

Vesuvio Gardens, LLC

Record Number: PLN-12615-SP

Assessor's Parcel Number: 220-161-017 220-161-011

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 for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permits and Notice of Merger, and adopt the Resolution approving the Vesuvio Gardens, LLC, project as recommended by staff subject to the recommended conditions.

Executive Summary: Vesuvio Gardens, LLC seeks a Special Permit to continue operating 10,000 square foot of pre-existing cannabis cultivation, of which 8,400 will be mixed- light outdoor cultivation and 1,600 square feet will be ancillary propagation 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). Cultivation will take place in two cultivation areas identified as Area A and Area B on the Site Map (see Attachment 3). The applicant anticipates there will be two cultivation cycles occurring annually during the months of July and October. Processing such as drying, curing, trimming, and packaging will occur onsite within a proposed 1,080-square-foot building that the applicant will construct to commercial standards. Processing will take place offsite through a licensed third-party processing facility until a permitted processing facility is constructed. Vesuvio Gardens, LLC is a family-owned and operated farm. There will be two family members operating the farm. Power for the project will be provided by PG&E. Artificial lighting used for ancillary propagation nursery and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO.

Cultivation Area	Greenhouse Dimension	Square Feet Total
Area A	8'x50' each	8,400 sf light deprivation
Area B	8'x75'	1,600 sf light deprivation
Total Cultivation Area		10,000 sf
Propagation Area		
Area C (1 greenhouse)	20'x50'	1,000 sf
Total Propagation Area		1,000 sf

Table 1: The cultivation and propagation areas as proposed, totals included.

Water Resources

Water for irrigation will be provided by a Point of Diversion (POD) from an onsite spring which requires a Special Permit. The applicant will forbear from diverting from the spring annually from April 1 to October 31. The applicant submitted a Right to Divert and Use Water (Registration no. H508214). According to the Right to Divert and Use Water, the applicant shall not exceed 0.52-acre-feet (169,442 gallons) per year to be collected from January 1 to December 31 annually. Water storage onsite totals 80,000 gallons occurring in one (1) 30,000-gallon tank and ten (10) 5,000-gallon tanks. The applicant anticipates 100,000 gallons of water will be required annually for irrigation. The applicant is proposing to transition to rainwater catchment utilizing rain gutters on existing buildings in the future. The project is conditioned for the applicant to implement an

additional 20,000 gallons of water storage to meet the irrigation demand during the forbearance period. The project site is located in the Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 214 permits and the total approved acres would be 75.57 acres of cultivation.

There are currently two greenhouses that are located partially within a Streamside Management Area (SMA). The applicant proposes to remove the greenhouses from the SMA, requiring a Special Permit. The project has been conditioned to remove the greenhouses from the SMA in conformance with the submitted Site Plan and submit a restoration plan to the Planning Department for review and approval prior to completion of work.

Public Lands

The project site is bordered by Bureau of Land Management (BLM) property within the King Range National Conservation Area (KRNCA) consisting of APN 220-161-004 and APN 220-161-003 to the west of the subject properties. The cultivation area is currently approximately 100 feet from the parcels managed by the BLM. Relocation of two greenhouses from the Streamside Management Area will result in cultivation at approximately 150 feet from the BLM lands. This Special Permit will allow for a reduction in the required 600-foot setback from public lands. The adjacent public lands are subject to the 2005 King Range National Conservation Area Resource Management Plan (RMP). The lands adjacent to the project site are designated Frontcountry Zone in the RMP, and management activities in that zone include forest stand management, fuel reduction, fire break construction, and watershed restoration. The project is consistent with the RMP because the cultivation activities will protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams and by placing controls on the storage and use of pesticides, rodenticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and requiring adequate road access. While supplemental lighting would be used for the appurtenant nursery, the proposed project will use a blackout curtain system to block artificial light from escaping, resulting in no glare or light pollution associated with the proposed project. The RMP's provisions for protection of heritage resources are met through the project consultation with Tribal Historic Preservation Officers and avoidance of sensitive tribal cultural resources. The project is consistent with recreational use on public lands by maintaining a minimum 600 buffer separation from developed campgrounds and trails. The project was referred to the Bureau of Land Management however no response was received. The applicant is required to cultivate only in the area and structures depicted on the approved Site Map and no encroachment or development is authorized on any other parcels or on areas of the subject parcel not identified on the applicant's Site Map.

Biological Resources

According to the California National Diversity Database habitat exists on the parcel for the southern torrent salamander and the summer-run steelhead trout. The nearest Northern Spotted Owl (NSO) Activity Center (HUM0133) is located approximately 0.91-miles northwest from the project site and the nearest NSO observation is located approximately 0.34-miles south from the project site. Marbled murrelet habitat is mapped on the parcel. The BLM lands adjacent to the subject parcel are identified as critical habitat for Marbled Murrelet.

To avoid impacts on these listed species the project has been conditioned to ensure that no light escapes the appurtenant nursery, and that all noise produced by cultivation and processing activities stay below 50 decibels as measured at 100 feet from cultivation activities or edge of

habitat, whichever is closer. The subject project is preexisting mixed light cannabis cultivation. The applicant transitioned from mixed light cannabis cultivation to a majority outdoor cannabis cultivation utilizing light-deprivation techniques. Power for the processing and propagation activities will be sourced from PG&E. The implementation of the Site Management Plan is intended to ensure erosion control and prevent sediment delivery. Additionally, a recommended condition of approval for this project includes preconstruction training for identification of southern torrent salamanders for all workers. If southern torrent salamanders are identified during ground disturbing activities, all work shall cease, and the applicant shall contact CDFW or a qualified biologist to gain clearance prior to resuming work.

With included mitigation measures and conditions of approval, staff does not believe the project will have a direct or indirect impact on any endangered or threatened species.

Access

The property is accessed via private driveway from Huckleberry Lane. The applicant submitted a self-certified Road Evaluation Form stating the entire road segment is developed to the equivalent of a road category 4 standard. The Department of Public Works stated that the applicant shall ensure there are no roadway grade in excess of 16 percent unless it has been demonstrated to be in conformance with the County Roadway Design Manual. Public Works comments state that if there are portions of the road that have grades that exceed 16%, those portions must be paved and must have an exception request approved. There is no information on file indicating that any roadway grades exceed 16%.

According to the Site Management Plan (SMP) prepared by Timberland Resource Consultants dated March 12, 2019, the roads found onsite appear to have moderate to high native rock component and observations of surface erosion relative to current surface drainage break frequency, are being classified as having low erodibility. During the assessment, roads were found to be in fair condition. Access roads are out-sloped or crowned to allow surface water drainage. There is an unused road onsite which is no longer needed, the SMP recommends the applicant to install waterbars with 100'-200' spacing per the specifications found within the BMP's (see Attachment 3).

Tribal Consultation

The project is located in the Bear River and Sinkyone Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center, Bear River Band, and Sinkyone. The Bear River Band Rancheria recommended a Cultural Resource Investigation to be conducted on the parcel. The applicant submitted a Cultural Resource Survey prepared by Archaeological Research and Supply Company dated December 2018. According to the survey there were zero (0) historic or prehistoric era resources located during the survey. The project has an ongoing condition to include inadvertent archaeological discovery language.

Notice of Merger

According to Case No. LLA-01-26, the parcels in their current configuration constitute a subdivision violation, as two instruments were recorded (1990-19160-2 and 1993-16051-2) that conveyed 193 square feet and 300 square feet, respectively, in violation of subdivision regulations per Humboldt County Ordinance No. 776. LLA-01-26 was intended to remedy subdivision violations; however, the lot line adjustment was not recorded. Merging the two parcels would eliminate the lot line in question and remedy the subdivision violations, resulting in one legal parcel.

Flood Zone

The subject parcels are in an area that was not included in a FEMA study, and as such no mapped FEMA flood zone exists. Based on available flood zone information coupled with the elevation data in the area, it appears no structures used for cannabis are present in the potential flood area.

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 Zoning Administrator (See Attachment 2 for more information).

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.