



COUNTY OF HUMBOLDT

Legislation Text

File #: 20-1046, **Version:** 1

To: The Humboldt County Board of Supervisors

From: Planning and Building Department

Agenda Section: Time Certain Matter

SUBJECT:

11:00 a.m. - Appeal of the Planning Commission actions to Approve The Honeydew Ranch, LLC, Conditional Use Permit and Special Permit to Allow continued cultivation of 16,175 square feet of mixed light cannabis cultivation and a 14,000-square-foot wholesale nursery and Adoption of a Mitigated Negative Declaration that evaluated a maximum of 6 acres of mixed light commercial cannabis cultivation and the wholesale nursery on Assessor Parcel Number (APN): 107-272-005.

RECOMMENDATION:

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the appellant (applicant), and public;
2. Close the public hearing;
3. Adopt the resolution (Resolution 20-__). (Attachment 1) which does the following:
 - a. Adopt the Initial Study and Mitigated Negative Declaration, State Clearinghouse No. 2019069066;
 - b. Make the findings required to deny the appeal and approve the Conditional Use Permits and Special Permit;
 - c. Deny the Appeal;
 - d. Adopt the mitigation monitoring and reporting plan; and
 - e. Approve the Conditional Use Permits, Special Permit and Zoning Clearance Certificates subject to the conditions of approval (Attachment 1A);
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the project applicant, the property owner, and any other interested party; and
5. Direct the Planning and Building Department to file a Notice of Determination with the Humboldt County Recorder's Office, pursuant to the California Environmental Quality Act.

SOURCE OF FUNDING:

The appellant has paid the appeal fee associated with filing this appeal.

DISCUSSION:

Executive Summary

This is an appeal of the Humboldt County Planning Commission's October 3, 2019, approval of the Honeydew Ranch, LLC, Conditional Use Permit and Special Permit application to allow for the operation of 16,175 square feet of existing mixed light commercial cannabis cultivation and a 12,000-square-foot wholesale nursery on APN 107-272-005 and an appeal of the Planning Commission's decision to adopt a Mitigated Negative Declaration that would allow for up to 6 acres of cultivation be relocated to the site through the County's Retirement, Remediation and Relocation (RRR) program. The Planning Commission approved the Honeydew Ranch, LLC, project and associated Mitigated Negative Declaration by a vote of 4-2.

Roxanne Kennedy ("Appellant") has appealed the decision and submitted a letter stating why she believes that the Planning Commission's approval is not in accord with the standards and regulations of the California Environmental Quality Act (CEQA) and the Zoning Code (see Attachment 2).. The primary concerns can be summarized as potential effects of the project on the surrounding neighborhood and inadequate environmental review. In particular this appeal raises the question of whether the County's RRR program should allow for multiple retirement cultivation sites to be relocated to a single parcel.

This is a *de novo* hearing and the Board of Supervisors is not limited to the evidence in the existing record and may receive new evidence at the appeal hearing. Staff is recommending that the Board deny the appeal and approve the project with conditions. The appeal does raise issues related to the intent of the RRR program and whether it is appropriate to staff RRRs on a receiving site. The Board of Supervisors may want to determine that the ordinance was not intended to allow such a concentrated amount of cultivation and approved a reduced density project.

Background

On December 22, 2016, Honeydew Ranch, LLC, applied for a Conditional Use Permit for 16,175 square feet of pre-existing mixed light cannabis cultivation and a Special Permit for a 12,000-square-foot wholesale nursery. As review of this site progressed, the applicant proposed to move a minimum of nine and up to 16 RRR sites (over 7 acres of additional cultivation) onto the property

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) provides opportunity to permit pre-existing cultivation activities and to relocate cultivation sites out of areas where the slopes are in excess of 15% and there is not a legal water source. The ordinance encourages relocation through the Retirement, Remediation and Relocation (RRR) program to move out of these areas by allowing a fourfold increase in permissible cultivation area up to 20,000 square feet. To further incentivize relocation, the RRR applications are permitted through a Zoning Clearance Certificate, or a ministerial action. Some have seen this as an opportunity to greatly increase the amount of cultivation which can be permitted on a site. An application for cultivation is applied for on a site and then multiple 20,000 square foot RRR's are moved to the site.

The CMMLUO sets no explicit limit as to the number of RRR's which can be moved to a site. The CMMLUO sets a limit of 20% of the prime soils that exist on the site and identifies the maximum amount of existing cultivation that can be approved, 43,560 square feet of outdoor and 22,000 square feet of mixed light. Staff has taken the position that the ordinance and the Mitigated Negative Declaration prepared for the ordinance did not consider the potential for people to stack RRR's onto a property, and if this is desired, they need to prepare an environmental document to examine the impacts of such a concentration of cultivation. The practice has been that any site which includes more than one permit for cultivation with two RRR's requires additional environmental review. This is the first of the applications which has been subject to this determination.

The review of this project is odd because it involves two discretionary actions and many ministerial actions that are subject to adoption of the Mitigated Negative Declaration and associated CEQA Findings. The ZCCs are not the subject to this appeal directly but are dependent upon the adoption of the Mitigated Negative Declaration.

The California Environmental Quality Act (CEQA) requires the whole of the "project" be reviewed under a single environmental analysis even when multiple permits and approvals are requested. The whole "project" under CEQA includes the RRR sites from various locations in the County that would be relocated to the subject parcel (APN 107-252-005). The RRR permits are administrative Zoning Clearance Certificates (ZCC) and do not require a public hearing. However, the California Environmental Quality Act (CEQA) requires that environmental review be conducted for the project as whole even though the ZCC's would be processed separately and individually analyzed to ensure each RRR site is consistent with Humboldt County Code.

To date the site has been approved to receive two RRRs totaling 40,000 square feet and has been issued an Interim Permit for the pre-existing cultivation in the amount of 16,175 square feet. Currently there is 56,175 of mixed light cultivation approved for the site.

Unique Mix of Ministerial and Discretionary Permits

This project is unique in that it includes a mix of ministerial and discretionary permits. A court (Day V. City of Glendale) found that where projects are of a mixed ministerial-discretionary character, they should be treated as a discretionary project. Further, the court found that the discretionary/ministerial character of a project is not determinative of environmental impact and CEQA must be interpreted to afford the fullest environmental protection within the scope of statutory language. In line with this it is appropriate to consider the whole action including the mixed ministerial/discretionary project as discretionary. This will give the Board the ability to consider the whole of the action from an environmental standpoint and allow appropriate mitigation/conditions are actions to be taken to protect the environment and community.

Planning Commission Action.

On October 3, 2019, the Planning Commission considered this set of applications and the Mitigated Negative Declaration. There was public concern expressed by the community. The Commission found that the site could not support the proposed 7.55 acres of cultivation and set a limit of 6 acres based on the amount of water available for irrigation and factors outlined in the Mitigated Negative Declaration. The Commission set a limit of 6 acres, adopted the Mitigated Negative Declaration, approved the Conditional Use Permit for 16,175 square feet of mixed light cultivation and approved the Special Permit for the 12,000-square-foot wholesale nursery. The Commission took this action with a vote of 4-2 (Bongio and O'Neill voted Nay)

Setting and Neighboring Land Uses

The project site is located on Old Hindley Ranch Road, approximately 0.5 miles from its intersection with Mattole Road. The subject parcel is surrounded by parcels ranging in size from approximately 7 to 65 acres. The parcels are planned Agriculture Exclusive (AE) and zoned Agriculture General with a Special Building Site Combining Zone (AG-B-6). The proposed project site is in the Agriculture General (AG) zoning district where cannabis cultivation, wholesale nurseries and processing activities are allowable. Within a 1/2-mile radius of the subject parcel, there are 9 parcels with active applications, including 4 approved and 5 projects in process. Total approved cultivation area within 1/2-mile of the subject property is more than 7 acres, including a contiguous parcel, which is an approved cultivation site for nearly 6 acres of cultivation directly across the Mattole River from the subject parcel. There is also 43,330 square feet of cultivation approved on the parcel directly north of the subject parcel. The subject parcel is currently developed with a single-family residence, point of diversion, shallow well, several hard-sided water storage tanks, 9 greenhouses, two barns and two sheds.

Neighborhood Concerns

There have been several different complaints filed by people who reported that unpermitted activities were being conducted at the site. Four site inspections have been conducted for the subject parcel between 2019 - 2020. These inspections revealed that there were violations including; construction of greenhouses without appropriate clearance or permit, use of a generator, unpermitted use of a shed for cultivation activities, processing cannabis not cultivated on site and improper storage of soil. The applicant was provided with instructions to remedy these violations within a specified time frame. The applicant responded promptly and has resolved any outstanding issues known to the Planning Department at the time of this report.

Appeal

The basis of the appeal is set forth in the appeal letter submitted by Roxanne Kennedy, received by the Planning and Building Department on October 15, 2019, in Attachment 2. In their letter dated April 16, 2020, to the Board of Supervisors, the Hindley Ranch Neighbors discussed similar concerns. The

following discussion addresses the discrete points raised in the appeal and the concerns raised in the April 16, 2020, letter from the Hindley Ranch Neighbors (see Attachment 3).

In order to address the issues raised in the appeal, the applicant has revised the proposed project and prepared additional plans to clarify operational aspects as described by the letter from the applicant dated February 17, 2020 (see Attachment 4a). Revisions to the proposed project include the following:

1. Reduce proposed 6 acres of mixed light cultivation to 4.73 acres consisting of 3.17 acres of Mixed-Light and 1.56 acres of outdoor cultivation
2. Mixed-Light Cultivation lighting plan will use twenty four 200-watt ceramic bulbs per 6,800 SF of greenhouse structure. $4800 \text{ watts per } 6800 \text{ SF} = .705 \text{ watts per SF}$
3. Outdoor Cultivation will be cultivated in Agricultural Exempt metal frame greenhouse structures.
4. Quarterly Water Monitoring Reports for water use will be recorded.
5. Proposed 10,000 SF two-story processing building will be reduced to a 5,000 SF two-story building used for drying and curing (Local contracts drafted for off-site processing).
6. Road Association has been developed and will be maintained by local Honeydew contractor Bill Etters (see Attachment b).
7. Non-profit organization has been developed for the Honeydew area for local fire suppression, stream and salmon restoration, and youth development (\$20,000 has been deposited for local grants).
8. Native planting plan is being developed by Local Restoration Expert Hugh Mcgee to reduce the noise and create visual aesthetics for neighboring properties.

Appeal Issue 1: State License

The appellant states they were unable to locate any State licensing. As of June 25, 2020, there are three State licenses are issued for the subject parcel by the California Department of Food and Agriculture (CDFA):

1. CCL18-0003046 for Medium Mixed Light, Tier 2; Expires 11/21/2020
2. CCL19-0005637 for Medium Mixed Light, Tier 1; Expires 4/23/2021
3. CCL19-0005638 for Medium Mixed Light, Tier 1; Expires 4/22/2021

The State licenses that are issued are consistent with the Interim Permit and Zoning Clearance Certificates approved for the subject parcel. There is no issue here.

Appeal Issue 2: Access Road

Access to the subject parcel is off Old Hindley Ranch Road approximately 0.6 miles from a County-maintained public road (Mattole Road). The neighbors contend that Old Hindley Ranch road is currently not suited for commercial cannabis cultivation and processing activities, including employee trips to and from the property. The road has potholes and is rutted from runoff over the winter.

Old Hindley Ranch Road serves 11 parcels, including 2 other approved cannabis cultivation sites. The applicant prepared a road evaluation that identified that Old Hindley Ranch Road provides access to the site from Mattole Road. It is approximately .61 miles from Mattole Road to the driveway to the subject site. According to the Road Evaluation the road is improved to a Category 4 road.

The staff recommendation to the Planning Commission included conditions of approval requiring the applicant to participate in a road maintenance association and/or pay fair-share costs associated with road maintenance, submittal of a traffic management plan prior to commencing processing on-site. The traffic management plan condition required installation of traffic calming measures including posting speed limit signs, road improvements and carpooling options. A similar condition was applied to the Honeydew Creek Farms, LLC, project, located on APN 107-272-007.

In response to the conditions, the applicant submitted a Traffic Management Plan as required by the conditions of approval (see Attachment 4c). The single family residence on site can house some full-time employees. Seasonal or temporary workers are encouraged to carpool; temporary employees will be offered the ability to meet at South Fork Honeydew Park and Ride and be transported to the site. A road association has been formed to ensure road maintenance is scheduled and funded on a regular basis.

The project would in a cumulative addition of 62 trips on Old Hindley Ranch Road from 5 approved cannabis cultivation sites if all are approved. As the road has been self-certified as a Category 4 road without need for any improvements and it is expected that this road will accommodate this amount of traffic volume. The formation of the Road Maintenance association will address the maintenance needs of the Road. While the additional traffic may be undesired by the neighborhood, the road particularly with a road maintenance association is capable of supporting the traffic. There is no factual evidence to support denial of the permit based on the road.

Appeal Issue 3: Deficiencies in the Mitigated Negative Declaration

The appellant states the Mitigated Negative Declaration (MND), as adopted, failed to adequately analyze potentially significant effects. The appellant describes environmental factors addressed in the MND and stated the reasons why the environmental review is inadequate. The following list describes specific deficiencies brought forward by the appellant and the Planning Department's response to each claim.

3(a) Aesthetics

The appellant states that the MND describes the processing facility location as away from the frontage road is false and misleading and the MND fails to address the dozens of proposed greenhouses that will sit adjacent to the Mattole River and the effects of the projects on aesthetics for the area as a whole. The appellant states the proposed project will change the aesthetics from a beautiful river canyon to that of industrial agriculture.

Response: The thresholds of significance in the CEQA Guidelines for the aesthetic impacts of a project have to do with adversely impacting a scenic vista, substantially damaging scenic resources (trees, rock outcroppings, and historic buildings within a state scenic highway), substantially degrading the existing visual character or quality of public views of the site experienced from publicly accessible vantage points, and creating new sources of substantial light or glare. The MND evaluated each of these from a very conservative standpoint. There are no scenic vistas, scenic resources or public views which will be damaged by this project. Greenhouses and processing buildings on agricultural land outside of scenic viewsheds should not be considered as significant impacts. Visibility of these facilities from private roads and driveways also are not impacts to the general public. The MND did treat the processing building as a potential impact and identified that there is screening proposed. It

3(b) Air Quality

The appellant states the MND air quality analysis is inadequate because it does not find odor impacts significant. The appellant finds the MND contains no scientific analysis of the project's potential odor impacts nor does the MND impose any mitigation designed to reduce odors, odor impacts on fourteen persons out of a total population of less than 100 is a significant impact, and the MND fails to account for emissions impacts, including emissions of diesel particulate matter, PM2.5 and PM10, dust, and GHG emissions, related to the applicant's proposed use of generators to run its mixed light facilities from daily traffic to and from the subject parcel and from the on-site grading and construction activities.

Response: Analysis in Air Quality Section d of the IS/MND evaluates emissions (such as those leading to odors) adversely affecting a substantial number of people. Air Quality impacts are analyzed for both short term (construction) and long term (operational) effects. The applicant is proposing several operating restrictions to minimize odor impacts, such as dust mitigation, speed limit signage, air filtration and ventilation systems, and standards for pesticide application. Peak odor levels will occur in July and October. A mechanical exhaust filtration system is required for both the greenhouses and processing facility are required, which includes, but is not limited to intake and outtake fans and carbon filters. The applicant submitted an *Odor Control Plan* that describes how odor will be controlled (see Attachment 4b). The *Odor Control Plan* states the natural growth of cannabis plants and other processes emit terpenes, which are volatile organic compounds (VOC's) known for their strong odors. The *Odor Control Plan* also states that harvests will be staggered to lower the odor from cannabis harvested at one point in time. Odor controls in the greenhouses will include intake and outtake fans and carbon filters. Staff training and recordkeeping will ensure employees are educated regarding the odor concerns and know when and to replace equipment and/or monitor equipment to ensure fans and filtration systems are functioning properly. These operating restrictions are included as Mitigation Measure AQ-1 and the applicant is required to adhere to this mitigation measure for the life of the project. There are 2 other approved cannabis cultivation operations within 0.50 miles of the subject parcel that incorporate similar odor control measures as these mechanical design features are standards for the industry.

The project description includes a description of anticipated traffic volumes, both short- and

long-term (see IS/MND, Page 3). Construction is anticipated to last approximately 14 weeks and would include 4 trips per day for construction contractors and 1 trip per day for flatbed/delivery-style trucks. Larger equipment, such as an excavator, would be mobilized at the beginning and end of construction and would remain on-site until no longer needed. During peak operations, 17 trips per day are anticipated for both permanent and seasonal employees; 8 trips per day for permanent staff are anticipated outside of peak operations. According to the North Coast Unified Air Quality Management District (NCUAQMD), in general, construction activities that last for less than one year, and use standard quantities and types of construction equipment, are not required to be quantified and are assumed to have a less than significant impact.

Starting on Page 39 of the IS/MND, Greenhouse Gas Emissions are analyzed pursuant to CEQA. Most environmental analyses examine the “project specific” impacts that a particular project will generate. With regard to climate change, however, it is generally accepted that while the magnitude of climate change effects is substantial, the contribution of an individual project is so small that direct project specific impacts are highly unlikely. Equipment used during the construction phase will most likely have the most impact. This equipment is required to meet the emission standards as determined by the California Air Resources Board (CARB). Maximum trips to the site, for both short and long term, would be a very small percentage (1.5%) than if the site were developed with residential units. Therefore, the County determined that the proposed project will have less than a significant impact on Greenhouse Gas Emissions.

Power is provided by P. G. & E. and the proposed project includes use a generator that is limited to a back-up power source when P. G. & E. is not available (e.g. due to weather conditions). Therefore, there will be a less than significant impact on air quality due to the use of the generator. The applicant has also included installation of solar power as part of the project which will greatly reduce the need for generator accessory power.

3(c) Noise

The appellant states the analysis of noise is inadequate and the project will result in a substantial increase to ambient noise.

Response: The IS/MND disclosed there would be both temporary and long-term noise impacts. Page 55 states, “...Noise sources that would be generated by this project would include temporary construction, employee vehicle traffic, delivery truck traffic, equipment use, and the back-up generators during power outages...”

The proposed project is an agricultural activity on an agriculturally-zoned property. The noise increase associated with construction would be of short duration and would occur during daytime hours. It is anticipated that construction would take approximately 3-4 months. Activities involved in construction would generate maximum noise levels, ranging from approximately 85 to 87 dB at a distance of 50 feet. Short term noise impacts from construction are mitigated by limiting the hours of operation and ensure equipment used for construction is in good working work and have factory-approved mufflers to reduce noise.

Operation of the cannabis facility is not expected to generate noise levels that are incompatible with the surrounding area. Power is provided by P. G. & E. with a generator providing back-up power when P. G. & E. is not available (e.g. due to weather conditions). The generator would be housed within one of the existing sheds to attenuate noise. The greenhouses are and will be equipped with fans that will be a new noise source associated with the cultivation activity.

The area is designated for agricultural uses. The Humboldt County General Plan Noise Element does not set compatibility thresholds for agricultural uses. The CMMLUO provides specific guidance in Section 314-55.4.11(o) states: *“The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, measured at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species...”*

The combined decibel level for all noise sources, including generators, measured at the property line shall be no more than 60 decibels. This would render the cannabis cultivation activities to be consistent with adjacent residences because 60 db is deemed compatible with residential uses. This is confirmed by a site visit conducted by the Planning Department on November 27, 2019 where the noise readings were less than 50 dB measured at 100 feet from noise sources. The applicant prepared a Noise Mitigation Plan that describes in greater detail noise associated with the operation and how noise impacts will be minimized (see Attachment 4d). The Noise Mitigation Plan states that the noise from the proposed project is increased 3-5 decibels over the ambient noise conditions. The Noise Mitigation Plan includes a 24-hour Noise Monitoring Report that found the average noise levels during operating hours did not exceed 44.8 dB. The finding that the noise impacts are less than significant is appropriate.

3(d) Population and Housing

The appellant states the MND fails to address whether employees will be housed on or off site.

Response: The applicant indicates that the single family residence on the subject parcel that will be used to house full time employees. Some employees will live on site and some will live off site. The number of employees generated will not create a substantial demand for housing and not housing will be displaced as a result of the project.

3(e) Traffic and Transportation

The appellant states the MND fails to properly analyze project-related traffic and transportation impacts, specifically related to employee trips per day and number of trips per day for cannabis-related imports and exports.

Response: The basic issue here is that the number of trips per day is less than the number of employees working at the site and that there will also be deliveries, and trips to pick up product. This is correct and the difference in the number of the trips is attributed to the fact that some of the permanent employees will be living on site, so there will not be any trips generated by these

employees, and that there are provisions for the seasonal workers to ride share. This is part of the transportation plan prepared by the applicant.

The project description includes a description of anticipated traffic volumes, both short- and long-term (see IS/MND, Page 3). Construction is anticipated to last approximately 14 weeks and would include 4 trips per day for construction contractors and 1 trip per day for flatbed/delivery-style trucks. Larger equipment, such as an excavator, would be mobilized at the beginning and end of construction and would remain on-site until no longer needed. During peak operations, 17 trips per day are anticipated for both permanent and seasonal employees; 8 trips per day for permanent staff are anticipated outside of peak operations. For the 12 permanent employees to generate 8 trips would mean that 8 of the 12 will commute and four of the employees will live on site in the existing home. It is probably that more than 4 will live in the house and thus the additional trips will be related to product distribution and delivery. This is a reasonable expectation. There are projected to be 18 seasonal workers who will generate 9 trips. This number corresponds to the plan for seasonal employees to ride share or carpool to the site from the Park and Ride. Two people per vehicle would be a desirable result.

It bears pointing out that the roads in this area are not suffering from a lack of capacity. The MND does disclose that there will be additional trips, and the measures being taken by the applicant are not to mitigate potentially significant impacts but are to address concerns of the neighborhood.

3(f) Hydrology and Water Quality

The appellant states the MND fails to analyze water use and quantify how the proposed 3,000,000-gallon rainwater catchment pond will provide sufficient water storage for irrigation. The appellant also states that the MND fails to adequately analyze the use of the well as a domestic water source and describe how the project will not impact off-site water quality through stormwater discharges and irrigation runoff.

Response: The IS/MND evaluated water use for the project as a whole, including the existing cultivation, wholesale nursery and the RRR sites. The IS/MND project description includes a description of water use at the site and the maximum amount of water that can be diverted from the well for domestic and irrigation use as set forth in the Streambed Alteration Agreement including but not limited to minimization of water diversion from May 15 to October 30, less than 3 gallons per minute diversion rates, permitting 80% bypass flows at all times (see Attachment 5, which includes a copy of the Streambed Alteration Agreement Notification No. 1600-2017-0436-R1 dated May 18, 2018). Use of the point of diversion and well for irrigation is only supported until the rain catchment pond is developed, at which time, reliance on diversionary water sources will cease.

The 3,000,000-gallon rain catchment pond will support the entire project. The Applicant provided a *Water Use Management Plan* for the Honeydew Ranch, LLC (see Attachment 41). Total water usage for the proposed project, including the existing cultivation area, wholesale nursery and RRR sites is projected at 1,986,135 gallons, which is less than the maximum

capacity of the rain catchment pond. In an average rain year, the setting for the Hydrology/Water Quality section states 79 inches of rain falls in the Honeydew Area. The surface area of the pond is 72,000 square feet, which would yield 3,500,000-gallons of rain capture in the pond. Because there is minimal change in topography, there would be minimal overland flow that enters the pond. Based on the average annual rainfall and surface water available for capturing rain in the pond, on an average rain year, more than 3,000,000 gallons of water will pass through the pond, providing enough water to meet operational needs.

It is important to point out the Planning Commission did not believe there was sufficient water in the 3,000,000 gallon pond to support 7.55 acres of mixed light cultivation and reduced the total amount of cultivation that could be accommodated on site to 6 acres. In response to the appeal, the applicant has further reduced the amount of cultivation on site to 4.73 acres consisting of 3.17 acres of Mixed-Light and 1.56 acres of outdoor cultivation. This equates to approximately 14.5 gallons of irrigation water for each square foot of cultivation space. This is consistent with irrigation demands for other cultivation sites that have a mix of outdoor and mixed light cultivation. It is expected there will be sufficient water for cultivation

As shown on the *Grading Plan* prepared by Stillwater Sciences, dated February 2, 2018, construction of the rain catchment pond will include a French drain and an outflow to the pond that discharges water into a proposed bioswale when the pond is at full capacity (see Attachment 6). Annual water use for domestic purposes is 112,000 gallons and will be diverted during the rainy season into storage tanks to ensure forbearance requirements are met. The diversion and use of water for domestic purposes is authorized by the SWRCB and CDFW. The rain catchment pond is not within the jurisdiction of the SWRCB or CDFW, therefore, no additional permits are required from those agencies.

The applicant is enrolled in the State Cannabis Cultivation Regulatory Program, which requires preparation of a Site Management Plan (SMP). For operators that were previously enrolled under the Regional Water Quality Control Board's Order No. R1-2015-0023, as is the case with Honeydew Ranch, the SMP can supplement the Water Resources Protection Plan (WRPP). The SMP, as an addendum to the WRPP, includes additional site and operational designs required to meet the State Policy requirements regarding water quality and irrigation run-off (see Attachment 3i; WRPP is included in Attachment 6). At time of preparation, the WRPP indicated that there were 8 corrective items to bring the site into compliance that would be completed by 2018. According to the SMP, NCRWQCB staff conducted site inspection on December 5, 2019. The NCRWQCB staff provided two items for corrective actions, which included reconfiguring gutters to minimize run-off into nearby watercourses and establishing a permanent solution for managing the spent soil stockpile. Both issues were resolved to the satisfaction of NCRWQCB staff. Based upon the submitted WRPP and the requirements of the SWRCB water quality will not be adversely affected.

3(g) Wildfire

The appellant states the MND fails to analyze potentially significant impacts related to wildfire due to size and scope of the project. The appellant expresses concern over the lack of

mitigation.

Response: The IS/MND evaluates the project's potential impact on increasing potential and/or severity of a wildfire. The proposed project includes development of greenhouses, a processing facility and an off-stream pond. Structures are required to meet California Building Code Requirements for fire safety. Installation of the 3,000,000-gallon rain catchment pond increases the amount of water storage available for fire protection. The IS/MND found that the project would have less than a significant impact on wildfire. In response to the Appellant's concern, the applicant submitted a Fire Mitigation Plan (see Attachment 4m). The objectives of the Fire Mitigation Plan is to eliminate the causes of fire and prevent loss of life and property by fire. The Fire Mitigation Plan includes elements related to fire suppression, including equipment, preventative measures, training and building design. Additionally, a non-profit organization has been developed for the Honeydew area for local fire suppression, stream and salmon restoration, and youth development (To date, approximately \$20,000 has been deposited for local grants according to the Applicant).

3(h) Public Safety

The appellant expresses concern with the proposed project's potential to draw the attention of criminals that may affect neighboring property owners. The appellant express concern there is a lack of a detailed security plan the proposed project.

Response: The CMMLUO Section 314-55.4.10 *Application Requirements for All CMMLUO Clearances or Permits*. does not specify security requirements, however, does require that information regarding site security be included as a part of the operations plan. The *Cultivation and Operations Plan Section 2.7.1 Facility Security* includes details regarding the security plan for the proposed project (see Attachment 6). The security plan includes locked entry gates, restricted access signage and security lighting. Security cameras and an alarm system will also be installed. Security measures described in the operations plan are consistent with most security plans proposed at cultivation sites. The applicant is required to adhere to the *Cultivation and Operations Plan* for the life of the project.

CONCLUSION

The project site is planned and zoned appropriately for the proposed activity. The unique aspect of this application is that so many RRRs are being transferred onto the site. The CMMLUO does not set an explicit cap on the number of RRR's that can be moved onto a site other than the limitation of not occupying more than 20% of the prime agricultural soils. This creates a scenario where applicants have expressed the desire to pursue locating a large number of RRRs on a site. This is the first application to propose such a concept and reach the hearing stage. This approach allows much more cultivation on a property than could otherwise be permitted in agricultural settings. This is more typical of what is seen on industrially zoned properties. Typically, an acre is the maximum cultivation area that could be approved on agricultural land under normal permitting.

The primary objection to this application seems to be related to the concentration of the cannabis

cultivation on the site. There is some merit to the concern. Transferring 9 cultivation sites that are all less than 10,000 square feet out of environmentally sensitive areas is a good concept. The result in this case is 9 new cultivation sites that are largely mixed light grouped together on a single parcel and all 20,000 square feet in size, more than doubling if not quadrupling the cultivation area resulting in a much different type of cultivation than has typically been practiced in Humboldt County.

The vision of the CMMLUO was to allow a cultivator to relocate to a more appropriate location and provide incentive to clean up the old site. Instead the RRR sites have become commodities and are being assembled in a manner reflected by this application. This is the first but will not be the last such project in the application process.

One of the questions for the Board that lies behind this appeal is whether this approach of assembling RRRs is appropriate. This applicant has been among the most responsive applicants in Humboldt County in addressing the issues and concerns raised by pursuing a scheme that was not contemplated in the ordinance. The list of materials submitted in response to concerns that have been raised reflect this as is the preparation of the Initial Study/Mitigated Negative Declaration.

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.

OTHER AGENCY INVOLVEMENT:

Department of Health and Human Services, Division of Environmental Health; Department of Public Works, Land Use Division.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

There are a couple of alternatives for the Board of Supervisors to consider:

1. Uphold the appeal and deny the project. This is not recommended as there is pre-existing cultivation on this site, and two ZCCs have already been approved.
2. Deny the Appeal and Approved a Reduced Density Project. This alternative would take into account the existing cultivation and approve that on a continued basis and allow approval of the two ZCC's that have already been approved. This alternative could also approve the nursery. This alternative would allow an amount of cultivation in line with what could be approved on other parcels either through existing cultivation, or under the CCLUO.

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 Roxanne Kennedy received October 15, 2019
3. Letter from Hindley Ranch Neighbors dated April 16, 2020
4. Additional Materials Submitted by the Applicant
 - a. Letter from Applicant dated February 17, 2020, regarding concerns expressed by community members.
 - b. HDR Letters of Support
 - c. Traffic Management Plan
 - d. Noise Mitigation Plan
 - e. Honeydew Ranch, LLC, Electrical and Solar Plan prepared by JFL Design, LLC, dated March 1, 2020.
 - f. Soils Management Plan
 - g. Light Management Plan
 - h. Pest Management Plan
 - i. Honeydew Ranch Odor Control Plan
 - j. Power Point Remediation and Restoration Plan
 - k. Modified Project Description
 - l. Security Plan
 - m. Site Map
 - n. Hazardous Materials Plan
 - o. Site Management Plan for the Honeydew Ranch, APN: 107-272-005, prepared by Stillwater Sciences, dated December 2019.
 - p. Water Management Plan for the Honeydew Ranch, LLC
 - q. Fire Suppression Plan
5. Resolution of the Planning Commission, Resolution No. 19-120
6. Planning Commission Staff Report
7. Road Evaluation Report
8. Public Comments Received
9. Mitigated Negative Declaration

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A