



COUNTY OF HUMBOLDT

For the meeting of: 1/5/2023

File #: 22-1792

To: Planning Commission
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

High Grade 007, LLC Conditional Use and Special Permit

Record Number PLN-12569-CUP

Assessor's Parcel Number (APN) 208-341-021

Dinsmore area

A Conditional Use Permit for 10,000 square feet (SF) of existing outdoor light-deprivation cultivation operation in six greenhouses on two flats, along with 971 SF of ancillary nursery propagation. A Special Permit is required for a setback reduction from public lands managed by Six Rivers National Forest located 500 feet to the southwest of the cultivation area. Irrigation water will be sourced from an onsite well. According to a well hydrologic connectivity report prepared by a professional engineering geologist, the well on the subject parcel has a minimal likelihood of being hydrologically connected in any manner that might significantly affect adjacent wetlands or surface waters in the vicinity. Estimated maximum annual water usage for the single 7-month harvest is approximately 80,000 gallons (8 gallons/SF/year), with peak monthly demands reaching 15,000 gallons/month June through August. Existing tank storage for irrigation total 16,000 gallons. Drying and seasonal cloning would continue in an existing 288 SF drying shed. Power is provided by one Honda 7000 generator housed in a noise limiting shed. The applicant would use generators for 100% of its energy needs until Pacific Gas and Electric connects to Cobb Road or a solar power system capable of supplying 80% of annual energy demands can be established. The project would utilize up to four seasonal employees during peak season to perform cultivation activities.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:

- a. Finds that the Planning Commission has considered the Addendum to the Mitigated Negative Declaration for the Commercial Cannabis Land Use Ordinance that was prepared for the High Grade 007, LLC Conditional Use Permit); and
- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the High Grade 007, LLC Conditional Use Permit and Special Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location:

The project is located in Humboldt County, in the Dinsmore area, on the west side of Cobb Road, approximately 0.3 miles northwest from the intersection of State Highway 36 and Cobb Road, on the property known as 16533 Cobb Road.

Access:

The project is located in Humboldt County, in the Dinsmore area, on the west side of Cobb Road, approximately 0.3 miles northwest from the intersection of State Highway 36 and Cobb Road, on the property known as 16533 Cobb Road. A photo-documented Road Evaluation Report was prepared for the project by DTN Engineering and Consulting in April 2019 for Cobb Road from Highway 36 to APN 208-341-021 (post mile 0.30). The report checked Box 3 and concluded that the roadway could accommodate the cumulative increased traffic from this project and all known cannabis projects if the recommendations in report are carried out. The recommendations included fixing the exposed culvert, cleaning ditches, re-establishing roadside ditches, and to construct waterbars and rolling dips in accordance with Title III Land Use and Development Division 11 Fire Safe Regulations. With these improvements Cobb Rd would be safe for vehicular travel. Meeting the conditions of County Code is made a condition of approval (COA #13). A letter from Public Works will satisfy this condition.

Comments from the California Department of Transportation (CalTrans) asking for a proof of access easement and to verify that the approach to Rattlesnake Bridge Road meets commercial standards however the proposed project does not utilize Rattlesnake Bridge Road. A recommended condition of approval will require the formation of a Road Maintenance Association and demonstration of appropriate improvements and encroachment permits from CalTrans for the intersection of Cobb Road and Highway 36 (COA #18). The USDA Forest Service recommended denial of the permit because the Forest Service cannot authorized any activities related to cannabis operations on public land.

Present General Plan Land Use Designation:

Residential Agriculture (RA20); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: Low Instability (1)

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 California Coastal Commission

Major concerns:

None

Executive Summary:

High Grade 007 LLC seeks a Conditional Use Permit for an existing 10,000-square-foot (SF) outdoor greenhouse cultivation operation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, CMMLUO. A Special Permit is required for a setback reduction from public lands managed by Six Rivers National Forest located 500 feet to the southwest of the cultivation area. The 8.48-acre-assessed site is designated as Residential Agriculture (RA20) in the Humboldt County 2017 General Plan and zoned Unclassified (U). The parcel is undeveloped and does not include any residences or septic system. Cultivation occurs in four adjacent greenhouses on the upper flat and two additional greenhouses on the lower flat. A 971 SF propagation greenhouse is also on site. The parcel does not include any existing residence or

septic system. Drying and seasonal cloning would continue in an existing 288 SF drying shed. Any proposed buildings and historic grading shall be permitted as a condition of approval (COAs #6 - 8). Security measures include locked containment for product storage, locked gate access, surveillance and monitoring systems, and an alarm system. The project anticipates 2 - 4 employees. The applicant would use generators for 100% of its energy needs until Pacific Gas and Electric connects to Cobb Road or a solar power system capable of supplying 80% of annual energy demands can be established by the 2025 cultivation season (COA #9).

Biological Resources:

A Water Resources Protection Plan (WRPP) was prepared in February 2017 by NRM (Attachment 3) for when the operation would span across three adjacent parcels (APNs 208-341-021, 208-341-023 and 208-071-032). The WRPP was submitted in accordance with the State Water Resources Control Board (SWRCB) Cannabis Cultivation Policy - General Order No. RI-2015-0023, as a Tier 2, low-risk discharger (WDID No. 1B16982CHUM). The subject parcel is on the broadside of the hillslope and has no defined watercourse drainages on it. Any outstanding items recommend by the WRPP are made a condition of approval, as is the preparation and adoption of Site Management Plan in accordance with the revised Cannabis General Order made in 2019 (COA #11).

A Biological Assessment Report has not been prepared for the project. According to the CDFW Resource Map for the project site, there are no special-status species on the project site or adjacent parcels. There are Northern Spotted Owl (NSO) observations within 4,000 feet of the project site to the north. Due to the distance from the parcel, cultivation activities are not expected to affect this activity center. Noise will not likely be a factor since the generator is contained within a shed on APN 208-071-032. The project has been conditioned to abide by the recommendations of the LSAA to have all outside lighting on timers or motion sensors to reduce light exposure to wildlife and their potential habitat and avoid heavy equipment operations during the NSO critical period (February 1-July 31) or perform protocol-level surveys prior to initiating that work. Furthermore, the project is conditioned to adhere to Dark Sky Association standards for any future greenhouse lighting and security lighting, 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 affect NSO or other sensitive species.

Federal Aviation Regulation Area:

Per county correspondence dated May 6, 2019, the project site is within the FAR 77 Federal Aviation Regulation Area for a public airport. The structures proposed to be permitted on the property appear to exceed the allowable height per the FAA regulations in this area. Evidence that the project complies with or will comply with the Federal Aviation Administration FAA Form 7460-1 and county regulations is required. The 7460-1 application was submitted on November 5, 2021, and a determination of no hazard to air navigation was issued on 4/5/2022.

Setback Reduction:

Public lands managed by the USDA Forest Service (Six Rivers National Forest) are located approximately 500-feet to the southwest of the cultivation area. This area does not need to meet the setback requirements applied to Public Parks because there is no development on public lands in the vicinity of the project. Rather, the nearest public lands are across state route 36 on a riverine terrace that is not a “designated and developed” recreational facility. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit.

Water Resources:

Hydrologic Setting: The cultivation area is situated in a topographically flat area with slopes less than five percent. The cultivation areas are approximately 1,460-1,550 feet from the nearest watercourse bank, the Van Duzen River, based on HumWebGIS and the report prepared by David Lindberg, CEG, titled Hydrologic Isolation of Existing Well from Surface Waters (hereafter the “hydrologic evaluation report;” Attachment 3). According to this report and the Watershed Resources Protection Plan, there are no watercourse crossings on the subject parcel. In addition, no springs are mapped in Section 11 on the USGS Dinsmore, CA (1977) topographic quadrangle map (Figure 1 in hydrological evaluation report). The elevation of this well site is approximately 2,620 feet. At its nearest point southwest of this well, the elevation of the Van Duzen River is slightly more than 2,400 feet (based on interpolation from the 1977 USGS Dinsmore topographic quadrangle map and the Humboldt County WebGIS in the hydrological report. Therefore, the elevation of the bottom of 350-foot deep well is 2,270 feet, so the well bottom is approximately 130 feet lower than the Van Duzen River.

From the well, the nearest mapped spring is in Section 1, and was estimated to be more than 4,710 feet to the northeast, on the northeast facing side of Mad River Ridge. This nearest spring is within the Mad River drainage basin at an elevation of approximately 3,430 feet. The second nearest mapped spring is approximately 5,775 feet to the northwest at an elevation of approximately 3,125 feet in Section 2.

Evaluation of the California Department of Water Resources (DWR) database was used to evaluate wells within 1,000 feet of the subject well. In Lindberg’s professional opinion, the aquifer tapped by the subject well is recharged by water infiltrating through the soil from source areas both proximal and distal to the well site. Apart from the subject well, there are six wells recoded in Section 11, one on the subject parcel and five surrounding the parcel. The wells and their corresponding well completion reports are as follows:

- Well WCR1999-008348 (legacy #0705676) is a shallow 98-foot-deep domestic well on the same subject parcel (APN 208-341-021). This well was screened in hard brown sandstone and sandy brown clay with hard brown boulders.
- Well WCR2016-001633 is 550 feet to the southwest on APN 208-071-032 in the alluvial valley bottom fill. This shallow well is 100 feet in depth and screened from 40 to 90 feet in brown and blue river run gravel.
- Well WCR2000-008693 (legacy #705692) is more than 900 feet to the northwest on APN 208-341-011. WCR2000-008693 is a domestic well that is 100 feet deep and is screened from 60 to 100 feet hard blue rock and soft blue gray shale.
- Well WCR2017-000830 is reportedly on the parcel to the east (208-341-015), but the coordinates in the drillers report placed it on parcel 210-092-003, on the west side of the Van Duzen river, so its location is uncertain. This well is 120 feet deep and was completed in blue clay with black sandstone at 60 to 120 feet.
- Well WCR2018-006592 is on parcel 208-341-020, more than 810 feet to the southeast. This well is 200 feet deep and screened in grayish blue shale with quartz from 80 to 200 feet.

Hydrologic Connectivity: In Lindberg’s professional opinion, the subject well does not appear to be hydrologically connected to, or capable of influencing surface water flows in the Van Duzen River. Nor does this well appear to be hydrologically connected to any local springs or ephemeral wetlands. Given the horizontal distances involved, the elevation differences between the water-producing zone in the subject well, and the surface waters of the nearest watercourses, the potential for significant hydrologic connectivity between surface waters and groundwater in the deeper bedrock aquifer appears low.

Well and Water Supply: Irrigation water will be sourced from the onsite well on the subject parcel located at 40.48155° north and -123.57335 west. Lindberg’s report interpreted the underlying sequence of materials described by the driller (gravelly clay and sandstone), as lithologies within the Central Belt of the Franciscan Complex. This sandstone apparently has a favorable hydraulic conductivity, making it, in their interpretation, the primary water bearing unit in this well. The well was recorded at installation in 2017 to produce 12 gallons-per-minute (GPM) and to be capable of exceeding 5 GPM in 2022 based on a well draw-down test prepared by Mitchell Drilling Environmental Corporation when they evaluated the well construction. At 12 gallons per minute, this well could potentially produce 17,280 gallons in a 24-hour period. At 5 GPM, the volume would be 7,200 gallons in a 24-hour period. The project anticipates 80,000 gallons of total water used through the April - October growing season and the well water is and shall remain monitored for state reporting purposes as a condition of approval (COA #12).

Water sourced from the 350-foot well will be stored in 9 water tanks totaling 16,000-gallons. An additional 5,000-gallon tank is reserved for fire suppression. A domestic water supply is derived from a headwater spring for which the applicants filed a waiver with the California Department of Fish and Wildlife (CDFW) in 2018. CDFW responded to the applicant’s notification for a lake or streambed alteration application No. 1600-2018-0153-R1, that the applicant can proceed without a formal agreement.

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 permits and acres which may be approved in each of the County’s Planning Watersheds. The project site is located in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 121 permits and the total approved acres would be 40.44 acres of cultivation.

Tribal Cultural Resource Coordination:

A records search conducted by the Northwest Information Center indicated that approximately 30% of the proposed project area, identified no cultural resources within those portions of the proposed project area. A Cultural Resources Investigation Report was prepared in April 2018 by Archaeological Research and Supply Company. A pedestrian survey of three acres of the 12 acres parcel was conducted in April 2018. Survey techniques included 15-meter transects and shovel probes every 15-meters where necessary due to limited visibility. No pre-existing resources were located on the subject parcel, and none will be impacted by this project if the mitigation recommendations are followed, including the Inadvertent Discoveries Protocol. The Tribal Historic Preservation Officer with the Bear River Band of Rohnerville Rancheria recommended that the standard inadvertent archaeological discovery language be included.

Timber Conversion and Grading Evaluation:

A Report of Unauthorized Timberland Conversion Inspection and Recommendations (Attachment 4) was prepared for the project because a 1.6-acre area was converted from timberland to agricultural land. The conversion area consists of two terraces built into a hillside with a slope between 30 to 40 percent. The terraces generally have a slight outslope with good surface drainage provided. The timber inspection report included several recommendations/corrective actions. With application of the recommendations, it is the Registered Professional Forester’s (RPF’s) opinion that the unauthorized timberland conversion area would be brought into compliance with provisions of the Forest Practices Act. In an email from Caltrans on January 22, 2018, Caltrans “concluded that the mitigation offered is acceptable and appropriate based on the conditions and detailed information provided. CAL FIRE has no additional recommendations or comments.”

An Engineering-Geologic R-2 Soils Exploration Report was prepared for the graded flats by Lindberg Geologic Consulting in February, 2022. The report provided the “opinion that the unpermitted grading on-site was performed generally without being subject to, or negatively affecting any geologic hazards associated with the property and the vicinity.” The recommended control of runoff and treatment of cut and fill slopes to prevent potential erosion is made a condition of approval (COA # 10).

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 not to approve the project.
2. The Planning Commission could require the applicant to submit further evidence or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
2. Location Maps
 - A. Watershed Map
3. CEQA Addendum
4. Applicant’s Evidence in Support of the Required Findings
 - A. Water Resource Protection Plan
 - B. Lake or Streambed Alteration Agreement
 - C. David Lindberg Final Well Report
 - D. Unauthorized Timber Conversion
 - E. Road Evaluation
5. Referral Agency Comments and Recommendations
 - A. Calfire Response
 - B. Building Inspection Division Response
 - C. Caltrans Response
 - D. Public Works, Land Use Division Response
 - E. Six Rivers National Forest Response
 - F. Humboldt County Sheriff Response

Applicant/Owner

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File #: 22-1792

Agent

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Please contact Jordan Mayor, Senior Biologist and Contract Planner, at 707-683-4711 or by email at jordan.mayor@icf.com <<mailto:jordan.mayor@icf.com>>, if you have any questions about the scheduled public hearing item.