



COUNTY OF HUMBOLDT

For the meeting of: 12/5/2024

File #: 24-1645

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Tierra Verde Holdings, LLC Conditional Use Permit and Special Permit
Assessor's Parcel Numbers: 218-021-003-000
Record Numbers: PLN-11694-CUP
New Harris area

A Conditional Use Permit for 16,650 square feet of existing outdoor commercial cannabis cultivation supported by a 1,500 square foot ancillary nursery. Estimated annual irrigation water usage is approximately 264,000 gallons. Irrigation water is sourced from a rainwater catchment ponds with a total storage capacity of 525,000 gallons. Additional water storage on site totals 89,450 gallons. Drying and curing will occur onsite in an existing structure and trimming will occur offsite at a licensed facility. Power is provided by generators with a transition to renewable energy by January 2026, reserving generators for emergency use only. The Special Permit is being sought for a setback reduction to public lands.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt resolution, (Attachments 1) which does the following:
 - a. Finds the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Tierra Verde Holdings, LLC project (Attachment 3); and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Tierra Verde Holdings, LLC Conditional Use Permit and Special Permit subject to the conditions of approval (Attachments 1A).

DISCUSSION:

Project Location:

The project is located in the New Harris area, on the North and South side of Road A Road, approximately 1 mile South from the intersection of Road K Road and Road A Road, on the property known as 3897 Road A Road.

Present General Plan Land Use Designation:

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

Present Zoning:

Forestry Recreation (FR); Special Building Site (B-5(40))

Environmental Review:

An Addendum to a previously adopted Mitigated Negative Declaration 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:

The applicant is seeking a Conditional Use Permit for 16,650 square feet of outdoor commercial cannabis cultivation. The project is supported by a 1,500 square foot propagation greenhouse. Water for irrigation is sourced from a 525,000-gallon rainwater catchment pond. Projected annual water usage is 264,000 gallons (15.8 gal/SF) and there is a total of 89,450 gallons of water storage in hard tanks and two water bladders. Drying and curing will occur onsite in a 2,400 square foot structure, further processing will be conducted off site. Energy is sourced from generators; however, the applicant has proposed to obtain a 2500-watt solar array. A Special Permit is also required for a setback reduction to 123 feet from public lands.

Rainwater catchment pond information was provided with the applicant's Operations documents. Using data from low rainfall years, the County rainwater catchment analysis demonstrates that sufficient rainwater can be collected to fill the ponds to capacity. The total amount of water storage from the irrigation ponds and tanks is more than double the estimated annual water usage. On October 3, 2023, the California Department of Fish and Wildlife (CDFW) provided comment on the project. A Lake or Streambed Alteration Agreement (LSAA) (1600-2019-0673-R1) was issued to upgrade five (5) stream crossings, a pond spillway, and a Point of Diversion (POD) from a pond. All LSAA was to be completed by October 15, 2021, however, as of September 4, 2023, no work had been completed and an extension was granted by CDFW for work to be completed by October 15, 2024. Per CDFW the work was completed by this date

The applicant provided a road evaluation concluding that the road segments are developed to the equivalent of a road category 4 standard. The project is conditioned requiring the use of portable toilets for cultivation activities until a septic system is permitted or certified by DEH as having capacity to serve the cannabis operation. The project is conditioned requiring the applicant provide documentation they are a member of the road maintenance association and are current on all dues and payments. No timberland conversion is associated with this project. A Cultural Resource Investigation and consultation with Bear River resulted in the standard inadvertent discovery protocol.

Water Resources:

Water usage is projected to be 590,000 gallons annually for the entire operation including cultivation, ancillary nursery, and processing. Water is sourced exclusively from rainwater catchment and supported by 735,000 gallons of total storage from a proposed 590,000-gallon pond and 160,000 gallons in hard tanks. The Operations Plan provides a rainwater catchment analysis using data from a credible online resource. The applicant will utilize 31,922 square feet of surface area for collection from the roofs of the greenhouses and processing building as well as the pond and rainwater catchment tanks.

The analysis for potential evaporation loss from the pond utilizes 50 years of rainfall data. Instead of using the average total annual rainfall of 62.65 inches, the applicant uses the much more conservative mean precipitation value in severe drought years of 35.35 inches in the collection calculation. Additionally, the amount of storage proposed is approximately 125% of projected annual needs which will provide additional security. As a comprehensive mitigation measure, as described on page four of the operations plan, in the event of a catastrophically low rainfall year, the applicant will reduce cultivation area proportional to the amount of water available. For example, if in a collection year only 80% of needed water is collected then the cultivation area will be reduced by 20% in the growing season. The estimated annual irrigation water usage of 264,000 gallons for this Special Permit is sourced from a rainwater catchment pond, which translates to 15.86 gallons per square foot per year. The pond has an estimated total capacity, without liners, of approximately 525,000 gallons. The total estimated annual water use is 264,000 gallons which is approximately 50% of the catchment pond volume. A rainwater catchment analysis was conducted by the County (**Attachment 3C**) utilizing data from low rainfall years, suggests that sufficient rainwater can be collected to fill the pond to capacity. Additionally, there is 89,450 gallons of water stored within HDPE water tanks which consists of one (1) 250-gallon tank, two (2) 500-gallon tank, one (1) 1,200-gallon tank, one (1) 1,500-gallon tank, seventeen 2,500-gallon tanks, one (1) 3,000-gallon tank, and two (2) 20,000-gallon tanks. Additionally, the applicant plans to install two (2) 2,500-gallon tanks for fire suppression.

The project is conditioned to require water meters and water usage logbooks which must be kept and made available during annual inspection of the cannabis operation (**Condition of Approval A.2**).

The project referral to the Division of Environmental Health (DEH) resulted in project conditions

requiring the use of portable toilets for cultivation activities until a septic system is permitted or certified by DEH as having capacity to serve the cannabis operation (**Condition of Approval B.2**).

Biological Resources:

A review of the California Natural Diversity Database (CNDDDB) indicated rare or endangered species in the project area including the Marbled Murrelet, the Northern Spotted Owl (NSO), and Upland Douglas Fir Forest. The nearest mapped habitat of the Marbled Murrelet is just north of the northern cultivation area as all of the BLM property in this area is mapped as murrelet habitat due to the BLM's Marbled murrelet recovery plan. The nearest mapped Northern Spotted Owl activity center (HUM0223) is 1.55 miles to the northwest. Due to the project's proximity to the BLM land and habitat for sensitive wildlife species, the proposed project has the potential to significantly impact Special Status species including, but not limited to, the Northern Spotted Owl (*Strix occidentalis caurina*). The project has been conditioned to ensure supplemental lighting associated with the onsite nursery adheres to Dark Sky Association standards including security lighting (**Condition of Approval C.3**). Permit conditions of approval also prohibit using synthetic netting (**Condition of Approval C.5**), ensure refuse is contained in wildlife-proof storage (**Condition of Approval C.6**), the permittee shall implement substantive containment, to the satisfaction of CDFW of all generators to minimize noise disturbance when in use (**Condition of Approval C.2**). The use of anticoagulant rodenticides is prohibited (**Condition of Approval C.9**).

On September 4, 2023, CDFW staff conducted a site inspection of the project site. A final LSAA (1600-2019-0673-R1) was issued to the applicant to upgrade five (5) stream crossings, a pond spillway, and for a Point of Diversion (POD) from a pond. A work completion date was set in the LSAA for October 15, 2021. As of September 4, 2023, no work had been completed, and as a result the applicant was out of compliance with the LSAA. The applicant hadn't submitted water use monitoring reports have been submitted to CDFW as required, resulting in the applicant being out of compliance with additional measures of the LSAA. The project is conditioned to comply with the LSAA (**Condition of Approval A.5**). Further, the applicant shall remove all fill and infrastructure from the Class III drainage on the project parcel (**Condition of Approval A.11**). The applicant submitted a Notice of Completed LSAA Work to CDFW on October 18, 2024, specifying that the LSAA improvement work had been completed by the October 15, 2024, deadline as specified in the extension issued by CDFW January 16, 2024 (**Attachment 3F**). To date, CDFW has not confirmed the improvements have been made to their satisfaction and the conditions of the project remain in effect. On November 21, 2024, CDFW clarified that the rainwater catchment pond is considered "off-stream" (**Attachment 3G**), which was still in question when the original LSAA was finalized.

Energy

Energy is provided by generators. The project is conditioned requiring transition to renewable sources no later than January 1, 2026 (**Condition of Approval A.10**) after which generators will then be reserved for emergency use only. While in use, any generator may not emit more than 50dB of sound at 100 feet or forest edge, whichever is closer (**Condition of Approval C.2**).

Access:

From Island Mountain Road, the project parcel is accessed from Road A, which is a privately maintained 1.7-mile segment. The applicant provided a road evaluation conducted by registered professional engineer, Stephen G. Nesvold. Nesvold's report states that the road segment is developed to the equivalent of a road category 4 standard. There are more than three cannabis applications off of this road and the project is conditioned requiring the applicant provide documentation they are a member of the road maintenance association and are current on all dues and payments **(Condition of Approval B.3)**.

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The existing cultivation is in areas ranging from 15% to 30% slope. No new grading is proposed to implement the project. After the fact grading permits are required for grading that was done previously without permits **(Condition of Approval A.7)**.

Timber Conversion:

Review of aerial imagery indicates that no timberland conversion is associated with this project. A CalFire referral received on March 30, 2022, stating the project does not involve timberlands and that they did not have jurisdiction in the project area. The project is conditioned, however, with standard conditions for an emergency turnaround, building numbers, and dedicated water storage for fire protection **(Condition of Approval A.9)**.

Security and Safety:

Per the project Operations Plan, access to the parcel is gated and locked and all structures are locked as well. Security lighting will be utilized and comply with the international Dark-Sky Association standards **(Condition C.3)**.

Tribal Consultation:

Although the project does not fall within the jurisdiction of any mapped tribal lands, the project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. A Cultural Resources Investigation was conducted by Archaeology Research and Supply Company in May of 2024. The Investigation identified one (1) isolates on the project parcel that would not be impacted from cultivation activities and recommended inadvertent discovery protocol. Consultation with the Bear River Tribal Historic Preservation Officer concurred with the requested standard inadvertent discovery protocol **(Condition of Approval C.1)**.

Setback Reduction:

The property is located adjacent to lands that are owned by the Bureau of Land Management (BLM) and managed for open space and wildlife habitat. BLM was referred on March 22, 2022, and the County received no response. A boundary survey was completed which found that the northernmost

cultivation area on the property was 123 feet from the shared property line with BLM, and the southern cultivation area is over 700 feet from the shared property line with BLM. The property owned by BLM is surrounded by private lands on three sides and is the southeastern most extent of contiguous BLM holdings in this portion of Humboldt County. This BLM property also appears to be the southeastern most extent of habitat for NSO and Marbled murrelet as the terrain transitions fairly quickly in this area from forested habitat to open grassland and oak woodland. The nearest NSO activity center is over 1.5 miles to the northwest, and the existing cultivation is adjacent to the existing on-site residence. With the conditions to transition to on-site renewable energy and fully shield all lights associated with the nursery, the impacts to the BLM lands should be less than that associated with the existing residence. For these reasons, staff supports the setback reduction.

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 Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of the three adjacent projects together, the total approved permits in this Planning Watershed would be 106 permits and the total approved acres would be approximately 45.04 acres of cultivation.

Environmental Review:

An environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (Attachment 3) to the MND for consideration by the Planning Commission.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comments, comments, or recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete other 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. Operations Plan

- C. Site Plan
- 2. CEQA Addendum
- 3. Applicant's Evidence in Support of the Required Findings
 - A. Lake and Streambed Alteration Agreement
 - B. Road Evaluation
 - C. Rainwater Catchment Analysis and Description
 - D. Site Management Plan
 - E. Parcel Boundary Survey
 - F. Notice of Completed LSAA work 10/18/2024
 - G. Off-Stream Pond Confirmation by CDFW 11/21/2024
- 4. Referral Agency Comments and Recommendations
 - A. Department of Public Works
 - B. CDFW
 - C. Division of Environmental Health
- 5. Watershed Map

APPLICANT, OWNER, AGENT, AND PLANNER INFORMATION:

Applicant

Tierra Verde Holdings, LLC, 7325 La Jolla Blvd, La Jolla, CA 92037

Owner

Tierra Verde Holdings Llc Co, 530 B St #1530, San Diego, CA 92101

Agent

Northpoint Consulting Group, Inc, 1117 Samoa Blvd., Arcata, CA 95521

Please contact Portia Saucedo, Associate Planner, at psaucedo1@co.humboldt.ca.us or (707)268-3745 for questions about this scheduled item.