



COUNTY OF HUMBOLDT

For the meeting of: 3/7/2024

File #: 24-293

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Cannabanana, LLC Special Permit
Assessor Parcel Number: 221-061-001
Record No.: PLN-12419-SP
Salmon Creek area

A Special Permit for 6,250 square feet (SF) of existing outdoor cannabis utilizing light deprivation techniques and 200 SF of ancillary nursery space, a Special Permit for development in a Streamside Management Area (SMA), and a Special Permit to reduce the 600-foot setback to public lands. Irrigation water is sourced from rain catchment collected and stored in two ponds. Water storage in the ponds is 106,500-gal., hard tank storage is 115,500-gal., total irrigation storage is 222,000-gal. Estimated annual water usage is 136,000-gal. Processing such as drying and curing occur onsite in an existing 1,500 SF shop building, with all further processing including trimming taking place off-site at a licensed third-party processing facility. No employees are proposed, only onsite residents will operate the project. Power is provided by an existing solar system with generators as a supplemental power source. The applicant has proposed to transition to full solar power within two years of project approval and this is included as a recommended condition of approval.

RECOMMENDATION(S):

That the Zoning Administrator:

1. Adopt the resolution (Resolution 24-__). (Attachment 1) which does the following:
 - a. Finds that the Zoning Administrator has considered the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Cannabanana LLC, 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

(Attachment 1A); and

DISCUSSION:

Project Location: The project is located in the Salmon Creek area, on the West side of Thomas Road, approximately 1.5 miles North from the intersection of Dickson Butte and Thomas Road, and approximately .28 miles West from the intersection of Thomas Road and a Private Drive on the property known to be in Section 9 of Township 03 South, Range 02 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation: Residential Agriculture (RA); 2017 General Plan; Density: 40 acres per unit; Slope Stability: High Instability (3)

Present Zoning: Unclassified (U)

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 California Coastal Commission.

Major Concerns: None.

Executive Summary: A Special Permit for 6,250 square feet (SF) of existing outdoor cannabis utilizing light deprivation techniques and 200 SF of ancillary nursery space, a Special Permit for development in a Streamside Management Area (SMA), and a Special Permit to reduce the 600-foot setback to public lands. Irrigation water is sourced from rain catchment collected and stored in two ponds. Water storage in the ponds is 106,500-gal., hard tank storage is 115,500-gal., total irrigation storage is 222,000-gal. Estimated annual water usage is 136,000-gal. Processing such as drying and curing occur onsite in an existing 1,500 SF shop building, with all further processing including trimming taking place off-site at a licensed third-party processing facility. No employees are proposed, only onsite residents will operate the project. Power is provided by an existing solar system with generators as a supplemental power source. The applicant has proposed to transition to full solar power within two years of project approval. This is included as a recommended condition of approval (COA #A.15)

Water Resources: Irrigation water is sourced from rain catchment collected and stored in two ponds. Water storage in the ponds is 106,500-gal., hard tank storage is 115,500-gal., total irrigation storage is 222,000-gal. Estimated annual water usage is 136,000-gal (21.65 gal/sf).

Water use records reported to the State Water Resources Control Board indicate 136,000 gallons were utilized for cannabis irrigation in 2021 and 2022, and the water records supplied by the applicant indicate 38,410 gallons of water were utilized for cannabis irrigation in 2023.

Biological Resources: Per review of CDFW's California Natural Diversity Database (CNDDB) no rare or endangered plant or animal species are mapped on the subject parcel. The project was referred to BLM on October 28, 2022 and as of the date of this staff report the County has received no

response. The nearest NSO activity center located approximately 0.75-miles away. Power at the site is provided by an existing solar system with a supplemental generator, and is further conditioned to restrict generator noise to 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer (**Condition B.1**). Generator use is specifically not allowed until staff is able to verify it operates at or below the 50 dB threshold. Additionally, project conditions require the applicant to transition from supplemental generator use to full solar power to support the project within two years of project approval, after which the generator may be kept on site for emergency use only (**Condition A.15**). Conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, eradicate invasive species near cultivation sites, and refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions B.1-B.8**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

Energy: Power for the project is currently provided via a solar array and a supplemental generator. Nursery space, as well as drying and curing are powered via the solar array, with the generator used to power water pumps. The applicant has proposed to transition from the existing generator powered pump to solar pumps within two years. This has been included as a recommended condition of approval. (**Condition A.15**).

Access: The project site is accessed via a driveway intersecting Upper Samuels Ranch Loop Road via Thomas Road via Salmon Creek Road, the latter two of which are County maintained and identified by the County Public Works Department as suitable for commercial cannabis operations. The access road has been evaluated by an engineer in May of 2023 for a separate cannabis permit and found to be the functional equivalent of a category 4 roadway. As previously noted, there will be a maximum of two people onsite during peak operations. As this is an existing operation, a significant increase in traffic is not expected under the project. The privately maintained portion of the access route has been documented to be able to accommodate the traffic stemming from approval of this application.

The project has been conditioned to enroll in a Road Maintenance Association to share costs associated with the maintenance and improvements of the access roads (**Condition B.10**). The permit holder has been conditioned to complete the engineer recommendations contained in the Road Evaluation prepared Omsberg and Preston dated May 26, 2023 (**Condition A.18**).

Geologic Suitability: The project parcel is mapped in the County GIS as “high instability” (3). The slope of the land where cannabis will be cultivated is less than 15%, as indicated by the Water Resource Protection Plan (WRPP; WDID 1B171457CHUM) prepared by Timberland Resource Consultants in December 2017 and revised in May 2018.

Timber Conversion: Review of aerial imagery dating back to 2004 indicates the site was cleared of 0.19 acres of timber and vegetation and graded to create a pond between 2014 and 2015, and an additional 0.25-acre area was cleared of trees in 2017. A Registered Professional Forester (RPF) assessed the potential conversion and provided a report and restocking plan (Timber Conversion Evaluation dated Oct. 22, 2018 from Timberland Resource Consultants and Restocking Plan from

Timberland Resource Consultants dated Nov. 29, 2018). The Conversion Evaluation indicated the 0.19-acre area constituted a conversion, and recommended replanting of timber on the pond's cut-slope, embankment, and all associated disturbed/cleared areas. The Conversion Evaluation also indicated the 0.25-acre clearing likely did not constitute a timber conversion, as the area cleared was comprised of black oak, which are not a commercial tree species as defined by 14CCR 895.1 for the Coast Forest District. The RPF notes the removal of black oak does not constitute a conversion in their professional opinion, however the RPF noted that based on a review of onsite conditions and aerial imagery indicate the area may have had some scattered conifer encroachment within the oak woodlands and cannot therefore determine definitively that no conversion occurred. If some conversion is assumed, the RPF verified the conversion would have been in compliance with the Forest Practice Rules.

The condition requiring replanting of the pond embankment, cut-slope, and all associated disturbed areas as recommended by the RPF will ensure no net timber conversion has occurred after January 1, 2016 in conformance with requirements of the CMMLUO (**Condition A.16**). Conditions require staff verification the replanting has occurred and within two years of project approval, and a completion report is required from an RPF demonstrating the success of the replanting. No additional tree removal is proposed or authorized by this permit.

Security and Safety: The applicant has implemented security measures, including locked gates, "private property" and "no trespassing" signs, perimeter fencing, and locks on all doors and windows.

Public Lands Setback Reduction: The applicant is requesting approval of a Special Permit to reduce the setback requirements to public lands from the required 600 feet to 36 feet. The subject property is bordered on two sides by public lands owned and managed by the Bureau of Land Management (BLM), with project activities occurring as close as 36 feet to public lands. The public lands adjacent to the subject parcel were acquired by BLM in 2004, and are subject to the Arcata Resource Area Resource Management Plan. The plan identified lands around Gilham Butte (lands acquired by BLM in 2004 are adjacent to Gilham Butte) as targeted for acquisition for recreational use however there are no developed recreational facilities currently. The public lands adjacent to the subject property have no mapped sensitive plant or animal species, no NSO sightings or activity centers, and are not designated critical habitat for the Marbled Murrelet. The nearest parcel owned by BLM appears to be comprised mainly of grassland which would indicate the area is not habitat for NSO or Marbled Murrelet. Without approval of a setback reduction, the cultivation would need to be relocated on the site which would require additional timber conversion. Given that the cultivation is outdoor and will transition to solar power, there are no impacts to the use of BLM properties that are expected from approval of the setback reduction.

Power at the site is provided by an existing solar system with a generator backup and is further conditioned to restrict generator noise to 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer (**Condition B.1, B.2**). Additionally, project conditions require the applicant to transition from supplemental generator use to full solar power to support the project within two years of project approval, after which the generator may be kept on site for emergency use only (**Condition A.15**). Conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain

from using anticoagulant rodenticides to further protect wildlife (**Conditions B.1-B.8**). The project has demonstrated enrollment in the State Water Resources Control Board's General Order, and under the General Order has been required to produce a Site Management Plan, and a Site Erosion and Sediment Control Plan to protect water quality and reduce the risk of erosion and nutrient or sediment delivery. The project as proposed and conditioned is consistent with BLM management goals for the adjacent public lands.

Development in a Streamside Management Area: The onsite pond referred to as "upper pond" was developed in 2015 within a Streamside Management Area (SMA). The upper pond is adjacent to an intermittent stream and is encroaching on the required 50-foot SMA setback for which a Special Permit is required. The pond is downslope of the intermittent stream, and the pond spillway drains into an ephemeral drainage feature further downslope. The pond is hydrologically disconnected from the intermittent stream, and per the RPF report the surrounding vegetation is black oak woodlands with scattered mature Douglas-fir, and Douglas-fir and incense cedar regeneration. Given the composition of surrounding vegetation and location of the pond in relation to adjacent watercourses, it does not appear riparian habitat was negatively impacted to facilitate construction of the pond. Based on this information, the development within the SMA can be approved with a Special Permit and does not require mitigation in the form of creation of replacement riparian habitat per HCC §314-61.1.10.1.4.

Tribal Consultation: The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. The project was referred to the Northwest Information Center (NWIC) at Sonoma State, the Bear River Band Tribal Historic Preservation Officer (THPO), and the Intertribal Sinkyone Wilderness Council in January 2020. Both NWIC and Bear River Band THPO indicated an Archaeological Survey of the site was appropriate. A subsequent Cultural Resources Investigation was performed by Archaeological Research and Supply Company in March 2020 (on file and confidential), in which no cultural resources were identified. The project will adhere to the standard inadvertent discovery protocol, as recommended in the Report, which has been incorporated into the conditions of approval (**Condition B.13**).

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 located in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251-acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 307 permits and the total approved acres would be 87.13 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 Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (Attachment 3) to the MND 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 comment or recommended approval or conditional approval. The Division of Environmental Health recommended the applicant demonstrate the septic system meets minimum setbacks to surface water or relocate the septic system under permit to meet minimum setbacks. This has not been included in the recommended conditions of approval, as the onsite residence is not utilized for cannabis activities. Conditions of approval allow the applicant to trim onsite in the residence provided the project can demonstrate compliance with Departmental Policy Statement (DPS) 21-02. Compliance with this DPS will require, in part, permitting of the existing residence, during which any issues with the septic system will be addressed. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Zoning Administrator could elect to add or delete conditions of approval. The Zoning Administrator could deny the project 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. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Water Resources Protection Plan
 - B. Lake and Streambed Alteration Agreement
 - C. Timber Conversion and Restocking Plan
 - D. Road Evaluation with Photos
 - E. Historic Cultivation Report
 - F. Environmental Superiority and Restoration Plan
5. Referral Agency Comments and Recommendations

Applicant:

Cannabanana, LLC
Ivan Fiallo
P.O. Box 579
Redway, CA 95560

Owner:

Ivan M. F. Bucarelli
P.O. Box 579
Redway, CA 95560

Agent:

File #: 24-293

Oxalis Integrated Support Services, LLC
Holly Carter
901 Redwood Drive, Suite A
Garberville, CA 95560

Please contact Michael Holtermann, Planner, at mholtermann@co.humboldt.ca.us or 707-268-3737 if you have questions about this item.