



COUNTY OF HUMBOLDT

For the meeting of: 6/23/2020

File #: 20-799

To: The Humboldt County Board of Supervisors

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Redwood Properties' Appeal of the Planning Commission Approval of The Emerald Triangle Group, LLC Co's Special Permits to Allow Cannabis Distribution and Non-volatile Manufacturing in the C-2 (D) Zoning District

RECOMMENDATION:

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the applicant, appellant, and public;
2. Close the public hearing;
3. Adopt the resolution (Resolution 20-__). (Attachment 1) which does the following:
 - a. Find the project exempt from the California Environmental Quality Act (CEQA) Section 15301 (Existing Facilities) and 15303 (Small New or Conversion of Existing Structures);
 - b. Make the findings to reject the appeal and approve the Special Permits as conditioned;
 - c. Deny the Appeal submitted by Redwood Properties; and
 - d. Approve the Special Permit for Cannabis Distribution and the Special Permit for Cannabis Manufacturing.

SOURCE OF FUNDING:

The Appellant has paid the appeal fee associated with filing this appeal.

DISCUSSION:

Executive Summary

This is a continuance of the public hearing item from Tuesday May 19, 2020. The Board heard the staff report on the proposed project, heard from the applicant and the appellant, and heard from members of the public. At the time of the hearing, the applicant Emerald Triangle Group, LLC Company was not a legal entity due to a lapse in corporate reporting with the State. It was recommended that the hearing be continued to allow time for the corporate entity status to be reinstated to good standing. The

applicant has resolved the corporate issues and now has a status of Active with the Secretary of State. The applicant is therefore a legal entity to whom a permit entitlement may be granted.

Alison Jackson, legal counsel on behalf of the appellant, has asserted that a pending lawsuit places the jurisdiction with the Courts, prior to action by the Board. As a result, Ms. Jackson did not participate in the appeal hearing. The litigation surrounds the timing of the Appeal hearing which County Code states must be held within 30 days. Normally litigation involving a public hearing that has not happened within a certain amount of time would result in a Court order to hold the hearing without further delay.

FINANCIAL IMPACT:

There will be no additional effect on the General Fund. The appellant has paid in full the appeal fee associated with this appeal.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by enforcing laws and regulations to protect residents.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board of Supervisors has a range of alternatives to the staff recommendation to deny the appeal and uphold the approval of the project, as summarized below:

1. Grant the appeal and deny the project. In the event that the Board of Supervisors finds evidence in the appeal, public testimony or from another source compelling to deny the application, the Board should state the basis for that conclusion and continue the item to June 30, 2020, so that a resolution can be prepared expressing those findings, approving the appeal and denying the application.
2. Determine the use of categorical exemptions from CEQA are not appropriate and direct that an Initial Study be prepared. This option should only be used if the Board of Supervisors finds that there is no substantial evidence demonstrating that the criteria of the cited categorical exemptions are met by this project, or that the County's conclusions that none of the potential exceptions to categorical exemptions apply are not supported by substantial evidence. This alternative would require additional study or information related to potential environmental impacts which have not been answered. This alternative would require a continuance to a date uncertain.
3. Approve the project in a modified form. The Board of Supervisors may find that there are components of the project which are acceptable, but others that are not. In that case, a condition should be written to modify the project description to omit the offensive components of the project.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

1. Draft Board Resolutions and Findings
2. Site and Building Plans
3. Appeal filed by Allison Jackson on behalf of Redwood Properties
4. Resolution of the Planning Commission, Resolution No. 19-73
5. Transcript of Planning Commission hearing
6. Planning Commission Staff Report
7. Commercial Medical Marijuana Land Use Ordinance (CMMLUO)
8. Board Report prepared for May 19, 2020 Hearing
9. Transcript of Board of Supervisors Meeting
10. Public Comments of Support

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: May 19, 2020: Hearing Continued

File No.: N/A