



COUNTY OF HUMBOLDT

Legislation Text

File #: 23-1522, Version: 1

To: Planning Commission
From: Planning and Building Department
Agenda Section: Public Hearing

SUBJECT:

Barrett Farms, LLC
Assessor's Parcel Number: 208-341-034
Record Numbers: PLN-11547-CUP
Dinsmore area

A Conditional Use Permit for 12,650 square feet of existing outdoor cultivation and 2,000 square feet of mixed light cannabis cultivation. Water for irrigation is sourced from rainwater catchment and an existing well. Water is stored in hard tanks totaling 105,750 gallons. Drying and other processing occurs at an adjacent parcel (APN 208-241-032). Electricity is sourced from solar power, with a backup generator.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt resolutions (Resolution 23-__) (Attachment 1) which does the following:
 - a. Finds that the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum to the Mitigated Negative Declaration that was prepared for the Barrett Farms LLC. project (Attachment 3); and
 - b. Finds that the proposed projects comply with the General Plan and Zoning Ordinance; and
 - c. Approves Barrett Farms LLC. Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location:

The project is in Humboldt County, in the Dinsmore area, on the South side of Cobb Road,

approximately .3 miles South from the intersection of Rattlesnake Bridge Road and Cobb Road, on the property known to be in Section 11 of Township 01 North, Range 05 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation:

Residential Agriculture (RA); 2017 General Plan; Density: 5-160 acres per unit as specified; Slope Stability: High Instability (3)

Present Zoning:

Unclassified Zone (U)

Environmental Review:

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

State Appeal:

Project is NOT appealable to the California Coastal Commission.

Major Concerns:

None

Executive Summary:

A Conditional Use Permit for 12,650 square feet of existing outdoor cultivation and 2,000 square feet of mixed light cannabis cultivation, including 1,000 square feet of propagation area. Water for irrigation is sourced from rainwater catchment and an existing well. Water is stored in hard tanks totaling 105,750 gallons. Drying and other processing occurs at an adjacent parcel (APN 208-241-032). Electricity is sourced from a 7.9 kW solar array with battery storage and a backup generator.

The project proposes using rainwater catchment to fill cannabis water storage. The groundwater well is permitted and unlikely to have a direct hydrologic connection to surface waters given its depth and prevailing soil conditions at the site. The well will be used for domestic uses and to top off the storage tanks prior to May 15th. The project's 105,750 gallons of water storage will exceed the May 15th to October 31st project cultivation water demand by More than 16,000 gallons. This will eliminate the use of the groundwater well for cultivation water, its use for domestic purposes will result in less than significant impacts to the local watersheds or to any of the Public Trust resources associated with the watersheds. The cultivation operation will utilize one full-time employee and the project owners. Contract labor will conduct harvest and processing activities including trimming on an adjacent parcel, APN 208-341-032, owned by the applicant. The project on APN 208-341-032, includes the permitting and development of an Onsite Wastewater Treatment System (OWTS) with a restroom and handwashing facilities for the proposed processing building that will meet commercial building and Americans with Disabilities Act standards. If stored water is not sufficient to supply the irrigation needs, the CMMLUO allows the County to reduce cultivation area or compel the development of additional water storage.

As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance. The project will not negatively affect the northern spotted owl or other sensitive

species. No timberland conversion is associated with this project. A 7.9kW photovoltaic/ battery storage system supplies power for the project. A 2kw gasoline generator provides emergency backup power. The CalFire referral requested that the applicant show the location of the emergency turnaround on the site plan. **(Condition A.2)** requires the preparation of a new site plan. The project was referred to the Tribal Historic Preservation Officer (THPO) for the Bear River Band of the Rohnerville Rancheria. The THPO requested that the inadvertent discovery be included as a condition of approval. A road evaluation concluded that the access functions are equivalent to category 4 and can accommodate the continuation of up to three employees during peak season. The Humboldt County Department of Public Works requested the applicant secure a Federal Aviation Administration Determination of no hazard; attached as **(Attachment 4D)**.

Water Resources:

The estimated annual water budget of the applicant estimates the total water use for the project to be 124,000 gallons; this equates to 8.5 gallons per square foot. The operation uses water efficient drip irrigation, greenhouse culture, organic soil building and mulch to reduce water use. The applicant was the recipient of a DCC Stream Protection Grant and has 105,750 gallons of water storage. The project has the capacity to capture 240,000 gallons of rainwater annually (Attachment 4F). The permitted groundwater well (Permit #99 705665) and will be used for domestic purposes and may be used for cannabis cultivation from October 31 to May 15. The well is identified in the Well Completion Report (Attachment 4K) as having an estimated yield of 20+ gallons per minute, which indicates that the well is relatively productive and can be relied upon as a domestic water source. The well is screened from 65 to 105 feet below the surface in a mix of hard Blue Sandstone and Fractured Blue Shale. The well is located approximately 200 feet from an unnamed class II watercourse. The groundwater well appears unlikely to have a direct hydrologic connection to the watercourse given the green blue clay soil that is found between 2 and 23 feet in the well boring and the distance to the nearest surface waters. To further protect water quality in the Van Duzen Watershed the project must add and maintain a water meter on the well head **(Condition A7)**. Between May 15th and October 31st forbearance period the applicant may use no more than 31,000 gallons of water from the well for cultivation, or 25% of the annual total water budget. If the applicant intends to use the well for domestic uses during the forbearance period, they must meter that use separately from the cultivation water **(Conditions A7 and B5)**. In a site management plan submitted by the applicant **(Attachment 4A)** the cultivation site is described as relatively flat and vegetated with erosion control features; there is no standing or flowing groundwater during storm events.

Humboldt County's WebGIS shows no mapped streams through the project parcel. The Site Plan, however, shows an unnamed class II watercourse on the eastern property boundary. The Site Plan depicts appropriate streamside management areas for the surface waters and cultivation operations are a safe distance from streamside management areas. As a condition of approval, the applicant shall implement the best management practices or remedial actions listed in the site management plan **(Condition of Approval C14 and C15)**. The project was referred to the US Army Corps of Engineers which provided a standard response requesting wetland delineations. Staff review of mapping resources and project materials concluded that no wetlands were likely within 250 feet of the existing cultivation areas, so no delineations were required.

The project was referred to the Division of Environmental Health (DEH) which responded with a recommendation for approval with the following conditions: applicant was to provide an invoice, or equivalent documentation to DEH to confirm the continual use of portable toilets or provide an approved means of sewage disposal to serve the needs of the cultivation staff. The OWTS on the project owner's adjacent parcel must be permitted and developed prior to trimming being conducted at the adjacent site APN 208-341-032. Onsite wastewater for cultivation activities must be supported by rented portable toilets until the OWTS is complete (**Condition of Approval B3**).

Public Trust Resources:

The common law Public Trust Doctrine protects sovereign lands, such as tide and submerged lands and the beds of navigable waterways, for the benefit, use and enjoyment of the public. These lands are held in trust by the State of California for the statewide public and for uses that further the purposes of the trust. The hallmark of the Public Trust Doctrine is that trust lands belong to the public and are to be used to promote publicly beneficial uses that connect the public to the water. The project is in the Mill Creek Van Duzen watershed. The project has water storage to a total of over 100% percent of the annual water needs of the project. This will eliminate the use of the groundwater well in the summer months for cannabis cultivation and helps to ensure that there are less than significant impacts to the local watersheds or to any of the Public Trust resources associated with the watersheds.

Biological Resources:

No Biological Assessment Report was prepared for the project. The project is for pre-existing cultivation and there are no mapped sensitive plant or animal species on the site per the California Natural Diversity Database (CNDDDB). The nearest spotted owl activity center is approximately 1.6 miles to the north-east and additional owl activity centers are further from the site. Use of the emergency generator is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer (**Condition of Approval C2**).

The project has been conditioned to ensure supplemental lighting associated with the mixed light cultivation adheres to Dark Sky Association standards including security lighting (**Condition of Approval C3**). Permit conditions of approval also prohibit using synthetic netting (**Condition of Approval C5**), ensure refuse is contained in wildlife-proof storage (**Condition of Approval C6**), and prohibit use of anticoagulant rodenticides to further protect wildlife (**Condition of Approval C8**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species.

Tribal Cultural Resources:

The projects were referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. The Northwest Information Center and the Bear River Band requested that the conditions of approval include the standard inadvertent discovery protocol (**Condition of Approval C1**).

Energy

A 7.9kW photovoltaic/battery storage system supplies power for the project. A 2kw gasoline generator provides emergency backup power. Per the Operations Plan, the emergency generator will be fully

enclosed with proper containment. The applicant will develop an alternative renewable energy (i.e., solar, wind, micro-hydro) plan for electricity to document that the system's needs are able to meet the project's electrical demand (**Condition of Approval A6**).

Access:

From Dinsmore airport, take State Highway 36 1.3 miles southeast to Rattle Snake Bridge Road and take a left. Proceed onto Cobb Road and go approximately .39 miles and the driveway to property will be on the right. A Road Evaluation Report (Attachment 4J) was prepared for several landowners on Cobb Road. Cobb Road is not in compliance as described in Title III - Land Use and Development, Division II, Fire Safe Regulations (Ordinance) as a Category 4 roadway, but with improvements can be considered a Category 4 equivalent roadway. The applicant is required to join or maintain membership in a road maintenance association. (**Condition of Approval B-1**). One employee will be onsite and up to 6 employees are possible during peak operations and the Site Plan (**Attachment 1C**) depicts sufficient space to meet employee parking needs. The project is in an Airport Protected Airspace area, Public Works requested that the applicant secure a letter of no hazard from the FAA. The applicant secured a letter of no hazard from the FAA (Attachment 4D). Caltrans requested that the applicant confirm that the road approach to Rattlesnake Bridge Rd. meets commercial standards, and that the applicant has an access easement and ability to obtain an encroachment permit. The applicant and several other property owners on the road commissioned DTN Engineering & Consulting to conduct a Roadway Evaluation for Cobb Road from Rattlesnake Bridge to APN 208-341-016 in 2018. This evaluation was a step towards establishing the Cobb Road association. The evaluation confirmed the road approach to Rattlesnake Bridge Rd. meets commercial standards, and that the applicant has an access easement and ability to obtain an encroachment permit (**Attachment 4G**).

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The existing cultivation is located partly in areas of 15% slope or less. No new grading is proposed to implement the project. After the fact grading permits are required for grading that was done previously without permits (**Condition of Approval A8**).

Timber Conversion:

No timberland conversion is associated with this project. The project is adjacent to a PG&E transmission line where vegetation is removed to keep the powerline clear. CalFire referral replied with standard project conditions.

Security and Safety:

The applicant has implemented security measures to safeguard the product and prevent nuisance from occurring on the property. Cobb Road Association maintained a locked security to restrict entry of any unknown vehicles. The application has installed an internet-based security system including 12 actively recording cameras covering various points of entry. All doors and windows on all buildings are lockable. Applicant has "PRIVATE PROPERTY," and "NO TRESPASSING," signs posted on property gates. All finished marijuana products are stored away from processing activities in a locked facility. A terrier mix dog is used for additional property security.

The project site is not within any mapped fire district or fire response area other than the State Responsibility Area. Project conditions require the applicant to record an Acknowledgement of No Available Emergency Response and Fire Suppression Services form for the parcel (**Condition of Approval A4**).

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

Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds. The project site is in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 128 permits and the total approved acres would be approximately 42 acres of cultivation.

Environmental Review:

Environmental review for this project was conducted and based on that analysis, staff concludes that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (**Attachment 3**) to the MND for consideration by the Planning Commission.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comments, comments, or recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Planning Commission could elect to add or delete conditions of approval. The Planning Commission could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, Staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Draft Resolution
 - A. Conditions of Approval
 - B. Operations Plan
 - C. Site Plan
2. Location Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Site Management Plan
 - B. Road Evaluation Report
 - C. Lake and Streambed Alteration Waiver
 - D. FAA Determination of No Hazard
 - E. Well Completion Report
 - F. Rain Catchment Map
 - G. Road Evaluation for Cobb Road

- H. Humboldt County DEH worksheet
- 5. Referral Agency Comments and Recommendations
 - A. CalFire
 - B. Division of Environmental Health
 - C. Public Works

Applicant

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Please contact Andrew Whitney, Associate Planner, at awhitney2@co.humboldt.ca.us or 707-268-3735 for questions about the scheduled item.