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Attachment 1 – Modified staff report with edits in red to include distribution activity

November 21, 2019

To: Mono County Planning Commission

From: Bentley Regehr, Planning Analyst

Re: Use Permit 19-008/Shanti Co. Commercial Cannabis Cultivation and Distribution

Recommendation

It is recommended the Planning Commission take the following actions:

1. Find that the project qualifies as an Exemption under CEQA guideline 15301 and instruct staff to file a Notice of Determination;
2. Make the required findings as contained in the project staff report; and
3. Approve Use Permit 19-008 subject to Conditions of Approval.

Background

In November 2016, California voters approved the Adult Use of Marijuana Act (Proposition 64) to legalize adult use of marijuana (in addition to medical uses that were legalized in 1996). Every precinct in Mono County passed Proposition 64 with margins as low as 1.4% in the Bridgeport area to a high margin of approximately 30% in the Mono Basin, June Lake, and Wheeler Crest areas.¹ The state's legalization of adult use marijuana presented local jurisdictions with several choices for regulating the new industry: 1) ban cannabis activities in whole or part; 2) adopt local regulations for cannabis activities; or 3) remain silent and defer to state laws and regulations.

Mono County conducted a community-based planning effort for feedback on the most appropriate regulatory approach and, ultimately, to develop policies and regulations for legalized cannabis activities. In 2017, the following 12 Regional Planning Advisory Committee (RPAC) meetings and outreach sessions were conducted: two in Antelope Valley, three in Bridgeport, one in June Lake, two in the Mono Basin, two in Long Valley, and two in Tri-Valley. Three workshops were held with the Planning Commission, and feedback from the Commission and RPACs were incorporated into the development of the policies. Concurrently, the Cannabis Joint Committee, which is comprised of 10 County departments/divisions, reviewed the policies and public feedback, and provided additional input that was incorporated as policies were developed.

¹ For clarification, the margin represents the amount over and above the 50% +1 required for passage of the proposition.

At a formally noticed public hearing in October 2017, the Commission recommended General Plan policies pertaining to cannabis activities for adoption by the Board. The Board of Supervisors held five workshops, including one with the Town of Mammoth Lakes and one specific to cannabis taxation, to consider the public feedback received through RPAC, Planning Commission, and Joint Committee discussions, and provide direction to staff. In December 2017, the Board held a public hearing adopting the General Plan policies recommended by the Planning Commission.

Following the adoption of guiding policies, specific regulations in both the General Plan and Mono County Code were developed through another community-based planning effort. The RPACs again held a total of 12 meetings where cannabis regulations were discussed: two in Antelope Valley, three in Bridgeport, two in the Mono Basin, one in June Lake, two in Long Valley, and two in the Tri-Valley. The Planning Commission also again held three workshops to both incorporate RPAC feedback into the regulations and provide additional input and direction to staff, and the staff-level Cannabis Joint Committee provided additional feedback.

The Commission made a recommendation to the Board to adopt new regulations in March 2018. The Board of Supervisors heard two minor updates and held four discussions on cannabis taxation, in addition to three workshops on cannabis regulations where specific policy issues were considered. The Board adopted the new General Plan and Mono County Code regulations at a formal public hearing on April 17, 2018.

In addition to the structured public engagement process above, the public is always welcome to directly contact Community Development Department staff and Mono County Supervisors via phone or email, or to schedule an in-person meeting to share comments, concerns, and input. Attendance at public meetings and speaking in public is not necessary in order to provide feedback.

Project Description

UP 19-008/Shanti Co. is a proposal for commercial cannabis cultivation **and self-distribution** on a 20-acre parcel located at 100 N. Bodie Hills Drive in the Mono Basin planning area (APN 013-210-024). The property is designated Agriculture (AG), which allows for commercial cannabis cultivation **and distribution** subject to Use Permit and Operation Permit (Mono County Code 5.60). **The project will require separate Operation Permits for cultivation and distribution.**

The proposal is for up to 50 commercial cannabis plants located on a 5,000-square foot disturbance area. The disturbance area is currently occupied by up to 99 medical cannabis plants, permitted through Proposition 215. The existing cannabis plants will be replaced by the proposed commercial grow and the disturbance area will not expand beyond its current footprint. The total canopy area for each cannabis plant will be approximately 10 square feet, for a total canopy area of up to 500 square feet. Ground not planted with cannabis will have a cover crop.

The existing building proposed for processing will not have structural modifications. The building will be used for drying, trimming, packaging, labeling, and storage. A carbon filtration unit will be added to the building to reduce the emission of odor.

Distribution will be for transport of products cultivated on-site. Distribution of products from other operations will not be included as part of the business. Transportation of goods will be handled by the owner through the use of a personal vehicle not larger than a typical van, sport utility vehicle,

or full-size pickup truck, and no outside services will be contracted. Cannabis product will not be transported with other goods produced on the property. A loading area is provided next to the processing shed, as shown on the site plan (Attachment 2).

The property has several other existing and proposed uses:

Table 1: Existing and Proposed Uses, Other Than Cannabis		
Use	Existing?	Approval
Single Family Residence (2,000 s.f.)	Yes	Permitted by-right*
Accessory Dwelling Unit (1,129 s.f.)	No	Director Review 17-015
Farm-stay yurts (4)	No	Use Permit 18-002
Kitchen to serve yurt guests (900 s.f.)	Yes	Use Permit 18-002
Massage room for guests (200 s.f.)	Yes	Use Permit 18-002
Hoop Houses used for produce (4)	Yes	Permitted by-right*
Greenhouse for produce	Yes	Permitted by-right*
Farm stand (200 s.f.)	No	Permitted by-right*
Market Garden for Mixed Vegetables (2 x 10,000 s.f.)	Yes	Permitted by-right*
Livestock Barn	No	Permitted by-right*

**Through Agriculture (AG) Land Use Designation*

All applications for commercial cannabis activity must be approved through a Conditional Use Permit (CUP) process. A CUP for cannabis cultivation must demonstrate adequate plans for site control, setbacks, odor control, signage, visual screening, lighting, parking, and noise, as presented in this report.

The project qualifies for a 15301 CEQA exemption. The project does not propose expansion of current disturbance areas and does not have any significant environmental effects, including those peculiar to cannabis operations.

Project Setting

The project is located in the Mono Basin north of Highway 167, gaining access from Cottonwood Canyon Road. Rural Residential (RR) parcels surround the property on the south, west, and north boundaries. To the east of the property is a 300-acre Resource Management (RM) parcel. The nearest residence is approximately 700 feet to the south from the proposed grow area. Other nearby residences include single family homes 1,300 feet to the north and 1,800 feet to the west, respectively. The property is located outside the Mono Basin Scenic Area.

Figure 1: Location of parcel, 100 N Bodie Hills Dr, APN 013-210-024



Figure 2: Location of parcel relative to Mono Basin Scenic Area

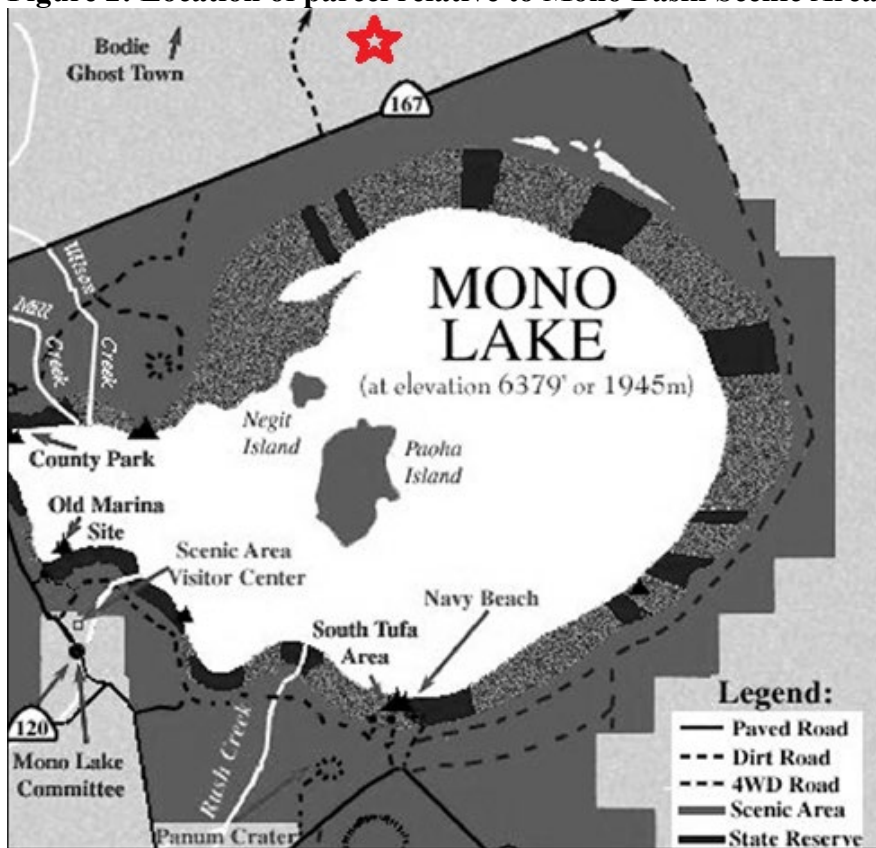


Figure 3: Grow site, looking southwest



Figure 4: Hedge row visual screening, looking southeast



Land Development Technical Advisory Committee (LDTAC)

The LDTAC reviewed the application on September 3, 2019 and recommended application acceptance. LDTAC reviewed draft Conditions of Approval on Oct. 7, 2019. **The LDTAC reviewed this updated staff report that contains information regarding commercial cannabis distribution at the Nov. 18, 2019, meeting.**

CEQA Compliance

The project qualifies for a Class 1 categorical exemption. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposal does not include an expansion of use, as the disturbance area will remain the same and the maximum number of cannabis plants will be reduced from 99 to 50. Commercial cannabis plants do not represent a significant change over the existing plants used for medical purposes. The total canopy area will not be expanded and will not exceed 500 square feet. The processing building will not be expanded, and no structural modifications will occur. A cover crop will reduce bare ground to prevent dust impacts. The addition of a carbon filtration system will not require modifications to the building.

Commercial cannabis distribution will not generate significant impacts to circulation or air quality beyond that of a typical agriculture use and a smaller vehicle (e.g., a van, sport utility vehicle, or full-size pickup truck) than typically associated with agricultural commodities will be used. North Bodie Hills Drive and the property's driveway are unpaved, but the number of increased vehicle trips is negligible at approximately 5-10 per month and the road observes a speed limit of 15 mph, meaning there will be minimal additional dust produced. Access to North Bodie Hills Drive is gained from Highway 167 and Cottonwood Canyon Road, both of which are paved and will not be substantially impacted by the minimal amount of increased vehicle trips. In addition, no new employees are proposed and so no cumulative impacts would be created from the approved cannabis cultivation or yurt/farmstay operation.

Elements related to Use Permit 18-002 were permitted through an addendum to the 2015 General Plan EIR.

General Plan Consistency

The project is consistent with General Plan Land Use Designation policies, Countywide Land Use policies, and Mono Basin Area Plan policies contained in the Mono County General Plan Land Use Element. Use Permit approval for commercial cannabis also requires compliance with Chapter 13, Mono County Cannabis Regulations.

The General Plan land use designation for this property is Agriculture (AG), which allows for commercial cannabis cultivation subject to Use Permit and Operation Permit. The "AG" designation is intended to preserve and encourage agricultural uses, to protect agricultural uses from encroachment from urban uses, and to provide for the orderly growth of activities related to agriculture.

Mono County Land Use Element, Countywide Land Use Policies

Objective 1.G.

Protect open space and agricultural lands from conversion to and encroachment of developed community uses.

Policy 1.G.1. *Protect lands currently in agricultural production.*

The project maintains and enhances the parcel's agricultural use and does not encroach on the communities on Mono City and Lee Vining.

Objective 1.L. *Provide for commercial cannabis activities in Mono County in a way that protects public health, safety, and welfare while also taking advantage of new business and economic development activities.*

Policy 1.L.3. *Avoid, reduce, and prevent potential issues specific to commercial cannabis activities that may adversely affect communities.*

The project is subject to Chapter 13, Cannabis Regulations and requires a Conditional Use Permit aimed at ensuring no significant impacts to the community are incurred, including those related to odor control, visuals, lighting, and noise. See analysis of compliance with Chapter 13 below.

Policy 1.L.4. *In recognition of the potential economic benefits of this new industry, encourage the responsible establishment and operation of commercial cannabis activities.*

The project has potential benefits to Mono County's economy, including contribution to the County's tax base.

Mono County Land Use Element, Mono Basin Community Plan Policies

GOAL 11. Grow a sustainable local economy with diverse job opportunities that offers year-round employment and wages that reflect the cost of living in the area.

Objective 11.A.

Plan for a diversified, sustainable economy.

Policy 11.A.1. *Achieve a more-diversified economy and employment base consistent with the small-town, rural nature of the Mono Basin.*

Objective 11.C.

Diversify the existing economic base and employment opportunities to achieve a more-sustainable economy.

Policy 11.C.2. Encourage and support new business development and entrepreneurial efforts that contribute to a mix of uses and services, and a wider range of employment opportunities.

Policy 11.C.6. Encourage locally produced goods and services, including food production for local consumption of locally produced food.

The project diversifies the Mono Basin’s economy and provides locally produced goods, while maintaining the rural character of local businesses. There are no other existing commercial cannabis cultivation sites in the Mono Basin.

Compliance with Mono County General Plan Chapter 13, Cannabis Regulations

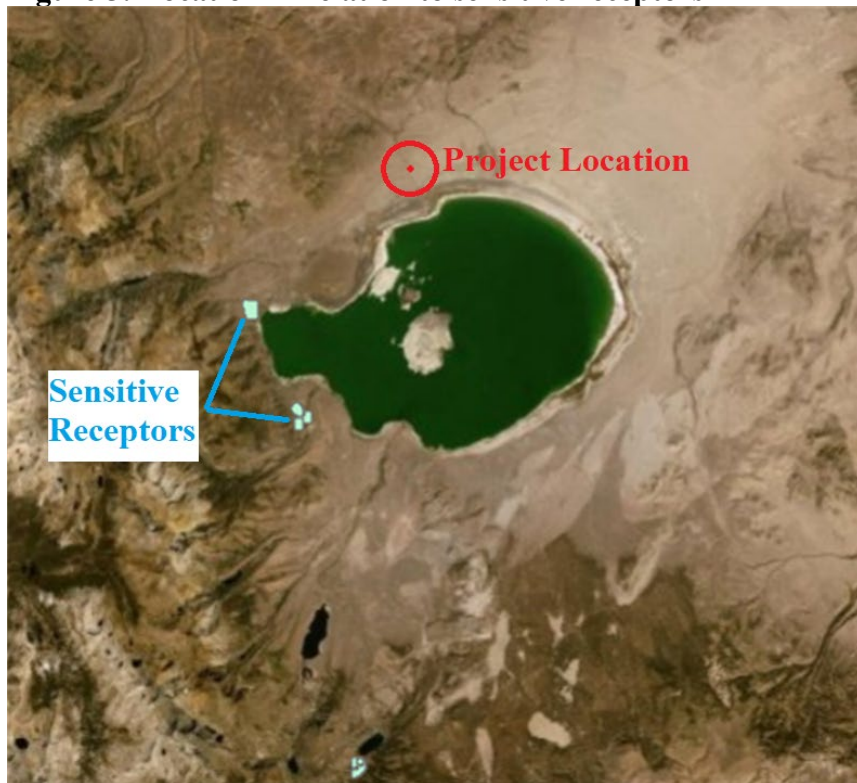
In addition to General Plan policies and regulations, commercial cannabis activities shall comply with Chapter 13. The following general standards and requirements apply to all commercial cannabis activities permitted in the county:

13.070 C. Site Control.

No commercial cannabis activity shall be allowed within six hundred (600) feet of schools providing instruction to kindergarten or any grades 1 through 12, day care or youth centers, parks, ballfields, playgrounds, libraries, community centers, and licensed childcare facilities.

None of the above-mentioned facilities are located within 600 feet of the site. The project site is over six miles from Mono City and fourteen miles from Lee Vining.

Figure 5: Location in relation to sensitive receptors



13.070 D. Setbacks.

All commercial cannabis activities shall meet existing setbacks established in General Plan Chapter 4 – Land Use Designations and 4.120 Yards and Setbacks.

The project meets all setbacks for the Agriculture (AG) Land Use Designation, which are set at 50’ front, 50’ side, 50’ rear for primary structures and 50’ front, 30’ side, 30’ rear for accessory structures. See Attachment 2: Site Plan for illustration of setbacks.

13.070 E. Odor Control.

An odor mitigation plan is required to demonstrate that odors generated by the commercial cannabis activity shall not unreasonably impact adjacent properties and uses, or that odor mitigation measures are not applicable due to lack of cannabis-related odor generation, location or siting, design features, or other factors.

Cannabis-related odor generation will be mitigated through multiple avenues. The project site is located in a rural area and surrounded by large parcels a minimum of 20 acres. The site is at least 700 feet from the nearest residence.

Odors may vary substantially based on the type of crop, peak concentrations, atmospheric conditions, and topography. The project will utilize a feminized auto pollinator to reduce drift and stature. The outdoor crop will also limit the creation of sulfur compounds through the use of natural lighting and will not induce artificial stress through light and temperature. A 4-6’ hedge of raspberry and goji berry bushes, among other plants, and surrounding mixed crops will further

mask cannabis-generated odors. A misting system will be used on the outdoor crop to reduce the drift of odor.

The processing building will contain a 30 cfs (cubic feet/second) carbon filtration system. The system will be replaced each season or at saturation.

13.070 F. Signage.

A Sign Plan shall be required to demonstrate compliance with General Plan Land Development Regulations, Chapter 4.190 Signs, and Chapter 7 Signs.

The project does not propose any signage.

13.070 G. Visual Screening.

All Cannabis, Cannabis Products and Cannabis Accessories shall be screened from view from a public right of way to the best of the Permittee's ability.

Visual screening will occur primarily through vegetative screening. The proposal includes the addition of a hedgerow along the perimeter of the grow site consisting of annual sunflowers, amaranth, and cover-crop (clover, vetch, summer alfalfa), and perennial plantings of goji berry, currant, apple, and grapes. Existing vegetation aiding in screening includes lilacs, an apple orchard, grape vines, and pinyon-juniper stands surrounding the grow area. The use of auto pollinator hybrid strains will limit the stature of the cannabis plants and further reduce visual impact.

The project is located outside the Mono Basin Scenic Area and is more than 2,500 feet from Highway 167.

13.070 H. Lighting.

All commercial cannabis activities shall comply with General Plan Land Use Element Chapter 23 – Dark Sky Regulations regardless of activity type or Premise location.

The outdoor grow site will use natural lighting only. Exterior lighting on the property will comply with Chapter 23, Dark Sky Regulations.

13.070 I. Parking.

A Parking Plan depicting availability and requirements for parking shall be submitted. The Plan shall demonstrate the provision of adequate on-site parking for all employees and allow for loading and unloading.

The proposal does not include additional employees or visitation from off-site services and therefore will not require parking spaces beyond the spaces needed for existing uses. The property contains 12 parking spaces, as shown on the site plan (Attachment 2). Parking requirements for existing uses are as follows:

Table 2: Required Parking for Existing Uses		
Use	Standard	Provided Spaces
Yurts (4)	One space per sleeping room plus one space for each two employees on largest shift	6
Farm Stand (200 s.f.)	One space for each 200 sq. ft. of gross leasable floor area	1
Massage Room (200 sf)	One space for each 200 sq. ft. of gross leasable floor area	1
Primary Residence	2 spaces	2
Accessory Dwelling Unit	2 spaces	2
Total	12 required	12

The site has sufficient space for loading and unloading at the cultivation site and processing building.

13.070 J. Noise.

Noise generation shall comply with the Mono County General Plan Noise Element and Mono County Code, Chapter 10.16.

The project is not expected to generate noise beyond that of similar existing agriculture operations on the property and surrounding properties.

Notice of Public Hearing

A public hearing notice was published in the October 3, 2019 issue of the Mammoth Times and the October 5, 2019 issue of The Sheet (Attachment 3) and was mailed to surrounding property owners within 300 feet of the proposed project. At the time of this staff report no public comment was received.

Use Permit Findings

In accordance with Mono County General Plan, Chapter 32, Processing-Use Permits, the Planning Commission may issue a Use Permit after making certain findings.

Section 32.010, Required Findings:

- All applicable provisions of the Mono County General Plan are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features because:*

The project complies with all applicable provisions of the Mono County General Plan. The site is adequate in size to accommodate parking, loading, visual screening, and all setbacks and requirements for the Agriculture (AG) Land Use Designation (LUD), as shown in the site plan (Attachment 2).

2. *The site for the proposed use related to streets and highways is adequate in width and type to carry the quantity and kind of traffic generated by the proposed use because:*

The parcel is accessed by Bodie Hills Drive via Cottonwood Canyon Road and Highway 167. Bodie Hills Drive is unpaved, and Cottonwood Canyon Road and Highway 167 are paved. Transportation of product is expected to generate approximately 5-10 vehicle trips per month, which will not substantially impact circulation or dust generation. The proposal does not include an increase in employees or off-site services.

3. *The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located because:*

The project is consistent with the rural character of the Mono Basin. Setbacks, visual screening, and odor mitigation proposed for the project will reduce impacts to surrounding property owners. The proposed 50 cannabis plants and 250 square feet of canopy area are a reduction from the 99 medical plant grow currently allowed on the site and will not produce any significant impacts beyond those created by existing conditions. Transportation of cannabis product will generate approximately 5-10 vehicle trips per month and is expected to produce a negligible amount of additional traffic and dust. The project is located over fourteen miles from sensitive receptors in the community of Lee Vining, including schools and the community center.

4. *The proposed use is consistent with the map and text of the Mono County General Plan because:*

- a. The proposed use is consistent with the General Plan and the Mono Basin Community Plan (see discussion in the General Plan Consistency section above).
- b. Outdoor commercial cannabis cultivation is permitted in agriculture land use designations, given they meet the criteria set forth by Chapter 13 and subject to Mono County Code 5.60.
- c. The project is located within the Mono Basin Planning Area. The Mono Basin Community Plan encourages businesses that create diversity, while being consistent with the rural character of the area.

MONO COUNTY

Planning Division

DRAFT NOTICE OF DECISION & USE PERMIT

USE PERMIT: 19-008

APPLICANT: Shanti Co.

ASSESSOR PARCEL NUMBER:

PROJECT TITLE: Shanti Co. Cannabis Cultivation and Distribution

PROJECT LOCATION: 100 N Bodie Hills Drive, Mono Basin

CONDITIONS OF APPROVAL

See attached Conditions of Approval

ANY AFFECTED PERSON, INCLUDING THE APPLICANT, NOT SATISFIED WITH THE DECISION OF THE COMMISSION, MAY WITHIN TEN (10) DAYS OF THE EFFECTIVE DATE OF THE DECISION, SUBMIT AN APPEAL IN WRITING TO THE MONO COUNTY BOARD OF SUPERVISORS.

THE APPEAL SHALL INCLUDE THE APPELLANT'S INTEREST IN THE SUBJECT PROPERTY, THE DECISION OR ACTION APPEALED, SPECIFIC REASONS WHY THE APPELLANT BELIEVES THE DECISION APPEALED SHOULD NOT BE UPHOLD AND SHALL BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

DATE OF DECISION/USE PERMIT APPROVAL: November 21, 2019

EFFECTIVE DATE USE PERMIT: December 5, 2019

This Use Permit shall become null and void in the event of failure to exercise the rights of the permit within one (1) year from the date of approval unless an extension is applied for at least 60 days prior to the expiration date.

Ongoing compliance with the above conditions is mandatory. Failure to comply constitutes grounds for revocation and the institution of proceedings to enjoin the subject use.

MONO COUNTY PLANNING COMMISSION

DATED: November 21, 2019

cc: X Applicant
X Public Works
X Building
X Compliance

CONDITIONS OF APPROVAL

Use Permit 19-008/Shanti, Co. Cannabis Cultivation

1. All development shall meet requirements of the Mono County General Plan, Mono County Code, and project conditions.
2. Project shall comply with Chapter 13, Cannabis Regulations.
3. The project is required to obtain a Mono County Cannabis Operations Permit pursuant to Mono County Code 5.60 and appropriate state licensing prior to commencing operation. A copy of state licenses shall be provided to the Mono County Community Development Department.
4. The project shall be in substantial compliance with the project description and the site plan (Attachment 2) of the staff report.
5. There shall be no expansion of cannabis uses **beyond the approved cultivation and distribution uses**, and the disturbance area shall not exceed 5,000 square feet, without approval from the Mono County Planning Commission.
6. Applicant must maintain active business license and tax certificate requirements.
7. Project shall comply with all Mono County Building Division, Public Works, and Environmental Health requirements.
8. If any of these conditions are violated, this permit and all rights hereunder may be revoked in accordance with Section 32.080 of the Mono County General Plan, Land Development Regulations.