



COUNTY OF HUMBOLDT

For the meeting of: 10/27/2020

File #: 20-1357

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Departmental

SUBJECT:

Planning Department Request for Direction from Board on Processing of Cannabis Retirement, Remediation and Relocation (RRR) permits.

RECOMMENDATION(S):

That the Board of Supervisors:

1. Receive the staff report, and
2. Provide Board direction.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

The Planning Department requests direction from your Board on processing of Cannabis Retirement, Remediation and Relocation (RRR) permits.

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and the Commercial Cannabis Land Use Ordinance (CCLUO) both provide an opportunity to relocate pre-existing cultivation sites out of areas where the slopes are in excess of 15% and there is not a legal water source (CMMLUO) or to relocate cultivation sites out of areas where the slopes are in excess of 15%, or there is not a legal water source, or the site is not served by a road meeting the access performance standards, or where the cultivation site does not meet the required setbacks (CCLUO). Both ordinances encourage relocation through the Retirement, Remediation and Relocation (RRR) program to move out of these areas by allowing a fourfold increase in permissible cultivation area up to 20,000 square feet. To further incentivize relocation, the RRR applications are generally permitted through a Zoning Clearance Certificate, or a ministerial action. Some have seen this as an opportunity to greatly increase the amount of cultivation which can be permitted on a site. An application for cultivation is applied for on a site and then multiple 20,000 square foot RRR's are moved to the site. The vision of the CMMLUO was to allow a cultivator to relocate to a more appropriate location and provide incentive to clean up the old site. Instead the RRR sites have become commodities and are being assembled in a manner that was not intended by the ordinances.

The CMMLUO and CCLUO both set no explicit limit as to the number of RRR's which can be moved to a site. The CMMLUO sets a limit of 20% of the prime soils that exist on the site and identifies the maximum amount of existing cultivation that can be approved, 43,560 square feet of outdoor and 22,000 square feet of mixed light, however the CCLUO does not limit relocation sites to only prime soils. Staff has taken the position that the ordinance and the Mitigated Negative Declaration prepared for the CMMLUO and the ordinance and Environmental Impact Report for the CCLUO did not consider the potential for people to stack RRR's onto a property, and if this is desired, they need to prepare an environmental document to examine the impacts of such a concentration of cultivation. The practice has been that any site which includes more than one permit for cultivation with two RRR's requires additional environmental review.

At the October 6, 2020 Board meeting the Board heard an appeal of an application that was approved by the Planning Commission to relocate up to 6 acres of retirement sites onto a single property in the Honeydew area. The project site was planned and zoned appropriately for the proposed activity. This is the first application to propose such a concept and reach the hearing stage and was appealed to the Board of Supervisors. This approach allows much more cultivation on a property than could otherwise be permitted without the RRR provisions. This is more typical of what is seen on industrially zoned properties. Typically, an acre is the maximum cultivation area that could be approved on agricultural land under normal permitting under both ordinances. One of the questions for the Board behind this appeal was whether this approach of assembling RRRs is appropriate. The Board expressed a significant amount of concern over this approach and ultimately decided that two RRR's and the pre-existing cultivation on the site was all that was appropriate. At least for this particular site the Board felt that stacking of RRR's was not appropriate.

The Planning and Building Department is currently processing a substantial number of applications to permit receiving sites, in many cases these involve stacking many RRR's. Currently some of these would be ministerial only and are required by code to be approved if they meet the standards of the ordinance. Therefore, the Planning and Building Department is seeking direction from the Board whether any amendments to the CCLUO are desired to address concerns regarding the existing RRR process. Staff has identified three potential alternatives for the Board to consider.

1. No changes to the CMMLUO or the CCLUO. Stacking of RRR's may be allowed up to the maximum amount allowed by the site constraints and ordinance requirements of any given parcel.
2. Amend the CCLUO to require that stacking of more than 2 RRR's on a single receiving site is required to apply for a discretionary Conditional Use Permit. The ordinance amendment would require that applications submitted under the CMMLUO would also be subject to this provision. All existing applications would be subject to this requirement. This would require a public hearing and would enable the decisions to be appealed to the Board of Supervisors.
3. Amend the CCLUO to prohibit stacking of more than 2 RRR's on a single receiving site. The ordinance amendment would require that applications submitted under the CMMLUO would

also be subject to this provision. All existing applications would be subject to this requirement.

FINANCIAL IMPACT:

General Fund

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by streamlining county permit processes

OTHER AGENCY INVOLVEMENT:

N/A

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion.

ATTACHMENTS:

None

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A