

Redwood Valley Farms, LLC
Record Number: PLN-12310-CUP
Assessor's Parcel Number: 316-174-010

Recommended Planning Commission Action:

1. Describe the application as part a public hearing;
2. Request that staff present the project;
3. Open the public hearing and receive testimony; and
4. Close the hearing and take the following action to approve the application:

Adopt the Resolution to 1) find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) pursuant to Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Conditional Use Permit and 3) approve the Redwood Valley Farms, LLC, project as recommended by staff subject to the recommended conditions.

Executive Summary: Redwood Valley Farms, LLC, seeks a Conditional Use Permit to allow the continued cultivation of 14,810 square feet (SF) of outdoor cannabis 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 applicant also seeks a Special Permit for development within the Streamside Management Area for the use the point of diversion (see Water Resources discussion below for additional information). The site is designated as Agriculture Grazing (AG) in the Humboldt County 2017 General Plan Update and zoned Unclassified (U). Currently, there is 4,992 SF of outdoor cultivation that is cultivated using light deprivation techniques within three (3) greenhouses and 4,492 SF of existing full-sun outdoor cultivation grown in long bed, raised boxes, trenches, and smart pots (9,484 SF total); however, the applicant would like to reserve the additional cultivation amount (up to 14,810 SF total) verified by the cultivation area verification performed by the County for future use. Currently, cultivation takes place in four (4) separate areas within the northern portion of the parcel. Per the applicant, the additional cultivation (up to the total 14,810 SF requested and verified by the County) would be added at a future date to the north of the cabin, within the Less Than Three Acre Conversion Exemption area. Ancillary propagation occurs to the east of the cultivation areas within a 360 SF mixed light area and a 300 SF outdoor area (660 SF total). One harvest is anticipated annually in the full-sun outdoor area and up to two harvests for the light deprivation greenhouses for a growing season that extends from April through October.

Processing, including drying, curing, and packing, occurs onsite within an existing 1,000 SF agricultural barn, which also provides temporary labor housing. An additional 800 SF barn is proposed to the northeast of the cultivation areas to support drying activities. Up to ten (10) employees may be utilized during peak operations. Power is provided by solar, with two (2) generators utilized for minor activities related to the cultivation activities and supplemental domestic uses. The operation is secured behind a gated access, video surveillance and security lighting, are utilized, and product processing and storage areas are locked.

Timber Conversion

A Less Than Three Acre Conversion Exemption was issued by the California Department of Forestry and Fire Protection (CAL FIRE) in February 2016 for 2.5 acres of timberland conversion (Attachment 3). As such timber conversion onsite was performed under the Less Than Three Acre Conversion Exemption and, per review of aerial imagery dating back to 2004, no additional timber conversion appears to have occurred on the subject property. However, per review of the Site Plan and the Humboldt County Web GIS, a small section of the eastern conversion area, within the southernmost portion of the conversion area, occurred within the Streamside Management Area of an onsite stream (Windy Creek). As a result, the project is conditioned to retain a Registered Professional Forester (RPF) to evaluate the portion of the conversion area that occurred within the Streamside Management Area and prepare a Restocking Plan monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met.

Water Resource

Estimated annual water usage is 217,900 gallons (13.01 gal/SF) with peak demand occurring in September at approximately 38,350 gallons. Water for irrigation is provided by a water diversion on a Class II tributary stream to Windy Creek and a 390,000-gallon rainwater catchment pond on the subject parcel. The applicant also seeks a Special Permit for development within the Streamside Management Area for the use and maintenance of the point of diversion. Per the applicant, the rain catchment pond supplies the water needs for the entire season; however, they intend to pursue a Small Irrigation Use Registration (SIUR) to supplement filling the pond in case of future droughts.

Per the applicant's Initial Statement of Water Diversion and Use (S025320; Attachment 3), filed with the State Water Resources Control Board (SWRCB), approximately 170,040 gallons of water was directly diverted in 2015 and is utilized for both irrigation (0.13 acres) and domestic uses (2 persons). A Final Streambed Alteration Agreement (FSAA) was issued by the California Department of Fish and Wildlife (CDFW; Notification No. 1600-2015-0543-R1) in May 2016 (Attachment 3) for the existing stream diversion, including use and maintenance of the water diversion infrastructure, in addition to the off-stream pond, to provide water storage for irrigation use. Per the FSAA, the applicant is required to forebear from May 15 to October 15 annually; however, the applicant is permitted to divert up to 150 gallons per day during this period for domestic use only. Sufficient water storage is available on the subject site to serve the project during the forbearance period. Conditions of approval require the applicant to obtain a Right to Divert and Use Water from the SWRCB for use of the stream diversion and monitor water use from the stream diversion and rainwater catchment pond annually to demonstrate there is sufficient water available to meet operational needs. Additionally, the project is conditioned to implement all terms and conditions of the FSAA. By adhering to the terms and conditions of the FSAA, which limits the diversion amount and duration in addition to the specifying the use of intake structures that will not impact aquatic species, Planning staff determined that impacts to the watershed are minimized allowing the use of point diversion pursuant to a Special Permit.

A Water Resources Protection Plan (WRPP) was prepared by Timber Resource Consultants in August 2016 (Attachment 3) for the subject site, pursuant to North Coast Regional Quality Control Board (NCRWQCB) Order No. R1-2015-0023. The WRPP identified seven (7) places onsite requiring corrective actions, including: seeding all open space and rock armor spillway at Erosion Control Point (ECP) #1 and ECP #2, upgrading Stream Crossing (SC) #1 to a minimum 18-inch-diameter culvert; restore riparian vegetation in areas of riparian buffer encroachment; install well or enough storage for 150-day forbearance period; install secondary containment at fuel storage; and install a septic system compliant with applicable County health standards. The project is conditioned to implement all remaining corrective actions detailed in the WRPP.

In addition, in comparing the "WRPP Site Map" contained in the WRPP with the Site Plan provided by the applicant, it appears that two former cultivation areas (labeled as "CS #2" and "CS #3" on the WRPP Site Map) have been decommissioned and removed. Per the WRPP, the area identified as CS #2, noted to contain 7,600 SF of outdoor cultivation, was described to be encroaching on a Class II riparian buffer and was planned for immediate abandonment by the applicant. The project is conditioned to provide, within 90 days, an updated site plan depicting all onsite structures and decommissioned cultivation areas, as well as a Remediation Plan detailing any remediation efforts that have occurred and/or are proposed for the decommissioned areas. Conditions of approval also require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes development of a Site Management Plan.

Biological Resources

Per review of CDFW's California Natural Diversity Database (CNDDDB) in July 2021, there are no mapped sensitive species onsite and the nearest NSO activity center is located approximately 0.83 miles from the nearest cultivation area, with the nearest NSO sighting located approximately 0.31 miles away. Per the Cultivation and Operations Plan, "the project is supported by solar power and generator power [from] two (2) Honda EU7000is for supplemental domestic uses and minor activities related to the cultivation

activities." The project is conditioned to ensure the combination of background, generator and greenhouse fan, or other operational equipment created noise, meets the noise level threshold of a maximum of 50 decibels at the property line. Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service (USFWS). Additional conditions of approval require the applicant to refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, refrain from using anticoagulant rodenticides, and prepare and adhere to a bullfrog management plan to further protect wildlife. Further, due to the on-site pond, the applicant is required to prepare and implement a Bullfrog Management Plan. 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.

As shown on the Site Plan, an unnamed Class III stream traverses the northern portion of the subject property and Windy Creek traverses the central portion of the site, south of the existing cultivation areas; Humboldt County WebGIS only depicts Windy Creek on the subject site. The Site Plan also includes the respective 50- and 100-foot Streamside Management Area (SMA) buffers. As described above, the Site Plan shows that a small section of the eastern conversion area, within the southernmost portion of the conversion area, occurred within the 100-foot Streamside Management Area buffer of Windy Creek. The project is conditioned to retain a Registered Professional Forester (RPF) to evaluate and prepare a Restocking Plan for the portion of the conversion area that occurred within the Streamside Management Area, in addition to a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. Additionally, as discussed above under the "Water Resources" section, two cultivation areas (labeled as "CS #2" and "CS #3" on the WRPP Site Map) have been decommissioned and removed. Per the WRPP, the area identified as CS #2 was encroaching on a Class II riparian buffer and was planned for immediate abandonment by the applicant. The project is conditioned to provide, within 90 days, an updated site plan depicting all onsite structures and decommissioned cultivations areas, as well as a Remediation Plan detailing any remediation efforts that have occurred and/or are proposed for the decommissioned areas.

Access

Access to the site is via an access road from Lower Sabertooth Road (a private road) from State Highway 299. Highway 299 is maintained by the California Department of Transportation (Caltrans). Lower Sabertooth Road is a fairly narrow and steep roadway. A Road Evaluation Report for a 3.3-mile segment of Labor Sabertooth Road (labeled as "Saber Tooth Road" on the Road Evaluation Report) from Highway 299 to the subject property was prepared by DTN Engineering and Consulting in January 2018 (Attachment 3), which indicates that the roadway is not developed to the equivalent of a road Category 4 standard or better. However, per Part B of the Road Evaluation Report, the road is considered very low volume and can accommodate the cumulative increased traffic from this project and all known cannabis projects, if the recommendations in the Roadway Evaluation Report are implemented. The submitted road evaluation included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight.

A written Roadway Evaluation Report, included with the Road Evaluation Report form, was also prepared by DTN Engineering and Consulting (not dated) and further evaluates the current condition of Lower Sabertooth Road. It is noted in the Report that there are multiple commercial marijuana cultivation facilities on other parcels served by the roadway. Per the Report, the access road is relatively consistent at 10 feet with 1- to 2-foot shoulders on each side of the road, which does not provide sufficient space for two vehicles to pass. The steepest portion of the access road has a grade of approximately 20%. There are pullouts along the access road; however, they are not at all curves. Lower Sabertooth Road has a width of 10 to 12 feet with 1- to 2-foot shoulders, and grades are under 15%. Although the road segments do not meet a Category 4 standard, the engineer does not recommend the "roadway be brought up to a Category 4 roadway due to the negative environmental impacts of construction." The engineer does, however, recommend improvements to the roadway, including constructing pullouts at curve locations where no pullouts currently existing, replacing existing culverts that are undersized, replace or improve the two bridge crossings, construct culverts and water bars, grade and resurface the

roadway with 2 inches of gravel to help stabilize the roadway, clear garbage, debris, and soil pile on Lower Sabertooth Road, install signage, and develop a Traffic Management Plan. In addition, the Report recommends formation of a Road Maintenance Association to provide regular maintenance to the roadways evaluated in the Report. Per comments received from the Department of Public Works, Land Use Division in October 2018, the Department recommends all the recommendations contained in the Report be constructed and/or implemented as conditions of approval. The project engineer, DTN Engineering has stated that they believe the roadway can safely accommodate the traffic associated with the proposed project (see Attachment 3) and as a result County staff is recommending approval subject to conditions of approval. The project is conditioned to construct and/or implement the recommendations contained in the Report.

Due to the number of cultivation projects along Lower Sabertooth Road and recommendations in the Road Evaluation Report, both approved and pending, conditions of approval require the applicant to take steps to form a Road Maintenance Association for the maintenance of Lower Sabertooth Road. The necessary steps include sending notices to all road users of the requirement to form a Road Maintenance Association and conducting a meeting with the users of the road, especially those engaged in commercial cannabis activities to discuss formation of the Road Maintenance Association. The applicant shall provide evidence, including notice, meeting minutes, and the decision as to whether a Road Maintenance Association is being formed to show this effort. In the event the applicant is unable to coordinate formation a Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road. With the formation of the Road Maintenance Association and recommended improvements, the roadway will be improved over the existing baseline condition.

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 to this document for consideration by the Planning Commission (See Attachment 2 for more information).

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 MND for the CMMLUO 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.