



COUNTY OF HUMBOLDT

For the meeting of: 2/15/2024

File #: 24-213

To: Planning Commission
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

ECD Holdings, Inc Conditional Use Permit
Assessor Parcel Number 511-141-015
Record No.: PLN-2022-17880
McKinleyville Area

A Conditional Use Permit to add 33,560 square feet of new mixed light commercial cannabis cultivation to an approved project in the McKinleyville Community Planning Area. If approved, the total cultivation will be 43,560 square feet of mixed light cultivation. Accessory nursery space will increase to 4,350 square feet. The site will be reconfigured to consolidate operations. The proposed irrigation sources are a well, rainwater catchment, and water recapture. The previously approved spring will no longer be used for cannabis irrigation. Annual water usage will increase from 120,000 gallons to a total of 610,000 gallons. Existing water storage is 110,000 gallons. Previously approved onsite processing will continue. Electricity is sourced from PGE through an eligible renewable energy program 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 that the Planning Commission has considered the Final Environmental Impact Report for the Commercial Cannabis Land Use Ordinance and the Addendum that was prepared for the ECD Holdings, Inc. project; and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location:

The project is in the McKinleyville area, on the West side of Hooven Road, approximately 0.66 miles East from the intersection of Dows Prairie Road and Hooven Road, on the property known as 2260 Hooven Road

Present General Plan Land Use Designation:

Rural Agriculture (RA (5-20)) McKinleyville Community Plan; Density: 10 acres per dwelling unit; Slope Stability: Low to Moderate Instability (C)

Present Zoning:

Agriculture General (AG-B-5(10), AP)

Environmental Review:

An Addendum to a previously adopted 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 Conditional Use Permit to add 33,560 square feet of new mixed light commercial cannabis cultivation to an approved project in the McKinleyville Community Planning Area. If approved, the total mixed-light cultivation will be 43,560 square feet. Accessory nursery space will increase to 4,350 square feet and the site will continue to host a previously approved 4,400 square foot indoor operation. The proposed irrigation sources are a well, rainwater catchment, and water recapture. The previously approved spring will no longer be used for cannabis irrigation. Annual water usage will increase from 120,000 gallons to a total of 610,000 gallons. Existing water storage is 110,000 gallons. Previously approved onsite processing will continue. Electricity is sourced from PGE through an eligible renewable energy program with a generator for emergencies only.

Existing approved permits for cannabis cultivation include a Special Permit (PLN-10568-SP) for 4,400 square feet of indoor cultivation, and a Zoning Clearance Certificate (PLN-10566-ZCC) for 10,000 square feet of mixed light cultivation. The existing metal shop is permitted (Building Permit #48433) as a commercial facility and will be used for storage, trimming, and packaging. The metal shop has an existing approved septic system. The proposed project includes various accessory uses associated with the agricultural operation including storage, drying building, and office space. Including the previously approved cultivation and proposed ancillary nursery, estimated annual water usage translates to approximately 11.6 gallons per square foot. An analysis of potential reclaimed water and potential rainwater catchment concludes that sufficient water is available to support the project. An evaluation of the well concludes that surface waters and nearby wells will likely not be impacted.

The project was inspected by the California Department of Fish and Wildlife (CDFW) and the department received comments. Following requests for clarification from planning staff regarding their requested conditions on water storage and use of heaters, CDFW revised their comments (**Attachment 5**).

A revised Biological Scoping report made several recommendations which are incorporated into the conditions of approval. The report concluded that no suitable Northern Spotted Owl habitat occurs in the proposed project area as it is currently non-forested grassland habitat. Therefore, the proposed project will not result in the loss of Northern Spotted Owl (NSO) nesting, roosting, or foraging habitat. The nearest mapped NSO activity center is over a mile to the southwest, with all associated sightings occurring to the east of the activity center in managed forestlands. A Botanical Report concluded that no sensitive, rare, threatened, or endangered plants were present, and no un-common species included in California Rare Plant Ranks three or four were detected during surveys. The Botanical Report concluded that a sensitive natural vegetation community (Sitka spruce Forest and Woodland Alliance G5, S2) occurs on the western and southern edges of the parcel. The Botanical Report noted that the proposed development does not include the removal of any Sitka spruce Forest or Woodland and no impacts are expected to occur.

A Noise Source Assessment and Mitigation Plan was provided, and conditions of approval require limits on noise sources based on the data. Approximately 627,264 sq. ft. (~14.4 acres) of prime agricultural soils exist on the property. Coverage of prime soils by the proposed project is approximately 6% which is below the 20% maximum allowed under the CCLUO.

The project parcel is accessed from the privately maintained Hooven Road. The recommendations of an Engineer prepared Road Evaluation have been incorporated into the conditions of approval. The project parcel is mapped in the County GIS as low instability. The project is proposed in areas mapped as less than 15% slope.

There is no timber conversion associated with the project and tribal consultation resulted in the standard condition for inadvertent discovery. There were three public comments in response to the Notice of Application which resulted in additional staff recommendations for conditions of approval relating to odor control and speed limits on the road.

Water Resources:

The total estimated annual irrigation water usage will be approximately 610,000 gallons. Including the previously approved cultivation and ancillary nursery, estimated annual water usage translates to approximately 11.6 gallons per square foot. The proposed irrigation water sources will replace an existing surface water diversion with a combination of reclaimed water from dehumidification and air conditioning units, rainwater collection, and an existing, permitted groundwater well. The existing, permitted surface water diversion of 120,000 gallons per year for cannabis will cease.

In a low rainfall year, the operation is projecting to source 53% of its irrigation needs from reclaimed water (323,300 gallons); 19% of irrigation needs from rainwater catchment (115,900 gallons); and 28% of irrigation needs from the well (170,800 gallons). In higher rainfall years more irrigation water will

come from rainwater catchment and less from the well.

Per an analysis of reclaimed water provided in the Operations Plan (**Attachment 1B**), the operation will use a total of 16 dehumidifier units and four air conditioning units. The analysis examines how much water can be captured per day and uses a conservative 60% water capture efficiency rate to calculate the amount of water recapture. Also included in the Operation Plan is a rainwater collection analysis. The rainwater catchment analysis examines catchment area of approximately 27,470 square feet as well as rainfall data from average and drought years. Assuming an 85% efficiency capture rate, the catchment area can collect up to 14,555 gallons per one-inch of rainfall. In a low rainfall year of 24.2 inches, up to 352,200 gallons can be collected, which is nearly triple the rainwater catchment portion of irrigation needs.

The applicant also provided a Well Evaluation (**Attachment 4A**) prepared by a registered Professional Engineer that has been evaluated by Planning staff. The existing, permitted groundwater well (Permit # 20/21-0650) was drilled to a depth of 400 feet in March 2021 with a screen from 100 to 400 feet. The well completion report (**Attachment 4B**) describes overburden surface soil, silt, clay, and organics from 0-28 feet below ground surface (BGS), shale clay from 28-34 feet BGS, various interbeds of brown silty clays, and sands from 34-389 ft BGS, and shale clay from 389-393 feet BGS. The well completion report describes an estimated well yield of 15 gallons per minute after a four-hour air lift test. There is a seep on the subject parcel, located approximately 150 feet southwest of the well. The nearest mapped surface waterbody is an unnamed tributary to Norton Creek, approximately 520 feet to the southwest. The existing surface water diversion is located approximately 800 feet to the northeast. No wells were identified within 1,000 ft of the project well. Based on the available hydrogeologic information, there is evidence that the project's water source is likely not directly connected to the unnamed tributary to Norton Creek which is approximately 520 feet away. The nearby seep appears to be perched water that is disconnected from the well due to the overlying shale layer reported in the geologic log and because the well is sealed to 20 ft BGS, cased to 100 ft BGS, and screened below 100 feet BGS.

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 16-acre project parcel, there is approximately 2,800,000 to 8,480,000 gallons of aquifer recharge depending on whether it is a drought or average rainfall year. Annual well water usage of 170,800 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. The proposed project permit will have conditions requiring a water meter on the well and monthly logs of water usage kept for examination during annual inspections (**Conditions of Approval A1 and B3**). Log keeping includes photographing the meter monthly. The project is conditioned such that there shall be no interconnectivity between cannabis irrigation infrastructure and domestic water systems (**Condition of Approval B2**). According to the Operations Plan, current water storage is 110,000 gallons. The project is conditioned to increase water storage to at least 116,000 gallons for the anticipated rainwater catchment. The 116,000 gallons of storage must be in addition to

any other tanks or storage used for fire protection, fertigation, or water reclamation (**Condition of Approval A1**). CDFW comment requested a water storage and use plan prior to commencing the project which has also been included as a condition of approval (**Condition of Approval A1**).

There are no surface waters affected by this project. There is a Lake and Streambed Alteration Agreement (LSAA) with the California Department of Fish and Wildlife (CDFW) for the existing approved point of diversion for the spring which will be discontinued. CDFW comment requested a condition of approval incorporating the LSAA into the project. Though it is proposed the point of diversion of the spring for cannabis irrigation will cease once the proposed project is implemented, the project includes a condition requiring adherence to the LSAA (**Condition of Approval C17**). The project is further conditioned requiring the applicant provide documentation demonstrating enrollment in the State Water Board General Order by providing a copy of the Notice of Applicability and Site Management Plan (**Condition of Approval A2**). CDFW comment included a request for a condition regarding soil and compost management which has been included (**Condition of Approval C9**). The project referral to the Division of Environmental Health (DEH) resulted in a recommendation of approval without any additional comment. Per the Operations Plan, irrigation and fertigation of plants will occur using drip irrigation.

Biological Resources:

A revised Biological Scoping Report dated June 20, 2022, was prepared by Slauson Wildlife (**Attachment 4C**). The scoping report makes a series of recommendations to avoid and minimize impacts to species. Recommendations by the Biologist have been incorporated into the conditions of approval and include:

1. Any project lighting associated with the project must adhere to Dark Sky Association standards including security lighting (**Condition of Approval C3 and C4**).
2. Limiting use of noise generating equipment. (See Noise section below for noise performance standard and Energy section limiting use of generator for emergencies).
3. Address the fragmentation of habitat for the Western and Obscure bumblebees by developing and maintaining areas of native plant species providing nectar resources, nesting, and over wintering sites (**Condition of Approval A8**).
4. Implement best management practices for runoff (**Condition of Approval A2**).
5. Prohibit the use of pesticides, herbicides, or rodenticides (**Condition of Approval C8**).
6. Implement invasive species management plan (**Condition of Approval C9**).
7. Conduct pre-construction raptor surveys between March 1 and May 31 if any construction activities are to occur between March 15 and August 15 (**Condition of Approval A6**).

As noted previously, the nearest mapped Northern Spotted Owl (NSO) activity center (HUM0403) is one mile to the east and an additional activity center (HUM 0836) is 1.2 miles to the northeast. The report notes that extensive NSO surveys have been conducted for the timber harvest plan for the adjacent property to the west going on to conclude that no suitable NSO habitat occurs in the proposed project area as it is currently non-forested grassland habitat. Therefore, the proposed project will not result in the loss of Northern spotted owl nesting, roosting, or foraging habitat.

CDFW comment requested a condition prohibiting the use of plastic netting (**Condition of Approval**

C5). Additional conditions include ensuring refuse is contained in wildlife-proof storage (**Condition of Approval C6**). As proposed and conditioned, the project is consistent with CCLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species.

A Botanical Survey Report and Wetland and Water Evaluation and Delineation dated September 30, 2021, was prepared by J. Regan Consulting (**Attachment 4D**). The Botanical Report concluded that no sensitive, rare, threatened, or endangered plants were detected during floristically appropriate surveys in 2021. No un-common species included in California Rare Plant Ranks three or four were detected during surveys. The Botanical Report concluded that a sensitive natural vegetation community (Sitka spruce Forest and Woodland Alliance G5, S2) occurs on the western and southern edges of the parcel. The Botanical Report noted that the proposed development does not include the removal of any Sitka spruce Forest or Woodland and no impacts are expected to occur. The Botanical Report notes that no wetlands or significant wetland or riparian vegetation was identified during field surveys. The start of an unmapped intermittent stream in the southeast corner of the property was identified and is depicted on the site plan. The proposed project is over 200 feet from this area which exceeds the setbacks required by Humboldt County Code.

Noise:

A Noise Source Assessment and Mitigation Plan dated April 2021 was prepared by NorthPoint Consulting Group (**Attachment 4E**). Potential noise sources include circulation and exhaust fans and use of the generator in emergencies. The noise assessment took four readings at various property lines to establish an average decibel (dB) baseline. In accordance with the CCLUO performance standards, noise limits shall be three decibels above ambient noise measurements. Therefore, the following noise limits are incorporated into the conditions of approval (**Condition of Approval C2**):

1. 36.6 dB at the eastern property line; and
2. 51.8 dB at the southern property line; and
3. 55.5 dB at the western property line; and
4. 43.9 dB at the northern property line.

Additionally, any generator use is limited to 50dB at 100 feet or forest edge, whichever is closer. If more than one noise standard applies (e.g. generator and property line) then the more restrictive standard shall be used. The Noise Plan describes various noise attenuation measures such as construction materials and design as well as monitoring.

Prime Soils:

Approximately 627,264 sq. ft. (~14.4 acres) of prime agricultural soils exist on the property, per Humboldt County Web GIS. The proposed additional cannabis cultivation activities including ancillary nursery total approximately 37,910 square feet. (0.87 acres) and would occur on prime agricultural soils. Coverage of prime soils by the proposed project is approximately 6% which is below the 20% maximum allowed under the CCLUO.

Energy:

Electricity is sourced from PGE through an eligible renewable energy program with a generator for emergencies only (**Condition of Approval B4**). CDFW comment included a request for a condition limiting the use of heaters to nurseries or insulated structures to lower electricity use. After careful consideration by staff, this condition was not added to the project because there does not appear to be a nexus to wildlife or habitat concerns associated with CDFW's jurisdictional authority. As noted above the power is required to be generated through a renewable energy program. The project was referred to PGE which did not respond. Requiring the applicant to construct insulated space around the cannabis cultivation could convert the operation from mixed light to indoor cultivation which would require reliance on artificial light resulting in an increase not a decrease of energy usage. Additionally, preventing the operation from regulating temperature in the greenhouses imposes a significant and arbitrary risk of crop loss.

Access:

The project parcel takes access from Hooven Road, a privately maintained road which takes access from Dows Prairie Road, which is county maintained. From the intersection with Dows Prairie, the road is approximately 0.65 miles to the front gate. A Road Evaluation dated October 4, 2016, was prepared by Registered Professional Engineer (**Attachment 4F**). The evaluation concluded that the road could function as equivalent to Category 4 with specific improvements such as improving existing grass turnouts. The project is conditioned requiring the applicant to provide documentation that all improvements recommended by the Engineer have been implemented prior to commencing operations (**Condition of Approval A1**).

The road evaluation states that Hooven Road can accommodate 10 employees (30 trips per day) in addition to the local traffic for the eight parcels on the road. The project Operations Plan proposes an increase in employees to a total of 14. Because of this the project is conditioned requiring the applicant to provide documentation from an Engineer demonstrating that Hooven Road can support the increased traffic or propose and implement measures limiting the number of trips per day (**Condition of Approval A9**). This condition must be met prior to increase the number employees from 10 to 14. The site plan depicts adequate parking.

The previously approved cannabis permits for this location required the applicant to attempt to form a Road Maintenance Association (RMA). The formation of an RMA was not successful. Therefore, a condition has been added to this project requiring the applicant to pay a fair and proportional share of all road maintenance costs in the absence of an RMA (**Condition of Approval B5**). A Road System Assessment Report dated April 2020 was prepared by NorthPoint Consulting Group and included with the Road Evaluation. The report makes five recommendations regarding road maintenance for width and visibility. The recommendations are incorporated into the conditions of approval (**Condition of Approval B5**).

A referral to Public Works resulted in a request for a standard condition regarding visibility at the intersection of Hooven and Dows Prairie Road (**Condition of Approval B5**). The project parcel is mapped as airport protected airspace (CC333/FAR77) and the project referral was sent to the county airport manager which did not respond. As it has with buildings constructed as part of the previously approved cannabis permits, the applicant, as part of the Building Permit process, must demonstrate that

new structures comply with airport approach zone building height limitations (**Condition of Approval B6**).

Geologic Suitability:

The project parcel is mapped in the County GIS as low instability. The project is proposed in areas mapped as less than 15% slope. The project will require some grading and the construction of structures will increase the coverage of impermeable surfaces. Grading permits, and an Erosion and Sediment Control Plan consistent with the County of Humboldt Grading Ordinance will be required.

Timber Conversion:

No timber conversion is associated with the proposed project.

Security and Safety:

Per the project Operations Plan, the property is accessed through an entry gate and limited to employees, agency staff, consultants, and distributors. The Site Plan depicts a 2,500-gallon tank dedicated to fire suppression as well as adequate area for emergency vehicle turnaround. The property is located within the State Responsibility Area and the Arcata Fire Protection District. Referral to the Arcata Fire Protection District resulted in a recommendation for approval. Referral to CalFire resulted in a response of no comment.

Tribal Consultation:

The project was referred to the Northwest Information Center, the Bear River Band of the Rohnerville Rancheria, Blue Lake Rancheria, and the Wiyot Tribe. A Cultural Resource Investigation Report dated October 2016 was prepared by Roscoe and Associates. The report concluded that no historical resources were identified in the project area. The Bear River Tribal Historic Preservation Officer requested the standard inadvertent discovery protocol (**Condition of Approval C1**).

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 Mad River Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 74 permits and the total approved acres would be 27.67 acres of cultivation.

Environmental Review:

An 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 previous Final Environmental Impact Report (EIR) that was adopted for the CCLUO. Staff has prepared an addendum (Attachment 3) to the EIR for consideration by the Planning Commission.

Public Comments:

As required by the CCLUO due to the project's location within a specific community plan area, a Notice of Application was sent to property owners and applicants within 1,000 feet. The Planning and

Building Department received several responses including phone calls, emails, and letters to the Notice of Application. The applicant also distributed a neighbor outreach letter to nearby properties providing contact emails and a phone number. The emails and letters have been included in Attachment 6. The responses from neighbors contained a combination of questions and concerns.

There were questions about how the County evaluates groundwater wells as a water source. As described in the Water Resources section above, staff shared a summary of how much water is expected from the well in relation to other water sources. Staff also shared information about groundwater recharge as well as project conditions regarding metering. Staff responses to questions included an overview of the hydrologic analysis for connectivity and impacts.

There were concerns about odor control, so staff added a project condition requiring odor mitigation technology in the new buildings (**Condition of Approval A7**). There was a question about light pollution performance standards. As described in the Biological Resources section above, the project is subject to Dark Sky standards as a standard condition of approval per the terms of the CCLUO.

There were concerns expressed about dust generated from the road. The commentor suggested this could be addressed if vehicles slowed down. Therefore, staff added a condition to the project requiring the applicant post speed limit signs of five miles per hour at appropriate locations along the road and include speed limit restrictions as part of mandatory employee training (**Condition of Approval A1**). The commentor followed up with data from security camera footage describing the number of single vehicle trips for the month of January 2024. The provided data was analyzed by converting it to Average Daily Trips (ADT). The total of 1,487 single trips was divided by 2 (round trip) and then again by 31 (# of days in January) to get 23.98 ADT for the month of January. Based on review of aerial imagery, it appears that after the driveway where the data was collected, Hooven Road serves four additional properties. Under the county's subdivision regulations, and in consultation with the Public Works Department, it is generally accepted that each residential parcel in a rural area will produce five ADT. Therefore, the four residential parcels are generally expected to produce a total of 20 ADT prior to factoring in the traffic from the existing, approved cannabis operation. So, while the data may seem like there is significant traffic, it is consistent with what is expected for a rural residential road with an approved cannabis operation based on adopted standards. As noted in the Access section above, the project is conditioned prohibiting an increase in the number of employees without further evaluation by an Engineer.

Another comment letter was received concerning maintenance, traffic speed, and dust on Hooven Road. The comments in this letter are addressed by Conditions of Approval described in this section and in the Access section above.

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 other conditions of approval. The

Planning Commission could deny the project 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. Cultivation Operations Plan
 - C. Site Plan
2. Location Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Well Evaluation
 - B. Well Completion Report
 - C. Revised Biological Scoping Report
 - D. Botanical Report and Wetland and Water Delineation
 - E. Noise Source Assessment and Mitigation Plan
 - F. Road Evaluation
5. Referral Agency Comments and Recommendations
 - A. Arcata Fire Protection District
 - B. Building Inspection Division
 - C. Public Works
 - D. Arcata Fire Protection District
 - E. Division of Water Rights
 - F. CDFW (Original and Revised)
 - G. CalFire

6. Public Comments
 - A. Comment Received January 24, 2024
 - B. Email Regarding Hooven Road February 1, 2024
 - C. Comment Letter Received February 2, 2024
 - D. Neighbor Outreach Letter 02.05.2024

Applicant:

ECD Holdings, Inc.
Cody Stross
600 F Street Suite 3514
Arcata CA 95521

Owner:

CSTS Properties, LLC

File #: 24-213

600 F Street Suite 3514
Arcata CA 95521

Agent:

NorthPoint Consulting Group, Inc
1117 Samoa Blvd
Arcata CA 95521

Please contact Steven A. Santos, Senior Planner, at santos@co.humboldt.ca.us or (707)268-3749 for questions about this scheduled item.