



# COUNTY OF HUMBOLDT

## Legislation Details (With Text)

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**Title:** 1:30 p.m. - Maple Creek Investments, LLC Appeal of the Planning Commission Denial of a Special Permit to Allow 27,025 Square Feet of New Outdoor Cannabis Cultivation

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment 1 - 16608 Draft Resolution.11.17.2020.Final.pdf, 2. Staff Report, 3. Public Comment COB, 4. Public Comment K3

Date	Ver.	Action By	Action	Result
11/17/2020	1	Board of Supervisors	approved as amended	Pass

**To:** The Humboldt County Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Time Certain Matter

**SUBJECT:**

1:30 p.m. - Maple Creek Investments, LLC Appeal of the Planning Commission Denial of a Special Permit to Allow 27,025 Square Feet of New Outdoor Cannabis Cultivation.

**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. Considers the Addendum along with the Environmental Impact Report certified for the CCLUO per section 15162(c) of CEQA Guidelines; and
  - b. Makes the findings to grant the appeal submitted by Maple Creek Investments, LLC and to approve the Special Permit; and
  - c. Grant the Appeal
  - d. Approve the Special Permit.

**SOURCE OF FUNDING:**

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

## DISCUSSION:

### Executive Summary

This is a continuance of the public hearing item from October 20, 2020 to allow the applicant to look at design options which would reduce the size of the cultivation area (10,000 square feet was given as the target), provide better screening and look placing all the infrastructure on the same side of the wetland areas as the cannabis cultivation. The Board also wanted to provide the opportunity for Supervisor Madrone to meet with the applicant and neighbors and determine if a solution could be developed. The direction of the Board has been followed, but there is not a clear solution that is agreeable to both the community and applicant. Staff is recommending approval of the appeal and the Special Permit with revisions to the alternative presented by the applicant.

### Background

On October 23, 2020 a site visit was attended by the applicant, property owner, County staff and Supervisor Madrone. At the site visit, the discussion addressed visibility of the site, appropriate cultivation area for the site, wetlands, and whether the cultivation area could be moved to another property. With respect to site visibility, the cultivation area would be highly visible from Butler Valley Road but would not be visible from Maple Creek Road. It was discussed that a larger setback and screening along Butler Valley Road would be needed. The size of the cultivation area was an item of significant discussion. The applicant indicated it was not possible to reduce the cultivation area to less than 22,000 square feet. It was pointed out that during the continuance an area of 10,000 square feet was given as a target. The relationship to the wetlands on site was also a significant point of discussion. It was identified that there may also be wetlands located to the south of the wetland based upon the presence of wetland of plant species around the building and in the parking area and the presence of mottled clay soil in the parking area. This area was not identified as a wetland in the wetland analysis provided for the project by the applicant, but the field observations raise concern with whether this area is a wetland or not.

After visiting the parcel for the proposed project, the site visit moved north to a large meadow area previously identified during the public hearing as a desired cultivation location. This location supports ample clear and flat meadowland but the applicant's wetland analysis identifies this meadow is predominantly wetlands and wetland buffers. Any activity on this site would likely affect a wetland or wetland buffer. This is not a viable cultivation site.

The property owner and applicant have another application for 4 acres of cultivation on property to the north (APN: 313-145-006) that was not visited. This site has been evaluated to determine if it can accommodate the relocation of the cultivation requested for the subject site to that parcel and there are too many constraints to allow relocation to that parcel.

On November 4, 2020 a Neighborhood Zoom meeting was conducted including staff, Supervisor Madrone, members of the Maple Creek community, the Director of Humboldt Bay Community Services District (HBCSD), the applicant and property owner. The purpose of the meeting was to determine if there was the ability to address any of the community's concerns. The community expressed overwhelming opposition to the project, regardless of the size or configuration, at the proposed location due it being in the center of Maple Creek and recognized as a "roadside grow" by

the community. Other concerns included proximity to the Mad River and cumulative impacts to water quality, smell, criminal activity, and rain catchment impacting groundwater wells in the vicinity. The community was supportive of cannabis cultivation on one of the property owner's other parcels.

At the meeting the applicant presented an alternative design which included a reduction in cultivation area and provided screening along Butler Valley Road. The community was not supportive of the effort to address their concerns.

### New Applicant Information

On October 31, 2020 the applicant submitted supplemental information to the Planning and Building Department describing possible alternatives to the proposed project (Attachment 9). This information contains a narrative addressing some of the concerns already addressed above and presenting a preferred and alternative design for the Board of Supervisors consideration. Before discussing the alternatives, it is important to note that the project description has been modified to remove any reference to the use of well water or trucking in potable water. Potable water use will be extremely minor and does not need to be addressed as part of the application.

The applicant's two proposed alternatives can be summarized as follows:

1. 22,500 square foot alternative: This alternative reduces the square footage from 27,025 to 22,500 and creates a landscape area along Butler Valley Road and reduces the cultivation area nearest Maple Creek Road. The drying barn and rainwater catchment tanks would remain on the south side of the wetland. The wetland would be fenced off and the irrigation line would be routed around the wetland.
2. 25,225 square foot alternative: This alternative maintains the landscape corridor along Butler Valley road and moves the drying shed and rainwater catchment tanks to the north side of the wetland. The rainwater tanks and drying shed would be located near the entrance to Butler Valley Road approximately 300 feet north of the cultivation site. There would be no activity on the south side of the wetland

### Analysis:

Consideration of the alternatives presented by the applicant requires an understanding of several important points:

- a) The cultivation site is not visible from Maple Creek Road. It is possible to see the area to the south of the wetland from Maple Creek Road, but the cultivation site itself is very well screened. No additional work is needed here.
- b) The cultivation site is highly visible from Butler Valley Road. The applicant's proposal to maintain a 10 foot setback with a screening fence and landscaping is insufficient given the primary

concern associated with this project is visibility. Normally when a property line is along the street right of way a 30 foot setback would be required. This project should not be less, even though it is not a setback requirement, but is an aesthetic issue.

- c) Placement of the drying shed and water tanks on the south side of the wetland raises several concerns:
- i) Potential for employees to traverse across the wetland, even if a fence is installed.
  - ii) During the site visit it was observed that there were wetland facultative plants outside the delineated wetland and around the old shed on the property. The concern raised was that the area where the drying shed is to be located could be wetland. It would be beneficial to avoid this area with any improvements.
  - iii) The access to the area south of the wetland may cross the neighboring property. This has not been demonstrated and it is difficult to make a clear determination from the County's GIS System. The only way to know for certain is to conduct a survey which has not been completed. Given this ambiguity, it would be good to avoid using this access.

It is counter intuitive to have a cultivation site on one side of a wetland and the water source and drying shed on the other. This in combination with the potential for the area south of the wetland to also be wetland raise the idea that the drying shed and the water tanks should be relocated. The applicant's 25,225 alternative addresses this by placing the cannabis infrastructure at the entrance to the cultivation site. The applicant's alternative does not adequately address the need for better frontage treatment along Butler Valley Road. Given the sensitivity to the project and the site visibility, the setback should be a minimum of 30 feet from the edge of pavement. The screening fence can be installed at 30 feet from the edge of road pavement and then a more robust landscaping plan can be developed within that 30 foot corridor. This would also allow retention of existing trees within this corridor. The cultivation area would need to be reduced to 22,000 square feet. Staff developed an alternative to reflect this (Attachment 10). A condition is also being recommended to require that a landscape plan be reviewed and approved for the area along Butler Valley Road to ensure that it is adequate to achieve a street scape consistent with the surrounding area.

Staff recommends approval of the project with the Staff Alternative site plan for 22,000 square feet of cultivation.

#### 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.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. Approve the appeal and deny of the Special Permit. This option should be pursued if the Board finds that there are too many obstacles to overcome to approve this project. The Board of Supervisors will need to adopt a resolution outlining why this project is being denied.
2. Approve the appeal and 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.
3. Approve the appeal and approve the project for relocation of the proposed cultivation type and area to the location of the applicant's other application on APN: 313-145-006. Unfortunately, there is not sufficient unencumbered space on that parcel to accept this cultivation area, so this is not a viable alternative.

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. Appeal filed by Maple Creek Investments
3. Planning Commission Staff Report, Supplemental and Comments
4. Public Comment
5. Applicant Submitted Materials
6. Transcript of the August 6, 2020 Planning Commission Meeting
7. October 20, 2020 Board Report
8. October 20, 2020 Supplemental Information #1
9. Applicant's Possible Alternatives to Proposed Project
10. Staff Alternative Site Plan.

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: October 20, 2020: Hearing Continued

File No.: N/A