



COUNTY OF HUMBOLDT

For the meeting of: 3/2/2023

File #: 23-272

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Austin Gomm
Assessor Parcel Numbers (APN) 511-261-026
Record No.: PLN-12284-SP
McKinleyville area

A Special Permit for 5,000 square feet (SF) of new indoor cannabis cultivation in an existing 6,144 SF shop, with ancillary propagation. Irrigation water will be sourced from the McKinleyville Community Services District (MCSD). The applicant has obtained a Will-Serve letter from the MCSD allowing up to 2,600 cubic-feet (19,450 gallons) of water to be used monthly for the proposed cannabis facility. Total water storage is 5,000 gallons in one tank. Processing will be onsite in existing shop which is proposed to be converted into a commercial building to house the indoor cultivation, and drying and processing activities. Power for the operation will be provided by PGE.

RECOMMENDATION(S):

That the Zoning Administrator:

Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:

- a. Finds that the Zoning Administrator has considered the Mitigated Negative Declaration for the Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Austin Gomm project; and
- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the Special Permit subject to the recommended conditions of approval (Exhibit A)

DISCUSSION:

Project Location: in the McKinleyville area, on the west and south side of Kemp Avenue, approximately 810 feet from the intersection of Mather Road and Kemp Avenue, on the property known as 4760 Kemp Avenue.

Access: the project site is accessed from Kemp Avenue, from Mather Road, from county maintained Baird Road.

Present General Plan Land Use Designation: Residential Agriculture (RA), 2017 General Plan, McKinleyville Community Planning Area, Density: 5-20 acres per unit, Slope Stability: Low Instability (1).

Present Zoning: Agriculture General (AG); Special Building Site B-5(5); Streamside Management Area and

Wetlands (WR).

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

State Appeal: Project is NOT appealable to the Coastal Commission.

Major concerns: None

Executive Summary: A Special Permit for 5,000 square feet (SF) of new indoor cannabis cultivation in an existing 6,144 SF shop. A SF ancillary nursery space will be held within the existing shop. Cultivation will occur year-round with up to four (4) cycles. Irrigation water will be sourced from the McKinleyville Community Services District (MCSD). The applicant has a Will-Serve letter from the MCSD which allows up to 2,600 cubic-feet (19,450 gallons) to be used per month for the applicants cannabis facility. Total estimated annual water usage is 233,400 gallons, and 5,000 gallons of water storage exists on-site. Processing will occur in the existing shop along with drying activities. Power to the subject parcel is provided by PGE, and the applicant may need to upgrade the amperage provided by PG&E to support the indoor cultivation facility.

The project is proposing to utilize the 6,144 SF existing shop for 5,000 SF of indoor cultivation, ancillary nursery space, drying & curing, and trimming area. The applicant can have up to 500 SF of space within the shop, designated for ancillary propagation, and shall submit a Floor Plan for the shop to show designated areas for indoor cultivation, ancillary propagation (of no more than 500 SF) and processing, within 30 days of approval (**Condition A.5**). The Site Plan that is on file is outdated and does not reflect what the applicant is proposing. The applicant shall submit an updated Site Plan to the Planning Division within 30 days of approval to remove the 10,000 SF of mixed-light cultivation area that is no longer being proposed (**Condition A.6**).

The project will utilize between two (2) and (7) employees for operations on-site. There is an existing septic system connected to the residence on-site. The project was referred to the Department of Environmental Health (DEH) on September 20, 2017. Comments from DEH recommended conditional approval of the project based on the condition that a written assessment is provided from a qualified septic consultant confirming a minimum of Tier 0 status for the existing onsite waste water treatment system serving the dwelling (**Condition A.7**). The applicant is also conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: one two-story shop (**Condition A.8**). Prior to the issuance of building permits or initiation of any actives requiring the use of electricity, the applicant shall provide documentation demonstrating adequate electricity is available to the project site, to the satisfaction of the Planning Director (**Condition A.9**).

Setbacks:

The project is located within the Airport Influence Area 2 for the Eureka-Arcata Airport. The project was referred to the Humboldt County Department of Aviation on October 5, 2022, and comments were received on November 4, 2022, with a recommendation of approval for the project.

The proposed project utilizes an existing structure that is within the streamside management area for a wetland on-site. However, the project is for indoor cultivation and is conditioned to obtain an exemption from the State Water Resources Control Board for indoor cultivation, prior to cultivating on-site.

The project is located within the McKinleyville Community Planning Area (MCPA), and all cannabis operation activities will occur within the existing enclosed structure. No odor mitigation is required for indoor cultivation

within an enclosed structure.

The project was referred to the McKinleyville Union School District (MUSD) on September 20, 2017, and comments were received on October 23, 2017. Comments from the MUSD verified that there are no schools or school bus stops within 600 feet of the proposed project, but made a recommendation of denial for the project on the basis that cannabis is illegal under federal law and the district receives federal funds. As the project is not within 600 feet of a school or school bus stop, and all activities will occur within an enclosed structure which is not visible from the main road, the project has not been considered detrimental to the public health safety or welfare. The project site is also more than 600 feet from church or other place of religious worship, or Tribal Cultural Resource.

Energy:

The project will obtain power from an existing connection with PG&E, and may need to receive an amperage upgrade in order to support the indoor cultivation facility. The applicant is required to provide documentation demonstrating adequate electricity is available to the site prior to commencing indoor cultivation activities. The applicant is conditioned to provide all power for the project from 100% renewable power sourced by PG&E, and proof of enrollment in a 100% renewable energy program with PG&E is required before beginning cultivation activities (**Condition A.10**). The site will have one emergency only backup generator on-site, to be used only during the case of an emergency.

Water Resources:

Total estimated annual water use is 233,400 gallons, and 5,000 gallons of water storage exists on-site. The project will obtain water from the McKinleyville Community Services District (MCSD) and has obtained a Will-Serve letter from the MCSD. The project was referred to the MCSD on September 20, 2017, and comments were received on October 4, 2017, recommending approval for the project. The Will-Serve letter from the MCSD, dated October 20, 2022, allows the estimated use of 2,600 cubic-feet (19,450 gallons) per month for the proposed cannabis facility, and is effective for thirty-six (36) months from the date of the letter. After thirty-six (36) months from the date of the MCSD Will-Serve letter, the applicant shall contact the MCSD to obtain a new Will-Serve letter allowing the continued use of water for irrigation at that time. If the allowance for continued use of water for cannabis irrigation is not received from the MCSD, the applicant shall find an approved alternative source of water, or shall halt cannabis operations on-site (**Ongoing Condition B.1**).

The proposed existing structure for indoor cultivation is located within a streamside management area of a wetland on-site. Communication with the State Water Resources Quality Control Board (SWRQCB) has verified that the applicant may qualify for a Conditional Exemption from the SWRQCB, and would not be required to adhere to a riparian setback of the General Order. The applicant is conditioned to obtain proof of Conditional Exemption from the SWRQCB, and submit to the Planning Division, prior to commencing cultivation activities on-site (**Condition A.11**). The applicant shall also obtain a Site Management Plan or proof from SWRQCB that one is not required (**Condition A.12**).

There are no culverts or stream crossings that exist on the subject parcel, and no Lake or Streambed Alteration Agreement is required with the California Department of Fish & Wildlife.

Fire Hazards:

The project is in an area designated to have Moderate Fire Hazard Severity. The project is located within the Arcata Fire Protection District (AFPD), and the project was referred to AFPD on September 20, 2017. No comments were received by the agency. The applicant will obtain a will serve letter from the AFPD or shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND

FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by the Board of Supervisors will be required (**Condition A.13**). The project is also within the State Responsibility Area for Calfire. The site has ample room for a firetruck turnaround, and is connected to the MCSD.

Timber Conversion:

The project was referred to CalFire on September 20, 2017, and comments were received on September 28, 2017. Comments from CalFire stated that Google Earth imagery suggests that an unpermitted conversion may have taken place in 2015 or 2016 for the installation of the pump house and water tank in the north east corner of the property, and that this should be addressed prior to approval of the project. After further review from the Planning Division, there is no sufficient evidence to suggest that any significant timberland was converted on-site, and no further actions are required by the applicant.

Biological Resources:

The project is located approximately 0.48 miles to the nearest Northern Spotted Owl (NSO) activity center, and 0.54 miles to the nearest NSO observation in 2011. The project site also contains wetlands and one perennial stream. According to the California Natural Diversity Database (CNDDDB) for rare and endangered species, there is no habitat for rare or endangered species located on or near the subject parcel. The project was referred to CDFW on September 20, 2017, and comments were received on February 26, 2018. Comments from CDFW included a request for a baseline biological survey, and included the recommendation for conditional approval. All requested conditions from CDFW have been applied to the project, however a biological survey was not requested as the applicant has removed the 10,000 SF of mixed-light cultivation from the proposal. As all activities will occur within an existing fully enclosed structure, power will be provided by PG&E, and water will be provided by the MCSD, no significant impacts to biological resources are likely to occur from the proposed project.

Tribal Cultural Resource Coordination:

The project site is located in the Blue Lake Rancheria, Bear River Band and Wiyot Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC), the Blue Lake Rancheria Tribe, the Bear River Band Tribe, and the Wiyot Tribe on September 20, 2017. The NWIC replied on January 25, 2018, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Blue Lake Rancheria Tribe commented on September 25, 2017, requesting a site inspection for the project area. The applicant obtained a Cultural Resource Investigation (CRI) prepared by William Rich M.A., RPA, with William Rich and Associates, dated September 2016. The CRI report states that no significant archaeological or historic period cultural resources exist within the limits of the proposed project. The CRI report was sent to the necessary tribes for review. Comments from the Blue Lake Rancheria Tribe and the Bear River Band Tribe stated that they had no further concerns about the project and requested Inadvertent Discover Protocols as a condition of approval for the project. The applicant shall adhere to Inadvertent Discover Protocols, and shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided (**Informational Note 3**).

Access:

Access to the project site is from County maintained Baird Road, from Mather Road, from Kemp Avenue. The project was referred to the Department of Public Works on September 20, 2017, and comments were received on May 4, 2018, recommending conditional approval for the project. The applicant shall adhere to the following recommendations from the Department of Public of Works. All driveways and private road

intersections onto the County Road shall be maintained in accordance with Code Section 341-1 (Site Visibility Ordinance), and at the intersection of Baird Road and Mather Road the access road shall be paved to a minimum width of 20 feet and a length of 50 feet where it intersects the County road (**Condition A.13**). The project will utilize a maximum of seven (7) employees during peak operations, and the applicant anticipates a maximum of fourteen (14) vehicle trips to and from the site per day. The applicant submitted a Road Evaluation Report with photos for the 0.2 mile section of Kemp Avenue, and for the 0.4 miles of Mather Road, designating both roads as being developed to the equivalent of a category 4 road standard. The subject project is the only cannabis application off of these roads, and the private roads are maintained by the applicant and his neighbors. It has been determined that the existing access roads meet the functional capacity needed for the project.

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

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 74 cultivation permits and the total approved acres would be 26.9 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and most responding agencies have either responded with no comment or recommended approval or conditional approval. The project did receive on recommendation of denial from the McKinleyville Union School District because cannabis is federally illegal. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project.
2. The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Addendum to Cultivation & Operations Plan
 - C. Cultivation & Operations Plan
 - D. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. McKinleyville Community Services District Will-Serve Letter
 - B. Road Evaluation Report
5. Referral Agency Comments and Recommendations
 - A. Department of Environmental Health
 - B. Department of Public Works

- C. CalFire
- D. California Department of Fish & Wildlife
- E. McKinleyville Community Services District
- F. US Army Corps of Engineers
- G. Federal Aviation Association
- H. McKinleyville Union School District

Please contact Megan Acevedo, Planner II, at 707-441-2634, or by email at macevedo@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.