

**Recommended Planning Commission Action**

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

*Find that the Planning Commission has considered the Addendum to the adopted Environmental Impact Report for the Commercial Cannabis Land Use Ordinance (CCLUO) as described by Section 15164 of the State CEQA Guidelines, make all required findings for approval of the Conditional Use Permit, and adopt the Resolution approving the Emerald Sky Growers, Inc Conditional Use Permit modification as recommended by staff subject to the recommended conditions.*

**Executive Summary:** A Conditional Use Permit to modify an approved Zoning Clearance Certificate in the Fortuna Community Planning Area. The modification proposes to increase ancillary nursery space from 600 square feet to 1,500 square feet. The previously approved 2,000 square foot operations building will become a commercial structure to conduct onsite processing and will also be relocated but the size remains the same. The previously approved 5,976 square feet of new mixed light commercial cannabis cultivation remain unmodified as to size and type but the cultivation area will be reconfigured. The water source of a disconnected well, the 119,800-gallon annual water budget, the number of employees, and power source of PGE with a generator for emergencies remain unmodified from what was approved under PLN-11927-ZCC. Water storage will be increased by the modification from 5,000 gallons to 15,000 gallons.

**Ancillary Nursery Space**

The applicant has provided an analysis regarding the proposal to increase nursery size from 600 square feet to 1,500 square feet and is included in Attachment 3. The analysis incorporates factors such as maintaining proprietary genetic stock and growing from seed. The proposed increase in nursery size represents a change from 10% to 25.1% of the previously approved cultivation area. The nursery size increase component of the proposed modification is inconsistent with established Planning Commission practice to limit ancillary nursery space to no more than 10%. Therefore, staff is recommending that the request to increase nursery space be denied but approve all other aspects of the modification. The project contains conditions to revise the plot plan and operations plan to conform to this recommendation (**Condition of Approval A1**). The Commission may also choose to receive testimony from the applicant regarding the nursery size increase request and grant the request in whole or in part.

**Onsite Processing**

This modification adds the ability to conduct onsite processing in the previously approved 2,000 square foot operations building. The applicant may choose to phase in this use over time. If the applicant does not conduct onsite processing harvested product will be taken to a licensed offsite facility.

**Water and Wastewater**

No additional water usage is expected from what was approved under the original Zoning Clearance Certificate. The annual water budget of 119,800 gallons is sourced from a disconnected well and remains unchanged. The modification increases water storage from 5,000 to 15,000 gallons. The project uses an irrigation system designed to maximize water conservation. This system is an inground need-based drip irrigation watering system that uses moisture sensors to only water when the soil is dry.

The modification application was referred to the Palmer Creek Community Services District (CSD) and to the Division of Environmental Health. The CSD stated that water and sewer hookups to the project parcel were restricted to residential uses only (**Condition of Approval B2**). Therefore, the water supply for

the operations building will be the previously approved well. Using the well for the operations building was also previously considered under the approved Zoning Clearance Certificate.

Per the Division of Environmental Health, no processing can occur until a septic system is installed in a suitable location. Cultivation operations may be supported by portable toilets however processing operations cannot occur until a permitted septic system is constructed **(Condition of Approval A3)**. Processing will occur offsite at a licensed facility until the commercial building and wastewater systems is complete.

### **Natural Resources**

No timber clearing or grading will be needed to implement the modified project description. Prior to purchase by the applicant, the project parcel was known to contain illegally stored solid waste and junk vehicles. These have been cleaned up by the applicant. A June 2019 Biological Resources Assessment prepared by TransTerra Consulting was conducted for the parcel and reviewed as part of the processing of the original Zoning Clearance Certificate. The change of use inside the approved operations building and the reconfiguration of the project layout to accommodate site constraints as well as the additional water storage does not represent a significant impact or unanticipated ground disturbance. During the review of the Zoning Clearance Certificate a wet area along the southern property line was identified. As part of the evaluation for this project modification, the applicant provided a February 2021 Wetland and Other Waters Delineation Report prepared by SHN. This report concluded that there were no jurisdictional wetlands present and recommended that the project maintain appropriate buffers for the previously known intermittent stream. Standard conditions of approval require the project to comply with International Dark Sky Association standards.

### **Energy Source**

Electricity source remains unmodified and is provided by PGE and shall be sourced from an eligible renewable energy program, such as the RCEA PowerPlus plan **(Condition of Approval B1)**. A generator is present for emergencies only **(Condition of Approval C6)**.

### **Noise**

The applicant provided a noise assessment. Because this modification is to an approved use, the noise assessment incorporated the uses that were already approved such as the operational greenhouses. The baseline noise levels are 37dB for the southern property line, 47.9 dB for the northern property line, and 44.2 for the western property line. These baselines are incorporated into the noise performance standards in the conditions of approval **(Condition of Approval C1)**.

### **Access**

Access to the site is taken from a 500-foot alley directly from Palmer Boulevard, a paved county-maintained road. The alley averages 14 feet wide and is paved with gravel. Under the previously approved Zoning Clearance Certificate the applicant is required to make improvements at the encroachment of the county road.

The operations will be conducted by the resident permit holder and will not have any employees and will follow the terms and conditions of the approved Zoning Clearance Certificate. Per the Operations Plan, third party vendors may be used to provide staffing during peak operations. Up to three staff is expected during peak operations.

The modification was referred to the Fortuna Fire Protection District and recommendations for dedicated fire fighting water supply, security access, and signage have been incorporated into the conditions of approval **(Condition of Approval A4)**.

### **Tribal Consultation**

The project is in the Bear River Band of Rohnerville Rancheria aboriginal territory. The original Zoning Clearance Certificate was referred to the tribe and no cultural resource evaluation was requested.

Standard inadvertent discovery protocol is included as a condition of approval. **(Condition of Approval C2).**

### **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 Lower Eel Planning Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. Since this project does not change the size or type of cultivation previously approved, the number of permits and acres in cultivation will not change.

### **Environmental Review and Staff Recommendation**

Environmental review for this project was conducted and based on the results of that analysis, staff concludes that all aspects of the project have been considered in a previously adopted Environmental Impact Report adopted for the Commercial Cannabis Land Use Ordinance. An addendum to the Environmental Impact Report has been prepared for consideration by the Planning Commission (Attachment 2).

Staff recommends that the Planning Commission make all the required findings based on the evidence in the record and approve the application subject to the recommend conditions.

### **Alternatives**

The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence or modify the project. 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. Planning staff has concluded that the required findings in support of the proposal have been made. Consequently, 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 EIR for the CCLUO 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.