



# COUNTY OF HUMBOLDT

For the meeting of: 10/19/2023

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File #: 23-1406

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

Stay Humboldt, LLC. Conditional Use Permit  
Assessor's Parcel Numbers: 522-021-010-000  
Record Number: PLN-11491-CUP  
Willow Creek area.

A Conditional Use Permit for 42,000 square feet of existing outdoor commercial cannabis cultivation. Ancillary propagation will occur in existing greenhouses used for cultivation. Estimated annual irrigation water usage is 520,000 gallons and sourced from an existing groundwater well and rainwater catchment is proposed. There are 20,000 gallons of existing water tank storage and a 1,000,000-gallon pond is proposed. Drying and trimming is proposed to occur in a portion of the existing residence that will be converted to commercial uses. Power is provided by a generator and solar is proposed. The project includes onsite relocation and restoration of cultivation areas.

**RECOMMENDATION(S):**

That the Planning Commission:

1. Adopt Resolution (Resolution 23-\_\_) (Attachment 1) which does the following:
  - a. Finds that the Planning Commission has considered the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Stay Humboldt 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 in Humboldt County, in the Willow Creek area, on the South side of Bair Road, approximately 6 miles East from the intersection of Stove Road and Bair Road, and approximately .5 miles from the intersection of Bair Road and a Private Drive on the property known to be in Section 18 of Township 07 North, Range 04 East, Humboldt Base & Meridian.

**Present General Plan Land Use Designation:**

Timberland (T) Density: 40-160 acres per dwelling 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:**

Supply Creek Watershed

**Executive Summary:**

The applicants are seeking a Conditional Use Permit for 42,000 square feet of existing outdoor commercial cannabis cultivation. Ancillary propagation will occur in existing greenhouses used for cultivation. Estimated annual irrigation water usage is 520,000 gallons and is sourced from an existing groundwater well, rainwater catchment is proposed. There are 20,000 gallons of existing water tank storage and a 1,000,000-gallon storage pond is proposed. Power is provided by a single 33KW generator and solar is proposed as part of the post-harvest processing structure. The 85'x56' building is proposed to handle post-harvest processing needs that had been conducted in temporary structures at various locations on the parcel. This structure will have a 35'x85' residence on the second story. The first story will consist of a 12'x75' harvest storage room, a 12'x65' processing room with 10'x12' ADA restroom and a 32'x85' drying room. A 10'x12' detached bedroom will be permitted as part of the residence for employee housing. The project includes onsite relocation of three dispersed cultivation areas that total approximately 12,000 square feet. Restoration areas will be treated for erosion control and be revegetated with native plants. The proposed configuration allows the cultivator to use one generator rather than four generators spread out across the entire parcel and will ease the transition to renewable energy. The operation is staffed by 3 full-time employees with up to 10 part-time employees for harvest processing. Two annual harvests are expected.

Security gates are installed along all main roads and access gates. Gates have keyed locks and are kept locked when not in use. The applicant proposes to install an alarm system, game cameras, and motion sensor lights near cultivation areas and appurtenant facilities.

Green waste material is composted in a designated area away from surface waters as noted on the site

plan. Organic fertilizers and pesticides are stored in an agricultural storage structure that meets all requirements for secondary containment. All fuel and hazardous materials are stored in secure areas with secondary containment in accordance with applicable regulations. Garbage and recycling are stored in a secure waste storage area. The waste storage area complies with BPTCs to prevent wildlife tampering and transport of waste to waters of the State. Waste is removed from the property every two weeks and transported to an approved waste disposal facility. Domestic wastewater treatment is managed with a proposed onsite wastewater treatment system that will be permitted with the Humboldt County Department of Environmental Health. The applicant will pursue permitting for the proposed septic systems upon project approval. The project is conditioned that no onsite processing (trimming and packaging) can be approved until approval of a permitted onsite wastewater treatment system (OWTS) at the processing building/residence. **(Condition of Approval A.4)**. In addition, the project is conditioned that evidence is provided to County staff during annual inspections to confirm the continual use of portable toilets to serve the needs of cultivation staff until the OWTS at processing building/residence is permitted **(Condition of Approval C.19)**.

### **Water Resources**

Irrigation water is sourced from a permitted groundwater well on APN 522-021-010. Per the Well Completion Report the driller estimated a yield of 10 gpm. Hard sided tank water storage is 20,000 gallons. The drying/processing building will be guttered to generate rainfall to supply the tanks and pond. Estimated annual water usage is 520,000 gallons (12.3 gal/SF) with peak demand occurring July through September at approximately 100,000 gallons per month. Lindberg Geologic Consultation prepared a well evaluation report for the well (Attachment 4B) that made the following conclusions: the potential for significant hydrologic connectivity between surface water and groundwater in the schist aquifer appears unlikely, and there are not permitted wells within 1,000 feet of the subject well. The applicant proposes adding a 1,000,000-gallon pond that will be filled with rainwater. The pond will be built on an existing flat area shown on the site plan (Attachment 1C). Lindberg Geologic Consulting Prepared an Engineering Geologic Report to evaluate the slope and stability of areas proposed for development (Attachment 4E). The project is conditioned up the applicant adding a designated 2500-gallon or more designated fire suppression tank with a CalFire approved hose connection **(Condition C.18)**.

Humboldt County's WebGIS shows one Class II stream which feeds into Supply Creek to the east and the Plot Plan shows an additional Class II ephemeral stream to the north and associated Streamside Management Area (SMA) buffers for each. The proposed cultivation area is outside of the SMA buffers. A Lake or Stream Bed Alteration Agreement (LSAA) notification was received from the California Department of Fish and Wildlife (CDFW) on February 8, 2019. CDFW authorized the replacement of 3 culverts (Attachment 4F). As a condition of approval, the applicant shall execute the culvert replacements described in the LSAA notification issued by CDFW and described in a Water Resource Protection Plan (WRPP) prepared by Timberland Resource Consultants in August of 2017 (Attachment 4D). The applicant shall implement the corrective or remedial actions listed in the WRPP **(Condition of Approval A.5)**. In addition, those recommendations developed under any future Site Management Plan to be developed for the parcels, pursuant to Tier 2 enrollment under the State Water Resources Control Board (SWRCB) General Order (WDID 1-12CC429237), shall also be followed.

### **Cultivation Relocation**

Onsite relocation will include the consolidation of 3 cultivation sites into 1 site in the southwest corner of the subject parcel. A Regeneration Plan was prepared by Timberland Resource Consultants which recommended that the Applicant/landowner plant Douglas-fir or ponderosa pine seedlings (best suited for Seed Zone 303 at 3,600-foot elevation) at a uniform spacing no less than 10-feet by 10-feet, or 435 trees per acre; use containerized seedlings if available; for long-term storage (more than 3 days), store seedlings at 33 to 36 degrees Fahrenheit; and monitor growth and success of planted trees one year after planting. (**Attachment 4G**) The completing the recommendations in the Regeneration Plan have been made a Condition of Approval (**Conditions A-6, A-9**).

### **Public Trust Resources**

The common law Public Trust Doctrine protects sovereign lands, such as tide and submerged lands and the beds of navigable waterways, for the benefit, use and enjoyment of the public. These lands are held in trust by the State of California for the statewide public and for uses that further the purposes of the trust. The hallmark of the Public Trust Doctrine is that trust lands belong to the public and are to be used to promote publicly beneficial uses that connect the public to the water. Campbell Creek and Supply Creek are tributaries to the Trinity River, which is itself a tributary to the Klamath River. Campbell Creek and Supply Creek not only provide water to support the health of these rivers but provide habitat for sensitive aquatic species including Coho Salmon. Pine Creek and Supply Creek also provide water for domestic, agricultural, public and commercial/industrial uses on the Hoopa Reservation. Both the Trinity River and the Klamath River are navigable rivers that provide water-related recreation and public access, and both of these watercourses (Klamath River and Trinity River) support active fisheries. Historically the Trinity River and Klamath River have also provided opportunities for waterborne commerce.

The project will add water storage to a total of 100 percent of the annual water needs. This will substantially reduce the use the use of the groundwater well in the summer months, which will ensure that impacts to the Pine Creek and Supply Creek watersheds or to any of the Public Trust resources associated with the watershed will be negligible.

### **Tribal Concerns Regarding Supply Creek**

In response to the project referrals, the Hoopa Tribe met with County Planning and Building Staff to express their concerns regarding the collection of cannabis applications located within the Supply Creek watershed. Supply Creek provides a portion of the domestic, agricultural, public, and industrial/commercial water needs of the Tribe. Supply Creek also provides habitat for sensitive species such as Coho salmon. In response to these concerns the County collaborated with the project applicants to prepare water quality and water quantity studies. A water sampling study was completed by A.M. Baird Engineering & Surveying in 2020 that concluded that Supply Creek was maintaining healthy river conditions and was not being subjected to substantial concentrations of pollutants that might be associated with runoff from cannabis sites (Attachment 4H). HMC Engineering, Inc. completed a Surface Water Study in 2020 that concluded that runoff from the watershed that would potentially be intercepted for all of the cannabis projects in the watershed would be a maximum of 0.200% in the driest year on record (Attachment 4IF). The Hoopa Tribe commissioned their own study

by Thomas Gast and Associates which concurred with the findings of these studies (Attachment 4J).

### **Biological Resources**

A Biological Assessment Report was prepared for the project by O'Brien Biological Consultants in October 2019 (On File). The pond will be permitted by CDFW. If there are any potential impacts to wildlife from this project, CDFW will require mitigation in their Agreement. The nearest spotted owl activity center is approximately 1.1 miles west of the project site and additional owl activity centers are further from the project site in all directions; the nearest critical NSO habitat is located .73 to the northeast of the cultivation site. The nearest Identified Marbled Murrelet habitat is located .75 Miles to the northeast. The Biological Assessment concluded that the exiting cultivation operation poses a less than significant potential impact on threatened and endangered plant and animal species. Generators are used to supply power to the cultivation area/nursery and processing facility. Generators will be shielded to not exceed 50 decibels at tree lines or potential habitat areas. Based on the manufacturer's noise ratings for the proposed generators, noise levels are not expected to exceed the thresholds listed above. The project is conditioned to ensure that generator or other operational equipment created noise meets the noise level threshold (**Condition of Approval B.2**). Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service.

Conditions of approval also require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generators are reasonable based on the power demand, and how the operation will transition to use of 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026, with a generator to be used for emergencies only (**Condition of Approval A.8**).

On October 3, 2023, the California Department of Fish and Wildlife (CDFW) provided referral response. The comments from CDFW are addressed with the standard conditions on outdoor cannabis cultivation projects, however CDFW voiced concerns about water storage and the proposed pond. When the permittee applies to the Humboldt County Building Department for the grading permit for the proposed pond, the permit application shall be referred to the California Department of Fish and Wildlife for comments and conditions. (**Condition A.3**).

The project has been conditioned to ensure supplemental lighting associated with nursery cultivation is fully contained with blackout tarps and have all outside lighting on timers or motion sensors to reduce light exposure to wildlife and their potential habitat. Furthermore, the project is conditioned to adhere to Dark Sky Association standards for greenhouse lighting and security lighting, refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage and refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions of Approval C.2-C.5**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the Northern Spotted Owl or other sensitive species.

### **Tribal Cultural Resources**

The project was referred to the Northwest Information Center and the Hoopa Valley Tribe. Both

responded requesting that a cultural resource survey be conducted for the property's area of potential effect. A Cultural Resources Inventory Report (CRIR) was prepared by Mark Arsenault, RPA (41855166) September 2019. No cultural resources were observed and recorded as a result of survey efforts; the report concluded no subsequent investigation were required for the proposed project.

It was concluded that there will be no effect to historical, archaeological, or Tribal Cultural Resources, as defined by CEQA with adherence to the recommended conditions of approval. The conditions require that the discovery protocol be followed (**Condition of Approval C.1**).

### **Access**

From CA Highway 299 west of Willow Creek, go north on Old Three Creeks Road for approximately 3.75 miles and bear left on Cloud Crossing Road. A Road Evaluation Report (Attachment 5G) was prepared for 3 Creeks Road from Highway 299 to the private drive on APN 522-021-010. The report identified Cloud Crossing as developed to the functional equivalent of a road category 4 standard and adequate for the proposed use without further review. 3 Creeks Road is partially county maintained. The emergency vehicle turn-around area is located adjacent to the cultivation area. The turn-around is approximately 30 feet long, less than 7% grade, and is regularly rocked and maintained to prevent ruts or rills to the road surface. The hammerhead/semi-circular turn-around area is approximately 50 feet wide with well over 15 feet of vertical clearance.

### **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 Lower Trinity River Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 59 cultivation permits and the total approved acres would be 26.77 acres of cultivation. If all the supply Creek projects on the agenda were to be approved there would be a total of 73 permits and 34 acres of cultivation.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted MND that was adopted for the CMMLUO and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 4 for more information).

### **OTHER AGENCY INVOLVEMENT:**

The project was referred to responsible agencies and all responding agencies have either responded with no comments, comments, or recommended approval or conditional approval. (Attachment 5)

### **ALTERNATIVES TO STAFF RECOMMENDATIONS:**

1. The Planning Commission could elect to add or delete conditions of approval. 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. Draft Resolution
  - A. Conditions of Approval
  - B. Operations Plan
  - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
  - A. Timber Conversion Report
  - B. Well Report
  - C. Water Resources Protection Plan
  - D. Soils Report
  - E. LSAA Notification
  - F. Regeneration Plan
  - G. Road Evaluation
  - H. Supply Creek Ambient Water Grab Sampling Results
  - I. Supply Creek Surface Water Supply Study
  - J. Supply Creek Cumulative Impact Assessment
5. Referral Agency Comments and Recommendations
  - A. Public Works Referral
  - B. CDFW Referral
  - C. Department of Environmental Health Referral
6. Watershed Map

Applicant

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