



Referral
Early Consultation

Date: May 19, 2022
To: Distribution List (See Attachment A)
From: Jeremy Ballard, Associate Planner, Planning & Community Development Department
Subject: TIME EXTENSION FOR USE PERMIT AND DEVELOPMENT AGREEMENT NO. PLN2019-0095 – CENTRAL VALLEY GROWERS, LLC – HOWARD ROAD III
Respond By: June 6, 2022

\*\*\*\*PLEASE REVIEW REFERRAL PROCESS POLICY\*\*\*\*

The Stanislaus County Department of Planning and Community Development is soliciting comments from responsible agencies under the Early Consultation process to determine: a) whether or not the project is subject to CEQA and b) if specific conditions should be placed upon project approval.

Therefore, please contact this office by the response date if you have any comments pertaining to the proposal. Comments made identifying potential impacts should be as specific as possible and should be based on supporting data (e.g., traffic counts, expected pollutant levels, etc.). Your comments should emphasize potential impacts in areas which your agency has expertise and/or jurisdictional responsibilities.

These comments will assist our Department in preparing a staff report to present to the Planning Commission. Those reports will contain our recommendations for approval or denial. They will also contain recommended conditions to be required should the project be approved. Therefore, please list any conditions that you wish to have included for presentation to the Commission as well as any other comments you may have. Please return all comments and/or conditions as soon as possible or no later than the response date referenced above.

Thank you for your cooperation. Please call (209) 525-6330 if you have any questions.

Applicant: Nav Athwal, on behalf of Central Valley Growers, LLC
Project Location: 3735 Howard Road, between the California Aqueduct and the Delta Mendota Canal, east of Interstate Highway 5, in the Westley area.
APN: 016-037-039
Williamson Act Contract: 71-1020
General Plan: Agriculture
Current Zoning: General Agriculture (A-2-40)

Project Description: This is a request for a one-year Time Extension for Use Permit and Development Agreement No. PLN2019-0095 – Central Valley Growers, LLC. – Howard Road III, approved by the Board of Supervisors on December 15, 2020, to establish a mixed-light commercial cannabis cultivation, nursery, processing, and distribution operation in four phases on a 49-acre parcel in the General Agriculture (A-2-40) zoning district. The project proposes to develop a total of 67,500 square feet of building space and 32,000 square feet of flowering canopy space.

Section 21.104.030 of the County Code requires that for a use permit to be activated, all conditions of approval of the use permit must be met within 18 months of project approval, unless the Planning Commission approves an extension. Without this extension request, Use Permit and Development

**Agreement No. PLN2019-0095 – Central Valley Growers, LLC – Howard Road III would have expired on April 13, 2022. The applicant has requested the extension due to the downturn in the commercial cannabis market. The applicant stated the goal would be to complete the build out of Use Permit and Development Agreement No. PLN2018-0114 – Central Valley Growers, LLC. – Howard Road (APN: 016-019-036), to ensure a stable operational footing prior to developing new facilities. If approved, the use permit would be active until April 13, 2023.**

**Full document with attachments available for viewing at:  
<http://www.stancounty.com/planning/pl/act-projects.shtm>**



**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

1010 10<sup>TH</sup> Street, Suite 3400, Modesto, CA 95354  
 Planning Phone: (209) 525-6330 Fax: (209) 525-5911  
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**TIME EXTENSION FOR USE PERMIT AND DEVELOPMENT AGREEMENT NO. PLN2019-0095 – CENTRAL VALLEY GROWERS, LLC – HOWARD ROAD III**

Attachment A

Distribution List

	CA DEPT OF CONSERVATION Land Resources / Mine Reclamation		STAN CO ALUC
	CA DEPT OF FISH & WILDLIFE		STAN CO ANIMAL SERVICES
X	CA DEPT OF CANNABIS CONTROL	X	STAN CO BUILDING PERMITS DIVISION
	CA DEPT OF TRANSPORTATION DIST 10	X	STAN CO CEO
	CA OPR STATE CLEARINGHOUSE		STAN CO CSA
X	CA RWQCB CENTRAL VALLEY REGION	X	STAN CO DER
	CA STATE LANDS COMMISSION	X	STAN CO ERC
	CEMETERY DISTRICT		STAN CO FARM BUREAU
	CENTRAL VALLEY FLOOD PROTECTION	X	STAN CO HAZARDOUS MATERIALS
	CITY OF:		STAN CO PARKS & RECREATION
	COMMUNITY SERVICES DIST:	X	STAN CO PUBLIC WORKS
	COOPERATIVE EXTENSION		STAN CO RISK MANAGEMENT
	COUNTY OF:	X	STAN CO SHERIFF
	DER GROUNDWATER RESOURCES DIVISION	X	STAN CO SUPERVISOR DIST 5: C. CONDIT
	FIRE PROTECTION DIST:	X	STAN COUNTY COUNSEL
	GSA:		StanCOG
	HOSPITAL DIST:	X	STANISLAUS FIRE PREVENTION BUREAU
	IRRIGATION DIST:		STANISLAUS LAFCO
	MOSQUITO DIST:		STATE OF CA SWRCB DIVISION OF DRINKING WATER DIST. 10
	MOUNTAIN VALLEY EMERGENCY MEDICAL SERVICES	X	SURROUNDING LAND OWNERS
	MUNICIPAL ADVISORY COUNCIL:	X	INTERESTED PARTIES
	PACIFIC GAS & ELECTRIC		TELEPHONE COMPANY: AT&T
	POSTMASTER:		TRIBAL CONTACTS (CA Government Code §65352.3)
	RAILROAD:		US ARMY CORPS OF ENGINEERS
X	SAN JOAQUIN VALLEY APCD		US FISH & WILDLIFE
	SCHOOL DIST 1:		US MILITARY (SB 1462) (7 agencies)
	SCHOOL DIST 2:		USDA NRCS
	WORKFORCE DEVELOPMENT		WATER DIST:
	STAN CO AG COMMISSIONER		
	TUOLUMNE RIVER TRUST		

**STANISLAUS COUNTY  
CEQA REFERRAL RESPONSE FORM**

**TO:** Stanislaus County Planning & Community Development  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, CA 95354

**FROM:** \_\_\_\_\_

**SUBJECT:** TIME EXTENSION FOR USE PERMIT AND DEVELOPMENT AGREEMENT NO.  
PLN2019-0095 – CENTRAL VALLEY GROWERS, LLC – HOWARD ROAD III

Based on this agency's particular field(s) of expertise, it is our position the above described project:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) – (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):*

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

\_\_\_\_\_  
\_\_\_\_\_

Response prepared by:

\_\_\_\_\_  
Name Title Date

March 24, 2022

Stanislaus County  
Planning & Community Development Department  
1010 10<sup>th</sup> Street Suite 3400  
Modesto, CA 95354

Attn: Jeremy Ballard, Associate Planner  
Angela Freitas, Director  
Cc: Tera Chumlee, Sr. Management Consultant  
Chief Executive Office

Re: Request for Extension of CUP Activation Deadline  
Central Valley Growers 'Howard III', PLN2019-0095

Mr. Ballard,

I write on behalf of Central Valley Growers, LLC ('CVG') to request an extension of the Conditional Use Permit (CUP) activation deadline (currently set to expire April 23<sup>rd</sup>) for the Howard III project. As you may know, the California cannabis market has experienced a severe decline in product value over the course the last year. Specifically, the wholesale price of 'mixed light' (greenhouse) cannabis has plummeted from approximately \$1,000-\$1,200/pound to a current price of less than \$500-\$600/pound. Notably, local governments across the region have been responding to these market conditions through their efforts to alleviate the financial burden on cannabis operators in their jurisdiction by way of tax and impact fee reductions.

On March 1, 2022, our General Counsel, Zach Drivon presented during public comment before the Stanislaus County Board of Directors asking for similar relief on behalf of the County's cannabis operators.

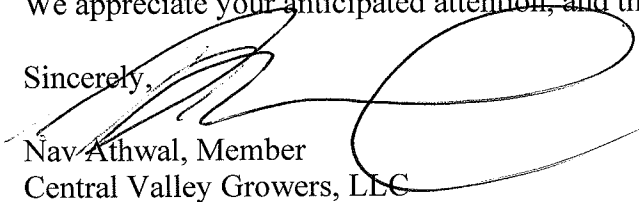
We expect a solid groundwork to be established for Phase 1 operations at our 'Howard I' facility (PLN2018-0114) with successful harvests and distribution of product moving forward. However, even with a successful launch of 'Howard I', we are not immune from the industry wide financial hardships being encountered by operators throughout the State.

Under these circumstances, we believe the most prudent course of action in the best interests of both the County and CVG would be to focus on scaling the Howard I facility to full buildout and establishing stable and consistent distribution of product along with revenues therefrom over the next eighteen months. In doing so, we would build a solid foundation for the Company, allowing us a sure-footed return to the Howard III development to increase production capacity and revenues with proven demand for our product.

In lieu of incurring the additional expense of producing engineered construction drawings to obtain Howard III building permits and thereby activating the CUP for a facility which may sit unoccupied for an indeterminate time-period, **we propose to extend its CUP activation deadline by twelve (12) months** pending completion of the full Howard I development with proven throughput of product pending market recovery.

We appreciate your anticipated attention, and thoughtful consideration of our request.

Sincerely,

  
Nav Athwal, Member  
Central Valley Growers, LLC

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
BOARD ACTION SUMMARY**

DEPT: Planning and Community Development

BOARD AGENDA: 8.2  
AGENDA DATE: December 15, 2020

**SUBJECT:**

Conduct a Public Hearing to Consider the Planning Commission's Recommendation of Denial for Use Permit and Development Agreement Application No. PLN2019-0095, Central Valley Growers, LLC, Howard Road III, a Request to Establish a Mixed-Light Commercial Cannabis Cultivation, Nursery, Processing, and Distribution Operation in Phases on a 49-acre Parcel in the A-2 (General Agriculture) Zoning District, Located at 3735 Howard Road, Between the California Aqueduct and the Delta Mendota Canal, East of Interstate Highway 5, in the Westley Area

**BOARD ACTION AS FOLLOWS:**

**RESOLUTION NO. 2020-0691**

On motion of Supervisor Chiesa ----- Seconded by Supervisor Grewal -----  
and approved by the following vote,  
Ayes: Supervisors: Chiesa, Grewal, and Chairwoman Olsen -----  
Noes: Supervisors: Withrow, DeMartini -----  
Excused or Absent: Supervisors: None -----  
Abstaining: Supervisor: None -----

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

**MOTION:** Approved Staff Recommendations Nos. 1-9.

INTRODUCED, WAIVED THE READING, AND ADOPTED ORDINANCE C.S.1287

ATTEST: Elizabeth A. King  
ELIZABETH A. KING, Clerk of the Board of Supervisors

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Planning and Community Development

BOARD AGENDA:8.2

AGENDA DATE: December 15, 2020

CONSENT

CEO CONCURRENCE: YES

4/5 Vote Required: No

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**SUBJECT:**

Conduct a Public Hearing to Consider the Planning Commission's Recommendation of Denial for Use Permit and Development Agreement Application No. PLN2019-0095, Central Valley Growers, LLC, Howard Road III, a Request to Establish a Mixed-Light Commercial Cannabis Cultivation, Nursery, Processing, and Distribution Operation in Phases on a 49-acre Parcel in the A-2 (General Agriculture) Zoning District, Located at 3735 Howard Road, Between the California Aqueduct and the Delta Mendota Canal, East of Interstate Highway 5, in the Westley Area

**STAFF RECOMMENDATION:**

After conducting a public hearing at its regular meeting on September 17, 2020, the Planning Commission, on a 5-2 vote, recommended the Board of Supervisors deny this project. Planning staff recommends the Board of Supervisors:

1. Conduct a public hearing to consider the Planning Commission's recommendation for denial of Use Permit and Development Agreement Application No. PLN2019-0095, Central Valley Growers LLC, Howard Road III, a request to establish a mixed-light commercial cannabis cultivation, nursery, processing, and distribution operation in phases on a 49-acre parcel in the A-2 (General Agriculture) zoning district, located at 3735 Howard Road, between the California Aqueduct and the Delta Mendota Canal, east of Interstate Highway 5, in the Westley area.

If the Board of Supervisors decides to approve the project, the Board of Supervisors should also take the following actions:

2. Find that:
  - (a) No further analysis under California Environmental Quality Act (CEQA) is required pursuant to CEQA Guidelines Section 15183 (Consistency with a General Plan, Community Plan or Zoning Ordinance for which an Environmental Impact Report (EIR) was prepared), on the basis of the whole record, including any comments received in response to the Environmental Review Referral.



- (b) The project is consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified.
  - (c) There are no project specific effects which are peculiar to the project or its site, and which the 2016 Stanislaus County General Plan Update (GPU) EIR failed to analyze as significant effects.
  - (d) There are no potentially significant off-site and/or cumulative impacts which the GPU EIR failed to evaluate.
  - (e) There is no substantial new information which results in more severe impacts than anticipated by the GPU EIR.
  - (f) The project will undertake feasible mitigation measures specified in the GPU EIR.
  - (g) The project is exempt as per CEQA Guidelines Section 15061, Common Sense Exemption, from CEQA.
3. Order the filing of a Notice of Determination with the Stanislaus County Clerk Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
  4. Order the filing of a Notice of Exemption with the Stanislaus County Clerk Recorder's Office pursuant to CEQA Guidelines Section 15061.
  5. Find that:
    - (a) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
    - (b) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district.
    - (c) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural product on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting,

processing, or shipping.

- (d) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

6. Find that the Development Agreement:

- (a) Is consistent with the General Plan and any applicable specific plan.
- (b) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is or will be located.
- (c) Is in conformity with and will promote public convenience, general welfare and good land use practice.
- (d) Will not be detrimental to health, safety, and general welfare.
- (e) Will not adversely affect the orderly development of property or the preservation of property values.
- (f) Will promote and encourage the orderly development of the proposed project by providing a greater degree of requisite certainty.

7. Approve Use Permit and Development Agreement Application No. PLN2019-0095 – Central Valley Growers, LLC – Howard Road III., subject to the attached Conditions of Approval.

8. Authorize the Chairwoman of the Stanislaus County Board of Supervisors to execute the attached Development Agreement.

9. Introduce, waive the reading, and adopt an ordinance for the approved Development Agreement.

**DISCUSSION:**

This is a request to obtain a Use Permit (UP) and Development Agreement (DA) to establish a mixed-light commercial cannabis cultivation, nursery, processing, and distribution operation in phases on a 49-acre parcel in the A-2 (General Agriculture) zoning district. Phase 1 includes construction of a 13,940 square-foot greenhouse for cultivation of flowering cannabis and construction of a 14,650 square-foot warehouse building to be used for processing, distribution, product and materials storage, clonal research for nursery activities, and administrative activities. Phases 2 and 3 will each construct an additional 13,940 square-foot greenhouse building and Phase 4 will construct one 3,000 square-foot greenhouse and one 7,000 square-foot greenhouse. In total, the project will consist of 67,500 square-feet of building space and 32,000 square-feet of flowering canopy space.

A detailed project description including project phasing can be found in Attachment 1 – *September 17, 2020 Planning Commission Staff Report*.

The 49-acre project site is located at 3735 Howard Road, between the California Aqueduct and the Delta Mendota Canal, east of Interstate Highway 5, in the Westley area. Adjacent land uses include orchards in all directions; the Delta Mendota Canal and poultry ranch to the east, the California Aqueduct and highway commercial development to the west; and vineyards to the south. The project site is planted in an almond orchard and improved with an agricultural storage building.

The facility will be operated by Central Valley Growers, which has already been approved to operate a commercial cannabis cultivation facility, UP & DA PLN2018-0114 – Central Valley Growers, LLC – Howard Road, to the east of this site on Assessor's Parcel No. 016-019-036. Additionally, the applicant has applied for another cultivation operation, UP & DA Application No. PLN2019-0094 – Central Valley Growers, LLC – Howard Road II, located to the east of the project site on Assessor Parcel No. 016-019-032. The location for all three operations is reflected in the Attachment 5 – *APN Map dated October 6, 2020*. Attachment 5 is an updated map to Exhibit G of Attachment 1 and also provides the location of properties owned by persons in opposition to the project. The map has been updated to reflect a letter of opposition received after the September 17, 2020 Planning Commission Staff Report was published.

If approved, fees to be collected from the project include a Community Benefit, which is divided into two categories: A Community Benefit Contribution and a Community Benefit Rate. Community Benefits are negotiated on a project-by-project basis. The Community Benefit Contribution is to be paid quarterly, by the operator, and is intended to be distributed to local community charities and to be utilized for public improvement projects.

The Community Benefit Contribution included in the Development Agreement for this project is an annual fee which will range from \$3,438 to \$87,300 over the first five years. The Community Benefit Rate is based on the activities to be permitted and their proposed scope. The Community Benefit Rate for this project's cultivation activities is an annual rate of \$13,750 in 2021, \$93,500 in 2022, \$173,500 in 2023, and \$187,000 in 2024; for nursery activities the annual rate will be \$7,000 starting in 2024. All fees are required to be paid to the Treasurer Tax Collector on a quarterly basis. All fees collected are intended to be used for enforcement activities of illegal cannabis activities throughout the County.

The proposed Development Agreement has a term of five years and the fees will be reassessed under a subsequent Development Agreement or any amendments to the proposed Development Agreement (see Attachment 3 – *Proposed Ordinance and Development Agreement*).

Five letters of opposition were received from adjacent property owners. Of the five letters, three letters were received from John Jerome, Sharleen Jerome, and Susan Jerome who own property to the north of the project site and east of the Delta Mendota

Canal. Each letter describes opposition to the project for reasons such as: commercial cannabis being better suited in industrial zones, slower Sheriff response times in rural areas, concern for farm worker safety, and concern with private access roads deteriorating due to the increased use. The fourth letter of opposition was received from Griselda Villareal, who states that although the project may meet the requirements of the County it should not be approved because: cannabis is not legal federally, it will bring a criminal element to the area, already slow Sheriff response time, existing excessive traffic, and would harm the safety of those that work in the area. The fifth letter of opposition was received from Susan Flora, who owns property with her family to the north of the site. She states their opposition is due to the vehicle traffic from the project will increase dust, which will be harmful to their crops. Adding that the property owner in the past has done a poor job of dust control. Additionally, Ms. Flora's letter stated that because of strict food safety laws, the apricots they grow on their property could be impacted if the commercial cannabis facility uses incompatible pesticides or contaminates groundwater. Lastly, the letter states that the rural areas already suffer from illegal dumping, vandals, and theft and a commercial cannabis facility would threaten the physical safety of those that work on their parcel.

The ten letters of support for the proposed project were received from local members of the community. The letters described their personal and professional relationship with the applicant, their experience in the agricultural community, and the projects importance to the local economy. A detailed discussion on each letter of opposition and support, along with the letters, is included in Attachment 1 – *September 17, 2020 Planning Commission Staff Report*.

Subsequent to the publishing of the Planning Commission Staff Report, a letter of opposition was received from the Bays Property Partnership and Bays Ranch Inc. (see Attachment 4 – *Planning Commission Correspondence*). The letter raises concerns with the applicants three operations proposed for the area and misidentifies the project site as north of their property. Attachment 5 clarifies the location of the Bays property (APN 016-019-037) to the location of the three proposed operations. The project site currently under consideration is located 0.6 miles to the west of the Bays property. The letter stated that the ownership group was opposed to the project based on their experience farming next to the applicant for over the past 15 years. Their letter states that although the applicant has not constructed the previously approved operation yet, they should prove to be responsible operators before expanding to additional locations. The letter also states that the ownership group had previously voiced concerns about increases in dust, which that the applicant still shows a lack of effort in addressing, even during harvest season. Additionally, the opposition letter cites concerns for their employees' security, as well as concerns of spray drift affecting their crops. Lastly, the letter raised concerns regarding potential blight if the commercial cannabis business ceased to stay in operation, including the negative impact it would have on the farming community.

A public hearing was held for this project at the September 17, 2020 Planning Commission meeting. After the conclusion of staff's presentation, Commissioner Durrer confirmed with staff that none of the letters of support were from surrounding property owners and that Roman Katuszonek, who was identified in the letters of support, was a

member of Central Valley Growers, LLC. Commissioner Mott inquired about the types of development west of the project site along Interstate 5. Staff stated that there is commercial and highway frontage development, centered around the Westley interchange.

During the public hearing, one person spoke in opposition of the proposed project Daniel Bays, a neighbor of the project. Mr. Bays stated he was also the person who wrote the letter of opposition that was received as correspondence to the Planning Commission. Mr. Bays stated that while the applicant has improved in taking care of their properties, there are still issues concerning dust control, grading and maintaining of access roads, as well as garbage not being discarded. He also stated that, although the current application would not use any shared access roads, he has concerns with up to three cannabis facilities in close proximity and the associated increase in traffic on roadways they would share, if all three are approved. Commissioner Willerup asked Mr. Bays if there had been any issues with spray drift from any other cannabis facilities in the past. Mr. Bays stated that they do not have any additional apricot orchards adjacent to cannabis facilities but have had spray drift issues with other crops.

Commissioner Blom asked for clarification on which of the three Central Valley Growers applications have been presented to the Planning Commission and Board of Supervisors. Staff answered that of the three applications submitted, only one has been heard and approved by the both the Planning Commission and Board of Supervisors, and that the item before them was the second to be considered by the Planning Commission. The third is still being reviewed by staff and is not yet scheduled for Planning Commission.

Six people spoke in favor of the project during the public hearing. Zach Drivon, representing the applicant as legal counsel, spoke in favor of the project, stating that this application would complement their previously approved cultivation site. Mr. Drivon explained the applicant's history of farming in the community as well as their relationship with Lyfted Farms, who will assist in managing the cultivation business. Addressing the letters of opposition, Mr. Drivon, described that the project: would be buffered on all sides by almond orchards that the applicant's own, the greenhouses would be fitted with industrial carbon air filtration eliminating any potential for odors, and that the access road to the site will be paved and installed with road base to decrease dust. Mr. Drivon explained that cannabis cultivation goes through strict testing requirements and are not allowed to use pesticides and chemicals that could affect neighboring crops. Lastly, Mr. Drivon described enhanced security protocols for the site that include: no climb fencing that will be installed with solid metal paneling, remote security surveillance, and all deliveries taking place within the building with no cash transactions. Commissioner Mott asked Mr. Drivon for clarification on the applicant's role in the operation if Lyfted Farms will be managing the cultivation operation. Mr. Drivon stated that the applicant will manage the administrative side of the business operations with Lyfted Farms managing the cultivation. Mr. Drivon also confirmed for Commissioner Willerup that all three sites would include the same security enhancements, that cannabis cultivators cannot use chemical fertilizers or pesticides, and all amendments to the plants will be applied indoors, thus limiting the potential for drift. Commission Buehner stated that with air ventilation, there would be some

exhausting of the greenhouse. Mr. Drivon agreed, but restated that the site was buffered on all sides with property the applicant owns. Staff clarified that a condition of approval had been placed on the project requiring ventilation for greenhouses to be installed facing the interior of the property.

One of the applicants, Nav Athwal, provided the Planning Commission with an overview of his personal and professional background, including his family's farming background in the County. Mr. Athwal stated that in the past they have accommodated the Bays by relocating the area of development for the approved cultivation operation to the northern end of their parcel. He also stated, that with their farming of 800 acres in the County, they share the same concerns with dust and safety of employees as those that are in opposition to the project. Lastly, Mr. Athwal stated that with no shared access roads and owning parcels abutting it, they chose this project site to avoid issues with neighbors. Mr. Athwal confirmed for Commissioner Mott, that they do not have plans to develop additional cannabis businesses, beyond the current three, on any other parcel they own in the vicinity.

Bob Blink, CEO of Lyfted Farms, spoke in favor of the project, allaying concerns about chemical applications to the cannabis plants by stating that drip systems are used to feed the plants. He also stated that any runoff is collected, stored, and disposed of as appropriate. Mr. Blink also described that state regulations only allow use of organic pesticides and that the greenhouses will be comprised of negative pressure system, which would limit escape of pesticides.

Roman Katuszonek, a member of Central Valley Growers, described his background in the United States Marines and insurance industry. Commissioner Mott asked what it meant to be a member of Central Valley Growers. Mr. Katuszonek stated that LLC members are similar to shareholders or owners. Two additional people spoke in favor, Shikha Jain and Don DeGraff. Ms. Jain, a chiropractor and County resident, was in favor of the project because of the positive aspects cannabis has on the body and that it would be beneficial for the community. Mr. DeGraff, general contractor for the applicant, was in favor of the project also because of the positive benefits of cannabis, as well as the project being beneficial for the local economy.

After the close of the public hearing, the Commissioners deliberated on the item. Commissioner Willerup stated that he thought the application met state requirements and was in line with the intent of the County's A-2 zoning district. Commissioner Durrer stated she appreciated the applicant's effort, but that she believes that commercial cannabis in the rural areas is problematic because of safety concerns and slow Sheriff response times. Commissioner Mott agreed with Commissioner Durrer's assessment and he stated that a concentration of three facilities within a small area would be an issue because of security concerns. Commissioner Maring stated that other agriculturally related commercial businesses have a need to be located in the rural areas because they have an economic relationship with agricultural, whereas cannabis cultivation businesses do not and could operate just as well in industrial areas. Commissioner Buehner agreed with the previous Commissioners as to their reasons for opposition and stated that he was previously against allowing the County's ordinance to permit cannabis in agriculturally zoned areas and is opposed to this project as well.

On a vote of 5-2, the Planning Commission recommended denial of the project to the Board of Supervisors.

The project was originally scheduled for the October 13, 2020 Board of Supervisors meeting; however, the applicant requested a continuance to allow time to make modifications to their security plan in response to the letters of opposition received. The modified plan includes additional security countermeasures and policies for the operation. Additionally, the applicant has begun nightly security patrols of the previously approved project area, which will be expanded to include this project site, if approved. The Board of Supervisors approved a continuance to a future unspecified date, for up to a minimum of six weeks.

**POLICY ISSUE:**

As required by Chapter 6.78.060 of the Stanislaus County Code, prior to operating in the County, the permittee of each commercial cannabis activity shall enter into a development agreement, as specified in Title 22 of the Stanislaus County Code and shall obtain all necessary entitlements, as required by Title 21 of the Stanislaus County Code. Title 21 requires that a use permit be obtained prior to operating a commercial cannabis business. Typically, the decision-making body for a use permit is the Stanislaus County Planning Commission. However, since both a development agreement and a use permit are required in order to operate a commercial cannabis business, and because a development agreement must be considered by the Board of Supervisors at a public hearing, the Stanislaus County Board of Supervisors is the decision-making body.

**FISCAL IMPACT:**

Costs associated with processing this request, including setting the public hearing, publishing of required notices, and conducting the hearing, have been covered by the application fee deposit plus revenue from additional invoicing at project end.

**BOARD OF SUPERVISORS' PRIORITY:**

Approval of this action supports the Board of Supervisors' priority of *Developing a Healthy Economy and Delivering Efficient Public Services & Community Infrastructure* by providing a land use determination consistent with the overall goals and policies of the Stanislaus County General Plan.

**STAFFING IMPACT:**

Planning and Community Development Department staff is responsible for reviewing all applications, preparing all reports, and attending meetings associated with the proposed request.

**CONTACT PERSON:**

Angela Freitas, Planning and Community Development Director  
Telephone: (209) 525-6330

**ATTACHMENT(S) AVAILABLE FROM CLERK:**

1. September 17, 2020 Planning Commission Staff Report
2. September 17, 2020 Planning Commission Minutes Excerpt
3. Proposed Ordinance and Development Agreement
4. Planning Commission Correspondence
5. APN Map dated October 6, 2020



**STANISLAUS COUNTY PLANNING COMMISSION**

September 17, 2020

**STAFF REPORT**

**USE PERMIT AND DEVELOPMENT AGREEMENT APPLICATION NO. PLN2019-0095  
CENTRAL VALLEY GROWERS, LLC. – HOWARD ROAD III**

**REQUEST: TO OBTAIN A USE PERMIT AND DEVELOPMENT AGREEMENT TO ESTABLISH A MIXED-LIGHT COMMERCIAL CANNABIS CULTIVATION, NURSERY, PROCESSING, AND DISTRIBUTION OPERATION IN PHASES ON A 49 ACRE PARCEL IN THE A-2 (GENERAL AGRICULTURE) ZONING DISTRICT.**

**APPLICATION INFORMATION**

Applicant:	Sarbjit Athwal DBA Central Valley Growers, LLC.
Property Owner:	Athwal Investments, LP (Navjot, Karenjit, and Pradeep Athwal)
Agent:	Zach Drivon, Drivon Consulting
Location:	3735 Howard Road, between the California Aqueduct and the Delta Mendota Canal, east of Interstate Highway 5, in the Westley area.
Section, Township, Range:	36-4-6
Supervisorial District:	District 5 (Supervisor DeMartini)
Assessor’s Parcel:	016-037-039
Referrals:	See Exhibit J – Environmental Review Referral
Area of Parcel(s):	49.15 acres
Water Supply:	Private well
Sewage Disposal:	Private septic system
General Plan Designation:	Agriculture
Community Plan Designation:	N/A
Existing Zoning:	A-2-40 (General Agriculture)
Sphere of Influence:	N/A
Williamson Act Contract No.:	1971-1020
Environmental Review:	CEQA Guidelines Section 15183 (Consistency with a General Plan or zoning for which an EIR was certified) and CEQA Guidelines Section 15061 (Common Sense Exemption)
Present Land Use:	Almond orchard and agricultural shop.
Surrounding Land Use:	Orchards, in all directions; Delta Mendota Canal and a poultry ranch to the east; the California Aqueduct, highway commercial development, and Interstate Highway 5 to the west; and vineyards to the south.

## **RECOMMENDATION**

Staff recommends the Planning Commission recommend that the Board of Supervisors approve this request based on the discussion below and on the whole of the record provided to the County. If the Planning Commission decides to recommend approval of this project, Exhibit A provides an overview of all the findings required for project approval.

## **PROJECT DESCRIPTION**

This project is a request to obtain a Use Permit and Development Agreement to establish a mixed-light commercial cannabis cultivation, nursery, processing, and distribution operation in phases on a 49-acre parcel in the A-2 (General Agriculture) zoning district. The project is proposed to be developed in the following phases:

### **Phase 1**

Phase 1 includes construction of a 13,940 square-foot greenhouse for cultivation of flowering cannabis and construction of a 14,650-square foot warehouse building to be used for processing, distribution, product and materials storage, clonal research for nursery activities, and administrative activities. The warehouse building will also include rooms for; secure transportation, cannabis waste storage, storage of harvested product, offices, conference room and security room, employee bathrooms, break room and changing room. The greenhouse will include up to 10,000 square feet of flowering canopy and 2,000 square feet of vegetative area. Phase 1 will develop 22 parking spaces within an enclosed parking area.

### **Phase 2**

Phase 2 will construct an additional 13,940 square foot greenhouse building for an additional 10,000 square feet of flowering cultivation space and 2,000 square feet of vegetative area.

### **Phase 3**

Phase 3 will construct an additional 13,940 square foot greenhouse building for an additional 10,000 square feet of flowering cultivation space and 2,000 square feet of vegetative area.

### **Phase 4**

Phase 4 will construct one 3,000 square-foot greenhouse for flowering cultivation and one 7,000 square-foot greenhouse for cultivation of nursery stock. The greenhouse with flowering cultivation, will be made up of 2,000 square feet of flowering canopy and 1,000 square feet of vegetative stock. In total of all four phases, the project will consist of 67,500 square feet of building space and 32,000 square feet of flowering canopy space. Nursery stock is proposed to be sold wholesale as well as to feed the cultivation operation.

Additionally, the project proposes to develop 7-foot-tall security fencing with screening, to be installed around the perimeter of the developed area for each phase. The fencing will also enclose the parking lot. The security fencing will be constructed of cross-hatched metal wiring with metal privacy screening installed congruently along the fence and razor wire along the top. The privacy screening consists of 3mm holes limiting visibility from outside the facility (see Exhibit B-7 – *Maps*). Hours of operation are proposed to be Monday through Sunday, 6 a.m. to 9 p.m. Domestic and

irrigation water will be provided from an existing on-site private well. The project will include a total of 18 employees on a maximum shift. The applicant anticipates up to two vehicle trips a day associated with deliveries and product distribution, which will only occur between the hours of 8:30 a.m. to 5:00 p.m. (see Exhibit B – *Maps*).

A Development Agreement (see Exhibit E - *Development Agreement*) is included in the project request, as required by Chapter 6.78.060 of the Stanislaus County Code.

### **SITE DESCRIPTION**

The 49.15 acre project site is located at 3735 Howard Road, between the California Aqueduct and the Delta Mendota Canal, east of Interstate Highway 5, in the Westley area (see Exhibit B – *Maps*). Adjacent land uses include orchards in all directions; the Delta Mendota Canal and poultry ranch to the east, the California Aqueduct and highway commercial development to the west; and vineyards to the south. The facility will be operated by Central Valley Growers, which has approval to operate a commercial cannabis cultivation facility, UP & DA PLN2018-0114 – Central Valley Growers, LLC – Howard Road to the east of this site on Assessor's Parcel No. 016-019-036. Additionally, the applicant has applied for another cultivation operation, Use Permit & Development Agreement Application No. PLN2019-0094 – Central Valley Growers, LLC – Howard Road II, located to the east of the project site on Assessor Parcel No. 016-019-032. All three of the applicant's project sites are identified in Exhibit G – *APN Map*.

The project site is planted in an almond orchard and improved with an agricultural storage building. A portion of the orchard located just southwest of the agricultural storage building will be cleared for the proposed development. The project site fronts onto Howard Road, a County-maintained road, and maintains a 30-foot-wide access easement along the eastern property line for the benefit of the property to the north which is also owned by the property owner.

### **BACKGROUND**

On June 27, 2017, the Governor approved Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which created one regulatory system for commercial cannabis activity. This legislation allowed each jurisdiction to either permit or prohibit commercial cannabis activity within their jurisdictions.

On December 5, 2017, the Stanislaus County Board of Supervisors approved a Commercial Cannabis Program for Stanislaus County which allows for up to 61 cannabis activities permits, prohibits outdoor cannabis cultivation, and limits retail to no more than seven establishments in the unincorporated area (to view the December 5, 2017, Board of Supervisor item visit the Board of Supervisors Agenda, Minutes, Audio & Video web page at [www.stancounty.com/bos](http://www.stancounty.com/bos) ). The County adopted two separate ordinance amendments addressing commercial cannabis activities: Title 21, the Stanislaus County Zoning Ordinance, which was adopted on December 5, 2017, specifies the zoning districts where each commercial cannabis activity may be permitted, subject to the discretionary review process; and Chapter 6.78, of the County Code, which was adopted on January 9, 2018, lays out the general regulations for commercial cannabis activities in the County, including operating standards such as required setbacks from specific uses, odor control, and security measures.

In January 2018, the County received 61 complete applications requesting a total of 84 commercial cannabis permits. The County contracted with a third-party reviewer, HDL Consulting, to review and score each application to determine a ranking and to ensure compatibility with state regulations. A background screening was also conducted by the Sheriff's Department for all business and property

owners. The process for retail activities included additional scoring steps consisting of site inspections and interviews with County staff. Total scores were calculated to determine a final ranking and waiting list of all retail applicants. The top seven ranked retail applications have proceeded forwarded to the land use entitlement phase. In total 33 applications, including 45 permits, have moved forward into the land use entitlement and development agreement phase of the permitting process, which requires a Planning Commission hearing and Board of Supervisors approval. The process involves environmental review, public notification, and public hearings.

A second application process was opened in August of 2019 for existing applicants that scored 70% or above and had passed a criminal background check. Background checks were required on any new property owners. Additionally, the process was open to all persons who wanted to submit an application for a cannabis testing facility. All applicants and property owners also completed a criminal background check. A total of six applications requesting a total of nine permits were received. Five applications are requests for indoor and mixed-light cultivation, distribution and manufacturing activities and one is for a testing facility.

## **ISSUES**

In response to the land owner referrals for this project, letters of opposition and support have been received for this project. Provided below is an overview of the letters received.

### *Letters of Opposition*

Five letters of opposition from adjacent property owners have been received for this project (see Exhibit F – *Letters of Opposition*).

Three of the opposition letters were received from John Jerome, Sharleen Jerome, and Susan Jerome who own property to the north of the project site and east of the Delta Mendota Canal. The properties are identified as Assessor's Parcel Number's (APN's): 016-019-001, 016-019-054, 016-019-055 (see Exhibit G – *APN Map*). Each letter describes opposition to the project for reasons such as: commercial cannabis being better suited in industrial zones, slower sheriff response times in rural areas, concern for farm worker safety, and concern with private access roads deteriorating due to the increased use. Lastly, the three letters question the property owner's commitment to maintaining the property and question who will monitor the site.

Two additional letters of opposition were received from Griselda Villareal and Susan Flora. Mrs. Villareal states that although the project may meet the requirements of the County it should not be approved because: cannabis is not legal federally, it will bring a criminal element to the area, already slow sheriff response time, existing excessive traffic, and would harm the safety of those that work in the area.

Ms. Flora's, who owns property with her family to the north of the site (APN: 016-037-012), states opposition is due to the vehicle traffic from the project will increase dust, which will be harmful to their crops. She states that the property owner in the past has done a poor job of dust control. Additionally, Ms. Flora states that because of strict food safety laws, the apricots they grow could be impacted if the commercial cannabis facility uses incompatible pesticides or contaminates groundwater. She states that the rural areas already suffer from illegal dumping, vandals, and theft and a commercial cannabis facility would threaten the physical safety of those that work on their parcel. Ms. Flora states concerns with the applicant's ability to comply with the project requirements and that the applicant has a history of property neglect should not be approved to construct any more facilities.

As with all commercial cannabis cultivation projects, pesticide use is closely regulated by the State of California's Department of Food and Agriculture's Cal Cannabis Division and the Stanislaus County Agricultural Commissioners office. Additionally, all commercial cannabis cultivation operations are required to be grown completely indoors and will be required to maintain any cannabis odors indoors. As stipulated by Chapter 6.78 of the County Code, commercial cannabis applications are required to receive an annual inspection prior to renewal of a license to ensure continued compliance with the regulations and requirements of the specific project. To address the concerns related to dust created by the existing dirt access road, a condition of approval has been placed on the project requiring:

"All access roads utilized to access the operation shall be properly graded and maintained., including but not limited to, regularly oiled to control dust, and in addition, shall be graded and maintained to an all-weather standard that is appropriate to be used by emergency vehicles. "Regularly maintained" shall be semi-annually at a minimum, unless additional maintenance is necessary"

### Letters of Support

Ten letters of support were received for this project (see Exhibit H – *Letters of Support*). The letters received were from Marie Joiner, Broker for Bella Casa Realty; Brigido Mota, independent farming contractor; Miguel Gonzales, Pastor of Iglesia Apostolica de la fe en Cristo Jesus; Don Degraff, Celadon Development and Construction Services; Harbir Singh, Field Representative for Dave Wilson's Nursery; James Blink, CEO of Lyfted Farms, Inc.; Nelson Beare, Beare Farms, Inc.; Geoffrey Fleissner, G. Fleissner Engineering; Jeff Barron, District Manager for Pacific Coast Producers; and Narinder Dhaliwal, Crop Advisor for Stanislaus Farm Supply. Each letter describes their personal and professional relationship with the applicant, their experience in the agricultural community, and the projects importance to the local economy.

### **GENERAL PLAN CONSISTENCY**

Consistency with the goals, objectives, and policies of the various elements of the General Plan must be evaluated when processing all discretionary project requests. The project site has a General Plan designation of Agriculture. This designation establishes agriculture as the primary use on land so designated, but allows dwelling units, limited agriculturally-related commercial services, agriculturally-related light industrial uses, and other uses which by their unique nature are not compatible with urban uses, provided they do not conflict with the primary use. The Agriculture designation is appropriate in areas where the agricultural land is productive or potentially productive.

Goal Three, Policy 19 of the Land Use Element encourages accommodating the siting of industries with unique requirements and Policy 21 encourages the retention and expansion of existing businesses. Approval of this request would uphold both of these General Plan goals and policies, by recognizing the siting of a new industry type.

The Agricultural Element of the Stanislaus County General Plan establishes policies to protect the economy of Stanislaus County by minimizing conflicts between agriculture, the environment, and urban development. The element: (1) strengthens the agricultural sector of the economy; (2) conserves agricultural lands for agricultural uses; and (3) protects the natural resources that sustain agriculture in Stanislaus County. Goal One of the Agricultural Element discusses the importance of strengthening the agricultural sector of the local economy. Specifically, Objective Number 1.2 supports the development of agriculture-related uses. The proposed cannabis cultivation activities are similar to other activities that are permitted in the A-2 zoning district such as the cultivation of agricultural crops.

The Stanislaus County Agricultural Element includes guidelines for the implementation of agricultural buffers applicable to new and expanding non-agricultural uses within or adjacent to the A-2 zoning district. The purpose of these guidelines is to protect the long-term health of agriculture by minimizing conflicts such as spray drift and trespassing resulting from the interaction of agricultural and non-agricultural uses. Non-people intensive uses require a 150 foot buffer between the proposed use and surrounding agriculture. Alternatives may be approved provided the Planning Commission finds that the alternative provides equal or greater protection than the existing buffer standards.

The project site is adjacent to A-2 (General Agriculture) zoned property on all sides. With a maximum of 18 employees anticipated at full build-out, the project will be conducted mostly indoors and is considered to be a low people intensive use. However, the project will meet or exceed the 150 foot agricultural buffer on all sides. The distance from the proposed greenhouses to the nearest property line is 166 feet to the north.

Staff believes that the proposed project is consistent with the General Plan policies discussed above. The proposed cannabis cultivation activities are similar to other activities permitted in the A-2 zoning district and, with conditions of approval applied, are not anticipated to negatively impact surrounding agricultural uses or the community.

#### **CONSISTENCY WITH THE ZONING & DEVELOPMENT AGREEMENT ORDINANCES**

The site is zoned A-2 (General Agriculture). The A-2 zoning district is intended to support and enhance agriculture as the predominant land use in the unincorporated areas of the County. Commercial cannabis cultivation, nursery, and distribution activities limited to product produced on-site may be allowed in the A-2 zoning district upon approval of a use permit when conducted within a greenhouse or an accessory agricultural storage building.

In order to approve a use permit, the decision-making body shall make a finding that the establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use, and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County. If after receiving and considering the evidence and any proposed conditions, the decision-making body is unable to make the findings, the use permit shall be denied. In this case, the Planning Commission is providing a recommendation to the Board of Supervisors which will serve as the decision-making body for both the Use Permit and the Development Agreement.

The project site is enrolled in Williamson Act Contract No. 1971-1020. Section 21.20.045(A) of the A-2 zoning district requires that all uses requiring use permits that are approved on Williamson Act contracted lands shall be consistent with the following three principles of compatibility:

1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district.
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed

compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

As previously discussed, the proposed cannabis cultivation activities are considered to be similar to other permitted activities such as the cultivation of agricultural crops which are considered to be consistent with the Williamson Act principals of compatibility. Approval of this project will not significantly compromise the long-term productive agricultural capability of the subject property or of surrounding agricultural operations. Nor will the proposed project result in new facilities limiting the return of the property to agricultural production in the future, or in the removal of any adjacent contracted land from agricultural or open-space use. The project was referred to the State Department of Conservation during the Early Consultation review periods and no comment was received.

Chapter 21.08.020(D), General Provisions, of the Stanislaus County Zoning Ordinance requires that commercial cannabis activities be located and operated in compliance with all the requirements of Chapter 6.78 of the Stanislaus County Code. A discussion of the project's compatibility with Chapter 6.78 is provided below in the Section titled "Commercial Cannabis Activities Ordinance Consistency." General Provisions also require that property owner notification for the consideration of any discretionary action authorizing commercial cannabis activities be required at a distance of 600 feet, increased from the State required 300 feet, measured from the boundaries of the project site, unless a greater distance is required by adopted County policy or State requirement. Per County policy, in a rural area, all owners of property within a 1/4 mile, or 1,320 feet, shall be notified. All projects are required to notice a minimum of two parcels out in each direction. The landowner notification completed for this project met these standards.

At full build-out, the project proposes 18 employees on a maximum shift, which would require a total of 21 parking spaces. The applicant has proposed 22 parking spaces, which meets the required parking standard.

As required by Chapter 6.78.060 of the Stanislaus County Code, prior to operating in the County, the permittee of each commercial cannabis activity shall enter into a development agreement, as specified in Title 22 of the Stanislaus County Code. Title 22 specifies that the Planning Commission shall consider the proposed development agreement and provide a recommendation to the Board of Supervisors. The recommendation shall include the Planning Commission's determination on whether or not the Development Agreement:

- a. Is consistent with the General Plan and any applicable specific plan.
- b. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is or will be located.
- c. Is in conformity with and will promote public convenience, general welfare, and good land use practice.
- d. Will be detrimental to health, safety, and general welfare.
- e. Will adversely affect the orderly development of property or the preservation of property values.
- f. Will promote and encourage the orderly development of the proposed project by providing a greater degree of requisite certainty.

A Development Agreement has been prepared for this project (see Exhibit E – *Development Agreement*). Attachments to the Development Agreement include: Attachment A - *Project Description*, Attachment B - *Legal Description/Property Description*, Attachment C - *Operating Conditions*, Attachment D - *Community Benefits*, Attachment E – *Grant Deed*, and Attachment F – *Development Schedule*. Fees to be collected from the project include a Community Benefit, which is divided into two categories: A Community Benefit Contribution and a Community Benefit Rate. Community Benefits are negotiated on a project-by-project basis and are required to be paid quarterly, by the operator. The Community Benefit Contribution is intended to be distributed to local community charities and to be utilized for public improvement projects. The Community Benefit Rate fees collected are intended to be used for enforcement activities of illegal cannabis activities throughout the County. The proposed Development Agreement has a term of five years and the fees will be reassessed under a subsequent Development Agreement or any amendments to the proposed Development Agreement.

The Community Benefit Contribution included in the Development Agreement for this project is an annual fee which will range from \$3,438 to \$87,300 over the first five years. The Community Benefit Rate is based on the activities to be permitted and their proposed scope. The Community Benefit Rate for cultivation activities is an annual rate of \$13,750 in 2021, \$93,500 in 2022, \$173,500 in 2023, and \$187,000 in 2024; for nursery activities the annual rate will be \$7,000 starting in 2024.

Staff believes that the proposed project is consistent with the requirements of both the Zoning and Development Agreements Ordinances of the Stanislaus County Code. The proposed use is considered to be similar in nature to agricultural uses permitted in the A-2 zoning district. The applicant has provided information on the operation which indicates that the project conforms to the requirements included in Chapter 6.78 of the County Code, as discussed below. With conditions of approval in place, the proposed business is not anticipated to have a negative impact to the surrounding neighborhood or County as a whole.

### **COMMERCIAL CANNABIS ACTIVITIES ORDINANCE CONSISTENCY**

The intent of Chapter 6.78, Commercial Cannabis Activities, of the Stanislaus County Code, is to regulate the cultivation, possession, manufacturing, processing, storing, laboratory testing, labeling, transportation, destruction, delivery, or sale of medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of Stanislaus County and to enforce rules and regulations consistent with State law. Further, the purpose and intent of Chapter 6.78 is to require all commercial cannabis activities to obtain and renew annually a Commercial Cannabis Activity (CCA) Permit to operate in Stanislaus County.

**Cultivation:** The cultivation section of the Commercial Cannabis Activities Ordinance, states that in no case shall cannabis plants be visible from off-site, including the transfer of product. Further, no visual markers indicating that cannabis is cultivated on the site shall be visible from off-site and all cultivation activities shall be fully enclosed by an opaque fence, made of uniform material, at least seven feet in height. The fence must be adequately secured by a locked gate to prevent unauthorized entry. The fence design and construction material shall be approved by the County. All commercial cannabis cultivation operations shall occur within a greenhouse or fully enclosed building. As discussed previously, the project proposes to construct a seven-foot-tall security fence with privacy screening around the area of cannabis activity in order to provide the required visual screening. Additionally, all cultivation is proposed to take place in greenhouses and all processing activities are proposed to take place inside of a fully enclosed warehouse building.



Additionally, all commercial cannabis activities are required to meet the general operational standards laid out in Section 6.78.120. Those standards include, but are not limited to, the following:

**Buildings:** If commercial cannabis activities are to take place in an existing structure, that said structure shall obtain building permits for any improvements required to meet the building standards identified in Chapter 6.78, which include walls, doors, and the roof, shall be of solid construction, and shall include material strong enough to prevent entry except through an open door, and walls with a minimum thickness of six inches unless located in an A-2 zoning district, which allows for cultivation in greenhouse buildings. This project will be required to obtain building permits for all new structures as reflected in conditions of approval applied to the project.

**Security:** All commercial cannabis activities are required to provide a security plan to the Sheriff's Department for review and approval. The security plan shall be reviewed annually or as often as deemed necessary by the Sheriff's Department. The security plan shall include security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis projects, and to deter and prevent the theft of cannabis or cannabis projects at the site of commercial cannabis activity. The building is required to include a professionally installed and maintained alarm system, monitored by an alarm company or private security company, which monitors the interior, all perimeter entry points and windows, and the parking lot, 24 hours a day. Alarm system panic buttons and perimeter lighting are also required. The applicant provided a security plan which includes employee screening, a secure method for the transfer of products, a fenced and gated premise, an alarm, on-site security and surveillance system. The Sheriff's Department has reviewed and approved the security plan provided for the project. However, the applicant will be required to submit a formal security plan to the Sheriff's Department for review and approval, as reflected in conditions of approval applied to the project.

**Setbacks:** Section 6.78.120(A)(6) and (7) identifies several setback requirements for commercial cannabis uses including the local setback requirement of 200 feet from residences located on a separate parcel under different ownership or a library, and the State required setback of 600 feet from a day care center, youth center (including parks), or school. An additional setback is required in the A-2 zoning district of 50 feet from the use to all property lines.

The proposed project is in conformance with the 600 foot setback from childcare centers, youth centers, or schools. The nearest school is Grayson Elementary, located approximately 3.05 miles east from the site. There are no libraries or dwellings located within 200 feet of the area of commercial cannabis activity and the proposed project exceeds the 50 foot setback to all property lines.

**Odor Control:** Odor control devices and techniques are required to be incorporated into all commercial cannabis activities to ensure that odors from cannabis are not detectable off-site. Commercial cannabis activities shall provide a sufficient odor absorbing ventilation and exhaust system so that cannabis odors are not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as a commercial cannabis activity. Per the Air Quality and Odor Control Plan prepared for the project, each building will feature a HEPA filter on the HVAC systems and Carbon filtration on exhaust areas to prevent the odor of cannabis from being detectable from off-site.

**Signage and Notices:** The operator's CCA Permit is required to be posted inside the premises of the commercial cannabis business in a location readily visible to the public. Each entrance to a

commercial cannabis activity premises shall be visibly posted with a clear and legible notice indicating that no person under 21 years of age is permitted to enter upon the premises of the commercial cannabis activity, and that smoking, ingesting, or otherwise consuming cannabis in the parking areas, on the premises, or in the areas adjacent to the premises is prohibited. Limits on the methods of advertising commercial cannabis activities is also included in Section 6.78.120. The project does not propose any signage advertising the business, but will include all required signage, including “no loitering” signage.

**Track and Trace:** All permittees shall comply with the State of California and Stanislaus County Agricultural Commissioner’s requirements for unique identifiers and Track and Trace programs and shall pay all associated fees. The permittees shall obtain and use the unique identifiers from the State and County identified source, maintain them in a readable form, and comply with all data entry requirements and pay all required fees. Non-compliance with any Track and Trace requirements shall be grounds for revocation, suspension, or nonrenewal of the permittee’s CCA permit.

Additionally, Section 6.78.120 restricts loitering, on-site consumption of cannabis products, and outdoor storage of cannabis or cannabis products, and sets up standards for records and record keeping.

## **ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (Section 21000, et seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A project, under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed project is a project under CEQA.

Staff has reviewed the proposed action and has identified that no further analysis is required pursuant to CEQA Guidelines Section 15183 (Consistency with a General Plan, Community Plan, or Zoning for which an EIR was certified). State CEQA Guidelines Section 15183 (Public Resources Code Section 21083.3) provides that projects that are consistent with the development density and intensity established by existing zoning, community plan, or General Plan policies for which an Environmental Impact Report (EIR) has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.”

A project-specific CEQA Guidelines Section 15183 Consistency Checklist has been prepared for this Use Permit and Development Agreement request to determine if the project, and any resulting development, is consistent with Stanislaus County’s 2016 General Plan Update (GPU) EIR (see Exhibit D – *CEQA Guidelines Section 15183 Consistency Checklist*). The GPU incorporated all feasible mitigation measures identified in the EIR in the form of goals, objectives, policies, action items and programs. All applicable policies and implementation measures identified in the GPU EIR have been applied to this request as conditions of approval or will be applied to any resulting development as part of standard development processes. As reflected in the Consistency Checklist, development associated with the proposed commercial cannabis cultivation operation will be consistent with the density and intensity established by the A-2 (General Agriculture) zoning district, which has been determined to be consistent with the site’s Agriculture General Plan land use designation. Therefore, because any development resulting from the proposed project is similar to the uses allowed in the A-2 (General Agriculture) zoning district, there are no effects peculiar to the project or project site or substantial new information that would result in new or more severe adverse

impacts than discussed in the EIR certified on August 23, 2016 for the GPU. Therefore, no further analysis is required. Fish and Wildlife Fees for the EIR were paid on August 29, 2016 and no further fees are required.

A Notice of Exemption (see Exhibit I – *Notice of Exemption*) has also been prepared for the project, which declares that the project is exempt from CEQA on the basis of CEQA Guideline Section 15061 (Common Sense Exemption.)

As part of the review process, the proposed project was circulated to interested parties and responsible agencies for review and comment and no significant issues were raised. (see Exhibit J - *Environmental Review Referrals*.) Conditions of Approval reflecting referral responses have been placed on the project (see Exhibit C - *Conditions of Approval*).

\*\*\*\*\*

Contact Person:                      Jeremy Ballard, Associate Planner, (209) 525-6330

Attachments:

- Exhibit A – Findings and Actions Required for Project Approval
- Exhibit B – Maps
- Exhibit C - Conditions of Approval
- Exhibit D - CEQA Guidelines Section 15183 Consistency Checklist
- Exhibit E – Development Agreement
- Exhibit F – Letters of Opposition
- Exhibit G - APN Map
- Exhibit H - Letters of Support
- Exhibit I – Notice of Exemption
- Exhibit J – Environmental Review Referral

## Findings and Actions Required for Project Approval






1. Find that:
  - (a) No further analysis under California Environmental Quality Act (CEQA) is required pursuant to CEQA Guidelines Section 15183 (Consistency with a General Plan, Community Plan or Zoning Ordinance for which an Environmental Impact Report (EIR) was prepared), on the basis of the whole record, including any comments received in response to the Environmental Review Referral.
  - (b) The Project is consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified.
  - (c) There are no Project specific effects which are peculiar to the Project or its site, and which the 2016 Stanislaus County General Plan Update (GPU) EIR Failed to analyze as significant effects.
  - (d) There are no potentially significant off-site and/or cumulative impacts which the GPU EIR failed to evaluate.
  - (e) There is no substantial new information which results in more severe impacts than anticipated by the GPU EIR.
  - (f) The Project will undertake feasible mitigation measures specified in the GPU EIR.
  - (g) The Project is exempt as per CEQA Guidelines Section 15061, Common Sense Exemption, from CEQA.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Order the filing of a Notice of Exemption with the Stanislaus County Clerk Recorder's Office pursuant to CEQA Guidelines Section 15061.
4. Find that:
  - a. The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
  - b. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district.
  - c. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural product on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.
  - d. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.
5. Find that the Development Agreement:
  - a. Is consistent with the General Plan and any applicable specific plan.

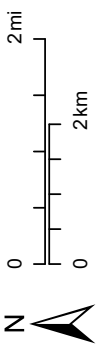
- b. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is or will be located.
  - c. Is in conformity with and will promote public convenience, general welfare and good land use practice.
  - d. Will not be detrimental to health, safety, and general welfare.
  - e. Will not adversely affect the orderly development of property or the preservation of property values.
  - f. Will promote and encourage the orderly development of the proposed project by providing a greater degree of requisite certainty.
6. Approve Use Permit and Development Agreement Application No. PLN2019-0095 – Central Valley Growers, LLC – Howard Road III., subject to the attached conditions of approval.
  7. Authorize the Chairman of the Stanislaus County Board of Supervisors to execute the attached Development Agreement.
  8. Introduce, waive the reading, and adopt an ordinance for the approved Development Agreement.

**CENTRAL VALLEY  
GROWERS LLC  
UP & DA  
PLN2019-0095**

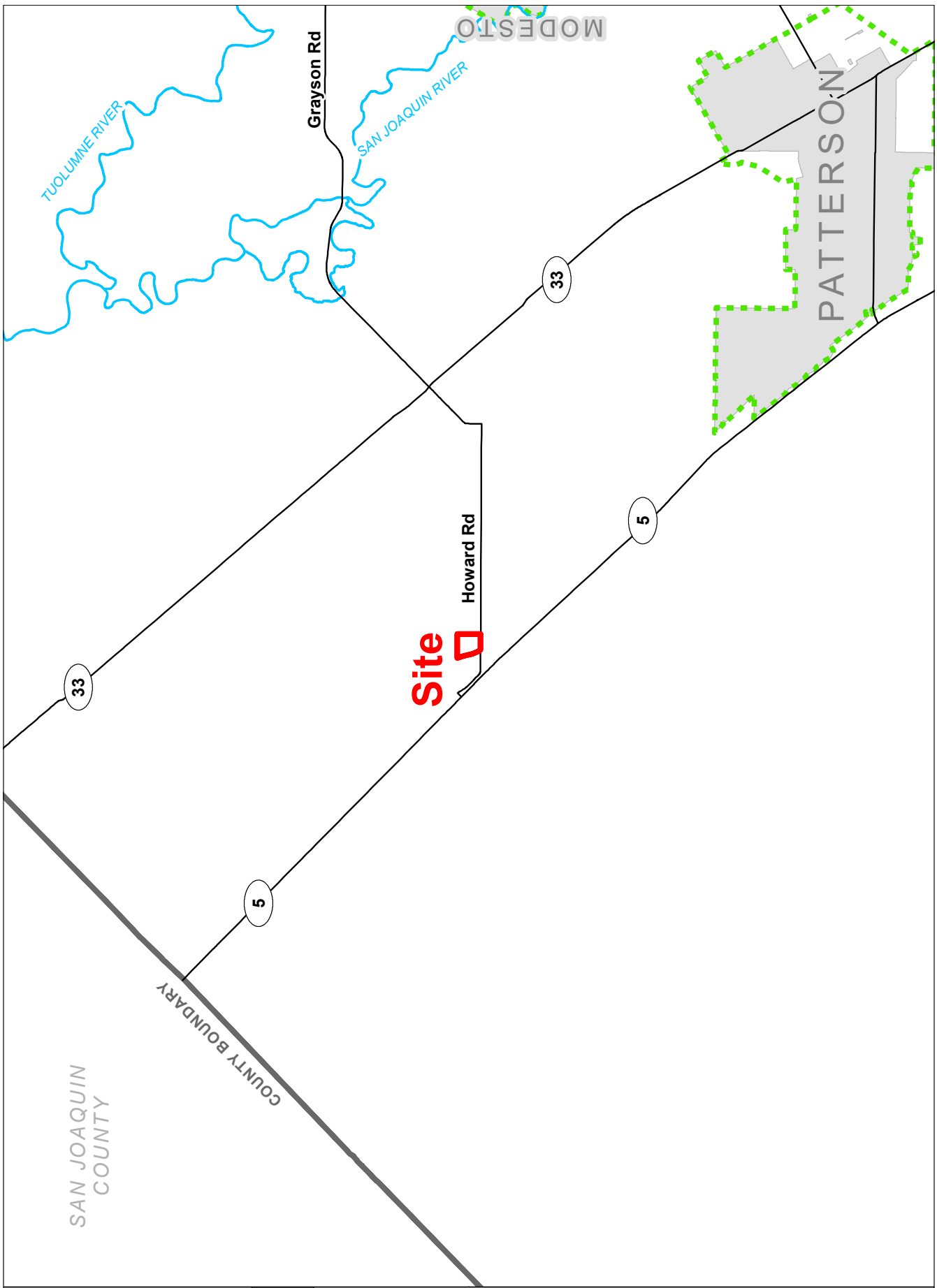
**AREA MAP**

**LEGEND**

-  Project Site
-  Sphere of Influence
-  City
-  Road
-  River



Source: Planning Department GIS Date: 11/7/2019






# CENTRAL VALLEY GROWERS LLC



## UP & DA PLN2019-0095

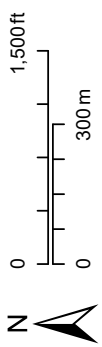
### GENERAL PLAN MAP

#### LEGEND

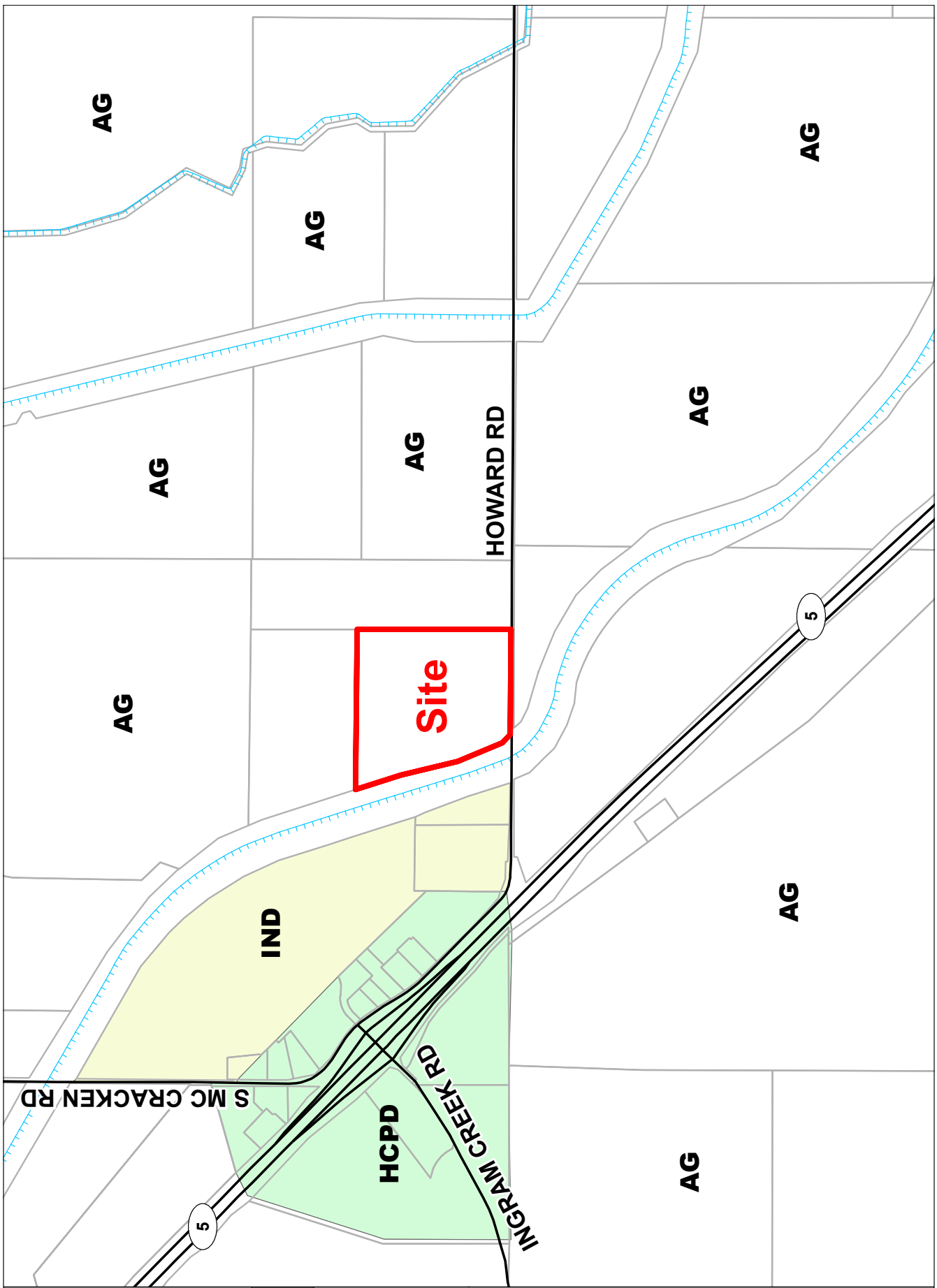
-  Project Site
-  Parcel
-  Road

#### General Plan

-  Agriculture
-  Industrial
-  Highway Commercial /  
Planned Development



Source: Planning Department GIS Date: 11/7/2019














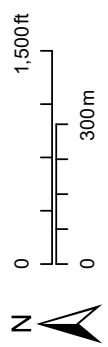
# CENTRAL VALLEY GROWERS LLC

**UP & DA  
PLN2019-0095**

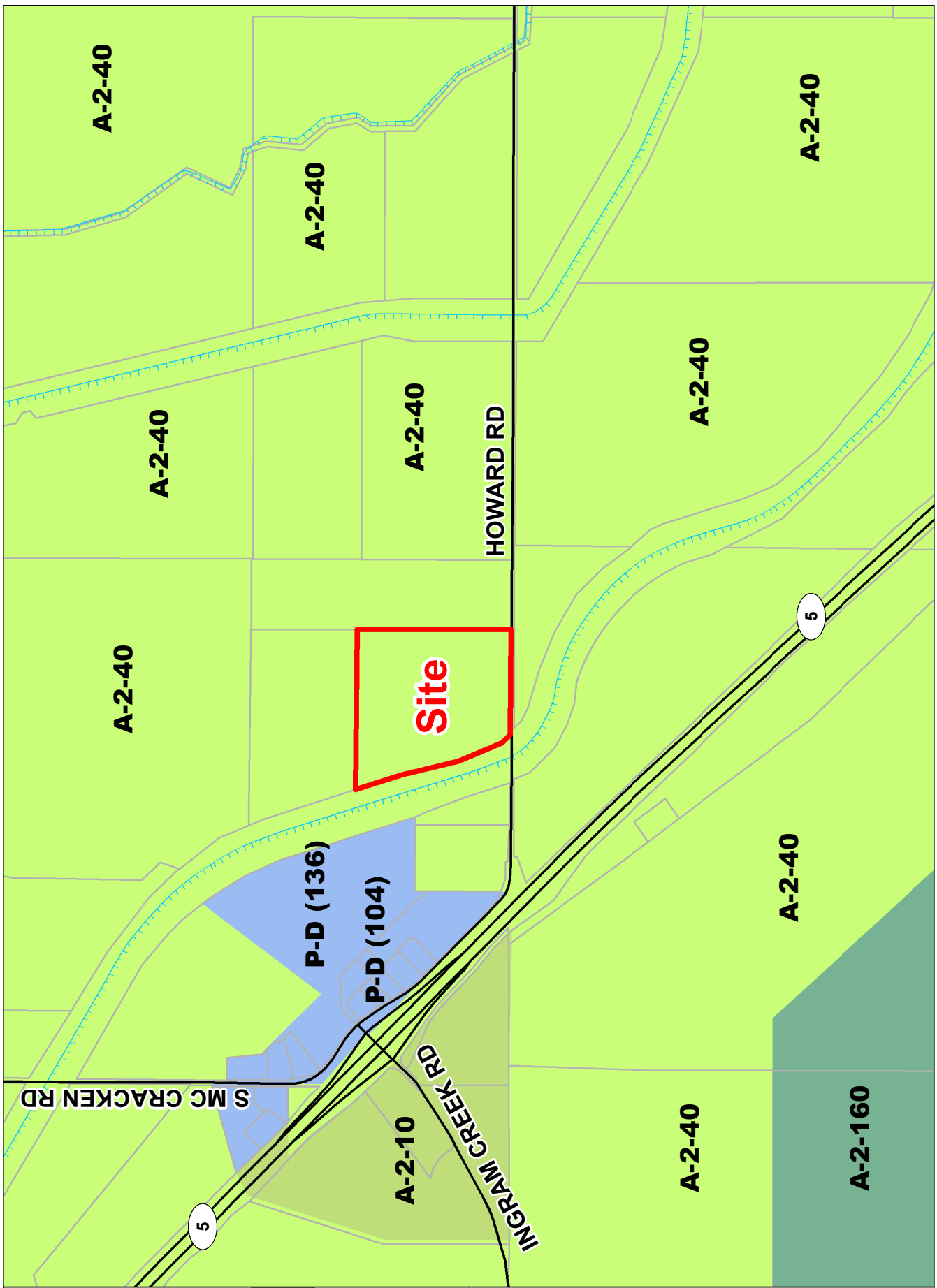
## ZONING MAP

### LEGEND

-  Project Site
  -  Sphere of Influence
  -  City of
  -  Parcel
  -  Road
  -  River
  -  Canal
- Zoning Designation**
-  Planned Development
  -  General Agriculture 10 Acre
  -  General Agriculture 40 Acre
  -  General Agriculture 160 Acre



Source: Planning Department GIS Date: 11/7/2019








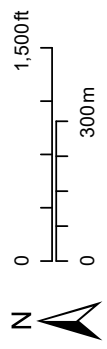
# CENTRAL VALLEY GROWERS LLC

UP & DA  
PLN2019-0095

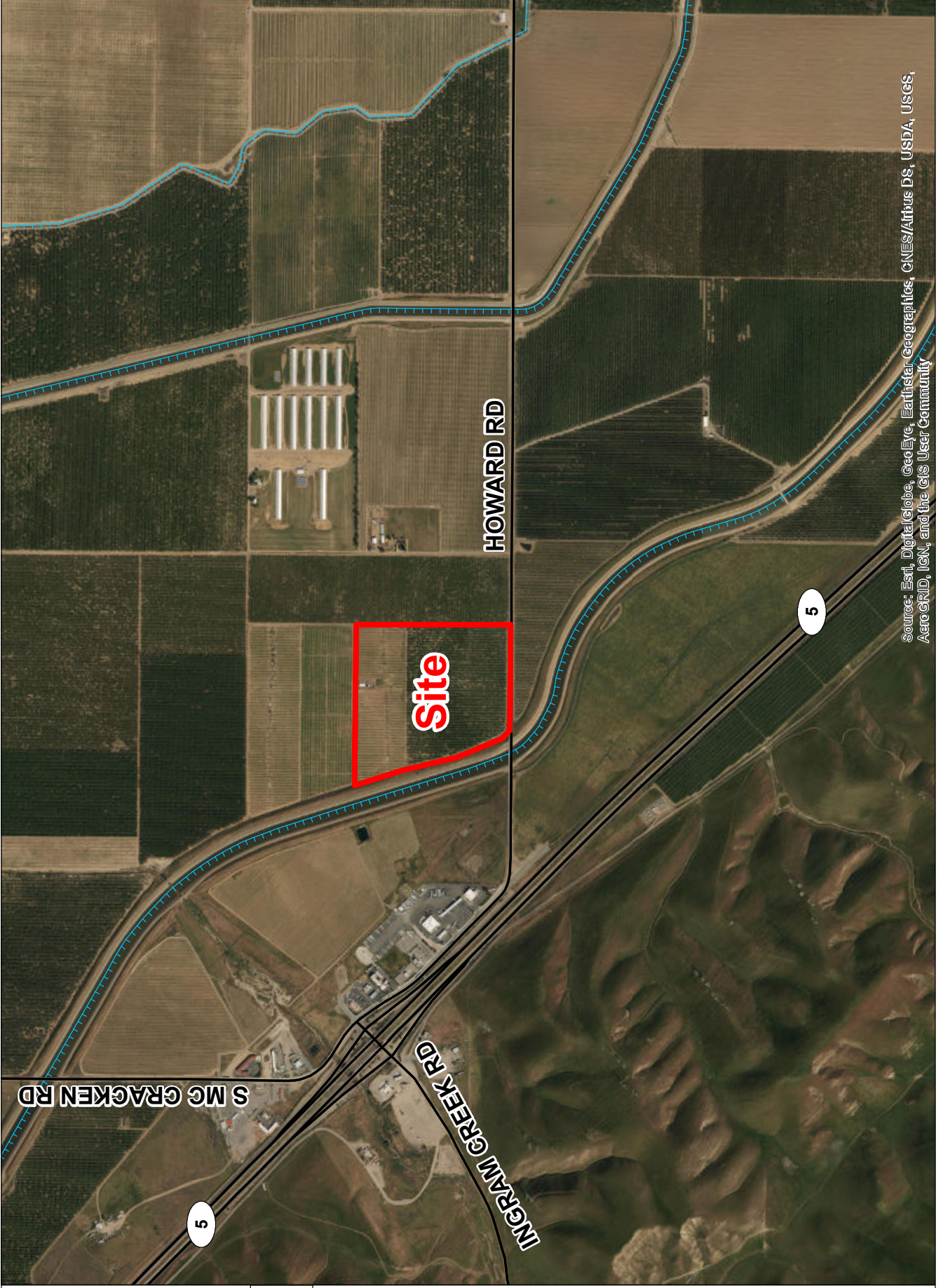
## 2017 AERIAL AREA MAP

### LEGEND

-  Project Site
-  Road
-  Canal

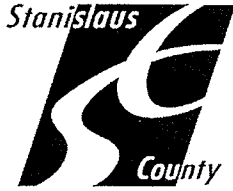


Source: Planning Department GIS Date: 11/7/2019



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Recording Requested By And For The Benefit Of  
And, When Recorded, Mail To:



County of Stanislaus  
Department of Planning and  
Community Development  
1010 Tenth Street, Suite 3400  
Modesto, CA 95354



Stanislaus, County Recorder  
Donna Linder Co Recorder Office  
**DOC- 2020-0105063-00**

Friday, DEC 18, 2020 08:24:58  
Ttl Pd \$0.00 Rcpt # 0004530547  
RAB/R2/1-7

Space Above Reserved for Recorder's Use

**NOTICE OF ADMINISTRATIVE CONDITIONS AND RESTRICTIONS**

PLEASE TAKE NOTICE that the COUNTY OF STANISLAUS approved the land use development described below subject to administrative conditions and restrictions, copies of which are attached to this notice and incorporated herein by reference. The conditions and restrictions affect development of the property or parcels described below and are binding upon the named landowners and their successors in interest.

Property Owner(s): Athwal Investments, LP

Project Site Address: 3735 Howard Road, between the California Aqueduct & the Delta Mendota Canal, east of Interstate Highway 5, in the Westley area.

Assessor's Parcel Number(s): 016-037-039

General Plan Designation: Agriculture

Zoning District: A-2-40 (General Agriculture)

Community Plan Designation: N/A

Project Name/Description: **USE PERMIT & DEVELOPMENT AGREEMENT APPLICATION NO. PLN2019-0095 - CENTRAL VALLEY GROWERS - HOWARD ROAD III** - Request to obtain a use permit and development agreement to establish a mixed-light commercial cannabis cultivation, nursery, processing, and distribution operation in phases on a 49 acre parcel in the A-2 (General Agriculture) zoning district.

The undersigned duly authorized officer of Stanislaus County declares that the foregoing is true and correct under penalty of perjury under the laws of the State of California.

12/17/20  
Dated

[Signature]  
Jeremy Ballard, Associate Planner  
Stanislaus County Planning &  
Community Development

ATTACHMENTS:

- 1. Conditions of Approval
- 2. Project Area Map (For Illustrative Purposes Only)

As Approved by the Board of Supervisors

December 15, 2020

As Denied by the Planning Commission

September 17, 2020

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NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.03)

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## **CONDITIONS OF APPROVAL**

### **USE PERMIT AND DEVELOPMENT AGREEMENT APPLICATION NO. PLN2019-0095 CENTRAL VALLEY GROWERS, LLC. – HOWARD ROAD III**

#### **Department of Planning and Community Development**

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances. All development standards and mitigation measures adopted for the A-2 zoning district shall remain in effect.
2. Commercial cannabis activities as authorized by Title 21 and Chapter 6.78 of the Stanislaus County Code shall be located and operated in compliance with all the requirements of Chapter 6.78 of the Stanislaus County Code and any other local requirements, and state laws and regulations, applicable to commercial cannabis activities.
3. Within 60 days of project approval, a complete Commercial Cannabis Activity Permit (CCA permit) shall be submitted to the Treasurer/Tax Collector.
4. If the Development Agreement, CCA permit, or state licenses associated with this land use entitlement are revoked, expired, or otherwise deemed ineffective, all commercial cannabis activities on the project site shall cease, until all applicable permits and agreements have been reinstated.
5. Commercial cannabis activities which have obtained their CCA permit shall have six months from the effective date of issuance of the permit to obtain the required licenses from the State. If all state licenses and approvals required to operate the commercial cannabis activity are not obtained within the six-month period, the CCA permit shall not be renewed.
6. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
7. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.

8. The permittee shall provide a security plan, in accordance with Section 6.78.120(C) of the County Code, to the Sheriff's Department for review and approval. The security plan shall be reviewed annually or as often as deemed necessary by the Sheriff's Department.
9. Prior to issuance of a CCA permit, operator shall designate two individuals who shall be available at all times to communicate with the County Sheriff's Department and Code Enforcement.
10. Prior to issuance of a CCA permit, operator shall designate two persons who shall be available at all times to respond to community inquiries and complaints.
11. The Clerk of the Board shall record the executed Development Agreement and the Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions (NOACR) with the County Clerk-Recorder's Office within 30 days of project approval. The NOACR includes Conditions of Approval/Development Standards and Schedule, any adopted mitigation measures, and a project area map.
12. All intake ventilation systems into the cannabis housing should be placed at the furthest point away from adjacent agricultural operations to reduce the chances of unwanted chemicals being drawn into the cannabis housing.
13. Prior to issuance of any building permit, a photometric lighting plan shall be submitted for review and approval by the Planning Department. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties). The height of the lighting fixtures should not exceed 15 feet above grade.
14. Prior to issuance of a building permit for each phase, adequate parking in accordance with Section 21.76 of the County Code, shall be provided on-site.
15. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
16. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the Planning Director or appointed designee(s) prior to installation.
17. Prior to issuance of a CCA permit, the area of commercial cannabis activity shall be fully enclosed by an opaque fence, made of uniform material, at least seven feet in height. The location, design, and construction of the fencing shall be reviewed and approved by the Director of Planning and Community Development prior to installation for conformance with County Code Section 6.78.080 (D). Any modification to any fencing located on the project site, shall be subject to review and approval by the Planning Director or appointed designee(s) for aesthetics and security purposes.
18. All landscaped areas, fences, and walls shall be maintained, and the premises shall be kept free of weeds, trash, and other debris.
19. Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate

mitigation measures to protect and preserve the resource shall be formulated and implemented. Construction activities shall not resume in the area until an on-site archeological mitigation program has been approved by a qualified archeologist. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

20. All access roads utilized to access the operation shall be properly graded and maintained., including but not limited to, regularly oiled to control dust, and in addition, shall be graded and maintained to an all-weather standard that is appropriate to be used by emergency vehicles. "Regularly maintained" shall be semi-annually at a minimum, unless additional maintenance is necessary.

### Department of Public Works

21. Prior to the issuance of a building permit, an encroachment permit shall be taken out for an asphalt driveway onto Howard Road. The paved driveway shall be installed per current Stanislaus County Public Works Standards and Specifications.
22. No parking, loading or unloading of vehicles will be permitted within the County Road right-of-way. The developer will be required to install or pay for the installation of any signs and/or markings, if necessary.
23. Prior to the issuance of a grading permit or a building permit, whichever comes first, the Howard Road frontage shall be offered to Stanislaus County as an Irrevocable Offer of Dedication. Howard Road is classified as a 110 foot Minor Arterial roadway. The required ½ width is 55 foot north of the centerline. Currently there is 20 feet of existing right-of-way north of the centerline. This means that the requirement for the IOD to be 35 feet east of the existing right-of-way.
23. Applicant shall comply with State Water Resources Control Board Order #WQ2017-0023-DWQ General WDRs and Waiver of WDRs for Discharges of Waste Associated with Cannabis Cultivation Activities.
24. Applicant shall comply with Stanislaus County Code Chapter 14.14, Stormwater Management and Discharge Control.
25. All creation, collection, and disposal of process wastewater shall be done in accordance with the latest requirements from the State Water Resources Control Board Guidelines and County's Department of Public Works requirements in effect at the time of wastewater disposal. Prior to issuance of a CCA Permit, the applicant shall demonstrate compliance with these requirements to the Department of Public Works.
26. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted with any building permit that will create a larger building footprint for the site. The grading and drainage plan shall include the following information:
  - a. The plan shall contain drainage calculations and enough information to verify that all run-off will be kept from going onto adjacent properties and Stanislaus County road right-of-way. Public Works will review and approve the drainage calculations.
  - b. The grading drainage and erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit. A Waste Discharge Identification Number (WDID) and a copy of the Notice of Intent (NOI) and the project's Storm Water Pollution

Prevention Plan (SWPPP) shall be provided prior to the approval of any grading, if applicable.

- c. The applicant of the grading permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the grading plan.
- d. The applicant of the grading permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.

#### **Department of Environmental Resources (DER)**

27. Any new buildings with an OWTS connection shall be subject to Measure X. The OWTS is to be of an engineered design, plans and calculations shall be submitted to DER for review. All Local Agency Management Program (LAMP) standards shall be met.
28. Based on the information provided in this use permit, the existing well/water system does not meet the definition of a public water system as defined in California Health and Safety Code Section 116275 (h). It is the property owner's responsibility to notify the DER if the water system ever meets the definition of a public water system.

#### **Department of Environmental Resources – Hazardous Materials Division**

29. The applicant shall contact the Department of Environmental Resources regarding appropriate permitting requirements for hazardous materials, and/or wastes. The applicant and/or occupants handling hazardous materials or generating wastes must notify the Department prior to operation.

#### **Building Permits Division**

30. Building permits are required, and the project must conform with the California Code of Regulations, Title 24. All unpermitted portions of existing buildings, including unpermitted interior improvements on compartmentalized portions of the existing structure, shall obtain building permits and shall comply with the provisions of the code set forth in the most current adopted California Code of Regulations Title 24 or be demolished. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, or occupy any building or portions of any buildings where unpermitted work exists.
31. All indoor cultivation, distribution, and storage areas shall be considered S-1 occupancies in accordance to the most current adopted California Building Code, California Code of Regulations Title 24.
32. All non-volatile manufacturing, processing, and packaging shall be considered F-1 occupancies in accordance to the most current adopted California Building Code, California Code of Regulations Title 24.
33. A Change of Occupancy will be required for use of existing structures associated with the project per the current and adopted version of the California Building Code, California Code of Regulations Title 24, Part 10.

34. No change shall be made in the use or occupancy of any building unless such building is made to comply with the requirements of the most current adopted California Building Code, California Code of Regulations Title 24, Volumes 1 and 2 of Part 2.
35. Accessibility for existing buildings shall comply with Section 410 of the California Building Code, California Code of Regulations Title 24, Part 10.
36. Separate toilet facilities shall be provided for each sex prior to issuance of a CCA permit. Required toilet facilities for employees and customers shall have a maximum travel distance not to exceed 500 feet.
37. All plans submitted shall be reviewed and/or designed by a California licensed architect or engineer.

**San Joaquin Valley Air Pollution Control District**

38. All odor control devices shall receive an Authority to Construct (ATC) permit prior to installation and operation.
39. Prior to the start of construction, the property owner/operator shall contact the District's Small Business Assistance Office to determine if any Air District permits or if any other District rules or permits are required, including but not limited to an Authority to Construct (ATC) for construction or demolition of structures.

**Central Valley Regional Water Quality Control Board**

40. Prior to ground disturbance or issuance of a building permit, the Central Valley Regional Quality Control Board shall be consulted to obtain any necessary permits and to implement any necessary measures, including but not limited to: Cannabis General Order, Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Section 404 Permit, Clean Water Act Section 401 Permit (Water Quality Certification), Waste Discharge Requirements, Dewatering Permit, Low or Limited Threat General NPDES Permit, NPDES Permit, or any other applicable Regional Water Quality Control Board permit.

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*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards; new wording is in **bold**, and deleted wording will have a ~~line through it~~.*