

TEMPLETON AREA ADVISORY GROUP
Addressing the Area's Land Use Planning Since 1994
PO Box 1135 Templeton, CA 93465
REPORT TO THE COUNTY

TO: County Board of Supervisors, County Planning Department, Kate Shea, Eric Hughes, Vicki Janssen, Micki Olinger, Trevor Keith, Daniela Chavez
CC: TAAG Board members

FROM: Bruce Jones, TAAG Board Chair

SUBJECT: Report of significant actions at TAAG's teleconferenced October 13, 2020 Board meeting

DRC2019-00042 COPPER CREEK FARMS LLC located at 2200 Neal Springs Rd, Templeton, CA 93465

This cannabis project is approximately two and a half miles east of the Templeton Reserve line. It is technically outside the TAAG designated boundary line as defined by the Templeton Unified School District boundary, but it is located in the Templeton zip code, 93465.

Neighbors of this project did attend this TAAG meeting. TAAG Delegates reviewed this project because of its close proximity to the designated TAAG boundary and its potential effect on our community.

The TAAG Board reviewed the Copper Creek Farms LLC proposed cannabis project during its October 13, 2020 publicly noticed Zoom teleconferenced Board meeting for the purpose of approving proposed recommendations to be submitted regarding the scheduled Planning Department Land Use Permit approval hearing scheduled for Friday, October 16, 2020. This project's property owner- applicant Jeff Nahail and his planning consultant Henry Mancini did not appear for the TAAG Board meeting. They were notified of the meeting and were invited and encouraged to present their proposed project to the TAAG Board and members of the public and respond to questions and concerns regarding the impact of the project on the Templeton community and the neighboring property owners and residents in the area of the project. This project is located at 2200 Neal Springs Road, Templeton, CA 93465.

The Board also expected TAAG's County Planning Department liaison, Eric Hughes, to attend and respond to the Planning Department's recommendation to approve this cannabis project's permit at the October 16, 2020 scheduled Land Use Permit approval hearing. TAAG's Chair, Bruce Jones, advised that he received an email message from Planning Department Director Trevor Keith an hour and a half prior to the start of the Board meeting that the Planning Department representative would not be attending the meeting. The TAAG Board conducted a comprehensive review of the project and with a 6 – 0 – 1 abstention vote approved the following recommendation:

TAAG Board recommends to DENY Project DRC2019-00042 - Copper Creek Farms LLC due to numerous issues listed below:

1. Incomplete and inadequate public noticing of project description, proposed cannabis operations and CEQA Mitigated Negative Declarations.
2. Incompatibility with the existing neighborhood and the Templeton community
3. Failure to refer the expanded project application to various County, State and Federal agencies
4. Failure of County Planning to require a revised Land Use Permit application, resulting in the inaccuracy of studies and reports required in order to even consider a cannabis project application as complete for processing
5. Project is located in Paso Robles Groundwater Basin Water Use Area of Severe Decline that prohibits use of Paso Basin groundwater on this property for any irrigated cannabis or other crop production activities
6. Property has no direct access to a legal road

7. County and Cal Fire discrepancies in location and existence of deeded access easement roads or driveways
8. Cannabis plants visible from offsite locations in violation of existing County cannabis ordinances
9. Inadequate cannabis odor controls or mitigation systems
10. Project applicant's history of damaging neighbor's property and Code Enforcement violations

1. **Incomplete and inadequate application and public noticing.** The project's initial April 2019 project application submitted to County Planning proposed to establish and operate a 3-acre outdoor cannabis cultivation activity with no other cannabis-related activities proposed. No other cannabis-related activities were indicated on the application. The County Planning Land Use Permit approval hearing, rescheduled to this Friday, October 16, 2020 publicly noticed hearing record documents including a County Planning Staff report recommending approval, a 99-page September 17, 2020 revised (third revision) project Mitigated Negative Declaration (MND) CEQA document and other various hearing documents indicate that the project will be comprised of the following cannabis operations in addition to the original 3-acre outdoor cultivation area represented by the project's existing SLO County Land Use application:

22,000 square feet of mixed light (indoor) cannabis cultivation canopy.

5,000 square feet of indoor ancillary nursery canopy.

Construction of 22,000 square feet (7 – 3,000 sf each) of greenhouses for mixed-light (indoor) cultivation.

Construction of 5,000 square feet of greenhouses for ancillary nursery.

Construction of a 3,000 square feet of pre-manufactured metal building for ancillary processing activities.

Use of 640 square feet of temporary shipping containers for ancillary processing activities during construction of the pre-manufactured metal building.

A maximum of 33 daily trips including up to 10.7 vehicle trips during the PM peak hour (4:00 PM – 6:00 PM).

A maximum of 2 full time and 10 seasonal part-time employees.

An inaccurate estimated maximum annual water demand for all uses on the project site of 2.76 AFY.

None of these additional cannabis activities were noticed to the public at the time (November 2019) that the expansion of the project apparently proposed to County Planning. The magnitude of these changes requires the submission of a new revised Land Use Permit application and public noticing at the time the changes were proposed for the project. It appears that the project design was revised during and accepted by County Planning during November 2019.

2. **Neighborhood and community compatibility.** County's October 16, 2020 staff report and the project's September 17, 2020 MND implies that this project is compatible with existing activities in the area. The County represents that this is an agricultural activity similar to other AG activities in the area. In fact the area consists of vineyards and scattered other regular crop and grazing AG activities. Cannabis is not defined as a recognized "crop or grazing" activity in SLO County. SLO County considers cannabis projects as "Commercial Projects" not agricultural projects. Secondly, the County's reports and MND clearly identify "Surrounding Land Uses" in all directions (MND page 7 of 99) as "agricultural uses, single family residences, accessory structures, rural residential zoned areas." The project's MND makes the following comments regarding the character of the vicinity of the area where the project will be located:

- A. MND page 11 – The visual character of the project vicinity is characterized by agricultural land uses including vineyards, grazing and equestrian uses, with scattered rural residences, agricultural accessory structures and mature oak trees.
- B. MND page 17 – The project site is generally surrounded by active agricultural operations including vineyards, dry farming and grazing.
- C. MND page 21 – The project site is generally surrounded by agricultural land uses including vineyards and grazing, with the nearest sensitive receptor (an off-site residence located 640 feet north of the proposed development area.)

The County admits in its own environmental CEQA document that no legally permitted cannabis projects exist in the vicinity of the proposed project area. SLO County classifies cannabis project's as Commercial Projects not Agricultural

Projects. Obviously this project is not compatible with its surrounding established recognized crop and =grazing operations or its surrounding nearby rural residential neighborhoods.

3. **Failure to refer the expanded project application to various County, State and Federal agencies.** The failure of the County to require the submission and processing of a revised publicly noticed complete County Land Use Permit application that accurately discloses the scope of the expanded project's design and proposed operations has resulted in the inaccurate and incomplete County, State and federal referral comments received from these agencies. The project revisions should have been re-referred to the following various County, State and federal agencies for review, comments and recommendations. They were not. All referral responses were dated several months prior to the proposed (November 2019) project revisions and all referral responses indicated they were commenting only on the 3-acre outdoor cultivation activity. The following referral responses are disclosed as attachments to the scheduled October 16, 2020 permit approval hearing:

SLO APCD - April 15, 2019
Assessor's Office – April 8, 2019
Bldg. Department (Michael Stroker) – April 11, 2019
SLO Environmental Health – April 16, 2019
Northern Chumash Tribe AB 52 – 4/8/19
SLO Public Works – April 11, 2019
US Fish and Wildlife Department – November 4, 2019

4. **The failure of County Planning to require a revised Land Use Permit application has also created other issues resulting in inaccurate studies and reports required to consider a cannabis project application as complete for processing.** County cannabis and regular Land Use Permit application ordinances require that a Biological study be conducted as part of the permitting process. A 37-page Biological report was submitted by Althouse-Meade issued during June 2019. Althouse – Meade was not aware of the proposed project expansion per a discussion between TAAG Vice Chair Murray Powell and Althouse-Meade representative Jason Dart on September 3, 2020. This report is referred to, but not published for review, in the Friday's County Staff Report recommending approval of the project and in the project's CEQA Mitigated Negative Determination (MND) concluding that the project does not significantly impact the environment and a full EIR is not required.

The Althouse survey of the project property was conducted during April and May 2019 without knowledge by Althouse that the project was to be expanded from a 3-acre only outdoor cannabis cultivation operation to the activity indicated above that includes 27,000 sq. ft of 9 new greenhouse structures and the 1 other new structure. The report intends to provide baseline biological information and an assessment of potential special status plants and animal species that could occur on the Property or be affected by the proposed project and resulted in approximately 23 required environmental mitigations.

The draft project's Permit Conditions of Approval include about 20 biological related conditions proposed by this survey that are recognized by the County as mitigation factors required in order to conclude that the project will not create significant environmental impacts that would require a full EIR in compliance with California CEQA laws. The Althouse report and the proposed permit's conditions of approval represent environmental factors that were only determined for a 3-acre only outdoor cannabis cultivation operation, not the designated greatly expanded project design that is scheduled for permit approval on Friday.

5. **Paso Robles Ground Water Basin Water Use Restrictions.** The project is located within the Paso Robles Ground Water Basin which is categorized as being in a state of critical overdraft and is located within the area that is categorized as being in severe decline that requires the project to offset water usage at a 2:1 ratio per County Land Use Ordinance requirements (Sections 22.40.050 D.5. The Paso Robles Ground Water Basin ordinances and regulations require that this project provide evidence that the property has conducted regular irrigated crop production during the past 5 years. No evidence of irrigated crop or grazing production exists. Adjacent and neighboring residents, some of whom have lived next to the property for many years, have stated that irrigated crop activities have not been conducted on the property for many years and certainly not in the past five years. No evidence exists in the project's documents, reports

or in the October 16th hearing record indicating that any legal offsite water use offset arrangement exists that would result in the reduction in Basin water use to a level that will comply with the project's estimated water use by the 2:1 required offset ratio.

In these circumstances, Paso Basin regulations prohibit any Paso Basin groundwater use on this property for cannabis or other crop production. The hearing Staff report and the project MND both indicate that Basin groundwater use is available for the project. Both reports rely on the inaccurate estimated water use calculated without consideration of the project's expanded cultivation activities. The current revised project's estimated annual water use is 5.28 acre feet per year (AFY). The required 2:1 offset ratios results in a minimum water offset saving for this project to be at least 10.36 AFY.

The County Staff report and the project's MND present intentionally present misleading statements implying that the project property is conducting agricultural grain production operations. No evidence exists that any irrigated crop or grazing activities have been conducted on the property for a considerable amount of time exceeding the prior five (5) year requirement to prohibit Paso Basin water use for newly established irrigated cannabis crop outdoor or indoor cultivation activities on the property.

6. **Limited access to the project property.** The project property (2200 Neal Springs Road) is located directly behind a property located at 2210 Neal Spring Road, Templeton, CA 93465, that fronts Neal Spring Road. The project property location does not have direct access to Neal Spring Road or any other legal road. SLO County Cannabis ordinance Section 22.40.040 A. 2. requires "Evidence documenting that the site has legal access to a public road." A deeded access easement exists that is located within the east side property line of the 2210 Neal Spring Road adjacent property. The project's access must traverse that access easement located on this adjacent property. This easement access area has never been developed or improved. Unresolved legal issues exist regarding the intended use of the deeded access. For example whether a "Commercial Project" such as this proposed project was ever intended to be granted access on the deeded easement. At this time no access road or driveway area has ever been developed within this access area.

7. **Location of the Deed access location.** The SLO County Public Works agency and Cal Fire appear to be confused over the existence and location of a legally existing access road or driveway. County Public Works in an "updated" three-page "Recommended Conditions" letter to County Planning makes the following comments:

"The project site is located on a private access road off Neal Springs Rd." On page 2 of the letter, item 1.b. makes the comment that "Except for the primary and secondary access driveways, all other existing property connections to Neal Springs Road shall be removed" Two access driveways do not exist! It appears that Public Works has mistakenly identified an existing adjacent vineyard graded private property service road as being a legal access road to the project.

Cal Fire appears to have also mistakenly identified the private vineyard service road as the existing access road to the project site. Cal Fire recommendation letters require that a minimum 20-foot all-weather surfaced road be constructed to provide access to the project from Neal Spring Road.

8. **Cannabis Plant Offsite Visibility.** SLO County Cannabis ordinance Section 22.40.050 D.6. requires that "Cannabis plants shall not be easily visible from offsite." The proposed location of the 3-acre outdoor cultivation area is clearly visible from elevated adjacent offsite properties and residences located on those properties. The outdoor cultivation area is located in a "bowl" area, so to speak, that is at a significantly lower elevation than that of surrounding adjacent properties. Proposed fencing and screening will not eliminate offsite cannabis plant visibility.

9. **Cannabis Odor Control.** County Cannabis ordinance Section 22.40.050 D. 8. requires that "All cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite. All structures utilized for indoor cannabis cultivation shall be equipped and/or maintained with sufficient ventilation controls (e.g. carbon scrubbers) to eliminate nuisance odor emissions from being detected offsite." Regarding outdoor cultivation, the project proposes that outdoor cultivation areas will be setback by a minimum of 300 feet from the site's property lines. Undisputed evidence exists that the minimum 300-foot setback distance has virtually

no effective odor mitigation effect on preventing the detection of cannabis odor offsite. As discussed above the project is surrounded on all sides by rural residential areas that will be adversely impacted by the project's outdoor cultivation odor producing activities.

The revised expanded project's design and operations now includes 27,000 sq. ft of greenhouse indoor cultivation and a proposed cannabis processing operation in a new structure. Indoor cannabis greenhouse cultivation and processing create substantial amounts of cannabis odor. The project "proposes the use of "Carbon Scrubbers." This is an overly general undefined term used in existing County Cannabis ordinances. Cannabis ordinance also uses the term "fully enclosed" to define greenhouses. "Fully enclosed" is not defined in the project's application. Operation plans or the County's Staff report and MND's fail to describe in any manner whatsoever the details of the project's proposed indoor odor mitigation systems. Greenhouses require internal venting usually to the exterior environment in order to control interior temperature and humidity. Many County approved indoor cannabis operations resort to venting that is allegedly mitigated with exterior systems spraying unknown odor-masking material into the environment in attempts to eliminate cannabis odor. Substantial evidence exists that these systems fail to achieve the desired results and that the material sprayed into the environment, depending on weather and wind conditions, negatively impact neighboring offsite properties. There is no indication in the records to be considered during the October 16th hearing indicating the details of the project's indoor cultivation odor mitigation systems.

10. The Project applicant's actions to date and relationship with neighboring residences and property

owners. Mr. Nahail claims to be a good neighbor. Unfortunately actions speak more loudly than words. Mr. Nahail apparently purchased the property in 2017.

- In late 2017, the applicant hired a grading contractor to perform grading of the adjacent vineyard properties private service road with a legal County grading permit and without informing the service road property owner and adjacent property owner of the work. This incident resulted in calling the Sheriff out to halt the authorized work. It should be noted that a major PG&E natural gas pipeline traverses the vineyard, the vineyard private service road and the immediately adjacent deed undeveloped, graded designated access way to the project.
- The vineyard private service road and the adjacent unused access area were protected by locked gates intended to prevent unauthorized public access from El Pomar Road. The applicant tore down the vineyard service road gate and has been using that service road on a regular daily basis without owner permission to access the project's property. Photos of the destroyed gate areas can be provided.
- One late evening the applicant significantly damaged a portion of the adjacent 2210 Pomar Road property's eastside property line fencing that runs alongside the deeded unused access area.
- Current County Property information reports that at least two years of the project's SLO County property taxes amounting to approximately \$32,000 are delinquent.
- The project applicant filed for bankruptcy during 2019.
- Currently the project property is subject to Code Enforcement violation No. CODE2019-00248. There is a violation filed in 2019 regarding the applicant's unpermitted onsite occupancy of an RV or trailer and the installation of an unpermitted accessory type structure on the property in the location of the RV-Trailer units. This violation required that occupancy on the property immediately cease in 2019. Presently an RV and a trailer are located on the property that appear to be occupied with several vehicles parked in that immediate area.

Respectively submitted,

Bruce Jones
TAAG Chair
October 14, 2020