



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
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Item 6d
9:50 AM
August 22, 2024

Staff Report

TO: Planning Commission

FROM: Mireya G. Turner, Community Development Department

DATE: August 8, 2024

SUBJECT: Consideration of Proposed Recommendation of Revocation of Major Use Permit (UP 20-03) for Alvarez Family Farms, LLC, for High Severity Violations; located at 12990 Spruce Grove Road, Lower Lake (APN 012-067-40)

ATTACHMENTS:

1. UP 20-03 Conditions of Approval
2. State Declarations of No State License
3. 2022 Annual Inspection Report
4. Notice of Violation
5. 2023 Annual Inspection Report
6. Commercial Cannabis Cultivation (Ord. No. 3084)
7. Administrative Fines and Penalties (Ord. No 3112)

EXECUTIVE SUMMARY

During Annual Compliance Monitoring Site Visits in 2022 and 2023, Staff found cannabis cultivation taking place without the required state licenses, and cannabis manufacturing taking place without a County permit or state license. Additionally, the County has no record of the Permittee's Pesticide Applicator License and Operator Identification, as required by state law and County Code Section 27.13(at)(1)(ii)(a).

The Community Development Department Director recommends the Planning Commission revoke Major Use Permit 20-03 Alvarez Family Farms, LLC, for high severity violations; and deem Freddie Alvarez, Idolina Alvarez, Ignacio Alvarez, and Ronnie Fa Responsible Persons.

APPROVED PROJECT DESCRIPTION

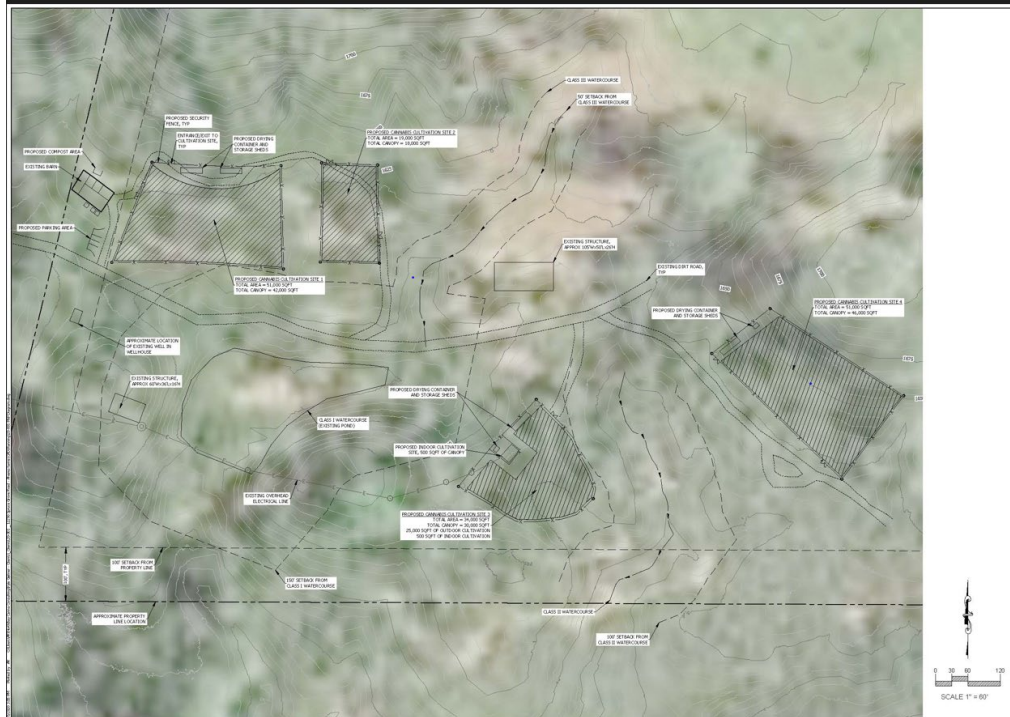
The Alvarez Family Farms (UP 20-03) was approved by the Planning Commission on April 22, 2021. The project description includes the cultivation of up to 131,180 sf of outdoor canopy (3 A-Type 3 Medium state licenses) within 156,816 sf of cultivation area, 500 sf or less of indoor cultivation within a permanent structure, and one Type 13 Distributor Transport Only – Self-distribution license, at 12990 Spruce Grove Road, Lower Lake (APN 012-067-40). The cultivation area was divided into four sites, totaling up to 3.6 acres.

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Additional approved improvements include:

- Four 8'x40' cargo containers for storage
- Two 10'x10' fertilizer stations
- Three water tanks
- One 35'x10' break area
- One 6'x3' refuse area
- One 5.5'x7' portable restroom

Site Plan with cultivation areas



BACKGROUND

Cannabis cultivation without state license

On August 9, 2022, an Annual Compliance Monitoring Inspection of an approved Commercial Cannabis Cultivation project site was conducted for UP 20-03 Alvarez Family Farms, LLC, located at 12990 Spruce Grove Road, Lower Lake (APN 012-067-40). Permitted uses included three (3) A Type 3 (Medium Outdoor) cultivation licenses for a total area consisting of 131,180 sf cannabis canopy area within 156,816 square feet of cultivation area; and (1) Type 13 Self-Distribution license. UP 20-03 Conditions of Approval are included as Attachment 1. However, no cultivation was allowed until either a provisional or annual state cultivation license had been obtained.

Freddie Alvarez, Project Representative, attended the scheduled inspection of the approved cultivation site. Staff noted in the Inspection Report that Department of Cannabis Licensure and METRC tags, required for every cannabis plant, were not present. Staff requested documentation from the project representative of an issued state license, or proof of a complete application at the state, but did not received requested items.

Staff performed a license search utilizing the Cannabis Unified License Search tool at the Department of Cannabis Control website. No record of a license were found. Staff requested a complete search of the Department of Cannabis Control's cultivation licensing records pertaining to the project's licensure requirements. Three (3) Declarations from Custodian of Records, Department of Cannabis Control were received. The Department of Cannabis Control had not issued a Cannabis cultivation license to the business Alvarez Family Farms, LLC, or to an individual named Freddie Alvarez (Attachment 2). As of the date of this staff report, the Department of Cannabis Control has not issued a Cannabis cultivation license to the address 12990 Spruce Grove Road, Lower Lake, CA 95457. The 2022 Annual Inspection Report is included as Attachment 3.

2022 Site Photos

Figure 1. Five water tanks; no more than three approved with permit



Figure 2. 2022 Onsite cultivation



On August 2, 2023, the Planning Division conducted the 2023 Annual Compliance Monitoring Inspection. Code Enforcement and Sheriff's Office staff accompanied Planning Staff. Freddie Alvarez, Authorized Representative, Ronnie Fa, Farm Manager, and Ignacio Alvarez, Property Owner provided photo identification to Staff. Department of Cannabis Control (DCC) licenses were again requested, but Freddie Alvarez and Ronnie Fa advised they could not provide documentation though they verbally provided DCC license number LCA23-0000115 to Staff. The

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DCC unified license search tool was utilized for the license number, with no results. Freddie Alvarez was notified by Staff that cultivation without a state license is a high severity violation, therefore the Annual Compliance Monitoring Inspection would then be referred to Code Enforcement to take the lead on investigation. At that time, Code Enforcement staff provided Mr. Alvarez a Notice of Violation (Attachment 4).

Staff continued the inspection. Several violations were confirmed on site. These violations consist of the following:

- Seven (7) unpermitted hoop house structures with electrical systems in various locations across the property
- Unpermitted electrical systems in the four (4) shipping containers
- Air conditioning mini splits
- Non-volatile cannabis manufacturing equipment
- A refrigerator with manufactured cannabis product
- Resin-like substance on the floor of the manufacturing site
- Various water tanks overflowing on site, large quantities of water spilling over the tanks and onto the ground
- Soil spoils present by generator used to power shipping containers
- Severe erosion
- Unpermitted grading, including trenching
- Manufacturing cannabis product on site without county permit or state license
- Type 4 Nursery on site without county permit, high concentration of black mold present in structure
- Surface water diversion from on-site pond with irrigation lines
- 28 pigs and piglets observed with no food or drinking water.

Due to the cannabis manufacturing-related equipment and resin-like substance found at the site, Staff contacted the Lake County Health Services – Environmental Health Division; and referred the pigs and piglets to the Lake County Animal Care and Control Department.

The estimated plant count within the canopy area totalled approximately 12,000 cannabis plants in various stages of growth. Code Enforcement provided the opportunity to Freddie Alvarez to self-abate by Friday, August 5, 2023. Mr. Alvarez sent a video of the abatement to CDD on August 7, 2023.

Additionally, the Permittee was not able to furnish proof of a Pesticide Applicator License and Operator Identification, as required by the California Department of Pesticide Regulation, and issued by the County of Lake Department of Agriculture/Weights & Measures. As of the date of this Staff Report, the County has no record of issuance of this license to Alvarez Farms, LLC, or Freddie Alvarez, or anyone else at the address. The 2023 Annual Inspection Report is included as Attachment 5.

2023 Site Photos

Figure 3. 2023 Onsite cultivation



Figure 4. Diversion of a water course



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Figures 5-8: Cultivation in both unpermitted structures, with mold-like substance present



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Figures 9-11: Trenching without grading permit



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Figures 12-22: Cargo containers approved for storage but used for unpermitted cannabis manufacturing



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33.4
50.8

Daddy 1/2 45 60 1 1/2 60 60
5 15 50 70 120 140

Shark - 30 grams Temp - 170 = make Badder after
Taffying - 2nd press 170 Temp light gold shatter -
12 min pre-H
- 30 grams Temp 155 = Lighter amber shatter
- 25u + 115u 30 grams Temp 155
Setting Resin Bath

Wash 1
24.65 - 4.61 = 20.04
3.84
26.05 - 4.55 = 21.5
20.974
20.36 - 4.65 = 15.71
7.05
20.974
24.079
+ 3.50
27.579
23.45
5.25

52.576

Final wash - 52 Grams, 36 micr. Bag
3-70 Wash - 24.3 Grams, 36 micr. Bag

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Figures 23-26: Unpermitted electrical and HVAC systems in cargo containers



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Figure27-29: Unpermitted construction in progress



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Figure 30: Overflowing water tank



BASIS FOR REVOCATION REQUEST

High Severity Violation

The Lake County Zoning Ordinance, Article 27, Section 27.13(at)(ii)(a-b) – General Requirements states:

“(a) State licensure and permits as required. A person or entity shall not engage in the commercial cultivation of cannabis 27-112 without first obtaining a Lake County minor or major use permit, a state cannabis cultivation license, and applicable permits such as from Department of Cannabis Control, Department of Food and Agriculture, Department of Pesticide Regulation, Department of Fish and Wildlife, the State Water Resources Control Board, Board of Forestry and Fire Protection, Central Valley or North Coast Regional Water Quality Control Board, Department of Public Health, and Department of Consumer Affairs, as appropriate.

b) Should there be a delay in the State’s issuance of a state cannabis cultivation license, which delay is solely caused by the State, the applicant may be granted a minor or major use permit if all other applicable State permits have been obtained. When said minor or major use permit is granted by the County, the permittee shall be deemed authorized by the County of Lake to engage in cannabis cultivation operations in the County of Lake. In all such cases of State licensing delay where a minor or major use permit is granted, said minor or major use permit shall be reviewed one (1) year after its issuance if the permittee has not already submitted proof of state licensure within that time. If the permittee is unable to provide proof of a valid state cannabis cultivation license at the time of that one-year review, the County minor or major use permit may be subject to review and action, up to and including, revocation...”

During site visits in 2022 and 2023, active cultivation without a state license, and without a permit for the use of pesticides. In 2023, evidence of cannabis manufacturing without a County permit and without a state license, was observed. Additionally, the construction of an unpermitted structure, unpermitted grading, use of cargo containers not in compliance with the approved Conditions of Approval, diversion of waterway, and unrestrained leakage from the water canister, were observed. Lastly, when asked about the required state cannabis cultivation license, the Permittee provided false information.

Section 49 Administrative Penalties for Failure to Maintain Required County Permit(s) for Cannabis Operations, Engaging in Cannabis Operations Beyond the Scope of an Existing County Permit and/or Engaging in Cannabis Operations While a Permit Application is Pending But Not Approved, includes the following:

Failure to maintain such permits, to engage in cannabis operations beyond the scope of an existing County permit, “significantly deprives the County of adequate land use planning, ignores the requirements of the California Environmental Quality Act (CEQA), thereby creating the possibility of substantial jeopardy to the environment, and impacts the safety of all County residents.” (Section 13-49.1)

“Further, the failure to obtain the necessary permits to engage in cannabis cultivation legally in Lake County is a fraud against the County, depriving the

County of the tax to which it is lawfully due, and constitutes an unlawful business practice which puts those engaged in permitted cannabis cultivation operations at a distinct and significant disadvantage.” (Section 13-49.1)

Lake County Code Chapter 13, Section 47(k) defines High Severity Violations as a “*violation of considerable environmental impact at the time it first occurs and which impact will be greatly acerbated by its continuing to occur.*”

Cannabis cultivation without a state license is a violation of the Lake County Code, and the approved Conditions for this use permit. Unpermitted grading, and diversion of a water course creates the possibility of substantial jeopardy to the environment. Cannabis manufacturing without a local permit and state license is a violation of the Lake County Code. Ordinances 3084 and 3112 are included as Attachments 6 and 7.

Responsible Persons

The Community Development Department Director recommends Freddie Alvarez, listed with the CA Secretary of State as CEO, Secretary, CFO, and Director of Alvarez Family Farms, LLC, Ignacio Alvarez, property owner, and Ronnie Fa, Farm Manager, as Responsible Persons.

RECOMMENDATIONS

Community Development Director recommends the Planning Commission take the following actions:

(a) Revoke Major Use Permit (UP20-03) for cannabis cultivation, by Alvarez Family Farms, LLC, located at 12990 Spruce Grove Road, Lower Lake (APN 012-067-40), for high severity violations, as described in the Staff Report, dated August 22, 2024.

(b) Deem Freddie Alvarez, listed with the CA Secretary of State as CEO, Secretary, CFO, and Director of Alvarez Family Farms, LLC, Ignacio and Idolina Alvarez, property owners, and Ronnie Fa, Farm Manager, as Responsible Persons for the high severity violations attributed to Alvarez Family Farms, LLC’s Major Use Permit (UP20-03); located at 12990 Spruce Grove Road, Lower Lake (APN 012-067-40), as described in the Staff Report, dated August 22, 2024.