



COUNTY OF HUMBOLDT

For the meeting of: 3/22/2022

File #: 22-319

To: The Humboldt County Board of Supervisors

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Thomas Crandall appeal of the Planning Commission Decision Approving Ambiguity Farm, LLC Conditional Use Permit PLN-12812-CUP for 43,560 Square Feet of Commercial Cannabis

RECOMMENDATION:

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the appellant, testimony from the applicant, and testimony from the public; and
2. Close the public hearing; and
3. Adopt the resolution (Resolution 22-__). (Attachment 1) which does the following:
 - a. Finds that the Board of Supervisors has considered the addendum to the mitigated negative declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for the Ambiguity Farm LLC project); and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Denies the appeal submitted by Thomas Crandall; and
 - d. Approves the conditional use permit subject to the recommended conditions of approval.
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the Planning and Building Department, and any other interested party.

SOURCE OF FUNDING:

The appellant has paid the fee associated with filing this appeal.

DISCUSSION:

Executive Summary

This is an appeal of the Humboldt County Planning Commission's Jan. 20, 2022, approval of the Ambiguity Farm LLC Conditional Use Permit by a unanimous vote (YES: Mitchell, Levy, Mulder, O'Neill, Newman, McCavour, Bongio). Thomas Crandall is appealing the decision, citing the project is not in compliance with the Williamson Act Contract on the property. The Planning and Building Department does not support the appeal.

Project Information

In December, 2016 an application under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) was submitted by Ambiguity Farms, LLC for a conditional use permit to commercially cultivate cannabis on APN 223-011-009. The project is for 43,460 square feet of existing outdoor cannabis cultivation with 2,500 square feet of appurtenant propagation space and drying activities pursuant to the requirements of the CMMLUO. The project proposed solar power with backup generators, and a surface water diversion to provide irrigation water. The project parcel is part of the Arthur Tooby Class B Agricultural Preserve (Tooby Preserve) under Williamson Act Contract. On June 2, 2016 the county officially non-renewed the Land Conservation Contract due to non-compliance with the county's Williamson Act Guidelines and the Land Conservation Contract will expire on Feb. 1, 2026. The non-compliance is the fact that the property within the Tooby Preserve was divided to less than the required 600-acre ownership units and commercial grazing over the majority of the land under contract had not been occurring.

The application was heard before the Planning Commission on Jan. 20, 2022, and was approved by unanimous vote (YES: Mitchell, Levy, Mulder, O'Neill, Newman, McCavour, Bongio).

Appeal

Prior to the hearing the appellant, Thomas Crandall, submitted public comments in opposition to the project, and attended the public hearing to speak in opposition to the project. One of the objections the appellant had submitted was the assertion that the project was not compliant with the Tooby Preserve Land Conservation Contract and as such could not be approved. The appellant states that the approval of the project violates statutes, regulations, ordinances, resolutions, agreements, and/or contracts due to lack of evidence that the majority of the property is used for commercial grazing. The appellant contends that while cannabis cultivation may be a compatible use when combined with commercial grazing, cannabis as the sole agricultural product of a Class B grazing ownership is not in compliance with the Williamson Act, the contract, the preserve, or the county's adopted Williamson Act Guidelines.

Staff Response

The appellant is correct that the property is out of compliance with the Tooby Preserve Contract and Humboldt County Williamson Act Guidelines. It has already been determined that the Tooby Preserve is noncompliant with the contract and guidelines as this non-compliance was the subject of litigation between the county and the property owners. Humboldt County Superior Court Case No. DR020825 concluded that while the property was out of compliance, nullification of the land transfers that resulted in the non-compliance was not required as a remedy to this violation. The result of this action resulted in these properties remaining noncompliant with the Tooby Preserve Contract. The county and most of the defendants entered into a settlement agreement whereby the county would non-renew the Land Conservation Contract and would not pursue further enforcement related to the existing non-compliance. Specifically, the agreement included a provision to "preserve the physical status of the land in its current condition and not to conduct additional grading, surface mining and/or to construct new Development, without obtaining all necessary permits and/or exemptions...." Adherence to contract provisions is required as part of the settlement, however the intent of the agreement was for no

further county enforcement actions related to the existing non-compliance in effect at the time of the settlement.

The property in question was in its current configuration (below 600 acres) and not engaged in commercial grazing operations at the time of the settlement agreement and contract nonrenewal, and as such the property size and lack of commercial grazing on the property does not constitute further noncompliance as the issues raised by this appeal have already been litigated and settled. The approval of commercial cannabis cultivation on this property does not render the property any further in violation of the contract than that which was in existence at the time of the settlement agreement. Further, as part of the process of adoption of the CMMLUO the County Williamson Act Committee recommended to the Board of Supervisors that commercial cannabis cultivation be considered a compatible and allowable use within lands under contract.

FINANCIAL IMPACT:

There will be no additional impact on the General Fund.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework through its core roles to enforce laws and regulations to protect residents and encourage new local enterprise.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to approve the appeal with the condition to secure and maintain a commercial grazing operation on the property until such time as the Class B Preserve Contract has terminated.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

1. Draft Board Resolution and Findings
2. Appeal filed by Thomas Crandall
3. Planning Commission Staff Report
4. Resolution of the Planning Commission, Resolution No. 22-012
5. Public Comments submitted to the Planning Commission
6. *County of Humboldt v Robert McKee et al.*, Court Findings
7. Settlement Agreement
8. Williamson Act Committee Minutes from review of CMMLUO
9. Public Comments

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A