



COUNTY OF HUMBOLDT

Legislation Text

File #: 24-960, Version: 1

To: Planning Commission

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Humboldt Heritage Farm Management, LLC Special Permits, Zoning Clearance Certificates, and Conditional Use Permit
Assessor Parcel Number 216-281-015
Record Numbers: PLN-11809-SP, PLN-2018-15238, PLN-2018-15242, and PLN-2018-15264
Alderpoint Area

A combination of permits totaling 82,500 SF of mixed-light cannabis cultivation in hoop greenhouses, in addition to an 8,000 SF commercial cannabis nursery. This includes a Special Permit for 10,000 square feet (SF) of existing mixed-light cannabis cultivation, two Zoning Clearance Certificates for a total of 38,940 SF of mixed-light cannabis cultivation under the Retirement, Remediation, and Relocation (RRR) program, a Special Permit for 33,560 SF of new mixed-light cannabis cultivation, and a Conditional Use Permit for the 8,000 square-foot commercial nursery. There will also be 8,000 SF of propagation space to support onsite operations. Drying and processing will be done on-site in an existing 4,680 square-foot building. There will be a maximum of six employees. A two-story 4,800 square-foot employee bunkhouse is proposed to house employees on site. The farm will use approximately 1.2 million gallons of irrigation water annually sourced from rain catchment and an existing non-diversionary well on site, to be stored in tanks totaling 837,556 gallons. Solar arrays will be the primary source of power until renewable PG&E power becomes available, with a generator as back-up only. Mixed-light cultivation will not occur until renewable PG&E power is secured. Outdoor light-deprivation techniques will be utilized in the interim.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution (Resolution 24-__) (Attachment 1), which does the following:

- a. Finds the Planning Commission has considered the adopted Environmental Impact Report for the Commercial Cannabis Land Use Ordinance and the Addendum that was prepared for the project; and

- b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the Special Permits, Zoning Clearance Certificates, and Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location:

The project is in the Alderpoint area, on the south side of Steelhead Road, approximately 900 feet southwest from the intersection of Steelhead Road and Highland Avenue on the property known as 845 Steelhead Road.

Present General Plan Land Use Designation:

Rural Community Center (RCC), Density: Maximum residential density is 1 dwelling unit per acre with community water, or 2 to 4 dwelling units per acre with a package treatment plant, Garberville Redway Benbow Alderpoint Community Plan (GRBAP), 2017 General Plan, Slope Stability: Low Instability (1) and High Instability (3).

Present Zoning:

Forestry Recreation, Minimum building site area is 5 acres (FR-B-5(5)).

Environmental Review:

An Addendum to a previously certified Environmental Impact Report 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 Special Permit for 10,000 square feet (SF) of existing mixed-light cannabis cultivation (PLN-11809-SP), a Zoning Clearance Certificate for 18,940 SF of RRR mixed-light cannabis cultivation (PLN-2018-15238), a Zoning Clearance Certificate for 20,000 SF of RRR mixed-light cannabis cultivation (PLN-2018-15242), and a Special Permit for 33,560 SF of new mixed-light cannabis cultivation and Conditional Use Permit for an 8,000 square-foot commercial nursery (PLN-2018-15264). Total mature plant cultivation area will be 82,500 SF of mixed-light cannabis in greenhouses. There will also be 8,000 SF of propagation space to support onsite operations. There will be a total of six employees utilized for operations. A two-story 4,800 square-foot employee bunkhouse is proposed to house employees on site. The farm will use approximately 1.2 million gallons of irrigation water annually sourced from an existing non-diversionary well and rain catchment and stored in tanks totaling 837,556 gallons. Mixed-

light cultivation will not occur until renewable PG&E power is secured. Outdoor light-deprivation techniques will be utilized in the interim.

There is currently a 4,680 square-foot building onsite that is used for drying and storing harvested cannabis. The applicant proposes to turn this building into a processing facility in addition to the drying location for harvested cannabis.

Power for the existing 10,000 SF of cultivation is provided by a 36-kilowatt (kW) diesel generator. The applicant has applied for service through Pacific Gas and Electric Company (PG&E). Solar arrays will be the primary source of power until renewable power from PG&E becomes available, with generator as emergency back-up only.

Water Resources:

Estimated annual water usage is estimated at 1.2 million gallons (12.18 gal/sf/yr). Water for irrigation will be provided by rain catchment and a permitted groundwater well. Existing available water storage is 55,050 gallons in fourteen (14) existing HDPE tanks. An additional 782,506 gallons of onsite water storage is proposed within one (1) 755,506-gallon rain-catchment tank and eighteen (18) 1,500-gallon HDPE tanks. There is an existing pond located south of the cultivation area; however, the pond is utilized for aesthetic purposes only and is planned for decommissioning. The project is conditioned that the applicant install and utilize a water meter to demonstrate that there is sufficient water supply to meet the demands of the project and that annual water use records be provided prior to or during the annual inspection (**Condition of Approval B4**).

The well is located southeast of the existing greenhouses and is also registered with the California Department of Water Resources (WCR2018-007964). According to the Well Completion Report, the completed well is 120 feet deep and drilled through soil or organic matter, clay, and rock. A blank is installed for the first 80 feet, with additional screening for the remaining depth of the well. The depth to first water was noted at 85 feet, with an estimated yield of 20 gallons per minute.

A Hydrological Isolation of Existing Well from Surface Waters (Hydrological Evaluation) was prepared by Lindberg Geologic Consulting in November 2022 (**Attachment 4A**) to assess the existing well's potential for hydrological connectivity with any adjacent wetlands and surface waters, and if pumping the well could affect surface waters in nearby watercourses. As noted in the Hydrological Evaluation, the nearest mapped watercourse to the well is noted to be an unnamed tributary to the Eel River, which is more than 550 feet east of the well. The next closest mapped watercourse is the Eel River, less than 900 feet west of the well. The well is noted to be 120 feet deep with the wellhead at an elevation of 500 feet. The elevation of the unnamed tributary of the Eel River to the east is approximately 500 feet and the elevation of the Eel River to the west is at an elevation of 260 feet. With the bottom of the well at an elevation of approximately 380 feet, the unnamed tributary is approximately 120 feet higher than the total depth elevation of the well, and the Eel River is approximately 120 feet lower than the total depth of the well, respectively. When considered with the

stratigraphy and the underlying geologic structure, in addition to the distances (horizontal and vertically) from the nearest surface waters, and the depth of the producing zone, as well as the position of the well relative to the nearest surface waters in the vicinity, it is concluded in the Hydrological Evaluation that the depth of the surface seal and the upper 85 feet of the profile are sufficient to preclude the potential for hydraulic connectivity with surface waters. Thus, the water source from which this well draws appears to be a confined slightly artesian subsurface aquifer not demonstrably connected to any surface waters or unconfined, near-surface aquifer(s). As such, it is concluded that the well is likely to be hydraulically isolated from nearby wells, surface waters, springs, or wetlands, and would not have a negative impact or effect on surface waters. Based on the results of the Hydrological Evaluation, Planning staff is supportive of continued use of the well for the irrigation of cannabis on the subject property. Since the well was found to not be likely to be hydrologically connected to surface waters, the well does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements and is also not likely to impact public trust resources.

As depicted on the Site Plan, along with respective Streamside Management Area (SMA) buffers, there are several unnamed streams that traverse the western, central, southern, and eastern portions of the property, although not depicted on Humboldt County Web GIS. However, as shown on the Site Plan, all cultivation activities and respective infrastructure would be located outside of the required SMA buffers.

A Site Management Plan (SMP; WDID 1B161173CHUM) was prepared by Green Road Consulting for the subject site in May 2019 and revised in April of 2024 (**Attachment 4B**) in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order for Waste Discharge. The SMP provides an overview of existing site conditions and assesses compliance with the required elements and standard conditions established in the Order to protect water quality. As noted in the SMP, the existing cultivation area is noted to have a natural slope of approximately 4%, comprise a disturbed area of approximately 10,000 SF, and be located more than 160 and 180 feet from the nearest water bodies (Class II and Class III). Six (6) stream crossings were identified on the subject property. Included in the SMP is a prioritized list of recommended treatments and actions to be implemented to meet the requirements of the Order. Specifically, seventeen (17) items were identified requiring remediation, including but not limited to installing or upgrading culverts, adding rock armoring and rip rap, installing rolling dips, covering, and installing secondary containment on fuel tank, installation of erosion control measures, and removing cultivation related waste that is improperly stored throughout the site. The project is conditioned to require the applicant to implement all remaining corrective actions contained in the SMP (**Condition of Approval A10**). Completion of these actions will ensure that there are no adverse impacts to water quality associated with the operation.

A Final Lake or Streambed Alteration Agreement (LSAA; Notification No. EPIMS-HUM-02552-R1) was issued by the California Department of Fish and Wildlife (CDFW) (**Attachment 4C**) for six (6) encroachments, including upgrading and improving existing stream crossings (5 encroachments) and

decommissioning an existing onstream pond used for aesthetic purposes. Work for the stream crossing upgrades has been completed (**Attachment 4D**) and included excavation, removal of the existing culverts, replacement with new properly sized culverts or properly sized rock surface, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. Work related to the pond decommissioning includes excavation of dam, removal of existing spillway, installation of new properly sized culvert, backfilling and compaction of fill, and rock armoring of steam channels entering former pond site. Conditions of approval require the applicant to implement any remaining projects and to comply with the requirements established under the Final LSAA (**Condition of Approval A11**).

Biological Resources:

Per review of CDFW's California Natural Diversity Database (CNDDDB) in January 2022, there is potential habitat for foothill yellow-legged frog associated with the pond on site. The nearest Northern Spotted Owl (NSO) positive sighting and activity center is located approximately 3.4 miles from the project site.

A Biological Resource Assessment was prepared by TransTerra Consulting in February of 2019 (**Attachment 4E**) to assess the project's potential impact on biological resources. As noted in the Report, the project area is generally Mixed Evergreen Forest, Valley and Foothill Grassland, Cis-Montane Woodland, and Riparian Forest. Marshes and Riparian scrub in addition to other wetland vegetation is also present onsite. The site contains numerous watercourses, as well as natural and manmade wetlands. Regarding special status species, NSO observances or activity centers are not recorded within one mile of the project area. The Report notes that habitat for NSO is marginal on the subject site for nesting owls due to stand age and structure, but conifer forest with deformed trees and species diversity is present. An observance of foothill yellow-legged frog was previously recorded onsite near the inlet of the pond. Observations of beaked tracyina have been made near the property and elsewhere in the Alderpoint quadrangle. In addition, the project area contains habitat for various rare or federally listed species.

The Report further notes that the potential direct, indirect, and cumulative effects of land clearing, residential development, and cultivation activities include the removal of vegetation and canopy cover, disturbance and compaction of soil, alteration of hydrologic regime, sedimentation and erosion, increase in invasive species, noise, solid and chemical waste pollution, and visual and air quality impacts. The proposed areas for new greenhouses are noted to be within an area mapped as containing a historic palustrine wetland; however, a subsequent wetland assessment confirmed that there are no wetlands that would be impacted by the project, as described below. Recommendations in the report include following all requirements and regulations outlined by existing agency policies for minimizing impacts to natural resources and implementing best management practices.

Kyle Wear, Botanical Consultant conducted a Botanical Survey for the project site in June and July of 2023 (**Attachment 4F**) to address potential impacts to sensitive botanical resources from commercial

cannabis cultivation. The survey identified no special status plants or special status natural communities. Three invasive species with Cal-IPC ratings of High were observed on the property: Himalayan blackberry, French broom, and yellow starthistle. These species are identified in the Invasive Species Control Plan (**Attachment 4G**) provided by the applicant and are planned for eradication. The survey concluded that the project will not impact special status plants or natural communities.

Kyle Wear, Botanical Consultant conducted a Wetland Assessment for the project site in October of 2022 (**Attachment 4H**) to identify any wetlands that could constrain the proposed expansion of commercial cannabis cultivation. No wetlands were identified on or near the terrace where the expansion is proposed. The vegetation in the sample plots is composed predominantly of grasses and young shrubs indicative of upland conditions including wild oat, rattlesnake grass, Mediterranean barley, and young coyote brush. There are occasional stands of spreading rush, nut-sedge, and pennyroyal, but the vegetation does not meet the hydrophytic vegetation criteria because of the prevalence of upland plants.

The soil color is generally dark yellowish brown and does not meet any hydric soil indicators. The soil appears compacted from past land use. Information was provided that the terrace was used as a log deck in the past. Soil compaction reduces drainage and can increase surface ponding. Portions of the terrace are likely subject to occasional ponding after heavy rain events, but the water is not present frequently enough or for long enough duration to create hydric soil or hydrophytic vegetation. CDFW conducted a site visit on October 12, 2023, and submitted a referral response to Planning on October 20, 2023. The response did not indicate any concerns related to impacts on wetlands.

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 (**Ongoing Conditions of Approval B5 - B8**). As proposed and conditioned, the project is consistent with CCLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

On October 12, 2023, CDFW staff conducted a site inspection at the subject property. During the site visit staff walked the property to observe current and historic cultivation activities. The following comments were submitted to Planning and Building following the inspection. CDFW requested that all comments are incorporated in the final Humboldt County Staff Report.

- A final LSAA (EPIMS-HUM-02552-R1, see attached) was issued to the applicant to upgrade or improve five existing stream crossings and to decommission an on-stream pond. The applicant has completed work on the five stream crossings but work and maintenance is still required to remain in compliance with the LSAA. Specifically, one stream crossing requires rock armoring to minimize erosion at the outlet of the culvert. Additionally, the inlet to a second culvert is entirely covered with sediment, and the applicant is required to remove the sediment and

maintain the culvert to ensure the culvert is properly functioning. CDFW requests, as a condition of project approval, that the applicant achieves compliance with the LSAA. *This condition has been satisfied.*

- The applicant has a final LSAA to decommission an on-stream pond. The on-stream pond on the parcel is currently providing habitat for the American bullfrog (*Lithobates catesbeianus*). While on site on October 12, 2023, CDFW observed large quantities of adult bullfrogs at the pond site. Until the pond is removed, CDFW requests, as a condition of project approval, that the applicant provides and implements a Bullfrog Management plan to mitigate the proliferation of the invasive bullfrog population on site (**Condition of Approval A24**).
- While onsite, CDFW observed sediment discharge to Waters of the State (Fish and Game Code 5650) through the erosion of a graded flat associated with an old unused structure. The structure was previously used for cannabis cultivation operations. CDFW requests, as a condition of project approval, that the applicant implement a stormwater plan (site management plan) to direct surface flow away from streams to mitigate the existing threats of sediment delivery. *Addressed through implementation of the Site Management Plan.*
- The Project Description states that the applicant is proposing to use approximately 1.5 million gallons of irrigation water annually, sourced from an existing permitted well. The well completion report, completed by Vics Well Drilling Inc., estimates that the well is expected to yield 20 GPM. However, the report suggests that the well yield over time may change and potentially decrease as well use continues. Due to the project's high projected water needs, CDFW requests, as a condition of project approval, that a certified hydrologist assess the potential long-term yield of the well with the proposed increased usage. Additionally, if the well is projected to produce less water as well use continues, CDFW requests, as a condition of project approval, that the applicant is required to increase water storage as necessary to meet all of the projects projected needs (**Condition of Approval A25**).

Public Lands:

A small County landfill owned and operated by Humboldt County Department of Public Works (DPW) is adjacent to the NE of the project site. The property is not a park or public recreation area that would require a 600-foot setback, or a Special Permit to reduce the setback. DPW also commented that they have no concern with the location of the proposed project as it relates to the landfill.

Access:

The property is accessed via Steelhead Road, a road connected to Highland Avenue, then county-maintained 6th Avenue. Steelhead Road traverses one property owned by the County (County Dump) before it reaches the driveway to the subject parcel. A Road Evaluation Report (**Attachment 4I**) was prepared that found that, despite not being developed equivalent to Category 4, the access road will meet standards and support the proposed project, with commercial nursery, when upgraded per

State Waterboard requirements.

DPW provided a comment memo on 9/14/2021 with conditions of approval. DPW subsequently provided a comment memo dated 10/18/2022. However, the second memo was specific to one of the RRR donation site applications, PLN-2018-15242, but described the access to the subject receiving site. The latter memo expressed dissatisfaction with the Road Evaluation, and states that additional information is needed. Follow-up discussion with DPW staff concluded that an updated Road Evaluation would not be required as long as the requested conditions in the 9/14/2021 memo are made conditions of project approval, and that a vehicle turn-out be provided on Highland Road/Steelhead Road halfway between 6th Avenue and the project site, compliant with Fire Safe Regulations (**Condition of Approval A15**) (Personal Comm., K. Freed, 8/30/2023). As required by the State Waterboard and as conditioned, the project meets the location criteria for road access required under HCC Sec. 314-55.4.7.3.

Prime Soils

According to the Engineering-Geologic Prime Agricultural Soils Exploration Letter-Report prepared by Lindberg Geologic Consulting in March of 2023 (**Attachment 4J**), the site soil should not be considered or classified as prime agricultural soils per the CCLUO.

Noise

Performance Standards required in the CCLUO, per section 314-55.4.12.6, states 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. The applicant has submitted a Sound Evaluation Report (**Attachment 4K**), which describes noise measurements taken at the north, west, south, and east property lines. The existing average decibel levels at the north, west, south, and east property lines when measurements were taken were 34.55, 41.34, 40.11, and 31.43 respectively. The project is conditioned to not to go over three decibels above the measured ambient noise levels found at each property line for the life of the project.

Cultural Resources:

A Cultural Resources Investigation was conducted by Archaeological Resource and Supply Company in June 2018. The report concludes that no significant archaeological or historic period cultural resources, that for the purposes of CEQA would be considered an historical resource, exist on the site proposed for cannabis cultivation. The project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. After reviewing project materials, the Tribal Historic Preservation Officer for the Bear River Band of the Rohnerville Rancheria has requested that a Tribal Monitor from the Bear River Band be onsite during excavation activities (**Condition of Approval A20**) and that the standard inadvertent discovery protocol be applied to the project. This has been included in the Informational Notes within the conditions of approval.

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 in the Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 106 and the total approved acres of cultivation would be 44.1.

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 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. Draft Resolution
 - A. Conditions of Approval
 - B. Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Hydrological Isolation of Existing Well from Surface Waters
 - B. Site Management Plan
 - C. Lake or Streambed Alteration Agreement
 - D. Culvert Work Completion Reporting
 - E. Biological Resource Assessment
 - F. Botanical Survey
 - G. Invasive Species Control Plan
 - H. Wetland Assessment
 - I. Road Evaluation
 - J. Engineering-Geologic Prime Agricultural Soils Exploration Letter-Report
 - K. Sound Evaluation Report
5. Referral Agency Comments and Recommendations
6. Watershed Map

Applicant

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Please contact Rodney Yandell, Senior Planner at ryandell@co.humboldt.ca.us or 707-445-7541 if you have any questions about the scheduled item.