



COUNTY OF HUMBOLDT

For the meeting of: 5/2/2024

File #: 24-814

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Mattole Valley Farms Business Support Services LLC, Conditional Use and Special Permits
Assessor Parcel Number (APN) 221-011-021
Record No.: PLN-11066-CUP
Miranda area

A Conditional Use Permit for 18,300 square feet existing outdoor commercial cultivation with 1,800 square feet of nursery space. Estimated annual irrigation water usage is 200,000 gallons. Rainwater catchment will provide 11,000 gallons and a point of diversion will provide 190,000 gallons. Water storage is 71,000 gallons of existing tanks, with an additional 130,000 gallons proposed for a total of 201,000 gallons of storage. Power is provided by solar with no generator. Drying and curing will occur onsite and additional processing such as trimming will occur offsite. The project includes a Special Permit for the point of diversion.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution (Resolution 24-__). (Attachment 1) which does the following:

- a. Finds that the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Mattole Valley Farms Business Support Services, LLC project (Attachment 3); and
- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the Mattole Valley Farms Business Support Services LLC, Conditional Use and Special Permits subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location:

The project is in the Miranda area, on the north side of Salmon Creek Road, approximately 1.7 miles west from the intersection of Rossi Ranch Road and Salmon Creek Road, in Township 03S of Range 02E Section 1 Humboldt Base & Meridian, on the property known as 8200 Salmon Creek Road.

Present General Plan Land Use Designation:

Agriculture General (AG); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: High Instability (3)

Present Zoning:

Timber Production Zone (TPZ); Agriculture Exclusive (AE)

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

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

Major Concerns: None

Executive Summary:

Mattole Valley Farms Business Support Services, LLC seeks a Conditional Use Permit for 18,300 square feet (SF) of existing outdoor cultivation and 1,800 SF of ancillary propagation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The proposed project also includes a Special Permit for development within the Streamside Management Area (SMA) for the continued use and maintenance of one (1) point of diversion and for removal of portions of existing greenhouses located within the SMA and associated restoration. The site is designated as Agriculture General (AG) in the Humboldt County 2017 General Plan Update and zoned Timberland Production Zone (TPZ) and Agriculture Exclusive (AE); however, the portion of the site where cultivation occurs is within the area zoned AE. Cultivation currently occurs in raised bed greenhouses. Under the project and as described in the Cultivation and Operations Plan (**Attachment 1B**), portions of the existing greenhouses will be partially demolished to meet required SMA buffers and a 3,600 square foot outdoor cultivation area will be added to replace them, for a total flowering canopy of 18,300 SF. Ancillary propagation occurs in two accessory nursery greenhouses that total 1,600 square feet. Two harvests are anticipated annually for a growing season that extends from March through November. The nursery greenhouses will meet all international Dark Sky Standards. The operation will be secured by a locked entry gate and access to the cultivation area is limited exclusively to employees. Any additional lighting for the project will be directed downwards and confined to the property.

Drying and curing occurs onsite within a 1,760 SF storage barn structure. The structure received an Agricultural Exemption in 1997, BLDG-7998, and the exemption site plan included (**Attachment 4J**).

The Site Plan (**Attachment 1C**) shows a portion of the barn is in the Streamside Management Area setback. The barn was compliant with General Plan Setback requirements when the Agricultural Exemption was issued and is therefore a legal non-conforming structure. No onsite processing or trimming is proposed for the project and cannabis will be sold for sale to a distributor or transported to a licensed processor. Power will be provided by a proposed solar panel and battery system. A maximum of six employees will be onsite during peak operations.

The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration by a lot line adjustment, as described in the Notice of Lot Line Adjustment and Certificate of Subdivision Compliance (Record No. 1993-34868), recorded December 6, 1993.

Water Resources:

Estimated annual water usage is 200,000 gallons (11.11 gal/SF) with peak demand occurring in August and September at approximately 35,000 gallons, respectively. A total of 162,200 gallons of irrigation water is currently stored in hard plastic tanks and a 50,000-gallon water bladder on site. Per CDFW comments (**Attachment 5E**) and the Operations Plan (**Attachment 1B**) the water storage bladder will be permanently retired by August 15, 2024 (**Condition A15**). An additional 88,800 gallons of water storage in the form of hard sided tanks is proposed. Six rainwater catchment tanks are on site to reduce reliance on the point of diversion. One 2,500-gallon tank will be designated for fire storage and protection.

Water for irrigation is currently provided by a point of diversion from an unnamed Class II tributary of Salmon Creek. The applicant seeks a Special Use Permit for the development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion. A water right has been issued for use of the point of diversion, (**Attachment 4F**). The water right allows up to 0.60 acre-feet, or 195,511 gallons, per year to be collected from November 1 to March 31 of each year. Conditions of approval require the applicant to comply with the terms and conditions of the water right (**Condition of Approval B.5**).

In addition, per the Site Plan, rain collection tanks will be utilized to reduce the reliance on water from the point of diversion. The average rainfall for the project area is 43.2 inches based on averaging rainfall values from 2011 through 2020 as recorded by PRISM Climate Group. Direct capture rainwater collection tanks in general allow for about 95% rainwater catchment. Six 5,000-gallon rain catchment tanks with rainwater catchment area of 300 SF are plumbed to an additional 12,200 gallons of hard sided tanks. In years with average rainfall 42,000 gallons of rainwater will be captured and stored. In drought years, the average of the four lowest rainfall years in the past 20 years, the rainwater catchment system will capture approximately 13,000 gallons of rainwater. The project requires an additional 5,489 gallons of water beyond the allotted water right. This amount will be captured even in drought years. In normal rainwater years the demand on the point of diversion will be reduced by

42,000 gallons with water provided by the rainwater catchment system.

A Lake and Streambed Alteration Agreement (LSAA) with the California Department of Fish and Wildlife (CDFW) was issued (EPIMS-HUM-20027-R1C) in August 2021 for six encroachments on the project parcel. One encroachment is for water diversion from an unnamed tributary to Salmon Creek, which is diverted for irrigation use. The project work for the water diversion will include installation, use, and maintenance of the water diversion infrastructure compliant with the terms of the LSAA. One encroachment is for an streamside management area restoration, which will include reducing the length of two greenhouses and cultivation area and seeding and mulching the exposed native soil. The four other proposed encroachments are to upgrade failing or undersized stream crossings. Work for these encroachments will include excavation, removal of the failing crossings, replacement with new properly sized crossings, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. A condition of approval is recommended to require the applicant to adhere to and implement the LSAA and comply with all applicable terms (**Condition of Approval A.10**). By adhering to the terms and conditions of the water right, which limits the amount of water that can be diverted, and limits the diversion duration, and the LSAA which specifies the type and use of intake structures that will not impact aquatic species, Planning staff determined that impacts to the watershed are minimized allowing the use of the point diversion pursuant to a Special Permit. The project has received comments from the California Department of Fish and Wildlife. The superseding comments, received on April 5, 2024, are summarized with responses in a separate section below.

A Water Resources Protection Plan (WDID 1B16553CHUM) was prepared for the site by Pacific Watershed Associates in February 2017 (**Attachment 4A**). Since the cultivation permit application was provided to the county, the State Water Resources Control Board has issued Order WQ 2023-0102-DWQ. The applicant has received a Notice of Applicability (NOA) for the project (**Attachment 4I**) and shall submit a site management plan to the Water Resources Control Board as specified in the NOA and prior to July 10, 2024. (**Condition of Approval A.6**).

Conditions of approval require the applicant to provide copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Site Management Plan (SMP) and adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order, the Site Management Plan (SMP), and the Notice of Applicability (**Condition of Approval C.12**), which will minimize any potential impacts associated with the project and minimize runoff into nearby SMAs.

The project includes proposed removal of greenhouses within streamside management areas. As described in the Cultivation and Operations Plan (**Attachment 1B**), the project also includes removal of portions of five existing greenhouses (two 40'x135' and three 20'x120') currently located within the required SMA setbacks. It is noted that a 10-foot portion from the two 40'x135' greenhouses and a 35-foot portion from the three 20'x120' greenhouses will be removed to meet the SMA setback. Conditions of approval require the removal to occur without the use of heavy equipment and to

provide evidence to the Planning Department that the removal has occurred (**Condition of Approval A.10**). Additionally, if grading is required for the 3,600 square feet of relocated cannabis shown the Site Plan shall be permitted by the Humboldt County Building Department if grading moves more than 50 yards of material.

Biological Resources:

A *Biological Resource Assessment*, prepared by Corrina Kamroff on May 20, 2021, assessed the habitats and potentially occurring special-status species, as well as identified potential impacts of previous and proposed cultivation related activities on biological resources on the subject property. The Biological Assessment Area (BAA) included a 1.3-mile buffer area around the property. The Assessment considered off-site impacts to habitats and species that may be in the BAA. An inventory of special-status animal and plant species to consider was obtained from the CDFW's California Natural Diversity database (CNNDDB) Biogeographic Information and Observation System (BIOS) for the project area. As noted in the Assessment, the subject property is located approximately 0.15 miles north of Salmon Creek, and there are multiple Class II and Class III tributaries that flow through the parcel. The site was evaluated for potential habitat value to protected, endangered, threatened, rare, and sensitive species by surveying the project area to observe species, habitat types, and habitat quality. Results of the Assessment found that no rare threatened or endangered animals or plants are present within 1,000 feet of the Cultivation Area as per the 2021 CNDDDB web search. Additionally, per the Assessment, there are no documented Northern Spotted Owl (NSO) activity centers within the 1.3-mile BAA of the cultivation site. However, there is the potential for numerous special status wildlife species to occur within the BAA, including 13 birds, fifteen 15 mammals, six reptiles and mammals, six fish, and two invertebrates. Mitigation measures are recommended to reduce potential impacts to sensitive species and wildlife movement associated with current and planned operations on the property, including seasonally appropriate botanical surveys prior to soil disturbing activities, reducing noise and light pollution, and use of low risk exempt pesticides. The project is conditioned to comply with the recommendations contained in the Biological Resource Assessment.

CDFW provided comments on April 5, 2024. With these comments, CDFW provided a botanical survey, Hohman & Associates August 13, 2021(**Attachment 4H**), that had been commissioned by the property's previous owner. The Botanical Survey (Survey) did not find special status plants in the existing or proposed cultivation areas. The Survey did locate areas where invasive plants have colonized the site. CDFW comments requested that the applicant conduct eradication on four invasive plant hotspots featured on page 26 of the Survey (**Condition A15**).

No significant ground disturbance is proposed under the project. The project proposes outdoor cultivation and is conditioned to ensure any lighting associated with the nursery operation adheres to Dark Sky Association standards (**Condition of Approval C.3**). The project is conditioned to refrain from using synthetic netting, to ensure refuse is contained in wildlife-proof storage, and to refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions of Approval C.5 - C.7**).

The applicant proposes a solar powered operation. No generator will be used. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact NSO or other sensitive species.

Timber Conversion:

A Less Than Three Acre Conversion Mitigation Plan was prepared in May 2021 by Hohman and Associates Forestry Consultants for conversion that occurred in the center portion of the parcel to the northern portion of the project site (**Attachment 4C**). The Conversion Exemption noted that the parcel consisted of a matrix of Douglas fir, Oregon white oak, California bay, incense cedar forest and grassland. Tree species present consists primarily of even-age second growth Douglas fir, white oak, bay, and cedar. Per the Report, a total of 1.53 acres of timber conversion has occurred on the project site: 0.18 acre was converted between 1993 and 2005 for the current building site area, 1.05 acres of timberland was converted between 2010 and 2012 for a proposed cultivation site, 0.23 acre was converted from open grassland since 6/12/1993 for the proposed cultivation site, and 0.09 acre was converted between 2010 and 2012 for water tank storage at the project site. Therefore, all timber conversions occurred before the January 1, 2016, baseline for the CMMLUO. A total of 14 recommendations were included in the Timber Conversion Evaluation for items identified as conflicting with the Forest Practice Rules or having the potential to cause environmental damage. The project is conditioned to implement all remaining corrective actions identified in the Less Than Three Acre Conversion Mitigation Plan (**Condition of Approval A.11**). No additional tree removal is proposed or authorized by this permit.

Energy:

The project will utilize a photovoltaic panel and battery system to provide power to the project. No generators will be used.

Access:

Access to the site is by a private driveway via Salmon Creek Road (partially County-maintained and partially privately maintained). The access road extends through the property and terminates in the northeast portion of the parcel. Road Evaluations were prepared by SL Consulting Services, Inc. in July 2021 (**Attachment 4D**) for a 2.35-mile segment of Salmon Creek Road (from the transition from asphalt to gravel) to the property line of APN 221-071-043 (at the end of Salmon Creek Road and start of the private driveway) and for a 1.5-mile segment of the private road to the subject property. The Evaluation indicated the road segments are developed to the equivalent of a road Category 4 standard and are adequate for the proposed use.

A supplemental Road Evaluation was conducted by Chapman Engineering in February 2022 (**Attachment 4D**) from the junction with State Highway 101, exit 653 to the project parcel that is accessed from Salmon Creek Road. The report documents that 3.9 miles are paved from Highway 101, exit 653. After the 3.9 miles of paved road, Salmon Creek Road turns into a Category 4 Road with

gravel surface to a Category 3 road, then into a Category 2 Road. Estimated daily traffic for non-cannabis properties were two vehicle trips per day on the project parcel, while estimated daily traffic for a single cannabis property was eight vehicle trips per day. The total of estimated traffic at peak season is 16 vehicle trips. The Report concludes the existing Category 2 road is adequate for all anticipated traffic at peak operations.

Per referral comments received from the Department of Public Works, Land Use Division in February 2018, it is noted that all driveways and public road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance) and that all existing or proposed non-County maintained access roads that will serve as access for the proposed project be improved to current standards for a commercial driveway, which have been included as conditions of approval (**Conditions of Approval A.12-13**).

Geologic Suitability:

The project is in an area of high instability; however, all project components are in areas that have slope less than 15%.

Security and Safety:

The operation will be secured by a locked entry gate and access to the cultivation area is limited exclusively to employees. The project site is not within any mapped fire district or fire response area other than the State Responsibility Area. Project conditions require the applicant to record an Acknowledgement of No Available Emergency Response and Fire Suppression Services form for the parcel (**Condition of Approval A4**).

Tribal Consultation:

The Project was referred to the Bear River Band of the Rohnerville Rancheria, the Inter-Tribal Sinkyone Wilderness Council, and the Northwest Information Center (NWIC) on August 29, 2017. As requested by the Bear River Band of the Rohnerville Rancheria, a Cultural Resources Investigation was prepared by Archaeological Research and Supply Company in March 2021 (on file and confidential), which noted three prehistoric isolated chert flakes were identified, but concluded that the proposed project will not result in any adverse changes to historical or archaeological resources. The Report, as well as the Bear River Band of the Rohnerville Rancheria in September 2021, recommended Inadvertent Discoveries Protocol, which has been included as an ongoing condition of approval.

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

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 permits and acres which may be approved in each of the County's Planning Watersheds. The project site is 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 181 permits and the total approved acres would be 58.25 acres of cultivation.

CDFW Comments from April 5, 2024:

Staff received comments on the project from CDFW (**Attachment 5E**). Responses are summarized as follows:

CDFW comment: The applicants site plan is difficult to read and is inconsistent with the project described in the operations plan.

Response: The applicant submitted revised site and operations plans; revised plans are attached as **Attachment 1B and 1C**.

CDFW comment: Applicant has not completed the transfer of the Lake and Streambed Alteration Agreement EPIMS-HUM-21027-R1C; therefore, the applicant is not covered by the LSAA. Water monitoring reports were not submitted for the 2023 season, and a minor amendment to the LSAA is requested.

Response: Applicant submitted a LSAA transfer request to CDFW on January 19, 2024, making a good faith effort to transfer the LSAA prior to the 2024 cultivation season. To ensure that the LSAA transfer is completed, the applicant is conditioned to complete the LSAA prior to diverting additional cultivation water under water right (Certificate H100760) (**Condition A2**). The farm was fallow in the 2023 season, however the applicant submitted water monitoring reports to CDFW and the County. The applicant has agreed to revise the LSAA and has submitted a water monitoring report for 2023.

CDFW comment: the 50,000-gallon water bladder on site poses a risk of erosion if a sudden failure occurs, CDFW requests that the water bladder be retired by August 15, 2024.

Response: Water Bladder will be retired by August 15, 2024 (**Condition A16**).

CDFW comment: The applicant does not have sufficient water storage for cultivation of 18,300 square feet of cannabis cultivation; cultivation area shall be reduced in proportion to the water storage on site.

Response: If the applicant has less than 200,000 gallons of water storage, the cultivation area will be reduced in proportion to the deficit in water storage at a rate of one square foot for every ten gallons of water (**Condition A14**).

Environmental Review:

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 Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has

prepared an addendum (Attachment 3) to this document for consideration by the Planning Commission.

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)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete 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. 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 (WRPP)
 - B. Lake and Streambed Alteration Agreement
 - C. Timber Conversion Mitigation Plan
 - D. Road Evaluation
 - E. Biological Resource Assessment
 - F. Right to Divert and Use Water
 - G. Botanical Survey Report
 - H. Notice of Applicability
 - I. Agricultural Exemption 1997
5. Referral Agency Comments and Recommendations
 - A. Building Inspection Division
 - B. Division of Environmental Health
 - C. Public Works
 - D. CalFire
 - E. California Department of Fish and Wildlife
6. Watershed Map

Applicant:

Mattole Valley Farms Business Support Services, LLC
PO Box 736

File #: 24-814

Redway CA 95560

Owner:

Wilner Family Revocable Trust
2680 Ettersburg Road
Garberville CA 95542

Agent:

N/A

Please contact Andrew Whitney, Planner, at awhitney2@co.humboldt.ca.us or 707-268-3735 if you have questions about this item.