the west is designated Industrial and contains a single residential unit along with vehicles
and trailers in various states of disrepair. The cannabis operation will be setback over 300’ from the
shared property line.

25 C. *The site of proposed change in land use designation is suitable for any of the land uses permitted*
26 *within the proposed specific plan because:*

27 The site of the proposed change in land use designation is suitable for uses permitted within the
28 Specific Plan. The use is similar to the adjacent agricultural use and less intense than the adjacent
29 industrial use. The project site contains an approved well, but no other uses, and is large enough to
provide a significant portion of needed infrastructure improvements, including roads meeting fire
safe standards (LU Element Chapter 22 and 14 California Code of Regulations§1273.00, et.seq.),

1 an onsite wastewater treatment system, and water supply from the well, among other infrastructure.
2 The proposed uses limit water consumption over traditional agricultural crops, therefore it is a
3 suitable land use designation change. It is suitable for the proposed commercial cannabis use, which
4 will provide employment and economic opportunity for the applicant. Residential units will be tied
5 to the commercial components; the applicant will live on site and may provide housing for labor.

6 D. *The proposed change in land use designation is reasonable and beneficial at this time because:*

7 The land use designation change will allow the applicant to conduct a commercial cannabis
8 cultivation operation while maintaining the residential density allowed at the property and avoiding
9 sensitive habitat. The change of the land use designation is appropriate for conducting a commercial
10 cannabis operation, as commercial cannabis operations are prohibited in residential designations.
11 Commercial cannabis is a new industry, approved by the majority of residents in Mono County,
12 evident by the 2016 statewide election result of Proposition 64, the Adult Use of Marijuana Act,
13 and affirmed by the Mono County Board of Supervisors in 2017 in approving Resolution R17-88,
14 initiating and adopting General Plan Amendment (GPA) 17-03/Cannabis, establishing policies
15 governing commercial cannabis activity.

16 E. *The proposed change in land use designation will not have a substantial adverse effect on
17 surrounding properties because:*

18 As described in the MND for the project and associated Mitigation Monitoring and Reporting Plan,
19 impacts to surrounding properties have been reduced to less than significant levels. including
20 impacts to aesthetics, biological resources, tribal cultural resources, cultural resources, and air
21 quality. Properties surrounding the project site are sparsely populated, or vacant, or used for
22 agriculture or storage.

23 Potential direct adverse effects to specific surrounding properties include aesthetics, mitigated by
24 requiring compliance with General Plan Chapter 23, Dark Sky Regulations, and air quality,
25 mitigated with odor control measures.

26 **SECTION THREE:** The Planning Commission recommends that the Board of Supervisors adopt
27 the Apogee Farm Specific Plan, finding in accordance with the California Government Code section 65454,
28 that the specific plan is consistent with the Mono County General Plan.

29 **SECTION FOUR:** Having reviewed and considered all information and evidence presented,
30 including public testimony, written comments, Mitigated Negative Declaration and staff report and
presentations, the Planning Commission recommends the Board approve the equivalent of a Use Permit for
commercial cannabis activities as part of the Specific Plan, including Conditions of Approval, finding that:

*A. All applicable provisions of the Land Use Designations and Land Development Regulations are
complied with, and the site of the proposed use is adequate in size and shape to accommodate the
use and to accommodate all yards, walls and fences, parking, loading, landscaping and other
required features.*

The Apogee Farm Specific Plan designates the land use of the property and is intended to
accommodate the commercial cannabis activity. The property is adequate in size and shape to

1 accommodate the cannabis activity, meeting all development standards and minimizing potential
2 impacts on adjacent neighbors. The cannabis activity will be setback a minimum of 50' from all
3 property lines. Access is required to be improved to meet MCGP Chapter 22, Fire Safe
4 Regulations, and sufficient parking shall be provided on site for employees and the property
5 owner.

6 *B. The site for the proposed use relates to streets and highways adequate in width and type to carry
7 the quantity and kind of traffic generated by the proposed use.*

8 The site is able to carry the quantity and kind of traffic generated by the use. The property will not
9 be open to the public. Vehicle trips will include employees (two) traveling to and from the site,
10 product distribution vehicles, and the property owner. The project is required to comply with
11 requirements of Caltrans District 9, for encroaching U.S. Route 6. Traffic generated by the project
12 will not impact the existing transportation corridor.

13 *C. The proposed use will not be detrimental to the public welfare or injurious to property or
14 improvements in the area in which the property is located.*

15 The proposed use has been mitigated to minimize impacts to the public, as described in the
16 Mitigation Monitoring and Reporting Plan (see Attachment C). The cannabis activity will take
17 place on the northern parcel. The southern parcel will not be developed and will provide a 1,000'
18 buffer between the project site and the nearest neighbor (22889 U.S. Route 6). Odor control
19 measures have also been identified for greenhouses where cultivation takes place. The applicant
20 will install a Cannabuster odor elimination system or equivalent. If odors are determined to be a
21 nuisance, the County may require modifications to the system.

22 *D. The proposed use is consistent with the map and text of this General Plan and any applicable area
23 plan.*

24 The proposed use is consistent with the General Plan and area plans. The Tri-valley is intended to
25 provide for agricultural operations, similar to the project. The project meets General Plan
26 standards and regulations for cannabis activities, as defined in Chapter 13, Commercial Cannabis
27 Activities.” Compliance with Mono County Code Chapter 5.60, Commercial Cannabis
28 Operations, and all County Code and General Plan regulations shall be met.

29 **SECTION FIVE:** Having reviewed and considered all information and evidence presented, including
30 public testimony, written comments, Mitigated Negative Declaration and staff report and presentations, the
Planning Commission recommends the Board of Supervisors approve commercial overhead power as part of
the Apogee Farm Specific Plan, finding that:

*In granting a permit for overhead utility lines, the Community Development director (Director) or the
Planning Commission (Commission) shall make at least one of the following findings in addition to
the required Director Review or Use Permit findings, and shall also require anticipated impacts from
all the findings be avoided, minimized, or mitigated to the extent possible:*

*1. The overhead line placement will not significantly disrupt the visual character of the area. In making
this determination, the Director or the Commission shall consider the following:*

1 a. *In areas without a number of existing overhead lines in the immediate vicinity, would overhead*
2 *lines create the potential for a significant cumulative visual impact; i.e., would allowing an*
3 *overhead line be likely to result in future requests for additional overhead lines in the area? If so,*
4 *it may be determined that an overhead line will have a significant impact on the visual character*
5 *of the area.*

6 Overhead lines are located on the western side of the US 6 in this area; therefore, the new line
7 would not need to cross the highway. Approximately 1,100' south of this photo, the adjacent
8 parcel, developed in 1994, contains overhead power.

9 b. *Does the topography or vegetation in the area effectively screen the proposed lines? If so, then an*
10 *additional line may not significantly disrupt the visual character of the area.*

11 The topography or vegetation do not screen the proposed line. The topography slopes down from
12 the site, towards Route 6, and therefore the lines will trend upwards at a very low angle. The
13 vegetation consists of short shrubs and there are no trees in the area.

14 c. *Are there other potential alignments that would have less visual impact?*

15 No.

16 d. *Does the project reduce the overall number of overhead lines and poles in the area; are the lines*
17 *co-located with existing facilities; and/or do design features such as height of lines, size, color,*
18 *reflectivity, tension in line, or other features reduce visual impacts? If so, it may be determined*
19 *that an overhead line will not have a significant impact on the visual character of the area. The*
20 *Director or the Commission may consider additional information pertaining to the visual*
21 *character of the area that is deemed relevant to the application.*

22 One parcel west of the project site is privately owned and could develop the need for electrical
23 lines. All other parcels to the west of the project are owned by the Bureau of Land Management.
24 Overhead power lines for this project do not reduce the number of lines in the area and has no
25 design features reducing visual impacts.

26 2. *The placement of utility lines above ground is environmentally preferable to underground placement*
27 *and does not create public health and safety impacts. In making this determination, the Director or*
28 *the Commission shall consider the following:*

29 a. *Will underground placement disturb an environmentally sensitive area, including but not limited*
30 *to the following: cultural resource sites, significant wildlife habitat or use areas, riparian or*
wetland areas, or shallow groundwater? If so, above-ground placement may be preferable;

Undergrounding the utility line will require trenching under Spring Canyon Creek and the
surrounding floodplain. The floodplain encompasses Rubber Rabbit Brush Scrub Shrubland
Alliance vegetative communities which occurs as the grade tapers off near the bottom of the
valley, portions of which historically were flooded. This area still accumulates moisture and
supports more facultative species. Above-ground placement is preferred.

b. *Will overhead placement cause impacts to sensitive species, such as the Bi-State Distinct*
Population Segment of Greater Sage-Grouse, or other environmental impacts? If so, aboveground

1 *placement may not be preferable, or perch deterrents and other mitigations may be required (see*
2 *policies in the Conservation/Open Space Element);*

3 Greater Sage-Grouse species have not been determined to breed, nest, or populate this region of
4 the County.

- 5 c. *Will underground placement require disturbance of a waterway, including perennial, intermittent*
6 *and seasonal streams? If so, above-ground placement may be preferable;*

7 Yes, undergrounding utility lines will disturb Spring Canyon Creek, and an ephemeral drainage a
8 long this portion of US 6. Above-ground placement is preferred.

- 9 d. *Will underground placement increase the utility line's exposure to environmental hazards, such*
10 *as flood hazards, fault hazards or liquefaction? If so, above-ground placement may be preferable;*

11 Yes, the utility lines would be undergrounded through Spring Canyon Creek, exposing them to
12 flood hazards. Above-ground placement is preferred.

- 13 e. *Are there other potential alignments that would avoid potential environmental impacts?; and*

14 An above-ground alignment would avoid environmental impacts. The desired alignment will
15 follow pre-disturbed land to minimize impacts.

- 16 f. *Are there adequate provisions for long-term maintenance and fire-hazard mitigation? If so,*
17 *above-ground placement may be acceptable. The Director or the Commission may consider*
18 *additional information pertaining to the environmental sensitivity of the area that is deemed*
19 *relevant to the application.*

20 Overhead power poles would be located on the applicant's property and shall be maintained by
21 the property owner to prevent wildfire. The utility company will provide additional vegetation
22 maintenance around the poles every three to five years. Poles would be located between the
23 applicant's development and U.S. 6 which can be visually monitored for fire-hazards.

- 24 3. *The installation of underground utilities would create an unreasonable financial hardship on the*
25 *applicant due to the unique physical characteristics of the property. In making this determination, the*
26 *Director or the Commission shall consider the following:*

- 27 a. *Is the cost of the line to be installed excessive?*

28 The applicant met on-site with Tim Rafferty, Southern California Edison staff, to gain an estimate
29 on the project. SCE estimated a cost of \$20,000 to complete the overhead electrical drop and
30 undergrounding to the property line. Undergrounding from the property line to the structures is
estimated to cost an additional \$20,000, for a total of \$40,000.

- b. *Will the installation of underground utilities require trenching under a stream bed?*

Yes.

1 c. Will the installation of underground utilities require unreasonable trenching or blasting through
2 rock?

3 No.

4 d. Are there alternate alignments that would eliminate or significantly lessen the financial hardship?
5 The Director or the Commission may consider other site specific financial hardships deemed
6 relevant to the application.

7 No.

8 4. The exclusive purpose of the overhead line is to serve an agricultural operation. For the purposes of
9 this section, agricultural operations are defined as use of the land for the production of food and fiber,
10 including the growing of crops and grazing of livestock. Above-ground utility lines may be permitted
11 for agricultural uses such as pumps and similar uses.

12 a. Impacts to sensitive species, such as the Bi-State Distinct Population Segment of Greater Sage
13 Grouse shall be avoided, minimized, or mitigated consistent with policies in the Conservation/Open
14 Space Element.

15 The project is not located in an area identified as Sage Grouse habitat. The exclusive purpose of
16 the overhead line is to serve an agricultural operation and associated residential uses. This finding
17 can be made.

18 **PASSED AND ADOPTED** this 3rd day of October, 2022, by the following vote of the Planning
19 Commission:

20 AYES :

21 NOES :

22 ABSENT :

23 ABSTAIN :

24 _____
25 Patricia Robertson, Chair

26 ATTEST:

27 APPROVED AS TO FORM:

28 _____
29 Heidi Willson
30 Secretary of the Planning Commission

_____ County Counsel