



COUNTY OF HUMBOLDT

For the meeting of: 10/6/2022

File #: 22-1321

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Ecoyard, Inc.

Record Number: CUP-16-12452

Assessor's Parcel Numbers (APN): 217-381-008

At the end of a shared private road one-half mile south of Sunset Ridge Rd. in the Blocksburg area.

A Conditional Use Permit for 30,563 square feet of existing outdoor and 4,700 square feet of existing mixed-light medical cannabis cultivation. The applicant projects up to five cycles per year. Water for irrigation is proposed to be sourced from an onsite well and spring. Water is stored in 22 hard tanks and 1 pond totaling 313,300 gallons. Processing, including drying and trimming, occurs on-site in an existing shed. Electricity is sourced from a generator.

RECOMMENDATION(S):

That the Planning Commission:

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 deny the application as part of the Consent Agenda; and
4. Adopt the resolution (Resolution 22-__). (Attachment 1) which does the following:
 - a. Finds the Ecoyard, Inc., project statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.
 - b. Denies the Conditional Use Permit

DISCUSSION:

Executive Summary: For Planning Commission consideration is an application under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) for a Conditional Use Permit to allow 30,563 square feet of existing outdoor and 4,700 square feet of existing mixed-light medical cannabis cultivation. The applicant projects up to five cycles per year. Water for irrigation is sourced from an onsite well and a fully contained spring. Water is stored in 23 hard tanks and 1 pond totaling

318,925 gallons. Processing, including drying and trimming, occurs on-site in an existing shed. Electricity is sourced from generator use. The application was submitted on December 23, 2016.

Staff is recommending denial of the project because the applicant has been unable to demonstrate that there is an adequate on-site water source, has been having water trucked to the site repeatedly and warned to discontinue this practice, and has subsequently been unresponsive to County requests for information.

History of the Water Issues: Over a period of approximately two and half years, the applicant had two different agents, successively, who worked with County staff to provide various requested materials and reports in support of the application. An engineer assisted them by providing data related to water for irrigation, as well as other environmental reports. However, the agents and engineer were unable to demonstrate that the wells and spring-fed pond could provide enough irrigation water. During this 2.5-year period, and prior to and before, were numerous reports to the County from neighbors stating there were repeated water truck deliveries to the site for the purpose of cannabis irrigation. The complaints were documented by Planning staff and Code Enforcement Unit (CEU) staff. At one point, CEU staff visited the site when by coincidence a water delivery truck arrived and the driver admitted he had been making several deliveries filling the on-site tanks for irrigation. A CEU report of this event is attached to this staff report. A timeline of several water delivery complaints, and warnings to the applicant, is attached to this staff report (Attachment 2, Violation Memo). Also attached is a chronological summary of application processing activities that show that the applicant's agents were informed of violations.

The record shows that County staff made many efforts to work with the applicant's representatives to facilitate processing the application and to allow the applicant to demonstrate a feasible project. Staff was variously told that water deliveries were not occurring; then, when apprised of complaints which were verified by CEU staff who intercepted a water delivery to the site, that water deliveries were taking place but only to fill the pond for emergency fire suppression. Subsequently staff was then told that the pond will be used for irrigation and that it is full and is filled by a spring, however when staff inspected the site the pond was very low and the spring was dry. To date, the applicant simply has not been able to show that sufficient water could be sourced on-site. In August of 2022 the county has received additional complaints of water deliveries and generator noise, indicating that cultivation may be occurring without appropriate state and county approvals.

On June 17, 2022 and again on July 20, 2022, staff requested of the applicant by email what his intentions are for the application, and that if no response is received within 30 days, the application will be taken forward to Planning Commission with a recommendation of denial. The applicant was apprised of these options:

- 1) Demonstrate sufficient supply of on-site sourced water, which could include a budget that shows a smaller project overall; or
- 2) Apply for a RRR; or
- 3) Withdraw the application.

The applicant was advised that if there is no response and the application is denied, he will nonetheless be responsible for staff costs and site remediation. No response was received from either email inquiry. Both of the applicant's former agents apprised the County that they no longer represent the applicant.

Summary: The submitted application does not include enough evidence to support making the required findings under Section 312-17.1. Because cultivation was initiated without a permit, the project is not consistent with 314-55.4.8.1, which states that permittees and operators shall conduct all commercial cannabis activities in compliance with all applicable state laws and County ordinances. Finally, the department has attempted to contact the applicant and the applicant has failed to respond.

Project Description: The applicant is requesting a Conditional Use Permit (Ordinance 1.0) for 30,563 square feet of existing outdoor and 4,700 square feet of existing mixed-light medical cannabis cultivation. The applicant projects up to five cycles per year. Water for irrigation is sourced from an onsite well and a fully contained spring. Water is stored in 23 hard tanks and 1 pond totaling 318,925 gallons. Processing, including drying and trimming, occurs on-site in an existing shed. Electricity is sourced from generator use.

Project Location: The project is located in Humboldt County, in the Blocksburg area, on the South side of Sunset Ridge Road, approximately .5 miles to .75 miles Southeast from the intersection of Sunset Ridge Road and Browning Road, and approximately .6 miles South from the intersection of Sunset Ridge Road and a Private Drive on the property known to be in Section 30 of Township 02 South, Range 05 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation: Residential Agriculture (RA40), 2017 General Plan, Density: 5-16 acres per unit, Slope Stability: High Instability (3)

Present Zoning: FR-B-5(40): Forest Recreation-Special Building Site - 40-acre min parcel size.

Environmental Review: The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.

State Appeal: The proposed project is NOT appealable to the California Coastal Commission.

Major concerns: Inconsistency with Humboldt County Code, lack of adequate information to support making required findings for approval, and a generally unresponsive applicant.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to direct staff to continue to attempt to reach the applicant to resolve the outstanding issues and continue processing the application in accordance with HCC Section

312-4.1 et seq. However, given that staff has made multiple attempts to contact the applicant and he has been unresponsive, staff does not recommend this alternative.

ATTACHMENTS:

1. Resolution
 - A. Cultivation Operations Plan
 - B. Site Plan
2. Location Maps
3. CEU Inspection Notes
4. Violation Memo
5. Chronology/Summary of Events