

Angie Jeong

Record Numbers: PLN-11898-SP & PLN-11899-ZCC
 Assessor's Parcel Number: 314-222-005, 314-223-009, & 314-223-006

Recommended Zoning Administrator Action

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Zoning Clearance Certificates and Special Permits and adopt the Resolution approving the Angie Jeong's Zoning Clearance Certificates and Special Permits as recommended by staff subject to the recommended conditions.

Executive Summary: Angie Jeong seeks two Zoning Clearance Certificates and two Special Permits for the operation of existing and new outdoor cannabis cultivation occurring across two adjacent and contiguous parcels, which are owned and operated by the same applicant.

PLN-11898-SP seeks a Zoning Clearance Certificate for 10,000 sq. ft. of total outdoor cultivation, and 2,000 sq. ft. of ancillary propagation. Two additional Special Permits are being requested for the use of a spring diversion, and for the restoration of a streamside management area.

PLN-11899-ZCC seeks a Zoning Clearance Certificate for 10,000 sq. ft. of new full-sun outdoor cultivation.

Table 1. Project Summaries							
Record Number and Assessor's Parcel Number	Cultivation Area	Irrigation Source	Water	Water Storage	Water Usage	Processing	Power
Record No.: PLN-11898-SP APN: 314-222-005 & 314-223-009 (1 legal parcel)	Outdoor Cultivation: 10,000 sq. ft. Ancillary Propagation: 2,000 sq. ft.	Spring diversion under water right certificate H100720, for pre-existing cultivation. A proposed 180,000 gallon rain catchment pond for new cultivation.		Total: 35,900 gallons of hard tank storage, and a proposed 180,000-gallon rain catchment pond for irrigation. 2,500-gallon water tank for fire suppression.	120,000 gallons (10 gal/sq. ft./year)	Drying will occur within three (3) sheds on-site. Trimming will occur on site in the residence.	Two (2) generators for pre-existing cultivation, solar array used for new cultivation activities.
Record No: PLN-11899-ZCC APN: 314-223-006	Outdoor Cultivation: 10,000 sq. ft.	A proposed rain catchment pond for new cultivation, located on 314-223-009.		Total: A proposed 180,000-gallon rain catchment pond, located on 314-223-009. 2,500-gallon water tank for fire suppression located on 314-223-009.	100,000 gallons (10 gal/sq. ft./year)	Drying will occur within three (3) sheds on 314-223-009. Trimming will occur off-site at a licensed processing facility.	No power is required for the full-sun cultivation on-site.
Totals:	Outdoor: 20,000 sq. ft. Ancillary Propagation: 2,000 sq. ft.	Spring diversion under water right certificate H100720, for pre-existing cultivation. A proposed 180,000-gallon rain catchment pond on 314-223-009, for all new cultivation.		35,900 gallons of hard tank storage for pre-existing cultivation irrigation, and a 180,000 gallon proposed rain catchment pond for new cultivation irrigation. 2,500-gallon water tank for fire suppression located on 314-223-009.	220,000 gallons (10 gal/sq. ft./ year)	Drying will occur within three (3) sheds on-site. Trimming will occur off-site at a licensed processing facility.	Two (2) generators and a solar array on 314-223-009.

PLN-11898-SP was determined to have a total of 4,500 sq. ft. of pre-existing cultivation and an additional 5,500 sq. ft. will be new cultivation. Of the 10,000 sq. ft. of total outdoor cultivation on-site, 6,080 sq. ft. will utilize light-deprivation methods within greenhouses, and 3,920 sq. ft. will be full-sun outdoor. The applicant plans to utilize light-deprivation techniques without the use of supplemental lights and anticipates two (2) harvests annually. All full-sun outdoor cultivation areas will have one (1) harvest annually. The project will be solely operated by the applicant and partner who reside within the residence on-site, and trimming will occur within the residence.

PLN-11899-ZCC will have 10,000 sq. ft. of new outdoor cultivation, which will be planted in the ground within the prime agricultural soils on-site. The project will be solely operated by the applicant, and trimming will occur off-site at a licensed processing facility, and the applicant shall have documentation kept on-site to show the use of an off-site licensed processing facility (**Ongoing Condition B.1**).

Shared activities between the two projects will be the use of storage and drying structures, ancillary propagation area, and a proposed 180,000-gallon rain catchment pond, all to be located on APN: 314-223-009. In the event that one or more of the subject parcels are conveyed to a different owner and are no longer under the same ownership, shared facilities may no longer be used between the projects and PLN-11899-ZCC will be required to obtain an independent water source, drying and ancillary nursery facilities. PLN-11898-SP will be required to lower the ancillary nursery space on-site to only consist of 10% of the cultivation area on-site (1,000 sq. ft.) (**Ongoing Condition B.2**).

There are three (3) existing sheds located on APN: 314-223-009, which will be used for storage, and for drying cannabis product cultivated on APN: 314-223-009 & 314-223-006. The projects were referred to the Department of Environmental Health (DEH), and comments were received from the agency for PLN-11898-SP stating that seasonal cultivation without processing may use portable toilets to serve the operation, and that the permittee shall provide portable toilets to cultivation areas or install a permitted Onsite Wastewater Treatment System (OWTS) associated with a permitted structure. Additional comments were received from DEH for PLN-11899-ZCC, stating that the applicant must demonstrate that a properly functioning OWTS serves the operation, which can be accomplished by either installing a new permitted septic system, or by providing DEH with an assessment of the existing system performed by a qualified professional (engineer, geologist, soil scientist, or REHS) that certifies that the existing system complies with the State Regional Water Quality Control Board's definition of a Tier 0 system. The applicant shall provide receipts for portable toilet services to the Planning Division annually until an OWTS is provided and a septic permit has been obtained by DEH and is submitted to the Planning Division (**Ongoing Condition B.3**).

The projects were referred to the Building Division, and a site inspection was conducted on June 23, 2021. Comments from the Building Division included a recommendation of approval based on the condition that all required permits are obtained, and to submit a revised Site Plan. A revised Site Plan has been submitted to include all existing and proposed structures. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: four (4) light-deprivation greenhouse, one (1) proposed nursery greenhouse, two (2) storage sheds, one (1) generator shed, one (1) residence, and the solar array (**Condition A.6**). The applicant shall have all pre-existing and proposed grading associated with PLN-11898-SP (including grading associated with stream restoration work on APN: 314-222-005) permitted with the Building Division (**Condition A.7**). New cultivation associated with PLN-11898-SP & PLN-11899-ZCC will be full-sun outdoor planted directly within the Prime Agricultural Soils on-site, no new grading is anticipated, and if the new cultivation areas require grading of more than 50 cubic-yards, the applicant shall obtain a grading permit with the Building Division prior to commencing new cultivation on-site (**Ongoing Condition B.4**).

Zoning

The subject parcel's APN: 314-223-009 and 314-223-006 have a mixed zoning of Timberland Production Zone (TPZ) and Agriculture Exclusive (AE). All pre-existing cultivation areas exist within the TPZ zoned areas for the parcels, and all new cultivation areas will occur within the AE zoned areas of the parcels where the slope has been verified to be less than 15%, according to the Humboldt Web GIS.

Prime Agricultural Soils

The applicant has obtained a Prime Agricultural Soils Report (PASR) prepared by Dirty Business Soils, dated August 14, 2016. The PASR determined that for PLN-11898-SP, the legal parcel (APN's: 314-222-005 314-223-009) contains approximately 192,149 sq. ft. of prime agricultural soils on-site, and the proposal to have 10,000 sq. ft. of outdoor cultivation and 2,000 sq. ft. of ancillary propagation on-site is less than 20% of that (38,429 sq. ft.).

For PLN-11899-ZCC, the PASR determined that the legal parcel (APN: 314-223-006) contains approximately 53,143 sq. ft. of prime agricultural soils on-site. The proposal to add 10,000 sq. ft. of full-sun outdoor cultivation will not cover more than 20% of that (10,628 sq. ft.).

Timber Conversion

Both projects were referred to CalFire, and the agency replied stating that they had no comments. Proposed greenhouses will be located within the pre-existing flats, and no tree removal is required. There was approximately 0.41 acres of tree removal that occurred between 2009 and 2010, within the TPZ zoned area on parcel 314-223-009. The area where tree removal occurred is within the footprint for pre-existing cannabis cultivation, and all new cultivation areas will occur within non-forested areas on-site. The applicant shall obtain a Timber Conversion Report (TCR) prepared by a Registered Professional Forester to evaluate the 0.41 acres of potential timber conversion that occurred on-site, shall submit to the final TCR to the Planning Division and shall adhere to any recommendations within the final TCR (**Condition A.8**).

Energy

All power for cultivation activities will be sourced primarily from a solar array, and two (2) mobile solar trailers and two (2) generators are used for emergency backup purposes. For PLN-11899-ZCC, cultivation activities will consist of full-sun outdoor, and does not require additional power. The applicant will utilize the drying facilities available on APN: 314-223-009.

Fire Hazard

The project is located within an area designated to have a Very High Fire Hazard Severity, and is within the Kneeland Fire Response Area. The applicant has designated a 2,500-gallon hard tank for fire suppression needs, and has designated several fire truck turn arounds on-site. The projects were referred to the Kneeland Fire Protection District and no response was received by the agency.

Water Resources

The project will source water for pre-existing cultivation on-site from a spring diversion located on the adjacent parcel APN: 314-223-010. The applicant has obtained a Water Right for the spring diversion under Water Right Certificate H100720, which allows up to 192,252 gallons of water to be used for irrigation needs on APN's: 314-223-009 & 314-223-006. The applicant shall adhere to the terms and conditions set forth in the Water Right Certificate H100720, or any subsequent Water Right (**Ongoing Condition B.5**). The Water Right Certificate incorrectly shows that the spring exists on APN: 314-223-006, does not include the use for domestic water source, and shows the use of a stream diversion on APN: 314-223-009, which has been discontinued. The applicant shall contact the Division of Water Rights in order to update and correct the Water Right document to correctly show the spring diversion on APN: 314-223-010 to be used for irrigation and domestic uses, and to remove the stream diversion that is no longer in use. The updated Water Right document shall be submitted to the Planning Division, and the applicant shall adhere to the terms and conditions within the updated Water Right Certificate (**Condition A.9**). As well, the applicant shall meter the water used for pre-existing cannabis irrigation from the spring diversion separate from the domestic uses (**Condition A.10**).

The applicant also has an easement allowing the right to access the spring diversion and associated water tanks. Exhibit A of the Grant Deed states: "the right to take water from the exiting spring in the Southwest Quarter of the Southwest Quarter of Section 9, Township 3 North, Range 3 East, Humboldt Meridian, together with the right to use, maintain and replace the two existing water tanks the existing 2 inch water line running northerly to the south line of the Northwest Quarter of the Southwest Quarter of

said Section 9." Approximately 33,000 gallons of water will be used to irrigate the 4,500 sq. ft. of pre-existing outdoor cultivation on APN: 314-223-009, and the applicant has a total of 35,900 gallons of water storage available to meet the forbearance period. The applicant shall not use the spring diversion for the irrigation of new cannabis cultivation (**Ongoing Condition B.6**).

The applicant is proposing a 180,000-gallon rain catchment pond on APN: 314-223-009 to supply water for irrigation of all new cultivation associated with PLN-11898-SP and PLN-11899-ZCC. The applicant shall permit the proposed rain catchment pond with the Building Division, and no new cultivation activities shall occur until the pond is constructed and filled with rain water (**Condition A.11**). As well, the applicant shall install a water meter to meter water used for new cannabis cultivation irrigation from the rain catchment pond separate from the spring diversion used for existing cannabis cultivation (**Condition A.12**).

The projects were historically enrolled in the North Coast Regional Water Quality Control Boards Regional Order No. R1-2015-0023 under WDID: 1B171100CHUM. The applicant has also enrolled in the State Water Resources Control Board's (SWRCB) General Order WQ 2019-0001-DWQ, as a Tier 1 Low Risk site. A Notice of Applicability letter dated September 1, 2020, was submitted as proof of enrollment under WDID: 1_12CC425952. There is one Class II stream and several Class III streams that run through the property, and all cultivation areas exist outside of the streamside management areas. There is one Class III stream where expansion activities occurred, and the applicant has a Stream Restoration Plan that was approved by the California Department of Fish & Wildlife (discussed below). The applicant has a Site Management Plan (SMP) that was prepared by Mother Earth Engineering to assess any mitigation measure needed to comply with the SWRCB General Order. The SMP outlines the following site specific recommendations for APN's: 314-222-005 & 314-223-009, which are included in the Conditions of Approval for the project PLN-11898-SP (**Condition A.13**):

- The application of native grass seeds on a bi-annual basis, in October and March, shall be applied at Cultivation Area 1 (CA1) and Cultivation Area 2 (CA2), in areas of exposed earth, until grass is well established. Grass seeds should be native bunch grasses (blue wildrye, California brome, and California meadow barley etc. After the application of seeds, a layer of mulch should be applied to the seeded area, and mulch shall be weed free.
- Straw wattles should be placed along the toe at Greenhouses B & C shown on the Site Plan of the SMP, as directed in Attachment C of the SMP. A layer of straw and jute mesh should be applied as an additional erosion control measure to help seeds establish.
- The replacement or installation of three (3) culverts on-site to meet the need for a 100-year flood.
- Where water is channelizing at the outfall of each drainage relief culvert, these outfalls should be armored with rip rap to prevent further channelization and erosion.
- The installation of two (2) rolling dips on the road at CA1 shown on the Site Map. The road should be regraded and have out-sloping where it is not. Out-sloping should be done to at least a 2 % gradient on portions of the road set at <4% and increase to up to 5% as the road steepens.
- The inside ditch along the access road at CA1 (Photo 17 in the SMP) should be out-sloped.
- At CA2, water bars and rolling dips shall be installed at areas shown on the Site Map in the SMP. Water bars should be placed on steep grades (12-18%) every 100 feet, rolling dips should be placed on segments of the road <12% every 115-160 feet depending on road grade. Guidance on the proper installation of these features is included in Attachments D, E, and F in the SMP. All portions of road should be out-sloped at CA2, and out-sloping should be done to at least a 2 % gradient on portions of the road set at <4% and increase to up to 5% as the road steepens.
- Two-inch angular rock should be laid down in the entirety of the lower road segment at CA2. The depth of this surfacing should be a minimum of 6 inches and will require approximately 130 cubic yards of rock.
- Once the culvert is excavated, restore the road bed at ditch relief culvert G shown on the Site Map in the SMP.
- Revegetation of the area affected by erosion from the outfall of culvert G with sward fern. Revegetation should occur in the rivulets to stop erosion and ensure a good survival rate of the ferns. Ferns should be placed two (2) feet apart.
- The petroleum storage shed (generator shed) shall be fully enclosed and permitted.

The SMP also outlines the following ongoing recommendations for maintenance and monitoring on the sites, which have been included in the Ongoing Conditions of Approval for the projects (**Ongoing Condition B.7**):

- Ditches and culverts shall be inspected before and after the winter season and after storm events that produces at least 0.5 inch/day or 1.0 inch/7 days of precipitation, as well as before and after the winter season to ensure they are not worn down and are still properly functioning. Accumulated sediment and debris blockage/accumulation should be removed regularly.
- Wattles around cultivation areas may contain elevated levels of nutrients or pesticides and should be excavated and removed from the site to a properly licensed facility for disposal.
- Road maintenance activities shall address surfacing, cut slopes, fill slopes, drainage structures and erosion control measures. Grading to maintain roads should only be done when the road surface becomes damaged by stormwater, to retain surface drainage structures, or if the surface of the road becomes damaged or instable. Should any cut fill slopes start to slump or show signs of excessive rutting and riling these areas may need to be flattened or revegetated or stabilized with riprap where necessary.
- Water bars should be inspected and reconstructed where necessary, before the onset of winter.
- During dry months regular culvert maintenance activities should occur, such as: removal of sediment and large rocks at the culvert inlet, culvert inlets or outlets that have been damaged by falling trees or branches should be straightened, any outlets showing signs of erosion should be armored or fitted with downspout where significant erosion has occurred or is persistent.
- Pesticides and fertilizers shall be stored in secondary containment within the shed. The shed shall also contain a spill kit and the applicant shall follow the procedures in "the case of a spill" on page 13 of the SMP.
- Damaged or compromised fuel containers shall be disposed of immediately at an appropriate licensed facility.
- Soil left in pots or beds shall be covered with a tarp during the rainy season.
- The applicant shall adhere to winterization measures (all erosion control, sediment capture, and soil storage methods described in the SMP) before the onset of the winter season. Additionally, all areas of exposed (non-vegetated) earth shall be mulched at a rate of two tons per acre, this includes areas around and walk-ways within greenhouses. Straw wattles shall be inspected for sediment accumulation, and wattles contaminated with sediment shall be removed and properly disposed of. Culverts shall be inspected for debris blockages or sediment accumulation, all debris and sediment shall be cleared and properly disposed of. Reseeding shall be done in October and March to the specifications in the Sediment and Erosion Control Section of the SMP.

The applicant has obtained a Streambed Alteration Agreement (SAA No. 1600-2019-0120-R1) with the California Department of Fish & Wildlife (CDFW) on March 17, 2021. The SAA is limited to eleven (11) encroachments: the decommissioning of a stream diversion from a tributary to the Mad River, the use of a water diversion from an unnamed spring for domestic (S027562) and irrigation from storage (water right H100246), the enhancement of an existing spillway from the pond on-site, the installation/replacement of three (3) culverts on-site, and the decommissioning of five (5) stream crossings and restoration of a stream channel. The SAA incorrectly states that the applicant will be utilizing a spring diversion under water right certificate H100246 (which was revoked), and the correct water right certificate is H100720. The applicant shall adhere to the project description and work outlined within the SAA No. 1600-2019-0120-R1, and shall adhere to all mitigation and minimization measures outlined within the SAA (**Condition A.14 & Ongoing Condition B.8**).

The applicant had a Stream Restoration and Revegetation Plan (SRRP) prepared by Green Road Consulting, which was submitted to CDFW. At the request of CDFW, Green Road Consulting reevaluated the SRRP and submitted an Addendum to the SRRP, which was approved by CDFW on September 2, 2021. The Addendum to the SRRP identifies two sections where grading has interfered with existing topography to reestablish a flow path, and describes how the area will be excavated to recreate the pre-existing channel conditions. The applicant shall adhere to the steps outlined in the Addendum to

the SRRP, and shall provide proof of completion of the stream restoration with approval from CDFW (**Condition A.15**).

Biological Resources

The project is located outside of any areas shown to contain rare or special species according to the California Natural Diversity Database (CNDDDB). The project site is also approximately 0.71 miles to the nearest known Northern Spotted Owl (NSO) activity center. The project sites are located on historic logging flats which are non-forested and unlikely of containing NSO habitat. The projects were referred to CDFW, and no response was received. The applicant is required to comply with International Dark Sky Standards, shall ensure that all noise levels do not go above 50 decibels at any tree line when noise generating equipment are in use, and generators shall be enclosed in permanent generator shed locations (**Ongoing Conditions B.9 & B.10**).

The project does not require tree removal, and the applicant was not required to provide a Biological Report for the site. The addition of light-deprivation greenhouses with no use of supplemental lights, and full-sun outdoor cultivation areas planted directly in the native prime agricultural soils on-site, has been determined to have a less than significant impact on the surrounding wildlife, so long as the applicant complies with all conditions of approval.

Tribal Cultural Resource Coordination

The project is located within the Bear River Band Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC), and the Bear River Band THPO. The NWIC replied recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Bear River Band THPO replied on June 24, 2021, stating that they recommend inadvertent archaeological discovery protocols for the project. In the event that cultural, tribal or historical resources are discovered during project activities, the applicant shall adhere to Inadvertent Discover Protocols and cease all work in the immediate area and within a 50-foot buffer of the discovery location (**Informational Note #3**).

Access

Access to the site is via a private driveway off of Butte Creek Road which is a county maintained road, off of Mountain View Road which is also a county maintained road. The applicant has submitted a Road Evaluation Report form for 530 feet of Butte Creek road designating it as being developed to the equivalent of a road category 4 standard, which includes photos of the access road from the Mountain View Road and Butte Creek Road intersection to the project location. The projects were referred to the Department of Public Works and comments received from the Department recommended conditions of approval for the projects. Comments received from the Department of Public Works included the following recommendations for the projects (**Condition A.16**):

- The access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This condition shall be completed to the satisfaction of the Department of Public Works.

As the project will be run solely by the applicant and partner who live on-site, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access road meets the functional capacity for the project's needs.

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 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 these projects the total approved permits in this Planning Watershed would be 63 cultivation permits and the total approved acres would be 24.09 acres of cultivation.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Zoning Administrator (See Attachment 2 for more information).

Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

Alternatives: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.