

Dustin Silva

Record Number: PLN-13266-CUP

Assessor's Parcel Number: 216-144-004 & 216-143-012

Recommended Planning Commission Action:

1. Describe the application as part of the consent agenda;
3. Survey the audience for any person who would like to discuss the application; and
4. If no one requests discussion, make the following motion to approve the application as part of the consent agenda:

Find that the Planning Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Conditional Use Permit and approve the Dustin Silva project as recommended by staff subject to the recommended conditions.

Executive Summary:

Dustin Silva seeks a Conditional Use Permit for the continued operation of 15,840 sq ft of existing outdoor cannabis cultivation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Agricultural General in the Humboldt County 2017 General Plan Update and zoned Agricultural Exclusive (AE). Cultivation will occur in the following structures:

Cultivation Site	Square feet
16'x80' Greenhouses (3)	1,280 sf each=3840 sf
16'x70' Greenhouse	1,120 sf
16'x56' Greenhouse	896 sf
20'x64' Greenhouse	1,280 sf
12'x72' Greenhouse	864 sf
14'x68' Greenhouse	452 sf
10'x64' Greenhouse	640 sf
10'x65.2' Greenhouse	652 sf
20'x72' Greenhouse	1,440 sf
20'x88' Greenhouse	1,760 sf
20'x100' Greenhouse	2,000 sf
16'x56' Greenhouse	896 sf
Total Cultivation Area	15,840 sf

Ancillary propagation will occur on site in one (1) proposed 1,380-square-foot greenhouse. The applicant proposes harvesting and drying on site, with all processing occurring offsite at a licensed third-party processing facility. The applicant anticipates a maximum of four (4) employees will be required for operations. Power for the project is currently generators but will be sourced from solar within three years of the date of approval (**Condition A.15**).

The project parcel is subject to a Land Conservation Contract pursuant to the California Land Conservation Act of 1965, also known as the Williamson Act. The project, including cannabis cultivation and all associated cannabis improvements on this and the adjacent property operated by the same applicant, is below the two-acre threshold approved by the Williamson Act Committee as not requiring specific review by the Committee. The total cultivation area of 17,220 square feet (appurtenant nursery space included) equate to roughly 0.27% of the subject APN. The remainder of the property remains useable for agricultural purposes relative to the Williamson Act and therefore approval of this project will not conflict with the Land Conservation Contract.

Water Resources

Water for irrigation will be provided by three permitted surface water diversions, with a total permitted appropriation amount of .989 acre-feet (322,266 gallons) per year. The applicant anticipates 182,000 gallons of water will be required annually for irrigation (11.48 gallons/sf/yr). There are 232,050 gallons of water storage onsite, 82,050 gallons of storage occurring in hard sided tanks, and 150,000 gallons of additional water storage in existing water bladders. The applicant will forbear from using the point of diversion annually from April 1 to October 31. Removal of the existing water bladders and replacement with hard tank storage has been included as a condition of approval (**Condition A.9**). The project site is located in a parcel both in the Middle Main Eel Planning Watershed and the South Fork Eel Planning Watershed. Under Resolution 18-43 the Middle Main Eel Planning Watershed is limited to 360 permits and 125 acres of cultivation and the South Fork Eel Planning Watershed is limited to 730 permits and 251 acres of cultivation. With the approval of this project, the total number of approved permits in the Middle Main Eel Planning Watershed would be 87, and the total approved acres of cultivation would be 42.64. The total number of permits in the South Fork Eel Planning Watershed would be 295 permits and 80.33 acres of cultivation.

Tribal Consultation

The subject parcel is located in the Bear River Band and Sinkyone Aboriginal Ancestral Territories. The applicant submitted a Cultural Resources Investigation prepared by William Rich and Associated, dated November 2021, and resulted in the identification a Native American artifact scatter on the subject parcel. The Cultural Resource Investigation recommended that no ground disturbance occur in the identified site. The project was referred to the Northwest Information Center, Bear River Band of the Rohnerville Rancheria, and Intertribal Sinkyone Wilderness Council. Referral comments recommend that no ground disturbance occur in the identified resource site, that if any ground disturbance occurs on the property outside of the resource site a cultural monitor be present, and that the project follow standard inadvertent discovery protocol. These recommendations have been included as recommended conditions of approval (**Conditions B.25-26**).

Biological Resources

There are no mapped endangered or threatened species of concerns located on the subject APNs. The nearest Northern Spotted Owl (NSO) activity center (HUM0703) is located approximately 7-miles west of the cultivation site and the nearest NSO observation was observed approximately 0.76 miles northeast from the nearest cultivation site. Marbled Murrelet habitat is mapped approximately 5.25 miles southeast from the nearest cultivation site.

Access

The property is accessed via a private driveway from Dyerville Loop Road. According to the Road Evaluation submitted by the agent received November 21, 2019, the entirety of the private road utilized for the project is developed to the equivalent of a road category 4 standard. The project was referred to the Department of Public Works who commented the applicant shall ensure all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance); that all fences and gates shall be located out of the County right of way so that vehicles will not block traffic when staging to open or close the gate; and the applicant shall rock the surface of the access road where it intersects Dyerville Loop Road, for a minimum width of 18 feet and a length of 50 feet. These conditions shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

RECCOMENDATION: Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit.

ALTERNATIVES: 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.

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.