



COUNTY OF HUMBOLDT

For the meeting of: 4/4/2024

File #: 24-397

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

SUBJECT:

Mattole Valley Farms Business Support Services LLC, Conditional Use Permit and Special Permits

Assessor Parcel Numbers (APN) 221-011-021
Record No.: PLN-11066-CUP (filed 08/31/2016)
8200 Salmon Creek Road, Miranda area

A Conditional Use Permit for 18,300 square feet existing outdoor commercial cultivation with 1,800 square feet of nursery space. Estimated annual irrigation water usage is 200,000 gallons. Rainwater catchment will provide 11,000 gallons and a point of diversion will provide 190,000 gallons. Water storage is 71,000 gallons of existing tanks, with an additional 130,000 gallons proposed for a total of 201,000 gallons of storage. Power is provided by solar with no generator. Drying and curing will occur onsite and additional processing such as trimming will occur offsite. The project includes a Special Permit for the point of diversion.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution (Resolution 24-__). (Attachment 1) which does the following:

- a. Finds that the Planning Commission has considered the Addendum to the Environmental Impact Report for the Commercial Cannabis Land Use Ordinance that was prepared for the Mattole Valley Farms Business Support Services LLC project; and
- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the Conditional Use and Special Permit subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location: The project is in the Miranda area, on the north side of Salmon Creek Road, approximately 1.7 miles west from the intersection of Rossi Ranch Road and Salmon Creek Road, in Township 03S of Range 02E Section 1 Humboldt Base & Meridian, on the property known as 8200

Salmon Creek Road.

Present General Plan Land Use Designation: Agriculture General (AG); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: High Instability (3)

Present Zoning: Timber Production Zone (TPZ); Agriculture Exclusive (AE)

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per Section 15164 of the State CEQA Guidelines.

State Appeal: Project is NOT appealable to the California Coastal Commission

Major Concerns: None

Executive Summary: Mattole Valley Farms Business Support Services, LLC seeks a Conditional Use Permit for 18,300 square feet (SF) of existing outdoor cultivation and 1,800 SF of ancillary propagation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The proposed project also includes Special Permits for development within the Streamside Management Area (SMA) for the continued use and maintenance of one (1) point of diversion and for removal of portions of existing greenhouses located within the SMA and associated restoration. The site is designated as Agriculture General (AG) in the Humboldt County 2017 General Plan Update and zoned Timberland Production Zone (TPZ) and Agriculture Exclusive (AE); however, the portion of the site where cultivation occurs is within the area zoned AE. Cultivation currently occurs in five raised bed greenhouses. Under the project and as described in the Cultivation and Operations Plan (Attachment 3), portions of the existing greenhouses will be partially demolished to meet required SMA buffers and two additional outdoor cultivation areas will be added to replace them, for a total flowering canopy of 18,300 SF. Ancillary propagation occurs in two 800 SF accessory nursery greenhouses. Two harvests are anticipated annually for a growing season that extends from March through November. The nursery greenhouses will meet all international Dark Sky Standards. The operation will be secured by a locked entry gate and access to the cultivation area is limited exclusively to employees. Any additional lighting for the project will be directed downwards and confined to the property.

Drying and curing occurs onsite within a 2,000 SF storage barn structure. No onsite processing or trimming is proposed for the project and cannabis will be sold for sale to a distributor or transported to a licensed processor. Power will be provided by a proposed solar panel and battery system. A maximum of six employees will be onsite during peak operations.

The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration by a lot line adjustment, as described in the Notice of Lot Line Adjustment and Certificate of Subdivision Compliance (Record No. 1993-34868), recorded December 6, 1993.

Cultivation and Nursery Space: The application is for 18,300 SF of existing outdoor cannabis

cultivation and 1,800 SF of existing ancillary propagation. The onsite nursery is less than 10% of the total current cultivation area, which complies with what planning division staff and the Planning Commission have found allowable in the past (i.e., a nursery space of 10% of the cultivation area). The parcel is over 5 acres in size, the cultivation and propagation areas occur on slopes less than 15%, the portion of the subject parcel where cultivation occurs is zoned AE, and irrigation water will be sourced from a proposed rainwater catchment system and a permitted diversion with a water right (Certificate H100760). Therefore, Planning staff supports the use of an ancillary propagation area on-site. Additionally, the cultivation area is in conformance with the cultivation amount previously verified by the County.

Water Resources: Estimated annual water usage is 200,000 gallons (11.11 gal/SF) with peak demand occurring in August and September at approximately 35,000 gallons, respectively, per the table below.

Table 1: Estimated Annual Water Usage (in gallons)

Estimated Annual Irrigation Water Usage by Month (in gallons)											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
--	---	6,250	12,500	20,000	30,000	35,000	35,000	35,000	20,000	6,250	---
Total Annual Water Usage									200,000 gallons		

71,000 gallons of irrigation water is currently stored in seven 5000-gallon hard plastic tanks and 12 3000-gallon hard plastic tanks. An additional 130,000 gallons of water storage in the form of 5,000-gallon tanks is proposed. A gutter rain catchment system is planned to be developed to capture rainwater off the barn to reduce reliance on the diversion. One 3000-gallon tank will be designated for fire storage and protection.

Water for irrigation is currently provided by a point of diversion from an unnamed Class II tributary of Salmon Creek. The applicant seeks a Special Use Permit for the development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion. A water right has been issued for use of the point of diversion, (**Attachment 3G**). The water right allows up to 0.60 acre-feet, or 195,511 gallons, per year to be collected from November 1 to March 31 of each year. Conditions of approval require the applicant to comply with the terms and conditions of the appropriative water right (**Condition of Approval B.5**).

In addition, per the Site Plan, a gutter rainwater catchment system is proposed and will be utilized to reduce the reliance on the point of diversion water. The roof of the 40'x50' (2,000 SF) barn structure (used for the drying, nursery, and AG storage) will act as the rainwater catchment system. The average rainfall for the project area is 56.95 inches (4.74 feet), based on averaging rainfall values from 2011 through 2020 as recorded by PRISM Climate Group. Impermeable surfaces such as roofs, driveways, etc. in general allow for about 620 gallons of rainwater catchment per 1,000 SF for every 1-inch of rainfall, or 0.62 gallons/SF. With a total impermeable rainwater catchment area of 2,000 SF and an average rainfall amount of 56.95 inches, the potential capture amount totals 70,618 gallons per year on average. The 70,618 gallons captured through the rainwater catchment system will be stored in hard-sided water storage tanks. Once the rainwater catchment system is operational, the reliance of the

water diversion for irrigation will lessen by approximately 35.3 percent, which includes supporting the ancillary nursery space.

A Final Streambed Alteration Agreement (FSAA) with the California Department of Fish and Wildlife (CDFW) was issued (Notification No. EPIMS-HUM-20027-R1C) in August 2021 for six encroachments on the project parcel. One encroachment is for water diversion from an unnamed tributary to Salmon Creek, which is diverted for irrigation use. The project work for the water diversion will include installation, use, and maintenance of the water diversion infrastructure compliant with the terms of the FSAA and SWRCB permitting requirements. One encroachment is for an SMA buffer zone encroachment, which will include reducing the length of two greenhouses and cultivation area and seeding and mulching the exposed native soil. The four other proposed encroachments are to upgrade failing or undersized stream crossings. Work for these encroachments will include excavation, removal of the failing crossings, replacement with new properly sized crossings, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. A condition of approval is recommended to require the applicant to adhere to and implement the FSAA and comply with all applicable terms (**Condition of Approval A.10**). By adhering to the terms and conditions of the appropriative right, which limits the amount of water that can be diverted and the FSAA, and which limits the diversion duration in addition to specifying the use of intake structures that will not impact aquatic species, Planning staff determined that impacts to the watershed are minimized allowing the use of the point diversion pursuant to a Special Permit.

A Water Resource Protection Plan (WRPP), WDID 1B16553CHUM, was prepared for the site by Pacific Watershed Associates in February 2017 (Attachment 3A), which details existing site conditions, how the property is or will meet the elements and compliance with the twelve (12) standard conditions established by the North Coast Regional Water Quality Control Board's (NCRWQCB) Order No. 2015-0023, how the applicant is implementing the Best Management Practices (BMPs) measures listed in the NCRWQCB's Order, and remediation efforts needed to bring the operation into compliance. As detailed on the WRPP map, one Class II watercourse that is an unnamed tributary of Salmon Creek traverses the northwest portion of the subject site. Several corrective actions were identified in the WRPP to bring the site into compliance with the NCRWQCB Order, including but not limited to road drainage improvements; relocation of portions of greenhouses outside of the required SMA buffers and associated restoration; spoils management; water use monitoring and recording; registration of the water diversion with the SWRCB; recording timing and use of fertilizers, soil amendments, pesticides, and herbicides utilized; proper fuel storage; and installation of an onsite wastewater treatment system. The project is conditioned to implement all remaining corrective actions detailed in the WRPP (**Condition of Approval A.11**).

Additional conditions of approval require the applicant to submit copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Site Management Plan (SMP) and Notice of Applicability, and adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order, the Site Management Plan (SMP), and the Notice of Applicability (Condition of Approval C.12), which will minimize any potential impacts associated with the project and minimize runoff into nearby SMAs.

Proposed Removal of Greenhouses within SMA Buffers: As described in the Cultivation and Operations Plan (Attachment 3), the project also includes removal of portions of five existing greenhouses (two 40'x135' and three 20'x120') currently located within the required Streamside Management Area (SMA) buffers. It is noted that a 10-foot portion from the two 40'x135' greenhouses and a 35-foot portion from the three 20'x120' greenhouses will be removed to meet the SMA setback. Conditions of approval require the removal to occur without the use of heavy equipment and to provide evidence to the Planning Department that the removal has occurred (Condition of Approval A.10). Additionally, 3,600 square feet of relocated cannabis described in the Cultivation and Operations Plan and Site Plan shall be placed on a previously disturbed area, and any grading that moves over 50 yards of material will be permitted through the Humboldt County Building Department with a grading permit.

Restoration of the disturbed SMA areas is recommended in the WRPP prepared by Pacific Watershed Associates in February 2017 (Attachment 3), including the following:

“Plant the riparian buffer disturbed by the greenhouse pad/s with native tree seedlings and maintain until they are self-sufficient.” This is a recommended condition of approval.

Biological Resources: A *Biological Resource Assessment*, prepared by Corrina Kamroff on May 20, 2021, assessed the habitats and potentially occurring special-status species, as well as identified potential impacts of previous and proposed cultivation related activities on biological resources on the subject property. The Biological Assessment Area (BAA) included a 1.3-mile buffer area around the property. The Assessment considered off-site impacts to habitats and species that may be in the BAA. An inventory of special-status animal and plant species to consider was obtained from the CDFW's California Natural Diversity database (CNNDDB) Biogeographic Information and Observation System (BIOS) for the project area. As noted in the Assessment, the subject property is located approximately 0.15 miles north of Salmon Creek, and there are multiple Class II and Class III tributaries that flow through the parcel. The site was evaluated for potential habitat value to protected, endangered, threatened, rare, and sensitive species by surveying the project area to observe species, habitat types, and habitat quality. Results of the Assessment found that no rare threatened or endangered animals or plants are present within 1,000 feet of the Cultivation Area as per the 2021 CNDDDB web search. Additionally, per the Assessment, there are no documented Northern Spotted Owl (NSO) activity centers within the 1.3-mile BAA of the cultivation site. However, there is the potential for numerous special status wildlife species to occur within the BAA, including 13 birds, fifteen 15 mammals, six reptiles and mammals, six fish, and two invertebrates. Mitigation measures are recommended to reduce potential impacts to sensitive species and wildlife movement associated with current and planned operations on the property, including seasonally appropriate botanical surveys prior to soil disturbing activities, reducing noise and light pollution, and use of low risk exempt pesticides. The project is conditioned to comply with the recommendations contained in the Biological Resource Assessment.

CDFW provided comments on the project in February 2019, which requested additional information regarding the project's water and power supply, and requested protocol level surveys should any new ground disturbance be proposed, assume NSO presence, and include recommended conditions of approval. Planning staff provided a response to CDFW comments in January 2022 (see Attachment 4).

No significant ground disturbance is proposed under the project. The project proposes outdoor cultivation and is conditioned to ensure any lighting associated with the nursery operation adheres to Dark Sky Association standards (**Condition of Approval C.3**). The project is conditioned to refrain from using synthetic netting, to ensure refuse is contained in wildlife-proof storage, and to refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions of Approval C.5 - C.7**).

The applicant proposes a solar powered operation. No generator will be used. As a result, the project is designed to ensure the combination of background and other operational equipment noise meets the noise level threshold. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service (USFWS).

Prior to placing 3,600 square feet of outdoor cultivation or additional water tanks, the permittee shall have a seasonally appropriate botanical survey conducted in the areas of proposed disturbance. The botanical survey shall be performed by a qualified biologist. If special status plants are discovered in the survey the cultivation area shall be reduced to eliminate impacts on special status plants (**Condition A14**). As proposed and conditioned, the project is consistent with CCLUO performance standards and will not negatively impact NSO or other sensitive species.

Timber Conversion: A Less Than Three Acre Conversion Mitigation Plan was prepared in May 2021 by Hohman and Associates Forestry Consultants for conversion that occurred in the center portion of the parcel to the northern portion of the project site (**Attachment 3C**). The Conversion Exemption noted that the parcel consisted of a matrix of Douglas fir, Oregon white oak, California bay, incense cedar forest and grassland. Tree species present consists primarily of even-age second growth Douglas fir, white oak, bay, and cedar. Per the Report, a total of 1.53 acres of timber conversion has occurred on the project site: 0.18 acre was converted between 1993 and 2005 for the current building site area, 1.05 acres of timberland was converted between 2010 and 2012 for a proposed cultivation site, 0.23 acre was converted from open grassland since 6/12/1993 for the proposed cultivation site, and 0.09 acre was converted between 2010 and 2012 for water tank storage at the project site. Therefore, all timber conversions occurred before January 1, 2016 (i.e., the established CEQA baseline for CMMLUO). 14 recommendations were included in the Report for items identified as conflicting with the Forest Practice Rules or have the potential to cause environmental damage. The project is conditioned to implement all remaining corrective actions identified in the Less Than Three Acre Conversion Mitigation Plan (Condition of Approval A.11). No additional tree removal is proposed or authorized by this permit.

Energy: The project will utilize a photovoltaic panel and battery system to provide power to the project. No generators will be used.

Access: Access to the site is by a private driveway via Salmon Creek Road (partially County-maintained and partially privately maintained). The access road extends through the property and terminates in the northeast portion of the parcel. Road Evaluation Reports were prepared by Steven Luu (SL Consulting Services, Inc.) in July 2021 (Attachment 3) for a 2.35-mile segment of Salmon Creek Road (from the transition from asphalt to gravel) to the property line of APN 221-071-043 (at the end of Salmon Creek Road and start of the private driveway) and for a 1.5-mile segment of the

private road to the subject property. The Reports indicated the road segments are developed to the equivalent of a road Category 4 standard and are adequate for the proposed use.

A secondary Road Evaluation was conducted by Chapman Engineering in February 2022 (Attachment 3) from the junction with State Highway 101, exit 653 to the project parcel that is accessed from Salmon Creek Road. Comments from the observation maintain that 3.9 miles are paved from Highway 101, exit 653. After the 3.9 miles of paved road, Salmon Creek Road turns into a Category 4 Road with gravel surface to a Category 3 road, then into a Category 2 Road. Estimated daily traffic for non-cannabis properties were two vehicles trips per day on the project parcel, while estimated daily traffic for a single cannabis property was eight vehicle trips per day. The total of estimated traffic at peak season is 16 vehicle trips. The Report concludes the existing Category 2 road is adequate for all anticipated traffic at peak operations.

Per referral comments received from the Department of Public Works, Land Use Division in February 2018, it is noted that all driveways and public road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance) and that all existing or proposed non-County maintained access roads that will serve as access for the proposed project be improved to current standards for a commercial driveway, which have been included as conditions of approval (Conditions of Approval A.12-13).

Geologic Suitability: The project is in an area of high instability; however, all project components are in areas that have slope less than 15%.

Security and Safety: The operation will be secured by a locked entry gate and access to the cultivation area is limited exclusively to employees. The project site is not within any mapped fire district or fire response area other than the State Responsibility Area. Project conditions require the applicant to record an Acknowledgement of No Available Emergency Response and Fire Suppression Services form for the parcel (**Condition of Approval A4**).

Tribal Consultation: The Project was referred to the Bear River Band of the Rohnerville Rancheria, the Inter-Tribal Sinkyone Wilderness Council and the Northwest Information Center (NWIC) on August 29, 2017. As requested by the Bear River Band of the Rohnerville Rancheria, a Cultural Resources Investigation was prepared by Archaeological Research and Supply Company in March 2021 (on file and confidential), which noted three prehistoric isolated chert flakes were identified, but concluded that the proposed project will not result in any adverse changes to historical or archaeological resources. The Report, as well as the Bear River Band of the Rohnerville Rancheria in September 2021, recommended Inadvertent Discoveries Protocol, which has been included as an ongoing condition of approval.

Public Trust Resources: The common law Public Trust Doctrine protects sovereign lands, such as tide and submerged lands and the beds of navigable waterways, for the benefit, use and enjoyment of the public. These lands are held in trust by the State of California for the statewide public and for uses that further the purposes of the trust. The hallmark of the Public Trust Doctrine is that trust lands belong to the public and are to be used to promote publicly beneficial uses that connect the public to

the water. The proposed project uses a permitted point of diversion from an unnamed tributary that eventually connects to the South Fork Eel River. The Eel River has public trust recreational value. The terms of the water right (Certificate H100760) specify allowable times of year and quantities for withdrawal. The water certificate and the project are conditioned such that impacts to public trust resources by the project will be avoided.

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

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 in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 181 permits and the total approved acres would be 58.25 acres of cultivation.

Environmental Review: Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 3 for more information).

Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all the required findings for approval of the Conditional Use Permit (CUP) and Special Permits (SP)

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:

The Planning Commission could elect to add or delete conditions of approval. The Planning Commission could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, Staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum

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4. Applicant's Evidence in Support of the Required Findings
5. Referral Agency Comments and Recommendations
6. Watershed Map

Applicant:

Mattole Valley Farms Business Support Services, LLC
PO Box 736
Redway CA 95560

Owner:

Wilner Family Revocable Trust
2680 Ettersburg Road
Garberville CA 95542

Agent: N/A

Please contact Andrew Whitney, Planner, at awhitney2@co.humboldt.ca.us or 707-268-3735 if you have questions about this item.