



COUNTY OF HUMBOLDT

For the meeting of: 9/19/2024

File #: 24-1292

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

MIB 2, LLC Conditional Use Permit
Assessor Parcel Number 221-021-026
Record No.: PLN-11543-CUP
Salmon Creek Area

A Conditional Use Permit for 29,938 square feet of existing outdoor commercial cannabis cultivation and 2,400 square feet of existing mixed light commercial cannabis cultivation totaling 32,838 square feet. The project includes 3,160 square feet of ancillary nursery and onsite relocation and restoration of cultivation areas to environmentally superior locations. Estimated annual water use is 220,000 gallons and sourced from rainwater catchment. Water storage is provided by nine 2,500-gallon poly water and a 250,000-gallon pond for a total of 272,500 gallons of storage. Processing, including trimming, will occur on site. Electricity is provided by a solar array with a generator for emergency backup only. A Special Permit is included because the project is within 600 feet of public lands managed for open space.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt resolutions (Resolution 24-__) (Attachments 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 that was prepared for the Overland Road, LLC project (Attachment 3); and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the MIB 2, LLC Conditional Use Permit subject to the recommended conditions of approval (Attachments 1A).

DISCUSSION:

Project Location:

The project is located in the Salmon Creek area, on the West side of Thomas Rd, approximately 3.8 miles North from the intersection of Thomas Rd and Salmon Creek Rd, on the property known to be in Section 4 of Township 03 South, Range 02 East, Humboldt Base & Meridian, known as 3809 Thomas Road.

Present General Plan Land Use Designation:

Residential Agriculture (RA), 2017 General Plan; Density: 40 acres per unit; Slope Stability: High Instability (3)

Present Zoning:

Unclassified (U)

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:

Conditional Use Permit for a maximum of 29,938 square feet of existing outdoor cannabis cultivation and 2,400 sf of existing mixed light cannabis cultivation for a total of 32,838 square feet. Propagation occurs in two greenhouses: #1, 12' x 50' (600 sf) and #2, 32' x 80' (2,560 sf) totaling 3,160 sf. Onsite drying and processing will occur in a two story, 2,970 sf facility. The primary source of electrical power is a solar array for both domestic and agricultural uses. For emergency and backup purposes generator is on site to use when needed. Irrigation water will be sourced from rain collected in a 250,000-gallon pond. Due to the history of ground disturbance, impact to biological resources is unlikely to be significant, however, a series of timber removal projects after 2016 and subsequent conversion following the development of both cannabis and non-cannabis related uses on those harvested areas requires timber restoration. Access is from Thomas Road and there will be a maximum of 5 employees at peak operation.

Water Resources:

Water storage for irrigation use is nine 2,500-gallon poly water tanks filled by one 250,000-gallon rain catchment pond. Water storage total is 272,500 gallons. Estimated annual water use is 220,000 gallons (6.09 gal/SF).

A Site Management Plan was provided in accordance with the State Water Resources Control Board

General Order WQ 2019-0001-DWQ and the applicant submitted a Notice of Applicability. The applicant has been conditioned to implement all recommendations in the Site Management Plan **(Condition 21A)**. These improvements include maintenance on the seasonal road to maintain rolling dips and to regularly inspect culverts to maintain flow.

A Lake and Streambed Alteration Agreement (LSAA) with the California Department of Fish and Wildlife (CDFW) has been issued (1600-2018-0753-R1). The LSAA addresses seven encroachments, including one point of diversion, one pond spillway, decommissioning/remediation of a graded flat, and three stream crossings. The stream crossing encroachments involve decommissioning of the dirt ford crossings. The point of diversion shall not be utilized for commercial irrigation purposes and shall be used only for domestic use **(Condition C6)**, and the pond spillway would replace the existing spillway and install a culvert and use rock armoring to avoid and minimize erosion. The applicant has been conditioned to implement all recommendations from the LSAA and adhere to prescribed reporting measures to the satisfaction of CDFW **(Condition A20)**. CDFW issued a LSAA in 2021 that allowed for work to occur on the listed improvements between June 15th and October 1st, and not all of the required work has yet been completed. In their referral comments CDFW requested that the County condition the applicant to complete certain improvements, including all work on two stream crossings and the installation of wildlife exit ramps on the pond, by October 1st of this year. Given the short timeframe between the project hearing and October 1st, Planning staff has recommended a condition requiring this work to be completed before cultivation occurs in 2025. CDFW staff was in agreement with the amended timeline (see Attachment 5-referral comments).

Biological Resources:

A list of potential special status species was generated in November 2021 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). At least one known NSO Activity Center occurs within 0.9 miles of the cultivation sites and within 500 ft of Designated Northern Spotted Owl Final Critical Habitat (CDFW 2024). The applicant shall implement the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016 and adhere to the recommendations prepared by CDFW regarding minimizing disturbance to the NSO.

- The combined decibel level for all noise sources shall be no more than 50 decibels at the edge of adjacent forest habitat or 100 feet away from the source, whatever is closer, and no more than 60 decibels at the property line, whichever is closer **(Condition C2)**.
- Prior to the use of any operation-related fans, generators, or water pumps, noise containment/dampening infrastructure shall be constructed to meet the 50-decibel sound limit as necessary. **(Condition A10)**.

The Department of Fish and Wildlife reviewed the project and requested additional approvals be

added to the project to minimize disturbance to nearby wildlife. Recommendations included: minimizing impacts on potential Northern Spotted Owls, installation of an overflow spillway on the rain catchment pond to withstand a 100-year flood event, installation of multiple exist ramps in the rainwater catchment pond, compliance with the CDFW Bullfrog Management Plan, and for refuse be placed in a wildlife proof storage container (**Condition A29**).

The noise produced by the generator shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, shall not harass Marbled Murrelet and shall be no more than 60 decibels at the property line (Condition C2). Conformance will be evaluated by County Staff during inspections using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service.

Onsite Relocation:

Approximately 10,000 square feet of cultivation was relocated on site. The original cultivation areas were close to watercourses and spread across the parcel. See the Cultivation Area Verification (**Attachment 3J**) and the relocation letter and diagrams (**Attachment 3G**). The relocated cultivation areas are consolidated with other cultivation on site in the center of the parcel, adjacent to the main road serving the parcel. This relocation occurred between 2018 and 2020. The original cultivation clearings are to be reforested, according to the restocking plans (**Condition A12**). Furthermore, the relocation converted a mixed light greenhouse (POU #3) to outdoor cultivation and allowed for all mixed light cultivation to locate in the center of the site.

Energy:

The primary source of electrical power is a 3.8kW solar array for both domestic and agricultural uses. For emergency and backup purposes, a 25k MQ Power Whisper generator is also on site to use when needed. Usage is on average 128 kWh per day from March to November, depending on the need for and duration of ventilation, and use of farming equipment. The generator is housed in a generator shed for noise attenuation when in use. The project is conditioned to transition from generator power to a renewable source of power by no later than December 31, 2024 (**Condition A15**). The combined decibel level for all noise sources, including generators, shall not harass Northern Spotted Owl and shall be, 50 decibels at 100 feet or the nearest forest edge, whichever is closer (**Condition C2**). Prior to the use of any operation-related fans, generators, or water pumps, noise containment/dampening infrastructure may be constructed to meet the 50-decibel sound limit as necessary.

Access:

Public Works' referral response indicated a Road Evaluation Report was required. A Road Evaluation report (**Attachment 3H**) was submitted on June 5, 2018 by Six Rivers Construction and Consulting but wasn't prepared by a licensed civil engineer which is required when road improvements are recommended. A road evaluation, titled Road Evaluation Narrative in the project file (**Attachment I**) was prepared by an engineer for a nearby project and has been included by staff as additional evidence to support the approval of PLN-11543. The narrative assessed all road segments up to and

beyond the project site. The road is unpaved and the narrative described some segments of the access road as Category 4, while other sections were too narrow to be category four. The engineer suggested the residents/cultivators within the road shed develop a public/private partnership to improve county-maintained roads appropriately. Thomas Road, also identified as Upper and Lower Samuels Ranch Loop Road, the segment beyond the county-maintained road, was reported as being more than 20 feet wide, functionally being equivalent to a Category 4 road. Because some of the road is not developed to Category 4 standards, the applicant is required to join an existing or form a new road maintenance association and provide evidence of membership **(Condition A2)**.

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The majority of the parcel is mapped as 15% slope or steeper. The original cultivation site was on steep slopes but was relocated to an area where the slope is less than 15%.

Timber Conversion:

Between 2010 and 2016, a total of 2.47 acres of timberland were converted to agricultural use without appropriate permits. An additional 0.24 acres were converted between 2020 and 2022. Conversion occurred at seven sites. A Timberland Conversion Evaluation Report **(Attachment 3E)** was prepared by Timberland Resource Consultants to address unpermitted conversion and identify corrective actions for each of the five sites converted before 2016 and a second Timberland Conversion Evaluation Report **(Attachment 3F)** was prepared to address the two sites converted between 2020 and 2022. Additionally, a timber restocking plan was submitted with recommendations for restocking the converted areas.

Approximately 2.04 acres of cultivation area converted prior to 2016 for the benefit of cannabis cultivation are identified as areas where cultivation will continue following approval, and approximately .42 acres will be decommissioned and restocked with timber. .24 acres of land converted after 2020 will be retained as cultivation are, by proxy being an onsite relocation of a portion of the .42 acres to be reforested. An additional 0.87 acres had trees removed but the timberland wasn't converted. The applicant will remove any man made/ artificial material except solar panels from the tree removal area and avoid use and/or development of the area to allow it to naturally regenerate without further disturbance **(Condition A12, A13)**.

The restocking plan **(Attachment 3E)** was prepared by Timber Resource Consultants in August 2018. The plan recommends planting Douglas-fir seedlings at a spacing of 10 feet by 10 feet for 435 trees per acre, however if deer browsing is expected, then density can be slightly increased. The area to be planted at the bladder site is approximately 0.12 acres requiring 50 conifer seedlings. Cultivation site 3 is approximately 0.30 acres and would require 130 conifer seedlings to be planted. The applicant has been conditioned to implement all recommendations from the restocking plan **(Condition A11)**.

Security and Safety:

The security plan for the operation includes locked gates, low intensity lighting, motion lights, and use of security cameras.

Tribal Consultation:

A cultural Resources Investigation (“report”) was prepared by William Rich, M.A. of William Rich and Associates in December 2018. No artifacts, features, deposits, or any other historic cultural resources, including tribal cultural resources, were found during the field survey conducted for the report. No further archaeological studies are recommended for permit approval. The Bear River Band of the Rohnerville Rancheria reviewed the Investigation and recommended the inadvertent discovery protocol be applied to the project. Representatives from the Intertribal Sinkyone Wilderness Council did not respond to a request for comments (**Condition 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 parcel is located in the South Fork Eel Planning Watershed. The permit cap in that watershed is 730 permits, and the acre cap is 251 acres. With the approval of this Conditional Use Permit, the total approved permits in this Planning Watershed would be 307 permits and the total approved acres of cultivation would be approximately 84.93 acres.

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 4)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete conditions of approval.
2. The Planning Commission could deny approval 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. Cultivation Plan Addendum
 - D. Site Plan
2. CEQA Addendum

3. Applicant's Evidence in Support of the Required Findings
 - A. Site Management Plan
 - B. Initial Statement of Diversion
 - C. Final Lake and Streambed Alteration Agreement
 - D. Timber Conversion Report
 - E. Timber Restocking Plan
 - F. Timberland Conversion Evaluation Report (2024)
 - G. Relocation Letter
 - H. Road Evaluation
 - I. Road Evaluation Narrative 10.03.2017 FROM PLN 11021
 - J. Cultivation Area Verification
4. Referral Agency Comments and Recommendations
 - A. CDFW Follow-Up
5. Watershed Map

Applicant

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