

The Vista 36, LLC

Record Number: PLN-2019-16032

Assessor's Parcel Numbers: 316-313-007, 316-173-032, 316-312-009, 316-313-003 & 316-312-008

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:

Adopt the Resolution to take the following actions: 1) Find that the Zoning Administrator has considered the Addendum to the adopted Environmental Impact Report for the Commercial Cannabis Land Use Ordinance (CCLUO) as described by Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Special Permit and 3) approve the The Vista 36, LLC Special Permit as recommended by staff subject to the recommended conditions.

Executive Summary: A Special Permit for 18,968 square feet (SF) of mixed light cultivation, 2,060 SF of outdoor cultivation, 2,060 SF of ancillary propagation space, and a 3,520 SF commercial nursery on APNs 316-173-032 and 316-313-007. The total cultivation area will be 21,028 SF. The commercial nursery will be two (2) 1,760 SF stories, totaling 3,520 SF. The applicant hopes to achieve two (2) harvests annually. Water will be sourced from two (2) wells which were determined to be not hydrologically connected and a rooftop rainwater catchment system. Six (6) 5,000 gallon water tanks and two (2) 5,000 rainwater catchment tanks are proposed onsite, and one (1) 500,000 gallon rainwater catchment tank is on an adjacent site, to be shared with PLN-2019-16038, for a total of 540,000 gallons of water storage. There is also one separate 3,000 gallon tank designated for fire suppression. The estimated water needed annually for irrigation is approximately 271,404 gallons (12.0 gal/sf/yr on average for cultivation, and 3.4 gal/sf/yr on average for nursery and propagation). Drying, trimming, and processing will occur onsite within 640 SF of the 2,960 SF residential structure, which is proposed to be converted to processing on the ground floor and employee housing on the second floor. Operations will utilize up to two (2) full-time employees and up to four (4) additional seasonal employees, totaling six (6) employees. Portable restrooms will be available onsite for employees, and the on-site residence has a septic system which can be utilized by employees after the structure is converted for commercial use. Power is sourced from PG&E via a green energy program.

There will be 18,968 SF of mixed light cultivation proposed to be within four (4) greenhouses, two of which would be under 3,100 SF, one of which will be 8,400 SF and one of which would be 4,469 SF. The applicant hopes to achieve up to two (2) mixed light harvests annually. There will be 2,060 SF of outdoor cultivation proposed in one (1) full-sun outdoor fields. Ancillary propagation is proposed in two (2) 1,050 SF greenhouses, for a total of 2,100 SF. The two-story commercial nursery will have a 1,760 SF footprint, totaling 3,520 SF. An existing 2,960 SF residence will be used for drying, trimming, and packaging, on the ground floor, and used for employee housing on the second floor. The applicant shall permit or acquire agricultural exemptions for all buildings with a nexus to cannabis, including but not limited to four (4) greenhouses, one (1) commercial nursery building, two (2) storage structures, and one (1) commercial processing and employee housing structure.

There is one (1) 7,000 square foot domestic greenhouse onsite, at the southern end of APN 316-173-032. Due to insufficient setbacks from adjacent vacant properties, this greenhouse is not approved for any cannabis cultivation or propagation.

The site is in an area of High Instability for seismic safety, and the applicant provided an R-2 Soils Report (RSR) for the existing residence. The RSR was prepared by Corey Matson of Pacific Affiliates, Inc in 2015. The RSR states that any future development aside from the residence will require further evaluation, so an additional report would need to be prepared for, at minimum, the proposed commercial nursery before being permitted by the Building Division. The RSR states that slope stability is not considered a hazard in the vicinity of the residence and there is a low probability of liquefaction at the site. The RSR

provides standards that the project shall adhere to which regard seismic hazard damage reduction, foundation construction, erosion and sedimentation control, and soil bearing pressure. The development will take place on a pre-existing graded flat, which, according to the drainage map prepared by Trinity Valley Consulting Engineers, has slopes between 0 and 15%. The drainage map also determined that the proposed cultivation is all located in the Lower Trinity watershed, rather than the neighboring Redwood Creek impacted watershed. The Lower Trinity planning watershed is not a cannabis impacted watershed, but it is limited to 169 permits and 58 acres of cultivation maximum, the present quantities at time of writing are estimated to be 63 permits and 23.85 acres.

There is a permitted septic system supporting the residence. Once the residence is converted to a permitted commercial structure, the structure will offer two restrooms meeting Americans with Disabilities Act accessibility standards (ADA), including toilet and shower facilities for employee use. There are also two portable restroom facilities onsite and one additional portable restroom on Assessor's Parcel Number (APN) 316-313-003 for employee use.

The project is within the jurisdiction of Blue Lake Union School District. A request for comment was sent to them on January 14th, 2020 and they provided approval on January 24th, 2020 without comment. There are no schools or school bus stops within 600 feet of the project.

Water Resources

The project's primary water sources are two wells and a rooftop rainwater collection system. One well is onsite on APN 316-313-007. The other is on APN 316-313-003 and has a deed of easement permitting water use from this well by APN 316-313-007. Both wells have had hydrologic studies prepared by Lindberg Geologic Consulting. According to the studies, these wells are unlikely to be connected to any nearby surface waters, such as Willow Creek, so we are treating them as non-diversionary. The rainwater catchment system is located on the residence proposed for commercial conversion on APN 316-313-007. Additional wells are identified in the cultivation and operations plan, but no studies of these wells have been submitted. They are assumed to be diversionary water sources, so the project is conditioned to restrict the use of these wells so that they are not utilized for any cannabis-related purposes. If evidence suggesting that these wells are non-diversionary is submitted, the Planning Department will review whether each additional well can be added to the project. Water from these sources will be stored in six (6) 5,000 gallon water tanks and two (2) 5,000 rainwater catchment tanks onsite, and one (1) 500,000 gallon rainwater catchment tank offsite, for a total of 540,000 gallons of water storage. The offsite tank will be located on APN 316-313-003 and shared with PLN-2019-16038. There is also one separate 3,000 gallon tank designated for fire suppression; the operations plan identifies this tank as both emergency use and domestic use, so the project is conditioned to modify that tank as exclusively emergency use. The estimated water needed annually for irrigation is approximately 271,404 gallons (12.0 gal/sf/yr on average for cultivation, and 3.4 gal/sf/yr on average for nursery and propagation). Employee drinking water and handwashing water will be sourced by rainwater catchment and provided in designated shaded break areas. Water designated for employees was sourced differently in the Cultivation and Operations Plan, so the project is conditioned to modify this source. The property owner prepared a Streambed Alteration Agreement to permit water diversion from off site at two encroachments to Willow Creek. These encroachments can only be utilized for domestic uses. No water sourced from diversions will be used for the project.

Because the project includes shared water storage, it is appropriate to identify approximately how much water storage would be available for each site. This approximation can be made by converting the estimated water needs for each site to a ratio. PLN-2019-16038 estimated that 515,468 gallons would be required annually and PLN-2019-16032 estimates that 271,404 gallons would be required annually. Therefore, roughly 201,400 gallons of storage would be available for PLN-2019-16032 and roughly 368,600 gallons of storage would be available for PLN-2019-16038.

Willow Creek passes through the subject parcel. According to the site management plan (SMP) prepared by Natural Resources Management Corporation, Willow Creek is a Class I watercourse. The streamside management area for this watercourse is 150 feet from the edge of the water. All

development takes place over 500 feet from the water's edge. According to the site management plan, this portion of Willow Creek was historically converted into an on-stream pond to impound water for domestic and irrigation use. During the winter of 2016 & 2017, the north side of the pond's impoundment failed and has degraded to be the same elevation as the natural channel. The landowner will work to implement immediate and permanent repairs to protect the surrounding environment and restore the stream to its pre-damage condition. The project site is on a ridge over 50 feet of elevation above Willow Creek, outside of the WebGIS demarcated National Wetlands Inventory and Troy Leopardo did not observe any wetlands during his biological reconnaissance surveys in November 2019 and March 2020, so it is unlikely that any wetland habitats have potential to be impacted by the proposed project. A protocol-level wetland determination was not performed.

The applicant is not currently cultivating on the project site and is currently enrolled in the State Water Resources Control Board's (SWRCB) (Order WQ 2019-0001-DWQ) General Waste Discharge Requirements and Waiver of Waste Discharge Requirements. The project has prepared a site management plan outlining the measures required to meet the standards of the SWRCB's Order. The applicant shall adhere to the measures and recommendations within the SMP.

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 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, which under Resolution 18-43 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 63 permits and the total approved acres would be 23.85 acres of cultivation.

Processing

Processing activities will take place in the garage spaces on the lower floor of the existing residence onsite. The residence will be permitted as a commercial structure. Processing activities will include drying, curing, trimming, grading, and bulk packaging and will also support PLN-2019-16038's processing needs.

Two (2) full-time employees are required to maintain the site. Up to four (4) additional employees may be required seasonally to support planting and harvest periods. The applicant has declared themselves an agricultural employer as defined in the Alatorre-Zenovich-Dunlop-Berman Agricultural Labor Relations Act of 1975 and prepared an Employee Safety Practices Summary.

Fire Safety

The project is located within the State Responsibility Area in an area designated as High Fire Severity. The applicant has designated a 3,000 gallon water tank for fire suppression, but had also designated that tank for domestic use. The project is conditioned to modify this and utilize an alternative tank for domestic use.

Biological Resources

Biological resource surveys were conducted in the study area in November 2019 and March 2020 by Troy Leopardo, a qualified biologist. These surveys were used to inform the Biological Assessment (BA) prepared by Leopardo Wildlife Associates dated April 6th, 2020. Protocol-level botanical surveys were conducted in the study area in May 2022 and June 2022 by Robert Anderson IV, a certified botanist. These surveys were used to inform the Botanical Survey Report (BSR) prepared by Robert Anderson IV in conjunction with Naiad Biological Consulting dated July 27th, 2022.

The project site is near mapped range for certain rare or endangered plant species listed in the California Natural Diversity Database (CNDDB), but the Biological Assessment concluded that, due to the pre-disturbed nature of the site, the proposed new cultivation development is unlikely to significantly affect sensitive plant communities. The Botanical Survey Report corroborates this conclusion. The BSR identified 20 invasive plant species onsite, two (2) of which are considered highly invasive. The Cultivation and Operations plan's Invasive Species Management plan specifically identified the invasive Bull Thistle as

present on the site, which will be dug up when infestations appear. The site will be mowed regularly to prevent flowering and seed production of any bull thistle. The Invasive Species Management Plan will be modified to include procedures for the removal of moderately and highly invasive species, as listed in Appendix B of the BSR, and surveillance of the limited invasive species.

The nearest northern spotted owl (NSO) activity center is approximately 0.9 miles from the proposed cultivation area. The BA determined that, because the project area has a long history of human disturbance, the area cannot be interpreted as suitable for nesting NSOs. While the surrounding area is preferred habitat for NSOs, the CNDDDB does not indicate any nesting spotted owls within 0.25 miles, nor have any NSOs been reported within the BA's assessment area since 2010. Additionally, no habitat encroachment is proposed to take place, no NSO nesting, roosting, or foraging habitat will be removed as a result of this project. Even if NSOs are present within range of the project, the biologist believes that all of the activities associated with the cultivation are unlikely to adversely impact northern spotted owls or any other species with a preference for late mature forest habitat. The project will be connected to PG&E power and greenhouse fans will not exceed 50 decibels at the edge of the habitat. The project will adhere to International Dark Sky Association standards, so no light shall escape the greenhouses between dusk and dawn.

The subject parcel is within 1.3 miles of several mapped ranges for rare or endangered species listed in the CNDDDB. The BA provides determinations and recommendations for these species, separated by guild. The BA concluded that, due to pre-existing site disturbance and lack of observations, the project will likely have no significant direct impacts to plant or animal communities, however, if vegetation removal must take place during nesting or raptor breeding season, it recommends conducting bird surveys prior to vegetation removal. This recommendation has been included in the conditions of approval for the project. CDFW requested a protocol-level botanical survey, requested the survey be approved by CDFW, and requested that, if a special-status species is found, the observation is reported to the CNDDDB. The protocol-level botanical surveys on May 5th, 2022 and June 27th, 2022 found no sensitive plant species or habitats. Construction activities shall only commence in the event that no rare, threatened, or special-status species are found onsite. If any rare, threatened, or special-status species are found onsite, the biologist shall notify the Planning Director in consultation with CDFW. The Planning Director shall determine in consultation with CDFW whether modifications to the project design are possible to avoid removal of occupied habitat while still achieving project objectives, or if avoidance is not feasible. If avoidance is not feasible, the project is conditioned to be reduced in scale or modified to ensure avoidance occurs.

The project was referred to the California Department of Fish & Wildlife (CDFW) on January 14th, 2020, and no comments were received. On April 15th, a follow-up was sent to CDFW, and a phone discussion took place on May 2nd, 2022, recommending in the condition discussed above, though modifications to the condition were made as more information was obtained. The applicant had submitted an application for a Lake or Streambed Alteration Agreement with CDFW in 2017. The application mentions two existing stream diversions being used for both domestic and irrigation purposes. There are no stream crossings onsite. The applicant shall adhere to the work outlined in the final Agreement.

Noise

Performance Standards required in the CCLUO, per section 55.4.12.6, state that noise from cultivation and related activities shall not result in an increase of more than three decibels of continuous noise above existing ambient noise levels at any property line of site. Because the power is sourced from PG&E, the project is not expected to raise noise levels. The project is conditioned to prepare a Noise Study to determine ambient noise levels and to not go over three decibels above that noise level for the life of the project.

Energy Plan

The project's power source will be PG&E. All PG&E power will be sourced from renewable energy programs. There are no generators proposed onsite. The parcel is presently connected to PG&E power.

Tribal Cultural Resource Coordination

The project is located within the ancestral aboriginal territories of the Tsnungwe Council, Hoopa Valley Tribal Council, and the Bear River Band of Rohnerville Rancheria. The project was referred to the Hoopa Valley Tribal Council and Bear River Band tribes on January 14th, 2020 and to the Tsnungwe Council on February 17th, 2022. The project was also referred to the Northwest Information Center (NWIC) on January 14th, 2020. NWIC responded on January 28th, 2020 noting two cultural studies which included the project area in their review, neither of which identified any cultural resources. NWIC also recommended that the lead agency contact the local Native American tribes regarding traditional, cultural, and religious heritage values. The Bear River Band commented on January 31st, 2020, confirming that due to the results of the previous surveys, only inadvertent discovery protocols would be recommended. Tsnungwe Council responded on February 18, 2022, stating that the previous surveys would be sufficient. Hoopa Valley Tribal Council have not provided comment. Inadvertent discovery protocols are in place for the project. In the event that cultural resources are encountered during project activities onsite, the applicant shall adhere to inadvertent discovery protocols, halt operations, and contact a qualified archaeologist.

Access & Parking

Access to the site is from a private road which offshoots from what was historically Highway 299, which in turn offshoots from Titlow Hill Road, a paved County-maintained road. The property owner has submitted a formal roadway evaluation prepared by Trinity Valley Consulting Engineers Inc. This evaluation determined that Titlow Hill Road meets the Category 4 standard, old Highway 299 is developed to the equivalent of a Category 4 roadway, and the private road will be able to accommodate the cumulative increased traffic from the project, provided that recommendations are executed. The roadway evaluation recommended clearing brush from the right-of-way on the private driveway to improve visibility. The project was referred to Public Works and comments were received January 27th, 2020. The department recommended conditions of approval for the project, including: all fences and gates shall be relocated out of the County right-of-way with appropriate setbacks, surfaced parking lots shall have an oil-water filtration system prior to discharge into any County-maintained drainage facility for stormwater runoff, any existing or proposed driveways accessing the project shall be improved to current standards and will require an encroachment permit from the Department of Public Works, and all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility). The recommended conditions have been included in the Conditions of Approval for the project that must be met before commencing project activities onsite.

The project anticipates a maximum of six (6) employees during peak season. The current site plan and operations plan designate a total of five (5) parking spaces onsite, so one (1) additional parking space is needed. There appears to be sufficient flat space on site to include the additional parking space and the project is conditioned to include all six (6) parking spaces when developed.

Summary

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 Environmental Impact Report that was adopted for the Commercial Cannabis 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.