



COUNTY OF HUMBOLDT

Legislation Text

File #: 23-1523, Version: 1

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

SUBJECT:

Georgi Stoyanov Special Permit
Assessor Parcel Number: 212-311-002
Record No.: PLN-11929-SP
Miranda Area

A Special Permit for 9,975 square feet (SF) of existing outdoor cannabis utilizing light deprivation techniques and 1,470 SF of ancillary propagation, which will be reduced to 980 SF. Irrigation water is sourced from a permitted groundwater well. A hydrogeological report concludes the well is not hydrologically connected to surface waters or other significant groundwater sources. Existing available water storage is 6,300 gallons in four (4) hard-sided tanks. The applicant has proposed to obtain an additional 20,000 gallons of hard tank water storage for a total of 26,300 gallons. Estimated annual water usage is 132,000 gallons. Drying and processing occurs onsite in an existing residential accessory structure pursuant Department Policy Statement No. 21-02. No employees are proposed for project operations. Power is provided by Pacific Gas and Electric Company (PG&E).

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the Planning Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CCMLUO) that was prepared for the Georgi Stoyanov project (Attachment 3); 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 (Attachment 1A).

DISCUSSION:

Project Location:

The project is located in the Miranda area, on the north side of State Highway 254, approximately 800 feet northwest from the intersection of State Highway 254 and Maple Hills Road, on the property known as 5841 State Highway 254.

Present General Plan Land Use Designation:

Residential Agriculture (RA5-20), 2017 General Plan. Density: 5-20 acres per dwelling unit, Slope Stability: Moderate Instability (2).

Present Zoning:

Agriculture Exclusive (AE) and Timberland Production Zone (TPZ)

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:

Georgi Stoyanov seeks a Special Permit to allow the continued cultivation of 9,975 square feet (SF) of existing outdoor cannabis utilizing light deprivation techniques in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Residential Agriculture (RA5-20) in the Humboldt County 2017 General Plan Update and zoned Agriculture Exclusive (AE) and Timberland Production Zone (TPZ); however, the portions of the site where cultivation occurs is within the area zoned AE. Cultivation takes place within the northern portion of the property within three (3) greenhouses. Ancillary propagation (1,470 SF total) has historically occurred within a portion of the easternmost greenhouse. The applicant has proposed to reduce the propagation space to 980 SF. Irrigation water is sourced from a permitted groundwater well, and the applicant has proposed to add rainwater catchment as a supplemental water source. Two (2) harvests are anticipated annually for a growing season that extends from March through October. Drying and trimming will occur onsite in an existing residential accessory structure pursuant Department Policy Statement No. 21-02. Approval of onsite trimming does not preclude the ability of the applicant to contract trimming services with an off-site third-party licensed processing facility. If the applicant elects to trim offsite in this manner, invoices or equivalent documentation will be required at annual inspections for the benefit of County review. No employees are proposed for project operations.

The project was scheduled noticed for a hearing before the Zoning Administrator on September 21, 2023. Staff recommended the project be re-noticed for a hearing before the Planning Commission based on public concerns. Public concerns have been summarized below.

Public Comments:

Public comments have indicated a number of concerns, including a past landslide in the area, traffic on a shared single lane driveway, alleged water pumping, a reduction of water resources, and light pollution.

Based on a review of historic landslide data and a review of aerial imagery from 2005 to 2023, no landslide appears to have occurred on the property or downslope from the cannabis cultivation areas. No public comments have been received from property owners or residents along the route shown in the attached road evaluation report. The shared single lane driveway referenced in the public comments does not appear to be utilized by the applicant to access the cannabis operation. Public comments also allege water is being pumped from 212-311-003 to 212-311-002 (subject parcel). The applicant has proposed to use the existing permitted onsite groundwater well, no evidence on file indicates there is any surface water diversion or pumping water across parcel lines. A Hydrogeological Report prepared for the onsite well (Attachment 4G) concludes the onsite well is pulling water from fractured bedrock and not from surface water or near surface waters. It is further noted that “PWA believes that this well is not hydrologically connected to surface waters or other significant groundwater sources.” Based on this report it is unlikely the use of the onsite well for cannabis irrigation will impact neighboring properties. Light sky violations were documented in 2022, with no documentation of further violations to date. The applicant alleges there are no light pollution issues associated with the cultivation greenhouses and has submitted evidence of newly installed shielded lighting on the residence.

Water Resources:

Estimated annual water usage is 132,000 gallons (13.2 gal/SF) with peak demand occurring in August at approximately 24,000 gallons, per the table below. The applicant proposes to use the existing onsite permitted well, and proposes to add rainwater catchment infrastructure to the existing residence as well as 20,000 gallons of water storage in tanks. This will increase the water storage to a total of 26,300 gallons with rainwater catchment as a supplemental water source.

Table 1. Estimated Average Monthly Water Usage

	Plant Stage	Gallons
March	seedling	7,000
April	veg	13,000
May	veg	15,000
June	veg	17,000
July	Veg/flower	21,000
August	veg	24,000
September	Veg/flower	20,000
October	flower	15,000

TOTAL: 132,000 gallons

The onsite well is registered with the California Department of Water Resources (WCR2019-010978). The well is located in the southern portion of the subject site. According to the Well Completion Report (included in Attachment 4G), the well is 200 feet deep and drilled through top soil, sandstone, shale/basalt mix, sandstone, soft shale, shale mélange, cobbles, clay and sandstone. A blank is installed for the first 100 feet of the well, with a screen installed for the next 20 feet, and an additional blank installed for the last 80 feet in depth. The depth to first water was recorded at 105 feet below ground surface (bgs), with depth to static water level reported at 101 feet bgs.

A Hydrogeological Report was prepared by Pacific Watershed Associates (PWA) in May 2020 (Attachment 4G) to provide the County with information pertaining to the well. Per the Report, there is a Class III ephemeral stream located approximately 170 feet southwest and 34 feet downslope of the well head, and the South Fork Eel River is located approximately 900 feet to the southwest and approximately 300 feet in vertical relief from the well head location. The Report notes that, based on large scale geologic mapping of the area, the well is drilled within a thin (<0.5 km) mapped sliver of central belt Franciscan broken formation (cb1) bedrock. Based on the well screening between 100 and 120 feet bgs, this allows for groundwater to flow into the well casing from the blue fractured sandstone and be stored within the remaining well casing for use. For the approximate 80-100 feet of the well casing below the screened interval, it was calculated that approximately 470 to 580 gallons of water can be stored within the well. It is concluded that the onsite well is pulling water from fractured bedrock and not from surface water or near surface waters. It is further noted that “PWA believes that this well is not hydrologically connected to surface waters or other significant groundwater sources.”

As the well is hydrologically disconnected from surface waters, it does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements. Although the project is not subject to forbearance or storage requirements, the applicant has proposed to increase existing water storage by 20,000 gallons for drought resilience.

Although not depicted on Humboldt County Web GIS, the Water Resources Protection Plan (WRPP) shows that one (1) Class III watercourse traverses the southern and eastern portions of the subject parcel. The respective Streamside Management Area (SMA) buffer is also depicted on the Site Plan. All cultivation activities and respective infrastructure are shown to be located outside of the required SMA buffer.

The WRPP assesses compliance with the required elements and standard conditions established in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023 to protect water quality from cannabis cultivation and related activities. Included in the WRPP is a list of the recommended treatments and actions to be implemented to meet the requirements of the Order, including: installation of rolling dips, installation of a berm or staked wattle around the eastern and southern edges of the eastern cultivation area to reduce run-off from hydrologically connecting to an adjacent watercourse and/or saturating an unstable hillside to the south, removal of cultivation-related waste, and seeding and mulching exposed soils. The project is conditioned implement all remaining corrective actions contained in the WRPP (**Condition of Approval A.15**). Additional conditions of approval require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes development and implementation of a Site Management Plan (

Condition of Approval A.16).

A Notification of Lake or Streambed Alteration was submitted to CDFW, date stamped received by the County on 10/31/19 (Attachment 4C), for the cannabis cultivation and water diversion/extraction/impoundment (groundwater well). The project is conditioned to finalize the Notification with CDFW and implement all projects and terms of the Final Streambed Alteration Agreement (SAA) (**Condition of Approval A.11**).

CDFW Comments:

Comments received from the California Department of Fish and Wildlife (CDFW) include recommendations that the applicant prepare an invasive species removal and monitoring plan, fully contain all imported soils and dispose of spent soils at a waste management facility, remove all refuse associated with the decommissioned drying/processing area, and a recommendation to increase water storage to a minimum of 50,000 gallons.

The project has been conditioned to remove the invasive Yellow starthistle referenced in the CDFW comments and submit evidence demonstrating all imported soils onsite are fully contained. The applicant has been conditioned to engage in ongoing identification and removal of invasive species, to properly dispose of spent soils at an authorized off-site waste management facility, and to remove refuse and infrastructure associated with the previously utilized processing and drying area (**Conditions of Approval A.12-A.14, B.10, B.11**).

As noted above in the Water Resources section of the Staff Report, the well is not subject to forbearance or water storage requirements. The applicant has operated under an Interim Permit issued on November 30, 2018. The permitted well was drilled between July and August of 2019. Records indicate a Cannabis Cultivation Declaration was received in January of 2020 stating no cultivation would occur for the 2020 season. Based on the available information the well has been used for irrigation under an Interim Permit for the 2021, 2022, and 2023 cultivation seasons with no reports from the applicant of a decrease in production or other documentation that would indicate the well has a reduced capacity to provide irrigation water to the cannabis operation. The applicant has proposed to obtain an additional 20,000 gallons of water storage to serve the cannabis operation. Based on this information there does not appear to be sufficient evidence to warrant 50,000 gallons of water storage.

Biological Resources:

Per review of CDFW's California Natural Diversity Database (CNDDDB) in March 2022, the site is mapped within potential habitat area for two (2) special status species, including the American peregrine falcon (*Falco peregrinus anatum*) and the western bumble bee (*Bombus occidentalis*). The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 0.22 miles from the cultivation area, with the nearest NSO activity center located approximately 1.03 miles away, separated by the Eel River and State HWY 101. Power at the site is provided by Pacific Gas and Electric Company (PG&E).

A Biological Reconnaissance Report (Biological Report) was prepared by Jessica R. Stauffer and Sean McAllister, wildlife biologists, in March 2019 to assess the suitability of the site to support special-

status plant and animal species and evaluate potential impacts on sensitive biological resources associated with commercial cannabis cultivation. As noted in the Report, the project area lacks habitat for most special status plants on the scoping list and does not include special-status riparian habitat, waterways, or wetlands. The property may include Oregon white oak woodland (*Quercus garryana* Woodland Alliance); however, as the oaks lacked leaves at the time of the field visit and was difficult to assess. It is further noted that eighteen (18) wildlife species have a moderate or high potential for occurrence. Two (2) NSO activity centers are known to occur within 1.3 miles of the project area. Since the project proposes no new grading, disturbance to natural vegetation, or activities outside of the existing footprint, it is concluded the project would have no effect on special status plants and natural communities, as well as no effect on riparian habitat or Waters of the United States, since there are no such features onsite. Additionally, significant impacts on special-status wildlife species are not anticipated, since the project is outside of their known ranges, suitable habitat is lacking, and the project does not involve habitat modification, significant noise disturbance, or unnatural lighting. If the project is modified or expanded in the future, it is recommended that seasonally appropriate surveys be conducted prior to any new construction, ground-disturbance, or vegetation removal, which has been included as an ongoing condition of approval (**Ongoing Condition of Approval B.5**).

Conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions of Approval B.1-B.4, B.6-B.9**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance regarding sensitive species and will not negatively impact NSO or other sensitive species.

Energy:

Power is provided by Pacific Gas and Electric Company (PG&E). The applicant keeps a 25kw generator for emergency backup use in the event of a PG&E power outage.

Access:

Access to the site is via a driveway off State Highway 254, which is maintained by the California Department of Transportation (Caltrans). A Road Evaluation Report for the private driveway, from State Highway 254 to the subject property, was prepared by the applicant's representative in October 2019 (Attachment 4F), which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. Comments were received from the Department of Public Works, Land Use Division, dated December 2019, which provided a summary of the Road Evaluation Report and noted the project takes access from a non-county maintained road that connects directly to a State Highway (State Highway 254). The project was referred to Caltrans District #1 in November 2019; however, no comments have been received to date. A condition of approval requires the applicant to ensure the driveway meets Caltrans' commercial driveway standards and sight distance. Any work to improve the driveway or sight distance within the State right-of-way will require an encroachment permit from Caltrans (**Condition of Approval A.10**).

As previously noted, there will be no employees utilized for project operations. As this is an existing operation, an increase in traffic is not expected under the project.

Geologic Suitability:

The project parcel is mapped in the County GIS as “moderate instability” (2). The slope of the land where cannabis will be cultivated is less than 15%, as indicated by the Water Resource Protection Plan (WRPP; WDID 1B171720CHUM) prepared by Timberland Resource Consultants in April 2018 and revised in October 2018. There are no mapped historic landslides on the subject property.

Timber Conversion:

Review of aerial imagery dating back to 2004 indicates the site contained existing open areas along the northern and southeastern portions of the property; however, it appears that timber was removed from the site between 2014 and 2016 to accommodate two (2) greenhouses within the northern portion of the site. A third greenhouse appears to have been added to the northeastern corner of the site between 2016 and 2018.

A Timber Conversion Evaluation was prepared by Timberland Resource Consultants (TRC) in November 2018 (Attachment 4D) to assess the amount of timberland conversion that has occurred on the subject property and associated “consequential impacts.” The Report notes that 0.35 acres of unauthorized timberland conversion occurred onsite within the western cultivation area, which is under the three-acre conversion exemption maximum. In 2014, it is noted that a natural grassy opening was 0.20 acres, but in 2016, the total area was approximately 0.55 acres. However, it is noted in the Report “that the approximately 0.35-acre area that was cleared and developed was understocked to poorly stocked timberland per 14CCR 912.7 [and]...was a mixture of brush and madrone, which in the strict sense is “timberland” but certainly far from a fully-stocked productive stand.” The Report further notes that the conversion activities did in fact comply with the California Forest Practice Act and the California Forest Practice Rules. Relocation of the western cultivation area was not recommended, as it is “excellent for the protection of watershed resources due to its flat, ridge-top location and distance from watercourses and wet areas.”

The Report concludes that the timberland conversion can be “easily mitigated” and recommends planting Group A species at a ratio of 3:1. The 0.35-acre conversion thereby requires a minimum of 1.05 acres of restocking with conifers, which equates to a minimum of 500 redwood and/or Douglas-fir trees. Per the Report, the trees shall be interplanted in the surrounding/adjacent timber stands at approximately 10-foot by 10-foot spacing around Group A and B species, and is likely to involve more than 1.05 acres of area planted. A Restocking Plan is included in the Report. A follow-up letter was prepared by TRC in April 2019 (Attachment 4E) to confirm the required restocking occurred on February 5, 2019, in which 500 redwood seedlings were interplanted at a ratio of 3:1 on the areas shown on the maps in the Report. It is further noted in the letter that two (2) years of monitoring of the existing stocking and replanted redwood seedlings shall occur to ensure the area meets the stocking standards of 14CCR 912.7. A recommended condition of approval has been included to require confirmation from a Registered Professional Forester (RFP) that all recommendations from the Timber Conversion Evaluation, Restocking Plan, and follow-up letter have been completed and meets the stocking standards of 14CCR 912.7, including the required two (2) years of monitoring. If restocking standards are found to not be met, a follow-up report shall be prepared, which includes specific recommendations and requirements the applicant must follow to bring the site into compliance (

Condition of Approval A.9).

No additional tree removal is proposed or authorized by this permit.

Security and Safety:

The operation is secured behind locked gates and fenced cultivation areas. In addition, the owner/applicant or other residents are normally present onsite.

Tribal Consultation:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. The project was referred to the Northwest Information Center at Sonoma State, the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council in November 2019. A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in February 2020 (on file and confidential), in which no cultural resources were identified. The project will adhere to the standard inadvertent discovery protocol, as recommended in the Report, which has been incorporated into the project as an informational note (**Informational Note C.3**). The Report was reviewed by the Bear River Tribal Historic Preservation Officer in March 2022, in which the Tribe noted they agreed with the findings and recommendations outlined in the Report.

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 located in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251-acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 306 permits and the total approved acres would be 84.6-acres of cultivation.

OTHER AGENCY INVOLVEMENT:

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

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. 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. Resolution
 - A. Conditions of Approval
 - B. Cultivation and Operations Plan

- C. Cultivation and Operations Plan Addendum
- D. Site Plan
- 2. Location Maps
- 3. CEQA Addendum
- 4. Applicant's Evidence in Support of the Required Findings
 - A. Notice of Applicability
 - B. Water Resource Protection Plan
 - C. Notification of Lake or Streambed Alteration
 - D. Timber Conversion Evaluation
 - E. Timber Restocking Report
 - F. Public Works Road Evaluation Report Form
 - G. Hydrogeologic Report
 - H. Response to CDFW inspection/comments, submitted by the agent
- 5. Referral Agency Comments and Recommendations
 - A. Public Works, Land Use Division Response
 - B. CAL FIRE Response
 - C. CDFW Response
- 6. Public Comment

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Please contact Michael Holtermann, Assigned Planner, at mholtermann@co.humboldt.ca.us or 707-268-3737 if you have any questions about the scheduled item.