

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 Zoning Clearance Certificate and adopt the Resolution approving The Happy Ranger, LLC Special Permit and Zoning Clearance Certificate as recommended by staff subject to the recommended conditions.

Executive Summary

Happy Ranger, LLC seeks a Type 1 zoning clearance certificate for the continued operation of a 4,200-square-foot (SF) outdoor cannabis cultivation project in once existing light-deprivation greenhouse in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, CMMLUO. The 47-acre parcel is designated as Rural Agriculture (RA40) and Timberland (T) in the Humboldt County 2017 General Plan Updated and zoned Agricultural Exclusive (AE), Forestry Recreation (FR), and Special Building Site B-5(40). The cannabis cultivation greenhouse is on a slope of 15% that will support light-deprivation (outdoor) cultivation without the use of artificial lights. Irrigation water is currently sourced from a point of diversion from an unnamed spring that is tributary to Larabee Creek. The applicant is proposing to re-drill an existing permitted well (16/17-0054) that is deemed no longer viable on the property and to provide a well installation report to the County (COA #12). Estimated annual water use is 45,800 gallons and water storage currently equals 41,500 gallons in 19 hard-sided tanks ranging from 1,000 to 2,500 gallons in size. 40,000 additional storage tanks are proposed to allow diversion forbearance standards required by the State Water Resources Control Board (SWRCB). Drying and processing of harvested cannabis will occur in an existing 120-SF barn once permitted (COA # 5 – 7) and further processing will occur offsite at a licensed processing facility. Pacific Gas and Electric Company provides power to the operation, with an emergency backup generator housed within a storage structure. Two annual harvests in July and October are expected from the light-deprivation greenhouse for a growing season that extends from April through October. A security gate is installed across the access road into the property and game cameras are in place over the gate, buildings, and cultivation area. A Special Permit is required for work within the Streamside Management Area (SMA) for the diversion maintenance and for restoration activities associated with the Lake and Streambed Alteration Agreement (LSAA). An additional Special Permit will be needed if the four existing water storage tanks cannot viably be relocated out of the Larabee Creek SMA (COA # 10).

Water Resources

Irrigation water for the property is sourced from a water diversion from a spring that is a tributary to Larabee Creek. This diversion is permitted by the SWRCB (SWRCB Registration H503828, Certificate H100426). Per the SWRCB Division of Water Rights, a right to divert and use water from this point of diversion is limited to 0.12 acre-feet of total storage capacity. The rate of diversion to storage shall not exceed 42,000 gallons per day or the diversion rate specified in the current version of the SWRCB Cannabis Policy, whichever is more restrictive, and all water use monitored as a condition of approval (COA #9).

The Humboldt County's WebGIS shows two mapped streams on the parcel; Larabee Creek and an unnamed tributary to Larabee Creek. The Site Management Plan (SMP) prepared for the project in accordance with the Regional Water Quality Control Board Cannabis Order WQ 2017-0023 (WDID: 1_12CC403494; Attachment 3) states the parcel contains several Class II and III tributaries to a Class I

watercourse (Larabee Creek). The SMP states there are three stream crossings across Class II streams; one of them is the responsibility of the applicant and two are the responsibility of the Larabee Creek Road Association. The recommendations made within the SMP are made a condition of approval, including relocation of the four water storage tanks within the SMA or obtainment of an encroachment easement allowed with an additional Special Permit (COA #10).

The applicant has received a Draft LSAA (No. 1600-2019-0720-R1). The Draft LSAA allows for three encroachments on the parcel: stream restoration of an historic point of diversion in the form of an unpermitted dam, water diversion from an unnamed tributary of Larabee Creek for domestic use and irrigation filed with the SWRCB application (H503828), and the implementation of a stream crossing restoration plan at a dirt ford on a historic logging trail. Abiding by the conditions of a Final LSAA is an ongoing condition of approval. In addition, during the October 4, 2019 site visit CDFW observed that the dammed pond is at risk of catastrophic failure due to the lack of a spillway and water emerging through the dam. The pond is located on two parcels—APN 217-391-008 (Permittee) and 217-391-007 (neighboring parcel to the north). CDFW recommends obtaining engineered design plans prepared in consultation with a qualified fisheries biologist with experience in fish passage restoration projects and this is made a condition of approval (COA #11). Further notification with CDFW is required to decommission the pond or repair the dam and install a spillway to meet current performance standards.

Restoration Areas

The original area of cultivation was comprised of five separate “guerilla grow” locations that were within SMAs as shown in the SMP. These five cultivation sites have been decommissioned due to proximity to watercourses and relocated to a single 4,200-SF greenhouse that is on an environmentally superior slope of 15% and 56 feet from a Class III watercourse, a distance outside of the SMA. Restoration of these retired cultivation areas and maintenance of the water diversion infrastructure from an unnamed spring-fed watercourse that is a tributary to Larabee Creek are included in the project. Abiding by a Final LSAA issued by the California Department of Fish and Wildlife (CDFW) will also be required as a condition of approval as mentioned above. As described in the revised Cultivation and Operations Plan for Happy Ranger LLC (Attachment 3), remaining cultivation waste will be removed from the guerilla grow and the area revegetated with native plant species. A restoration plan for the decommissioned areas will be prepared and submitted to the Humboldt County Planning Department as a condition of approval (COA #13).

Biological Resources

There are no mapped sensitive species onsite and although the nearest northern spotted owl (NSO) activity center is approximately 1.6 miles from the site, lands surrounding the site are forested and provide NSO habitat. The parcel is not within or adjacent to NSO critical habitat and no trees are to be removed for the existing greenhouse cultivation. To protect or restore aquatic resources associated with the watercourses on the parcel, decommissioned cultivation areas associated with the original guerilla grow and dammed pond will be restored per the Cultivation and Operations Plan and restoration plan that will be submitted to and approved by the Humboldt County Planning Department and in accordance with the Final LSAA, as a condition of approval. Appropriate facility setbacks from Class I, II, and III watercourses on the parcel will be followed, and measures described in the SMP and LSAA to protect aquatic and upland resources will be adhered to. 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 Bear River Band of the Rohnerville Rancheria and Northwest Information Center, who both concluded that the parcel should be surveyed by a qualified archaeologist. To satisfy this request, the applicant contracted with Archaeological Research and Supply Company, who conducted a Cultural Resources Investigation in May 2018. The entire parcel was surveyed and no

historic or prehistoric resources were identified as a result of the cultural resource survey. The Tribal Historic Preservation Officer Assistant of the Bear River Band of the Rohnerville Rancheria requested that the project be conditioned with the standard inadvertent discovery language. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.

Access

From the town of Blocksburg, at the intersection of Alderpoint Road and Sunset Ridge Road, the parcel known as 29191 Alderpoint Road (APN: 217-391-008) is accessed from Sunset Ridge Road, a County-maintained road. The applicant submitted a photo-documented Road Evaluation Report certifying that the 0.25 mile of Sunset Ridge Road was equivalent to a road Category 4 standard (Attachment 3). Sunset Ridge Road is private and maintained by the Larabee Creek Road Association. Public Works recommendations to improve (pave) the County road-private road intersection and work with the road maintenance association to document road improvements are made a condition of approval (COA #14).

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Lower Eel Planning Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 68 cultivation permits and the total approved acres would be 29.8 acres of cultivation.

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 of the required findings for approval of the Special Permit and Zoning Clearance Certificate.

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.