



COUNTY OF HUMBOLDT

Legislation Text

File #: 22-1498, Version: 1

To: Zoning Administrator
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

Steven Jones, Special Permit

Record Number: PLN-11051-CUP (12/09/2016)

Assessor Parcel Numbers (APN) 220-272-003

Briceland area

A Special Permit for 9,600 square feet (SF) of existing cannabis cultivation (4,200 SF outdoor and 5,400 SF mixed light) and 960 SF of ancillary propagation. Irrigation water is sourced from a groundwater well. There will be a total of 48,500 gallons of water storage. Estimated annual water usage is 60,000 gallons. Drying, curing, and processing occurs onsite. Power is provided by solar, with two (2) propane generators utilized for backup.

RECOMMENDATION(S):

That the Zoning Administrator:

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 part of the Consent Agenda; and
4. Adopt the resolution (Resolution 22-__). (Attachment 1) which does the following:
 - a. Finds that the Zoning Administrator has considered the Addendum to the Mitigated Negative Declaration for the Commercial Cannabis Land Use Ordinance that was prepared for the Steven Jones Special Permit); and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Steven Jones Special Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location: The project is located in the Briceland area, on the northeast side of Briceland Thorn Road, approximately 10 feet north from the intersection of Ferren Road and Elk Ridge Road, on the property known to be in Sections 12 and 7 of Township 04 South of Range 02 East, Humboldt Base and Meridian.

Access: Access to the site is via a driveway off Elk Ridge Road to Perry Meadow Lane to Briceland Thorne Road. Briceland Thorne Road is a County-maintained roadway that have been identified to meet or is equivalent to Category 4 road standards for cannabis projects, while Perry Meadow Lane and Elk Ridge Road are privately maintained. A Road Evaluation Report for an approximately 1.8-mile segment of Perry Road

(assumed to be Perry Meadow Lane), from Briceland Road (assumed to be Briceland Thorne Road) to Elk Ridge Road, was prepared by the applicant in July 2018 (Attachment 3), which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The submitted road evaluation included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. Per comments received from the Department of Public Works, Land Use Division in August 2021, it is noted that Perry Meadow Lane was recently surfaced to County standards as of August 9, 2021. The project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) (**Condition of Approval A.16**) and ensure all fences and gates are relocated out of the County right of way (**Condition of Approval A.17**).

There are a number of cultivation projects along Perry Meadow Lane and Elk Ridge Road, both approved and pending, and a Road Maintenance Association has been formed for maintenance of the roads. Conditions of approval require the applicant to maintain enrollment in the Road Maintenance Association and pay fair-share cost for maintenance of the roads to any road user engaged in maintaining the roads (**Condition of Approval A.18**).

Present General Plan Land Use Designation: Residential Agriculture (RA40), Density: forty acres per dwelling unit, Slope Stability: Moderate Instability (2).

Present Zoning: Forestry Recreation with 40-Acre Minimum Building Site (FR-B-5(40))

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: Steven Jones seeks a Special Permit to allow the continued cultivation of 9,600 square feet (SF) of existing cultivation (including 4,200 SF of outdoor cultivation utilizing light deprivation techniques and 5,400 SF of mixed light cultivation) and 960 SF of ancillary propagation, in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Residential Agriculture (RA40) in the Humboldt County 2017 General Plan Update and zoned Forestry Recreation with a minimum 40-acre building site (FR-B-5(40)). Cultivation takes place within the central portion of the property, within a total of five (5) greenhouses, and includes 4,200 SF of outdoor cultivation grown utilizing light deprivation techniques and 5,400 SF of mixed light cultivation. Ancillary propagation (960 SF total) occurs within a separate greenhouse located to the southeast of the cultivation. Two (2) harvests are anticipated annually for both cultivation types for a growing season that extends from March through October.

While the submitted Site Plan indicates all cultivation is Mixed Light Tier 1 per the State definitions, the applicant confirmed in October 2022 (Site Plan) that artificial lighting only occurs within the 5,400 SF mixed light area and not within the 4,200 SF outdoor area. A recommended condition of approval is included to require the applicant submit an updated Site Plan notating how much mixed light and outdoor cultivation occurs onsite and which existing greenhouses utilize artificial lighting (**Condition of Approval A.6**).

Processing occurs onsite. Drying and curing occur within an existing 480 SF drying sheds, with processing and

packaging occurring within two (2) separate 252 SF areas located northwest of the cultivation area, within the northwestern portion of the subject property. A maximum of five (5) people may be onsite during peak operations. The cultivation area is secured behind a fence. Power is provided by solar, with two (2) propane generators utilized for back-up only.

Water Resources: Estimated annual water usage is 60,000 gallons (5.68 gal/SF). As noted in the Cultivation and Operations Plan (Attachment 3), there is currently 48,500 gallons of onsite water storage in a series of hard-sided plastic tanks and an 11,000-gallon concrete tank. Water is stored in the above-ground tanks and flows by gravity to the cultivation site. Water conservation measures include the use of drip irrigation and ensuring no irrigation runoff occurs.

Water for irrigation is currently provided by a groundwater well. Per referral comments received from the Department of Environmental Health (DEH; on file with Planning) in October 2021, DEH is requiring the applicant provide evidence of an approved permit, destroy the well, legalize the well through installation of a new sanitary surface seal, or provide compelling evidence that the well was installed prior to February 1973 (**Condition of Approval A.12**).

A Hydrological Report (*Hydrologic Isolation of Existing Well from Surface Waters*) was prepared by Lindberg Geologic Consulting in August 2022 (Attachment 3) to assess the well's potential for hydrologic connectivity with any adjacent wetlands or surface waters and its potential to affect surface waters in nearby watercourses. The well is noted to be located approximately 710 feet from the nearest mapped surface waters, an ephemeral tributary of Buck Gulch, and at least 1,250 feet southeast of the nearest mapped spring. Additionally, the elevation of the bottom of the subject well is noted to be approximately 1,700 feet, which is approximately 110 feet above the elevation of Buck Gulch at the nearest point on the County's Web GIS. When considered with the stratigraphy and geologic structure, distances (horizontal and vertically) from the nearest surface waters, depth of the producing zone of this well (~72 feet), as well as its position relative to the nearest adjacent watercourses in Buck Gulch and Miller Creek, it is concluded in the Report that the location and depth of this well is sufficient to preclude the potential for any hydraulic connectivity with surface waters, of which there are none closer than 1,520 feet on the southwest facing flank of Elk Ridge. Thus, the aquifer from which this well draws appears to be a confined subsurface aquifer not hydrologically connected to any surface waters or near-surface aquifer(s). Additionally, the well appears likely to be hydraulically isolated from nearby wells, surface waters, springs, or wetlands, and pumping the subject well should not affect nearby wells, surface waters, springs, or wetlands. Further, it appears that the aquifer tapped by the subject well is recharged by water infiltrating from source areas proximal to, and upslope from, the well site. As the well is found to not be hydrologically connected to surface waters, use of the well is not subject to forbearance requirements. Conditions of approval also 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 (**Condition of Approval A.24**).

According to Humboldt County Web GIS and the Site Plan, no watercourses traverse the subject site, and all cultivation activities and respective infrastructure are located outside of all respective Streamside Management Area (SMA) buffers.

A Water Resource Protection Plan (WRPP; WDID 1B170267CHUM) was prepared for the subject site (Attachment 3) by the applicant in May 2018 in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023. The WRPP assesses compliance with the required elements and standard conditions established in the Order to protect water quality from cannabis cultivation and related activities. Per the WRPP, the roads are noted to be maintained with adequate surfacing and drainage

features to prevent and minimize erosion, and no irrigation runoff or evidence of occurrence was observed at the cultivation site. No stream crossings are located onsite and the cultivation area is noted to be approximately 200 feet from the head of a Class III watercourse. No sites were identified requiring remediation to bring the site into compliance with the Order. Conditions of approval require continued compliance with the measures identified in the WRPP related to site maintenance, erosion control, use and storage of fertilizers, soil amendments, pesticides/herbicides, and petroleum products, and refuse and waste, in addition to the Best Management Practices (BMPs) provided on page 13 of the WRPP (**Condition of Approval A.14**). Additional conditions of approval require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes development and implementation of a Site Management Plan (**Condition of Approval A.15**).

A Notification of Lake or Streambed Alteration was prepared and submitted to the California Department of Fish and Wildlife (CDFW; Attachment 3) in August 2019 for the groundwater well. According to the Hydrological Report (described above; Attachment 3), the location and depth of this well is sufficient to preclude the potential for any hydraulic connectivity with surface waters as stated above. Therefore, a Final Streambed Alteration Agreement that includes the groundwater well as a project does not appear to be necessary. A referral request was sent to CDFW on September 10, 2021, and no response was received. The project is conditioned to finalize the Notification of Lake or Streambed Alteration, obtain a Final Streambed Alteration Agreement, and adhere to all applicable terms, as required, or demonstrate an Agreement is not required by CDFW (**Condition of Approval A.13**).

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 South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 298 permits and the total approved acres would be 83.18 acres of cultivation.

Biological Resources: Per review of CDFW's California Natural Diversity Database (CNDDDB) in September 2022, there are no mapped sensitive species onsite and the nearest Northern Spotted Owl (NSO) activity center is located approximately 0.81 miles from the nearest cultivation area, with the nearest NSO sighting located approximately 0.48 miles away. Artificial lighting is utilized within the mixed light and propagation areas. As previously described, power for the project is currently provided by solar, with two (2) propane generators utilized for back-up only.

Additional conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions of Approval A.20-23 and Ongoing Conditions of Approval B.1-7**). 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.

Timber Conversion: Review of aerial imagery dating back to 2005 indicates the site contained two structures (residence and outbuilding) and a small open area adjacent to Eld Ridge Road within the northwestern portion of the property at this time, with timber conversion occurring within the central portion of the property between 2014 and 2016. It appears the eastern area may have been further expanded between 2016 and 2018 and between 2018 and 2020, with additional expansion near the residence appearing to have occurred between 2020 and 2022, after the CMMLUO environmental baseline date of January 1, 2016. No additional tree removal is

proposed or authorized by this permit.

A Timber Conversion Evaluation was prepared by Timberland Resource Consultants in May 2018 (Attachment 3) to assess potential timberland conversion on the subject property. Aerial imagery suggests timber was harvested onsite in the 1950s and has not occurred again since the original harvest. As noted in the Report, 0.76 acres of timberland conversion occurred onsite, which is under the three-acre conversion exemption maximum related to the cultivation site (0.50 acres) and the home site (0.26 acres). Aerial imagery indicated “the cultivation site was established between 2014 and 2016 and included extensive timber harvesting within 200+ feet of the graded site to the south and east.” Timber harvesting the occurred to the south and east of the cultivation site is approximately 1.5-2 acres in size, and no cutting, filling, or grading occurred. During the inspection, conifer and hardwood natural regeneration was occurring throughout the cleared areas below the cultivation site. At the present rate of natural succession, the area is expected to meet the stocking standards of 14 CCR 912.7 of the Forest Practice Rules within several years. At the home site, defensible space was cleared around the residence between 2014 and 2016, concurrent with development of the cultivation site. A majority of the slash and woody debris has been chipped and treated at both sites, although several small log decks remain, which are recommended for treatment to bring the conversion activities into compliance with the California Forest Practice Act and the California Forest Practice Rules. A condition of approval is recommended to require all remaining treatment measures identified in the Timber Conversion Evaluation be implemented by the applicant (**Condition of Approval A.10**).

In addition, since additional timber conversion appears to have occurred onsite after preparation of the Timber Conversion Evaluation, the project is conditioned to require the property be evaluated by a RPF to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. The applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date at a rate of 3:1. Additionally, the project is conditioned to require preparation of a Restocking Plan within 90 days of project approval and implement the Restocking Plan within a period of two (2) years, should any timber conversion be determined to have occurred after the CMMLUO baseline date. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. The Report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection (**Condition of Approval A.11**).

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)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

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.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
2. Location Maps
 - A. Topo Map
 - B. Zoning Map
 - C. Aerial Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Water Rights Protection Plan
 - B. Timberland Conversion Report
 - C. Road Evaluation
 - D. Hydrologic Isolation of Existing Well from Surface Waters by Lindberg Geologic Consulting
5. Referral Agency Comments and Recommendations
 - A. Building Inspection Division Referral Response
 - B. Public Works, Land Use Division Referral Response
 - C. CAL FIRE Referral Response

Owner/Applicant

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Please contact Megan Marruffo at 707-443-5054 or via email at marruffom@lacoassociates.com if you have any questions about the scheduled public hearing item.