

Tree House Culture, LLC
Record Number: PLN-11967-SP
Assessor's Parcel Number: 210-051-060

Recommended Zoning Administrator Action

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative

Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section 15164 of the State California Environmental Quality Act (CEQA) Guidelines, make all of the required findings for approval of the Special Permit, and adopt the Resolution approving the Tree House Culture, LLC Special Permit as recommended by staff subject to the recommended conditions.

Executive Summary Tree House Culture, LLC. seeks a Special Permit for an existing 8,700-square-foot (SF) cannabis cultivation operation of which 5,200 SF is mixed-light and 3,500 SF is outdoor cultivation on the 40-acre parcel. Up to five cultivation cycles from the mixed-light greenhouses are anticipated. According to the Addendum to the Operations Plan dated December 2020 (**Attachment 3a**), an 1,800-SF commercial processing barn is proposed to allow onsite processing, depending on market conditions. Offsite processing at a licensed facility will be performed until an approved space is permitted and developed. All existing and proposed buildings and grading will be permitted as a condition of approval (**COA #A6 – 8**). A 3,000-SF propagation greenhouse will be limited to 10% of the cultivation area (870 SF) as a condition of approval (**COA #A9**). The project is owner-operated, and two temporary full-time employees are used intermittently during the year. An application for a septic permit has been filed with the Division of Environmental Health. Security is provided by a privacy fence surrounding the cultivation areas and an electronic security system is planned. Power for the operation is provided by two generators (Honda EU 3000 and Honda EU 7000) housed within noise containment sheds that will be retired with renewable power within 3 to 5 years of permit approval (**COA #A10**).

The project site is located in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project, the total number of approved permits in this Planning Watershed would be 108, and the total approved acres of cultivation would be 37.2.

Remediation of Retired Sites

A memorandum was prepared by a biologist with Hohman & Associates in December 2017 to justify the immediate relocation of three cannabis cultivation sites to environmentally superior locations on existing graded flats already used for cannabis cultivation that are located next to Upper Larabee Valley Road and for the retirement of water bladder storage bags. In total, approximately 14,868 SF of existing outdoor cultivation was retired due to location on steep slopes or areas adjacent to wetlands or Streamside Management Areas (SMA). The cultivation was subsequently relocated and is currently arrayed as shown on the 2019 Site Plan. Timberland Resource Consultants (TRC) prepared a Relocation of Cannabis Remediation Report after visiting the property on 12/2/21 (**Attachment 3b**) to assess the remediation of retired cultivation areas based on the recommendation in the Watershed Resources Protection Plan (WRPP) prepared by Compliant Farms in 2018 (**Attachment 3c**). TRC observed no cultivation-related infrastructure at the three sites. All sites were vegetated with native grasses and no indications of erosion were observed. The existing vegetation at the three sites is the same species composition as adjacent areas unaffected by historic cultivation operations. These areas have restored naturally. In addition to the assessment of the three historic cultivation areas, the site visit included an

assessment of the secondary seasonal road that leaves the cultivation area and borders the southwestern property boundary. The landowner has drained the road with a series of straw waddles that meet the specifications outlined the Forest Practices Rules (14 California Code of Regulations 914.6).

Water Resources

Water for irrigation is provided by a registered point of diversion (POD) (Registration H506120, Certificate H100479) from an unnamed, spring-fed tributary to Butte Creek, and by rainwater catchment from rooftop gutters. Water is diverted during April (15,000 gallons) and May (49,000 gallons) to supplement rainwater capture. Existing available water storage detailed in the 2020 Operations Plan Addendum is 79,700 gallons in 20 vinyl tanks ranging in size from 500 to 5,000 gallons. Rainwater catchment from established roof lines supplies the remaining storage capacity and rain catchment interception estimates provided in the WRPP indicate 3,800 SF of building and greenhouse surface area could capture and transmit 115,000 gallons to storage in an average year. All water use will be monitored as a condition of approval to verify that more than 70% of annual irrigation requirements are derived from rainwater (**COA #A11**). The applicant reports that Whitechurch Engineering is procuring permits for a 270,000-gallon rain catchment storage tank. According to the applicant, additional storage will be added once permits for all existing and proposed structures and grading are issued. Estimated annual water usage for cultivation is approximately 97,000 gallons (11.0 gallons/SF/year) with peak demand occurring June through September at approximately 10,000 gallons per month.

The majority of the recommendations in the WRPP have already been met and are documented by evidence provided; ongoing maintenance of the recommendations are made a condition of approval in accordance with the owner's stated intent (**COA #A12**). These recommendations include improving erosion control measures for access roads and discharge points, improving storage and handling of potentially hazardous materials, improving stream crossings to accommodate high flows and control erosion, establishment and restoration of riparian vegetation, increasing water storage capacity, improvements to water use, implementation of an Integrated Pest Management program, and establishment of a soil management plan. Preparation of a Site Management Plan will be required to abide by State Water Resources Control Board 2019 Cannabis Policy, and this has been made a condition of approval (**COA #A13**).

A Notification of a Lake or Streambed Alteration was submitted to the California Department of Fish and Wildlife (CDFW). CDFW responded on 5/2/18 that the project may be completed as described for the installation, maintenance, and operation of water diversion works in Butte Creek without a final agreement (**Attachment 3d**). Adherence to the CDFW Notification and delivery to the County has been made a condition of approval (**COA #B16**). The applicant is registered under the North Coast Regional Water Quality Control Board 2019 Cannabis Order (WDID: 1B161379CHUM).

Humboldt County's WebGIS shows a mapped stream going through the central portion of the parcel, generally from north to south and eventually flowing into Butte Creek. A wetland delineation report was prepared by J. Regan and Associates in September 2018 (**Attachment 3e**) that detailed the presence of one wetland and several small watercourses during the investigation; these included one spring-fed perennial watercourse, two larger perennial watercourses, several seasonal streams, dry swales, and one small seasonal palustrine emergent wetland area (175 SF) located on the prism of an old road between two perennial creeks.

Biological Resources

A Botanical Survey Report was prepared by J. Regan Consulting in September 2018 (**Attachment 3f**) that detailed the results of a late-season botanical survey on September 1, 2018. Because this single, late-season survey did not meet the CDFW guidelines for protocol-level botanical survey, the botanist highly recommended conducting additional survey in spring of 2019 for those species

with bloom times prior to August with habitat in the subject parcel including: *Montia howellii* (Howell's montia) along roads and skid trails, *Erythronium revolutum* and *E. oregonem* (fawn lilies) within riparian areas and stream channels, *Lupinus constancei* (The Lassies lupine), *Sabulina decumbens* (the Lassies sandwort), and *Thermopsis robusta* (robust false lupine) in upland areas on stand edges and on rocky soil types. The botanist recommends two additional surveys take place in April/May and June/July in order to adequately cover all potential habitats within the appropriate timeframe. However, the survey report also said these future survey events may be restricted to areas with planned future development and do not necessarily need to take place in areas without planned development or planned activity that has the potential to affect sensitive plants or their associated habitats. The applicant's agent has stated, in a letter received 12/13/21, that all proposed development is or has already occurred within locations of previous disturbance/development and given there are no planned nor contemplated developments proposed at this time in undisturbed areas, no additional botanical surveys are warranted.

Northern spotted owl (NSO) habitat exists in the vicinity, but the nearest activity center is approximately 0.78 mile from the cultivation site and was last observed in 1999. As a result, updated NSO surveys were completed by Hohman & Associates in 2017 and then again in April, May, June, and August of 2019; no owls were observed during these nesting seasons. Conditions of approval will require noise to be at or below 50 decibels at 100 feet, which is below the guidance established by CDFW for protection of the species, as well as other wildlife protection measures including the prohibition of anticoagulant rodenticides (**COA #B1-7**). The proposed project is existing and unlikely to significantly affect the species with habitat present onsite. The extent of noise from generator or fan use is currently low due to noise containment sheds and a full transition from generator power to renewables is planned within 5 years of project approval as a condition of approval. Furthermore, the project is conditioned to adhere to Dark Sky Association standards for greenhouse lighting and security lighting, refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect NSO or other sensitive species.

Tribal Cultural Resource Coordination

The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria, in May 2019. A Cultural Resources Investigation was not prepared by William Rich and Associates for the project December of 2018 that concludes that no significant archaeological or historic-period cultural resources that, for the purposes of CEQA (15064.5 (a)), would be considered an historical resource, exist in the limits of the project area. Additionally, tribal cultural resources do not appear to be present. The Bear River Band Tribal Historic Preservation Officer responded in an email dated 5/7/19 that noted that because previously recorded sites had been relocated, no ground-disturbing activity is allowed within the boundaries of the relocated (retired) cultivation sites (**COA #B17**). Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.

Access

The property is approximately 5 miles east of Bridgeville and accessed via Upper Larabee Valley Road from Highway 36. A self-assessed Road Evaluation Report concludes that that the entire road segment is developed to the equivalent of a road category 4 standard (**Attachment 3g**).

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 MND that was adopted for the CMMLUO and has prepared an addendum to this document for consideration by the Zoning Administrator (See Attachment 2 for more information).

RECOMMENDATION: 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 the required findings for approval of the Special Permit.

ALTERNATIVES: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.