



COUNTY OF HUMBOLDT

For the meeting of: 8/3/2023

File #: 23-1084

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Kings Peak, LLC; Special Permit and Zoning Clearance Certificate

Record Number: PLN-11537-ZCC (filed 11/28/2016)

Assessor Parcel Numbers (APN) 107-236-013

Honeydew area

An application for a Zoning Clearance Certificate for 3,000 square feet of outdoor cannabis cultivation that was in existence prior to Jan. 1, 2016. The application includes a Special Permit for work within a Streamside Management Area (SMA) for the continued use and maintenance of a Point of Diversion (POD) from surface water, restoration of stream channel due to past unauthorized grading within the channel, and removal of fill materials within the channel and restoration to its original grade and condition. The surface water diversion is used for irrigating cannabis. Existing water storage totals 17,000-gallons, and project conditions require additional 5,000-gal. of storage totaling 23,000-gal. to allow for forberarance during the summer months. Annual irrigation budget is approximately 19,000-gal. All processing is proposed to occur offsite, as cannabis is harvested for fresh-frozen. Power use is very limited and provided by PG&E, as the POD is gravity fed and processing is proposed to occur offsite. Operations are conducted by the applicant using no employees.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the Zoning Administrator has considered the Mitigated Negative Declaration (MND) adopted for the Commercial Medical Marijuana Land Use Ordinance and Addendum that was prepared for the Kings Peak, LLC project; and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and

- c. Approves the Zoning Clearance Certificate and Special Permit subject to the recommended conditions of approval (Attachment 1A); and

DISCUSSION:

Executive Summary: An application for a Zoning Clearance Certificate for 3,000 square feet of Outdoor cannabis cultivation in existence prior to Jan. 1, 2016. The application includes a Special permit for work within a Streamside Management Area (SMA) for the continued use and maintenance of a Point of Diversion (POD) from surface water, restoration of stream channel due to past unauthorized grading within the channel, and removal of fill materials within the channel and restoration to its original grade and condition. The surface water diversion is used for irrigating cannabis. Existing water storage totals 17,000-gallons, and project conditions require additional 5,000 -gal. of storage totaling 23,000-gal. to allow for forberarance during the summer months. Annual irrigation budget is approximately 19,000-gal. All processing is proposed to occur offsite, as cannabis is harvested for fresh-frozen. Power use is very limited and provided by PG&E, as the POD is gravity fed and processing is proposed to occur offsite. Operations are conducted by the applicant using no employees. No Onsite Wastewater Treatment System (OWTS) exists onsite, so portable toilet and handwashing station will be onsite at all times during operations, and applicant will provide service receipts at each annual inspection to ensure compliance with this permit term is satisfied and ongoing.

Project Location: The project is located in Humboldt County, in the Honeydew area, on the north side of Panther Gap Road, approximately 3.3 miles west from the intersection of Mann Ranch Road and Panther Gap Road, on the property known as 5980 Panther Gap Road.

Access: The project takes access from a private driveway off of Panther Gap Road, which has been verified by Public Works and previous applicants' evidence to be developed to a Category 4 or equivalent. Public Works' referral response recommended standard conditions of approval related to intersections of private and County roads, including needing to improve the intersection to commercial standard and obtaining an encroachment permit prior to commencing any work in the County right-of-way.

Present General Plan Land Use Designation: Residential Agriculture (RA40), Density: 40 acres per unit, 2017 General Plan, Slope Stability: Moderate Instability (2).

Present Zoning: U, Unclassified.

Environmental Review: A project specific Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

State Appeal: This project is NOT appealable to the California Coastal Commission.

Major concerns: None.

Water Resources: Water for the project is supplied by a Point of Diversion from surface water and

stored in three tanks totaling 17,000-gallons. An additional 5,000-gal. of hard sided storage will be added to ensure applicant has sufficient water stored to support the operation during the summer forbearance period. Total water storage required by this permit is 23,000-gal. The project has been issued a Right to Divert (Cert. No. H100548), and a Small Irrigation Use Registration (SIUR) (H506895). Under the Right to Divert, the applicant is limited to a total of 0.07 acre-feet annually, which equates to 22,809-gallons; this is the maximum allowable diverted water to be used for irrigating commercial cannabis.

Biological Resources: A review of the California Natural Diversity Database (CNDDDB) was conducted and found the project site was approximately 0.5 miles away from mapped marbled murrelet (*Brachyramphus marmoratus*) habitat on state managed lands. Additionally, the project site lies approximately 0.6 miles north from Westlund Creek, which provides habitat for the winter run of the steelhead trout (*Oncorhynchus mykiss irideus*). Nearest Northern Spotted Owl sighting is approximately 1.0 mile east-southeast of the project site, with the closest activity center approximately 1.6 miles southeast. Project conditions will require verification from Planning Division staff before the use of any generators used for emergency backup and time of limited insolation. Verification by County staff the project complies with these requirements will be required before the use of any generators is allowed. Propagation occurs using seeds sowed directly in ground, so artificial lighting is not proposed. Based on the small size of the pre-existing project, coupled with power provided by PG&E and no artificial lighting, the project has low likelihood of having any effect on nearby sensitive receptors.

Tribal Cultural Resource Coordination: Project was referred to the Northwest Information Center (NWIC), which indicated a previous Archaeological Survey covered a portion of the project site. Bear River Band was also referred and indicated inadvertent discovery protocol be applied to the project for any ground disturbing activities. Intertribal Sinkyone Wilderness Council was referred the project details and offered no response.

Environmental Review: Based on the results of an environmental analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Zoning Administrator (See Attachment 3 for more information).

Resolution 18-43: Project lies within the Cape Mendocino watershed. Currently 237 approved permits for commercial cannabis exist in this watershed, and the approved acreage not including this project is 83.13 acres. If this project gains approval the number of issued permits will be 238, and the approved acreage will be 83.20 acres. The cap on this watershed is 650 permits and 223 acres.

Recommendation: Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record, and approve the application subject to the recommended conditions.

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 Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; OR
2. The Zoning Administrator could elect to add or delete conditions of approval; OR
3. The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. 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

Owner

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Applicant

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Agent

N/A

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