



COUNTY OF HUMBOLDT

For the meeting of: 11/7/2024

File #: 24-1544

To: Planning Commission

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Marcas Land Co., Inc., Conditional Use Permit
Assessor Parcel Numbers (APN) 317-033-008-000
Record No.: PLN-11099-CUP
Pilot Ridge>Showers Pass area

A Conditional Use Permit 19,595 square feet (sf) of pre-existing outdoor commercial cannabis cultivation and 1,142 sf of ancillary nursery area. Processing, including drying and trimming occurs in an existing building on-site. Water for irrigation is sourced from two permitted groundwater wells. The applicant estimates 577,500 gallons of water used for irrigation per year. Off-grid power is supplied by one generator and proposed solar arrays. The project is proposed to be conditioned to transition to 100 percent on-site renewable energy by January 1, 2026.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the Resolution (Resolution 24-___), (Attachment 1) which does the following:
 - a. Finds the Planning Commission has considered the Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Marcas Land Company, Inc. project); and
 - b. Finds 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 located in in the Pilot Ridge area, on the north side of Stapp Road, approximately 5 miles from the intersection of Showers Pass Road and Stapp Road, on the property known to be in Section 26 of Township 03 E, Range 04 E, Humboldt Base & Meridian.

Present General Plan Land Use Designation: Timber (T), Slope Stability: High Instability (3).

Present Zoning: Timber Production Zone (TPZ).

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

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

Major concerns: Existing wet crossing of a fish-bearing stream (addressed through requirements for bridge installation).

Executive Summary

Marcas Land Company, Inc. seeks a Conditional Use Permit 19,595 square feet (sf) of pre-existing outdoor commercial cannabis cultivation and 1,142 sf of ancillary nursery area. Irrigation water is sourced from two (2) permitted groundwater wells. A point of diversion from an unnamed tributary of Showers Creek is being utilized for domestic purposes only. Annual water usage is estimated at 577,500 gallons (27.8 gal/sf). Power is sourced from an existing generator. Processing is performed onsite within an existing two-story metal structure as well as offsite with a licensed third-party facility, when necessary.

The existing structures on site include one (1) 1,500-SF two-story (25' x 30') metal building used for harvest storage, processing and drying and one (1) 390-SF (15' x 26') storage shed. Drying and curing will occur onsite within the existing buildings. The applicant may also utilize off-site processing should it become necessary. The applicants do not propose employees and intend to perform all cultivation work themselves. Electricity is provided through the one (1) Honda EB5000X generator, housed in a secondary containment structure. The project is conditioned to require electricity to be sourced from renewable sources by January 1, 2026 (**Condition A.6.**). The applicant is proposing a 6 kW off-grid solar panel system to meet this condition following project approval.

Crossing of a Fish-Bearing Stream

The access to the property includes a stream crossing of Showers Creek on Stapp Road that is currently a wet ford that requires vehicles to travel through a fish-bearing stream. In addition to this route, the property has an access easement for a private road that leaves Stapp Road and also crosses Showers Creek and requires travel through a wet ford crossing. The two access routes essentially create a loop back to Stapp Road. Both segments of the loop require driving through Showers Creek. Crossing of this fish-bearing stream poses an on-going threat to both wildlife and water quality. There are a number of private properties that utilize these access routes, including three previously permitted cannabis operations and three (including this application) not yet permitted operations.

The continued use of either of these crossings presents an on-going threat to water quality and to fish

and amphibians. Proposals have previously been submitted to install a permanent bridge crossing over one of the crossings on one of these access easements, and discussions amongst property owners, cannabis applicants, and permit holders have occurred about installing a bridge on the other creek crossing. This included a meeting at the Showers Creek crossings that was attended by CDFW and County staff, and most of the cannabis operators utilizing these crossings.

Negotiations have begun among the landowners to create a Road Maintenance Association to address these improvements and to seek grant funding. Recommended conditions of approval include the requirement to form a Road Maintenance Association (**Condition A.7**) and a requirement to improve at least one of the crossings with a permanent bridge, within two years of the effective date of project approval (**Condition A.8**). Included in this recommended condition is the requirement that continued access to the operation be via the improved crossing once such a crossing is in place. It needs to be noted that CDFW in their written referral comments requested that no cultivation occur without a permanent bridge crossing in place. The CDFW referral comments included in Attachment 5 include correspondence between CDFW and Planning staff regarding the timing of the bridge installation. After discussion, CDFW does not appear to object to allowing the applicant up to two years to continue to operate while working to install the bridge. County staff believes that the ability to continue to operate for at least two years while seeking funding and permitting of the permanent crossing is important to ensure that this crossing installation is successful. The farm has been operating since at least 2015 with no additional traffic associated with the project, and the ability to operate will help to make these improvements financially feasible.

The three farms already permitted that utilize these crossings did not have a requirement imposed on their permits to install a bridge. However, all permitted and unpermitted cannabis operations are required to join and work with any RMA that is created, and most of these operations have already been in direct communication with County and CDFW staff regarding this concern with the crossing of Showers Creek. Accordingly, if the Macras Land, LLC project is approved with this condition in place, the County will notify these farms of their requirement to contribute to ensuring these improvements happen. If the crossing is not in place within 2 years, all of these permits will be considered for revocation. As discussed above, County staff has already been in communication with all of these farms regarding this issue and this notification will therefore not come as a surprise.

Water Resources

The site is located in the Mad River Watershed. There are three (3) watercourses that run through the project parcel. Showers Creek (Class I) runs from west to east and is a tributary to the Mad River. An Unnamed Class III watercourse, a tributary to Showers Creek, is currently being utilized as an access road crossing. A second unnamed Class III watercourse is located on site and is a tributary to Showers Creek. The site is currently enrolled in the State Water Resources Control Board's (SWRCB) General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality as a Tier II Moderate Risk site under WDID 1_12CC402985 and 1B161503CHUM and states the requirement for a Site Management Plan (SMP). The applicant has submitted an SMP prepared by Mother Earth

Engineering, dated February 13, 2019. The SMP states that there are a total of two (2) stream crossings on-site which require upgrades or instream work. The project is conditioned for the applicant shall adhere to the corrective actions listed in the SMP (**Condition A.17**). The applicant shall also adhere to the ongoing monitoring and winterization methods recommended in Section 7 of the SMP (**Ongoing Condition B.4**).

The project sources irrigation water from two (2) existing groundwater wells. Both wells are utilized for both domestic use and irrigation needs. The project is conditioned for the applicant to monitor irrigation water separately from irrigation and have these meter readings available when requested (**Condition of Approval A.9**). Total annual water usage for irrigation is estimated at 577,500 gallons (27.8 gal/sf/yr). Total water storage is currently contained within water storage bladders that will be replaced with 50,000 gallons in water storage tanks. There is also one (1) 2,500-gallon hard water tank on-site designated for fire suppression only.

To estimate the potential for hydrologic connectivity with any adjacent waterbodies, County Staff considered each well individually. Both wells are located within a quarter mile of Showers Creek, which is a class 1 perennial, fish bearing stream which flows into the Mad River, and within a third of a mile of the Mad River. The Mad River contains important public trust resources such as fisheries, recreation such as boating and swimming, and historically may have provided opportunities for waterborne commerce.

The wellhead for Well #1 (WCR2019-010450) is at an elevation of approximately 2,500 feet and the elevation of the bottom of the well is approximately 2,340 feet and has an estimated yield of 30 gallons per minute (gpm). The well is screened between 57 and 86 feet below the surface in a mix of shale, chert, sandstone and quartz. The closest waterbody, a Class III unnamed watercourse and a tributary to Showers Creek, is approximately 150 feet to the north northeast. Because this is an ephemeral watercourse that only carries water in response to rain events, it is unlikely to have any connection to a subsurface aquifer. The well is located approximately 820 feet from Showers Creek, and approximately 1,630 feet from the Mad River. The elevation of Showers Creek at its closest point is roughly 2,320 feet above sea level, which is 20 feet below the bottom of the well and roughly 100 feet below the elevation of the screening interval. The elevation of the Mad River at its closest point to the well is 1,920 feet above sea level, which is 320 feet below the bottom of the well and roughly 400 feet below the screened interval of the well. The geologic layers of the water bearing unit (shale, chert, sandstone and quartz) are more indicative of a bedrock aquifer than an alluvial aquifer and the fact that the well is drawing from above the creek and the river demonstrates that it is not directly connected to the underflow of either watercourse.

The wellhead for Well #2 (WCR2018-010452) is at an elevation of approximately 2,555 feet with a depth elevation of 2,325 feet and has an estimated yield of one (1) gpm. This well is screened between 70 and 230 feet below the surface in a mix of shale, sandstone and basalt. The closest waterbody is the Class III unnamed watercourse referenced above which is approximately 400 feet

away to the northwest and is 119 feet higher than the depth of the well. This well is approximately 1,170 feet from Showers Creek and approximately 1,480 feet from the Mad River. Showers Creek at its closest is at an elevation of 2,160 feet, which is 165 feet below the screening interval of the well. The Mad River is at an elevation of 1,920 at its closest point, which is 405 feet below the screening interval. The geologic layers of the water bearing unit (shale, sandstone and basalt) are more indicative of a bedrock aquifer than an alluvial aquifer and the fact that the well is drawing from above the creek and the river demonstrates that it is not directly connected to the underflow of either watercourse. The use of the wells for approximately 577,500 gallons of water per year is unlikely to significantly impact groundwater resources because the approximately 44-acre property provides significantly more groundwater recharge per year than the amount of water used for irrigation purposes.

According to available USGS information (*Fine-scale hydrologic modeling for regional landscape applications. Flint 2013*), 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 38.87 inches in 2013, meaning that even in a substantial drought year like 2013 a total of 14.38 inches (37% of total), or 1.19 acre-feet (387,762 gallons) of rainfall is available for groundwater recharge per acre in this area. The total available recharge on the 44-acre parcel would be over 17 million gallons, meaning that even in a substantial drought year the irrigation needs would be less than 4% of the total available groundwater recharge occurring on the parcel.

The assessments of both wells conclude that they are subsurface bedrock groundwater wells and not likely to have any significant direct connectivity to surface waters and not likely to interfere substantially with groundwater recharge available to the area. Accordingly, there will be no adverse impact on public trust resources associated with Showers Creek or the Mad River as a result of the use of either well for irrigation purposes. Well #2 is on the parcel to the south of the project parcel on APN 317-182-020-000. The County does not have record of the neighboring parcel owner granting permission to utilize the well for irrigation purposes, therefore, the project is conditioned such that the applicant is not permitted to use well #2 for irrigation purposes until the application is able to provide written permission to the County (**Condition A.21**).

There is a Right to Divert and Use Water (Registration # H501532 and Certificate # H100454) from an unnamed tributary to Showers Creek, which will be utilized for domestic purposes only.

The applicant has obtained a Lake and Streambed Alteration Agreement (LSAA) with CDFW for the in-stream work needed to upgrade seven (7) stream crossings on-site (LSAA No. 1600-2019-0662-R1). After a site visit was conducted on April 25, 2023, with the County and CDFW, it was determined that the applicant had not completed their LSAA by the completion date. The project is conditioned for the applicant to submit either a new LSAA or an extension and to complete the work associated with the previously issued LSAA by January 1, 2026 (**Condition A.11**). While the primary well produces an

estimated 30 gallons a minute, which is more than sufficient for irrigation purposes, per the request from CDFW there is a condition to add storage such that the total volume of storage is no less than 200,000 gallons in the event the wells do not produce a sufficient amount of water for cultivation operations. Further, as per CDFW recommendations the applicant is conditioned to fully contain compost piles and all imported soil on site **(Condition A.20)**.

Biological Resources

The project is located approximately 0.43 miles to the nearest known Northern Spotted Owl (NSO) activity center. The applicant obtained a Riparian and Stream Assessment prepared by Timberland Resource Consultants, dated June 26, 2017. The assessment was conducted on April 7, 2017, and habitat for several special status species were present and the species were assumed to occur within the study area. Sensitive species and habitats within the project area include Northern Spotted Owl (*Strix occidentalis caurina*), Coho Salmon (*Oncorhynchus kisutch*), Steelhead Trout (*Oncorhynchus mykiss*), Chinook Salmon (*Oncorhynchus tshawytscha*), Southern Torrent Salamander (*Rhyacotriton variegatus*), northern red-legged frog (*Rana aurora*), foothill yellow-legged frog (*Rana boylei*), and tailed frog (*Ascaphus truei*). The riparian vegetation present consists of Red Alder (*Alnus rubra*), Big-leaf Maple (*Acer macrophyllum*), Douglas-fir (*Pseudotsuga menziesii*), Willow (*Salix spp.*), California Bay Laurel (*Umbellularia californicum*), Sword Fern (*Polystichum munitum*), Deer Fern (*Lomaria spicant*), Miner's Lettuce (*Claytonia peifoliata*), Trillium (*Trillium ovata*), as well as other various graminoids and forbes including: *Geranium dissectum*, *Viola glabella*, *Iris douglasiana*, *Oxalis oergana*, *Ribes sanguineum*, and *Erythorium americanum*. The assessment states that indirect impacts to riparian and aquatic resources are primarily related to the potential for sediment delivery. Implementation of best management practices, no use of rodenticides, mitigation of generator noise, light prevention from greenhouses at night, and proper storage of fuel, fertilizers, pesticides, fungicides or other toxic substances are ongoing conditions of approval. The applicant is required to comply with International Dark Sky Standards for lighting within the propagation greenhouse and shall ensure that all noise levels do not exceed 50 decibels at 100-feet or at any tree line when noise generating equipment is in use **(Ongoing Conditions B.6 & B.7)**.

Access

The project is located in the Pilot Ridge area, on the north side of Stapp Road, approximately 5 miles from the intersection of Showers Pass Road and Stapp Road (APN: 317-033-008-000), in eastern Humboldt County. A Road Evaluation report was prepared for the project in September 2020, which recommended 1) clearing of brush on both sides of the roadway to maintain maximum intervisibility on the roadway; 2) installation of a stream crossing and 3) installation of turnouts on both sides of the stream crossing. With these recommendations, the Road Evaluation report concludes that Stapp Road will be able to safely and functionally support the intended purposes of the proposed project. There are currently three approved cannabis operations off of this road that utilize this same access. The project has been conditioned to require a Road Maintenance Association and for the improvements in the Road Evaluation Reports to be completed **(Condition A.7)**.

Processing

Processing is proposed to occur on site within an existing two-story 1,500 sf metal building, as depicted on the site plan. No employees are proposed. In the event the applicant decides to have processing conducted off-site at a licensed processing facility, the applicant shall have documentation kept on-site to show the use of a licensed processing facility, to be furnished during an annual inspection (**Ongoing Condition B.1**). The project was referred to the Department of Environmental Health (DEH) on January 26, 2022, and comments were received on February 1, 2022. Comments from DEH stated that processing activities must be supported by an approved onsite wastewater treatment system, and seasonal outdoor cultivation sites may be supported by portable toilets. The applicant must obtain a permit for and install an approved OWTS to support the processing location, and either install an approved septic system or provide portable toilets to cultivation areas. If portable toilets are provided to the cultivation areas, the applicant shall provide receipts, or other equivalent documentation, annually to the Planning Division for proof of portable toilet service, unless a permitted onsite wastewater treatment system has been obtained (**Ongoing Condition B.2**).

The project proposes to include ten (10) light-deprivation greenhouses without the use of supplemental lights, and ancillary propagation greenhouses. The applicant is proposing a 1,142 sf propagation greenhouse within three (3) separate greenhouses: nursery O is 15'x15' (750 sf), nursery (proposed) is 12'x50' (192 sf), and nursery Q is 10'x20' (200 sf). Other buildings used for cultivation activities include: one (1) proposed 192 sf ancillary nursery greenhouse, one (1) processing/drying/storage facility, one (1) agriculture/chemical storage shed, one (1) Conex box for drying and harvest storage, and one (1) residence. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis (**Condition A.12**). Historic grading has occurred on the site in association with the cannabis cultivation. The applicant is conditioned to permit the historic grading that occurred in association to cannabis activities on-site, with the Building Division (**Condition A.13**). Power is proposed to be sourced by three solar arrays on-site, and the applicant is required to permit the solar systems with the Building Division (**Condition A.14**). The generator must be housed in secondary containment, and generator housing must have a concrete floor designed to incorporate containment for fuel leaks and spills which must be located on a stable surface with a minimum 200-foot buffer from Class I and Class II streams (**Condition A.15**).

Timber Conversion

A Less Than Three Acre Conversion (LTTAC) was accepted by Cal-Fire on June 9, 2014 for a total of 2.7 acres of timber harvesting. As there was less than 3 acres of timber conversion that occurred legally, prior to the environmental baseline established for the ordinance, no timber restocking is required.

Fire Hazard

The parcel is located in an area known to have a Very High Fire Hazard Severity and is within the State Responsibility Area (SRA). The project was referred to CalFire and on September 12, 2017 comments were received. CalFire recommended signing and building numbers and fuel modification standards. Building signage and maintaining appropriate fuel modification standards has been made a condition

of approval (**Condition A.22**).

Tribal Cultural Resource Coordination

The project is located within the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) August 28, 2017. NWIC had no record of any previous cultural resources for the project area, NWIC recommended consultation with the local tribal representatives. A response was received from the Bear River Band tribe on October 3, 2017, stating that the project did not appear to represent a source of significant impacts on cultural resources and requested the applicant adhere to Inadvertent Discover Protocols, and shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided (**Informational Note 3**).

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

Planning staff determined that approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation 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 76 cultivation permits and the total approved acres would be approximately 28 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). CDFW has recommended approval with conditions, including the requirement for development of 200,000 gallons of water storage, prohibition of synthetic netting and completion of all LSAA improvements. These are all included as recommended conditions of approval. As discussed above, CDFW recommended that no cultivation occur until a bridge has been installed over Showers Creek however staff recommends that the applicant be given a minimum of three years to complete the bridge installation.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission 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 Planning Commission 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. Site Management Plan
 - B. Final Streambed Alteration Agreement with CDFW
 - C. Less Than Three Acre Conversion
 - D. Riparian and Stream Assessment
 - E. Onsite Relocation: Environmental Superiority Analysis and Remediation Plan
 - F. Well Completion Reports
 - G. Right to Divert and Use Water
 - H. Road Evaluation Report Form
5. Referral Agency Comments and Recommendations
 - A. Department of Environmental Health Comments
 - B. Department of Public Works Comments
 - C. California Department of Fish & Wildlife Comments
 - D. CalFire Comments
6. Watershed Map

APPLICANT AND OWNER INFORMATION:

File #: 24-1544

Applicant

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Owner

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Please contact Portia Saucedo, Associate Planner, at psaucedo1@co.humboldt.ca.us or at (707)268-3745 if you have any questions about this public hearing item.