



COUNTY OF HUMBOLDT

For the meeting of: 9/7/2023

File #: 23-1219

To: Zoning Administrator
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

Magick Mountain Organics Salmon Creek, LLC Special Permits

Assessor Parcel Number (APN) 221-061-034

Record No.: PLN-12313-SP

Salmon Creek area

A Special Permit for 8,102 square feet of existing outdoor light-deprivation cannabis cultivation occurring in three greenhouses. There will be up to two flowering cycles per year. Water for irrigation is sourced from a 500,000-gallon rain catchment pond and a 25,000-gallon rain catchment tank. There is an additional 15,800 gallons of hard storage that is filled from the pond and catchment tank during the winter months. Annual water use for irrigation is 92,000 gallons. Clone stock will be purchased from a licensed nursery. There will be one full time seasonal employee on site during cultivation cycles in addition to the applicant. Processing currently occurs on-site by the applicant utilizing a trim machine in an 8'x20' conex container. The applicant is proposing to move processing off site to a licensed processing facility. Cannabis is dried and stored in an 8'x20' conex container. Power is provided by a 45kW Whisper Watt generator and two solar panels, which provide 30-kW of power. The applicant proposes to install additional solar panels with the use of a backup generator in emergency situations. The application also includes a Special Permit as is required for development in the Streamside Management Area (SMA) to remediate or decommission encroachments on Class II and III streams.

RECOMMENDATION(S):

That the Zoning Administrator:

1. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the Zoning Administrator has considered the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Magick Mountain Organics Salmon Creek, LLC project; and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and

- c. Approves the Magick Mountain Organics Salmon Creek, LLC Special Permits subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location: The project is located in the Salmon Creek area, on the west side of HWY101, approximately 1.88 miles west-southwest from the intersection of Lower Samuels Ranch Loop Rd and Upper Samuels Ranch Loop Rd, on the property known to be in Township 03S of Range 02E Section 9 Humboldt Base & Meridian.

Present General Plan Land Use Designation: Residential Agriculture 40-acre minimum parcel size (RA40), 2017 General Plan, Density: 40 acres per unit, Slope Stability: High Instability (3).

Present Zoning: Unclassified (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 Coastal Commission.

Major concerns: None

Executive Summary: A Special Permit for 8,102 square feet of existing outdoor light-deprivation cannabis cultivation occurring in three greenhouses. There will be up to two flowering cycles per year. Water for irrigation is sourced from a 500,000-gallon rain catchment pond and a 25,000-gallon rain catchment tank. There is an additional 15,800 gallons of hard storage that is filled from the pond and catchment tank during the winter months. Annual water use for irrigation is 92,000 gallons. Clone stock will be purchased from a licensed nursery. There will be one full time seasonal employee on site during cultivation cycles in addition to the applicant. Processing currently occurs on-site by the applicant utilizing a trim machine in an 8'x20' conex container. The applicant is proposing to move processing off site to a licensed processing facility within two years of permit approval. Cannabis is dried and stored in an 8'x20' conex container. Power is provided by a 45kW Whisper Watt generator and two solar panels, which provide 30-kW of power. The applicant proposes to install additional solar panels with the use of a backup generator in emergency situations. The application also includes a Special Permit as is required for development in the Streamside Management Area (SMA) to remediate or decommission encroachments on Class II and III streams. Work for these encroachments will include excavation, removal of the failing culverts, shaping of the impacted channels, and rock armoring as necessary to minimize erosion.

Structures associated with the property include three cannabis cultivation greenhouses, a 160 square-foot fuel storage shed, a 96 square-foot agricultural storage shed, two solar panels, two 160 square-foot storage containers used for drying, harvest storage, and processing, and a 2,500 square-foot cabin used for domestic habitation. The applicant is conditioned to obtain building permits for existing structures

and associated grading with a nexus to cannabis.

Fertilizers and pesticides are stored in an agricultural storage structure that meets all requirements for secondary containment. All fuel and hazardous materials are stored in secure areas with secondary containment in accordance with applicable regulations. Solid waste and recycling are taken to the Recology Redway Transfer Station. The applicant will utilize an existing onsite wastewater treatment system connected to the cabin. Portable toilets and hand washing stations are available for use of employees on-site.

The Department of Environmental Health (DEH) has requested that processing activities be supported by an approved onsite wastewater treatment system and that seasonal/outdoor cultivation sites be supported by portable toilets. As trimming of cannabis will be moved off site within two years of permit approval, the project is conditioned that the applicant provide portable toilets to cultivation areas for his seasonal employee.

Water Resources:

Water is sourced from a 500,000-gallon rain catchment pond and a 25,000-gallon rain catchment tank. The catchment area square footage of the pond is approximately 8,800 square feet and the catchment area square footage of the tank is approximately 487 square feet. The project area received approximately 49.68 inches of rainfall in 2022 (a substantial drought year) as recorded by the PRISM Climate Group. The rain catchment potential of the pond and the tank combined is approximately 287,439 gallons in a substantial drought year. Total estimated annual water usage is 92,000 gallons.

A Site Management Plan (SMP) was prepared for the site by Elevated Solutions, LLC (WDID 1_12CC411865) in April of 2022 (Attachment 4A), which details existing site conditions and remediation efforts needed to comply with the best practical treatment or control (BPTC) measures listed in Attachment A of the Cannabis General Order. According to the SMP there are no cannabis facilities within any Streamside Management Areas (SMAs). The project is conditioned to implement all remaining corrective actions detailed in the SMP to minimize any potential impacts associated with the project and minimize runoff into SMAs.

The applicant has submitted a copy of a Lake or Streambed Alteration Agreement (LSAA) (No. 1600-2017-0704-R1) (Attachment 4B) that describes four encroachments. The four proposed encroachments are to remediate or decommission encroachments on Class II and III streams. Work for these encroachments will include excavation, removal of the failing culverts, shaping of the impacted channels, and rock armoring as necessary to minimize erosion. The work within the SMAs may be conducted in accordance with the LSAA and pursuant to Section 314-61.1.7.6.3 H.C.C. with the Special Permit that is being requested. The project was referred to CDFW on May 18, 2022, and CDFW recommended conditional approval. These conditions are included in Attachment 1A and can be referenced in Attachment 5.

Fire Hazards:

The project is in an area designated to have High Fire Hazard Severity. The project is located within the State Responsibility Area for fire protection and the Salmon Creek Volunteer Fire Company (SCVFC) response area. SCVFC responds to structural fires and medical emergencies. There is a 50,000-gallon fire suppression pond and associated SRA turnaround on the parcel. The project was referred to CALFIRE and CALFIRE responded stating “ if this project reduces the timberland base in California, then the State Board of Forestry and Fire Protection and CALFIRE do not support this proposal”. A review of historic imagery indicates that no timber removal has occurred on the parcel, and no removal of timber is proposed as part of the project.

Biological Resources:

According to the California Natural Diversity Database (CNDDDB), there is no mapped potential habitat for any special status species nearby or on the parcel. The project is located approximately 1.17 miles to the nearest Northern Spotted Owl (NSO) activity center. The project is for existing outdoor light-deprivation cannabis cultivation without the use of grow lights, water will be sourced by rain catchment, and a generator would only be used for emergency purposes as the applicant installs additional solar panels. The project is conditioned that the combination of background, generator and greenhouse fan or other operational equipment created noise does not exceed 50 decibels at 100 feet from the generator or at the nearest tree line, whichever is closer. The project was referred to CDFW on May 18, 2022, and CDFW had no comments on the project.

The applicant does have a solar system, and a condition of approval requires the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026 with a generator to be used for emergencies only.

Security and Safety:

The cultivation facilities, including greenhouses are enclosed in a secured privacy fence. An entry gate is located off of Upper Thomas Road, and the perimeter of the facility facing the residence. The entry gates remain locked at all times and access to the cultivation area is limited exclusively to employees. Restricted access signs are posted conspicuously at the entry gates. The cultivation and drying/curing areas will have low intensity exterior lighting to illuminate the entrances and will include a small number of solar, motion activated security lights. All lighting will be designed and located so that direct rays are confined to the property. Security cameras will be installed and located at the main access gates and at entrances to the facilities.

Tribal Cultural Resource Coordination:

The project is located within the Bear River Band of the Rohnerville Rancheria and the Sinkyone aboriginal ancestral territories. The project was referred to the Northwest Information Center (NWIC), the Bear River Band, and the Intertribal Sinkyone Wilderness Council. NWIC replied recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Bear River Band THPO replied on February 3, 2023, stating that they recommend

inadvertent archaeological discovery protocols for the project. This has been added as a condition of approval.

Access:

Access to the site is via Salmon Creek Road which is a county-maintained road (Segment 1), Thomas Road which is also a county-maintained road (Segment 2), Thomas Road privately maintained road (Segment 3), and Upper Samuels Ranch Loop Road privately maintained road (Segment 4). The applicant has submitted a Road Evaluation Report for the four road segments prepared by Omsberg & Preston May 26, 2023 (Attachment 4C). The report found that road segments 1 & 2 were to have been improved to Road Category 4 standards. These County-maintained roads have been the subject of numerous road evaluations under other permit applications, and the called-for improvements have been completed, or are in progress of being completed. The report did however include recommendations for improvements in order to maintain those portions of the roadway that currently meet Humboldt County Road Category 4 standards, and to bring those segments with deficiencies up to said Category 4 standards or “equivalent”. In addition, turnouts along the entire length shall be maintained for safety, visibility requirements and emergency access. These recommendations are listed below and included as ongoing conditions of project approval.

Segment 1: With brush clearing and routine maintenance continuing as is currently occurring, no additional improvements are deemed necessary within this County-maintained portion of Salmon Creek Road

Segment 2: No significant improvements to this County-maintained portion of Thomas Road were found to be necessary at this time. Maintenance of the road's drainage features, potential limited widening, in addition to brush clearing, shall continue along this segment of road.

Segment 3: The unpaved private portion of Thomas Road shall be seasonally resurfaced with rock along its entire length, and limited widening undertaken as necessary. The installation of a 10-mph speed limit sign could be posted in an effort to limit impacts to air quality and/or sediment transport. No significant improvements are deemed necessary along road Segment 3 provided these recommendations are carried out.

Segment 4: The private unpaved portion of Upper Samuels Ranch Loop Road shall be seasonally resurfaced with rock along its entire length, and limited widening undertaken as necessary. As with road Segment 3, the installation of a 10-mph speed limit sign could be posted in an effort to limit impacts to air quality and/or sediment transport. No significant improvements are deemed necessary along road Segment 4 provided these recommendations are carried out.

As the project will be run solely by the applicant and an employee, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access road (with the implementation of the recommended improvements and maintenance) meets the functional capacity for the project's needs.

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

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation 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 cultivation

permits and 251 acres of cultivation. With the approval of this project the total approved cultivation permits in this Planning Watershed would be 216 permits and the total approved acres would be 83.77 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and responding agencies have responded recommending conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be made before opening the public hearing on this project.
2. The Zoning Administrator could elect to add or delete conditions of approval.
3. The Zoning Administrator could deny approval of the requested permits if unable to make all of the required findings.

ATTACHMENTS:

1. Draft Resolution
 - A. Conditions of Approval
 - B. Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Site Management Plan
 - B. Lake or Streambed Alteration Agreement
 - C. Road Evaluation Report
5. Referral Agency Comments and Recommendations

Applicant

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Owner

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Agent

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File #: 23-1219

Please contact Rodney Yandell, Senior Planner, at 707-445-7541 or by email at ryandell@co.humboldt.ca.us, if you have any questions about the scheduled item.