



COUNTY OF HUMBOLDT

For the meeting of: 9/7/2023

File #: 23-1217

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

SUBJECT:

Old Briceland Holding Company LLC
Assessor Parcel Numbers: 220-241-017 and 220-251-034
Record No.: PLN-10697-SP
Briceland area

A Special Permit for 7,196 square feet of existing cultivation and 2,804 square feet of new cultivation for a total of 10,000 square feet of mixed light commercial cannabis cultivation supported by 1,000 square feet of ancillary nursery. Processed under a separate application (12786), an additional 20,000 square feet of mixed light cultivation will be relocated to the property under the Retirement, Remediation, and Relocation (RRR) program along with an additional 2,000 square foot ancillary nursery. Irrigation water is provided by approximately 60% surface water diversion and 40% rainwater catchment. The total annual water budget for all the proposed cultivation, including the RRR is estimated at 1,127,600 gallons. Water storage consists of the 440,000-gallon pond plus 485,000 gallons in hard tanks for a total of 925,000 gallons. Onsite processing is proposed and power is provided by PGE supplemented by generators. A Special Permit is included for restoration within a streamside management area.

RECOMMENDATION(S):

That the Zoning Administrator:

1. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the Zoning Administrator has considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for the Old Briceland Holding Company project); and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Special Permit subject to the recommended conditions of approval (Exhibit A); and

DISCUSSION:

Project Location: The project is in Humboldt County, in the Briceland area, on the North and south sides of Old Briceland Road, at the intersection of Old Briceland Road and Greta Lane, on the property known as 7777 Old Briceland Road, Briceland.

Present General Plan Land Use Designation: Residential Agriculture (RA); 2017 General Plan; Density: 40 acres per unit; Slope Stability: High Instability (3)

Present Zoning: Unclassified (U)

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 outside the Coastal Zone and is therefore NOT appealable to the California Coastal Commission

Major concerns: None.

Executive Summary: A Special Permit for 7,196 square feet of existing and 2,804 square feet of new for a total of 10,000 square feet of mixed light commercial cannabis cultivation supported by 1,000 square feet of ancillary nursery. Processed under a separate application (12786), an additional 20,000 square feet of mixed light cultivation will be relocated to the property under the Retirement, Remediation, and Relocation (RRR) program along with an additional 2,000 square foot ancillary nursery. Irrigation water is provided by approximately 60% surface water diversion and 40% rainwater catchment. The total annual water budget for all the proposed cultivation, including the RRR is estimated at 1,127,600 gallons. Water storage consists of the 440,000-gallon pond plus 485,000 gallons in hard tanks for a total of 925,000 gallons. Onsite processing is proposed and power is provided by PGE supplemented by generators. A Special Permit is included for restoration within a streamside management area.

Water Resources: Estimated annual water usage at full project implementation is projected to be 1,127,600 gallons. The project proposes at least three cultivation cycles per year. Considering all the proposed cultivation, nursery space, and the three cycles per year, water usage translates to approximately 11.38 gallons per square foot.

Water for irrigation will be sourced from rainwater catchment and a point of diversion from Redwood Creek. Approximately 40% of irrigation water comes from rainwater catchment and approximately 60% from the point of diversion. The State Water Resources Control Board, Division of Water Rights has issued a Right to Divert and Use Water from Redwood Creek for irrigation and fire protection. The water right allows up to 3.47-acre feet (1,130,703 gallons) per year to be collected between November 1 and March 31. The Lake and Streambed Alteration Agreement (LSAA) restricts the diversion to no more than five gallons per minute (GPM) with a minimum of 90% bypass flow. The

LSAA and GPM restrictions put an effective maximum diversion cap of 1,087,200 gallons per year if bypass flow is maintained. The right to divert significantly exceeds the estimated 60% (676,560 gallons) of irrigation water expected from the point of diversion.

The applicant provided a rainwater catchment analysis as an addendum to the Operations Plan. The 35,500 square foot catchment area consists of greenhouse roofs, propagation building, generator shed, a pond, and the eastern slope next to the pond. Catchment from structures is conducted using gutters and French drains plumbed to the pond. Rainfall data between 1971 and 2022 was analyzed resulting in a 64.25 inches per year rainfall average. The five lowest rainfall years were averaged resulting in a 31.63 inches low rainfall year average. In an average year, potentially 1,421,829 gallons of rainfall can be collected. In a low rainfall year approximately 699,960 gallons can be collected. In a low rainfall year up to 62% of the annual water budget can be collected from rainfall. This significantly exceeds the 40% (451,040 gallons) of irrigation water expected from rainwater catchment.

There are two groundwater wells on the project site that will only be used for domestic purposes and will not be used for the cannabis project (**Condition of Approval B1**). There is a second point of diversion on Somerville Creek located at 30.1071, -123.8959. While this second point of diversion has an LSAA, there is no documented water right registration. Therefore, the second point of diversion on Somerville Creek will not be used for the cannabis project (**Condition of Approval B2**).

Water storage consists of a 440,000-gallon pond and 97, 5,000-gallon water tanks totaling 485,000 gallons of tanks storage. Total water storage of the pond and tanks is 925,000 gallons. There are an additional seven tanks for fertigation totaling 10,650 gallons. There is a 5,000-gallon tanks used for domestic purposes. To ensure that only eligible water sources are used, the project is conditioned prohibiting interconnectivity between cannabis water infrastructure and domestic water infrastructure (**Condition of Approval B1**).

The project was referred to the Division of Environmental Health which recommended conditional approval. Wastewater facilities for cultivation operations will be provided in part by portable toilets. Processing operations cannot occur on the parcel until a permitted septic system is installed in conjunction with the permitting of the processing structure (**Condition of Approval A2**). There is one existing septic system on the project site and one proposed septic system. The existing septic system was permitted in 1981 for residential uses and may be used to support cultivation operations consistent with the capacity of that system (**Condition of Approval B3**).

Biological Resources: A Biological Assessment dated February 2019 was conducted by Mother Earth Engineering. Per the assessment, no sensitive natural communities were observed within the project areas. There are two Northern Spotted Owl activity centers, one to the southwest and one to the southeast. Activity center HUM0580 is approximately 9,800 feet away from the project parcel and activity center HUM0927 is approximately 10,300 feet away from the project parcel. Use of the generators is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer (**Condition of Approval C2**). Per the operations plan, structures using artificial light have tarps to ensure compliance with Dark Sky standards to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes

after sunrise (**Condition of Approval C3**).

The site plan depicts multiple streamside management areas and riparian buffers for significant portions of the site. Per the site plan, all existing and proposed development is to be located outside the designated buffers. The project proposal includes the relocation of 54 water tanks from APN 220-251-034 including the removal of items from within the streamside management area for Somerville Creek. While the tanks and other cultivation infrastructure has been removed from the area, the project is conditioned to require the assessment and, if needed, preparation and implementation of a restoration plan for the former storage tank area (**Condition of Approval A3**).

Energy: Electricity is provided by PGE and supplemented by generators. The project is conditioned to migrate to all renewable sources reserving generator usage for emergencies only (**Condition of Approval A11**).

Geologic Suitability: The project parcels are mapped as areas of high instability. There are mapped historic landslides in a portion of the proposed project per the Humboldt Web GIS hazards mapping layers. Most of the project occurs in areas mapped 15% slopes or less. A portion of the pre-existing cultivation is occurring in areas of 15 to 30% slope. The project includes as built earthwork for existing buildings and for the pond. After the fact grading permits are required as a condition of approval (**Condition of Approval A4**).

Per an October 31, 2016 report by Dirty Business Soil, the project parcel contains 146,922 square feet of prime soils. The CMMLUO allows up to 20% of prime soils to be used for new cannabis cultivation which translates to 29,384 square feet. The 20,000 square feet of relocated cannabis under the RRR program plus the 2,804 new cannabis translates to 15.5% of the total prime soils which is below the 20% cap.

Timber Conversion: There was significant tree removal after 2016 in the area around the processing building and office and storage buildings. An assessment by an RPF dated December 22, 2022 includes a separate document dated October 22, 2020 which concluded that the tree removal was done in accordance with the Forest Practice Rules. The processing building cannot be used for trimming or packaging until the required permits and certificate of occupancy is issued. The six office and storage buildings that are 164 square feet each, totaling 984 square feet on the eastern edge of the project site shall not be used as break rooms or other human occupancy until the required permits and certificate of occupancy are issued (**Condition of Approval A6**).

Access: The project site is accessed from Greta Lane which is private maintained. Greta Lane takes access from Old Briceland Road, which is county maintained. Old Briceland Road takes access from Briceland Thorne Road, which is paved with a centerline stripe and is county maintained. Photos were provided by the applicant demonstrating that Greta Lane has sufficient road width and sight lines to accommodate anticipated traffic. Per the Operations Plan, Access roads to the property have been rocked and are free of ruts. Erosion along roads is controlled by drainage push outs located at favorable locations along the roads.

A total of 11 employees will be present during peak operation. The site plan depicts 8 parking spaces, including two ADA spaces. The site plan will need to be revised to show at least 11 parking areas with at least one ADA space associated with the proposed processing building (**Condition of Approval A7**).

The project is located within the Briceland Fire Protection District. The site plan does not depict the location of emergency vehicle turnrounds or water storage dedicated to fire suppression. The site plan will need to be updated to show emergency turnaround areas compliant with the Fire Safe Regulations as well as the location of dedicated fire suppression water supply (**Condition of Approval A7**).

Tribal Consultation: The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Tsnungwe Council. The project was referred to the Northwest Information Center at Sonoma State, Bear River, and the Tsnungwe. A Cultural Resources Investigation performed by Arsenault and Associates. The investigation final report was reviewed by the Bear River Tribal Historic Preservation Office which recommended the standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval (**Condition of Approval C1**).

Security and Safety: Security gates are installed at main access road and at the single access road. These gates will remain locked during normal operations and only opened for site access. Per the Operations Plan, the applicant has installed security cameras around the exterior of the proposed onsite processing facility, cultivation sites, and entrances to the parcel.

Resolution 18-43 Consistency: 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 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 for cultivation in this Planning Watershed would be 305 permits and the total approved acres would be 92.06 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comment or recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Zoning Administrator could elect to add or delete conditions of approval. The Zoning Administrator could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Operations Plan

- i. Rainwater Catchment Analysis
 - ii. Monthly Water Usage
 - C. Site Plan
- 2. Location Maps
- 3. CEQA Addendum
- 4. Applicant's Evidence in Support of the Required Findings
 - A. Lake and Streambed Alteration Agreement
 - B. Biological Assessment
 - C. Road Evaluation
 - D. Septic Permit
 - E. RPF Assessment
 - F. Water Right Redwood Creek
 - G. Prime Soils Report
- 5. Referral Agency Comments and Recommendations
 - A. Building Inspection Division Response
 - B. Division of Environmental Health Response
 - C. CDFW Response

Applicant

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