



COUNTY OF HUMBOLDT

For the meeting of: 12/15/2022

File #: 22-1668

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

SUBJECT:

Allison Shore Special Permits
Assessor Parcel Number: 314-203-008
Record Number: PLN-10946-SP
Kneeland area

A Special Permit for 10,000 square feet (SF) of existing outdoor cannabis cultivation utilizing light deprivation techniques and 1,000 SF of ancillary propagation. Irrigation water is sourced from a spring diversion, with plans to add rainwater catchment and install a groundwater well. Existing available water storage is 36,500 gallons in six (6) HDPE water storage tanks and a 10,000-gallon bladder. Estimated annual water usage is 107,600 gallons. Processing, including drying, trimming, and packaging, occurs onsite. A maximum of two (2) people will be on-site during peak operations. Power is provided by two (2) Honda generators, with long-term plans to convert to solar. A Special Permit is also requested for development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion infrastructure.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution (Resolution 22-__). (Attachment 1) which does the following:

- a. Finds that the Planning Commission has considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for the Allison Shore project (Attachment 3); and
- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the Special Permits subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location:

The project is located in the Kneeland area, on the north and east side of Mountain View Road, approximately 4.64 miles from the intersection of Kneeland Road and Mountain View Road, on the property known as 7211 Mountain View Road.

Present General Plan Land Use Designation:

Timberland (T), Density: 40-160 acres per dwelling unit, Slope Stability: High instability (3).

Present Zoning:

Timberland Production Zone (TPZ)

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: Allison Shore seeks a Special Permit to allow the continued cultivation of 10,000 square feet (SF) of outdoor cannabis in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). An additional Special Permit is requested for development within the Streamside Management Area (SMA) for continued use and maintenance of a point of diversion. The site is designated as Timberland (T) in the Humboldt County 2017 General Plan Update and zoned Timberland Production Zone (TPZ). Outdoor cultivation occurs in the northern portion of the property within six (6) existing hoopouses utilizing light deprivation techniques. Ancillary propagation (1,000 SF) occurs within a separate hoopouses located between the driveway and hoopouses. Two (2) harvests are anticipated annually for a growing season that extends from April through October, with ancillary propagation occurring year-round. However, the applicant noted that only one (1) round will occur this year, due to limited water availability (Attachment 1B).

Drying and processing, including machine trimming and packaging, occur onsite. Both activities currently occur within an existing drying shed, located southwest of Cultivation Area #1, unless a separate, larger facility can be built onsite. A maximum of two (2) people will be on-site during peak operations, including the applicant and one (1) employee. The operation is secured behind a gated access, fenced cultivation areas, locked structures, and utilizes security cameras.

Power is currently provided by two (2) Honda generators, which supply power to the cabin, shed, nursery, and drying shed. As noted in the Cultivation and Operations Plan (Attachment 1B), generators must run 24 hours, 7 days a week to keep the nursery powered. The applicant has long-term plans to convert to solar. Conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026 (**Condition of Approval A.7**).

Onsite Cultivation and Nursery Space

As noted above, the application is for 10,000 SF of existing outdoor cultivation and 1,000 SF of ancillary propagation. The nursery space equates to 10% of the total current cultivation area, which is consistent with what Planning Division staff and the Planning Commission have found allowable in the past (i.e., a nursery space of 10% of the cultivation area). The requested cultivation amount is consistent with the amount previously verified by the County (described below).

An evaluation of historic cultivation was performed by Timberland Resource Consultants (not dated; Attachment 4F) to assess the amount of cultivation that occurred onsite prior to the CMMLUO environmental baseline date of January 1, 2016. The property owner indicated the subject property was purchased sixteen years before the date of the report and that cannabis cultivation has been occurring onsite seasonally since that time. As stated in the Report, aerial imagery from 2014 provides evidence of a well-established “shade” cultivation area on top of a ridge that occurred within and under immature tan oak forest, and was approximately 13,500 SF in area. The project applicant indicated that in early 2016, the historic shade grow was relocated to two nearby historic logging decks, where the hoopouses were installed (as supported by aerial imagery, discussed further below under the “Timber Conversion” subsection). The project is conditioned to provide, within 90 days, an updated site plan depicting the decommissioned cultivations area(s) (**Condition of Approval A.6**). Additionally, a qualified professional (i.e., professional biologist) shall assess the decommissioned areas and any remediation efforts that have occurred and prepare a Remediation Plan detailing any additional remediation efforts that are recommended to restore the areas, which shall be implemented with 6 months of project approval (**Condition of Approval A.8**).

Although the parcel is zoned TPZ and has a diversionary water source evidence was provided that showed approximately 13,500 SF of cultivation was in existence on the subject site in 2014. As such, since additional square footage was previously identified onsite in addition to what is requested under this application, Planning staff is supportive of the additional SF (1,000 SF) for propagation space.

Timber Conversion

A Timber Conversion Evaluation was prepared by Timberland Resource Consultants in November 2020 (Attachment 4D) to assess the amount of timberland conversion on the subject site. Per the Report, historic logging has occurred on the subject site. Historic aerial imagery indicates both cultivation sites occupy old log landings constructed between 1988 and 1993, and there are signs of minor development and use of portions of the landings from 2005 through 2016. Cultivation Site 1 was noted to have been expanded to its present size and configuration between May 2016 and June 2016, and Cultivation Site 2 was expanded between October 2015 and May 2016. However, per the Report, it is noted the expansions appear to have simply consisted of the removal of brush and trees from the footprint of the previously graded landings. The Report notes a total of 0.81 acres of timber conversion has occurred onsite for the two cultivation sites, which does not exceed the three-acre conversion exemption maximum. Additionally, it is concluded the conversion activities conducted on the property are in compliance with the California Forest Practice Act and the California Forest Practice Rules, and no recommendations are provided in the Report. As such, no restocking is not required for the project, and no additional timber conversion is requested or authorized under this permit.

Water Resources

Estimated annual water usage is 107,600 gallons (9.78 gal/SF) with peak demand occurring in July at approximately 24,000 gallons, as shown in the table below. As noted in the Cultivation and Operations Plan (Attachment 1B), hand watering is utilized to ensure the plants are more evenly and efficiently watered.

Table 1. Estimated Monthly Water Use Estimates (in gallons)

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Nursery	600	600	1,000	2,000	3,000	3,000	4,000	3,000	600	600	600	600
Flowering	0	0	0	5,000	15,000	15,000	20,000	18,000	10,000	5,000	0	0
TOTAL	<i>600</i>	<i>600</i>	<i>1,000</i>	<i>7,000</i>	<i>18,000</i>	<i>18,000</i>	<i>24,000</i>	<i>21,000</i>	<i>10,600</i>	<i>5,600</i>	<i>600</i>	<i>600</i>

Total: 107,600 gallons

Water for irrigation is provided by a point of diversion from an unnamed spring that is a tributary to the Mad River, thence the Pacific Ocean. The spring is located to the north of the subject property on APN: 314-201-008, and the applicant has an easement for use and maintenance of the point of diversion infrastructure. A *Right to Divert and Use Water* was issued by the State Water Resources Control Board (SWRCB) in September 2019 (Registration H507752, Certificate H100586) for irrigation and fire protection use (Attachment 4A). The Right to Divert allows for 0.46 acre-feet (149,891 gallons) per year to be collected between November 1 and May 31. The total storage capacity may not exceed 0.48 acre-feet (or 156,409 gallons). The rate of direct diversion and the rate of diversion to storage is limited to a maximum of 42,000 gallons per day. Based on information provided by the applicant, the total estimated annual water usage associated with the project (107,600 gallons) equates to approximately 71.8% of the water appropriated.

Additionally, a Final Streambed Alteration Agreement (SAA; Notification No. 1600-2019-0980-R1) was issued by the California Department of Fish and Wildlife (CDFW) in June 2021 (Attachment 4C) for two (2) encroachments (points of diversion from unnamed tributaries to the Mad River). Point of Diversion (POD) #1 is for domestic use and irrigation, while POD #2 is solely for domestic use. Work associated with the water diversions includes facility retrofits, use, and maintenance of the water diversion infrastructure. Additionally, the Final SAA includes seasonal diversion minimization requirements, which limits diversion to a maximum of 150 gallons per day during the low flow season of May 15 to October 31 of each year, with no limitations for the remainder of the year (November 1 to May 14).

Please note that although different timeframes for when diversion may occur are provided in the Right to Divert and Final SAA, the project is subject to the State Cannabis Cultivation Policy, which prohibits cannabis cultivators from diverting surface water during the dry season forbearance period, from April 1 through October 31 of each calendar year. Additionally, conditions of approval require the applicant to submit revised and/or addenda to the Right to Divert and Final SAA to clarify the point of diversion is located on the adjacent property (APN: 314-201-008) (**Condition of Approval A.23**).

Under the project, the applicant proposes to add rainwater catchment and install a groundwater well to help meet the annual water demand of the project. An assessment of the rainwater catchment potential of the proposed rainwater catchment system was completed to determine if adequate water supply would be available to serve the project. The average rainfall for the project area is 56.97 inches, based on averaging rainfall values from 2010 through 2020 as recorded by PRISM Climate Group. Impermeable surfaces such as roofs, driveways, etc. in general allow for about 620 gallons of rainwater catchment per 1,000 SF for every inch of rainfall or 0.62 gallons per 1 SF. Based on correspondence with the applicant in October 2022, the applicant plans to collect rainwater from the roofs of the two (2) existing cabins onsite (each approximately 10'x12', or 120 SF, per the Site Plan, for a total of 240 SF) into 2,500-gallon tanks (although the total number of tanks was not specified). Based on the impermeable rainwater catchment area of 240 SF, and an average rainfall amount of 56.97 inches, the site's potential capture amount totals 8,477 gallons per year, on average. The proposed rainwater catchment system alone would not provide enough water to meet the needs of the project; however, use of the spring diversion will also continue under the project, and the added rainwater catchment would reduce the amount of water required from the spring diversion. As such, when compared to the estimated annual water usage amount (107,600 gallons), Planning staff believes there will be sufficient water available from the point of diversion and rainwater catchment system, once installed, to serve the project.

As noted above, a groundwater well is also proposed on the subject site. Please note that use of the well for irrigation of cannabis is not authorized under this permit. Should use of the well for cannabis irrigation be requested in the future, a modification to this permit will be required and the well will need to be assessed by a

qualified professional and determined to not be hydrologically connected to surface waters (**Condition of Approval A.12**).

Existing available water storage is 36,500 gallons in six (6) HDPE water storage tanks and a 10,000-gallon water storage bladder, which complies with the storage amount authorized under the appropriative water right (156,409 gallons). However, the current amount of water storage (36,500 gallons) is not sufficient to support the needs of the project during the forbearance period (April 1st - October 31st), in which 104,200 gallons of water is required, based on the water use estimates provided in Table 1 above. As such, conditions of approval require a minimum of 67,700 gallons of additional water storage (but not to exceed 119,909 gallons, consistent with the storage limits specified in the Right to Divert), including a minimum of 8,477 gallons to be specifically dedicated to the rainwater catchment system, to be added to the subject site to meet the project's water demand during the forbearance period, which shall be installed in a previously disturbed area and without the use of heavy machinery prior to the 2023 cultivation season (**Condition of Approval A.9**). Following installation of the additional water storage tanks, Planning staff finds there will be a sufficient supply of water to serve the irrigation needs of the project (107,600 gallons), including during the required forbearance period and CDFW's seasonal diversion minimization.

Additional conditions of approval require replacement of the 10,000-gallon bladder with hard-sided tanks equivalent to 10,000 gallons, which shall also be installed in a previously disturbed area and without the use of heavy machinery (**Condition of Approval A.10**). Conditions of approval also require the applicant to monitor water use from the point of diversion, rainwater catchment system (once installed), and storage tanks annually to demonstrate there is sufficient water available to meet operational needs (**Condition of Approval A.26**), implement any remaining projects and requirements identified in the SAA (**Condition of Approval A.15**), and continue to comply with all requirements specified in the Right to Divert (**Condition of Approval A.16**).

Per review of the County's GIS, two (2) watercourses are shown to traverse the central and very northeastern portions of the subject parcel; however, only the watercourse that traverses the central portion of the property with respective Streamside Management Area (SMA) buffer is depicted on the Site Plan. Humboldt Web GIS indicates the cultivation areas are located outside of the SMAs. The project is conditioned to provide an updated Site Plan depicting all site features, including but not limited to watercourses with respective SMA buffers (**Condition of Approval A.6**).

A Site Management Plan (SMP) was prepared for the site by Timberland Resource Consultants (WDID 1_12CC418188) in May 2021 (Attachment 4B), which details existing site conditions and remediation efforts needed to comply with the best practical treatment or control (BPTC) measures listed in Attachment A of the Cannabis General Order. As noted in the SMP, the two (2) cultivation areas are located more than 200 feet from surface waters, with adjoining hillslopes between 10-15%. Additionally, the SMP notes no unstable areas were observed onsite and access roads were found to be in adequate condition. A total of three (3) areas were identified as requiring remediation, including installation of additional water storage to meet forbearance requirements, providing secondary containment for all liquid petroleum products, generators, and pumps, and covering these items from precipitation during the wet season. The project is conditioned to implement all remaining corrective actions detailed in the SMP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs (**Condition of Approval A.17**).

Biological Resources

Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in September 2022, there are no mapped special status species onsite, and the nearest Northern Spotted Owl (NSO) positive sighting and activity center are located approximately 0.26 and 0.33 miles from

the nearest cultivation area, respectively.

Comments were received from the California Department of Fish and Wildlife (CDFW) in June 2018, which requested denial of the project as evidence suggests that no mixed light cultivation occurred prior to the baseline and no Streambed Alteration Agreement is on file for the water diversion. Additionally, CDFW requested additional information on the water and energy sources utilized; a map identifying all sensitive habitats and appropriate buffer distances for each; confirmation of appropriate permits for all stream crossings, how the project will meet season water diversion minimization requirements, and evidence of a grading permit or a Less-Than-Three-Acre Conversion Exemption or Timberland Conversion Permit; a copy of the WRPP; protocol level surveys (two-year) by an experienced wildlife biologist to determine whether the area has NSO presence; an assessment of the access road leading to the site; a copy of the Cultivation Area Verification (CAV) or substantial evidence to verify the existing cultivation amount; and the inclusion of standard mitigation measures to ensure potential impacts to biological resources are minimized.

The majority of CDFW's comments were addressed in other subsections of this staff report, including cultivation amount, water use, timberland conversion, and access road evaluation (described under the "Access" subsection, below). Mixed light cultivation is no longer requested under the project and artificial lighting will only be authorized within the propagation area, which will be required to confirm to International Dark Sky Association standards. Additionally, since the comments were issued by CDFW in June 2018, a Streambed Alteration Agreement (Notification No. 1600-2019-0980-R1) has been issued for use of two points of diversion, which specifies seasonal diversion minimization requirements. A Timber Conversion Evaluation and Road Evaluation Report have also been prepared for the project. As previously described under the "Water Resources" subsection above, conditions of approval require additional water storage to be added to the subject site prior to the 2023 cultivation season to meet the project's water demand during the forbearance period (**Condition of Approval A.9**), and to decommission and replace the existing 10,000-gallon bladder with hard-sided tanks equivalent to 10,000 gallons (**Condition of Approval A.10**), all of which shall be installed in a previously disturbed area and without the use of heavy machinery. Review of aerial imagery and the site plan indicate the cultivation areas are not located within required Streamside Management Area (SMA) buffers, although further details are required to be added to the Site Plan as a condition of approval (**Condition of Approval A.6**).

Additional conditions of approval require the applicant to implement noise and light attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions of Approval A.24-26 and Ongoing Conditions of Approval B.1-7**). While power to the site is currently provided by two (2) Honda generators, the applicant has long-term plans to switch to solar, which would further reduce potential impacts. Conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026 (**Condition of Approval A.7**).

As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

Access

Access to the site is via a driveway off Mountain View Road via Kneeland Road to Freshwater Road to Myrtle Avenue to Indianola Cutoff Road to Highway 101. Mountain View Road, Kneeland Road (from Freshwater Road to Mountain View Road), and Freshwater Road are County-maintained roads that have been approved by the Department of Public Works for use by commercial cannabis operations. Myrtle Avenue and Indianola Cutoff Road are also County-maintained, and Highway 101 is maintained by the California Department of Transportation (Caltrans). Road Evaluation Reports for a 1.8-mile segment of an unnamed private road (assumed to be Thorpe Lane, based on review of Humboldt Web GIS) from Mountain View Road to the private onsite driveway, and a 0.2-mile segment of the private driveway from the unnamed private road (assumed to be Thorpe Lane) to the cannabis farm were prepared by the applicant in January 2021 (Attachment 4E), which indicate that the roadways meet a Category 4 road equivalent standard and are adequate for the proposed use. The submitted road evaluations included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight.

Per comments received from the Department of Public Works, Land Use Division in January 2018, the project is conditioned to obtain an encroachment permit from the Department of Public Works and improve the driveway that serves the project to current commercial driveway standards. As the Road Evaluation Reports were prepared after the project was originally referred to the Department of Public Works, Land Use Division in June 2021, Planning staff reengaged with the Department by providing copies of the Road Evaluation Reports and inquiring if the Department had any additional comments or conditions of approval for the project. The Department requested the intersection of Thorpe Lane with the County road (Mountain View Road) be rocked for the first 50 feet (**Condition of Approval A.13**) and that all driveways and private road intersections onto the County road be maintained in accordance with County Code Section 41-1 (Sight Visibility Ordinance) (**Condition of Approval A.14**), which have been included as conditions of approval.

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

Planning staff determined 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 located in the Mad River Planning 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 in this Planning Watershed would be 120 permits and the total approved acres would be 53.9 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. Resolution
 - A. Conditions of Approval

- B. Cultivation Operations Plan
- C. Site Plan
- 2. Location Map
 - A. Watershed Map
- 3. CEQA Addendum
- 4. Applicant's Evidence in Support of the Required Findings
 - A. Water Right
 - B. Site Management Plan
 - C. LSAA
 - D. Timber Conversion Evaluation
 - E. Road Evaluation
 - F. CAV Justification & Images
- 5. Referral Agency Comments and Recommendations
 - A. Building Division
 - B. Department of Environmental Health
 - C. Department of Public Works Land Use
 - D. CALFIRE
 - E. California Department of Fish & Wildlife
 - F. Humboldt County Sheriff

Applicant

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Agent

None

Please contact Megan Marruffo, Assigned Planner, at 707-443-5054 or by email at marruffom@lacoassociates.com, if you have any questions about the scheduled item.