

Enchanted Earth, LLC
Record Number: PLN-12190-CUP
Assessor's Parcel Number: 524-201-022

Recommended Commission Action

1. Describe the application as part of a public hearing.
2. Request staff to present the application and staff report;
3. Open the public hearing and receive testimony;
4. Close the public hearing and adopt the Resolutions to take the following actions:

1) Find that the Commission has considered the Addendum to the adopted Environmental Impact Report for the Commercial Cannabis Land Use Ordinance (CCLUO) as described by Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Conditional Use Permits and Special Permits and 3) approve the Enchanted Earth, LLC Conditional Use Permits and Special Permits as recommended by staff subject to the recommended conditions.

Executive Summary: Enchanted Earth, LLC is seeking a Conditional Use Permit for 2,995 square feet (SF) of outdoor commercial cannabis cultivation and 300 SF of ancillary propagation within the Willow Creek Community Planning Area. Water for irrigation is sourced from the Willow Creek Community Services District. There is no water storage on-site and none is required. Projected annual water use is 78,000 gallons (23.7 gal/SF/year). Processing is proposed on-site, and trimming is proposed in the residence. The farm is owner-operated, and power is sourced by PG&E.

The project proposes to have six (6) hoop houses, totaling 2,995 SF of outdoor cultivation, which will utilize light-deprivation techniques without the use of supplemental lights. An additional 300 SF full-sun outdoor ancillary propagation area is also proposed. Two harvests are anticipated per year. The site will be owner-operated and the applicant plans to trim on-site within the Residence, or will have fresh frozen product collected by a licensed off-site distributor or manufacturing facility, or may choose to have trimming done off-site at a licensed processing facility. In the event that the applicant plans to have product taken by a licensed off-site processing distribution or manufacturing facility, the applicant shall keep records from the licensed facility to be furnished during an annual inspection (**Ongoing Condition B.1**). The project was referred to the Department of Environmental Health (DEH), and comments from DEH stated that the site has a sewage disposal system permit application that was installed in 1980, and recommended approval of the project. A building inspection was conducted on July 12, 2017. Comments from the building inspector included a recommendation of approval based on the condition that all required grading, building, plumbing electrical and mechanical permits and or Agricultural Exemption are obtained. The project is conditioned to obtain the appropriate building permits for the six (6) hoop houses, the residence, and one (1) proposed storage shed for drying and harvest storage area (**Condition A.6**). In the event that the applicant no longer plans to trim in the residence on-site, the residence will no longer require a building permit.

Setbacks

The applicant is applying for a Special Permit to reduce the 600 foot setback from Six Rivers National Forest (SRNF). The nearest cultivation area is approximately 165 feet to the SRNF. The project was referred to the US Forest Service on January 11, 2022, and no response was received. The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). This property is located within the mapped Essential Habitat Connection corridor per the California Essential Habitat Connectivity Project that has been adopted by the State of California to help guide statewide transportation and land use planning projects however the setback reduction would not impact the ability of these public lands to continue to function for habitat connectivity as the property is not actually adjacent to public lands and no lights or generators are proposed to be used. The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife, as no lights or generators are a part of the proposed project. The parcel is connected to PG&E grid power and the applicant will transition to 100% renewable power sourced from PG&E. Further, the project will source water from the Willow Creek Community Services

District. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities.

The proposed cultivation area is located closer than 300 feet to five (5) residences on neighboring parcels. The applicant has obtained letters waiving the 300 foot setback requirement for the proposed project from all neighbors located within 300 feet of the proposed cultivation area.

The project is also proposing outdoor cultivation within 600 feet of residences on twelve (12) neighboring parcels. The applicant is requesting an exception from the prescribed open air cultivation setbacks with a Use Permit per Section 55.4.6.4.4 (I) of the CCLUO. There are two (2) approved outdoor cannabis operations and two (2) other open applications within 600 feet of the subject parcel. As well, an Early Notice of Application was sent out to all neighbors within 1,000 feet of the proposed project on December 8, 2021. No responses were received in response to the Early Notice of Application. Based on existing uses in the area and the sentiment of neighboring residents, it does not appear that approval of this application would be detrimental to the neighborhood.

Timber Conversion

The parcel is zoned Agriculture General (AG), and no apparent timber conversion has occurred on the subject parcel. The project was referred to CalFire on January 11, 2022, and no response was received by the agency.

Fire Hazard

There are some hoop houses proposed within the 30-foot setback to the southern property line, and per the Humboldt County Fire Safe Regulations the applicant is required and conditioned to have a maintenance and open space easement recorded with the adjoining lot to the south (APN: 524-201-025) (**Condition A.7**). The project is located within an area designated to have a Very High Fire Hazard Severity, and is shown to be within the Willow Creek Volunteer Fire District. The applicant shall contact the local fire service provider (Willow Creek Volunteer Fire Protection District) and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant 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 (**Condition A.8**).

Water Resources

Projected annual water usage is a maximum of 78,000 gallons per year, (23.7 gallons/SF/year). Water for cannabis irrigation will be provided by the Willow Creek Community Services District (WCCSD), and the applicant has a will-serve letter from the WCCSD allowing the continued use of 26,000 cubic feet (194,493 gallons) of water to be used annually for residential and agricultural purposes. The WCCSD has a Drought Ordinance in its Board Policy, and in the event of a drought the water usage may be restricted per the policy and the applicant shall adhere to any restrictions set forth by the WCCSD (**Ongoing Condition B.2**). The applicant shall also install a meter in order to meter the use of water used for cannabis irrigation separate from residential uses (**Condition A.9**). There is no water storage on-site, and the applicant is not required to add water storage for the project.

The site has enrolled under the State Water Resources Control Board's (SWRCB) General Order WQ 2019-0001. The applicant has obtained a Notice of Applicability (NOA) letter from the SWRCB dated May 14, 2019, showing enrollment under WDID: 1_12CC402854. The NOA states that the project requires a Site Closure Report 90 days prior to permanently ending cannabis cultivation, and no other technical reports are required.

There are no streams or stream crossings located on the property and water is sourced from the WCCSD, therefore no Lake or Streambed Alteration Agreement with Fish & Wildlife is required for the project.

Biological Resources

There are no mapped biological resources shown on the subject parcel in the CNDDDB database in Humboldt County Web GIS, and the nearest known activity center for Northern Spotted Owls is 1.3 miles to the proposed project site. This is well outside of the 0.7 mile required setback to nearest activity center for pre-existing sites under the Environmental Impact Report that was prepared for the CCLUO. As the project is for pre-existing cultivation, and no new ground disturbance is proposed as part of the project, no Biological Assessment was required. As the project will consist of outdoor cultivation, no light pollution is anticipated as a result of the proposed project.

The project was referred to the California Department of Fish & Wildlife (CDFW) on July 17, 2017, and comments were received on June 4, 2019. Comments from CDFW included recommendations to mitigate noise and light pollution, which no longer apply to this project as it is outdoor with no use of lights, and power is sourced by PG&E and no generators are used. Other recommendations of approval included the prohibition of synthetic netting, and that all refuse be contained in wildlife proof storage container at all times, and disposed of at an authorized waste management facility (**Ongoing Conditions B.5 & B.6**). As there are no streams, stream crossing or diversions used for the project, the applicant is not required to obtain a Lake or Streambed Alteration Agreement with CDFW.

The project is located within the CDFW's Essential Habitat Connection, and is requesting a Special Permit to reduce the 600 foot setback to SRNF. The project is located in a residential neighborhood where two (2) approved cannabis permits exist, two (2) active cannabis applications exist, and the site is located approximately 1,100 feet to State Hwy 299. The project will not be utilizing lights, generators, or employees, and receives water from the WCCSD. No significant impacts to wildlife are anticipated as part of this project.

Noise

Section 55.4.12.6 of the CCLUO states that Noise from cultivation and related activities shall not result in an increase of more than three decibels of continuous noise above existing ambient noise levels at any property line of the site. The project is for a pre-existing cultivation site, and no additional noise is anticipated as a result of this project approval.

Tribal Cultural Resource Coordination

The proposed project is located within the mapped ancestral aboriginal territories for the Hoopa and Tsnungwe tribes. The project was referred to the Hoopa and Tsnungwe tribes, and the Northwest Information Center (NWIC) on July 18, 2017. The NWIC commented on the project on August 1, 2017, recommending that the lead agency contact the local Native American tribes regarding traditional, cultural, and religious heritage values. A comment was received from the Tsnungwe tribe on October 3, 2020, stating that they had no objection to the project. No Cultural Resource Investigation was required for the project. The project is conditioned to adhere to inadvertent discovery protocols (**Informational Note 3**).

Energy Plan

Power is provided by PG&E grid connection, and no generators are a part of the proposed project. The project is conditioned to provide proof of 100% renewable energy source provided by PG&E or to purchase carbon off-set credits for all power sourced from non-renewable sources (**Condition A.10**).

Access

The project is accessed off of Enchanted Springs Lane, which is a non-county maintained road located off of State Hwy 299. The applicant submitted a Road Evaluation Report form for Enchanted Springs Lane, which designates the road as being developed to a Category 4 road standard. The project was referred to Caltrans on October 14, 2020, and no comments were received. As there are more than three permit applications that have been filed for commercial cannabis activities, which will utilize the

same access road, all applicants shall enter in a Road Maintenance Association. The applicant is conditioned to enter into a Road Maintenance Association in order to establish rules and mechanisms for road maintenance (**Condition A.11**).

Willow Creek Community Planning Area

The CCLUO requires a Conditional Use Permit for all commercial cannabis activities in certain community planning areas, including the Willow Creek Community Plan. In accordance with the procedures of the CCLUO a Notice of Application was sent to surrounding property owners within 1,000 feet of the site on December 8, 2021. No comments were received in response to the Early Notice of Application.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Environmental Impact Report that was adopted for the Commercial Cannabis Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 2 for more information).

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Environmental Impact Report that was adopted for the Commercial Cannabis Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 2 for more information).

RECOMMENDATION: Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit (CUP) and Special Permit (SP).

ALTERNATIVES: The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence, or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Department has determined that the project is consistent with the EIR for the CCLUO as stated above. However, the Commission may reach a different conclusion. In that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.