



COUNTY OF HUMBOLDT

For the meeting of: 8/15/2024

File #: 24-1185

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Whipsawasons, LLC Special Permit
Assessor's Parcel Numbers (APN): 217-391-012
Record Numbers: PLN-2023-18695
Blocksburg Area; east of Miranda

A Special Permit to add 8,400 Square Feet (SF) of cannabis cultivation to an approved Conditional Use Permit (PLN-12216-CUP) for 12,000 SF, for a total cultivation area of 20,400 SF of cultivation. The proposed expansion would add (12) 10' x 70' light deprivation hoop houses to a preexisting graded flat on the parcel. The expansion would also include 840 SF of additional ancillary nursery space for a total of 2,000 SF of nursery. Water is sourced from a preexisting 550,000-gallon rain catchment pond and 30,000-gallons of hard tank storage. Domestic water is supplied from a ground water well. Cannabis is dried on site; further processing occurs off site at a licensed facility. Power is sourced from a preexisting solar system with a backup generator

RECOMMENDATION(S):

That the Zoning Administrator:

1. Adopt resolutions (Resolution 24-__) (Attachments 1) which does the following:
 - a. Finds the Zoning Administrator has considered the Final Environmental Impact Report for the Commercial Cannabis Land Use Ordinance and the Addendum that was prepared for the Whipsawasons, LLC project (Attachment 3); and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Whipsawasons, LLC Special Permit subject to the recommended conditions of approval (Attachments 1A).

DISCUSSION:

Project Location:

The project is in the Blocksburg area, east of Miranda, approximately 500 ft from Sunset Ridge Rd.

General Plan Land Use Designation: Residential Agriculture (RA); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: High Instability (3).

Present Zoning:

Forestry Recreation (FR); Special Building Site (B-5(40)).

Environmental Review:

An Addendum to a previously adopted Environmental Impact Report has been prepared for consideration per §15164 of the State CEQA Guidelines.

State Appeal:

Project is NOT appealable to the California Coastal Commission.

Major Concerns:

None

Executive Summary:

On March 17, 2022, Whipsawasons LLC was issued a Conditional Use Permit for 12,000 square feet (SF) of existing outdoor cannabis cultivation, including 1,200 SF of ancillary propagation, contained within sixteen (16) greenhouses utilizing light deprivation, including 1,200 SF of proposed ancillary propagation. 137,000 gallons of irrigation water for the permitted project is sourced from a 500,000-gallon rainwater catchment pond and a 4,000-gallon water tank. The light deprivation outdoor cultivation is staffed by three employees. This application is for a Special Permit to add 8,400 Square Feet (SF) of cannabis cultivation to the approved Conditional Use Permit for a total cultivation area of 20,400 SF of cultivation. The proposed expansion would add (12) 10' x 70' light deprivation hoop houses to a preexisting graded flat on the parcel. The expansion would also include 840 SF of additional ancillary nursery space for a total of 2,000 SF of nursery. Water is sourced from a preexisting 550,000-gallon rain catchment pond and 30,000 gallons of hard-tanked water storage, for a total of 580,000 gallons of total storage. Annual cultivation water use will not exceed 201,000 gallons per year. Including evaporation loss, the total annual water demand is 287,816 gallons. Domestic water is supplied from a ground water well. Cannabis is dried on site; further processing occurs off site at a licensed facility. Power is sourced from a preexisting solar system with a backup 7000KW Honda generator. No additional employees are anticipated for the expansion.

On May 29, 2024, California Department of Fish and Wildlife (CDFW) staff conducted a site inspection at the subject property. During the site visit, staff walked the property to observe current and historic cultivation activities. CDFW comments are included in Attachment 5A and have been addressed in the conditions of approval for the project. Conditions are discussed below in the Water Resources and Biological Resources sections of this staff report.

Water Resources:

The estimated annual irrigation water usage is 201,000 gallons for the total proposed cultivation area, 20,400 square feet; 12,000 square feet approved under PLN-12216-CUP, and 8,400 square feet requested under this Special Permit. Cultivation water is sourced from a rainwater catchment system that includes a pond and collection from roof tops and greenhouses. Water is stored in the pond and 30,000 gallons of hard-tank storage. Annual usage for cultivation is approximately 9.8 gallons per square foot per year. A rainwater catchment analysis was provided with the applicant's Operations Plan (**Attachment 1B**). Using data from low rainfall years, the rainwater catchment analysis demonstrates that sufficient rainwater can be collected to fill the pond to capacity. Additionally, there is 30,000-gallons of hard tank storage. Water will be pumped from the catchment pond to tank storage during the rainwater catchment season, further increasing water security and storage. The project is conditioned to require water meters and water usage logbooks which must be kept and made available during annual inspection of the cannabis operation (**Condition of Approval B6**). There is a well on the property that will not be used for cannabis cultivation irrigation (**Condition of Approval B2**).

During their May 29, 2024, site inspection California Department of Fish and Wildlife (CDFW) noted that the applicant was out of compliance with Lake and Streambed Alteration Agreement (LSAA, 1600-2018-0038-0000-R1). The project is conditioned to achieve compliance with the LSAA prior to commencing the expanded cultivation (**Condition of Approval A14**). The CDFW site inspection identified other actions needed to protect water resources: providing documentation demonstrating enrollment State Water Board General Order No. WQ 2019-0001-DWQ by providing a copy of the Notice of Applicability and a Site Management Plan (SMP) (**Condition of Approval A1**), Implement the SMP (**Condition of Approval 3A**), Remove debris, Polypipe and compost piles located in the stream channel and Streamside Management Area (SMA) (**Condition of Approval A3**), and the application of erosion control measures to Stream Crossing 1 (LSAA, 1600-2018-0038-0000-R1) to minimize surface erosion and ensure drainage structures, streambed, and banks remain sufficiently armored and stable (**Condition of Approval A7**). The project is also conditioned to comply with the LSAA as amended (**Condition of Approval B2, C17**).

The project referral to the Division of Environmental Health (DEH) resulted in a request for certification of the existing septic system. The project is conditioned requiring the use of portable toilets for cultivation activities until the septic system is permitted or certified by DEH as having capacity to serve the cannabis operation (**Condition of Approval B3**).

Per the Operations Plan, irrigation methods include drip emitters water lines, manifolds, and fittings will be monitored on an ongoing basis for leaks and cracks.

Biological Resources:

The applicant provided a Biological Assessment Report, Naiad Biological Consulting, June 2023, and a Botanical Survey by Sarah Mason in August 2023. The biologists evaluated the site for the presence of

sensitive plant and wildlife species. No sensitive plant or animal species were found in the project area. Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in September 2021, there are no mapped sensitive species onsite. Habitat for listed or sensitive wildlife species was identified in the vicinity of the project for northern spotted owl (*Strix occidentalis caurina*), and obscure bumble bee (*Bombus caliginosus*). The nearest NSO sighting is located approximately one mile from the nearest cultivation area, while the nearest NSO activity center is located approximately 1.85 miles away to the north (HUM 1095). Power at the site is provided by onsite solar, and, per the Cultivation and Operations Plan (**Attachment 3**), a 7,000-kW generator will be utilized only as a backup. The applicant anticipates the generator to be used "a couple of hours a couple of days a year." The conditions of approval require the applicant to adhere to the performance standards for noise set by Department Policy Statement No. 16-005. During their May 29, 2024, site inspection California Department of Fish and Wildlife (CDFW) noted the site had been invaded by Himalayan Blackberry (*Rosaceae rubus*), the project is conditioned to update their Invasive Species Management Plan to include control of Himalayan Blackberry as well as the American bullfrog (*Lithobates catesbeianus*) (**Condition of Approval A6**). The project is also conditioned to refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, refrain from using anticoagulant rodenticides to further protect wildlife, and ensure lighting meets International Dark-Sky Association standards and is fully contained (**Conditions of Approval C2 and C3, C5 - C9**). To minimize the potential for impacts to nesting birds, vegetation removal, construction, or other on-site work is prohibited during the migratory bird breeding season of March 1 to August 16 unless a qualified professional conducts a nesting bird survey. If the survey finds nesting birds, a report by a qualified Biologist must be provided recommending appropriate protection measures if needed. Construction may not proceed without review and approval by the Planning and Building Department (**Condition of Approval A11**). As proposed and conditioned, the project is consistent with the Commercial Cannabis Land Use Ordinance performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

Energy:

Energy is provided by an onsite solar panel and battery system. A backup generator is used in emergencies to charge batteries. The project is conditioned requiring transition to renewable sources no later than January 1, 2026 (**Condition of Approval A15**) after which generators will then be reserved for emergency use only. While in use, any generator may not emit more than 50dB of sound at 100 feet or forest edge, whichever is closer (**Condition of Approval C2**).

Access:

Access to the site is via a driveway off Sunset Ridge Road to Alderpoint Road. Alderpoint Road is a Category 4 County-maintained roadway. A Road Evaluation Report for a 1.9-mile segment of Sunset Ridge Road to Alderpoint Road was prepared for a nearby property located northwest of the site in August 2018 (Attachment 4D), which indicates the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The submitted road evaluation included sufficient photographic evidence to verify the roadway condition as described, including roadway width and

line of sight. In response to comments received from the Department of Public Works, Land Use Division in July 2018 for the original project, the applicant was required to improve the intersection of the access road (Sunset Ridge Road) with Alderpoint Road to commercial standards, specifically by paving Sunset Ridge Road for a minimum width of 20 feet and a length of 50 feet where it intersects the County Road (Alderpoint Road). The applicant met this condition as evidenced by the encroachment permit and inspection (**Attachment 4D**). The applicant shall provide evidence of good standing membership in the Larabee Creek Association for the subject parcel, 217-391-012, for the purpose of maintaining Sunset Ridge Road (**Condition of Approval A10**).

There will be up to 3 employees at peak operation. The site plan depicts adequate parking area.

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The applicant submitted a grading plan that shows no areas proposed for development exceed 15% slope. (**Attachment 4B**). Prior to commencing the expanded cultivation entitled by this Special Permit, the permittee shall provide documentation demonstrating enrollment State Water Board General Order No. WQ 2019-0001-DWQ by providing a copy of the Notice of Applicability and a Site Management Plan (**Condition of Approval A1**).

Timber Conversion:

Review of historic air photos shows that some trees may have been cut to facilitate the cannabis cultivation on the property. Air photos show the area proposed for the expansion has been an open unforested area. Prior to initiating the additional cultivation authorized by this special permit, the subject property shall be evaluated by a registered professional forester (RPF) to determine the amount of timber conversion that occurred onsite before and after the CMMLUO baseline date of January 1, 2016. Any measures determined to be necessary by the RPF to mitigate the unauthorized timber conversion shall be implemented. The report shall contain a restocking plan with recommendations for restocking of any timber conversion that occurred after January 1, 2016, at a rate of 3:1. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for a minimum of three (3) years with an 85% success rate. A monitoring report prepared by a licensed professional forester shall be submitted annually to the Planning and Building Department for the monitoring period (**Condition A9**). A CalFire referral was sent on October 11, 2023, CalFire did not reply with a comment.

Security and Safety:

Per the project Operations Plan, access to the parcel is gated and locked and security cameras are used. The Site Plan depicts a 2,500-gallon tank dedicated to fire suppression as well as an adequate emergency vehicle turnaround. The project was referred to the Brice Land Fire Protection District which did not respond.

Tribal Consultation:

The original project, CUP-16-570 12216, was referred to the Northwest Information Center, the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council. A Cultural Resources Investigation was conducted by William Rich and Associates in September 2021. No artifacts, features, sites, or other cultural resources were identified during the field survey. The Bear River Tribal Historic Preservation Officer requested the standard inadvertent discovery protocol. The expansion project authorized by this special permit was referred to Northwest Information Center, the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council on October 11, 2023. No response was received. Staff reviewed the Cultural Resources Investigation and determined that the expansion area was covered in the survey. The inadvertent discovery protocol is included as **(Condition of Approval C1)**.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43:

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. The project site is in the Middle Main Eel Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 104 permits and the total approved acres would be 86 acres of cultivation.

Environmental Review:

Environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previously adopted Final Environmental Impact Report (EIR) that was adopted for the CCLUO. Staff has prepared an addendum (Attachment 3) to the EIR for consideration by the Zoning Administrator.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comments, comments, or recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete other conditions of approval. The Planning Commission could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, Staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Draft Resolution
 - A. Conditions of Approval
 - B. Operations Plan

- C. Site Plan
- 2. Location Map
- 3. CEQA Addendum
- 4. Applicant's Evidence in Support of the Required Findings
 - A. Botanical Survey
 - B. Grading Plan
 - C. LSAA
 - D. Road Evaluation
 - E. Encroachment Permit
 - F. Biological Report
- 5. Referral Agency Comments and Recommendations
 - A. California Department of Fish and Wildlife
 - B. Humboldt County Public Works

Applicant

Whipsawasons, LLC
1692 Mangrove Avenue #359
Chico, CA 95926

Owner

Adavera Management Llc Co
C/O Anne Beck
PO Box 286
Garberville, CA 95542

Please contact Andrew Whitney, Planner, at awhitney2@co.humboldt.ca.us or (707)268-3735 for questions about this scheduled item.