



COUNTY OF HUMBOLDT

For the meeting of: 4/4/2024

File #: 24-402

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

White Acres Family Farm, LLC; Conditional Use Permit and Special Permit
Assessor Parcel Numbers (APN) 207-141-007
Record No.: PLN-13373-SP
Bridgeville area

A Special Permit for a 3,000 square foot existing outdoor cannabis cultivation operation, a Special Permit for a reduced setback to a school bus stop, and a Conditional Use Permit for an exception to the requirement for planting within native Prime Agricultural Soils. The proposed project includes 320 square feet of propagation area located in the on-site garage. Water for irrigation will be provided by a rain catchment system. There are 24,500-gal. of water storage. Projected water usage is 18,000 gallons per year. The mature plants are dried in the garage and then machine trimmed by the applicants on site. There will be no employees. Electricity is provided by PGE.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 24-__). (Attachment 1) which does the following:
 - a. Finds that the Zoning Administrator has considered the Final Environmental Impact Report for the Commercial Cannabis Land Use Ordinance and the Addendum that was prepared for the White Acres Family Farm, LLC project; and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Special Permit and the Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location: The project is located in the Bridgeville area, on the west side of Van Duzen Ave,

approximately 300 feet south from the intersection of State Highway 36 and Van Duzen Ave, on the property known as 21328 St Hwy 36.

Present General Plan Land Use Designation: Residential Agriculture (RA5-20), Density: 5-20 acres per unit, 2017 General Plan, Slope Stability: Moderate Instability (2).

Present Zoning: Unclassified (U)

Environmental Review: An Addendum to a previously adopted EIR has been prepared for consideration per §15164 of the State CEQA Guidelines.

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

Major Concerns: None

Executive Summary: A Special Permit for a 3,000 square foot existing and outdoor medical cannabis cultivation, a Special Permit for the reduced setback to a school bus stop, and a Conditional Use Permit for an exception to the planting within native Prime Agricultural Soils requirement. The proposed project includes 320 square feet of propagation area located in the on-site garage. Water for irrigation will be provided by a rain catchment system. There are 24,500-gal. of water storage. Projected water usage is 18,000 gallons per year. The mature plants are dried in the garage and then machine trimmed by the applicants on site. Trimming on site will occur pursuant to Department Policy Statement 21-02. The application is for less than 10,000 square feet of cultivation, per correspondence with the Humboldt County Assessor's Office the on-site residence was permitted on July 6, 1964, the applicant resides onsite, no alterations are necessary which are not customarily found in residential structures, and there will be no employees. Electricity is provided by PGE and fans in the light deprivation greenhouses are solar powered.

This application was submitted under the Commercial Medical Marijuana Land Use Ordinance (1.0), however as the cultivation areas are located within the required 600-foot setback from school bus stops, the applicant requested that their permit application be processed under the Commercial Cannabis Land Use Ordinance (2.0). This change allows the applicant to apply for a Special Permit to approve a setback reduction. Under the CMMLUO (1.0) the setback from a school bus stop may only be waived by the School District. In this instance the Fortuna Union High School District chose not to grant a waiver and have recommended denial of the application. County staff has understood that this has been a consistent position from FUHSD that has more to do with opposition to commercial cannabis than to concerns regarding this specific bus stop. In this instance the cannabis cultivation is not visible from the bus stop and there is no indication that this 3,000 square foot cultivation operation will adversely affect any children riding to or from school. Further discussion of this setback requirement and request for a reduction is discussed below under setbacks.

Water Resources: The annual 18,000-gallon irrigation water budget is sourced from rainwater catchment and the applicant has 24,500-gallons of tank water storage. Including the ancillary nursery water usage translates to approximately 5.4-gal./SF. PRISM data indicates an average precipitation of

approximately 47.5 inches over the last ten years, and an average precipitation for the three lowest years of approximately 30.6 inches. Approximately 34,100 gallons of rainwater can be harvested per year based on the 30.6 inches per year estimate. The applicant is required, per the CCLUO, to install metering devices to track irrigation use and submit water use records for County review.

Referral comments from CDFW indicate a concern regarding on-site water storage. As per CDFW recommendations, the applicant has been conditioned to obtain and install additional water storage tanks, for a total on-site water storage of 30,000 gallons.

Biological Resources: A Preliminary Biological Resource Assessment dated February 2020 was prepared by TransTerra Consulting. The report recommended adherence to all County and agency recommendations for noise and light attenuation, storage of fertilizers and potentially hazardous materials, winterization and general requirements for maintaining compliance with the state waterboard's general order.

The nearest mapped Northern Spotted Owl (NSO) activity center (HUM0332) is approximately 3,000 to the southwest, and a single NSO observation as close as approx. 3,000 feet east of the project site. Artificial light for propagation is limited to interior of exiting garage. Greenhouse fans are solar powered. CDFW referral comments recommend the applicant implement substantive containment of all backup generators and water pumps on site to minimize noise disturbance when in use. CDFW referral recommendations have been included as recommended conditions of approval. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact the NSO or other sensitive species.

Energy: Power is provided by Pacific Gas & Electric (PG&E) power through a qualified renewable energy program. Generators are limited to emergency backup use only, and generator use is subject to appropriate noise limitations (**Condition B.1**).

Access: The property is accessed via Van Duzen Ave, a privately maintained road which connects to State HWY 36. The project was referred to California Department of Transportation (CalTrans) August 22, 2022, and to date no response has been received. No employees are proposed for the project, applicants are property residents, and the cannabis farm is an existing operation. A significant increase in traffic is not expected as a result of permit approval.

The project was also referred to the California Department of Forestry and Fire Protection (CalFIRE) and Bridgeville Fire Protection District (BFPD). BFPD did not provide comments. CalFIRE indicated general conditions pertaining to State Responsibility Area (SRA) requirements would be appropriate, including maintaining defensible space, and development of an emergency turnaround onsite. The project is conditioned to obtain a will serve letter from the fire protection district. The project site plan depicts an emergency vehicle turnaround as well as water storage dedicated to fire protection. As proposed and conditioned the project adheres to all recommendations and will not increase need for emergency services.

Hazards: The project site is mapped as moderately unstable, is approximately 0.92 miles from the

Little Salmon fault zone and is outside mapped earthquake fault hazard zones. All cannabis activities and infrastructure occur in areas with slopes of less than 15%.

The entirety of the property is within the mapped FEMA flood zone. Recommended Conditions of Approval include a requirement to provide Flood Elevation Certificates for cultivation related structures, remove hoop houses from the flood zone during winter months, or comply with Humboldt County requirements for greenhouses in flood zones (**Condition A.6**).

Site Reconfiguration: The pre-existing cannabis cultivation occurred within a Streamside Management Area (SMA) on the west side of the subject property, as well as near the existing residence. The applicant relocated the greenhouses out of the SMA in early 2020. The relocated greenhouses meet the required setbacks to water courses, however the applicant removed ornamental trees, as identified by the Preliminary Biological Resource Assessment on file, near the residence to facilitate the relocation. Section 314-55.4.6.4.2 of the CCLUO states that cultivation areas may only be located within a “Non-Forested” area that was in existence prior to January 1, 2016, and the definition in the CCLUO of “Non-Forested” is “*areas not growing any trees, whether due to natural conditions or through a conversion of Timberland, conducted prior to January 1, 2016.*” While the reference to forestland and timberland indicates that ornamental trees might not have been the concern to be protected, the definition does specifically say “any trees”. Nonetheless, relocation to this area can be found consistent with the ordinance under the site relocation standards.

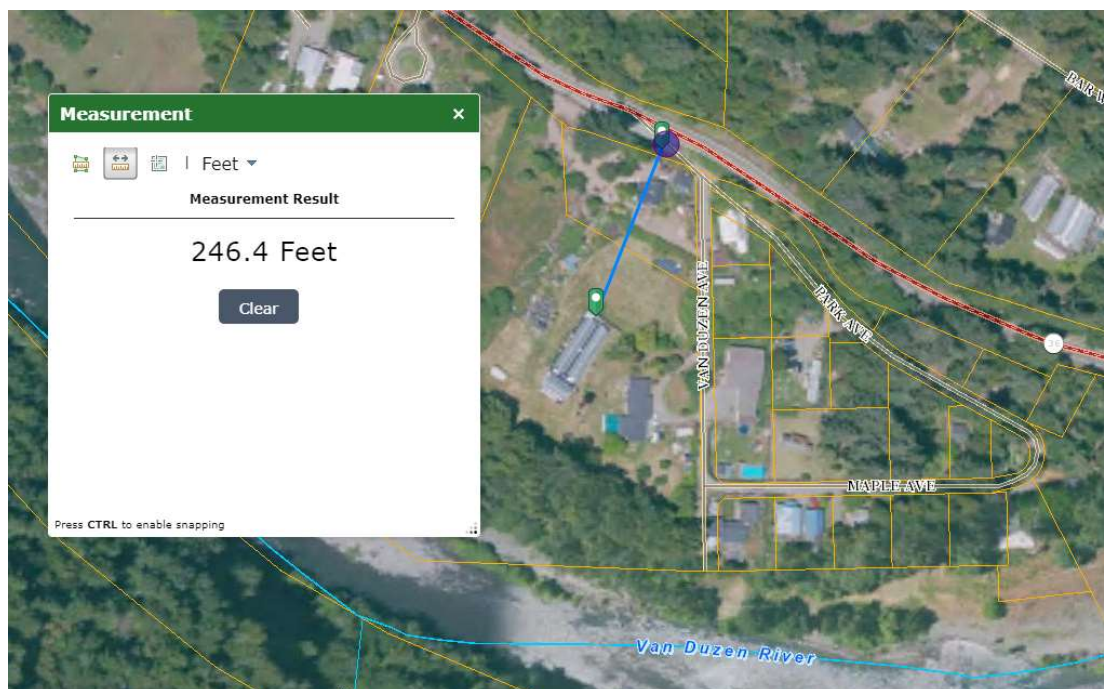
Humboldt County Code (HCC) § 55.4.12.11, Existing Site Reconfiguration, allows for the reconfiguration of existing sites provided reconfiguration results in an improvement of the environmental resources of the site and the site is brought into compliance with the above referenced section of code. HCC § 55.4.12.11(c) allows for the conversion of timberland provided the conversion does not exceed the existing areas of conversion to be relocated. The cultivation areas to be relocated must be restored to pre-disturbance conditions and restocked and/or managed to promote recovery by native vegetation and tree species. This section of code allows for an exception to the requirement of HCC § 55.4.6.4.2, Conversion of Timberland Prohibited, which requires that all cultivation sites occur within areas that were cleared of trees prior to January 1, 2016. While the area of trees removed is not considered timberland (as the trees are ornamental and not within a timber production zone) the allowance to convert timberland under the CCLUO implies authorization to remove ornamental trees under the same section of code provided the same performance standards are met, as the ecological and economic value of ornamental trees is substantially less than timberland. The applicant has remediated the area within the SMA to pre-existing conditions, and no ecological concerns surrounding the restoration work were raised by CDFW during their on-site visit. Based on this information the relocation of the cultivation area into an area requiring the removal of the ornamental trees is environmentally superior given the cultivation meets required setbacks to water courses, and is allowable under CCLUO §55.4.12.11(c).

Tribal Consultation: The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and Bear River Tribal Historic Preservation Officer (THPO). A Cultural Resources Investigation dated October 2018 prepared by Archaeological Research and Supply Company concluded that no

archaeological or historical resources, for the purposes of CEQA, exist in the project area. The standard inadvertent discovery protocol has been incorporated into the project as a condition of approval.

Setback Reduction: HCC § 55.4.6.4.4 discusses necessary setbacks to residences and School Bus Stops, and requires a 300 foot setback to any residence on an adjacent separately owned parcel and a 600 foot setback to School Bus Stops. The project was referred to the Fortuna Union High School District (FUHSD) on August 1, 2017, and a recommendation of project denial was received on August 7, 2017. Comments from the FUHSD indicated the reason for a recommendation of denial was a school bus stop at Sun Tan Glenn was situated within 600 feet of the proposed project. Planning staff has understood that FUHSD has consistently opposed commercial cannabis activities as a matter of course rather than on any specific locational concerns and Ordinance 2599 (Ordinance 2.0) included a provision to allow for a Special Permit to be obtained partly in response to the near blanket disapproval of cannabis activities within the Fortuna Union School District boundaries. Section 55-4.6.4.4 (f) allows the minimum setbacks to be waived or reduced where it can be demonstrated that the cultivation site would not be detrimental to students at the bus stop due to specific conditions. The applicant provided signed statements from all adjacent parcel owners and occupants, as well as signed statements from four parents of children that use this bus stop, expressly consenting to a reduction the 600-foot setback from the Sun Tan Glenn bus stop. These statements are included with Attachment 4 to this staff report.

The Sun Tan Glenn bus stop is situated approximately 250 feet north of the cultivation site, near the intersection of Van Duzen Ave and State HWY 36. Due to the topography of the site, a neighboring residence, fencing, and vegetation, neither the cultivation greenhouses nor any other project infrastructure is visible from the bus stop. Based on the location of the bus stop and the express written consent to a setback reduction from neighboring property owners and parents utilizing the bus stop, there is no indication that approval of this cannabis permit would be detrimental to students at the bus stop. The figure below shows the cannabis operation and the setback to the bus stop in question.



Exception to Prime Agricultural Soils Requirement: Humboldt County Code §314-55.4.6.3 requires planting in the ground when located in prime soils, although an exception can be granted with a Conditional use Permit. All of the subject property outside of the Streamside Management Areas is designated as prime agricultural soils and historic cultivation activities did occur within native soils; however due to consistent damage from gophers when the applicant relocated the cultivation site raised greenhouse beds were constructed and soil was imported. Two layers of geotextile fabric were laid prior to construction to form a floor for the garden beds. The use of geotextile fabric and raised garden beds do not impair or damage the underlying prime agricultural soils. The exception to the requirement to plant in prime soils is justified in this instance because it is necessary for protection of the commercial crop from damage from gophers and the prime soils will be retained below the geotextile fabric and therefore will remain available for other agricultural uses in the future.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43: 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 Van Duzen Watershed, which under Resolution 18-43 is limited to 425 permits and 146-acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 131 permits and the total approved acres would be 44.12-acres of cultivation.

Environmental Review: An environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previous Final Environmental Impact Report (EIR) that was adopted for the CCLUO. Staff has prepared an addendum (Attachment 3) to the EIR for consideration by the Planning Commission.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies excluding the Fortuna Union High School District have either responded with no comment or recommended approval or conditional approval. FUHSD recommended denial of the permit application due to a school bus stop within 600 feet of the cultivation area. Staff is recommending approval of a Special Permit to reduce the 600 foot setback due to site specific circumstances. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete other conditions of approval. The Planning Commission could deny the project 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. Draft 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. Site Management Plan prepared by Green Road Consulting, dated December 30, 2019.
 - B. Notice of Applicability.
 - C. Division of Environmental Health form.
 - D. Preliminary Biological Resource Assessment prepared by TransTerra Consulting, dated February 2020.
 - E. Neighbor Support Letters
 - F. Setback Reduction
 - G. Bus Stop Pictures
5. Referral Agency Comments and Recommendations
6. Watershed Map

Applicant:

White Acres Family Farm
C/O Andy & Emily White
21328 St Hwy 36
Carlotta CA, 95528

Owner:

Andrew R White & Emily J White
21328 St Hwy 36
Carlotta CA, 95528-9607

Agent:

File #: 24-402

N/A

Please contact Michael Holtermann, Planner, at mholtermann@co.humboldt.ca.us or 707-268-3737 if you have questions about this item.