

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

SUBJECT:

Abbey Road Farming, LLC Conditional Use Permit
Assessor Parcel Number 210-221-023
Record No.: PLN-12861-CUP

Denial of a Conditional Use Permit for 15,236 square feet of existing outdoor commercial cannabis cultivation.

RECOMMENDATION(S):

That the Zoning Administrator:

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 Conditional Use Permit.

DISCUSSION:

Project Location:

The project is in Humboldt County, in the Dinsmore area, on the both sides of Buckhorn Summit Road, approximately 0.85 miles north from the intersection of Burr Valley Road and Buckhorn Summit Road, on the property known as 42300 State Highway 36.

Present General Plan Land Use Designation:

Residential Agriculture (RA40), Density: 40 acres per dwelling unit, Slope Stability: High Instability (3).

Present Zoning:

Forestry Recreation (FR), Minimum building site area is 40 acres (B-5(40)).

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 Conditional Use Permit for 15,236 square feet of existing outdoor commercial cannabis cultivation.

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 29, 2016, the Department received an incomplete application for a Conditional Use Permit. The application lacked, among other things, a wetland delineation, a noise management plan for the generator, a remediation plan for development within streamside management areas, technical information related to the groundwater well, and a complete operations plan. The Department accepted the initial incomplete application because of the application deadline for the CMMLUO. The project was never placed in referrals due to the lack of information.

February 9, 2017, the Department sent correspondence notifying applicant that application was incomplete.

August 16, 2017, the Department sent correspondence notifying applicant that the application was still incomplete and could be subject to withdrawal.

May 25, 2018, there was a meeting with the applicant and a follow up email describing necessary actions was provided to the applicant.

August 16, 2018, there was additional email follow up with applicant re-stating items needed to move project forward.

August 20, 2018, an interim permit was issued for the project with the understanding that missing items would be provided.

September 28, 2018, the Department sent correspondence describing specific items that were needed to process the application.

August 3, 2020, the Department sent notice to the applicant regarding violations for cultivating in excess of what was authorized under the interim permit. Applicant paid fines.

September 10, 2020, Department sent update to the September 28, 2018, deficiency letter describing items still needed to process application.

December 31, 2020, interim permit expired due to lack of progress on application.

July 27, 2022, notice was sent to applicant providing 60 days to provide requested items. Applicant was informed that project would be scheduled for denial if no response was received. No response was received.

The correspondences listed above are assembled in Attachment 3.

Lack of Sufficient Evidence:

Staff is unable to determine if adequate or eligible water is available to serve the proposed project and whether generator usage will comply with the performance standards in the CCMLUO and department policy. The project application does not contain a wetland delineation or 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 six 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 Zoning Administrator 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. Draft Resolution
2. Location Map
3. Correspondence Chronology

Applicant

Abbey Road Farming LLC
Doran Andry
120 Tustin Ave Ste C1204
Newport Beach CA 92663

Owner

Life is Amazing LLC
4209 Seashore Drive
Newport Beach CA 92663

Agent

SL Consulting
973 Dowler Drive
Eureka CA 95501

Pacific Watershed Associates
PO Box 4433
Arcata CA 95518

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.

**RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-009

Record Number PLN-12861-CUP

Assessor's Parcel Numbers: 220-221-023

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and denying the Abbey Road Farming, LLC Conditional Use Permit.

WHEREAS, the project is statutorily exempt from environmental review pursuant to Section 15270 of the State CEQA Guidelines (Projects Which Are Disapproved); and

WHEREAS, the Zoning Administrator held a duly-noticed public hearing on February 16, 2023, and reviewed, considered, and discussed the application for a Conditional Use Permit and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Zoning Administrator makes all the following findings:

1. FINDING **Project Description:** Denial of a Conditional Use Permit for 15,236 square feet of existing outdoor commercial cannabis cultivation.

EVIDENCE a) Project File: PLN-12861-CUP

2. FINDING **CEQA:** The project is statutorily exempt from the California Environmental Quality Act.

EVIDENCE a) Section 15270 of the CEQA Guidelines (Projects Which Are Disapproved).

FINDINGS FOR CONDITIONAL USE PERMIT

3. FINDING The proposed development is not consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

EVIDENCE a) No hydrologic study for the groundwater well prevents staff from determining if there is an adequate and eligible water source.

b) Lack of a noise management plan for the generator prevents staff from determining if the energy source will comply with applicable standards given the proximity of northern spotted owl.

c) 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.

4. FINDING

There is insufficient evidence to support a finding that the project will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The project application does not contain a wetland delineation 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 consistent with the measures in the adopted MND for the CMMLUO.

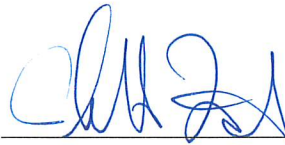
DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Zoning Administrator does hereby:

- Adopt the findings set forth in this resolution; and
- Denies the Conditional Use Permit for Abby Road Farming LLC, based upon the Findings and Evidence.

Adopted after review and consideration of all the evidence on **February 16, 2023**.

I, John Ford, Zoning Administrator of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Zoning Administrator at a meeting held on the date noted above.



John H. Ford, Zoning Administrator
Planning and Building Department