

COUNTY OF HUMBOLDT

For the meeting of: 4/4/2024

File #: 24-398

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Bee Kind Farms, LLC Conditional Use Permits and Special Permit
Record Numbers: PLN-11544-CUP and PLN-12492-CUP
Assessor's Parcel Numbers (APN): 530-151-005 and 530-151-004
Weitchpec area

The denial of two Conditional Use Permits and a Special Permit. The proposed project includes a Conditional Use Permit for 29,500 square feet of existing outdoor light-deprivation commercial cannabis cultivation on APN 530-151-005 with 1,640 square feet of proposed propagation area (Record No. PLN-11544-CUP) and up to 14,060 of existing cultivation being relocated from the southern part of the parcel and the parcel (and separate application) immediately to the south (APN 530-151-004, Record No. PLN-12492-CUP) in order to meet required setbacks from cultural resources. To facilitate the relocation, an unknown number of trees would require removal in an area of approximately 2.5 acres. Unauthorized timber conversion on this site has already occurred. Retired cultivation areas on APNs 530-151-005 and 530-151-004 would be restored and restocked with conifers. Annual water use is estimated at 127,305 gallons. Water for irrigation is sourced from a 750,000-gallon rainwater catchment pond. Drying of harvested cannabis will take place on site in Conex boxes and further processing will take place off site at a licensed processing facility. The project will require two employees. Power is provided by a generator. A Special Permit is also requested to reduce the 600-foot setback from Six Rivers National Forest.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 24-__) (Attachment 1), which does the following:
 - a. Finds the Bee Kind Farms, LLC projects statutorily exempt from the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.
 - b. Finds the required findings for approval cannot be made.
 - c. Denies the Bee Kind Farms, LLC Conditional Use Permits and Special Permit.

DISCUSSION:

Project Location: The project site is in the Weitchpec area, on the northwest side of State Highway 96, approximately 5.8 miles northwest from the intersection of State Highway 96 and USFS 10N12 Road on the property on USFS 13N01 Road known to be in Section 4 of Township 10 North, Range 04 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation: Timberland (T); 2017 General Plan; Density: 40-160 acres per unit; Slope Stability: High Instability (3).

Present Zoning: Timberland Production Zone (TPZ).

Environmental Review: The proposed projects are statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.

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

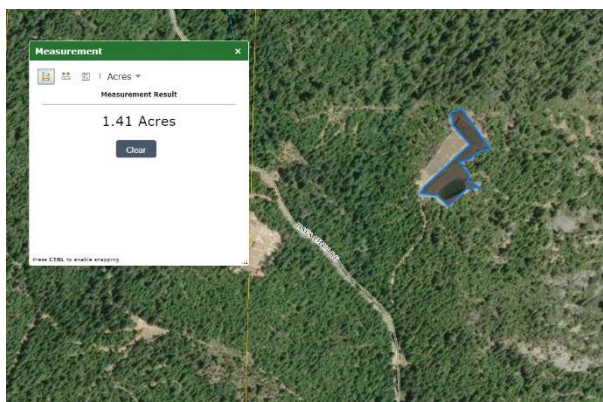
Major concerns: Proximity to cultural resources, public lands, etc.

Executive Summary:

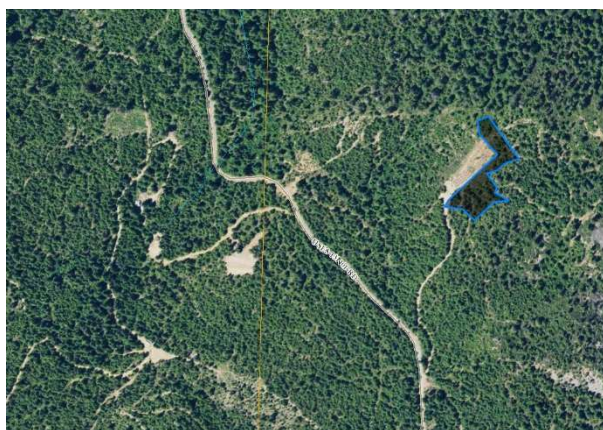
The project consists of two Conditional Use Permits for existing cannabis cultivation and a Special Permit for a reduction in the 600-foot setback from public lands. The proposed project includes a Conditional Use Permit for 29,500 square feet of existing outdoor light-deprivation commercial cannabis cultivation on APN 530-151-005 with 1,640 square feet of proposed propagation area (Record No. PLN-11544-CUP) and up to 14,060 of existing cultivation being relocated from the southern part of the parcel and the parcel (and separate application) immediately to the south (APN 530-151-004, Record No. PLN-12492-CUP) in order to meet required setbacks from cultural resources. To facilitate the relocation, an unknown number of trees would require removal in an area of approximately 2.5 acres. Unauthorized timber conversion after submittal of the application in 2016 of approximately 1.4 acres on this site has already occurred and the relocation would result in additional timber conversion.

Retired cultivation areas on APNs 530-151-005 and 530-151-004 would be restored and restocked with conifers, although a remediation plan has not yet been prepared or submitted by the applicant. Annual water use is estimated at 127,305 gallons. Water for irrigation is sourced from a 750,000-gallon rainwater catchment pond that was constructed in the area of previously unauthorized timber conversion. Drying of harvested cannabis will take place on site in Conex boxes and further processing will take place off site at a licensed processing facility. The project will require two employees. Power is provided by a generator. A Special Permit is also requested to reduce the 600-foot setback from Six Rivers National Forest to approximately 87 feet.

Timber Conversion



A Timber Conversion Report for the pre-2016 unauthorized timber conversion was submitted in 2017 which identifies remediation measures necessary to comply with the Forest Practice Act. Additional unauthorized timber conversion of approximately 1.4 acres occurred on the property sometime between 2017 and 2019, including the development of a rainwater catchment pond. The pond obtained a building permit in 2019 after submittal of engineered grading plans. The image to the left is a 2023 image showing the approximate acreage of the unauthorized conversion. The image below shows the area in question in 2016, prior to the unauthorized conversion.



The applicant has submitted a timber restocking plan for approximately 0.48 acres to be restocked, which is well below the 1.4 acres that was converted post 2016 and does not include any of the potential additional timber conversion areas to accommodate the proposed retired cultivation areas on 530-151-005 and 530-151-004.

Biological Resources

The properties are bordered on the north by the Six Rivers National Forest (SRNF) and cultivation is proposed approximately 86 feet from the shared property line with SRNF. SRNF in this area is host to many rare, threatened, and endangered plant and animal species and has a high number of mapped Northern Spotted Owl activity centers, with two located within one mile of the cultivation site. The

property, and in fact a portion of the cultivation area, is mapped as having pacific fisher occurrences and is mapped as containing robust false lupine, both are special status species. According to the California Department of Fish and Wildlife the property and surrounding area also contains habitat for Marbled Murrelet and Humboldt marten, and is within the experimental range of the California condor. A biological assessment prepared by Leopardo Wildlife Associates in 2019 concludes that the project would not impact any sensitive plant species, in large part because cultivation activities would occur on previously cleared areas. As noted previously, much of the cleared areas were cleared after submittal of the cannabis application without approval from the County or Cal-Fire. CDFW has stated that they disagree with the conclusions in this biological assessment and that the project does have the potential to significantly impact special status plant species, and they have recommended that the projects be denied.

Cultural Resources

The properties are located within the ancestral territory of both the Yurok and the Karuk tribes. A Cultural Resources Survey was completed in 2018 by William Rich and Associates which notes that there is a Tribal Cultural Resource located on the property. In addition, the entirety of APN 530-151-004 and a portion of APN 530-151-005 are located within a cultural resource district established by the Yurok Tribe and recognized as a Tribal Cultural Resource. All cultivation formerly occurring within these areas is proposed to be relocated to the northern portion of APN 530-151-005 where it would be approximately 1,000 feet from the resources. The existing cultivation occurring on the northern portion of APN 530-151-005 is approximately 1,300 feet from these resources and the Yurok cultural resource district. The report identified no artifacts or other cultural resources within the northern cultivation area. In 2018 the Karuk tribe sent a referral response to the County stating that negative impacts of the operation on cultural resources were occurring and would continue to occur and that the cannabis permits should be denied. Also, in 2018 the Yurok tribe sent the County a referral response indicating that the impacts of the cannabis cultivation would cause a substantial adverse change in cultural resources that could not be mitigated and that the application should be denied. In 2023 the Yurok tribe sent a letter stating that the tribe views the entire area surrounding the properties as sacred and that the project would be detrimental to Yurok cultural practices and should be denied. The Yurok tribe also commented that the Bluff Creek watershed would be impacted and that the project would impose a heavy environmental burden.

In an attempt to find a path forward for these applications, county staff sought to schedule a visit to the site with the applicant and with the Yurok tribe, as well as the California Department of Fish and Wildlife (CDFW) to identify potential relocation and restoration opportunities. Beginning in fall of 2022 staff began contacting the applicant to schedule a site visit for this purpose and received no response. In May staff sent the applicant a letter (Attachment 4) stating that the application would be brought to the Planning Commission with a recommendation for denial if we continued to receive no response. Staff did receive a response from the applicant however the applicant was unwilling to coordinate a site visit. After multiple phone conversations eventually the applicant stated to staff that he saw no reason for the Yurok tribe to visit the site and would only consider accommodating such a visit after meeting with the Planning Director. On August 1, 2023 the administrative secretary left a message to schedule a meeting with the Director and received no response. Again on August 2, 2023 the secretary left a message and received no response. On August 7, 2023 the secretary again tried to

reach the applicant however the voice mailbox was at that time full and not receiving messages. To date no site visit has been able to be scheduled.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and to tribes whose ancestral territory the project is located within. Both CDFW and the Yurok Tribe have asked for the Planning Commission to deny these applications.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to direct staff to continue to work with the applicant to resolve the outstanding issues and continue processing the application in accordance with HCC Section 312-4.1 et seq.

ATTACHMENTS:

1. Draft Resolution
2. Location Maps
3. Letter to applicant regarding need for a site visit
4. Referral responses and request for application denial from Yurok Tribe, Karuk Tribe, and CDFW
5. Watershed Maps
6. Applicant's Submitted Evidence
 - A. Operations Plan and Addendum on file for PLN-11544-CUP
 - B. Operations Plan on file for PLN-12492-CUP
 - C. Site Plan on file for PLN-11544-CUP
 - D. Site Plan on file for PLN-12492-CUP
 - E. Potential Relocation Plan
 - F. Biological Assessment

Applicant

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Agent

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File #: 24-398

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Please contact Cliff Johnson, Planning Manager, at 707-445-7541, or by email at cjohnson@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.