



COUNTY OF HUMBOLDT

For the meeting of: 8/17/2023

File #: 23-1143

To: Planning Commission
From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Happy Valley Farms, Inc. Conditional Use Permit and Zoning Clearance Certificate

Assessor Parcel Number 210-051-081

Record No.: PLN-12166-CUP

Assessor Parcel Number 210-051-064

Record No.: PLN-12170-ZCC

Bridgeville area

A Conditional Use Permit for 12,500 square feet (SF) of existing Outdoor commercial cannabis cultivation supported by a 1,220 square foot ancillary nursery on APN 210-051-081, and a Zoning Clearance Certificate for 2,500 SF of existing Outdoor commercial cannabis cultivation on APN 210-051-064 and 240 SF ancillary nursery on APN 210-051-081. Water is sourced exclusively from a permitted groundwater well on APN 210-051-064 that has been analyzed for hydrologic connectivity to surface waters and nearby domestic water sources. The annual estimated water budget for both projects is 145,000-gal., and is supported by 180,000-gal. of existing water storage. Additional water storage in the amount of 35,000-gal. will be installed via approved grant funding, bringing the total water storage between the two parcels to 215,000-gal. Processing such as bucking, drying, and curing will take place on APN 210-051-081 in the existing shop building, with any trimming and packaging occurring offsite at a licensed facility. Power is provided by a 6-kW solar system, with a generator utilized for backup. Grant funding has been secured to increase renewable energy capacity and the project is conditioned to provide all of the projects total power demand through renewable energy by January 1, 2026. Three (3) to five (5) employees are needed to support operations.

RECOMMENDATION(S):

That the Planning Commission:

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

- a. Find that the Commission has considered the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and the Addendum prepared

for this project, as described by Section §15164 of the State §15164 CEQA Guidelines; and

- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the Conditional Use Permit and Zoning Clearance Certificate subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location:

The projects are located in the Bridgeville area. The first is on the east side of HWY36, approximately 1.86 miles SSE from the intersection of Little Larabee Creek Rd and HWY36 (7500ft from intersection of Private Rd and HWY36), on the property known to be 33061 State HWY36, and the second is approximately .68 miles East from the intersection of Larabee Valley Road and a Private Drive on the property known as 32753 State HWY36.

Present General Plan Land Use Designation:

Residential Agriculture (RA), 2017 General Plan; Density: 40 acres per unit; Slope Stability: Low Instability (1) and High Instability (3).

Present Zoning:

Forestry Recreation (FR), Special Building Site (B-5[40]).

Environmental Review:

An Addendum to a previously adopted Environmental Impact Report 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:

A Conditional Use Permit for 12,500 square feet (SF) of existing Outdoor commercial cannabis cultivation supported by a 1,220 square foot ancillary nursery on APN 210-051-081, and a Zoning Clearance Certificate for 2,500 SF of existing Outdoor commercial cannabis cultivation on APN 210-051-064 and 240 SF ancillary nursery on APN 210-051-081. Water is sourced exclusively from a permitted groundwater well on APN 210-051-064 that has been analyzed for hydrologic connectivity to surface waters and nearby domestic water sources. The annual estimated water budget for both projects is 145,000-gal., and is supported by 180,000-gal. of existing water storage. Additional water storage in the amount of 35,000-gal. will be installed via approved grant funding, bringing the total water storage between the two parcels to 215,000-gal. Processing such as bucking, drying, and curing will take place on APN 210-051-081 in the existing shop building, with any trimming and packaging occurring offsite at a licensed facility. Power is provided by a 6-kW solar system, with a generator utilized for backup.

Water Resources:

The annual 145,000-gallon irrigation water budget is sourced from permitted groundwater well (WCR2016-0003430). The well has been analyzed by a state licensed engineering geologist for connectivity to surface water and nearby domestic water sources, and has been determined to not be hydrologically connected to surface waters. Applicant utilizes multiple methods to minimize water used for cannabis, including drip irrigation methods, strain selection to ensure timely harvests and minimize time plants are in flowering greenhouses, and water retaining soil mediums, all intended to reduce water use. Not including the ancillary nursery, water usage translates to approximately 9.6-gallons per square foot per year.

Water is stored in 180,000-gal. of existing storage, with approved grant funding allowing the applicant to develop 35,000-gal. of additional water storage for a total of 215,000-gal. between the two parcels. A 50,000-gal. bladder previously used for storing cannabis irrigation water will be replaced with permissible water storage of the same volume.

A Water Resource Protection Plan (WRPP) for both projects was prepared by Pacific Watershed Associates and was received June 27, 2017. The WRPP was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation, and contains multiple standard conditions for the applicant to complete on an annual basis, including two stream crossing upgrades. The stream crossings shall be completed within two years of project approval.

A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Notification No. 1600-2017-0395-R1). Work proposed under the LSAA includes:

- Remove 4-inch culvert and associated fill from Crossing 1, pull back graded fill within stream, and wet the area.
- Replace undersized 12-inch culverts at Crossings 2 and 3 with minimum 18-inch culverts and rock armor as necessary to minimize erosion.
- Install a new 18-inch diameter culvert at Crossing 4.
- Install a rocked ford at Crossing 5.

The LSAA establishes specific recommendations that the applicant must apply to offset potential impacts to waterways within the area. The recommendations are summarized as follows: 1) Document all activities that occur within waterways at the project site; 2) All work shall be confined to the dry weather period, from June 15 through October 15 of each year; 3) Water diversion structures shall be constructed and maintained to not inhibit the movement of aquatic life; 4) Erosion and runoff protection measures shall be placed and maintained along streambanks prior to any construction activities; and 5) Project work was intended for completion by no later than October 1, 2019. Consultation with CDFW staff, including their recent summer 2023 onsite inspection, indicated the applicant was in compliance with the LSAA.

Erosion Control Plan

An Erosion Control Plan (ECP) was prepared by Mother Earth Engineering (September 27, 2018). The ECP was prepared in response to a notice of violation (NOV) issued by the California Department of Fish and Wildlife (CDFW) on January 25, 2018. The ECP directed the applicant to install water bars at seven (7) locations along the access road, fortify the road at four (4) stream crossing sites with road base, and perform regular inspections of erosion control features following significant precipitation events.

On October 18, 2018, Mother Earth Engineering provided engineer stamped documentation indicating erosion control features were installed per the specifications of the ECP. Regular monitoring of erosion control features occurs per the specifications of the ECP. A Restoration Plan prepared by Mother Earth Engineering (December 4, 2018) to provide an update on work completed according to the Erosion Control Plan includes photographic evidence of completed work. Consultation with CDFW staff, including their recent summer 2023 onsite inspection, indicated the applicant was in compliance with the LSAA and have resolved the NOV.

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The cultivation area is on a flat that was graded prior to 2016. No new grading is proposed to implement the project. After the fact grading permits are required for grading that was done as part of historic operations.

Biological Resources:

A Biological Assessment Report dated October 9, 2019 was prepared by Naiad Biological Consulting. The report concluded that impacts from the existing commercial cannabis operations are minimal when project conditions of approval are applied to minimize light escape from ancillary nursery, and generator noise is limited to 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer. The report further indicated all cultivation areas adhere to Streamside Management Area (SMA) setback requirements.

The nearest mapped Northern Spotted Owl (NSO) activity center (HUM0925) is 1.3 miles to the southeast, but sightings have been mapped in closer proximity to the project site. As such, staff assumes the presence of NSO and has added conditions of approval to prevent any project impacts to the species. Artificial light from the single ancillary nursery greenhouse will be blocked by blackout tarps to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise. Noise from backup generator(s) is limited to 50 decibels (dB) At 100 feet or nearest forested edge, whichever is closer. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact the Northern Spotted Owl or other sensitive species.

Energy:

Power is provided by a 6-kilowatt (kW) solar system, with a series of four generators providing backup power at times of peak demand or limited insolation. The applicant has secured grant funding to increase the solar capacity and reduce reliance on the four generators. Project conditions require applicant to submit a energy budget within two years of approval outlining power needs for the project and demonstrating project's capability to provide renewable energy for the project power needs, to be

achieved by January 1, 2026.

Access:

Access to the parcel is taken from State HWY 36 to privately maintained Larabee Valley Ridge Road, to Coyote Ridge Road. Larabee Valley Road is privately maintained and provides access to at least 6 locally permitted cannabis operations. Applicant provided a Road Evaluation with photographs indicating Larabee Valley Ridge Road is developed to a Category 4 or equivalent and can accommodate the increased traffic associated with this project. Applicant further indicated they have been maintaining the private access road from HWY 36 to the project sites. Project conditions require applicant to attempt to form or join a Road Maintenance Association for the ongoing and continued maintenance of the project's private access road network.

Since access is taken off of State HWY36, the project was referred to California Department of Transportation (CalTrans) which provided no comment. The driveway approach is currently paved where it meets State HWY36.

The project was also referred to the Bridgeville Fire Protection District which provided no comment. The project site plan depicts an emergency vehicle turnaround as well as water storage dedicated to fire protection.

There will be up to five employees at peak operations and the site plan depicts five parking spaces, including one ADA compliant parking space.

Security and Safety:

Per the project Operations Plan, the cultivation area is behind a locked gate. Buildings will also have locks. A security camera system and alarm will also be installed. The Operations plan also describes employee safety practices.

Tribal Consultation:

A cultural resources investigation report was prepared by William Rich, M.A., of William Rich and Associates (December 2021) which covered both project parcels. No historic or tribal cultural resources were identified as a result of the investigation, and no further archaeological surveys are recommended as a condition of approval for this project. Consultation letters were sent to Native American groups associated with the project area. The Bear River Band of the Rohnerville Rancheria recommended implementation of the inadvertent discovery protocol. The standard inadvertent discovery protocol will be used to protect artifacts or remains that may be discovered during project work. Project site is mostly developed, save for additional solar panels which will be located in previously disturbed areas. Ground disturbance is expected to be minimal.

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

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 Van Duzen 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 for cultivation in this Planning Watershed would be 126 permits and the total approved cultivation area would be 43.23 acres of cultivation.

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 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. Draft Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
5. Referral Agency Comments and Recommendations
6. Watershed Maps

Applicant

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Agent

N/A

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