



COUNTY OF HUMBOLDT

Legislation Text

File #: 24-957, **Version:** 1

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Eel River Family Farms, LLC; Conditional Use Permit
Assessor's Parcel Numbers: 211-151-017, 211-151-018
Record Numbers: PLN-11165-CUP
Myers Flat area

A Conditional Use Permit for 17,996 square feet of existing mixed light cannabis cultivation supported by a 1,275 square foot nursery. Anticipated water use is 204,000 gallons a year and sourced from an existing permitted well. There is 114,000 gallons of existing tank storage and 90,000 gallons proposed for a total of 204,000 gallons of storage. Drying and bucking will occur onsite while all other processing occurring offsite at a licensed facility. Power is sourced from PGE with a generator for emergency backup purposes only. The project proposes a designated fire turn-around and pull-out area for emergency vehicles and one (1) 2,500-gallon water tank dedicated to SRA emergency response.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt resolutions (Resolution 24-__) (Attachments 1) which does the following:
 - a. Finds 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 Eel River Family Farms, LLC; and
 - b. Finds the proposed projects comply with the General Plan and Zoning Ordinance; and
 - c. Approves the Eel River Family Farms, LLC Conditional Use Permit subject to the recommended conditions of approval (Attachments 1A).

DISCUSSION:

Project Location:

The project is in the Myers Flat area, on the North and south sides of Dyerville Loop Road, approximately 1.7 miles south from the intersection of State Hwy 254 and Dyerville Loop Road, on the property known as 1752 Dyerville Loop Road.

Present General Plan Land Use Designation:

Agriculture Exclusive (AE) and Timberland (T); 2017 General Plan.

Present Zoning:

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:

A Conditional Use Permit for 17,996 square feet (SF) of existing mixed light cannabis cultivation operation. Estimated annual water usage is 204,000 gallons a year (11.34 gal/sq.ft/year) and is sourced from an existing permitted well. Applicant currently has 114,000 gallons in hard tank storage (1) 50,000-gallon metal tank, (11) 5,000-gallon plastic tanks, and (3) 3,000-gallon plastic tanks. The applicant is proposing (18) 5,000-gallon water tanks for an additional storage of 90,000 gallons. Drying will occur in the existing 15' x 85' agriculture exempt structure. Drying and bucking will occur onsite while all other processing will be taken offsite to licensed third party. Power is provided via PG&E while a generator is used for emergency back up only.

The estimated annual water use is 204,000 gallons a year (11.34 gal/sq.ft/year). Current water storage of 114,000 gallons represents 56% of estimated annual water usage with an additional 90,000 gallons of storage proposed in (18) 5,000 gallon tanks, which would equal 100% of estimated annual water usage.

The project is 0.74 miles from the nearest NSO activity center. The project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species. The project is just on the outside boundary of a listing of maple-leaved checkerbloom per the California Natural Diversity Database (CNDDDB). Per the CNDDDB database this listing is a one-mile radius surrounding a sighting recorded in 1899. Applicant will not be adding new construction therefore conditions will not change from baseline. Based on this information it is

unlikely that the project will disturb any sensitive plants or other species. Reorganization of the greenhouses in the upper cultivation area will occur to comply with property setbacks however all the reorganization will occur in a previously disturbed and cleared flat area. Proposed water tanks are similarly proposed in an existing disturbed flat area.

Water Resources:

Estimated annual water usage is 204,000 gallons a year (11.34 gal/sq.ft/year) and is sourced from an existing permitted groundwater well. Applicant currently has 114,000 gallons in hard tank storage (1) 50,000-gallon metal tank, eleven (11) 5,000-gallon plastic tanks, and three (3) 3,000-gallon plastic tanks. The applicant is proposing (18) 5,000-gallon water tanks for an additional storage of 90,000 gallons.

Per the Operations Plan, irrigation for juvenile and mature plants will be irrigated using hand watering methods and drip emitters. For young plants, the mix is applied via watering wand and mature plants are fertigated at agronomic rates by drip emitters or hand watering methods. This helps to reduce water demand.

The well is installed at a surface elevation of approximately 640 feet above sea level and screened to a depth range of 80 feet to 220 feet. The water bearing unit is listed in the Well Completion Report as a combination of soft sandstone, shale sandstone, shale, trees and shale, soft green blue sandstone, and shale which are indicative of a water bearing unit that is not the underflow of any watercourse. The nearest surface water feature is an unnamed ephemeral stream which is located approximately 490 feet to the west and the next nearest watercourse is an unnamed ephemeral stream that is located approximately 1,000 feet to the east. The elevation of the closest unnamed ephemeral stream at its closest point to the well is approximately 678 feet above sea level which is approximately 40 feet higher in elevation compared to the well. Given the distance and elevation difference between the well and the unnamed ephemeral stream, the well is unlikely to be diverting from any underflow of the or otherwise have any significant connection to the river. The Eel River is approximately 2,060 feet away from the well, far enough away to avoid any direct connection. The Eel River provides important public trust resources such as fisheries and recreational opportunities. These public trust resources will not adversely be affected by the use of the well for cannabis irrigation because of the lack of any significant connection between the well and the tributaries that drain into the river.

Additionally, a research study published by the USGS (Flint, 2013) indicates that approximately 34% of precipitation in Northern California percolates into groundwater recharge. That translates to 175,000 to 530,000 gallons a year per acre of land with the low range representing data for drought years and the high range for average rain years. The recharge rate can be higher in above average rainfall years. For the 24-acre project parcel, there is approximately 4,200,000 to 12,720,000 gallons of aquifer recharge depending on whether it is a drought or average rainfall year. Annual well water usage of 204,000 gallons represents 1.6% to 4.9% of the annual recharge occurring on the parcel depending on rainfall. Therefore, more water is likely going into groundwater on the subject property than is coming

out for cannabis irrigation.

Biological Resources:

Per review of California Natural Diversity Database (CNDDDB) in December 2021, the cultivation area is approx. 0.75 miles to nearest active center (Hum 0331). (CoA C2) Noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Cultivation is 3,918.4 feet (0.75 miles) from the near NSO activity center. The observation of the northern spotted owl is from 1991 with 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. The project is within the boundaries of maple-leaved checkerbloom per CNDDDB. Conditions of Approval item C2 requires the applicant adhere to noise and light 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. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

Energy

The project is utilizing energy provided by PG&E while a generator will be used for emergency backup purposes only. Applicant must adhere to noise and light attenuation measures (CoA C2).

Access:

According to the Road Evaluation Report submitted by the applicant, the entire road segment is developed to Category 4 road standards (20 feet wide) or better thus does not require further review.

Geologic Suitability:

The project parcel is mapped in the County GIS as moderate instability. The existing cultivation is in areas ranging from 15% slope or less to 15% to 30% slope. 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 A10**).

Timber Conversion:

Per Humboldt County Web GIS, there appears to have been timber conversion on the property pre-2016. The applicant submitted a less than three-acre conversion mitigation plan prepared by Mike Atkins, Registered Professional Forester. The report states that there are 4 sites on the parcel that appear to have been harvested as early as 2005. Those 4 sites total 2.4 acres of converted land on the property. The document evaluates site conditions and conversion history for the parcel and contains a Registered Professional Foresters (RPF's) recommendation as to remedial (completed or need to be completed) actions necessary to bring the conversion area into compliance with provisions of the Forest Practice Act. These items are included as a conditional of approval (**Condition of Approval #A17**). On November 7, 2017, a less than 3 acre was sent to CalFire for referrals and no comments were received (Attachment 4C).

Security and Safety:

Per the project Operations Plan, access to the parcel is gated and locked. Access to the area is limited to employees and approved personnel including agency staff, consultants, and distributors. The project proposes a designated fire turn-around and pull-out area for emergency vehicles and one (1) 2,500-gallon water tank dedicated to SRA emergency response. The project is within Cal Fire Response Area. CalFire responded with no specific concerns.

Setbacks to Places of Religious Worship:

The project site is located within 600 feet of a place of religious worship; however, the religious organization has submitted a letter approving the cultivation to occur within 300 feet of the property, as proposed. This letter is attached as Attachment 4F.

Tribal Consultation:

There are no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center (NWIC), Sinkyone Tribal Council, and the Bear River Band of the Rohnerville Rancheria in 2017. The NWIC responded that their office has no record of any previous cultural resource studies for the project area but that the project area has the possibility of containing unrecorded archaeological site(s) and a study is recommended prior to commencement of project activities. An Archaeological study of the property was performed by Archaeological Research and Supply Company in April 2018. The report concluded that no further archeological studies are required for this property; however, if any buried archaeological deposits are encountered, the standard inadvertent discovery protocol is recommended (CoA C1).

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 Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 105 permits and the total approved acres would be approximately 42.91 acres of cultivation.

Environmental Review:

Environmental review for this project was conducted and based on this 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). All

recommended conditions of approval by referral agencies are included in the Conditions of Approval with the exception of the comments from PG&E, which refer to a previously proposed processing facility which is no longer part of this permit application.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete other 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. Well Completion Report
 - C. RPF Timber Conversion Report
 - D. Final LSA
 - E. Setback Reduction Consent Letter
 - F. Road Evaluation
5. Referral Agency Comments and Recommendations
 - A. Building Inspection Division
 - B. Code Enforcement Unit
 - C. Division of Environmental Health
 - D. Public Works
 - E. CDFW
 - F. CalFire
 - G. CalFire_2
 - H. PGE
6. Watershed Map

Applicant

Eel River Family Farms, LLC
Fernando Olea
PO Box 443
Fortuna CA 95540

Owner

Dyerville Loop LLC Co.
PO Box 443
Fortuna CA 95540

Agent

Peter Hill
1117 Samoa Blvd.
Arcata, CA 95521

Please contact Derek Wiles, Planner, at dwiles@co.humboldt.ca.us or 707-445-7541 for questions about the scheduled item.