



COUNTY OF HUMBOLDT

Legislation Details (With Text)

File #: 22-1333 **Version:** 1 **Name:**
Type: Zoning Item **Status:** Consent Agenda
File created: 9/29/2022 **In control:** Zoning Administrator
On agenda: 10/6/2022 **Final action:**
Title: Reuben Valdivia, Special Permit
Application Number 12042
Accessor's Parcel Number 221-211-025
Ettersbug area

A Special Permit for an existing 7,964 square feet of outdoor cannabis cultivation. Irrigation for cultivation is provided by point of diversion for which the applicant has demonstrated a valid water right. There are 95,000 gallons of water storage for the project, and the applicant expects water use to total 93,000 gallons annually. Power is supplied by solar power and a backup generator. The applicant proposes drying on site, with no further processing proposed.

Sponsors: Trip Giannini

Indexes:

Code sections:

Attachments: 1. 12042 Reuben Valdivia Staff Report 10.06.22, 2. Attachment 1 - Draft Resolution, 3. Attachment 1A - Conditions of Approval, 4. Attachment 1B - Cultivation Operations Plan, 5. Attachment 1C - Site Plan, 6. Attachment 3 - Applicant's Evidence in Support of the Required Findings, 7. Attachment 3A - Lake and Streambed Alteration Agreement, 8. Attachment 3B - Timber Conversion Mitigation, 9. Attachment 3C- Road Evaluation, 10. Attachment 4 - Referral Agency Comments and Recommendations

Date	Ver.	Action By	Action	Result
10/6/2022	1	Zoning Administrator		

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Reuben Valdivia, Special Permit
Application Number 12042
Accessor's Parcel Number 221-211-025
Ettersbug area

A Special Permit for an existing 7,964 square feet of outdoor cannabis cultivation. Irrigation for cultivation is provided by point of diversion for which the applicant has demonstrated a valid water right. There are 95,000 gallons of water storage for the project, and the applicant expects water use to total 93,000 gallons annually. Power is supplied by solar power and a backup generator. The applicant proposes drying on site, with no further processing proposed.

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 approve the application as part of the Consent Agenda; and
4. Adopt the resolution (Resolution 22-__). (Attachment 1) which does the following:
 - a. Finds that the Zoning Administrator has considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines; and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Special Permit subject to the recommended conditions of approval (Exhibit A)

DISCUSSION:

Executive Summary: The proposed Special Permit would allow for an existing outdoor cultivation area of approximately seven thousand nine hundred sixty four square feet (7,964) square feet (sf), and an eight hundred (800) square foot appurtenant nursery on the subject property in compliance with the County Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The applicant proposes to harvest and dry cannabis on site in an existing drying structure. All other processing will occur offsite at a licensed third party processing facility.

The subject parcel is located in the Ettersburg area, and the subject parcel is approximately 17.79 acres in size. The applicant proposes to begin seed germination activities in February and March. Cultivation activities will occur from April to September, with harvesting and drying activities occurring from September through October. The applicant is proposing one growing cycle annually. After harvesting cannabis the applicant proposes to plant cover crops during the winter months to fix nitrogen and control erosion.

Water Resources: Cultivation is served by a permitted stream diversion with water rights appropriate for projected annual water use, which the applicant estimates at 93,000 gallons. The applicant has approximately 95,000 gallons of hard tank water storage to meet forbearance requirements. The applicant has a valid water right to divert and store up to approximately 140,116 gallons of water. This water right will be utilized for this project and another proposed project (PLN-12041-ZCC) which estimates an annual water use of 15,000 gallons, with existing appropriate water storage. The applicant has produced a valid water right appropriate for the total water use proposed for the two projects (112,000 gallons) utilizing the permitted stream diversion.

The subject parcel is within an impacted watershed, and as such no expansion of the project is permitted.

Biological Resources: A review of data from the California Natural Diversity Database (CNDDDB) using Humboldt County WebGIS shows an occurrence of Southern Torrent Salamander (State Rank: Imperiled/Vulnerable) recorded in February of 1963 in the parcel area. The 'Accuracy' CNDDDB field of the GIS layer demonstrates high levels of uncertainty regarding occurrence exact location (1 mile radius) and ranking of habitat quality and population condition is unknown within the occurrence.

The project consists of pre-existing cultivation areas, and no expansion of the project footprint is proposed or allowed. No tree removal or further habitat modification is proposed as a result of project activities. The applicant has submitted a self-prepared WRPP to protect water quality and ensure erosion control.

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.

Due to the nature of the pre-existing cannabis operation, the levels of uncertainty regarding the location of the occurrence, habitat quality in the area, and population condition of the occurrence, coupled with the conditioned training and verification from a qualified biologist, Staff concludes that the project as proposed does not present a significant adverse impact to the Southern Torrent Salamander.

Access: The project is accessed via a private driveway approximately 0.25 miles from Ettersburg Honeydew Road, a County maintained road. According to the Road Evaluation submitted by the applicant dated November 5, 2018, the entire private driveway segment from Ettersburg-Honeydew Road to the subject property is developed to a Category 4 road standard.

The project was referred to the Department of Public Works in January of 2019, who recommended approval of the project with conditions that would require the applicant to improve visibility where the private road meets the County maintained road. Public Works has also recommended the private road be paved where it intersects with the County maintained road for a length of 50 feet and a width of 18 feet. Prior to any work occurring within the County maintained right of way, an encroachment permit will be obtained from the Public Works Department. The project has been conditioned as such.

Tribal Consultation: The project is located within the ancestral territories of the Sinkyone, and Tribes represented by the Bear River Band of the Rohnerville Rancheria. The project proposal was referred to the Northwest Information Center, Sinkyone Intertribal Wilderness Council, and the Tribal Historic Preservation Officer (THPO) of the Bear River Band. After review of a Cultural Resource Investigation prepared by Nick Angeloff of Archaeological Research and Supply Company stating the project will not affect significant historic resources, the THPO representative for the Bear River Band recommended approval with the inclusion of inadvertent discovery protocol. The project will be conditioned as such.

Geologic Suitability: A review of WebGIS determined that the project is located within a parcel that has been classified as being moderately unstable. The project site is located within an area that has slopes ranging between 15-30 percent. All cultivation is proposed to take place on existing graded flats.

Timber Conversion: An illegal timber conversion occurred on the subject property, and Tim Meyers of CalFIRE conducted an inspection of the property on December 12, 2016. Mitigation measures were prescribed, and the applicant completed the mitigation measures to the satisfaction of CalFIRE. The violation has been considered mitigated and the issue closed according to a Notice of Inspection from Tim Meyers of CalFIRE dated September 21, 2017.

Security and Safety: The subject parcel is located within both the Telegraph Ridge Fire Protection District and the State Fire Responsibility Area where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. A review of the Humboldt County WebGIS showed the subject parcel as being located in an area deemed to have a high fire hazard severity. The project was referred to CALFIRE in January of 2019, who had no comments on the project. The project has been conditioned to obtain 2,500 gallons of water storage dedicated to fire suppression and management.

Environmental review: 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).

Reccomendation: Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

Project Description: The applicant is seeking a Special Permit for an existing 7,964 square feet of outdoor cannabis cultivation. Irrigation for cultivation is provided by point of diversion for which the applicant has demonstrated a valid water right. There are 95,000 gallons of water storage for the project, and the applicant expects water use to total 93,000 gallons annually. Power is supplied by solar power and a backup generator. The applicant proposes drying on site, with no further processing proposed.

Project Location: The project is located in Humboldt County, in the Ettersburg area, on the East side of Ettersburg-Honeydew Road, approximately 1.2 miles Southeast from the intersection of Dutyville Road and Ettersburg-Honeydew Road, and approximately .1-mile East from the intersection of Ettersburg-Honeydew Road and a Private Drive on the property known to be in Section 8 of Township 04 South, Range 02 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation: Residential Agriculture (RA40), 2017 General Plan, Density: 40 acres per unit, Slope Stability: Moderate instability (2).

Present Zoning: Unclassified (U)

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of CEQA Guidelines.

State Appeal: Project is located outside the Coastal Zone and is therefore NOT appealable to the California Coastal Commission.

Major concerns: None.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either recommended approval or conditional approval. (Attachment 4)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

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.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
5. Referral Agency Comments and Recommendations