

SUPPLEMENTAL INFORMATION #1

For Planning Commission Agenda of:
October 21, 2021

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|-------------------------------------|------------------------|-----------------|
| <input type="checkbox"/> | Consent Agenda Item | |
| <input type="checkbox"/> | Continued Hearing Item | Nos. F-5 |
| <input checked="" type="checkbox"/> | Public Hearing Item | |
| <input type="checkbox"/> | Department Report | |
| <input type="checkbox"/> | Old Business | |

Re: Soul Arc Solution, Inc., Conditional Use Permit

Record Number: PLN-11402-CUP
Assessor's Parcel Number (APN): 108-012-010
12035 Wilder Ridge Road, Ettersburg area

The applicant is requesting a continuance of the project to a date uncertain to work with their engineer to determine the feasibility (e.g. cost) of disconnecting the outflow from the pond from surface waters.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

**Resolution Number: 21-
Record Number: PLN-12310-CUP
Assessor's Parcel Number: 316-174-010**

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Redwood Valley Farms, LLC, Conditional Use Permit and Special Permit request.

WHEREAS, Redwood Valley Farms, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 14,810 square foot (SF) outdoor cannabis cultivation, with appurtenant propagation and processing activities. Annual water use is 217,900 gallons and there will be a total of 422,500 gallons of water storage on-site. A Special Permit is also being requested for the use and maintenance of a point of diversion; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous Mitigated Negative Declaration. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on October 21, 2021, and reviewed, considered, and discussed the application for a Conditional Use Permit and Special Permit, and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** The application is a Conditional Use Permit to allow an existing 14,810 square foot (SF) outdoor cannabis cultivation, with appurtenant propagation and processing activities. Power is provided by solar, with two (2) generators utilized for drying, curing, and supplemental domestic uses. There are long-term plans to incorporate additional solar power or connect to Pacific Gas and Electric Company (PG&E) in the future. Water for irrigation is provided by a stream diversion and a rainwater catchment pond. Annual water use is 217,900 gallons and there will be 422,500 gallons of water storage on-site. A Special Permit is also being requested for the use and maintenance of a point of diversion,

EVIDENCE: a) Project File: PLN-12310-CUP
- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

EVIDENCE: a) Addendum prepared for the proposed project.
b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of

substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.

- c) A Water Resources Protection Plan (WRPP) and Notice of Applicability was prepared by the applicant to show compliance with the Regional Water Board and State Water Board Cannabis General Order for Waste Discharge. The project is conditioned to prepare and submit a Site Management Plan (SMP).
- d) California Department of Fish and Wildlife Resource Maps indicate no Special Status species are known to occur within the project area. A review of the California Natural Diversity Database (CNDDDB) Spotted Owl Observation Database in July 2021 showed that Northern Spotted Owl habitat exists in the vicinity and the nearest positive sighting is 0.31 miles from the project area, with the nearest activity center located approximately 0.83 miles from the project area. Conditions of approval will require noise to be at below 50 decibels at 100 feet which is below the guidance established by the California Department of Fish and Wildlife for protection of the species.
- e) No net loss of timberland after the environmental baseline of December 31, 2015, would occur under the project. A Less Than Three Acre Conversion Exemption was issued by the California Department of Forestry and Fire Protection (CAL FIRE) in February 2016 for 2.5 acres of timberland conversion. As such timber conversion onsite was performed under the Less Than Three Acre Conversion Exemption and, per review of aerial imagery dating back to 2004, no additional timber conversion appears to have occurred on the subject property. However, a small section of the eastern conversion area, within the southernmost portion of the conversion area, occurred within the Streamside Management Area (SMA) of an onsite stream (Windy Creek). As a result, in order to mitigate for impacts to the SMA, the project is conditioned to retain a Registered Professional Forester (RPF) to evaluate the portion of the conversion area that occurred within the SMA and prepare a Restocking Plan monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met.
- f) The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol.
- g) A Road Evaluation Report for a 3.3-mile segment of Lower Sabertooth Road (labeled as "Saber Tooth Road" in the Road Evaluation Report) from Highway 299 to the subject property was prepared by DTN Engineering and Consulting in January 2018, which indicates that the roadway is not developed to the equivalent of a road Category 4 standard or better. However, per Part B of the Road Evaluation Report, the road is considered very low volume and can accommodate the cumulative increased traffic from this project and all known cannabis projects, if the recommendations in the Roadway Evaluation Report are implemented, which is included as a condition of approval. In addition, due to the number of cultivation projects along Lower Sabertooth Road, both approved and pending, conditions of approval require the applicant to take steps to form a Road Maintenance

Association for the maintenance of Lower Sabertooth Road. As conditioned, the access roads are suitable for safe access to a from the project site.

FINDINGS FOR CONDITIONAL USE PERMIT AND SPECIAL PERMIT

- 3. FINDING** The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.
- EVIDENCE**
- a) General agriculture is a use type permitted in the Agricultural Grazing (GA) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
- 4. FINDING** The proposed development is consistent with the purposes of the existing U zone in which the site is located.
- EVIDENCE**
- a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture residential uses are the desirable predominant uses.
 - b) All general agricultural uses are principally permitted in the U zone.
 - c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 square feet of existing mixed-light cannabis on a parcel over 1 acre subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 14,810 square feet of outdoor cultivation on a 40-acre parcel is consistent with this and with the cultivation area verification prepared by the County.
 - d) Conditions of approval require the applicant to adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects included in the Final SAA are completed to the satisfaction of CDFW. By adhering to the terms and conditions of the FSAA, which limits the diversion amount and duration in addition to the specifying the use of intake structures that will not impact aquatic species, impacts to the SMA are minimized.
- 5. FINDING** The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.
- EVIDENCE**
- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned U (HCC 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration by patent (Patent No. 867174) dated June 10, 1922, before the establishment of county and state subdivision regulations that would have applied to the creation of the parcel.

- c) Water for irrigation is provided by a water diversion on a Class II tributary stream to Windy Creek and a 390,000-gallon rainwater catchment pond on the subject parcel. Conditions of approval require the applicant to adhere to all terms and conditions of the CDFW FSAA and monitor water use from the stream diversion, storage tanks, and rainwater catchment pond annually to demonstrate there is sufficient water available to continue to meet operational needs.
- d) A Road Evaluation Report for a 3.3-mile segment of Lower Sabertooth Road (labeled as "Saber Tooth Road" in the Road Evaluation Report) from Highway 299 to the subject property was prepared by DTN Engineering and Consulting in January 2018, which indicates that the roadway is not developed to the equivalent of a road Category 4 standard or better. However, per Part B of the Road Evaluation Report, the road is considered very low volume and can accommodate the cumulative increased traffic from this project and all known cannabis projects, if the recommendations in the Roadway Evaluation Report are implemented, which is included as a condition of approval. In addition, due to the number of cultivation projects along Lower Sabertooth Road, both approved and pending, conditions of approval require the applicant to take steps to form a Road Maintenance Association for the maintenance of Lower Sabertooth Road. As conditioned, the access roads will be functionally appropriate for the expected traffic.
- e) ~~The slope of the land where cannabis will be cultivated is less than 50%.~~ **A review of the Humboldt County WebGIS shows the slopes on the subject parcel range from less than 15% to 50% with the cultivation area mapped as having naturally occurring slopes of 15% - 30%. According to the Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants dated August 21, 2016, the cultivation sites were located on slopes of less than 30%. The applicant relocated two smaller cultivation sites that were located on slopes ranging from 20% - 30% to a centralized location where slopes are 15% or less as described the WRPP.**
- f) The cultivation of cannabis will not result in the net conversion of timberland. A Less Than Three Acre Conversion Exemption was issued by the California Department of Forestry and Fire Protection (CAL FIRE) in February 2016 for 2.5 acres of timberland conversion. As such timber conversion onsite was performed under the Less Than Three Acre Conversion Exemption and, per review of aerial imagery dating back to 2004, no additional timber conversion appears to have occurred on the subject property. However, a small section of the eastern conversion area, within the southernmost portion of the conversion area, occurred within the Streamside Management Area (SMA) of an onsite stream (Windy Creek). As a result, in order to mitigate for impacts to the SMA, the project is conditioned to retain a Registered Professional Forester (RPF) to evaluate the portion of the conversion area that occurred within the SMA and prepare a Restocking Plan monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met.
- g) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet

from any off-site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING

The cultivation of ~~21,150~~ **14,810** square feet of cannabis cultivation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The site is located on road that has been certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- b) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water will come from a stream diversion that has been registered with the State Water Resources Control Board (SWRCB) and California Department of Fish and Wildlife (CDFW) and a rainwater catchment pond. As a condition of approval, the applicant shall obtain a Right to Divert and Use Water from the SWRCB.
- e) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.
- f) In order to mitigate for impacts to the SMA, the project is conditioned to retain a Registered Professional Forester (RPF) to evaluate the portion of the conversion area that occurred within the SMA and prepare a Restocking Plan monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met.

7. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE

- a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but is currently developed with an existing residence. The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized on this parcel.

8. FINDING

Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds

EVIDENCE

- a) ~~The project site is located in the Middle Main Eel Planning Watershed, which~~

~~under Resolution 18-43 is limited to 360 permits and 125 acres. Approval of this application would result in 74 approved permits for a total of 33.4 acres.~~
The project site is located in the Redwood Creek Planning Watershed, which under Resolution 18-43 is limited to 141 permits and 49 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 11 permits and the total approved acres would be 3.16 acres of cultivation.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit and Special Permit for Redwood Valley Farms, LLC, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on October 21, 2021.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John Ford, Director
Planning and Building Department