



COUNTY OF HUMBOLDT

For the meeting of: 3/12/2024

File #: 24-236

To: Board of Supervisors
From: Planning and Building Department
Agenda Section: Public Hearing

Vote Requirement: Majority

SUBJECT:

Revocation of a Special Permit for 23,616 Square Feet of New Outdoor Commercial Cannabis Cultivation

RECOMMENDATION(S):

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the permit holder (also referenced herein as applicant) and testimony from the public on any of the additionally submitted information; and
2. Close the public hearing; and
3. Adopt the resolution (Attachment 1) which does the following:
 - a. Finds that the permit has been exercised contrary to the terms or conditions of approval; and
 - b. Revokes the Special Permit pursuant to Section 312-14 of the Humboldt County Code.
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the Planning and Building Department, and any other interested party.

SOURCE OF FUNDING:

There is no identified funding source for this action. This is funded by the General Fund Contribution to department operations.

DISCUSSION:

Executive Summary

Revocation of a Special Permit that was issued for 23,616 square feet of new outdoor commercial cannabis cultivation, an ancillary propagation area, and a proposed onsite processing facility. Revocation is appropriate because the permit has been operated contrary to the terms and conditions of approval, including cultivating cannabis without the required state license.

Project History

The project was approved by the Humboldt County Zoning Administrator on Nov. 3, 2022, with an effective date of Nov. 17, 2022. Approval of the Special Permit was conditioned on terms and requirements which must be satisfied prior to starting operations. As of March 2024, the conditions have not been completed.

During July 2023, the California Department of Fish and Wildlife (CDFW) conducted a field investigation in the area and observed a hoop house full of growing cannabis plants on the subject property. CDFW found the property was not licensed by DCC and that no Lake and Streambed Alteration Agreement (LSAA) existed for the property. On Sept. 7, 2023, the CDFW served a search warrant for the property and found activities that were multiple violations of Fish and Game Code (FGC) including stream crossings, surface water diversion, an unpermitted pond, 1,096 growing cannabis plants inside of two (2) hoophouses, and 28 pounds of processed cannabis in conjunction with the FGC violations. On Sept. 18, 2023, CDFW issued a Notice of Violation (NOV) to the property owner.

On Sept. 7, 2023, California North Coast Regional Water Quality Control Board (Regional Water Board) inspected the subject property and found violations of the California Water Code (WC) and the State Water Board’s Cannabis Cultivation Policy requirement, including diversion of surface water without an appropriate water right, cannabis cultivation of sufficient size to require regulatory coverage under the Cannabis General Order, as well as several violations of water quality requirements and regulations. On Oct. 3, 2023, the Regional Water Board issued a Notice of Violation (NOV) to the property owner.

The Department has made multiple attempts to notice the applicant and property owner and has received no response. On Jan. 30, 2024, the Humboldt County Planning and Building Department (Department) sent the property owner a Permit Revocation Notice (Notice) to the two owner addresses on file and via email stating the permit was exercised contrary to the terms and conditions of approval and the Department will be scheduling a public hearing before the Board of Supervisors on March 12, 2024, with a recommendation to revoke the Special Permit. On Feb. 14, 2024, the Department sent the property owner the Notice via USPS Certified to the two owner addresses on file. On Feb. 29, 2024, the Department physically posted two Notices at the entrance to the subject site.

Grounds for Revocation

Section 312-14 of the Humboldt County code includes the findings that are required to be made in order for the Board of Supervisors to revoke a development permit. A permit may be revoked upon making any one of the four findings specified in this section of the ordinance. One of the four findings can be made, as follows:

1. The permit has been exercised contrary to the terms and conditions of such approval (312-14.1.2).
 - a. The issuance of the Special Permit was conditioned on terms and requirements which must be satisfied prior to starting operations.
 - b. The property owner started cultivation activities without completing the conditions of approval. Condition of Approval #A.1 states the *“The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.”* Condition of Approval # 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, and 16 have not been demonstrated to have been completed.
 - c. The applicant did not possess, nor was in the process of applying for a cannabis cultivation license with Department of Cannabis Control (DCC).
 - d. No Lake and Streambed Alteration Agreement (LSAA) issued by California Department of Fish and Wildlife (CDFW) existed for the property.
 - e. The property was not enrolled for cannabis cultivation coverage under the State Water Resources Control Board.
 - f. The operation was approved for outdoor cultivation utilizing a well and was found to be operated with lights in greenhouses and utilizing a diversionary water source for irrigation.
 - g. Condition of Approval #2 requires the permittee to cover all costs associated with the processing of the application. As of March 2024, the permit has an outstanding balance of \$1,632.23 which is owed to the Planning and Building Department.

FINANCIAL IMPACT:

There are no funds that have been identified to cover the costs of processing this revocation.

STRATEGIC FRAMEWORK:

This action supports the following areas of your Board’s Strategic Framework.

Core Roles: Enforce laws and regulations to protect residents

New Initiatives: N/A

Strategic Plan: N/A

OTHER AGENCY INVOLVEMENT:

California Department of Fish and Wildlife

State Water Resources Control Board

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to revoke the Special Permit. The Planning and Building Department does not recommend this because the applicant has failed to adhere to all terms and conditions.

ATTACHMENTS:

Attachment 1: Draft Board Resolution

Attachment 2: Approved Zoning Administrator Resolution

Attachment 3: Notice of Permit Revocation letter, January 30, 2024

Attachment 4: CDFW NOV

Attachment 5: Waterboard NOV

Attachment 6: Images of Permit Revocation Notice posted at site entrance on February 29, 2024.

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: Zoning Administrator 11/3/2022

File No.: 22-1499