



COUNTY OF HUMBOLDT

For the meeting of: 4/3/2025

File #: 25-443

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Cherrytree LLC; Special Permit
Assessor Parcel Number (APN) 208-201-017-000
Record No.: PLN-12277-SP
Dinsmore area

Special Permit for 9,850 square foot existing outdoor medical cannabis cultivation. Water is sourced from an onsite permitted well. The estimated annual irrigation water need is 172,800 gallons. Water storage onsite is 20,400 gallons. Processing is performed off-site at a licensed third-party facility. Power is sourced from a solar array.

RECOMMENDATION(S):

That the Zoning Administrator:

Adopt the resolution, (Attachment 1) which does the following:

- a. Finds the Zoning Administrator has considered the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared that was prepared for the Cherrytree, LLC project; and;
- b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and;
- c. Approves the Special Permit as recommended by staff, subject to the conditions of approval (Attachment 1A).

DISCUSSION:

Project Location:

The project is located in Humboldt County, in the Dinsmore area, on the west side of Bear Creek Road, approximately 1.8 miles Northwest from the intersection of Bear Creek Road and Coyote Flat Road, on the property known as 777 Bear Creek Road.

Present General Plan Land Use Designation:

Residential Agriculture (RA40), 2017 General Plan, Density: 40 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 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.

Monitoring Required:

Annual Compliance Monitoring.

Executive Summary:

A Special Permit for 9,850 square feet of existing outdoor commercial cannabis cultivation. The ancillary nursery area totals 250 square feet. Water for irrigation is sourced from a permitted well. Water storage totals 20,400 gallons. Annual water use for irrigation is 172,800 gallons (17.54 gallons per square foot). Cannabis cultivation occurs in two areas on the project parcel. The northernmost side has three (3) greenhouses that measure 25'x50' (3,750 square feet). The southern cultivation area (nearest to the residence on site) is a mix of both full sun outdoor and greenhouses. There is one (1) greenhouse measuring 26'x33' (858 square feet), two (2) greenhouses measuring 28'x56' (3,136 square feet), an outdoor area measuring 11'x81' (891 square feet), an outdoor area measuring 5'x12.5' (65 square feet), and outdoor area measuring 14'x48' (672 square feet), and an outdoor area measuring 20'x25' (500 square feet). One (1) flowering cycle per year is anticipated. Drying harvested cannabis will occur in an existing 15'x30' shed. One employee is anticipated. Other Structures associated with the property include an existing residence and 30'x50' shop that is encroaching within the State Responsibility 30' setback from the property line. As a condition of project approval, the applicant must remove the shed from the 30 SRA setback (**Condition of Approval 1A.6**). The project is also conditioned to obtain building permits for existing structures and associated grading with a nexus to cannabis.

Although the Division of Environmental Health (DEH) did not provide comment, the project is conditioned that onsite processing activities be supported by an approved onsite wastewater

treatment system and that seasonal/outdoor cultivation sites be supported by portable toilets. Until this condition can be met, the applicant shall process cultivated cannabis and an offsite third-party location.

Water Resources:

Water for domestic and agricultural use is provided by a non-hydrologically connected permitted groundwater well (permit# e0353403). In February of 2023, Lindberg Geologic Consulting assessed the project well and its likelihood of being hydrologically connected to adjacent surface waters. Lindberg concluded that, given the assessment criterion, the well has a low likelihood of being hydrologically connected. There is currently 20,400-gallons of hard storage onsite site within four (4) 3,000-gallons tanks, one (1) 1,100-gallon tank, one (1) 6,000-gallon tank, and one (1) 1,300-gallon tank. There is also a 500-gallon tank for domestic purposes.

A Lake and Streambed Alteration Agreement (LSAA) was filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Notification No. 1600-2017-0571-R1). The LSAA (**Attachment 4B**) permitted one Point of Diversion (POD) for domestic and irrigation use, to upgrade and maintain six (6) stream crossings, and to remove and remediate an on-stream pond. According to CDFW, not all required work was completed and the LSAA expired on May 8, 2023. On September 11, 2024, CDFW accompanied County Staff to conduct a site inspection and provided comment on the project October 1, 2024. CDFW stated that maintenance is required for Crossing-1, Crossing-2, Crossing-3, Crossing-4 and on the On-stream Pond Removal and Remediation. The applicant does not have a final LSAA. The applicant shall acquire a Final LSAA prior to the initiation of cannabis cultivation. The applicant shall complete the following items listed below by the requested dates:

- a. Notify for a LSAA from CDFW by November 30, 2024 (**Condition 1A.9**);
- b. Complete all required work by October 15, 2025 (**Condition 1A.10**).

The applicant shall remove all cultivation, cultivation related infrastructure, and refuse outside of the SMA within two (2) weeks of project approval. Photographic evidence shall be submitted to the Planning Department directly with time-certain photographic evidence (**Condition 1A.11**).

The applicant shall maintain at least 25,000 gallons of water on site to be used if the well does not produce for a full cultivation season (**Condition 1A.12**).

The applicant shall contain uncontained fertilizer and pesticides observed on site that pose a threat to wildlife within and store all fertilizers, pesticides, and chemicals on site within two (2) weeks of project approval (**Condition 1A.13**).

Within two (2) weeks of project approval, the applicant shall remove all cannabis cultivation related refuse located in the headwaters of a Class III drainage. Additionally, the applicant shall removal all

cultivation related waste from the stream channel and the Streamside Management Area (SMA) (**Condition 1A.14**).

While onsite, CDFW observed sediment discharge to Waters of the State through erosion of a hydrologically connected road that is used to access the cultivation sites. Per the CDFW request, as a condition of approval, that the applicant implement/follow through with a stormwater plan (site management plan) to direct surface flow away from streams to mitigate the existing threats of sediment delivery (**Condition 1A.15**).

CDFW stated the proposed project may have a potentially significant adverse effect on biological resources, specifically the Northern Spotted Owl (*Strix occidentalis caurina*; NSO). At least two known NSO Activity Centers occurs within 1.3 miles of the cultivation sites and designated Final Critical Habitat occurs for the NSO occur within 0.5 miles of the cultivation sites (CDFW2024). CDFW requests that the applicant assume presence of NSO and avoid impacts as determined by a qualified biologist, in consultation with CDFW. CDFW recommends that cannabis cultivation at this location be limited to full sun outdoor methods with no mixed light. Additionally, CDFW requests the succeeding measures, as conditions of approval.

- a. All ground-disturbing activities should be limited to occur outside of the breeding season for the NSO (February 1 through July 9) (**Condition 1A.16**).
- b. The construction of noise containment/dampening structures for all operation related generators, water pumps and fans. Additionally, CDFW requests that the use of generators is phased out after 2024 and only used as a backup energy source (**Condition 1A.17**).
- c. The applicant shall ensure all artificial light used for cannabis cultivation operations (i.e., ancillary nurseries) be fully contained within structures such that no light escapes (e.g., through automated blackout curtains) between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular and nocturnal wildlife. CDFW further requests, that security lighting be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program (**Condition 1A.18**).

A Site Management Plan was prepared by Green Road Consulting in October 2018 to comply with State Water Resources Control Board (SWRCB) General Order WQ 2017-0023-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1_12CC402290) (**Attachment 4E**).

The SMP identifies the following requirements and recommendations: upgrade culverts and dirt fords, remove a bridge, use water meters, contain any fuel canisters or generators, confirm the permitting of the septic system, service portable toilets as needed. The project has been conditioned

to comply with all requirements and recommendations contained within the SMP (**Condition 19**).

Public Trust Resources:

The common law Public Trust Doctrine protects sovereign lands, such as tide and submerged lands and the beds of navigable waterways, for the benefit, use and enjoyment of the public. These lands are held in trust by the State of California for the statewide public and for uses that further the purposes of the trust. The hallmark of the Public Trust Doctrine is that trust lands belong to the public and are to be used to promote publicly beneficial uses that connect the public to the water. Tributaries in the vicinity of this permitted well on the project parcel are ephemeral and drain to Mad River, which is a tributary of the Van Duzen River. Lindberg Geologic Consulting assessed the existing well on the project parcel to estimate its potential for hydrologic connectivity with adjacent springs, wetlands and or surface waters, and if pumping this well could affect surface waters in such nearby water courses. Based on the findings of the research, it was the professional opinion of the Consultant that the potential for hydrological has a low likelihood of being hydrologically connectivity to surface waters in any manner that could affect adjacent springs, wetland, and/or surface waters in the vicinity, or to any of the Public Trust resources associated with the Mad River watershed.

Biological Resources:

A query of the California Natural Diversity Database (CNDDDB) on December 27, 2018, showed no observations of sensitive, rare, threatened, or endangered species or species of special concern within the conversion area. Additionally, none of these species were observed during the field assessment of the property. At least two known NSO Activity Centers occurs within 1.3 miles of the cultivation sites and designated Final Critical Habitat occurs for the NSO occur within 0.5 miles of the cultivation sites (CDFW2024). With proper precautions in place, as described above in the Water Resources section, impacts to biological resources with project mitigation measures in place are unlikely.

Energy:

The primary source of electrical power for outdoor cultivation is a DC solar trailer.

Access:

The project site is located in southeastern Humboldt Count, approximately five (5) miles northwest of the unincorporated community of Dinsmore. The project is located off State Highway 36, on the west side of Bear Creek Road, approximately 1.8 miles Northwest from the intersection of Bear Creek Road and Coyote Flat Road. Using forms provided by the Humboldt County Department of Public Works (DPW), the applicant submitted an evaluation of a 4.1-mile road segment providing access to the site and found it to be developed to the equivalent of a road category 4 standards. The Department of Transportation was referred on February 5, 2019, however, provided no comment. The seasonally accessible roads will be utilized May through October during cultivation season. The Site Management Plan specifies measure to be completed for seven (7) watercourse crossings and several other corrective actions (**Attachment 4E**). Additionally, CDFW corrective actions above supersede the

outdated corrective actions listed in the SMP (**Attachment 4B**).

Geologic Suitability:

The project is located in an area mapped as high geologic instability. Development is existing and project conditions will require the applicant to obtain building and grading permits for all existing structures with a nexus to the cannabis operation, including but not limited to storage buildings greater than 120 SF, any structure used to attenuate generator noise, and all hoops or greenhouses for cultivation or ancillary nursery space (**Condition 1A.8**). Any concerns pertaining to the high geologic instability of the area will be addressed and corrected via this permitting requirement. Also, grading permits will be required for areas that have been graded (**Condition 1A.8**).

Timber Conversion:

A Timberland Conversion Evaluation Report was prepared by Blair Forestry Consulting (December 27, 2018) to address the unauthorized timberland conversion within the project area the Registered Professional Forester stated that the past unauthorized conversion activities did not entirely meet the standards set forth in the CFPRs and requires the following mitigation recommendations:

1. Roads, Soil Stabilization and Erosion Control

- a. Follow immediate interim and permanent measures for addressing erosion issues at Observation Points 2(a) and 2(b):

Interim measures to stabilize the water concentration point on the flat (Observation Point 2(b) by utilizing straw wattles or equivalent installed at the edge of the flat where it meets the fillslope and every 10 ft on the fillslope. Rock armor gully forming on fillslope for entire length of fillslope and erosion channel leading into the natural swale of the Class III watercourse just past existing treeline.

Permanent measures involving reshaping/regrading (high-center and inslope) graded flat along Observation Point 2(b) to shed water toward an unconcentrated area away from Observation Point 2(a) and other fillslope areas.

2. Watercourse and Water Resources

- a. Restore the area that trees were cut within 50' of the Class III watercourse WLPZ to "timberland" as defined by PRC 4526. Immediately mulch and/or seed area to prevent erosion if present. Replant area with seedlings to comply with minimum stocking standards of 14CCR 912.7 (300 trees per acre or 1 tree every 145 square feet or minimum tree spacing of 12 feet). Due to the unstable nature of the fillslope and erosion gully at Observation Point 2(a), trees should be planted on any exposed fillslope within 30' of this gully.

These corrective measures have been incorporated into the Conditions of Approval (**Condition 1A.25**

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Fire Hazards:

The project is in an area designated to have Very High Fire Hazard Severity. The project is located within the State Responsibility Area (SRA) for fire protection and the Ruth Lake Community Services District (RLCSD) response area. The project is conditioned to complete several improvements to comply with SRA requirements including management of vegetation around existing structures to meet the 100-foot defensible space requirement, adding a designated emergency vehicle turn-around, and pull off area along the access road for emergency vehicles, and making sure all existing structures meet the 30-foot setback from property lines requirement. The project is conditioned to install a 2,500 gallon water storage tank specifically for fire suppression (**Condition of Approval 1A.26**).

The project was referred to CALFIRE responded to the referral with no comment at this time. A review of historic imagery indicates that no timber removal has occurred on the parcel, and no removal of timber is proposed as part of the project.

Security and Safety:

The security plan for the operation includes locked gates, a game camera placed over the gate, buildings, and cultivation areas.

Tribal Consultation:

The project is located within the Bear River Band of the Rohnerville Rancheria aboriginal ancestral territory. The project was referred to the Northwest Information Center (NWIC) and the Bear River Band. NWIC replied recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. On August 7, 2019, the Bear River Band THPO recommended inadvertent archaeological discovery protocols for the project. This has been added as a condition of approval.

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

The Humboldt County Board of Supervisors Resolution No. 18-43 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 within the Mad River Planning watershed. The cap on this watershed is 334 permits and 115 acres. Currently, 88 approved permits for commercial cannabis exist in this watershed, and the approved acreage not including this project is 32.86 acres. If this project gains approval, the number of issued permits will be 89, and the approved acreage will be 33.09 acres.

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. (Attachment 5)

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Cultivation Operations Plan Addendum
 - D. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Hydrologic Isolation of a Well Assessment
 - B. Lake or Streambed Alteration Agreement
 - C. Road Evaluation
 - D. Timber Conversion Report
 - E. Site Management Plan
5. Referral Agency Comments and Recommendations
 - A. CDFW
 - B. Public Works
 - C. CalFire
 - D. Building Department

Applicant:

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