COUNTY OF HUMBOLDT

For the meeting of: 7/18/2024

File #: 24-1116

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:
Mayers Flat Farm, LLC
Assessor Parcel Numbers (APN) 211-372-006
Record No.: PLN-12651-SP
Miranda area

Mayers Flat Farm, LLC., seeks a Special Permit to expand an existing 8,750-square-foot (SF) cannabis cultivation operation consisting of two light-deprivation greenhouses to 22,000 SF of outdoor cultivation and outdoor light-deprivation. All existing and proposed cultivation is situated on existing graded or flat areas that are cumulatively less than 20 percent of the prime agricultural soils on the 80 -acre parcel. Ancillary propagation would also expand from 875 SF to 2,200-SF. Water is sourced from a 350,000-gallon onsite rainwater catchment pond and from roof and tarp rainwater catchment that will collect water from greenhouses and store it in tanks. A permitted groundwater well will be utilized primarily only for backup purposes. Water usage is estimated to require 289,000 gallons for irrigation, per growing season, at full buildout (13.13 gallons per SF). Existing water storage is 360,650 gallons, including the 350,000-gallon rainwater catchment pond. An additional 20,000 gallons of hard tank storage is proposed, for a proposed total of 380,650 gallons of storage available for the cannabis irrigation. Drying of cannabis would continue onsite in an existing outbuilding using dehumidifiers and fans. Offsite processing in a licensed facility is proposed. Up to three independent contract employees are anticipated during peak operations. Power is provided by a 25-kilowatt (kW) (and backup 45-kW) diesel generator as the applicant finalizes plans to install a solar array. Expansion beyond the existing 8,750 square feet will be allowed once the applicant demonstrates conversion to alternative energy to meet total power needs. A Special Permit is required for the buffer reduction of the storage pond which is located within the delineated wetland buffers of two ephemeral wetlands.

RECOMMENDATION(S):
That the Zoning Administrator:

Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:

a. Finds that the Planning Commission has considered the Environmental Impact Report for the Commercial Cannabis Land Use Ordinance and the Addendum that was prepared for the Mayers Flat Farm, LLC project); and

b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and

c. Approves the Special Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Mayers Flat Farm, LLC, seeks a Special Permit in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Cannabis Land Use Ordinance (CCLUO) to expand an existing 8,750-square-foot (SF) cannabis cultivation operation with the proposed addition of 13,250 SF of outdoor light-deprivation cannabis cultivation greenhouse space, for a parcel total of 22,000 SF of cannabis cultivation at full buildout. The site is designated as Timberland (T) in the Humboldt County 2017 General Plan Update and zoned with a combined zoning of Agriculture Exclusive (AE) and Timber Production Zone (TPZ). Apart from an existing 840-SF nursery greenhouse, all cultivation would occur only within existing open areas zoned AE. A Special Permit is also required for the buffer reduction of the rainwater storage pond which is located within delineated wetland buffers.

There are currently two existing light-deprivation greenhouses being utilized on the property. Expansion would add 3 additional greenhouses and two full sun outdoor areas to the property, as well as an additional 1,325 sf of propagation space. The total mature plant cultivation area after the proposed expansion will be 22,000 square feet, of which 16,738 square feet will be in light-deprivation greenhouses and the remaining 5,262 square feet will be in full sun outdoor garden areas.

Drying would occur in an existing 1,920-SF storage structure. Two 200-SF shipping containers would be used for storing harvested cannabis and equipment. The applicant may hire up to three temporary employees to assist during peak operations. Offsite processing in a licensed facility is proposed. As described in an Energy Generation and Consumption Plan (**Attachment 4b**), there is currently a small amount (460 watts) of supplemental lighting in the propagation greenhouse in use 5 months of the year (February through June). Propagation greenhouse lighting, water and air pumps, atomizer (for foliage feeding and pest/disease treatment), fans, power tools, surge protectors, dehumidifiers, and all electrical supplies and equipment, as well as all domestic power in the residence, is currently sourced from one 25-kilowatt (kW) diesel generator at this time. There is an additional 45-kW generator that is used for emergency back-up purposes; a permit to operate shall be obtained from the North Coast Air Quality Control Board by the applicant, as needed, as a condition of approval (**COA #A9**). The applicant is proposing to add a photovoltaic solar system with 16 25-watt photovoltaic panels paired with 16 deep-cycle batteries to completely phase out generator use as a primary power

supply. No cultivation expansion is allowed until the applicant can demonstrate that 100 percent of energy demand for the entire cultivation site will be met using renewable energy sources (note that the residence may continue to be powered by generator power).

The operation will be secured behind a gated road and locked structures. The applicant plans to install security cameras in each of the cultivation areas that can be monitored from a central location in the residence and/or by smartphone. All existing and proposed cultivation areas would occur on flats of less than 15 percent slope. Oaks and mixed-conifer forest surround the clearings. No timber conversion has occurred or will be necessary for the cultivation operation, and such conversion would not be supported by the CCLUO.

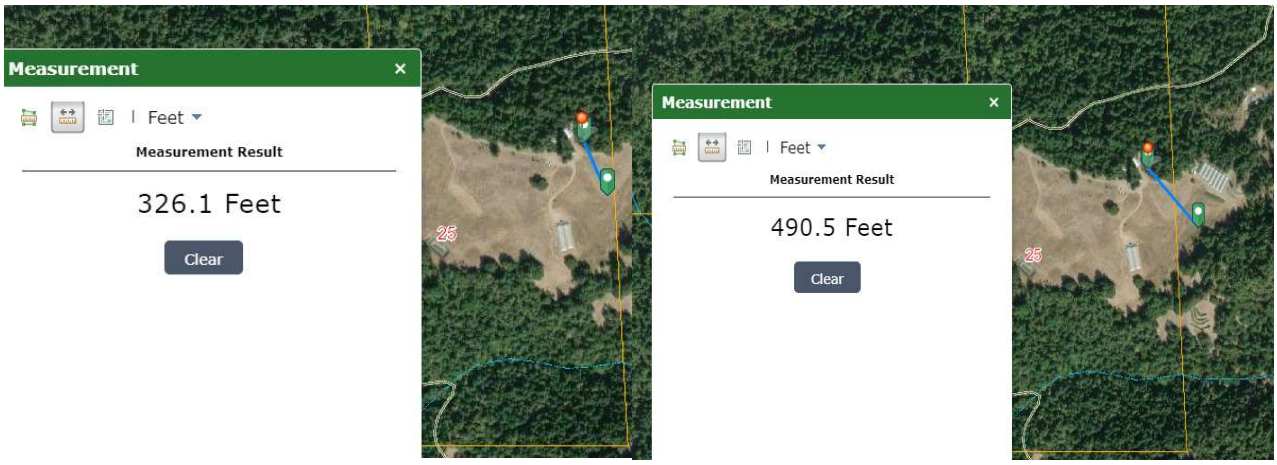
A Prime Agricultural Soil Assessment of the grassland meadow was prepared by Dirty Business Soil in May 2018 that mapped 1 acre of prime agricultural soil across four different locations, including a portion of the existing cultivation area. In accordance with CCLUO Section 55.4.6.4.3, the cumulative area of any Cannabis Cultivation Site located in the four areas identified as having Prime Agricultural Soil will not exceed 20 percent of the area of total Prime Agricultural Soil on the parcel. The revised site plan dated as "Received Planning and Building 4/26/2024" indicates the prime agricultural soil locations relative to the existing and proposed cultivation areas and shows that none of the prime agricultural soils will be used for cannabis cultivation.

Water Resources

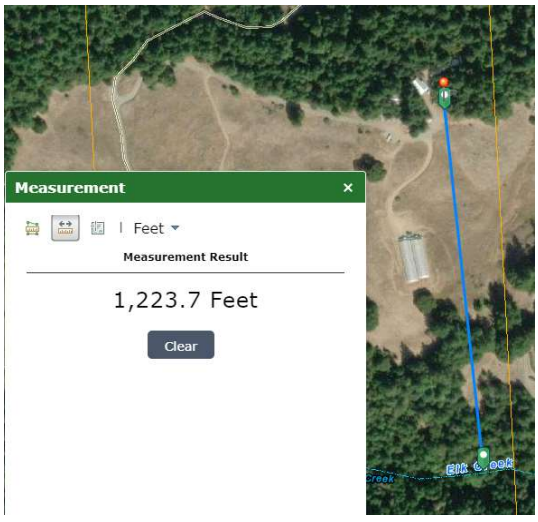
The primary source of irrigation water for this project is rainwater stored in an existing 350,000-gallon capacity pond. Water usage is estimated to require 289,000 gallons for irrigation, per growing season, at full buildout (13.13 gallons per SF). Existing water storage is 360,650 gallons, including the 350,000 gallon rainwater catchment pond. An additional 20,000 gallons of hard tank storage is proposed, for a proposed total of 380,650 gallons of storage available for the cannabis irrigation. The rainwater catchment pond is modeled to intercept more than it can store (**Attachment 4d**), and the project would pump approximately 40,000 gallons of rainwater out of the pond to a proposed tank farm located on an existing flat adjacent to the proposed solar power system. Additional tank storage proposed would increase total water storage for irrigation to 380,650 gallons.

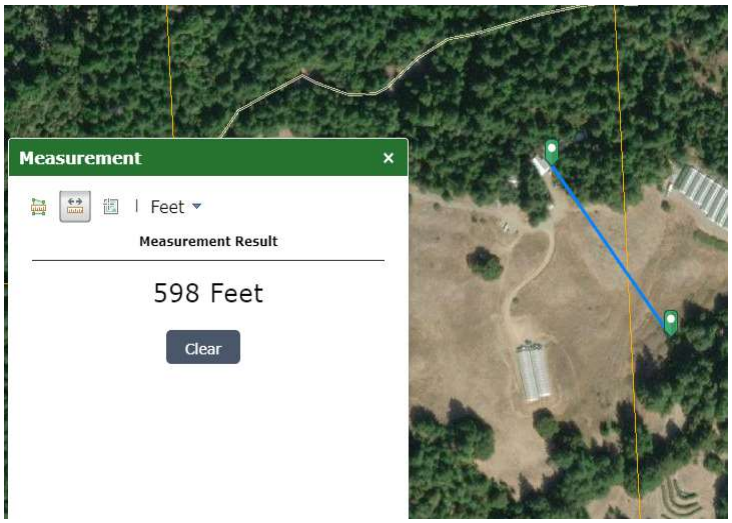
A permitted groundwater well is on the property and proposed to be utilized for backup purposes. The applicant has been unable to locate a licensed geologist to perform a hydrologic analysis of the well and its likelihood to be connected to surface water features, however the well is proposed to be utilized for backup purposes only. Planning staff has performed an analysis of the well utilizing the well completion report, topographic information and proximity to nearby surface waters and believes the likelihood of connectivity to be low. The well is screened at an interval of between 60 to 220 feet and the water bearing unit is a mixture of basalt, sandstone and shale. The nearest surface water features are seasonal wetlands and intermittent watercourses located approximately 326 and 490 feet to the south, respectfully, and both surface water features are located at a similar elevation to the wellhead or within 40 feet below the elevation of the well head, indicating that the water bearing unit of the well is likely below the extent of any seasonal surface waters from these features. The figure

below shows the well location and its proximity to seasonal watercourses.



According to the USGS quadrangle topographic maps and the biological assessment prepared for this project there is a small spring pond on the adjacent property, approximately 600 feet to the southeast of the well. The elevation of this spring is approximately the elevation of the top of the screening interval for the well. The location of this spring pond relative to the well is shown on the figure below on the left.





The nearest perennial watercourse is located approximately 1,200 feet to the south (shown in the above image on the right), which is likely to be outside of the distance where the well would intersect with any underflow of the watercourse. Similarly, the spring located approximately 600 feet to the southeast is also outside of the area where there is likely to be any significant connection to result in depletion of the surface water resource. A well analysis completed by a licensed geologist for the property immediately to the east found that the area's geology was primary underlain by Franciscan complex deposits which are known to have lower permeability than many other geologic layers.

Additionally, available USGS information (*Fine-scale hydrologic modeling for regional landscape applications. Flint 2013*) indicates that approximately 34% of precipitation goes to groundwater recharge in Northwest California. According to the Prism Climate Group the lowest rainfall year of the last ten years within the vicinity of the project site was 21.68 inches in 2013, meaning that even in a substantial drought year like 2013 a total of 7.37 inches (37% of total), or .61 acre-feet (198,769 gallons) of rainfall is available for groundwater recharge per acre in this area. The total available recharge on the 80-acre parcel would far exceed the amount of irrigation needs for cannabis even in a substantial drought year. Given that the well would be utilized for backup purposes only and there is existing and planned water storage capacity for the total annual irrigation needs, planning staff believes that the record shows that the use of the well for cannabis would not be detrimental to or otherwise detract from any surface water features or groundwater resources in the vicinity. The lack of any adverse impacts to adjacent surface water features will also ensure that there are no adverse impacts on public trust resources such as fisheries and recreational uses of the South Fork of the Eel River, which is located over two miles away, from the use of the well. **Condition of Approval A.11** requires the well to be separately metered on the irrigation and domestic side to track water use, and **Condition of Approval C.6** limits the use of the well to 25% of the total annual irrigation needs.

A Special Permit is required for the storage pond to be located within the delineated wetland buffers of two seasonal wetlands. An existing surface water diversion will be discontinued.

The rainwater catchment pond was built in 2016 and was evaluated by a Professional Geologist in 2019 and found to be well built, well maintained, and located in a suitable geologic setting. The inspection concluded that the pond had a low failure potential and a low potential for environmental impacts related to the geotechnical conditions at the site. The pond is further detailed in a Grading, Drainage, and Erosion Control Plan prepared by Omsberg & Preston (engineers) in October 2018 (**Attachment 4f**).

A Revised Final Lake and Streambed Alteration Agreement (LSAA 1600-2018-0695-R1) with the California Department of Fish and Wildlife (CDFW) was obtained by the applicant in October 2020 (**Attachment 4k**). The LSAA allows for installation of a minimum 18-inch culvert in Crossing #1 and on the road blocking drainage of a wetland and the associated measures designed to protect fish, wildlife, and plant resources. A historic point of diversion from Elk Creek was noted in the LSAA, and this domestic diversion was retired once the groundwater well was installed. The removal of the point of diversion did not require any alteration to the bed, bank, or channel; however, a notification fee and remediation fee were submitted with the original LSAA notification in November 2018.

The parcel contains three Class III ephemeral watercourses that are tributaries to the Class II Elk Creek, which feeds into the South Fork Eel River. The Plot Plan shows these watercourses across the southern portion of the parcel and four distinct delineated wetland areas. All cultivation areas are outside of the 50-foot and 100-foot Streamside Management Area buffers, apart from the pond reservoir mentioned above. A Site Management Plan (SMP) was prepared by Timberland Resource Consultants in February 2020 (**Attachment 4j and 4m**) in accordance with the State Water Resources Control Board Cannabis Cultivation Policy (Order WQ 2019-0001-DWQ) as a Tier 1, Low Risk project; the plan was revised by ETA Humboldt in 2021 to include the third cultivation area and revise project details. Abiding by the recommended best practicable treatment and control measures and the attached Mitigation Report in the SMP prepared by Timberland Resource Consultants is made a condition of approval (**COA #A13**).

Biological Resources

A Biological Assessment was prepared for the project following a single January 2020 field visit by a wildlife biologist with O'Brien Biological Consultants in accordance with CCLUO Mitigation Measure 3.4-1a (**Attachment 4n**). The wildlife biologist described the dominant forested vegetation as montane hardwood conifer and early- to mid-successional Douglas fir forest, which is a Sensitive Natural Community with a California Rare Plant Rank of S3. No trees are proposed to be removed by the project. There are mapped special-status plant species within 0.6 mile of the site (coast fawn lily; CRPR 2B.2), and sensitive natural communities could occur on site in areas where operations may occur. As a result, a botanical consultant prepared a protocol-level botanical survey report in October 2021 in accordance with CCLUO Mitigation Measure 3.4-3a, -3b, and -4 (**Attachment 4e**). In addition, owing to presence of potential wetlands, a wetland delineation was prepared by the same botanical consultant in January 2019 (**Attachment 4g**) in accordance with the CCLUO Mitigation Measure 3.4-5.

The project area was floristically surveyed on April 15, May 28, and July 29, 2021, and all plants were identified to the taxonomic level necessary to determine whether they are special status. Although member species of documented Sensitive Natural Communities were identified (e.g., California oatgrass [*Danthonia californica*] and blue wildrye [*Elymus glaucus*]), their abundance was below membership rules for the community. Delineated wetlands and associated wetland setbacks are shown on the Site Plan.

The nearest northern spotted owl (NSO) activity center is located approximately 0.48 mile east of the nearest cultivation area, with critical habitat located approximately 4.1 miles from the site. Lands south of the cultivation site and surrounding the parcel are heavily forested with appropriately aged coniferous forest; thus, there is high potential for NSO to occur on or near the property. The nearest mapped critical habitat for marbled murrelets is approximately 1.7 miles to the west, and there is likely no potential nesting habitat located on the parcel's assessment area. The Biological Assessment concluded that there is a potential noise or light impact on NSO nesting habitat from the cannabis cultivation operations and recommended surveys be conducted to determine potential presence on the property prior to development. A qualified biologist familiar with the life history of the NSO conducted a Disturbance and Habitat Modification Assessment (**Attachment 4i**) to determine the presence of the species and whether the cultivation site can operate or have its operation modified to avoid take of the species. It was determined that the project would not impact any NSO habitat and would not have adverse impacts to NSO provided that standard noise and light attenuation measures were adhered to.

Additional recommendations include housing generators inside insulated enclosures to muffle noise and adhere to noise thresholds of the CCLUO (≤50 decibels of maximum noise exposure at 100 feet from noise source or to the edge of potential habitat) (**COA#A14**).

Tribal Cultural Resource Coordination

The project was referred to the Northwest Information Center, and the Bear River Band in April 2018. A Cultural Resources Investigation was prepared in May 2018, and an Addendum Report prepared in December 2020, by Mark Arsenault, MA, RPA, principal investigator of Arsenault & Associates in Sacramento. Per the report, an outreach email was sent to the Bear River Band of the Rohnerville Rancheria and "no relevant or important response to the outreach was received." The report concluded that the proposed project will not result in any adverse changes to historical or archaeological resources, recommended Inadvertent Discoveries Protocol, and noted that if engineering plans change or additional ground disturbing activities were necessary, Mark Arsenault should be contacted for further information. Subsequently, he was contacted to perform a secondary survey of the expanded project area to the north to provide cultural resources clearance for an additional impact area associated with the proposed 3,900-SF propagation greenhouse. The secondary survey was completed on November 26, 2020, and did not identify any cultural resources within the additional impact area or 600-foot buffer. Additionally, the report concluded that the character of the secondary study area was consistent with that described in the original report.

Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources.

Access

Access to the site is via a private driveway that does not serve other neighbors which is accessed from of Dyerville Loop Road, a County maintained road. Dyerville Loop Road is a paved, Category 4, County-maintained roadway. A self-certified Road Evaluation Report (Form A.) for the 1.0-mile access route was prepared by Antonio Petrushevski, and a photo-documented report was prepared by ETA Humboldt in January 2021 (**Attachment 4h**) that indicates the roadway can accommodate increased traffic given the 17 documented turnouts, the rocked surface, and the 16-to-20-foot road widths. In addition to the self-certified RER and the photo-documented report by ETA, a Road Evaluation Report prepared for an adjacent cannabis operation that utilizes the same roadway (PLN-12601-CUP) was prepared by a licensed engineer, which found that the private roadway is functionally equivalent to a Road Category 4. Public Works, Land Use Division, conditionally approved the project on 7/21/21, and their recommended improvements have been made conditions of approval (**COA#A13**).

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 cannabis cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 307 permits, and the total approved acres would be 87.25 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and most responding agencies have either responded with no comment or recommended approval or conditional approval.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Zoning Administrator could elect not to approve the project, or to require the applicant to submit further evidence, or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

2. The Zoning Administrator could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Department has determined that the project is consistent with the MND for the CMMLUO as stated above. However, the Commission may

reach a different conclusion. In that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.

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
    A. Operations Plan
    B. Energy Generation and Consumption Plan
    C. Revised Water and Irrigation Plan
    D. Rainwater Catchment Design Plan
    E. Botanical Survey
    F. Grading Drainage and Erosion Control Plan
    G. Wetland Delineation Report
    H. Road Evaluation Report
    I. NSO Scoping Report
    J. Site Management Plan Revision
    K. LSAA Notification and Response Letter
    L. CDFW Operation of Law Letter
    M. Site Management Plan
    N. Biological Assessment
    O. 24-Hour Noise Assessment
    P. Well Completion Report
5. Referral Agency Comments and Recommendations
    A. Department of Environmental Health Comments
    B. Department of Public Works Comments

Applicant Mayers Flat Farm, LLC Attn: Dejan Petrushevski P.O. Box 2107 Redway, CA 95560

Owner Mayers Flat Farm, LLC P.O. Box 2114 Redway, CA 95560

Agents ETA Humboldt Attn: Vanessa Valare P.O. Box 147 Phillipsville, CA 95559

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