



COUNTY OF HUMBOLDT

For the meeting of: 1/19/2023

File #: 22-1808

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

SUBJECT:

Willow Creek Ventures, LLC
Assessor Parcel Numbers (APN) 524-114-007
Record No.: PLN-13169-CUP
Willow Creek area

A Conditional Use Permit for 20,000 sq. ft. existing outdoor cannabis cultivation and 1,902 sq. ft. of ancillary propagation. Water source is a permitted well (Permit #11/12-1271). Estimated annual water usage is 337,364 gallons (15.4 gal/sq. ft./yr.). Water storage of 12,500 gallons exists in five (5) 2,500-gallon tanks, and three (3) 2,500-gallon tanks are proposed for a total of 20,000 gallons of water storage on-site. Power will be sourced by a 2,500-Watt solar array with one emergency backup generator. Processing will occur off-site at a licensed processing facility. The site will utilize a maximum of four (4) workers on-site during peak season. The project also includes a Special Permit to approve cultivation within 600 feet of Public Lands, the Six Rivers National Forest (SRNF).

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:

- a. Finds that the Planning Commission has considered the Addendum to the Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for the Willow Creek Ventures, LLC 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 located in the Willow Creek area, on the south side of State Highway 299, approximately 6 miles from the intersection of State Highway 299 and Friday Ridge Road, on the property known to be in Section 35 of Township 06 N, Range 05 E, Humboldt Base & Meridian.

Access: The site is accessed from Forest Service Route 6N06, from Friday Ridge Road, from Highway 299.

Present General Plan Land Use Designation: Timberland (T), 2017 General Plan, Density: 40-160 acres per unit, Slope Stability: Moderate Instability (2).

Present Zoning: Timberland Production Zone (TPZ).

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: Willow Creek Ventures, LLC seeks a Conditional Use Permit for 20,000 square feet (sq. ft.) of pre-existing outdoor commercial cannabis cultivation, with 1,902 sq. ft. of ancillary propagation. The project will source water from a permitted well (Permit #11/12-1271), and annual water usage is estimated at 337,364 gallons (15.4 gal/sq.ft./yr.). Power will be sourced by a 2,500-Watt solar array via mobile trailers, and one emergency backup generator will be kept on-site. The project also includes a Special Permit to approve cultivation within 600 feet of Public Lands, the Six Rivers National Forest (SRNF).

The site is equipped with a permitted septic system within the residence (Permit #14/15-0479). The project was referred to the Department of Environmental Health (DEH) on September 20, 2017, and DEH submitted a recommendation of approval on June 8, 2018. Up to four (4) workers will be utilized for operations on-site during peak season during planting and harvesting weeks.

The applicant is proposing to have ten (10) light-deprivation hoop houses for the 20,000 square feet of outdoor cannabis cultivation. The applicant will dry harvested product within the dry shed on-site, and trimming will occur at a licensed third-party processing facility. The applicant shall have documentation kept on-site to show the use of a licensed processing facility, to be furnished during an annual inspection (**Ongoing Condition B.1**). The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: ten (10) outdoor hoop houses, two (2) nursery hoop houses, one (1) storage shed, one (1) dry barn, and one (1) generator shed (**Condition A.7**). Generator sheds must have a concrete floor designed to incorporate containment for fuel leaks and spills which must be located on a stable surface with a minimum 200-foot buffer from Class I and Class II streams (**Condition A.8**). Historic grading has occurred on the site in association with the cannabis cultivation. The applicant is conditioned to permit the historic grading that occurred in association to cannabis activities on-site, with the Building Division (**Condition A.9**).

Setbacks:

The project area is located within 600 feet of Public Lands, the Six Rivers National Forest (SRNF). The nearest proposed cultivation area to the SRNF lands is located in the southeast corner of the property. The applicant is requesting a Special Permit to approve a setback reduction from the SRNF parcel boundary to approximately 100 feet to the nearest cultivation area. The project was referred to the SRNF on March 4, 2019, and comments were received on March 6, 2019. Comments from the SRNF included a general letter with the recommendation of denial due to the use of US Forest Service roads, and a parcel survey was requested to ensure that the operations are not trespassing upon or causing impacts to federal lands. There is a Record of Survey on file for the U.S. Department of Agriculture Forest Service, which shows that there is a survey marker located at the southeast corner of the property. A request was made to the applicant to provide data verifying that the proposed cultivation area in the southeast corner of the property is not encroaching onto Federal Lands. Photos were taken of the property survey marker and a tape measure verifying that the southeast cultivation area is approximately 110 feet to the survey marker.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The applicant obtains power from an on-site solar array, and all cultivation is outdoor and no lights are used. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities. The project site is more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.

Fire Safety:

The project is located in an area that is designated to have a Very High Fire Hazard Severity. The project is located outside of any local response area, and is within the State Responsibility Area for CalFire. The project was referred to CalFire on September 20, 2019, and no comments were received. The applicant is proposing to have two (2) 2,500-gallon tanks designated for fire suppression, and there is room on-site for a firetruck turnaround. The designated fire suppression tanks shall have the appropriate fire hose that meets CalFire SRA requirements (**Condition A.10**). The applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel on a form provided by the Humboldt County Planning Division (**Condition A.11**). Document review fees as set forth in the schedule of fees and charges as adopted by the Board of Supervisors will be required.

Timber Conversion:

It appears that some unauthorized timber conversion occurred on the site between 2009 and 2016. The project was referred to CalFire and no response was received. The applicant had a Timber Conversion Evaluation Report (TCER) prepared by RPF Chris Carroll with Timberland Resource Consulting, dated December 4, 2019. The TCER was sent to CalFire for review on December 1, 2022, and no comments have been received. The TCER states that 1.6 acres of conversion area was converted under Conversion Exemption 1-12EX-226-HUM through historic timber operations that occurred on-site. There are a total of three conversion areas that were evaluated on the site, and there was approximately 0.44 acres of timberland converted post-2016 at Cultivation Site 1. The applicant is required to restock the 0.44 acres of post-2016 timber converted area on a 1-1-basis. The applicant shall provide a Restocking Plan to the Planning Division, prepared by an RPF for the restocking of 0.44 acres of timberland on the site, and shall adhere to the recommendations in the report (**Condition A.12**). The applicant shall also adhere to the recommendation within the TCER; treat logs, slash, and woody debris at Cultivation Sites 1 and 2 per the specifications stated in 14CCR 1104.1(a)(2)(D) - Treatment of Slash and Woody Debris (**Condition A.13**).

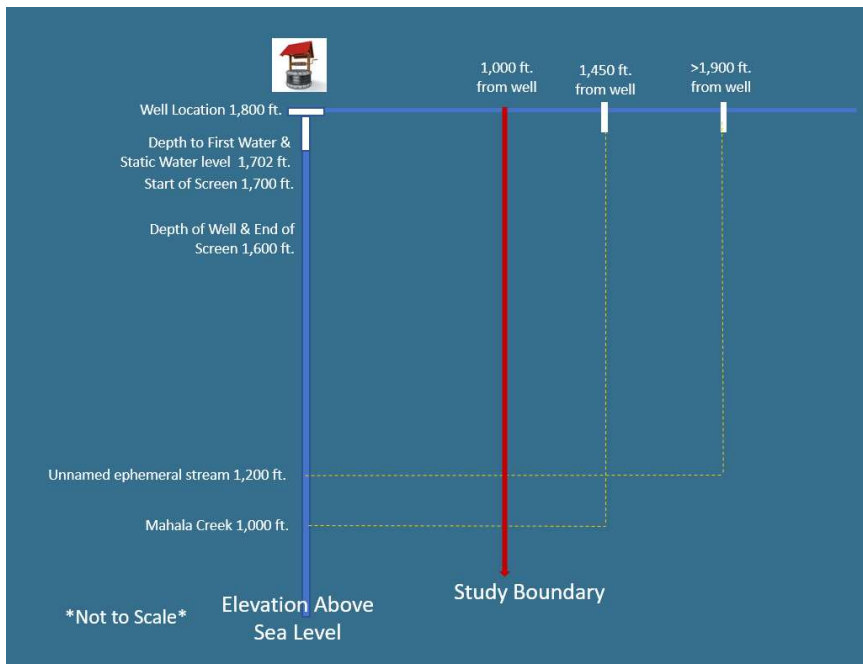
Energy:

Cultivation on-site will be outdoor without the use of supplemental lighting. The applicant will utilize lights within the propagation greenhouses, which will be powered by a 2,500-Watt solar array on mobile trailers. The applicant shall permit the solar array with the Building Division (**Condition A.14**). There will be one emergency backup generator used on-site in the case of emergency only. Drying will occur within the dry shed, which will also utilize the solar array mobile trailer. The applicant shall ensure that the emergency backup generator will not exceed 50 decibels at either 100 feet or the nearest canopy when in use (**Ongoing Condition B.2**).

Water Resources:

The project will source water from a permitted well (Permit #11/12-1271). Annual water usage is estimated at approximately 337,364 gallons (15.4 gal/sq.ft./yr.). There is a total of 12,500 gallons of existing water storage on-site in five (5) 2,500-gallon hard sided tanks, and an additional three (3) 2,500-gallon tanks are proposed for a total of 20,000 gallons of water storage on-site. Two (2) of the proposed tanks (5,000 gallons) will be

designated for fire suppression needs, and 15,000 gallons will be designated for irrigation purposes.



The applicant has obtained a Well Assessment Report (WAR) for the well prepared by licensed geologist David Lindberg, dated October 13, 2022. The WAR states that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent springs, wetlands and or surface waters in the vicinity of 1,000 feet of the subject well. The nearest waterway is Mahala Creek which is more than 1,450 feet northwest of the well. The elevation of the well site is 1,800 feet and the well is 200 feet deep. The elevation of Mahala Creek is 1,000 feet, which is 600 feet lower than the total depth of the well. (See the cross section to the right for a visual of the depth of the well compared to nearby water sources.)

Per County requirements, a bentonite surface sanitary seal was installed from the surface to 20 feet, which is sealed through any potential shallow subsurface aquifers in the uppermost 20 feet. Depth to first water and static water was reported at 98 feet below the surface in the Well Completion Report, and it was determined that the water source from which the well draws appears to be a confined subsurface aquifer not demonstrably connected to any surface waters or unconfined, near-surface aquifer. The anticipated annual recharge rate for the local aquifer is 19.5 million gallons of water per year. The longevity and sustainability of the well is unknown, but with the anticipated recharge rate of 19.5 million gallons per year for the confined subsurface aquifer, it has been determined that the well meets the needs for the proposed project.

The site contains several Class III streams, and one known Class II stream named Mahala Creek which is tributary to the South Fork Eel River. All cultivation areas are shown to be outside of the streamside management areas. The applicant has enrolled in the State Water Resources Control Board's (SWRCB) General Order for Water Quality No. WQ 2019-001-DWQ. A Notice of Applicability letter was received by the applicant, dated March 5, 2020, showing proof of enrollment under WDID 1_12CC419487. The applicant is required to have a Site Management Plan (SMP) prepared for the site to show compliance with and mitigation measures required for the site to meet the General Orders standard conditions. The applicant shall submit the SWRCB approved SMP to the Planning Division, and shall implement all corrective actions and adhere to the ongoing recommendations detailed in the SMP (**Condition A.15 & Ongoing Condition B.2**).

The Cultivation & Operations Plan states that there are no culverts or stream crossings on the site. The applicant is not required to obtain a Lake or Streambed Alteration (LSA) Agreement with the California Department of Fish & Wildlife (CDFW) if there are no culverts or stream crossings on-site that require remediation. The applicant is required to submit a letter or other verification from CDFW, to the Planning Division, stating that no LSA Agreement is required for the project. In the event that a LSA is required for the project, the applicant shall submit the final LSA Agreement to the Planning Division, and adhere to the work outlined in the Agreement (**Condition A.16**).

Biological Resources:

There is no designated habitat on-site for rare threatened or endangered plant or animal species according to the California Natural Diversity Database (CNDDDB). There is a Northern Spotted Owl (NSO) activity center on the subject parcel, which is approximately 0.44 miles to the nearest cultivation area. The applicant has obtained a Northern Spotted Owl Scoping Report (NSOSR) prepared by Wildlife Biologist Jack Henry with Pacific Watershed Associates, dated December 13, 2021. The NSOSR states that no NSO detections have occurred within the owl territory since 2017 with barred owls being detected the last four years. As the project does not propose any new construction, ground disturbance, or vegetation removal, power will mainly be provided a solar array, and with the applied recommended mitigation measures for covering the lighted nursery, it has been determined that the project would not result in the take of NSO. The applicant shall adhere to the International Dark Sky Standards for the nursery greenhouse, and shall cover with a black-out cover that prevents any light escape if lit during night time hours (30 min prior to sunset and 30 minutes post sunrise) (**Ongoing Condition B.4**).

The project was referred to CDFW on September 20, 2017, and comments were received on March 31, 2019. Comments from CDFW included concerns regarding grading and tree removal that occurred for cannabis cultivation, potential impacts to NSO and other sensitive species, and requested conditions to be added to the project to address these concerns. Conditions have been added to the project in order to address these concerns from CDFW.

Tribal Cultural Resource Coordination:

The project site is located within the Tsnungwe and Hoopa Aboriginal Ancestral Territories. The project was referred to the Hoopa Valley Tribe and the Northwest Information Center (NWIC) on September 20, 2017, and to the Tsnungwe Council on March 12, 2019. Comments were received from the NWIC on January 25, 2018, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. Comments were received from the Tsnungwe Council on March 27, 2019, requesting a Cultural Resource Investigation (CRI). The applicant obtained a CRI prepared by William Rich with William Rich and Associated, dated July 2021, which found that no tribal cultural resources were found within the project area. The CRI was submitted to the Tsnugwe Council, and comments were received on September 3, 2021, stating that they had no concerns regarding the proposed project. The applicant shall adhere to Inadvertent Discovery Protocols for the life of the project (**Informational Note 3**).

Access:

Access to the project site is from Forest Service Route 6N06, from county maintained Friday Ridge Road. The project was referred to the Department of Public Works on September 20, 2017, and comments were received by the agency on April 26, 2018 recommending that the project be referred to the US Forest Service due to the use of Forest Service roads. The project was referred to the SRNF on March 4, 2019, and comments were received on March 6, 2019. The SRNF recommended denial for the project as transportation of cannabis product across National Forest lands is illegal. As the access road is partially County maintained, and partially US Forest Service road, the applicant is not required to upgrade sections of the road that are US Forest Service

road. The applicant shall be aware that the Federal Government considers the cultivation of cannabis to be an illegal activity (**Informational Note 4**).

The site will mainly be owner operated, but the applicant plans to have a maximum of four (4) workers on-site, which will be used during planting and harvesting activities for up to two (2) weeks out of the year. The applicant anticipates a maximum of fourteen (14) vehicle trips per week during the two weeks that additional workers are on the site. As the site is pre-existing, no increase in traffic is anticipated, and it has been determined that the road meets the functional capacity needs for the project's needs.

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 cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the South Fork Trinity Planning Watershed, which under Resolution 18-43 is limited to 86 permits and 29 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 24 cultivation permits and the total approved acres would be 10.9 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and most responding agencies have either responded with no comment or recommended approval or conditional approval. The US Forest Service responded with the general recommendation of denial as cannabis is a federally illegal substance. (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 of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.
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. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Addendum to Cultivation & Operations Plan
 - D. Monthly Water Usage Chart
 - E. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings

- A. Notice of Applicability Letter
 - B. Timber Conversion Evaluation Report
 - C. Northern Spotted Owl Scoping Report
 - D. Well Assessment Report
 - E. Property Survey Marker Photos and Measurements
5. Referral Agency Comments and Recommendations