



R24-__ AND ORD 24-__

A RESOLUTION AND ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS CERTIFYING THE MITIGATED NEGATIVE DECLARATION, INCLUDING ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPTING GENERAL PLAN AMENDMENT (GPA) 24-01, CHANGING THE LAND USE DESIGNATION OF TWO PARCELS FROM RURAL RESIDENTIAL-40 TO SPECIFIC PLAN, AND ADOPTING THE APOGEE FARM SPECIFIC PLAN AND MAKING USE PERMIT FINDINGS TO ALLOW FOR COMMERCIAL CANNABIS ACTIVITIES AND OVERHEAD UTILITY LINES

WHEREAS, General Plan Amendment (GPA) 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 Activities*, and County Code Chapter 5.60, *Cannabis Operations*; and

WHEREAS, commercial cannabis activities 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 through a GPA; and

WHEREAS, the property owner of Accessor's Parcel Number 025-020-013 and 025-040-002 has requested to change the parcel's designation from Rural Residential-40 to Specific Plan, which is henceforth to be referenced as GPA 24-01, for the purpose of creating a commercial cannabis operation that will include the cultivation, processing, and distribution of cannabis; and

WHEREAS, a review and analysis of the proposed project has been completed, a Specific Plan developed to administer desired land uses and development standards, and a Mitigated Negative Declaration prepared in compliance with the California Environmental Quality Act; and

WHEREAS, environmental factors potentially affected by the project include aesthetics, biological resources, tribal cultural resources, cultural resources, air quality, and mandatory findings of significance including the potential to substantially degrade the quality of the environment and the potential to cause substantial adverse effects on human beings, either directly or indirectly; and

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Mono County Board of Supervisors
January 16, 2024

1 **WHEREAS**, the affected environmental factors may be mitigated to a level that is less
2 than significant by enacting mitigation measures listed in the Apogee Farm Mitigated Negative
3 Declaration; and

4 **WHEREAS**, duly noticed public hearings on the proposed project were held before the
5 Planning Commission on October 3, 2022, and the Board of Supervisors on January 16, 2024.

6 **NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF**
7 **MONO FINDS AND RESOLVES THAT:**

8 **SECTION ONE:** Having reviewed and considered all the information and evidence
9 presented to it, including public testimony, written comments, staff reports and presentations,
10 and the recommendation of the Planning Commission, the Board of Supervisors certifies the
11 Mitigated Negative Declaration (MND) and adopts the Mitigation Monitoring and Reporting
12 Program (MMRP), which are attached hereto and incorporated by reference, and finds that, on
13 the basis of the whole record, including the initial study and comments received, there is no
14 substantial evidence that the project will have a significant effect on the environment and that
15 the MND reflects the County’s independent judgement and analysis.

16 **SECTION TWO:** Having reviewed and considered all information and evidence
17 presented, including public testimony, written comments, the Mitigated Negative Declaration
18 and staff report and presentations, the Board of Supervisors approves General Plan Amendment
19 24-01 changing the current land use designation of RR-40 to Specific Plan for parcels 025-020-
20 013 and 025-040-002, which are incorporated herein by reference, finding that:

21 A. *The proposed change in land use designation is consistent with the text and maps of*
22 *this General Plan;*

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

29 The proposed changes to the land use designation are consistent with General Plan
30 Land Use (LU) Element policies directing the County to utilize the specific plan
31 process for large-scale projects and to mitigate impacts resulting from commercial
32 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*
2 *contained within any applicable area plan;*

3 The proposed change in land use designation is consistent with the goals and policies
4 for the Tri-Valley Area Plan, including the following Issues/Opportunities and
5 Constraints and Tri-Valley 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
9 density allowed for the parcels. The proposed use of the property, cannabis
10 cultivation, is similar to an agricultural use.

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

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

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

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

22 Tri-Valley Policies

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

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

31 C. *The site of the proposed change in land use designation is suitable for any of the land*
32 *uses permitted within that proposed land use designation;*

1
2 The site of the proposed change in land use designation is suitable for uses permitted
3 within the Specific Plan. The use is similar to the adjacent agricultural use and less
4 intense than the adjacent industrial use. The project site contains an approved well,
5 but no other uses, and is large enough to provide a significant portion of needed
6 infrastructure improvements, including roads meeting fire safe standards (LU
7 Element Chapter 22 and 14 California Code of Regulations § 1273.00, et seq.), an
8 onsite wastewater treatment system, and water supply from the well, among other
9 infrastructure. The proposed uses limit water consumption over traditional
10 agricultural crops, therefore it is a suitable land use designation change. It is suitable
11 for the proposed commercial cannabis use, which will provide employment and
12 economic opportunity for the applicant. Residential units will be tied to the
13 commercial components; the applicant will live on site and may provide housing for
14 labor.

15
16 D. *The proposed change in land use designation is reasonable and beneficial at this
17 time; and*

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

28
29 E. *The proposed change in land use designation will not have a substantial adverse
30 effect on surrounding properties.*

31 As described in the MND for the project and associated Mitigation Monitoring and
32 Reporting Plan, impacts to surrounding properties have been reduced to less than
33 significant levels. Including impacts to aesthetics, biological resources, tribal cultural
34 resources, cultural resources, and air quality. Properties surrounding the project site
35 are sparsely populated, or vacant, or used for agriculture or storage.

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

39
40 **FURTHER, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO
41 ORDAINS AS FOLLOWS:**

42
43
44 Resolution R24-__ and Ordinance ORD24-__
45 Mono County Board of Supervisors
46 January 16, 2024

1 **SECTION ONE:** That the Apogee Farm Specific Plan, which is attached hereto and
2 incorporated by this reference, is consistent with the Mono County General Plan and is hereby
3 adopted by the Board.

4 **SECTION TWO:** Having reviewed and considered all information and evidence
5 presented, including public testimony, written comments, Mitigated Negative Declaration and
6 staff report and presentations, the Board approves the equivalent of a Use Permit for
7 commercial cannabis activities as part of the Apogee Farm Specific Plan, including Conditions
8 of Approval, finding that:

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

13 The Apogee Farm Specific Plan designates the land use of the property and is intended
14 to accommodate the commercial cannabis activity. The property is adequate in size and
15 shape to accommodate the cannabis activity, meeting all development standards and
16 minimizing potential impacts on adjacent neighbors. The cannabis activity will be
17 setback a minimum of 50’ from all property lines. Access is required to be improved
18 to meet Mono County General Plan Chapter 22, Fire Safe Regulations, and sufficient
19 parking shall be provided on site for employees and the property owner.

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

22 The site is able to carry the quantity and kind of traffic generated by the use. The
23 property is accessible from Highway 6, which is a major interstate highway and will
24 not be open to the public. Vehicle trips will include employees (two) traveling to and
25 from the site, product distribution vehicles, and the property owner. The project is
26 required to comply with requirements of Caltrans District 9, for encroaching U.S. Route
27 6. Traffic generated by the project will not impact the existing transportation corridor.

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

30 The proposed use has been mitigated to minimize impacts to the public, as described
31 in the Mitigation Monitoring and Reporting Plan. The cannabis activity will take place
32 on the northern parcel. The southern parcel will not be developed and will provide a
1,000’ buffer between the project site and the nearest neighbor (22889 U.S. Route 6).
Odor control measures have also been identified for greenhouses where cultivation
takes place. The applicant will install a Cannabuster odor elimination system or
equivalent.

1 D. *The proposed use is consistent with the map and text of th[e] General Plan and any*
2 *applicable area plan.*

3 The proposed use is consistent with the General Plan and area plans, as amended by
4 GPA 24-01. The Tri-Valley is intended to provide for agricultural operations, similar
5 to the project. The project meets General Plan standards and regulations for cannabis
6 activities, as defined in Chapter 13, Commercial Cannabis Activities.” Compliance
7 with Mono County Code Chapter 5.60, Commercial Cannabis Operations, and all
County Code and General Plan regulations will be met.

8 **SECTION THREE:** Having reviewed and considered all information and evidence
9 presented, including public testimony, written comments, the Mitigated Negative Declaration
10 and Mitigation Monitoring and Reporting Program, staff report, and presentations, the Board
11 approves commercial overhead power as part of the Apogee Farm Specific Plan, finding that:

12 *In granting a permit for overhead utility lines, the [County] shall make at least one of the*
13 *following findings [set forth in Mono County General Plan Land Use Element Chapter*
14 *11.010.D.] in addition to the required Director Review or Use Permit findings, and shall*
15 *also require anticipated impacts from the proposed use be avoided, minimized, or*
mitigated to the extent possible:

16 **Finding to be made (§11.010.D.4.):**

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

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

24 This finding can be made because the exclusive purpose of the overhead line
25 is to serve an agricultural operation and associated residential uses. Greater
26 Sage-Grouse species have not been determined to breed, nest, or populate this
27 region of the County, and therefore predator perches on overhead lines are not
28 a concern. The disturbance area associated with power poles for the overhead
29 line is significantly reduced compared to trenching to lay an underground line,
30 which minimizes impacts. Further, the MND found no sensitive plant species
on the site, and the MMRP prohibits development in sensitive habitats,
requires mitigation for impacted riparian habitat, avoids identified cultural
resources, and requires nesting bird surveys prior to construction.

31 **Analysis of other potential findings: no anticipated impacts are identified.**
32

1 1. *The overhead line placement will not significantly disrupt the visual character of*
2 *the area. In making this determination, the [County] shall consider the following:*

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

9 Overhead lines are located on the western side of the US 6 in this area;
10 therefore, the new line would not need to cross the highway. Approximately
11 1,100' south of the project boundary, the adjacent parcel, developed in 1994,
12 contains overhead power. One parcel west of the project site is privately owned
13 and could develop the need for electrical lines. All other parcels to the west of
14 the project are owned by the Bureau of Land Management. Accordingly, the
15 potential for a significant cumulative visual impact would not be created.

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

19 The topography slopes down from the site, towards Route 6, and therefore the
20 lines will trend upwards at a very low angle against a backdrop of sagebrush
21 scrub rather than silhouetted against the sky, minimizing any visual impact.

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

23 There are no potential alignments that would have less visual impact.

24 d. *Does the project reduce the overall number of overhead lines and poles in the*
25 *area; are the lines co-located with existing facilities; and/or do design features*
26 *such as height of lines, size, color, reflectivity, tension in line, or other features*
27 *reduce visual impacts? If so, it may be determined that an overhead line will*
28 *not have a significant impact on the visual character of the area. The [County]*
29 *may consider additional information pertaining to the visual character of the*
30 *area that is deemed relevant to the application.*

31 As previously noted, the parcel is bounded to the west by lands managed by
32 the Bureau of Land Management and on other sides primarily by parcels with
existing overhead utilities. Because the privately owned land in the vicinity is
already largely served by overhead utilities, there is little potential for
additional expansion, and the lines would be placed in already-disturbed areas,
there will not be a significant change to the visual character of the area.

1 2. *The placement of utility lines above ground is environmentally preferable to*
2 *underground placement and does not create public health and safety impacts. In*
3 *making this determination, the [County] shall consider the following:*

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

8 Undergrounding the utility line would require trenching under Spring Canyon
9 Creek and the surrounding floodplain. The floodplain encompasses Rubber
10 Rabbit Brush Scrub Shrubland Alliance vegetative communities which occurs
11 as the grade tapers off near the bottom of the valley, portions of which
12 historically were flooded. This area still accumulates moisture and supports
13 more facultative species, although vegetation surveys did not identify the
14 presence of any sensitive species. Above-ground placement is environmentally
15 preferred.

16 b. *Will overhead placement cause impacts to sensitive species, such as the Bi-*
17 *State Distinct Population Segment of Greater Sage-Grouse, or other*
18 *environmental impacts? If so, aboveground placement may not be preferable,*
19 *or perch deterrents and other mitigations may be required (see policies in the*
20 *Conservation/Open Space Element);*

21 Greater Sage-Grouse species have not been determined to breed, nest, or
22 populate this region of the County, and therefore predator perches on overhead
23 lines are not a concern. The disturbance area associated with power poles for
24 the overhead line is significantly reduced compared to trenching to lay an
25 underground line, which minimizes impacts. Further, the MND found no
26 sensitive plant species on the site, and the MMRP prohibits development in
27 sensitive habitats, requires mitigation for impacted riparian habitat, avoids
28 identified cultural resources, and requires nesting bird surveys prior to
29 construction.

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

33 Yes, underground utility lines would disturb Spring Canyon Creek, and an
34 ephemeral drainage along this portion of US 6. Above-ground placement is
35 preferred.

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

1
2 Yes, the utility lines would be undergrounded through Spring Canyon Creek,
3 exposing them to flood hazards. Above-ground placement is preferred.

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

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

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

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

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

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

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

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

27 Yes, the installation of underground utilities would require trenching under a
28 stream bed.

29 c. *Will the installation of underground utilities require unreasonable trenching*
30 *or blasting through rock?*

31 No, unreasonable trenching or blasting through rocks would not be required.
32

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

4 There are no alternative alignments that would eliminate or significantly lessen
5 the financial hardship.

6
7 **SECTION FOUR: Those matters resolved by the Board herein shall be effective**
8 **upon adoption and those matters ordained herein** shall become effective 30 days from
9 the date of adoption and final passage, which appears immediately below. The Clerk of
10 the Board of Supervisors shall post and publish this resolution and ordinance in the
11 manner prescribed by Government Code section 25124 no later than 15 days after the
12 date of this ordinance's adoption and final passage. If the Clerk fails to publish this
13 ordinance within said 15-day period, then the ordinance shall not take effect until 30 days
14 after the date of publication.

15 **PASSED, APPROVED and ADOPTED** this 16th day of January, 2024, by the following vote,
16 to wit:

17 **AYES:**

18 **NOES:**

19 **ABSENT:**

20 **ABSTAIN:**

21 _____
22 John Peters, Chair
23 Mono County Board of Supervisors

24 **ATTEST:**

25 **APPROVED AS TO FORM:**

26
27 _____
28 Clerk of the Board

29 _____
30 Stacey Simon
31 County Counsel

32
Resolution R24-__ and Ordinance ORD24-__
Mono County Board of Supervisors
January 16, 2024