



COUNTY OF HUMBOLDT

For the meeting of: 5/2/2024

File #: 24-815

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Kalifornia Green Akers, Conditional Use Permit
Assessor Parcel Numbers: 216-271-013-000
Record Numbers: PLN-11682-CUP
Alderpoint area

A Conditional Use Permit for 3,000 square feet of existing mixed light and 26,500 square feet of existing outdoor for a total of 29,500 square feet of commercial cannabis cultivation. Estimated annual water usage is 243,000 gallons and sourced from a well and a rainwater catchment pond is proposed. Total water storage is 68,000 gallons in tanks. Drying and processing, including trimming or packaging, will occur onsite. Existing residence is used to house permanent and seasonal employees. Power is provided by PGE with a generator for emergencies only.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 24-__). (Attachment 1) which does the following:
 - a. Finds the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum (Attachment 3) that was prepared for the Kalifornia Green Akers, MBC project; and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Kalifornia Green Akers Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location:

The project is in the Alderpoint area, on the west side of River Road, approximately 480 feet from the intersection of Alderpoint and River Road, on the property known as 142 River Road.

Present General Plan Land Use Designation:

Rural Community Center (RCC); Garberville/Redway/Benbow/Alderpoint Community Plan; Slope Stability: Low Instability (1).

Present Zoning:

Forestry Recreation with 40-Acre Minimum Special Building Site Combining Zone (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:

A Conditional Use Permit for 29,500 square feet of existing commercial cannabis cultivation consisting of 26,500 SF of outdoor and 3,000 SF of mixed light. Water for irrigation is provided by an on-site well. Water storage consists of (12) 5,000-gallon tanks, (4) 1150-gallon tanks, (1) 1100-gallon tanks, (5) 500-gallon tanks totaling 68,200. Estimated annual water usage is 243,000 gallons which equals approximately 8.2 gallons per square foot. Processing occurs onsite and electricity is sourced from PG&E. A generator used for emergency backup purposes.

Processing activities, including drying and bucking, will occur onsite with additional processing utilizing an automated trimming machine. The waste product, or trim, from the machines is collected and placed into bins to be weighed, labeled, logged, and sealed. Trim will be transferred to an offsite, licensed manufacturing facility. Processing activities will occur on site in an existing structure. Trimming and/ or packaging cannot occur until the structure is permitted (**Condition of Approval A17**).

Water Resources:

Estimated annual irrigation water is 243,000 gallons (8.2 gal/SF). Average monthly water use for cannabis cultivation is 14,240 gallons from February to November. Water for irrigation is provided by a permitted (18/19-0692) well. There is a total of 68,200 gallons of existing tank storage. Applicant plans to install drip tape which will deliver water directly to plants' root system therefore reducing water loss through evaporation or surface runoff.

The well is installed at a surface elevation of approximately 500 feet above sea level and to a depth of

180 feet below the surface and is screened to a depth of 140 feet. The water bearing unit is listed in the Well Completion Report as a combination of blue sandstone, hard shale, and soft shale which are indicative of a water bearing unit that is hard stone as opposed to alluvial. The nearest surface water feature is the Eel River, which is located approximately 630 feet to the east. The elevation of the Eel River at its closest point to the well is approximately 280 feet above sea level, which is approximately 80 feet lower than the lowest portion of the well screen and approximately 48 feet below the bottom of the well. Given the distance and elevation difference between the well and the Eel River, the well is unlikely to be diverting from any underflow of the river or otherwise have any significant connection to the river.

Additionally, a research study published by the USGS (Flint, 2013) indicates that approximately 34% of precipitation in Northern California percolates into groundwater recharge. That translates to 175,000 to 530,000 gallons a year per acre of land with the low range representing data for drought years and the high range for average rain years. The recharge rate can be higher in above average rainfall years. For the 7-acre project parcel, there is approximately 1,225,000 to 3,710,000 gallons of aquifer recharge depending on whether it is a drought or average rainfall year. Annual well water usage of 230,000 gallons represents 6.1% to 2% of the annual recharge occurring on the parcel depending on rainfall. Therefore, more water is going into groundwater on the subject property than is coming out for cannabis irrigation.

Public Trust Resources:

The Eel River provides important public trust resources such as fisheries and recreational opportunities. These public trust resources will not adversely be affected from use of the well for cannabis irrigation because of the lack of any significant connection between the well and the river.

Biological Resources:

Per review of CDFW's California Natural Diversity Database, there are no mapped sensitive species onsite and the nearest NSO activity center is located approximately five miles from the nearest cultivation area. Conditions of approval require the Permittee to adhere to noise and light 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. 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. Some portions of the pre-existing cultivation areas are located within 100 feet of perennial wetlands and will need to be relocated. The County's Streamside Management Area ordinance require a 150-foot setback from perennial wetlands however it allows for exceptions to these setback requirements to be granted. In this instance, a 100-foot setback is appropriate for a number of reasons: 1) prior to 2017 this requirement was 100 feet, 2) the County's Streamside Management Area ordinance was not in effect prior to April 25, 1995, and 3) historical imagery shows that these areas were actively farmed as far back as 1993, and 4) the existing driveway on-site provides a clear separation from the cultivation areas (once relocated) and the wetland areas. The State Water Resources Control Board setback requirement under the Statewide Cannabis General Order is 100-feet from perennial wetlands and the SWRCB does not allow for

exceptions. Figure 1 below shows the areas that are required to be relocated in red and the areas that will remain and receive the relocated cultivation in green. Figures 2 and 3 below are historical satellite images showing that these areas have consistently been farmed as far back as 1993.

CDFW has noted that the on-site driveway has potential to contribute sediment to the on-site wetland. **Condition of Approval A16** requires that the applicant regrade the road at the upper curve located at 40.1710 latitude and 123.6073 longitude to redirect road drainage and erosion away from the wetland feature and on-stream pond. Figure 1 above shows the area (blue arc) required to be regraded to resolve this sedimentation.



Figure 1

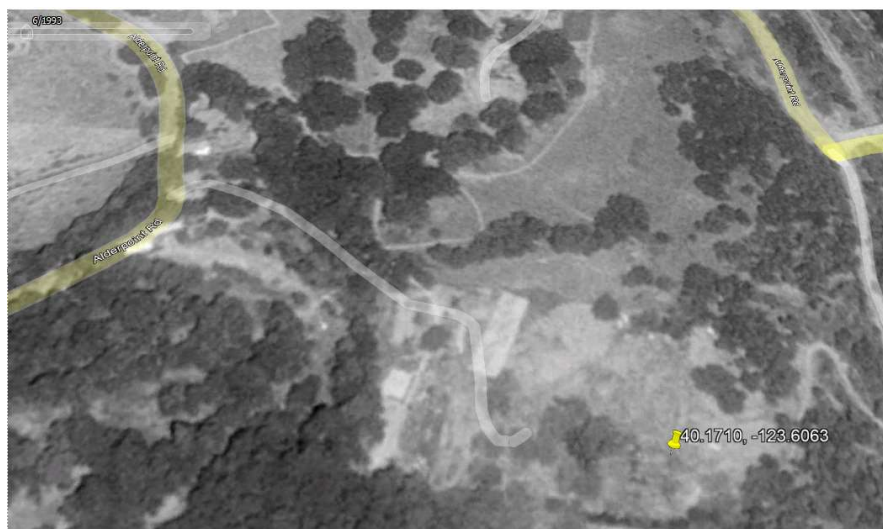


Figure 2 - 1993 Satellite Image

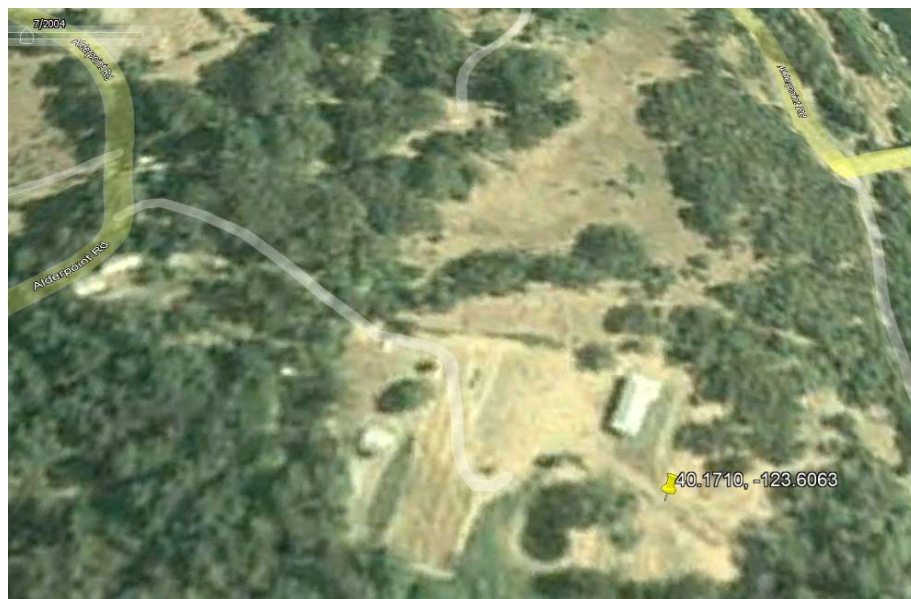


Figure 3 - 2004 Satellite Image

Energy:

Power is provided by Pacific Gas and Electric and the generator is for emergency backup purposes only (**Condition of Approval B2**).

Access:

Access to the site is from Alderpoint Road which is a Category 4 County-maintained roadway. Per referral comments received from the Department of Public Works, Land Use Division in April 2018, any existing or proposed driveways to serve as access for the proposed project that connect to a County-maintained road shall be improved to current standards for a commercial driveway, and, as a result, the driveway apron shall be paved for a minimum width of 18 feet and a length of 50 feet where it intersects Alderpoint Road. Additionally, all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance) and all fences and gates shall be relocated out of the County right of way. Conditions of approval require the applicant to make the required roadway improvements in accordance with Public Works' comments (**Condition of Approval A6**).

Geologic Suitability:

An Investigation of Unpermitted Grading was prepared by Whitchurch Engineering in May 2020 to assess the suitability of the site due to the past grading that appears to have occurred in 2012 or 2013. Per the report, the area of cultivation was graded previously without any engineer control resulting in the potential for the graded area to move or settle at some time during its economic lifespan due to heavy rain, disturbance of the soil atop the bank, undue settlement, etc. However, there was no failure noted and the engineer found that the areas were performing adequately for the intended uses. In the report, it was recommended that all the cut and fill banks associated with benched areas must be revegetated with grasses and erosion resistant foliage and that the drainage

improvements be inspected and maintained regularly to assure that that surface water drainage is directed away from fill soil areas. The project is conditioned to implement the recommendations of the Whitchurch report (**Condition of Approval A6**). The applicant is proposing to relocate most of the steeper benched areas above the processing building to the lower graded flat area to comply with State Water Board wetland setbacks. The relocation allows for these steeper benched areas to be revegetated. Figure 1 above shows the areas to be relocated in red and the proposed areas to remain and to receive the relocated cultivation in green.

Timber Conversion:

As noted in the Botanical Survey Report by NRM, Oregon white oak woodland, a sensitive natural community with a ran of S3, was cleared for cultivation between 2016 and 2016. Per note 15 on the site plan in Attachment 1C, the Permittee shall implement the restoration, remediation, and restocking plan by NRM dated April 2020 (**Condition of Approval A17**).

Security and Safety:

Per the project Operations Plan, access to the parcel is gated and locked and security cameras and alarms will be installed on the processing building. The Site Plan depicts an adequate emergency vehicle turnaround. The project was referred to the Alderpoint Volunteer Fire Company (AVFC) which did not respond. The project is conditioned to provide a revised site plan to show the location of water dedicated to fire suppression (**Condition of Approval A4c**). The project is also conditioned requiring a will serve letter from the AVFC or to record an Acknowledgement of No Available Emergency Response and Fire Suppression Services (**Condition of Approval A11**).

Tribal Consultation:

There are no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria in 2018. The NWIC requested additional study. The Tribal Historic Preservation Officer of the Bear River Band was provided with a cultural resources report prepared for the project by William Rich and Associates in 2018. The Tribe responded they had no further concerns about the project. The cultural resources investigations did not identify any cultural resources and indicated that the building (c. 1910) has been extensively modified, compromising its historical integrity. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources (**Condition of Approval B1**).

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 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 in this Planning Watershed would be 381 permits and the total approved acres would be 91.66 acres of total cultivation.

Environmental Review:

Environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (Attachment 3) to the MND for consideration by the Planning Commission.

OTHER AGENCY INVOLVEMENT:

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

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence, or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all the required findings.
2. The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Department has determined that the project is consistent with the MND for the CMMLUO as stated above. However, the Commission may reach a different conclusion. In that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.

ATTACHMENTS:

1. Draft Resolution
 - A. Conditions of Approval
 - B. Cultivation & Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Aquatic Resources Delineation Report
 - B. Site Management Plan
 - C. Investigation of Unpermitted Grading
 - D. Botanical Survey Report
 - E. Lake and Streambed Alteration Agreement
 - F. Well Completion Report
 - G. Restoration Remediation and Restocking Plan
5. Referral Agency Comments and Recommendations
 - A. Division of Environmental Health
 - B. Public Works
 - C. CalFire

- D. Building Inspection Division
 - E. California Department of Fish and Wildlife (CDFW)
 - F. CDFW Notice of Violation
6. Watershed Map

Applicant

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Agents

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Please contact Derek Wiles, Associate Planner, at dwiles@co.humboldt.ca.us or at (707) 445-7541 for questions about this scheduled item.