



COUNTY OF HUMBOLDT

For the meeting of: 1/18/2024

File #: 24-90

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Ghost Ship Investments, LLC, Conditional Use Permit
Assessor Parcel Number: 316-071-004
Record No.: PLN-11281-CUP
33818 State Highway 299, Korbel area

A Conditional Use Permit for 25,758 square feet of outdoor cultivation and 21,942 square feet of mixed-light cultivation for a total of 47,700 square feet of pre-existing cannabis cultivation. The site includes 4,777 square feet of propagation area in three nursery hoop houses. All water for cultivation is sourced from a permitted, groundwater well. Existing available water storage is 147,000 gallons in a series of hard-sided tanks. Estimated average annual water usage is believed to be 346,500 gallons however as much as 480,000 gallons may be utilized depending on circumstances. Drying and curing occurs onsite in an existing multi-use shed, with all other processing occurring offsite at a licensed processing or manufacturing facility. Power is provided by five (5) generators, with PG&E utilized for the water pump. The project is conditioned to transition to PG&E or on-site renewable energy by January 1, 2026. A setback reduction from public lands is requested to allow for the existing cultivation area on the south to be less than 600 feet from public lands (570 feet).

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 24-__). (Attachment 1) which does the following:
 - a. Finds that the Planning Commission has considered the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CCMLUO) and the Addendum that was prepared for the Ghost Ship Investments, LLC, project (Attachment 3); and
 - b. Finds that 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 the Korbel area, on the north and south side of State Highway 299, approximately 6.2 miles from the intersection of State Highway 96 and State Highway 299, on the property known as 33818 State Highway 299.

Present General Plan Land Use Designation:

Timberland (T), 2017 General Plan. Density: 40-160 acres per dwelling unit, Slope Stability: Moderate Instability (2).

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:

A Conditional Use Permit for 25,758 square feet of outdoor cultivation and 21,942 square feet of mixed-light cultivation for a total of 47,700 square feet of pre-existing cannabis cultivation. The site includes 4,777 square feet of propagation area in three nursery hoop houses. All water for cultivation is sourced from a permitted, groundwater well. Existing available water storage is 147,000 gallons in a series of hard-sided tanks. Estimated annual water usage is 346,500 gallons. Drying and curing occurs onsite in an existing multi-use shed, with all other processing occurring offsite at a licensed processing or manufacturing facility. Power is provided by five (5) generators, with PG&E utilized for the water pump. The project is conditioned to transition to PG&E or on-site renewable energy by January 1, 2026.

The site is designated as Timberland (T) in the Humboldt County 2017 General Plan Update and zoned Timberland Production Zone (TPZ). Cultivation takes place in eight (8) separate areas of the property, comprising fifteen (15) mixed-light greenhouses (21,942 SF), four (4) outdoor greenhouses utilizing light deprivation techniques (11,798 SF), and four (4) full-sun outdoor areas (13,960 SF). Ancillary propagation occurs in the northwestern portion of the subject property in three greenhouses totaling 4,777 SF. Two (2) harvests from the mixed light cultivation areas and one (1) harvest from the outdoor cultivation areas are anticipated annually for a growing season that extends from May through October.

Drying and curing occurs onsite in an existing 2,400 SF multi-use shed, with all other processing occurring offsite at a licensed processing or manufacturing facility.

Water Resources:

Estimated annual water usage is 346,500 gallons (7.24 gal/SF) with peak demand occurring in August at approximately 59,400 gallons according to the applicant. However, staff is concerned that this amount is somewhat low for farms in this area. For comparison, other farms in the vicinity report closer to 10 gallons a square foot, which would be 480,000 gallons. All irrigation for cultivation will be controlled by a timed, metered, drip irrigation system to prevent any overwatering and runoff. Water storage for cultivation operations is contained in twenty-eight (28) 5,000-gallons, two (2) 2,500-gallon, and two (2) 1,000-gallon HDPE water tanks that total 149,000 gallons located in different portions of the parcel. Per the applicant, the tanks are filled in early spring and are generally kept full throughout the season by utilizing the well as needed. Water meters have recently been installed to track water use.

A Hydrological Report was prepared by Lindberg Geologic Consulting in April 2022 (Attachment 4F) to assess the potential for the well to be hydrologically connected to surface waters or any adjacent wetlands or wells, and if pumping the well could affect such waters. Per the Report the well has a low potential of having any direct connection to surface waters. The nearest adjacent watercourse, Willow Creek (Class II), is approximately 800 feet from the permitted well. According to the Hydrological Report, the well is located in the northwestern corner of the parcel. As noted in the Well Completion Report (Attachment 4H), the well is 200 feet deep and drilled through overburden and sandstone with serpentine. s. The first water was encountered at 90 feet. The well elevation is approximately 2,230 feet above sea level, Willow Creek's elevation is approximately 2,040 feet, and the bottom of the well is approximately 2,120 feet, which is higher (190 feet to 80 feet, top to bottom of the well) than the elevation of Willow Creek tributaries at its nearest point, based on County Web GIS map. The well is sealed through the upper 20 feet of any potential unconfined, near-surface aquifers. When considered with the stratigraphy and geologic structure, distances (horizontal and vertically) from the nearest surface waters, depth of the producing zone for the well (~90-200 feet, sheared and fractured sepeptinized peridotite), position of the well relative to the nearest adjacent watercourse (Willow Creek), the depth of the surface seal and the well site location are sufficient to preclude the potential for hydraulic connectivity. In conclusion, per Report, the water source from which the well draws appears to be an aquifer not connected to any other unconfined, near-surface aquifer(s), and the onsite well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands, surface waters, springs, and/or nearby wells in the vicinity.

As the well is hydrologically disconnected from surface waters, it does not require additional water rights from the State Water Resources Control Board (SWRCB) and is not subject to forbearance or water storage requirements. Conditions of approval require the applicant to monitor water use from the well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs (**Conditional of Approval A.17**).

The Well Completion Report estimates a yield of 10 gallons per minute, though it is not clear in the

well completion report how this was measured. The California Department of Fish and Wildlife (CDFW) provided comments requesting that a minimum of 220,000 gallons of water storage be available on-site. There is currently 149,000 gallon of water storage on site and so this would require an increase of 71,000 gallons. According to the applicant the well has not had any issues with producing the irrigation needs of the project and the 480,000 gallon maximum irrigation is less than 10% of the potential listed production of the well. For these reasons, the Planning Department did not see the need for the additional water storage recommended by CDFW, however the Planning Commission in previous hearings has voted to require the additional storage recommended by CDFW, and so the project is conditioned accordingly, with the requirement to add the 71,000 gallons within 5 years of the effective date of project approval. This would be consistent with recent past practice of the Commission. If the Commission chooses not to require this, Condition of Approval A18 should be deleted.

A Site Management Plan (SMP) was prepared for the SWRCB (WDID: 1B161626CHUM) in July of 2019 by Green Road Consulting (Attachment 4E), and notes there are 7.38 miles of unpaved road intersecting the project parcel and seventeen (17) stream crossings located on the parcel. The subject parcel has previously had historic logging operations in the project area. The historically logged area has developed legacy logging roads and landings throughout the project site. The existing developed areas are utilized for the cannabis cultivation operations. The SMP identifies twenty-six (26) areas requiring remediation, including installation of erosion control features, stream crossing installation and maintenance, trash, domestic wastewater, and cultivation related waste. Conditions of approval require the applicant to implement any remaining corrective actions and Best Practical Treatment or Control (BPTC) measures and follow all monitoring requirements identified in the SMP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs (**Condition of Approval A.8**).

A Final Streambed Alteration Agreement (LSAA; Notification No. 1600-2019-0420-R1) was issued by the California Department of Fish and Wildlife (CDFW) in December 2017 (Attachment 4A; 4B). Included under the Final SAA are fourteen (14) encroachments to unnamed tributaries to Willow Creek, with twelve (12) of the encroachments to upgrade or decommission existing stream crossings and two (2) encroachments are to remediate stream alterations associated with a notice of violation. Work for these encroachments was completed (Attachment 4I) and a notice that no further LSAA was required was issued by CDFW (Attachment 4J).

Biological Resources:

According to the California Natural Diversity Database (CNDDDB) no special-status species have been documented on the project site. The nearest known Northern spotted owl (NSO) positive observation site is greater than 0.5 miles from the cultivation site and the cultivation site is located approximately 0.37 miles from the nearest NSO activity center. The project proposes mixed-light cultivation and is conditioned to ensure any lighting adheres to Dark Sky Association standards (**Condition of Approval -Ongoing Conditions B.2**). As previously described, power is currently provided by five (5) generators, although the applicant has long-term plans to switch to PG&E. 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**).

Additional conditions of approval require the applicant to refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife (**Condition of Approval-Ongoing Condition B.5-B.8**). Additional measures that would also protect biological resources are identified in the SMP prepared for the project and include drainage, runoff, and erosion control; watershed and habitat protection measures; and proper application, storage and disposal of fertilizers, pesticides, herbicides, and petroleum products. The project has a dedicated shed for fuel and nutrients near the cultivation area, as shown on the Plot Plan Map for Phase 1. Per the SMP, fertilizers, pesticides, and herbicides are applied at agronomic rates specified on the product label and the applicant keeps a log of their fertilizers, pesticides and herbicides use for annual reporting to the SWRCB. 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.

Energy:

Power is provided by five (5) generators, with long-term plans to switch to Pacific Gas and Electric Company (PG&E) power. The generators comprise of four (4) 3-kilowatt (KW) Honda and one (1) 3.6KW self-priming GX160 Honda water pump. As previously described, 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**).

Access:

The parcel is located directly off of State Highway 299 via a private driveway. An encroachment permit was issued by the California Department of Transportation (Caltrans) in January 2021 (Attachment 3), which identifies ownership and responsibility for the maintenance of the existing commercial driveway accessed off of State Highway 299. If there is need for any future work will need a State issued encroachment permit. If the Applicant proposes any changes of the road connections and conditions an encroachment permit for the alternate use and may be subject to additional road maintenance improvements (**Condition of Approval A.10**).

Tribal Consultation:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. The project was referred to the Northwest Information Center at Sonoma State and sent emails requesting information to the Bear River Band of the Rohnerville Rancheria, the Hoopa Valley Tribe, and the Tsnungwe Council in August 2017. The requests for information resulted in no comments regarding any known archaeological or cultural sites on the subject property. A Tribal Elder and Councilperson for the Tsnungwe Tribe requested Archaeological Research Supply and Company provide any information regarding newly recorded cultural resources should any be located during the surface investigation. As of November 2, 2022, no other responses have been received. A Cultural Resources Investigation (dated November 2022; on file and confidential) was performed by Archaeological Research Supply and Company, in which no cultural resources were identified and included the standard inadvertent discovery protocol. The Report recommended inclusion of the standard inadvertent discovery protocol, which has been incorporated into the project as an informational note (**Informational Note C.3**). The Report found one (1) historic isolate was identified during the archaeological survey. However, the historic isolate is located outside of the Area of Potential Effect (APE) and will remain unaffected by the project activities.

Public Lands:

The subject property borders Six Rivers National Forest to the immediate East and South. Measurements from Site Plan, prepared by Green Road Consulting, date 12/9/21 measures the most eastern cultivation area to approximately 978 feet. The most southern cultivation area is approximately 570 feet to the boundary of the Six Rivers National Forest and a setback reduction is requested to allow this cultivation area to be less than 600 feet. There are no mapped sensitive species within 0.5 miles of this cultivation area to the south and the reduction of the setback from 600 feet to 570 feet will not result in any impacts to the ability of these public lands to be managed for open space and wildlife purposes.

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

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 Lower Trinity Planning Watershed. Under Resolution 18-43, the Lower Trinity Planning Watershed is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 72 permits and the total approved acres would be 33 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). Recommended conditions of approval from CDFW have been incorporated into the recommended conditions of approval. Comments from the California Department of Transportation in 2017 raised concerns regarding landslides, runoff, traffic and vegetation removal and these concerns have been addressed through the location of cannabis cultivation over 300 feet from active landslide areas adjacent to Highway 299, the implementation of stormwater management measures and the issuance by DOT of an encroachment permit for the driveway. Vegetation removal associated with this property occurred prior to the environmental baseline year of 2016, and the applicant states that minimal to no employees

are needed to operate the site.

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 and Operations Plan
 - C. Additional Project Information
 - D. Addendum to Cultivation Operation Plan
 - E. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Final Streambed Alteration Agreement
 - B. Amended Final Streambed Alteration Agreement
 - C. Erosion Remediation Memorandum
 - D. Notice of Intent
 - E. Site Management Plan
 - F. Hydrological Well Report
 - G. Encroachment Permit
 - H. Well Log and Completion Report
 - I. LSAA Completion Report
 - J. No LSAA Needed Letter
5. Referral Agency Comments and Recommendations
 - A. DEH Response
 - B. Public Works, Land Use Division Response
 - C. CAL FIRE Response
 - D. CAL TRANS
 - E. Northern Humboldt Union School District
 - F. CDFW

Applicant

Ghost Ship Investments, LLC
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Owner

File #: 24-90

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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.