



COUNTY OF HUMBOLDT

For the meeting of: 5/4/2023

File #: 23-605

To: Planning Commission
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

Peach Tree LLC Conditional Use Permit
Assessor Parcel Number 208-251-008
Record No.: PLN-12355-CUP
Dinsmore area

A Conditional Use Permit for 6,800 square feet of existing outdoor and 6,800 square feet of existing mixed light commercial cannabis cultivation supported by a 1,360 square foot ancillary nursery. Irrigation water is sourced from a combination of a jurisdictional spring and proposed rainwater catchment supported by 100,000 gallons of proposed hard tank storage. Annual water usage is estimated at 138,600 gallons per year. Power is provided by two generators and processing will be done off site at a licensed facility. The project includes on site relocation and restoration of cultivation areas and the project is recommended to be conditioned to transition to renewable energy.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative Declaration that was prepared for the Peach Tree LLC project pursuant to Section 15164 of the CEQA guidelines; and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location:

The project is in Humboldt County, in the Dinsmore area, at the terminus of Oak Road, approximately 0.4 miles northeast from the intersection of Bear Creek Road and Oak Road, on the property known as 526 Oak Road also known to be in Township 02N of Range 05E Section 33 Humboldt Base & Meridian.

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:

A Conditional Use Permit for 6,800 square feet of existing outdoor and 6,800 square feet of existing mixed light commercial cannabis cultivation supported by a 1,360 square foot ancillary nursery. Irrigation water is sourced from a combination of a jurisdictional spring and proposed rainwater catchment supported by 100,000 gallons of proposed hard tank storage. Annual water usage is estimated at 138,600 gallons per year. Power is provided by two generators and processing will be done off site at a licensed facility. The project includes on site relocation and restoration of cultivation areas.

Water Resources:

The annual 138,600-gallon water budget is sourced from a jurisdictional spring and rainwater catchment. Including the ancillary nursery, water usage translates to approximately 9.26 gallons per square foot. The water right for the spring (Certificate H100737) is limited to 0.3-acre feet or 97,755 gallons per year. The remaining water budget is obtained through rainwater catchment. A rainwater catchment analysis examined 50 years of data and used the mean of the seven lowest rain fall years which came to 35.35 inches annually. Using low rainfall data in combination with the surface area, the analysis concluded that up to 392,000 gallons can be captured from rainwater. This exceeds the total annual water budget. Therefore, along with the diversion there is adequate water security for the project. A condition of approval is also included requiring a reduction in cultivation in the event adequate water is not available (**Condition of Approval A10**).

Two water bladders totaling 40,000 gallons will be phased out within two years through the permit compliance agreement (**Condition of Approval A3**). A total of 100,000 gallons of hard tank storage is proposed. Once the bladders are phased out and new tanks added there will be 116,000 gallons of storage. Because all of the water usage described in Table 6 of the Operations Plan will occur during the forbearance period and the portion of the year with the least rainfall, an additional 24,000 gallons of storage is recommended as a condition of approval to insure water storage equals annual water usage (**Condition of Approval A9**). There is a well on the property for domestic purposes that will not be used in the cannabis operation (**Condition of Approval A10**). Per the Operations Plan, irrigation and fertigation is conducted through hand watering, drip, and automated irrigation systems.

The project was referred to the Division of Environmental Health which responded that seasonal cultivation without processing may use portable toilets to serve the operation or install a permitted onsite wastewater treatment system associated with a permitted structure.

Biological Resources:

A Biological Assessment dated July 18, 2022 performed by Leopardo Wildlife Associates was provided with the application. The Assessment found that no plant or animal community would be potentially impacted by cannabis cultivation activities in manner that would be CEQA significant. The nearest mapped Northern Spotted Owl activity center (HUM0155) is 1.7 miles to the south. Per the operations plan, structures using artificial light have automated systems to ensure compliance with Dark Sky standards to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise (**Condition of Approval C3**). Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer (**Condition of Approval C2**). 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.

The Biological Assessment also describes that the consolidation of the two cultivation areas into a single area would reduce habitat encroachment by nearly a half-acre. Staff accepts this finding by the biologist as sufficient to determine that the onsite relocation is environmentally superior. The Assessment and the Timber Conversion Evaluation discussed later in this report, both identify the retired cultivation area as being a suitable location for oak woodland enhancement. Staff concurs that oak woodland enhancement would be a desirable restoration action for the former cultivation area. The project is conditioned to require a more detailed restoration plan and implementation schedule for the oak woodland enhancement (**Condition of Approval A5**).

The site plan depicts some grading at the edge of the cultivation area that encroaches into the 50-foot buffer of Class III stream. The project is conditioned to require restoration of the stream buffer encroachment to natural, pre-development conditions and vegetation (**Condition of Approval A6 and A7**).

Energy:

Two 70kW generators provide power to the site. Generators are housed in sheds with fire suppression equipment and sound suppression. The project is conditioned to migrate to all renewable sources reserving generator usage for emergencies only (**Condition of Approval A11**).

Access:

Access to the parcel is taken from Oak Road, a private road, which takes access from Bear Creek Road, which is also privately maintained. Bear Creek Road is accessed from Highway 36. The applicant provided a road evaluation performed by Omsberg and Preston dated December 28, 2018. This evaluation concluded that some improvements were needed for the road to function as Category 4. In order to meet this standard for Bear Creek Road, cutting of tree limbs and clearing of brush will be required in numerous locations, mostly on the inside of curves to improve sight distance. For road maintenance and environmental concerns, such as sediment into creeks, approximately ten rolling dips need to be graded and rocked. Presently, stretches of road where there is approximately 15% grade, drainage drains down the road, causing down cutting of the rocked surface with sediment transport. Properly constructed rocked rolling dips will greatly reduce sediment delivery. Oak Road will meet Road Category 4, provided limbing of trees and clearing of brush is completed. It was apparent to the engineer conducting the evaluation that these roads are currently being maintained. The road surface looked to be in good shape and the road drainage controlled, except as noted. The engineer's recommendations are incorporated into the conditions of approval (**Condition of Approval A12**).

The project was referred to Public Works which requested that the recommendations contained in the road evaluation be implemented which, as noted above, are included as conditions of approval. The project was also referred to the Ruth Lake Community Service District which did not respond. The project is conditioned to obtain a will serve letter from the fire protection district (**Condition of Approval B3**). The project site plan depicts an emergency vehicle turnaround as well as water storage dedicated to fire protection.

There will be up to four employees at peak operations and the site plan depicts a parking area.

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. Most of the project parcel is either 15% slope or less of 15% to 30% slope. The cultivation area is in a somewhat flat area with some historic grading. 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 A2).**

Timber Conversion:

A Timberland Conversion Evaluation Report dated June 27, 2022, prepared by Timberland Resource Consultants, concluded that a total area of 1.35 acres was cleared at various times. The forester concluded that the conversion was done in accordance with the California Forest Practice Act and the California Practice Rules and made no recommendations for additional action. Additionally, the referral response from CalFire states the project does not involve timberlands and that CalFire does not have jurisdiction.

Security and Safety:

Per the project Operations Plan, the cultivation area will be secured behind locked gates. The subject parcel is along the edges of County GIS mapped Airport Influence Area and Airport Protected Airspace. The review criteria for the Airport Influence Area does not apply because the cannabis project is non-residential development. Additionally, the Federal Aviation Administration has determined that the greenhouses do not pose a hazard to air navigation (Attachment 4D).

Tribal Consultation:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State which recommended a Cultural Resources Survey. Additional consultation with the Bear River Band THPO resulted in a determination that no survey was needed. Although no survey was requested by the Bear River Band THPO, the standard inadvertent discovery protocol was requested and has been incorporated into the project as a condition of approval **(Condition of Approval C1).**

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 Mad River Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 73 permits and the total approved acres would be 27.09 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 w/ addendum
 - C. Site Plan
2. Map Set
3. CEQA Addendum
4. Applicant’s Evidence in Support of the Required Findings
 - A. Timberland Conversion Evaluation
 - B. Biological Assessment
 - C. Road Evaluation
 - D. FAA Clearance
5. Referral Agency Comments and Recommendations
 - A. DEH Response
 - B. Public Works Response
 - C. CalFire Response
6. Watershed map

Applicant	Owner	Agent
Peach Tree LLC Gean Afanasieff PO Box 488 Fortuna CA 95540	Denis Gromov and Gean Afanasieff 5127 Surf Ave Brooklyn NY 11124	Brittany Massaro Humboldt Logistics PO Box 457 Scotia CA 95565

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