



COUNTY OF HUMBOLDT

For the meeting of: 1/19/2023

File #: 23-65

To: Planning Commission
From: Planning and Building Department
Agenda Section: Public Hearing

SUBJECT:

Elevated Farms, LLC Special Permit
Assessor Parcel Number 220-011-018 and 220-011-002
Record No.: PLN-2019-16130

Denial of a Special Permit for 15,374 square feet of existing outdoor cultivation and a 625 square feet ancillary nursery. The water source is a well supplemented by rainwater catchment. The total water usage is unknown. Onsite processing is proposed in a 1500 square foot building. Power is provided by a generator.

RECOMMENDATION(S):

That the Planning Commission:
Adopt the resolution (Attachment 1) which does the following:

- a. Find the project exempt from environmental review pursuant to State CEQA Guidelines Section 15270; and
- b. Find the applicant has not provided sufficient evidence necessary to make the required findings for approval; and
- c. Deny the Special Permit.

DISCUSSION:

Project Location:

This project is in Humboldt County, in the Ettersburg area, on the west side of Ettersburg-Honeydew Road, approximately 4,700 feet west as the crow flies from the intersection of Ettersburg-Honeydew Road and Goodman Ranch Road, on the property known as 3810 Ettersburg Road, and on the property known to be in the northwest quarter of Section 17 of Township 04 South, Range 02 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation:

Timberland (T), Density: Range is 40 to 160 acres per unit, 2017 General Plan, Slope Stability: Moderate Instability (2).

Present Zoning:

Agricultural Exclusive (AE), Minimum building site area is 160 acres (B-5(160)); Timberland Production (TPZ)

Environmental Review:

Exempt from environmental review pursuant to State CEQA Guidelines Section 15270

State Appeal:

Project is NOT appealable to the California Coastal Commission.

Major concerns:

Lack of evidence to support required findings for approval.

Executive Summary:

Denial of a Special Permit for 15,374 square feet of existing outdoor cultivation and a 625 square feet ancillary nursery. The water source is a well supplemented by rainwater catchment. The total water usage is unknown. Onsite processing is proposed in a 1500 square foot building. Power is provided by a generator.

Staff has made multiple attempts to correspond with the applicant to obtain information necessary for staff to adequately review the application and recommend approval but has not received the requested items.

Summary Timeline of Project Processing:

On December 31, 2019, the Department received two separate applications for parcels 220-011-018 and 220-011-002. The two assessor parcels comprise one legal parcel, so the project was consolidated into one application number. The project applications were incomplete and did not include essential information including but not limited to, a botanical survey, projected water usage, monthly schedule of cultivation activities, and energy plan for the generator, environmental superiority analysis and restoration plan for onsite relocation, or a complete timber conversion analysis. Staff was unable to write a project description to place project in referrals.

The Department accepted the applications because December 31, 2019, was the last day to apply for existing cultivation under the CCLUO. The project parcel had unresolved code enforcement violations and the applications were accepted as a courtesy.

On January 24, 2020, the Department sent a Notification of Incomplete Application to the applicant. The notification included a timeframe of six months. The Department did not receive a response.

On July 22, 2020, the Code Enforcement Unit (CEU) issued a Notice of Release of Notice to Abate Nuisance and Notice of Violation. While the corrective actions required by the CEU were completed, the invoice for administrative staff costs remains unpaid and has been sent to collections. The lack of payment means the violations were not fully resolve for purposes of processing the cannabis permit application.

On June 30, 2021, the Department sent a detailed deficiency letter to the applicant describing actions needed to process the application. The Department did not receive a response.

On October 18, 2022, the Department sent a notice to the applicant giving a final 60 days to provide the missing items stating that the project will be scheduled for denial if items are not received.

On December 19, 2022, the final day to respond to our last correspondence, the applicant sent an email to the Department requesting more time. The Department reached out to one of the consultants associated with the project to see if any work was in progress and the answer was negative because the consultant had not been paid.

The correspondences listed above are assembled in Attachment 3.

Lack of Sufficient Evidence:

The operations plan is missing a water budget and an energy plan. Staff is unable to determine if adequate water is available to serve the proposed project and whether generator usage will comply with the performance standards in the CCLUO. The project application does not contain a seasonally appropriate floristic survey nor an environmental superiority analysis and restoration plan for onsite relocation. Staff is unable to determine if the project will cause any significant impacts or provide mitigations to support a less than significant finding. Because the incomplete materials prevented the creation of a complete project description, the project has not been placed in referrals. The lack of agency and tribal consultation prevents staff from proposing appropriate conditions. The applicant has had three years to provide additional information. For all the reasons described above, staff is unable to recommend approval.

OTHER AGENCY INVOLVEMENT:

The project was not referred to other agencies for comment because the project lacks sufficient information to write a complete project description.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to direct staff to continue to work with the applicant to resolve the outstanding issues and continue processing the application in accordance with HCC Section 312-4.1 et seq. However, due to the extended amount of time that the deficiencies have remained unresolved and the lack of responsiveness from the applicant, staff does not recommend this alternative.

ATTACHMENTS:

1. Resolution
2. Location Map
3. Correspondence Chronology

Applicant

Elevated Farms LLC
Paul Dubiel
971 Knights Lane
Garberville CA 95542

Owner

Paul Dubiel and Czeslaw Dubiel and Lucyna Dubiel
1286 Lindsay Street
Chula Vista CA 91913

Agent

None

Please contact Steven A. Santos, Senior Planner, at sasantos@co.humboldt.ca.us or 707-268-3749 if you have any questions about the scheduled item.